

BOARD OF PORT COMMISSIONERS CITY OF OAKLAND

RESOLUTION APPROVING SUPPLEMENTAL TERMS AND CONDITIONS FOR THE 2018 FOOD AND BEVERAGE CONCESSIONS OPPORTUNITIES REQUEST FOR PROPOSALS AT OAKLAND INTERNATIONAL AIRPORT RELATING TO FIRST SOURCE REFERRAL AND NON-DISCRIMINATION AGAINST APPLICANTS WITH HISTORY WITH CRIMINAL JUSTICE SYSTEM IN THE EMPLOYMENT OF CONCESSION EMPLOYEES.

WHEREAS, the Board of Port Commissioners ("**Board**") has reviewed and evaluated the Agenda Report Item 5.1, dated April 26, 2018 ("**Agenda Report**") and related materials, has received the expert testimony of Port of Oakland ("**Port**") staff, and has provided opportunities for and taken public comment;

WHEREAS, the Board approved during its meeting of April 12, 2018 business terms and conditions for the 2018 Food and Beverage Concessions Opportunities Request for Proposals ("**RFP**") for the Oakland International Airport ("**Airport**") as outlined in the respective Agenda Report and authorized the Executive Director and Director of Aviation to draft, promulgate and issue the RFP, and also directed Port staff to report back with possible further terms and conditions for inclusion in the RFP relating to the recruitment and hiring of the employees working at the concessions; and

WHEREAS, the Board, in carrying out its power and duty to manage the business of the Port and promote the maritime and commercial interests, has a proprietary interest in assuring that a diverse and large pool of qualified applicants is available and recruited from to work as concession employees at the Oakland International Airport, and that qualified applicants are not discriminated against because of economic or other barriers to employment, residency in areas impacted by Port operations or history with the criminal justice system; therefore, be it

RESOLVED, in order to assure that a diverse and large pool of qualified applicants is available and recruited from to work as concession employees at the Airport, the Board finds that: (a) it is

committed to non-discrimination and creating opportunities for individuals who face barriers to employment, including those who have former involvement with the criminal justice system; (b) state and local fair chance hiring policies prohibit discrimination against qualified job applicants based upon their criminal history; (c) first-source referrals provides access to concession job applicants who are from areas impacted by Airport operations and those who face economic and other barriers to employment, (d) in furtherance of the Port's obligation to protect passengers, employees and other users of the Airport from security risks and individual who pose security risks, the Port has adopted policies, rules and regulations for an Airport access badging program that also incorporates federal Transportation Security Administration and the Customs and Border Patrol requirements ("**Badging Requirements**"); and (e) supplemental RFP terms and conditions are needed toward these goals in the management of the Airport Food and Beverage Concession Program; and be it

FURTHER RESOLVED, that the Board hereby approves the following terms and conditions of the RFP, in addition to those adopted by Resolution NO. 18-23 during the Board meeting of April 12, 2018:

(1) "First Source" Program: Airport concession employers shall commit to make a good faith effort to hire residents from the Port's local impact area and those who face barriers to employment and partner with local workforce development agencies as determined by the Port of Oakland in consultation with Revive Oakland Coalition, as referral sources to fulfill the hiring requirements. Employers will provide upfront notice of job openings and exclusively consider applicants from the agencies for a specified time period. This first source hiring program would be subject to any collective bargaining agreements and must comply with pre-existing Port policies. Employers will report quarterly on first source hiring compliance. Noncompliant employers will be subject to liquidated damages provisions of any concession agreement

(2) "Fair Chance Hiring Program": In addition to complying with state and federal fair chance hiring laws, including AB 1008, Airport concession employers with 2 or more employees may not inquire about or investigate an applicant's criminal history until a conditional offer of employment is made. Prior to conducting any background check, employers must provide the Port with any directly related convictions that exceed Badging Requirements. Employers may only consider convictions directly related to job requirements. Employers may not disqualify an applicant who has received a conditional offer of employment and meets the Badging Requirements

based on prior criminal history that is not directly related to the job requirements; and be it

FURTHER RESOLVED, that supplemental and in addition to the authorization provided for in Resolution NO. 18-23, the Board hereby authorizes the Executive Director and Director of Aviation to draft, promulgate and issue the RFP with terms, conditions, provisions and requirements consistent with this Resolution, and make such additions, modifications or corrections to the RFP as the Executive Director and Director of Aviation may deem necessary, provided that any such addition, modification or correction does not materially differ from the terms and conditions set forth in this Resolution; and be it

FURTHER RESOLVED, that the Board hereby finds and determines that the action taken herein is categorically exempt from requirements of the California Environmental Quality Act ("CEQA") Guidelines pursuant to Section 15301, Existing Facilities, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Approving the business terms and conditions for the 2018 Food and Beverage Concessions RFP does not change the use of the existing facility; 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. This resolution does not approve or authorize the execution of an agreement in connection with the 2018 Food and Beverage Concessions Opportunities RFP. Unless and until the Board has approved and authorized a separate written agreement, such agreement is duly executed on behalf of the Board as authorized by a future resolution, such agreement is signed and approved as to form and legality by the Port Attorney, and such agreement is delivered to the other contracting party, there shall be no valid or effective agreement; 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.