

**PORT OF SEATTLE COMMISSION**

**Motion Regarding Relief for  
Airport Concessions Disadvantaged Business Enterprises  
and Other Small Business at  
Seattle-Tacoma International Airport**

**September 11, 2012**

**Statement in Support of Motion**

On February 14, 2012, the Port of Seattle Commission (“*Commission*”) adopted a motion that identified Concessions Program Goals at Seattle-Tacoma International Airport (“*Airport*”) and provided policy direction to the Chief Executive Officer (“*CEO*”) “to guide the successful re-development of the airport concessions program in 2015 through 2017.” Subsequent to this action, the Commission, the CEO and airport managers have continued to discuss the scope and intent of this policy.

An important aspect of the Airport concessions program is the Airport Concessions Disadvantaged Business Enterprise Program, whose participants are hereafter known as “*ACDBEs*.” To qualify as an ACDBE, the owner must be a woman or disadvantaged minority with a personal net worth which may not exceed \$1.32 million (excluding personal residence) exercising independent control over a business limited in size to gross receipts of \$52.47 million, and the owner must meet other federal requirements. Today there are 19 ACDBE concession units at the Airport. The owners of these 19 units are certified as ACDBEs in accordance with federal regulations. Another important aspect of the Airport concessions program is its emphasis on providing opportunities for small and local business.

The Port Commission is concerned that small businesses and ACDBEs that lease and operate three or fewer food and beverage concession units as sub-tenants at the Airport may not be as financially able to weather declines in sales that may be associated with declines in enplanements because they do not have the advantage of scale that larger businesses have to counterbalance a poor financial performance at one unit with stronger financial performance at other units. The Port Commission is also concerned about the placement of the small business and ACDBE concessions where such businesses have experienced disparate business conditions due to remote or otherwise less desirable locations.

Since 2005, certain ACDBEs, under sub-tenancy to prime concessionaires Host International and Seattle Restaurant Associates, have claimed that due to a decline in enplanements and an associated reduction in passenger volumes, they have suffered a greater percentage decline in sales than the average percentage decline in sales suffered by other concessionaires due to such decline in enplanements. Certain ACDBEs have also claimed that they were more affected by high initial build-out costs at the Airport than other concessionaires.

This motion is consistent with the Commission’s policy direction as expressed in the February 14, 2012, motion that the Airport concessions program (1) should consist of a mixture of packages of competitively selected concessionaires and direct solicitations for ACDBEs and small and local businesses and (2) the level of participation of ACDBEs will be expanded to create more ACDBE opportunities. This motion also reflects the Commission’s Century Agenda goal of promoting job creation and small business growth.

The Port Commission received public comment on this motion, and has taken these comments into account.

### **Motion**

- (1) As the Airport Concessions Program undergoes changes from 2015 to 2017, the ACDBE participation goal shall be consistent with the federal regulations in 49 CFR Part 23. The Airport shall make good faith efforts to meet or exceed this goal.
- (2) The Commission supports an aspirational goal that thirty percent (30%) of the concessions units shall be leased by ACDBEs and/or small and local business as current leases expire and new leases are negotiated.
- (3) The Commission directs the CEO to provide an opportunity to current ACDBEs and other small businesses that operate as sub-tenants and lease and operate three or fewer food and beverage units at the Airport to enter into negotiations directly with the Airport to extend current leases or enter into new leases for some period of time provided that they meet either of the following criteria (a or b):
  - (a) Such business: (i) operates and leases a concession unit located in a concessions zone of the Airport that has experienced a sustained drop in enplanements; and
    - (ii) (x) has suffered a greater percentage decline in sales than the average percentage decline in sales suffered by concessionaires throughout the Airport during the term of their leases (as a proportion of, and taking into account differentials in, build-out costs, original lease term lengths and any other extenuating factors); or (y) has incurred a substantial comparative disadvantage in sales or build-out costs due to placement/location issues during their lease terms.
  - (b) Alternatively, such business completed its initial build-out after January 1, 2004.
- (4) The Commission directs the CEO to develop procedures for determining whether the above-referenced criteria are met and determining the appropriate term length of any lease extension or new lease. The Commission shall form a temporary committee to work with the CEO in developing these procedures in accordance with Article III, Section 6, of the Commission's Bylaws. This motion serves to establish this temporary committee. The procedures will include the following requirements:
  - (a) Submission of sales records, build-out costs and other data or analysis by the ACDBE or small business necessary to the determination of whether the above-referenced criteria are met; and
  - (b) Use of a third party consultant to review the submission of records and analysis.
- (5) The Commission directs the CEO to negotiate in good faith any new leases or lease extensions with businesses deemed eligible and that are found to meet the criteria referenced above in Section 3, with the goal of completing new lease agreements or extensions no later than December 31, 2012. Provided, however, this motion shall not be interpreted as providing a guarantee of a lease or lease extension. The terms and conditions of any leases or lease extensions negotiated pursuant to this motion shall not exceed eight (8) years and shall be substantially consistent with other such terms and conditions of concession leases awarded since 2008 for the same type of concession.