



COUNCIL AGENDA: 8/4/2020

FILE: 20-834

ITEM: 5.2

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Aitken

SUBJECT: SEE BELOW

DATE: July 20, 2020

Approved

A handwritten signature in black ink that reads "D. DSyl".

Date

7/23/20

SUBJECT: APPROVAL TO PROVIDE CONTINUED FINANCIAL RELIEF TO NON-AERONAUTICAL RENTAL CAR CONCESSIONS AT THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT AND DELEGATE AUTHORITY TO THE CITY MANAGER TO NEGOTIATE AND EXECUTE AMENDMENTS FOR ALL ON-AIRPORT RENTAL CAR OPERATIONS AGREEMENTS AND LEASE AGREEMENTS AT THE AIRPORT

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute amendments to rental car concession agreements to: (a) extend the term retroactive from July 1, 2020 to June 30, 2030; and (b) provide continued temporary financial relief to rental car concessions (“Rental Cars”) operating on the Airport premises retroactive from July 1, 2020 through December 31, 2020, to support Rental Car operations that have been directly impacted by Airport passenger activity declines as a result of the COVID-19 pandemic. Financial relief for the Rental Cars could include: (a) continued suspension of the Minimum Annual Guarantee (MAG) Rent and charging only percentage rent due through December 31, 2020; (b) defer the reallocation date of construction and any relocation of services to a later date; and (c) defer rent adjustment appraisals to a later date and increase rent from leased premises by Consumer Price Index (CPI).

OUTCOME

Approval by the City Council and delegation of authority to negotiate and execute amendments to the City Manager, will extend the term of all Rental Car agreements at the Airport through June 30, 2030 and also alleviate some prolonged financial pressure on non-aeronautical rental car concessions as we collectively make efforts to support financial stability during the uncertain period of the COVID-19 pandemic over the coming weeks and months and prepare for the restoration of both domestic and international air travel. Current economic recovery projections for the Airport, and all associated concessions, indicate that the COVID-19 pandemic recovery will extend beyond calendar year 2021.

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The Amendments allow sustained relief to Rental Car Companies through the end of the calendar year 2020.

BACKGROUND

On April 14, 2020, Council approved the delegation of authority to the City Manager to negotiate and execute temporary financial relief to non-aeronautical concessionaires, which included Rental Cars, for April and May 2020 and asked Staff to return to Council after engaging conversations between concessionaires and employee representatives.

On May 12, 2020, Council extended the financial relief through June 2020. Following Council approval, Airport Staff proceeded to offer immediate financial relief to the non-aeronautical concessionaires, including Rental Cars, that included the suspension of the MAG and payments of percentage rent for the period of April 2020-June 2020.

The Airport concessionaires continue to see significant financial losses due to the continued decline in enplanements and to date, have not received financial assistance from the Federal Government. Due to the significant decline in passenger activity, Rental Cars at the Airport have had to reduce operations, store large amounts of their vehicle fleets, lay-off staff, suspend construction and improvements, and, as a result, they are in a difficult position of maintaining their operations and avoiding defaulting on their various agreements at the Airport.

ANALYSIS

City Staff continues to monitor Airport traffic and is closely working with Airport tenants to develop a stable recovery plan. The FAA recently issued a memo to encourage airport sponsors to use available tools, including temporary rent abatement and minimum annual guarantee waivers, to mitigate adverse impacts on large and small businesses to ensure the airport community emerges from these trying times stronger than ever. Staff is requesting the flexibility to extend the expired agreements, adjust financial terms, share more risk between the Airport and the Rental Car Companies and provide support so that the tenants are able to endure the impacts and continue to provide vital services to the traveling public. Current projections indicate that the industry will continue to be financially impacted through the end of the calendar year, with reduced gross revenues and higher costs to operate locations to comply with health and safety requirements. This includes additional costs to clean locations, store vehicles, reduced capacity within locations to maintain social distancing and increased training for employees.

The current Rental Car agreements expired on June 30, 2020, and the Rental Car companies are currently in holdover and continue to operate at the Airport pursuant to the terms of the expired agreements. Prior to the onset of the pandemic, Staff had finalized negotiations with the industry for a ten-year extension of the term to be presented at Council in June 2020, but this was delayed due to the impacts of COVID 19. The negotiations also included a reallocation of the space in the

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Rental Car Facility to match current market share conditions and modifying the definition of “Day” for purposes of calculating Customer Facility Charges.

Staff is requesting City Council to delegate authority to the City Manager to negotiate and execute amendments to On-Airport Rental Car Operations Agreements and Lease agreements to extend the term to June 30, 2030 and provide temporary financial relief for a period of up to six months, retroactively from July 1, 2020 through December 31, 2020. City Staff will coordinate and receive final approval from the City Manager and Director and provide an update to City Council on any such negotiated and executed amendments in an Informational Memo that could include:

1. Extend the term retroactive from July 1, 2020 to June 30, 2030;
2. Continue suspension of the Minimum Annual Guarantee (MAG) Rent, increasing percentage rent of gross revenue paid to the City and charge only percentage rent from July 1, 2020 through December 31, 2020;
3. Suspend, defer or modify the Annual Concession Fee Reconciliation (True Up) as a result of any negotiated adjustments to the MAG;
4. Waive any otherwise applicable late fees or interest related to the deferment of the MAG or other rent payment;
5. Amend the reallocation date of construction and any relocation of services to a later date; and
6. Amend the appraisal language to defer appraisals to a later date and increase rent from leased premises by CPI.

CONCLUSION

In the FY21 budget, use of CARES Act Funding to provide financial relief for some of the concessionaires was contemplated and built into the budget that was approved by the City Council. The City is in a position to assist Rental Car Companies with continued relief to allow them to keep their businesses operational and their workforce in place for when travel conditions have improved. The Airport desires to minimize impacts to Rental Car Companies during these turbulent times and provide immediate financial relief. Staff will re-evaluate the circumstances and may recommend further action in calendar year 2021 when the on-going impacts of COVID-19 are better understood.

EVALUATION AND FOLLOW-UP

The Director of Aviation will be responsible for coordination of any amendments to the On-Airport Rental Car Operations Agreement and Lease Agreements and will render overall supervision of progress and performance including evaluation of the travel industry and the outlook for calendar year 2021.

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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 extend the term of the agreements or provide financial relief.

Pros: The Rental Cars would continue to be required to pay in accordance with the terms of their agreement under holdover.

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

Reason for not recommending: Providing a plan during the Rental Cars economic distress results in better long term and more stable revenues to the City than strict adherence to the On-Airport Rental Car Operations Agreement and Lease agreement terms which may result in 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 August 4, 2020 Council Meeting.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

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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.