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**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 15-117

**RESOLUTION APPROVING RETENTION OF GORDON & POLLAND
LAW FIRM AS SPECIAL COUNSEL IN CONNECTION WITH CMC
FOOD SERVICES, LLC AND NNF GREWAL, INC. V. PORT OF
OAKLAND, SUPERIOR COURT CASE NO. RF13685134 AND
RELATED MATTERS AT A COMPENSATION NOT TO EXCEED
\$350,000 FOR FY15-16.**

WHEREAS, that in acting upon this matter, the Board of Port Commissioners ("Board") has exercised its independent judgment based on substantial evidence in the record;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

RESOLVED, that the Board hereby approves the appointment of **GORDON & POLLAND**, as Special Counsel, part-time, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with CMC Food Services, LLC and NNF Grewal, Inc. v. Port of Oakland and related **matters described in the confidential memorandum dated October 2, 2015**; the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney, up to, but not to exceed a total amount of \$350,000 during FY15-16; and be it

FURTHER RESOLVED, that this resolution is not evidence of and does not create or constitute (a) a contract, or the grant of any right, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this resolution, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective agreement.

FURTHER RESOLVED, that this resolution shall be effective immediately upon adoption by the Board.

At the regular meeting held on October 8, 2015

Passed by the following vote:

Ayes: Commissioners Butner, Colbruno, Head, Story, Yee and
President Hamlin – 6

Excused: Commissioner Parker – 1

Noes: 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 15-118

**RESOLUTION AUTHORIZING AMENDMENT OF THE DOMESTIC
AND INTERNATIONAL AIR SERVICE MARKETING INCENTIVE
PROGRAM AT OAKLAND INTERNATIONAL AIRPORT.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Agenda Report Item 2.1 dated October 8, 2015 ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, by Resolution No. 14-45, adopted by the Board on May 22, 2014, the Board authorized the amendment and restatement of the Domestic and International Air Service Marketing Incentive Program (the "Incentive Program") to encourage development of new passenger service at Oakland International Airport ("Airport"); now, therefore, be it

RESOLVED, that the Board hereby approves the amendment of the Incentive Program to (i) provide for new definitions for "short-haul" and "medium-haul" flight segments, and (ii) adjust the dollar amounts for the Port's cooperative advertising program, as outlined in the Agenda Report and in the attached Air Service Incentive Program Overview; and be it

FURTHER RESOLVED, that the Director of Aviation is authorized to enter into Cooperating Advertising Agreements, and amendments to Airline Operating Agreements and Annex "A" Space/Use Permits to implement the Incentive Program; and be it

FURTHER RESOLVED, that the Director of Aviation, in consultation with the Port Attorney, is authorized to revise the Incentive Program as may be necessary from time to time to comply with requirements of Federal law and regulation; and be it

FURTHER RESOLVED, that this resolution is not evidence of and does not create or constitute (a) a contract or lease, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. This resolution approves and authorizes the execution of agreement(s) in accordance with the terms of this resolution. Unless and until separate written agreement(s) are duly executed on behalf of the Board as authorized by

this resolution, is signed and approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement(s); and be it

FURTHER RESOLVED, that in acting upon the matters contained herein, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related materials and in testimony received.

At the regular meeting held on October 8, 2015

Passed by the following vote:

Ayes: Commissioners Butner, Colbruno, Head, Story, Yee and President Hamlin – 6

Excused: Commissioner Parker – 1

Noes: 0

ATTACHMENT

AIR SERVICE INCENTIVE PROGRAM OVERVIEW Oakland International Airport

This document summarizes the terms and conditions of the Oakland International Airport ("OAK" or "Airport") Domestic Air Service Marketing Incentive Program ("Domestic Incentive Program")¹ and International Air Service Marketing Incentive Program ("International Incentive Program")², collectively, the "Incentive Programs".

I. Program Objective. The Airport's air service Incentive Programs are designed to stimulate the growth of domestic and international passenger air service at OAK and lower the barriers to commencing and marketing new air service.

II. Program Period. The domestic and international Incentive Programs will be available from May 1, 2014 through June 30, 2017 (the "Program Period") to all airlines that meet the program requirements. OAK may at its sole discretion shorten or suspend the Program Period. Following this Program Period, OAK may elect to continue offering the Incentive Programs, subject to approval by the Board of Port Commissioners.

III. Application. Airlines seeking to participate in the Incentive Programs, ("Applicant Airline") must complete the Air Service Incentive Program Application Form within thirty (30) days of commencement of the qualifying air service. The Applicant Airline will be advised in writing by the Port within thirty (30) days of receipt of the Application if the Application has been approved for the requested incentives.

IV. Domestic Incentive Program Requirements. To be eligible for the Domestic Incentive Program, the new air service commenced must be:

- A.** New air service to any short-haul, medium-haul or long-haul destination within the United States that has not been served by the Applicant Airline within the last 12 months. The incentives are available to both incumbent and new entrant airlines regardless of whether the new destination is already served from OAK by another airline, except where noted in the chart below. The definitions are as follows:

Designation	Flight Distance
"Short-Haul"	Less than 250 Miles
"Medium-Haul"	250 Miles to 1,250 Miles
"Long-Haul"	More than 1,250 Miles

¹ The Domestic Incentive Program was authorized pursuant to Board Resolution Nos. 20228, 11-114, 14-45 and [if approved by the Board, add current Res. reflecting changes].

² The International Incentive Program was authorized pursuant to Board Resolution Nos. 09029, 09158, 14-45 and [if approved by the Board, add current Res. reflecting changes].

- B. Regularly-scheduled (not charter) service.
- C. The routing must be non-stop (not a "through" destination).
- D. Year-round or new seasonal service³. Seasonal service is not eligible for incentives if the route was served by the Applicant Airline any time during the preceding two years.
- E. Frequency of 3 or more flights per week (said flights are not required to be to the same destination).
- F. If less than 3 flights per week, incentives will be prorated⁴.

Provided that these eligibility criteria are met, the following fees will be waived or reduced:

Item	Duration	Description
Landing Fees	Three Months for New Short-Haul and Medium-Haul Routes	Waived for each new short-haul or medium-haul destination.
	Six Months for New Long-Haul Routes	Waived for each new long-haul destination.

³ "Seasonal Service" shall mean any service that upon announcement: (a) is not operated on a published schedule pattern within every month of the year (January through December) and (b) is operated for more than 90 days but less than 365 days in one calendar year.

⁴ For example, Airline X applies to operate two flights per week between OAK and Tucson (less than 1,250 miles away); Airline X would qualify for two-thirds of the short-haul domestic incentives, or two (2) months' of landing fees, office space rental, gate use charges, baggage charges and RON fees.

Item	Duration	Description
Office Space Rental ⁵ , Preferential or Secondary Gate Use Charge, and Baggage Charges	Three Months for New Medium-Haul Routes	Cumulative for each new destination added during Program Period; if a new medium-haul or long-haul destination is added during Program Period, then the corresponding amount of time (three or six months) is added and fees waived. If any new destination is canceled, waiver is rescinded accordingly.
	Six Months for New Long-Haul Routes	Cumulative for each new destination added during Program Period; if a new medium-haul or long-haul destination is added during Program Period, then the corresponding amount of time (three or six months) is added and fees waived. If any new destination is canceled, waiver is rescinded accordingly.
Aircraft Parking (including Remain Over Night – “RON”) Fees	Three Months for New Medium-Haul Routes	Waived for each new medium-haul destination.
	Six Months for New Long-Haul Routes	Waived for each new long-haul destination.

V. International Incentive Program Requirements. To be eligible for the program, the new air service commenced must be:

- A.** New air service to any international destination that has not been served by the Applicant Airline within the last 12 months. The incentives are available to both incumbent and new entrant airlines regardless of whether a destination is already being served by another airline from OAK, except as noted in the chart below.

⁵ Office Space Rental waiver available only to new airline entrants and only for new service to destinations not currently served by any other airline. This incentive is limited to a reasonable amount of office space in the Terminal Complex which is vacant at the time of airline's request. For an airline providing a minimum of seven (7) flights per week to any destination and up to three (3) daily domestic flights, "reasonable" is defined as (i) 750± square feet of office space, plus (ii) if airline operates a maintenance or flight crew base at the Airport, airline will be provided with an additional 500± square feet of office space. If airline operates more than three (3) daily domestic flights, additional space rental may be waived subject to the Board's review and approval.

- B. Regularly-scheduled (not charter) service.
- C. The routing must be non-stop; however, a “through” destination will be eligible for incentives if the final destination is otherwise unserved and technically unreachable on a nonstop basis. Examples include OAK-NRT-KUL or OAK-TPE-SIN. Incentives are also available for routes requiring a technical stop enrooted either on a planned or unplanned basis.
- D. Year-round or new seasonal service. Seasonal service is not eligible for incentives if the route was served by the Applicant Airline any time during the preceding two years.
- E. Frequency of one (1) or more flights per week (said flights are not required to be to the same international destination).

Provided that these eligibility criteria are met, the following fees will be waived or reduced:

Item	Duration	Description
Landing Fees	First Six Months	Waived for each new destination
Office Space Rental ⁶ and International Flight Turn Charge (includes use of common use ticket counters, hold room, boarding bridge, baggage make-up).	Six Months	Cumulative waivers for each new destination added during Program Period; e.g., two destinations = one year rental waiver. If destination is canceled, waiver is rescinded. International flight Per Turn charges for new destinations also waived for six months.
Aircraft Parking (including Remain Over Night – “RON”) Fees	First Six Months	Waived for each new destination.
International Arrivals Building (IAB) ⁷	First Six Months	Current charge is \$10 per passenger. These fees will be waived for the first six months for each new destination.

⁶ Office Space Rental waiver applies only to new airline entrants. The incentive is limited to a reasonable amount of office space in a location in Terminal 1 which is vacant at the time of airline's request. For an airline providing a minimum of two (2) flights per week and up to five (5) daily international flights, “reasonable” is defined as (i) 750± square feet of office space, plus (ii) if airline operates a maintenance or flight crew base at the Airport, airline will be provided with an additional 500± square feet of office space.

⁷ International flights that are pre-cleared by U. S. Customs and Immigration in a foreign country arrive at a domestic gate and do not use the Airport's IAB; however, such airlines are charged the applicable per-passenger IAB fee. The per-passenger IAB fee would be waived under International Incentive Program.

IAB – Multiple Flights	Up to 24 months	After the initial six-month waiver period, if airline operates at least six daily flights, charge will be \$5 per passenger for each new destination.
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VI. Other Charges. All other charges not specified in the domestic and international Incentive Programs (i.e., PFCs, ID badging, employee parking, etc.) are required to be paid by the participating Applicant Airline.

VII. Cooperative Advertising Program: The Airport will fund advertising expenses for new daily air service that meets the above eligibility criteria (pro-rated if less than daily service).

- A. Any airline commencing eligible new service will qualify for the Cooperative Advertising Program regardless of whether the destination is already being served from OAK by another airline. The cooperative advertising marketing funds shall be solely dedicated to supporting the qualifying new service and the Airport. The Airport must be featured, with prominence substantially similar to the participating airline, in the promotional materials. The marketing program design and implementation shall be completed in cooperation with and subject to the approval of the Director of Aviation.
- B. Domestic Air Service:
 - 1. Short-Haul: \$10,000
 - 2. Medium-Haul or Long-Haul: \$100,000
- C. Domestic Target City Air Service:
 - 1. Short-Haul: \$100,000
 - 2. Medium-Haul or Long-Haul: \$200,000
- D. International Air Service:
 - 1. Canada and Mexico: \$100,000.
 - 2. Canada & Mexico Target City: \$200,000.
 - 3. International (excluding Canada & Mexico): \$200,000.
 - 4. International Target City Air Service: \$300,000.
- E. Target City Definition: A Target City is defined as follows and is targeted because one or more of the following characteristics are present:
 - 1. Destinations unserved at OAK that have high PDEW (passengers daily each way) according to DOT Form 41 and Airline Reporting Corporation (ARC) statistics, or which had high usage when served nonstop previously from OAK.

2. Destinations unserved at that are large airline hubs that will provide OAK originating passengers with significantly improved, single stop connectivity to other destinations.
3. Destinations unserved at OAK and also unserved at other Bay Area airports that are now, or will soon be, candidates for new nonstop service as a result of advances in aeronautical technology such as those offered in the Boeing 787, Boeing 737-MAX, Airbus A320-NEO and Airbus A350 programs.

During the Program Period, the following new destinations (any airport within the city market) will be considered as a "Target City":

4. Domestic: Atlanta, Boston, Charlotte, Fort Lauderdale, Miami, Minneapolis/St. Paul, New York (includes EWR, LGA, JFK, ISP, SWF, HPN), Orlando, Philadelphia, Reno/Tahoe, Tampa and Washington, D.C. (includes IAD, DCA, BWI)
5. International: Abu Dhabi, Addis Ababa, Amsterdam, Athens, Auckland, Barcelona, Beijing, Berlin, Bogota, Brisbane, Calgary, Cancun, Cape Town, Dakar, Doha, Dubai, Dublin, Edmonton, Frankfurt, Hong Kong, Johannesburg, Kuala Lumpur, Lagos, Lima, London, Madrid, Manila, Melbourne, Milan, Montreal, Moscow, Nagoya, Nairobi, Osaka, Panama City, Paris, Reykjavik, Rio de Janeiro, Rome, San Salvador, Santiago, Santo Domingo, Sao Paulo, Seoul, Shanghai, Singapore, Tahiti, Taipei, Tokyo, Toronto and Vancouver.
6. This list may be modified at any time by the Director of Aviation.

VIII. Amendments to Airline Operating Agreement. To implement the incentive program, the Port of Oakland and participating airlines will need to amend the terms and conditions of the standard form *Airline Operating Agreement*, and if space is involved, the *Annex "A" Space/Use Permit*.

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 15-119

**RESOLUTION APPROVING BUILDING PERMIT
REQUESTED BY EVERPORT TERMINAL SERVICES,
INC. ("ETS").**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Summary Sheet for Permit Application, Item No. 2.2, dated October 8, 2015 ("Agenda Sheet") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Sheet and in related agenda materials and in testimony received; therefore be it

RESOLVED, that in reliance upon the representations and certifications set forth upon and submitted with an application by **EVERPORT TERMINAL SERVICES, INC. ("ETS")** ("tenant") for a building permit to perform certain work at 5190 Seventh Street, Berths 34-38, Oakland, California ("Premises"), the Board of Port Commissioners ("Board") hereby approves same subject to said representations and certifications at an estimated cost of \$2,000,000, said work and applicable conditions of Port approval including the following: upgrades to the gate and yard technology systems, installation of a pre-cast concrete building (approximately 600 s.f.), installation of a new back-up generator and new OCR portals at the gates, installation of new equipment pedestals, and installation of other security cameras and communication equipment to replace existing equipment; and be it

FURTHER RESOLVED, that the Board hereby finds and determines that this project is categorically exempt from the requirements of CEQA under Sections 15301 (which exempts modifications to existing facilities), 15302 (which exempts replacement or reconstruction of existing structures), 15304 (which exempts minor alterations to land), and 15311 (which exempts the addition of accessory structures at an existing facility); and be it

FURTHER RESOLVED, that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to applicant under any agreement between the Port and the applicant or with respect to any obligation of applicant, or (ii) releases applicant from any obligation with respect to said work or with respect to any agreement between the Port and applicant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on October 8, 2015

Passed by the following vote:

Ayes: Commissioners Butner, Colbruno, Head, Story, Yee and President Hamlin – 6

Excused: Commissioner Parker – 1

Noes: 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 15-120

**RESOLUTION APPROVING BUILDING PERMIT
REQUESTED BY CHEVRON.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Summary Sheet for Permit Application, Item No. 2.3, dated October 8, 2015 ("Agenda Sheet") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Sheet and in related agenda materials and in testimony received; therefore be it

RESOLVED, that in reliance upon the representations and certifications set forth upon and submitted with an application by **CHEVRON** ("tenant") for a building permit to perform certain work at 7799 Earhart Road, Hangar 10, Oakland, California ("Premises"), the Board of Port Commissioners ("Board") hereby approves same subject to said representations and certifications at an estimated cost of \$400,000, said work and applicable conditions of Port approval including the following: maintenance and repair of ramp paving, including grinding, removing, and replacing existing asphalt pavement in the project area (approximately 78,000 s.f.) adjacent to the existing hangar; and be it

FURTHER RESOLVED, that the Board hereby finds and determines that this project is categorically exempt from the requirements of CEQA under Sections 15301, which exempts modifications to existing facilities; and be it

FURTHER RESOLVED, that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to applicant under any agreement between the Port and the applicant or with respect to any obligation of applicant, or (ii) releases applicant from any obligation with respect to said work or with respect to any agreement between the Port and

applicant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on October 8, 2015

Passed by the following vote:

Ayes: Commissioners Butner, Colbruno, Head, Story, Yee and President Hamlin – 6

Excused: Commissioner Parker – 1

Noes: 0