

RESOLUTION NO. 73212

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ESTABLISHING AN AIRLINE AIR SERVICE PROMOTIONAL FEE-WAIVER INCENTIVE PROGRAM TO SUPPORT THE DEVELOPMENT OF NEW AIR SERVICE AT THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT**

**WHEREAS**, during the last five years, San Jose has experienced a significant reduction in the availability of domestic and international air service; and

**WHEREAS**, airline route planning decisions are focused on establishing and maintaining route profitability; and

**WHEREAS**, the proposed airline incentive program for the Norman Y. Mineta San Jose International Airport ("Airport") will help reduce an airline's financial risk during the important start up period and will demonstrate San Jose's commitment to partnering with its airlines; and

**WHEREAS**, under the proposed airline service incentive program, airlines providing new non-stop service between San Jose and a qualifying domestic or international city will receive incentive credits against certain airport fees and charges for a period ("the promotional period") of 12 months from the commencement of the service, so long as the new service is not off-set by a service reduction from that carrier in an existing non-stop market; and

**WHEREAS**, the Federal Aviation Administration policy allows airports to establish air service incentive programs involving waivers or discounting of fees and charges imposed on airlines in exchange for new service, as long as the incentives are limited to a defined promotional period and the incentives are available on a non-discriminatory basis to all airlines that are willing to provide the same type and level of new service consistent with the incentive program;

**NOW, THEREFORE,** BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

**SECTION 1.** An airline service promotional fee-waiver incentive program is hereby established to support the development of new air service at the Norman Y. Mineta San Jose International Airport.

**SECTION 2. DEFINITIONS**

The definitions set forth in this Section shall govern the application and interpretation of this Resolution.

- a. "Aircraft Operation" means a takeoff or landing at the Airport.
- b. "Airline" means a commercial passenger airline.
- c. "Airline Fees" means landing fees, facility rental charges, gate use fees, aircraft parking charges and Airport-imposed international passenger processing fees. Any other fees payable by an Airline on account of its operations at the Airport, including but not limited to Passenger Facility Charges, shall not be considered Airline Fees for the purpose of this Resolution.
- d. "List of Qualifying Domestic or International Cities" means the list of Qualifying Domestic or International Cities prepared and revised from time to time by the Director of Aviation.
- e. "Minimum Qualifying Period" means a period of twelve (12) continuous months from the commencement date of Qualifying Service.

f. "Qualifying Domestic or International City" means a city designated from time to time by the Director of Aviation as a new service destination eligible for this incentive program.

g. "Qualifying Service" means new non-stop commercial passenger air carrier service between Airport and a Qualifying Domestic or International City.

Notwithstanding the preceding sentence, an Aircraft Operation during the Airport Curfew hours between 11:30 p.m. to 6:30 a.m. will not be a Qualifying Service

### **SECTION 3. PROMOTIONAL FEE-WAIVER INCENTIVE PROGRAM**

The Director of Aviation is hereby authorized to act in accordance with the Promotional Fee-Waiver Incentive Program set forth in this Resolution and to implement this Program pursuant to its terms and subject to the following conditions.

a. Subject to the provisions of this Section 3, for any Airline that commences Qualifying Service, the City will credit the Airline with all Airline Fees that would otherwise be due to the City for the Qualifying Service for the Minimum Qualifying Period.

b. To qualify for the Airline Fee credit as provided in Section 3.a. above, an Airline must commit to provide Qualifying Service for the Minimum Qualifying Period. In the event that an Airline discontinues its Qualifying Service prior to the expiration of the Minimum Qualifying Period for such Qualifying Service, the City shall invoice the Airline for all Airline Fees that would otherwise have been due for such Qualifying Service.

c. Any Airline that eliminates all of its non-stop service between Airport and any city during the Minimum Qualifying Period will not qualify for the Airline Fee credit otherwise provided for Qualifying Service in Section 3.a. above. In the event that an Airline eliminates all of its non-stop service between Airport and any City during the Minimum

Qualifying Period for such Qualifying Service, the City shall invoice the Airline for all Airline Fees that would otherwise have been due for such Qualifying Service.

**SECTION 4. LIST OF QUALIFYING DOMESTIC OR INTERNATIONAL CITIES**

a. The Director of Aviation will be responsible for establishing and managing the List of Qualifying Cities. The Director of Aviation may consider a number of factors in establishing and maintaining the List of Qualifying Cities, including but not limited to market conditions, passenger data, market research, route feasibility studies and community feedback.

b. The Director of Aviation will remove a city from the List of Qualifying Domestic or International Cities effective twelve (12) months from the date that the first Qualifying Service commences between the Airport and that city. In the event that an Airline discontinues its Qualifying Service prior to the expiration of the Minimum Qualifying Period for such Qualifying Service and there is no longer any Qualifying Service between the Airport and a city previously removed from the List of Qualifying Domestic or International Cities, the Director of Aviation may restore such city to the List of Qualifying Domestic or International Cities.

ADOPTED this 13<sup>th</sup> day of June, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,  
NGUYEN, PYLE, REED, WILLIAMS; GONZALES

NOES: NONE

ABSENT: YEAGER

DISQUALIFIED: NONE

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RON GONZALES  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk