

Memorandum

TO: Honorable Mayor and
City Council

From: William F. Sherry, A.A.E.

SUBJECT: SEE BELOW

DATE: October 27, 2008

Approved

Date

10/28/08

COUNCIL DISTRICT: City-Wide

SUBJECT: APPROVAL OF A SIXTH AMENDMENT AND CONTINUATION AGREEMENT TO SPACE AND APPROVAL OF A NEW LEASE AGREEMENT WITH THE USO OF NORTHERN CALIFORNIA, INC.

RECOMMENDATION

- a) Approve the Sixth Amendment and Continuation Agreement to Space Lease (Existing Lease) with the USO of Northern California, Inc. (USO), to extend the term through June 30, 2010, with no change to the rental rate of \$1.00 per year, and to provide for current and future relocation, expansion, and contraction of the leased premises at the City of San José's expense.
- b) Adopt a resolution authorizing the City Manager to:
 1. Negotiate and execute a new lease (New Lease) with the USO for approximately 2,000 square feet in Terminal B, for the term of five (5) years from the date that the USO takes possession of the new space, with no change to the rental rate of \$1.00 per year, to replace the Existing Lease once the USO relocates from the temporary leased premises in the Existing Lease.
 2. Exercise up to two (2), three (3)-year options to extend the term on the same terms and conditions, at the City's sole discretion.

OUTCOME

- a) Approval of the Sixth Amendment to the Existing Lease would authorize the USO's continued operation at Norman Y. Mineta San José International Airport (Airport)

through June 30, 2010, under the Existing Lease, and provide for City funded relocations of the Existing Lease premises.

- b) Adoption of the resolution to negotiate and execute the New Lease will authorize the USO's continued operation at the Airport after the Existing Lease terminates and provide an approximately 2,000 square foot location within Terminal B at generally the same terms and conditions as in the Existing Lease and for a term of up to eleven (11) years from the date that the USO takes possession of the new space.

BACKGROUND

The USO of Northern California, Inc. entered into the Existing Lease with the City on July 2, 1991 through June 30, 1994, to place a 1,400 square foot trailer adjacent to the north end of Terminal C. The Existing Lease originally provided that the premises was to be used only as a rest area for United States military personnel and their families.

The First Amendment to the Existing Lease was entered into on June 28, 1994, to extend the term through June 30, 1995, and to allow the City to use the premises for meetings and special events related to Airport business.

The Second Amendment to the Existing Lease was entered into on September 26, 1995, to extend the term through July 2, 2000, and to require the USO to pay a pro-rata share of utility costs.

The Third Amendment to the Existing Lease was entered into on May 28, 1996, to make the facility available to Airport passengers experiencing distress. In consideration of services made available to members of the traveling public by the USO, the City agreed to provide utilities to the premises at no cost.

The Fourth Amendment to the Existing Lease was entered into on May 30, 2000, to extend the term through June 30, 2005.

The Fifth Amendment to the Existing Lease was entered into on December 9, 2003, to extend the term through June 30, 2008, and to relocate the USO trailer due to impacts from construction activities. The Airport intended that a permanent USO location would be available prior to the expiration date of the Existing Lease on June 30, 2008.

As a result of the modifications to the Master Plan Program approved by City Council on June 13, 2006, an additional temporary relocation of the USO facility was required on May 23, 2008. However, the Existing Lease allows for only one move of the USO, which has already occurred. Staff worked with the USO to find a mutually acceptable location for the new Existing Lease premises and to provide a different trailer that the USO would operate out of due to concerns that the existing trailer would not be structurally stable after the relocation. The USO has completely vacated the previous location at 1817 Airport Boulevard and is now operating at 1651 Airport Boulevard.

To account for changes in the TAIP, the term of the Existing Lease must be extended through June 30, 2010, to ensure that a temporary USO location is available for their use until the construction is complete for an approximately 2,000 square foot location in Terminal B. Once the USO relocates to this new location, the Existing Lease will be terminated and the New Lease will become effective.

ANALYSIS

The Sixth Amendment documents the relocation of the USO facility to the new site at 1651 Airport Boulevard south of Terminal C Baggage Claim, allows for additional relocations, provides for the City to pay for relocations, and extends the Existing Lease through June 30, 2010. All other Existing Lease terms remain unchanged, including rent at \$1.00 per year, and utilities at no cost to the USO, and requirements that the USO make the facility available to United States military personnel and their families, passengers experiencing distress, and City staff conducting business related to the Airport.

The Existing Lease has already been amended five times with the Sixth Amendment awaiting Council approval for execution. Entering into the New Lease with the USO for approximately 2,000 square foot in Terminal B will account for differences between what has become a trailer premises lease soon to expire and a long-term lease of enclosed space within Terminal B. Many of the terms and conditions identified in the Existing Lease will be incorporated into the New Lease, including rent of \$1.00 per year, utilities at the City's expense, adequate parking for USO staff and volunteers, and forced relocation, expansion, and contraction of the leased premises at the City's expense. The term will be 5 years with 2, 3-year options at the City's sole discretion.

EVALUATION AND FOLLOW-UP

Staff is working closely with the USO in designing lease space consisting of approximately 2,000 square feet in Terminal B. The final relocation of the USO to this location is expected to occur no later than June 30, 2010.

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)

HONORABLE MAYOR AND CITY COUNCIL

October 27, 2008

Subject: Sixth Amendment to Existing Space Lease and New Space Lease with USO

Page 4

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 November 18, 2008 Council Meeting.

COORDINATION

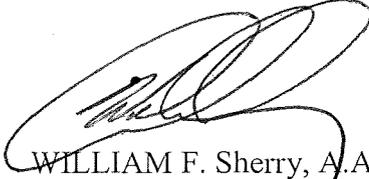
This Agreement has been coordinated with the Budget Office and the City Attorney's Office.

COST SUMMARY/IMPLICATIONS

The City has allocated up to \$250,000 to relocate the USO to the new temporary location and to provide a trailer for the USO to use due to structural concerns with moving the existing trailer.

CEQA

Resolutions No. 67380 and 71451, PP 08-205



WILLIAM F. Sherry, A.A.E.
Director of Aviation
Airport Department

For more information or answers to questions, please contact William F. Sherry, Director of Aviation, at (408) 501-7669.