



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** William F. Sherry, A.A.E.

**SUBJECT:** SEE BELOW

**DATE:** February 4, 2008

Approved

Date

2/4/08

**COUNCIL DISTRICT:** City-Wide

**SUBJECT: FIRST AMENDMENT TO GROUND LEASE FOR FUEL SYSTEM**

## RECOMMENDATION

Adoption of a resolution authorizing the City Manager to negotiate and execute a First Amendment to the SJC Fuel Company, LLC (SJC Fuel Company) Ground Lease for Fuel System (Agreement) at Norman Y. Mineta San Jose International Airport (Airport) to relocate the fuel dispensing area at a cost of \$1.435 million dollars, to expand the size of the premises with a corresponding rental increase of \$1.565 million over the term of the Agreement, and to allow for changes in the design of the fuel system.

## OUTCOME

The First Amendment would allow construction of the fuel dispensing facility to occur on an alternate site that removes the risk of fuel trucks crossing an active taxiway or impacting essential aircraft parking positions, would provide an enlarged fuel storage area to accommodate future expansion, would allow approved design changes to the fuel system, and would provide the Director of Aviation with authority to approve additional changes to the design that are consistent with the planned operation of the fuel system.

## BACKGROUND

The Agreement for development and operation of the new airline fuel storage and dispensing facility was approved by City Council (Council) on May 2, 2006. The leased premises include a 4.50 acre fuel storage area located east of Highway 101 at 2500 Seaboard Avenue and a 1.06 acre fuel dispensing area located west of Highway 101 adjacent to the FedEx leasehold. An underground pipeline will be installed from the fuel storage area to the fuel dispensing area where trucks will be filled with fuel for delivery to aircraft.

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The Airport and SJC Fuel Company have worked closely during the design phase of the fuel storage and dispensing facility and several concerns have been identified with the existing fuel dispensing area that negatively impact the Airport. The driving routes of fuel trucks would require them to either cross an active taxiway or cross a ramp area that would limit or prohibit charter and overflow passenger aircraft parking. The FedEx leasehold would also be impacted with the loss of one of its three aircraft parking positions and require the relocation or removal of structures, with the City paying any unamortized value for FedEx structures that would need to be removed.

The Airport has identified an alternate fuel dispensing site located at an obsolete taxi staging area. Relocating the fuel dispensing area to this alternate site would resolve the access issues presented by the current site and would not impact other leaseholds at the Airport. SJC Fuel Company is agreeable to this change if the City reimburses them for the increase in design and construction costs associated with changing sites.

In addition, SJC Fuel Company has proposed certain changes to elements of the fuel system, including the initial number of fuel storage tanks and off-load rack positions and removing the redundant pipeline requirement.

### **ANALYSIS**

It is essential that the fuel dispensing facility be constructed at the newly proposed site. If it is not, the Airport will be operationally constrained by losing most, if not all, of the East Side overflow and charter aircraft parking positions and one FedEx aircraft parking position. Alternatively, it is unacceptable from a safety perspective to route fuel trucks across an active taxiway where a mishap could lead to a collision between fuel trucks and passenger or cargo aircraft.

Unless the City provides reimbursement for the additional cost outlay that will result from the relocation of the fuel dispensing facility, SJC Fuel Company will not relocate because they do not recognize a significant benefit from the change. SJC Fuel Company estimates the additional cost to be roughly \$1.435 million dollars. It has been negotiated that this would be reimbursed by the City by providing a monthly rent credit to SJC Fuel Company equaling the additional costs actually incurred by SJC Fuel Company, to be verified by the City, over the 30-year term of the Agreement.

The total square footage of the leased premises is currently 242,194, including the 46,174 square foot fuel dispensing area and the 196,020 square foot fuel storage area. Should the proposed changes be approved, the estimated total square footage of the leased premises, to be verified by survey, will be 276,510, including the 28,218 square foot fuel dispensing area and the 248,292 square foot fuel storage area. The new monthly base rent for the leasehold payable to the City would be \$35,024.60 less the estimated monthly rent credit of \$3,986.11, resulting in an estimated monthly rent of \$31,038.49. This represents a monthly rent increase of \$360.58.

The fuel system as identified in the Agreement is based on a feasibility study from January 2006. Changes have been proposed by SJC Fuel Company and accepted by the Airport and City

Planning, including the initial number of fuel storage tanks and off-load rack positions and removing the redundant pipeline requirement once an acceptable contingency plan is approved. Additional changes are also being necessitated by code and planning issues. Staff recommends that these changes be incorporated into the Agreement and that the Director of Aviation be authorized to approve any additional changes to elements that are consistent with the planned operation of the fuel system.

### **EVALUATION AND FOLLOW-UP**

The Director of Aviation shall be responsible for coordination of the Agreement and shall render overall supervision of it at the Airport and will continue to work cooperatively with SJC Fuel Company.

### **POLICY ALTERNATIVES**

*Alternative #1:* Keep the original fuel dispensing site.

**Cons:** Existing fuel dispensing site has operational issues that significantly affect the Airport.

**Reason for not recommending:** Not operationally feasible.

*Alternative #2:* Do not allow design changes to the fuel system.

**Pros:** Maintains the original intent of the Agreement.

**Cons:** Does not allow for a fuel system to be designed according to need.

**Reason for not recommending:** Does not allow for design flexibility.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item does not meet the above criteria requiring additional notification; however, it will be posted on the City's Council Agenda Website for the February 26, 2008 Council Meeting.

### **COORDINATION**

This item has been coordinated with the City Attorney's Office, the Budget Office and the Fire Department.

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**COST SUMMARY/IMPLICATIONS**

The changes to the leasehold square footage, less the rent credit from site relocation costs, would result in an estimated monthly rental increase of \$360.58.

**CEQA**

Resolutions No. 67380 and 71451, PP 07-259

*Frank Kirkbride*

*for*

William F. Sherry, A.A.E.  
Director of Aviation

For questions please contact William Sherry, Director of Aviation, 501-7670.