



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** William F. Sherry, A.A.E  
Director of Aviation

**SUBJECT:** SEE BELOW

**DATE:** October 3, 2011

Approved

Date

10/6/11

**COUNCIL DISTRICT:** City-Wide

**SUBJECT: APPROVAL OF A THIRD AMENDMENT TO THE CLEAR CHANNEL AIRPORT ADVERTISING CONCESSION AGREEMENT**

## RECOMMENDATION

Approve a third Amendment to the Advertising Concession Agreement ("Agreement") between the City of San José and Clear Channel Outdoor, Inc. d/b/a Clear Channel Airports ("Clear Channel") at the Norman Y. Mineta San José International Airport to:

1. Combine the minimum capital investment requirements of the various advertising categories; and
2. Provide Clear Channel with office/storage space at no additional charge in support of its operations at the Airport.

## OUTCOME

The Third Amendment will combine the minimum capital investment requirements for advertising Options I, II, and III totaling \$1,879,000 and provide Clear Channel with 261 square feet of space at no additional charge to be used for office and storage in support of its operations at the Airport.

## BACKGROUND

On June 5, 2007, after an extensive Request for Proposals (RFP) process, Council adopted a resolution authorizing the City Manager to negotiate and execute an Advertising Concession Agreement with Clear Channel to conduct advertising operations at the Airport for a period of seven years beginning on July 1, 2007, with a three year extension at the option of the City.

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On October 1, 2008, a Minor First Amendment to the Agreement was entered into to make a clerical correction to the Agreement. On June 15, 2010, a Second Amendment to the Agreement was executed that simplified the administration of advertising inventory, modified the advertising fixtures refurbishment requirements, eliminated the minimum annual guarantee (MAG) for new advertising sites, and eliminated some advertising sites and their associated capital investment requirement and MAG.

The Agreement has four categories of advertising with individual capital investment requirements:

- Option I - Fixed display in-Terminal equipment, including wall and floor displays, hotel/motel reservation boards, wraps, and banners with a minimum capital investment requirement of \$1,577,966.
- Option II – Outdoor advertising, including a garage banner and light pole advertising with a minimum capital investment requirement of \$72,493.
- Option III – Transit/bus shelter advertising with a minimum capital investment requirement of \$228,541.
- Option IV – Marketing income opportunities include sponsorships, promotions, naming rights, licensing rights and other opportunities not provided under Options I through III. The capital investment requirement is negotiated for each opportunity.

Under the Agreement, Clear Channel is obligated to meet or exceed the minimum capital investment requirement in each of the Options I, II and III. Should it not meet the requirement in any category, the Agreement provides that Clear Channel must pay the Airport the difference.

### **ANALYSIS**

Clear Channel's gross revenues have been roughly half of the \$4,244,455 MAG since the MAG Commencement Date. While Clear Channel has spent over \$1,900,000 in capital investment at the Airport, more than the total requirement of Options I, II and III combined, the majority of the capital investment was for advertising fixtures within the terminals in Option I. Roughly \$300,000 in remaining capital investment is required under the Agreement for Options II and III.

Clear Channel has provided high-quality advertising fixtures that in some cases are unique displays found only at the Airport, including three digital visitor information centers and five free charge stations. Clear Channel worked with the Airport to adhere to strict design guidelines and incorporated requests to fabricate advertising fixtures that matched the architecture of Terminal B.

There is currently not demand for advertising at the remaining sites in Options II and III and investing in these sites would not result in a financial return for Clear Channel. Should the

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Airport require payment of the remaining minimum capital investment for Options II and III, it would weaken the financial viability of the Agreement, which brings in over \$4,000,000 of concession revenue to the Airport every year.

Combining the minimum capital investment requirements of Options I, II and III will allow Clear Channel to continue to invest in new advertising fixtures in Option I without the obligation of investing further in Options II and III, or paying the Airport the difference.

Clear Channel staff is at the Airport on a daily basis in support of its operations. Clear Channel staff market the advertising sites, provide tours to prospective clients, and install, maintain and remove advertising fixtures and campaigns. Providing Clear Channel with 261 square feet of currently vacant space at no additional charge will allow Clear Channel to store advertising fixtures and materials at the Airport and provide a location in which the staff can operate and meet with clients. The Director of Aviation will have the authority to relocate, expand, or contract the space should business conditions change.

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

The Director of Aviation shall be responsible for coordination of this Agreement and shall render overall supervision of the progress and performance.

#### **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 Website for the October 25, 2011, Council Meeting.

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**COORDINATION**

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

**COST SUMMARY/IMPLICATIONS**

None.

**CEQA**

Not a project, File No. PP10-066(e) Services that involve no physical changes to the environment.

/s/ Kimberly B. Aguirre for  
WILLIAM F. SHERRY, A.A.E  
Director of Aviation  
Airport Department

For questions please contact William F. Sherry, Director of Aviation at (408) 392-3611.