

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

9/29/2022
Item No.: 6.2
CT/pcm

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ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN AMENDMENT TO SPACE/USE PERMIT FOR RETAIL AND DUTY FREE CONCESSION WITH WDFG NORTH AMERICA LLC (I) TO EXTEND THE TERM THROUGH JANUARY 31, 2023 FOR APPROXIMATELY \$520,454.85 IN ANTICIPATED REVENUES; (II) GRANT THE EXECUTIVE DIRECTOR THE AUTHORITY TO EXTEND THE TERM ON AN AS-NEEDED BASIS FOR UP TO AN ADDITIONAL FIVE MONTHS FROM FEBRUARY 1, 2023 THROUGH JUNE 30, 2023 FOR APPROXIMATELY \$130,113.71/MONTH IN ANTICIPATED REVENUES; AND (III) TO WAIVE CERTAIN RESTRICTIONS IN RESOLUTION NO. 16-144 - RESOLUTION APPROVING A RESTATEMENT, AFFIRMATION AND UPDATE TO THE BOARD'S POLICY FOR AWARDED CONCESSION AND CUSTOMER SERVICE PRIVILEGES AT THE TERMINAL COMPLEX.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.2, dated September 29, 2022 (the "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; now, therefore

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

Section 1. 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 2. 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 3. The Board hereby approves the terms and conditions set forth in the Agenda Report for the Amendment to Space/Use Permit for Retail and Duty Free Concession with WDFG North America LLC (i) to extend the term through January 31, 2023 for \$520,454.85 in Anticipated Revenues; and (ii) to grant the Executive Director the authority to extend the term on an as-needed basis for up to an additional five months from February 1, 2023 through June 30, 2023 for approximately \$130,113.71/Month in Anticipated Revenues.

Section 4. The Board hereby exempts the proposed extended term from the prohibition in Resolution No. 16-144 that there be no extensions to any concession agreement and finds it is in the best interest of the Airport to negotiate the terms and conditions of the Amendment with WDFG North America LLC.

Section 5. The Board hereby authorizes the Executive Director to (i) execute the Amendment to Space/Use Permit with WDFG North America LLC, subject to approval as to form and legality by the Port Attorney, and (ii) make such additions, modifications, or corrections as necessary to implement such amendments or to correct errors, subject to the limitations set forth herein and 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.

Section 6. 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 7. 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.

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney