

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

2/22/2024
Item No.: 6.1
CT/pcm

MCR

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AMENDMENT NO. 2 TO SPACE/USE PERMIT WITH SWISSPORT FUELING, INC. TO EXTEND THE TERM OF THE AGREEMENT FOR AN ADDITIONAL FIVE YEARS AND FINIDNG THAT THE PROPOSED ACITON IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, on May 8, 2014, the Board of Port Commissioners of the City of Oakland ("Board") adopted Ordinance No. 4289 approving a Space/Use Permit ("SUP") with Swissport Fueling, Inc. ("Swissport") for a term of five years, terminating June 30, 2019, for into-plane fueling services at Oakland International Airport ("Airport"); and

WHEREAS, on June 27, 2019, the Board adopted Ordinance No. 4524 approving Amendment No. 1 to SUP to extend the term of the SUP to June 30, 2023; and

WHEREAS, the Board has reviewed and evaluated the Agenda Report for Agenda Item 6.1, dated February 22, 2024 (the "Agenda Report") and related agenda materials, has received the expert testimony of Port staff, and has provided opportunities for and taken public comment; now, therefore

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Section 1. The Board hereby finds and determines that the proposed action is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines because the proposed action consists of activities that involve negligible or no expansion of an existing use.

Section 2. 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 Report and in related agenda materials and in testimony received.

Section 3. The Board hereby approves the terms and conditions set forth in the Agenda Report for the Amendment No. 2 to SUP with Swissport to extend the term of the current SUP to June 30, 2028, for consideration of a minimum monthly fee of \$250.00 or 10% of gross revenues, whichever is greater, as described in the Agenda Report.

Section 4. The Board hereby authorizes the Executive Director to execute the Amendment No. 2 to SUP with Swissport, and make any additions, modifications, or corrections as necessary to implement the Amendment No. 2, provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

Section 5. This ordinance is not evidence of and does not create or constitute (a) a contract(s), 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 Port. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this ordinance, 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 contract.

Section 6. This Ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this Ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code §9237, the effective date of this Ordinance shall be suspended, and all actions authorized by this Ordinance shall be null and void.

DRAFT

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney