



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Aitken

SUBJECT: SEE BELOW

DATE: April 8, 2020

Approved

Date

4/10/2020

**SUBJECT: TEMPORARY FINANCIAL RELIEF TO COMMERCIAL AIR
CARRIERS AND AMENDMENTS TO AIRLINE LEASE AGREEMENTS
AT THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT**

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute amendments to airline agreements to provide temporary financial relief to commercial passenger and cargo air carriers ("Airlines") operating at the Airport for a period of up to six months, from April 1, 2020 through September 30, 2020, to support Airline operations that have been directly impacted by Airport passenger and cargo activity declines as a result of the COVID-19 pandemic. Financial relief for Airlines could include: (a) deferral of applicable landing and aircraft parking fees with repayment terms subject to negotiations, with no interest or late fees; and (b) deferral of terminal rents or other applicable minimum rent payments with repayment terms subject to negotiations, with no interest or late fees.

OUTCOME

Approval by City Council and delegation to negotiate and execute amendments to the City Manager, will alleviate some financial pressure on Airlines as we collectively make efforts to ensure financial stability during the uncertain period of the COVID-19 pandemic over the coming weeks and months. Current projections of the course of the COVID-19 pandemic and the global measures taken to protect public health indicate the impacts will extend beyond the period of the existing "Shelter in Place" directive.

This is a temporary action toward a more comprehensive and targeted financial relief policy that will allow the City staff an opportunity to study the impacts of this situation, coordinate policies with federal, state and City governments (as applicable) and identify and apply potential financial stimulus from any local, federal or State source. City staff will monitor Emergency Official Orders and County Health Department Orders and other developments and may supplement this request, as needed, and in consultation with City Council.

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BACKGROUND

The actions described below are prompted by the remarkably rapid developments in the recognition of and reaction to the COVID-19 pandemic. Some major milestones over the past month include:

- On March 4, 2020, Governor Newsom issued the Proclamation of a State of Emergency (“Governor’s Proclamation”) under Section 8625 of the California Government Code and the California Emergency Services Act, establishing the existence of a state of emergency throughout California due to COVID-19.
- On March 9, 2020, County Health Officer Dr. Sara Cody officially announced the issuance of a legal Order requiring cancellation of mass gatherings (public or private) consisting of more than 1,000 persons and published new recommendations to help protect residents from COVID-19.
- On March 11, 2020, President Donald Trump announces the U.S. will suspend travel to European countries effective March 13, 2020.
- On March 13, 2020, County of Santa Clara Public Health Officer Dr. Sara Cody officially announced a new legal order imposing a mandatory countywide moratorium on gatherings of more than 100 persons, and a conditional countywide moratorium on gatherings of between 35-100 persons, to mitigate the spread of COVID-19; and statement on school closure.
- On March 15, 2020, Governor Gavin Newsom recommended home isolation for all seniors 65+ years in age and those with chronic health conditions. He also directed all bars, nightclubs, wineries, and breweries temporarily close.
- On March 16, 2020, the Health Officer of the County of Santa Clara issued a further Order directing all residents to remain at their place of residence through April 7, except to conduct Essential Activities, Essential Businesses, and to operate Essential Infrastructure (as defined in the Order). The Airport is Essential Infrastructure and an Essential Business, including those businesses operating within the terminal and the rental car companies.
- On March 25, 2020, Congress approves the CARES Act, providing emergency relief to businesses and government infrastructure impacted by COVID-19.
- On March 29, 2020, the FAA provided guidance to various Airports concerning economic impacts and actions that Airports can take to maintain financial stability.

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- On April 4, 2020, the Health Officer of the County of Santa Clara issued further orders which included an extension of the “Shelter in Place” directive to May 3, 2020.

The orders mandating that residents shelter in place and observe social distancing precautions have required many businesses to temporarily close or severely curtail their operations with the effect of greatly reducing economic travel-related activity at the Airport. Due to the significant decline in passenger activity, Airlines at the Airport have had to reduce flights, cancel routes, lay-off staff, and as a result, they are in a difficult position of maintaining their operations and avoiding defaulting on their various legal agreements and/or insolvency. Airport staff have been contacted by numerous tenants describing the negative impacts and seeking assurances and relief from the Airport in its capacity as a landlord, a public commercial airport and a service to the local community. The ability to grant such assurances and relief must be balanced with the Airport’s own financial health and obligations to comply with Federal Aviation Administration’s (“FAA”) grant assurances. The Airport’s goal is to create a plan and provide stability to our tenants that are in danger of default during this unprecedented economic slowdown.

ANALYSIS

Airport staff must weigh the foregone revenues against the potential costs, lost revenues and disruption resulting from an Airlines default and/or bankruptcy. Providing a plan during an Airlines tenant’s economic distress should result in better long term and more stable revenues to the City rather than the strict adherence to the lease terms, that would dictate a termination, eviction action and the financial impact to the Airport associated with vacant premises.

Airport staff is exploring various financial models; therefore, staff has not made a final determination about the extent of the financial relief that the City should provide to the Airlines at the Airport. In order to expedite the relief efforts, City is requesting City Council to delegate authority to the City Manager to negotiate and execute amendments to Airlines agreements to provide temporary financial relief for a period of up to six months, from April 1, 2020 through September 30, 2020 using a combination of the options outlined below. Airport staff will coordinate and receive final approval from the City Manager and provide an update to City Council on any such negotiated and executed amendments in an informational memorandum.

1. Deferral of applicable landing and aircraft parking fees during the temporary period of up to six months with no interest or late fees accruing during this time;
2. Deferral of terminal rent or other applicable minimum rent payments for up to six months with repayment terms subject to negotiations with no Interest or Late Fees accruing during this time.

Because the airline agreements include provisions for the sharing of Airport Revenues with the airlines, any amendments to the airline agreements will include provisions to exclude any Federal financial relief from the CARES Act or other financial relief to the Airport from

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revenues that would otherwise be shared with the airlines. If at any time prior to September 30, 2020, aviation passenger levels are restored to 75% of the passenger levels during the same period in Calendar Year 2019, the proposed actions will be cancelled, and the original terms of the agreement will govern.

CONCLUSION

The City is in a position to assist Airlines with immediate temporary relief to allow them to keep their businesses operational and their workforce in place for when these extraordinary orders are lifted.

The Airport desires to minimize impacts to Airlines during these tumultuous times and provide immediate financial relief. Staff will re-evaluate its actions within six months when the impacts of COVID-19 are better understood.

EVALUATION AND FOLLOW-UP

The Director of Aviation shall be responsible for coordination of any amendments to the Airline-Airport Lease and Operating Agreement and shall render overall supervision of progress and performance.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

POLICY ALTERNATIVES

Alternative #1: Council can elect to not provide financial relief and uphold the terms of the agreements.

Pros: The Airlines would continue to be required to pay in accordance with the terms of their agreement.

Cons: Without the revenue that was received prior to COVID-19 to offset the existing Airport financial requirements, many Airlines would be unable to pay their bills. Therefore, some Airlines would be at risk of default/bankruptcy and ultimately impact the Airport's financial ability to ensure its stability to recover annual operational costs.

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Reason for not recommending: Providing a plan during the Airlines economic distress results in better long term and more stable revenues to the City than strict adherence to the agreement terms which would dictate a termination and eviction action and the need to re-lease the property.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the April 14, 2020 Council Meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, Finance, and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts resulting in no physical changes to the environment.

/s/

JOHN AITKEN, A.A.E.

Director of Aviation

For questions, please contact John Aitken, A.A.E., Director of Aviation at (408) 392-3610.