RULES COMMITTEE: 01-17-07
ITEM: C1

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: RULES COMMITTEE

FROM: William F. Sherry, AAE

SUBJECT: **Approval of City – Sponsored Legislation – Customer Facility Charges**

DATE: January 10, 2007

Approved Deanna Santana Date 1/10/07

COUNCIL DISTRICT: Citywide
SNI AREA: N/A

RECOMMENDATION

1. Authorize the introduction of state legislation repealing the 1999 legislation that authorized the City to collect customer facility charges from Airport rental car customers *and instead* include San Jose in the law that currently applies to all other airports in the state *except* San José, San Francisco and San Diego. San José plans to use this revenue for the purpose of funding interim rental car common use busing costs and financing the planned consolidated rental car facility and "a common use transportation system" (such as an on-Airport automated people mover or a bus system) as part of the reconstruction of the Airport.

2. Authorize a one-week turnaround for City Council review. This will allow the City the opportunity to meet the State Legislature's deadline of January 26 to submit preliminary bill language to the Office of the Legislative Counsel, the first step in the state legislative process.

OUTCOME

By sponsoring legislation to repeal the 1999 legislation and including the City in the current state law that authorizes California airports to collect customer facility charges (CFCs), the City would remove several critical limitations and be able to collect CFC revenues over a longer period of time to cover a greater portion of the costs of the consolidated rental car facility and the common use transportation system.

BACKGROUND

In 1999 the City successfully pursued the passage of legislation that made it one of the first airports in the state with the authority to impose customer facility charges on Airport rental car customers to raise revenues for the specific purpose of funding interim rental car common use busing costs and financing the planned consolidated rental car facility and "a common use transportation system" (such as an on-Airport automated people mover or a bus system) as part of the reconstruction of the Airport funding the planned consolidated rental car facility and "common use transportation facilities" (such as an automated people mover or bus transportation system) to be constructed as part of the rebuilt Airport. The legislation contained several limitations related to when, how long and how much could be collected from this revenue source. See Attachment A for more detailed information.

Subsequently, in 2001, state legislation was passed that gave *all* airports in the state, *except* San Francisco, San Diego, and San José (which each had their own specific legislation), the ability to impose customer facility charges. While the 2001 legislation capped the charges per transaction, it did *not* contain a number of the key limitations contained in the 1999 San José legislation.

The combined impacts of 9/11 and the downturn in the local economy have resulted in a significant reduction in the number of rental car transactions from what was originally envisioned. In addition, since 1999, the costs of the facilities have escalated significantly. As a result of these developments, the City cannot afford to build the facilities envisioned in 1999.

ANALYSIS

Staff is recommending the City pursue the repeal of the 1999 state legislation it sponsored to give it the ability to impose a customer facility charge to fund interim busing service and to finance the construction of the planned consolidated rental car facility and a common use transportation system at the Airport. By repealing the 1999 legislation and coming under the jurisdiction of the current state legislation (passed in 2001), several key limitations will be removed and the City will be in a better position to finance the consolidated rental car garage and a common use transportation system. The removal of these limitations would allow the City to collect customer facility charge revenues from Airport rental car customers over a longer period of time to cover all – or at least a greater portion of – the costs of the consolidated rental car garage and common use transportation system. See Attachment A for more detailed information.

Without such legislation, the City will have to either: 1) significantly reduce the scope of the consolidated rental car facility and build a facility that would not meet projected customer demand; or 2) attempt to impose significant costs directly on the rental car companies to fund development of the facility.

POLICY ALTERNATIVES

Alternative #1: The City could decide not to pursue the repeal the 1999 legislation and build as much of the planned facilities as possible with the revenue generated from the existing legislation.
Pros: There are no significant advantages to this alternative.
Cons: The facilities that would be constructed would fall far short of meeting the space demand projected by the rental car companies, likely requiring at least some of the rental car companies to re-locate off Airport property. In addition, this alternative retains the same limitations that limit the City's ability to collect CFC revenues and finance the planned facilities compared to other airports in the state.
Reason for not recommending: Raising more revenue to construct a larger facility would be more supportive of customer convenience and use of the Airport.

Alternative #2: The City could not seek to repeal the 1999 legislation and approach the rental car companies for a financial contribution to build a larger facility.
Pros: Increases revenue available for constructing the planned facilities.
Cons: Would retain the same limitations on raising CFCs that limit the City's ability to finance and construct the planned facilities compared to other airports in the state.
Reason for not recommending: Removing the current limitations will provide greater flexibility to the City to finance and construct the planned facilities. The City can pursue repealing the 1999 legislation *and* approach the rental car companies for financial support.

PUBLIC OUTREACH/INTEREST

Not applicable

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City's Sacramento Legislative Representative and the Intergovernmental Relations Director.

FISCAL/POLICY ALIGNMENT

Not applicable

COST SUMMARY/IMPLICATIONS

Not applicable

BUDGET REFERENCE

Not applicable

CEQA

Not applicable

Frank Kirkbride

for WILLIAM F. SHERRY, A.A.E.
Director of Aviation

For questions please contact James Webb, Jr., Assistant to the Director for Government and Legislative Affairs at (408) 501-7600.

cc: Airport Commission

Attachment A: City-Sponsored Legislation – Customer Facility Charges

City Sponsored State Legislation – Repeal of the San Jose Airport Customer Facility Charge Statue

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What issue would the legislation try to address?

In 1999 the City successfully pursued the passage of state legislation that provided the City with the authority to collect customer facility charges (CFCs) from rental car customers at the Airport. These fees would be used for the specific purpose of funding interim common use rental car busing costs and financing the consolidated rental car facility and "a common use transportation system" (such as an automated people mover or busing system), that will be constructed as part of the rebuilt and expanded Airport. At the time, San José was one of just three airports with the authority to charge customer facility charges. (The other two airports were San Francisco and San Diego. Each airport sponsored its own legislation.) San José's sponsored legislation contained several key limiting provisions including:

- *A capped amount that could be charged* ($5.00 per transaction for interim common rental car shuttle busing costs, to be superseded by a $10.15 per transaction CFC for use in funding the consolidated rental car facility and a common use transportation system);
- *A defined period when the City could start to collect the CFCs* from rental car customers (only after the facility was constructed *and* occupied);
- *A limit on how long the collection of the CFC could be imposed* (up to a maximum of 20 years); and
- *A capped amount of CFC capital funding for the planned facilities* at $155 million for the consolidated rental car facility and $120 million for the construction of a common use transportation system).

At the time, the City believed that even with these limitations, based on the number of passengers using the Airport and the amount of rental car activity, enough revenue would be raised to fully finance the cost of the planned facility.

In 2001 (before September 11), state legislation was passed that gave all airports in the state, *excluding* San Francisco, San Diego, and San José (which had their own legislation), the ability to impose CFCs. The 2001 legislation contained several provisions (discussed below) that provided different terms for collecting and using CFCs to finance appropriate airport facilities. The City was provided an opportunity to come under the jurisdiction of the 2001 legislation. However, based on the rising numbers of passengers using the Airport at the time, and the related rental car activity, the City concluded that its 1999 legislation would be sufficient to build the planned consolidated rental car garage and common use transportation system. The City therefore elected not to come under the jurisdiction of the 2001 legislation. Accordingly, when the new legislation was signed into law, it specifically excluded San José (as well as San Francisco and San Diego).

However, the subsequent events of September 11, 2001 had a major impact on the passenger use of the Airport and, consequently, rental car activity at the Airport. The annual number of passengers using the Airport dropped almost immediately from 13.1 million persons a year to just over 10.7 million persons a year – a loss of 18.2%. The number of passengers using the Airport each year since 2002 has stayed at just over 10 million persons a year. (For example, in 2006, the Airport served an estimated 10.7 million passengers.) The events of September 11 came in the middle of a major downturn in the local economy that saw Silicon Valley lose more than 200,0000 jobs between 1999 and 2004. Thus the impacts of 9/11 and the significant downturn in the Silicon Valley economy in the earlier part of the decade have resulted in a substantial reduction in passenger use at Mineta San José International and with that reduction, a significant reduction in the number of rental car transactions from that which were originally projected in 1999. Finally, the cost to construct the facilities has escalated significantly. As a result of significantly reduced rental car activity and cost escalation, the City cannot afford to construct the facilities envisioned in 1999.

How would this legislation resolve the issue?

The 2001 legislation sets the CFC rate at $10.00 per transaction (compared to $10.15 for San José). However, it contains at least three key advantages over the 1999 San Jose legislation that would greatly benefit the City in financing the construction of the rental car facility and a common use transportation system.

First, it allows CFCs to be collected <u>*before*</u> *the consolidated rental car facility and/or common use transportation system are constructed and occupied.* With the completion of the consolidated rental car facility scheduled for 2010, this provision could allow San José to begin collecting the fees up to two years earlier than would be the case under the current San José legislation. (Under the current law, San José cannot collect fees until *after* the consolidated rental car facility is constructed and occupied.) Based upon the current level of rental car transactions at the Airport, this change alone would result in about $18 million in additional CFC revenues for the Airport to apply toward development of the consolidated rental car facility and/or common use transportation system. These revenues represent how much in CFC fees could be collected *prior* to the construction and occupation of the consolidated rental car facility.

Second, because CFCs can be collected as long as necessary to pay the reasonable costs of financing, designing, constructing, and/or operating the facilities or services used by the rental car customers, *the City would have a longer term to amortize the debt on the facilities.* (Under the current law, San José can charge the fee for a maximum of 20 years.)

This means the City could raise more revenues to cover the cost of the facilities than under the current law. Under the current San José legislation, the City can only collect CFC revenues for funding debt service of up to $155 million for the consolidated rental car facility and up to $120 million for the common use transportation facility.

How would the passage of this bill affect San Jose?

Because of construction cost escalation and reduced passenger activity, the City cannot afford to build the consolidated rental car facility proposed in 1999. The removal of the limitations of the current law will allow the City to build more of a rental car facility than would be the case if the restrictions remained in place. However, even bringing San José under the 2001 state law, the City will still approach the rental car companies for a capital contribution towards the construction of the consolidated garage and the common use transportation system. Ultimately, the size and scope of the consolidated garage and common use transportation system will depend on how much revenue will be available in CFCs and the extent of the rental car companies' financial contribution to the project.

Staff's Recommended Position

It is recommended the City pursue legislation repealing the 1999 San José law and include San Jose in the 2001 state legislation that currently applies to all other airports in the state except San José, San Francisco and San Diego.

By repealing the 1999 San José law and including the City in the 2001 legislation, the City would be on a "level playing field" with other California airports in its ability to finance the construction and operation of facilities with those charges. The "level playing field" would allow the City to collect customer facility charge revenues from Airport rental car customers over a longer period of time to cover all – or at least a greater portion of – the costs of the consolidated rental car garage and common use transportation system.

The City's objective is to remove the limitations of the current law for the purpose of providing the City with better terms and conditions to finance the rental car facility and any common use transportation system. Removing these limitations will assist the City's efforts to develop the consolidated rental car garage and common use transportation system.

What is the current status of the measure?

This item has not yet been introduced in the state legislature.