



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Ed Shikada  
Frank Kirkbride

**SUBJECT: STATUS REPORT ON RENTAL  
CARS AND LIVING WAGE**

**DATE:** April 27, 2005

Approved

Date

4/27/05

COUNCIL DISTRICT: Citywide

## RECOMMENDATION

Acceptance of report regarding rental car operations at the Norman Y. Mineta San José International Airport, including analysis of implementation of living wage provisions in rental car agreements at other California airports, status of discussions with rental car companies regarding proposed living wage provisions, financial terms of proposed agreements and framework for relocation of rental car operations at the Airport to the former FMC site, and take appropriate action based on review of the report.

## BACKGROUND

On March 29, 2005, the City Council authorized the City Manager to negotiate and execute amendments to the current On-Airport Rental Car Operations Agreements and Leases and Rental Car Storage Ground Leases to extend the agreements under the same terms and conditions until August 30, 2005.

Council provided the following direction:

By the May 3<sup>rd</sup>, 2005 Council meeting, Staff is directed to:

1. Provide a status report to Council that includes detailed analysis of agreements of other major regional and California airports regarding payment of living wage by rental car companies.
2. Provide a progress report to council regarding discussions between staff and rental companies related to the following areas, included but not limited to:
  - Living wage provisions and/or voluntary wage adjustments consistent with wages paid at other Bay Area airports.
  - Financial terms that keep rental car company revenues at 14% or higher of total airport revenues. During these discussions staff may consider Minimum Annual Guarantees, ground rents, automobile stall rents and busing fees.

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- Developing a framework to relocate rental car operations to the former FMC site and establish terms that provide companies with an incentive to locate at that site.

Based on the results of #1 and #2 above, Council will provide further direction on implementation of the Living Wage Ordinance at the May 3<sup>rd</sup> hearing.

## **ANALYSIS**

### **Status Report on Living Wage Provisions at Other California Airports**

Based on research of the major California airports, staff has identified four (4) major airports in California that require a living wage of the Rent-A-Car ("RAC") companies: San Francisco, LAX, Ontario and Oakland. Other airports such as San Diego, Sacramento, Orange County, Burbank and Fresno do not require a living wage of the RACs.

At the four airports identified, living wage requirements were implemented between 1998 (LAX) and 2004 (SFO). SFO and Oakland provide exemptions for businesses with fewer than 20 employees; LAX and Ontario provide exemptions for businesses with fewer than seven employees.

"Hikers" are rental car company employees who drive the vehicles between the different locations and make up the largest segment of the RAC employees at San José, estimated to number up to 1,000 persons. Staff's research has shown that at SFO, fewer hiker hours are needed because there is a multi-level consolidated rental car facility with adjoining ready/return and vehicle storage space; each company's fueling and washing facility is in close proximity to the consolidated facility, and SFO is able to provide adequate overflow vehicle storage near the consolidated facility. In contrast, due to the lack of adequate operating space at SJC, all of the rental car operations are relatively labor intensive. In addition, the rental car market at SJC is different from SFO and OAK, in that weekend demand is low. Therefore, the RACs shift fleet back and forth between San José and other airports where weekend demand is higher. These fleet shifts require more hiker hours for the rental car companies at San José than at SFO.

Attachment A - "Comparison of Living Wage Applicability" summarizes the basic provisions of living wage as it applies to these airports.

Attachment B - "Rental Car Concession Business Terms at California Airports Requiring Living Wage" includes a summary of the basic business terms between these airports and the RACs to provide a better understanding of the terms and conditions for operating at these airports, including the circumstances at the time of imposition of living wage.

### **Progress Report on Discussions with the Rental Car Companies**

A meeting was held with the current San José on-airport RAC concessionaires on April 19, 2005 to discuss the impact of living wage on their operations and operating expenses, general terms

and conditions to extend their current agreements, and the process and timeline for the relocation of their operations to the FMC site.

**A. Living Wage or Voluntary Wage Adjustments**

- The RACs pointed out to staff the unique operational and space constraints that require them to have a larger work force at San Jose versus other similar airports. The RACs asserted that, as a result, compliance with the living wage policy would impact them more at San José than at other California airports.
- The RACs contend the impact of living wage will be \$4 to \$5 million annually.
- The RACs are very concerned with the timing of implementing living wage, as they have not had the opportunity to budget for it and work their business model to accommodate this change.
- The RACs recognize that living wage may be imminent and asked that it be implemented in conjunction with the beginning of their operations at the FMC site so as to offset the financial impacts of living wage with operational efficiencies they will realize at the new site.

**B. Framework to move to former FMC Property and Terms**

- In 1999, the City obtained legislative authority to collect up to \$5.00 per contract for rental car customer for common busing to the interim (Green Island) rental car facility, to be increased to \$10.15 per contract upon occupancy of a future consolidated rental car facility. This fee is commonly referred to as a Customer Facility Charge ("CFC"). The California State Legislature required that the \$10.15 CFC could only be collected for 20 years, and capped the costs to which it could be applied. Further, collection of the \$10.15 CFC can only commence after the facility is operational.
- Subsequently, the RAC industry successfully lobbied the State Legislature for a statewide CFC. The statewide authority allows airports to collect a \$10.00 per contract CFC, does not prohibit "early collection" of the CFC, and does not cap the total expenditures to which it can be applied. Since the San Jose, San Francisco and San Diego legislation predated the statewide version, the three airports are specifically excluded.
- The RACs would like the City to take the lead to amend the State CFC legislation to clarify that the City has the authority to collect a \$10.00 per transaction CFC, as is now permitted at all other California airports except for San Jose, San Francisco and San Diego. The RACs propose that the City use this additional CFC revenue to pay for the increased cost of busing and to pay for rental car facility capital improvements at the former FMC property. In the alternative, the RACs would like the City to use the current authority contained in the State legislation applicable to San Jose, to collect \$10.15 per rental car contract after the former FMC site has begun operation.

- The RACs made it clear that the former FMC site will provide them greater operating efficiency allowing them to better accommodate the increased expense of living wage, and requested several times that application of the living wage be timed to their relocation to the former FMC site.
- The RACs believe that the business terms and conditions for their relocation to the former FMC site will need to be considerably better than the current terms at the Green Lot (current on-Airport location), including adjustment and/or abatement of rents, reduction of the percentage fee, longer amortization period for their capital costs, and the need for the City to invest more capital into the project.
- The RACs identified current and future costs of operating and maintaining the rental car common busing system as a major issue. The current \$5.00 CFC is inadequate, and RACs are required to cover the shortfall. The 2005-2006 proposed budget projection provides for CFC revenues of \$4.4 million and an RAC contribution to cover shortfalls of approximately \$600,000. Busing costs will likely continue to escalate and be considerably higher at the former FMC site, due to increased distance from the terminals.

## **Staff Analysis**

### **A. Costs of Living Wage to the RACs**

In the March 29, 2005 Council memo staff estimated that the impact of imposing living wage on the RACs could be approximately \$4 to \$5 million per year. This figure was derived as follows, absent detailed payroll records from the RACs to verify the impact:

1. Staff multiplied the differential between current wage rates and the current City Living Wage rate by 40 hours a week, times 52 weeks, times an estimated 800-1000 hikers, and came up with approximately \$5 million.
2. The City's consultant, John F. Brown Company (JFB), was able to obtain confidential information from rental car operators at San José, comprising approximately 33% of the market. These operators indicated that they would have to pay a \$3.20 per hour wage differential under living wage. These operators indicated that the annual impact on them would be \$1,660,000. JFB multiplied this number by 3 (the info obtained represented 1/3 of the market) and arrived at \$4,980,000.
3. JFB provided services to SFO and Oakland airports when living wage became an issue at those airports. In the course of those assignments, JFB reviewed information developed by both airports regarding their estimates of the living wage impact on their RAC concessionaires. Their estimates were based in part on confidential information provided to them by the RACS at those airports. The experience gained and estimates from these airports were used in the estimate for San Jose.

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Imposing living wage prior to relocating the RAC operations to the FMC site may cause the RACs to cut customer service levels (and possibly reduce staffing) in an effort to cut costs. This could translate into passengers experiencing longer wait times for vehicles.

**B. Financial Terms that Keep the Rental Car Company Revenues at 14%**

Staff has carefully considered this City Council directive, and acknowledges the intent of not reducing non-airline revenues to the Airport, whereby the airlines would be required to make up the cost differential. The financial burden of imposing living wage on the RACs should not be shifted to another airport industry. The goal of maintaining RAC revenues at current levels will, however, limit options to negotiate mutually agreeable terms and conditions within the existing agreement and operational location. A new agreement with the RACs for their use and operation at the former FMC site provides more opportunities to mitigate any living wage impact while maintaining Council direction to not reduce RAC revenues to the Airport.

**C. FMC Business Terms and Conditions and Incentive**

The staffing levels necessary to operate from a single consolidated facility are considerably less than operating from scattered individual sites. Many of the RACs at San Jose have multiple locations for offsite vehicle storage and fueling and cleaning facilities that necessitate manpower and logistics to move cars to and from each site and the Green Island customer facility. The RAC industry has sufficient incentive to relocate to the FMC site in order to take advantage of the considerable operational efficiencies that a larger consolidated facility would provide.

A very aggressive schedule has been developed to negotiate, design and build the FMC site in order to be operational and to begin generating revenue by February 2007. Debt service payments on the RAC portion of the FMC site begin February 2007. The inability to begin generating additional RAC revenue at this time would place the debt service burden on Airport revenues. A meeting with the RACs on May 10, 2005 has been set to present the basic FMC business terms and conditions with the intention of having executed letters of intent (LOIs) by November 2005 and fully executed formal agreements by March 2006. It is anticipated that the LOIs will address issues such as:

- term (length) of the new agreement;
- rent and acreage to be provided;
- concession fees and minimum annual guarantees;
- responsibilities for capital improvements.

The intent of the LOI is to secure deposits and formal commitments from the RACs that will operate at the new facility. The LOIs will allow parallel work on the final negotiation of formal agreements while permitting the RACs to begin their project design work.

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### **PUBLIC OUTREACH**

The question of Living Wage Policy application to rental car company contracts was raised at the February 7, 2005 Airport Commission meeting, in discussion of a general business item regarding several rental car employee concerns. The Airport Commission at their March 7, 2005 meeting voted 4 to 2 to recommend to the City Council to include Living Wage in the Rental Car agreements. The City Council heard the item on March 29, 2005 and directed a report back to Council on May 3, 2005. A meeting was held with the rental car industry on April 19, 2007 to discuss living wage and the FMC site. The item will be discussed again at the May 2, 2005 Airport Commission Meeting.

### **COORDINATION**

This memo has been coordinated with the City Attorney's Office, the City Manager, the Office of Economic Development, the Department of Public Works/Office of Equality Assurance, and the Finance Department.

### **OUTCOME**

The information provided in this report is intended to support City Council discussion and informed policy direction on the inclusion of a living wage requirement in Airport rental car agreements.

### **CEQA**

Resolution Nos. 67380 and 71451, PP 05-038.



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FRANK KIRKBRIDE  
Acting Director of Aviation

**ATTACHMENT A**  
**COMPARISON OF LIVING WAGE APPLICABILITY**  
**TO RENTAL CAR CONCESSIONS AT SELECTED CALIFORNIA AIRPORTS**

<u>Airport</u>	<u>Date Applied To RACS</u>	<u>Applies To</u>	<u>Exemptions</u>	<u>Wage Rate Before/After</u>	<u>Est. Cost Impact on RACS</u>	<u>Circumstances</u>
<b>San Francisco</b> (Administered by City Dept. of Administrative Services)	January 2004	Any agreement exceeding 29 days (including lease, sublease, concession, franchise, easement) for use of real property owned or controlled by SFO; Covers employees, contractors, sub contractors working at least 10 hours/two week pay period at the property.	Businesses w/ 20 or fewer employees; Compensation payable to the entity of less than \$25,000/yr (\$50,000/yr for non-for-profit companies); Agreements for purchase, lease or installation of goods; Collective bargaining agreements; Agreements requiring payment of prevailing wage rate in excess of LWO rate in effect at the time.	<u>Before:</u> \$7.00-\$9.00 per hour. <u>After (current):</u> \$10.77/hour (gross compensation)  12 paid days off; 10 non-paid days off.	\$2.4 million/year (SFO staff estimate)	Negotiated as part of 5-year contract extension. SFO reduced MAGS by 10% and adjusted MAG abatement trigger RACS had approximately 12 months advance notice of requirement to comply with LW. (SF City ordinance is called "Minimum Compensation Ordinance")
<b>Oakland</b> (Administered by Port of Oakland Social Responsibility Division)	August 2003	Businesses that pay or receive from the Port at least \$50,000 by means of lease, contract, or license; entities that hold a subcontract, sublease, management agreement with any of the above; appears to include some independent contractors	Businesses w/ fewer than 20 employees; Employees spending less than 25% of their work time on Port-related employment.	<u>Before:</u> not disclosed by RACS <u>After (current):</u> \$9.66 per hour w/ benefits; \$11.11 per hour w/o benefits.  12 paid days off; 12 non-paid days off	\$5.0 million/year (OAK staff estimate)	Negotiated as part of 5-year lease and concession agreement to move RACS to interim consolidated facility, until construction of permanent RAC facility at passenger terminal. 1 <sup>st</sup> \$2 million in RAC ground rent abated. OAK gave RACS 2 month's notice of LW compliance
<b>LAX/Ontario</b> (Administered by City Dept. of Public Works, Bureau of Contract Administration, Office of Contract Compliance)	1998 at LAX 2004 at ONT	Lessees/licensees of public property where services rendered and property visited by substantial numbers of the public; service contracts in excess of \$25,000/yr; Employees working at least 20 hours/mo on the agreement subject to LWO.	Collective bargaining agreements; Lessee or licensee has gross revenues from business at the property of less than \$350,000/yr (adjusted annually); No more than 7 employees	<u>Before:</u> Not disclosed by RACS. <u>After (current):</u> \$8.78/ hour w/benefits; \$10.03/hr w/o benefits.  12 paid days off; 12 non-paid days off	Impact not estimated by LAWA staff	Request for bid documents require bidders for rental car concessions to agree to comply with City Living Wage Ordinance. RACS know, before submitting bid for a concession, of LW requirement and can thus plan accordingly. Approximately 6-8 months prior notice (duration of bid process).

**COMPARISON OF LIVING WAGE APPLICABILITY  
TO RENTAL CAR CONCESSIONS AT SELECTED CALIFORNIA AIRPORTS**

As of this date, the John F. Brown Company has determined that the following California airports do not require Living Wage compliance by their rental car concessionaires:

**San Diego  
Sacramento  
Orange County (John Wayne)  
Burbank  
Fresno**

**ATTACHMENT B  
RENTAL CAR CONCESSION BUSINESS TERMS AT CALIFORNIA AIRPORTS  
REQUIRING LIVING WAGE COMPLIANCE**

	<u>Concession Fee</u>	<u>CFC</u>	<u>Definition of Gross Rev.</u>	<u>Bid or Negotiation</u>	<u>Term of Agreement</u>	<u>Other</u>
<b>San Francisco</b>  Living Wage compliance required effective January 2004	10%	\$12.00/transaction. Covers only a portion of people mover costs attributable to consolidated RAC facility. SFO subsidizes balance of people mover costs.	All-inclusive	Negotiated in 2003	5 years	When living wage imposed, SFO agreed to reduce MAGS by 10% and change trigger for MAG abatement. Ready/return spaces reallocated annually, but RACS rarely choose to implement
<b>Oakland</b>  Living Wage compliance required effective August 2003	9.5%	\$10.00/transaction. Covers common busing; used to reimburse OAK for its facility infrastructure construction costs and for \$2 million RAC ground rent abatement	All-inclusive	Negotiated in 2003	4 years	When living wage imposed, OAK agreed to abate the 1 <sup>st</sup> \$2 million in facility ground rent due from the RACS. OAK reimbursed itself from CFC revenues for the \$2 million. OAK provided \$8 million in capital to the RACS for construction of their improvements at the interim consolidated facility. RACS reimburse OAK, including interest, thru rates and charges. Ready/return spaces reallocated every 2 years.
<b>LAX</b>  Living Wage compliance effective 1998	10%	None currently. LAX is planning to implement \$10.00/transaction CFC in next 12 months	All-inclusive	Bid in 2003	5 years	Living Wage required as part of request for bid specifications for new 5-year agreements. RACS bus individually to their exclusive use customer facilities. No on-airport facilities to re-allocate.
<b>San Jose</b>	10%	\$5.00/transaction. Covers common busing only	Excludes LDW and fuel/refueling charges	Negotiated in 2000	Expires August 30, 2005	RACS are now paying excess common busing expense not covered by CFC collections. Ready/return space re-allocated annually based upon DBE participation formula