



Los Angeles World Airports

Item Number  
**12**

# REPORT TO THE

## BOARD OF AIRPORT COMMISSIONERS

15/04/21  
Approved by: Dave Jones, Director of Airline Property and Concession Services

Reviewed by: Jeffrey Utterback, Deputy Executive Director, Commercial Development Division

City Attorney

Justin Erbacci, Chief Executive Officer

Meeting Date:

3/18/2021

CAO Review:

Completed  
 Pending  
 N/A

Reviewed for	Date	Approval Status	By
Finance	2/23/2021	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA	CI
CEQA	2/18/2021	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	VW
Procurement	2/18/2021	<input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> Cond	LK
Guest Experience	2/18/2021	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	TB
Strategic Planning	2/22/2021	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA	KC

### **SUBJECT: Approval of the Second Amended and Restated Terminal Facilities Lease and License Agreement with the Tom Bradley International Terminal Equipment Company**

Approve the Second Amended and Restated Terminal Facilities Lease and License Agreement LAA-8600, to modify the premises, term, and responsibilities of the Tom Bradley International Terminal Equipment Company.

### **RECOMMENDATIONS:**

Management RECOMMENDS that the Board of Airport Commissioners:

1. ADOPT the Staff Report.
2. DETERMINE that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Article III, Class 1 (18)(c) of the Los Angeles City CEQA Guidelines.
3. APPROVE the proposed Second Amended and Restated Terminal Facilities Lease and License Agreement with the Tom Bradley International Terminal Equipment Company.
4. AUTHORIZE the Chief Executive Officer to execute the proposed Second Amended and Restated Terminal Facilities Lease and License Agreement with the Tom Bradley International Terminal Equipment Company, subject to approval as to form by the City Attorney and approval by the Los Angeles City Council, and to execute such papers,

documents, certificates and other instruments that may be necessary in connection with the execution of the Second Amended and Restated Terminal Facilities Lease and License Agreement.

## **DISCUSSION:**

### **Executive Summary**

Los Angeles World Airports is in the process of implementing the Airline Cost Stabilization and Recovery Plan aimed at managing rates and charges at Los Angeles International Airport, as a mitigation measure for the negative impacts of the COVID-19 pandemic on the airport and airline operations and finances. The key objectives of this plan are: 1) make rates and charges at Los Angeles International Airport more competitive; 2) mitigate the increase in rates and charges for airlines due to reduced activity; 3) harmonize common use costs across the airport; and 4) achieve stability in Los Angeles International Airport financial operations.

To achieve these objectives as it relates to the Los Angeles International Airport common use costs, Los Angeles World Airports needs to take the following actions:

- (1) Amend the lease with the Tom Bradley International Terminal Equipment Company in order to take control of the common use operational space and equipment. This will transfer the responsibility to establish common use charges for the use of this space and equipment back to Los Angeles World Airports;
- (2) Enter into a temporary Service Agreement with the Tom Bradley International Terminal Equipment Company to continue providing services to airlines operating at common use facilities on behalf of Los Angeles World Airports;
- (3) Revise Common Use Baggage Rates and Terminal Special Charges to include the common use space and the cost of the operations and maintenance of the common use equipment;
- (4) Complete a competitive solicitation for the operations and maintenance of the common use equipment and replace the temporary Service Agreement.

This proposed transition would allow Los Angeles World Airports to streamline the baggage system cost rates paid by common use airlines, eliminate the current system of rates which differ amongst common use terminals and apply cost-savings mitigation measures to the common use baggage system rates. Harmonizing common use rates also would allow Los Angeles World Airports to coordinate airline use in the terminals and facilitate growth in aviation activity.

The current action contained in this Board Report is related to number 1 above. The temporary Service Agreement with the Tom Bradley International Terminal Equipment Company is being brought before the Board for approval in a separate and concurrent Board action. The revision of the common use baggage and terminal charges for the use of common use terminal space and equipment, listed as number 3, requires airline consent and will be brought to the Board for approval as part of Fiscal Year 2021-22 rate setting action. Staff will complete action 4, a competitive solicitation for the operations and maintenance of the common use equipment, and bring a recommendation for Board approval at a future date.

#### **1. Purpose**

Approve the Second Amended and Restated Terminal Facilities Lease and License Agreement with the Tom Bradley International Terminal Equipment Company, to modify

premises, transfer responsibility for maintenance of aeronautical equipment, reduce the term of the agreement, and provide Los Angeles World Airports greater control over rate setting and the ability to implement market competitive rates for common use facilities at Los Angeles International Airport.

## 2. Prior Related Actions

- **August 15, 2011 - Board Resolution No. 24560 (LAA-8600)**  
The Board of Airport Commissioners approved a five-year Lease and License Agreement with the Tom Bradley International Terminal Equipment Company to maintain aeronautical equipment in Tom Bradley International Terminal.
- **May 7, 2013 - Board Resolution No. 25119 (LAA-8600A)**  
The Board of Airport Commissioners approved the First Amendment to the Lease and License Agreement with the Tom Bradley International Terminal Equipment Company to extend the term from five to ten years and to add premises and aeronautical equipment in Terminal 2.
- **May 21, 2015 - Board Resolution No. 25699 (LAA-8600B)**  
The Board of Airport Commissioners approved the Second Amendment to the Lease and License Agreement with the Tom Bradley International Terminal Equipment Company to extend the term to add premises and aeronautical equipment in Terminal 3.
- **November 16, 2016- Board Resolution No. 26114 (LAA-8600)**  
The Board of Airport Commissioners approved the Amended and Restated Lease and License Agreement with the Tom Bradley International Terminal Equipment Company to extend the term through September 15, 2025, with an option to extend through December 31, 2030, and update certain lease provisions, adjust premises, and add aeronautical equipment.
- **November 17, 2016, Resolution No. 26115 (DA-5158; DA-5159)**  
The Board of Airport Commissioners approved two Equipment Acquisition Agreements with the Tom Bradley International Terminal Equipment Company for the acquisition of baggage handling systems in the Tom Bradley International Terminal and the Midfield Satellite Concourse in amounts not to exceed \$185,000,000 and \$75,000,000, respectively.
- **October 18, 2018, Resolution 26620 (DA-5323)**  
The Board of Airport Commissioners approved an Equipment Acquisition Agreement with the Tom Bradley International Terminal Equipment Company to acquire Common Use Bag Drop equipment upon installation and test period to monitor the effectiveness of the equipment installed in the Tom Bradley International Terminal Ticket Lobby.
- **November 7, 2019, Resolution 26898 (DA-5158A)**  
The Board of Airport Commissioners approved a First Amendment to Equipment Acquisition Agreement DA-5158 with the Tom Bradley International Terminal Equipment Company for minor administrative updates and revision of scope components covering acquisition of upgrades to the baggage handling systems in the Tom Bradley International Terminal and the Midfield Satellite Concourse.

- **December 19, 2019, Resolution No. 26923 (NBL-4348A)**  
The Board of Airport Commissioners approved the Blanket Authority to enter into binding rate agreements with airlines and Los Angeles World Airports-approved airline consortiums using passenger terminals at Los Angeles International Airport, with term expiring December 31, 2032.
- **March 5, 2020, Resolution 26973 (DA-5323A)**  
The Board of Airport Commissioners approved a First Amendment to the Equipment Acquisition Agreement DA-5323 with the Tom Bradley International Terminal Equipment Company to extend the term until December 31, 2020 and to add warranty information.
- **June 18, 2020, Resolution No. 27071 (DA-5458)**  
The Board of Airport Commissioners approved an Equipment Acquisition Agreement with the Tom Bradley International Terminal Equipment Company covering the cost of installation of the Terminal 5 Baggage Handling System Upper Level Controls System for a not to exceed amount of \$2,074,936.
- **April 9, 2020, Resolution No. 26994 (NBL-4348B)**  
The Board of Airport Commissioners approved extension of the deadline to July 31, 2020, for airline and Los Angeles World Airports-approved airline consortiums using passenger terminals at Los Angeles International airport to execute and deliver the Amended and Restated Rate Agreement.
- **April 9, 2020, Resolution No. 26996**  
The Board of Airport Commissioners approved deferral of fee payment for the months of April and May 2020 under Non-Exclusive Air Carrier Operating Permits and Terminal Lease and License Agreement for Los Angeles International Airport passenger air carries and existing airline consortiums that sign and return a Letter Agreement by April 30, 2020.
- **April 16, 2020, Resolution No. 27006**  
The Board of Airport Commissioners approved an amendment to Resolution No. 26996 which extends the deadline to submit the Letter Agreement until May 31, 2020 and further updates the initial list of leases eligible for the rent deferral program.

### 3. Current Action

Airlines operating at Los Angeles International Airport pay for use of terminal facilities pursuant to the rates and charges methodology under the Los Angeles International Airport Passenger Terminal Tariff (the "Rate Methodology") approved by the Board of Airport Commissioners. The Rate Methodology provides a square foot rate Terminal Building Charge for demised premises and sets common use rates for common use areas and equipment, such as common use check-in counters, baggage claim areas, outbound baggage systems, common use hold rooms and associated aeronautical equipment.

The carriers that lease entire terminals at Los Angeles International Airport, pay for all terminal space in their lease at the square foot rate Terminal Building Charge, and therefore do not pay common use rates in their leaseholds. These carriers do pay certain common use fees to the extent they use common use facilities in addition to their leasehold space, e.g. Delta operates some flights out of the Tom Bradley International Terminal. During the

2017 airline relocations which moved airlines between Terminals 2, 3, 4, 5 and the Tom Bradley International Terminal, Los Angeles World Airports leased common use hold rooms and equipment, check-in counters and baggage handling systems to the Tom Bradley International Terminal Equipment Company, which is a nonprofit airline consortium formed to design, finance, install, operate, and maintain passenger and aeronautical support equipment at Los Angeles International Airport.

The Tom Bradley International Terminal Equipment Company is responsible for maintaining aeronautical equipment and spaces that are included in the lease, and charges the airlines that use these facilities and equipment to recover the costs to lease and maintain the space and equipment in each location. Therefore, common-use airlines pay some fees to Los Angeles World Airports, and also pay the Tom Bradley International Terminal Equipment Company for maintaining and operating the aeronautical equipment in the common use facilities.

The Tom Bradley International Terminal Equipment Company uses a cost recovery methodology in order to cover the cost of maintaining this equipment that is calculated by allocating costs by facility. Therefore, the Tom Bradley International Terminal Equipment Company charges vary by facility. As a result, the common use airlines utilizing different terminal facilities pay different common use rate depending on the location where they operate.

Further, with the substantial decline in traffic due to COVID-19, the costs that the Tom Bradley International Terminal Equipment Company charges per usage/operation have increased significantly. Tom Bradley International Terminal Equipment Company cannot absorb operational costs when traffic decreases. Therefore, Tom Bradley International Terminal Equipment Company must impose higher fees per operation/use on airlines that do operate, which make the costs for those airlines to operate at Los Angeles International Airport much higher, and may cause Los Angeles World Airports to lose business.

Los Angeles World Airports' objective is to retain control of the aeronautical services provided by the Tom Bradley International Terminal Equipment Company on behalf of Los Angeles World Airports, in order to implement market competitive charges for those services paid by common-use/international airlines. To achieve this objective and shift control of the rate setting, Los Angeles World Airports proposes to switch from leasing these spaces and assigning maintenance to the consortium, to a service where Los Angeles World Airports assumes control of providing these services, and thereby the rate setting for the operation and maintenance costs. This change will accomplish two goals; first, it will create a true common use rate across the airport facility so that all common users pay the same rates regardless of the location of their operation; and, second, it will provide Los Angeles World Airports greater control for rate setting.

To implement this solution, Los Angeles World Airports proposes to execute the Second Amended and Restated Terminal Facilities Lease and License Agreement with the Tom Bradley International Terminal Equipment Company, to remove premises and remove all airline equipment, including passenger boarding bridges, baggage handling systems and other common use equipment in the Tom Bradley International Terminal, Midfield Satellite Concourse, and Terminal 5. Removing this space and aeronautical equipment from the Lease will revert billing for premises use and operation and maintenance of equipment to Los Angeles World Airports to charge the common use airlines directly for use of these spaces and equipment.

Specific areas in Tom Bradley International Terminal and Midfield Satellite Concourse, where the Tom Bradley International Terminal Equipment Company is currently installing equipment that will be acquired by Los Angeles World Airports pursuant to Equipment Acquisition Agreements DA-5158, DA-5159, DA-5323, will remain in the proposed Second Amended and Restated Terminal Facilities Lease and License Agreement. Also, the upper level controls mechanism of the Terminal 5 baggage handling system will remain in the lease as licensed equipment, despite occupying no specific demised premises, to allow Tom Bradley International Terminal Equipment Company to complete the renovation and upgrade of this equipment pursuant to Equipment Acquisition Agreement DA-5458.

Contemporaneously with this action, Los Angeles World Airports proposes to enter into a service agreement with the Tom Bradley International Terminal Equipment Company to provide these services, so there is no operational disruption while Los Angeles World Airports completes a competitive solicitation process to provide these services. The Tom Bradley International Terminal Equipment Company will invoice Los Angeles World Airports for these costs, effectively transferring control of rate setting for the operation and maintenance costs from the Tom Bradley International Terminal Equipment Company to Los Angeles World Airports.

The table below shows the key changes of the proposed amendment. All other terms of the lease remain unchanged.

Proposed Second Amended and Restated Lease and License Agreement		
	<u>Current Lease</u>	<u>Proposed Lease</u>
<b>Term:</b>		
Effective Date	9/11/2011	No change
Expiration Date	9/10/2025	No change
Cancellation Provision	180-day written notice	90-day written notice
Option to Extend	5-year extension to 12/31/2030	Removed
<b>Premises (Square Feet):</b>		
TBIT	140,100	0
Terminal 5	96,204	0
MSC	94,901	86,136
North Baggage Handling Facility	57,252	82,528
Tunnels	83,612	95,169
<b>Passenger Boarding Bridges:</b>	60	0
<b>Estimated Annual Rent:</b>		
Loading Bridges	\$3,384,780	\$0
Space Rent	\$105,894,518	\$0*

\* Rent Commencement Date in the Proposed Lease is upon completion of new facilities, which do not yet exist. Upon completion, TBITEC will pay approximately \$59M annually for the new premises, unless Los Angeles World Airports terminates the Proposed Lease, as intended.

***How this action advances a specific strategic plan goal and objective***

This action advances this strategic goal and objective: *Sustain a Strong Business: Operate sustainability – balancing economic, social and environmental responsibilities.* The proposed amendment will allow Los Angeles World Airports to regain control of rate setting for common users at Los Angeles International Airport, to harmonize the common use charges across all facilities and to apply mitigation measures as part of the Airline Cost Stabilization and Recovery Plan. Establishing equalized common use rates would facilitate relocation of airlines from terminal-to-terminal to enable growth in aviation activity.

***Action Requested***

Staff request the Board of Airport Commissioners approve the proposed Second Amended and Restated Terminal Facilities Lease and License Agreement with the Tom Bradley International Terminal Equipment Company, and authorize the Chief Executive Officer to execute the proposed Second Amended and Restated Terminal Facilities Lease and License Agreement with the Tom Bradley International Terminal Equipment Company, subject to approval as to form by the City Attorney and approval by the Los Angeles City Council, and to execute such papers, documents, certificates and other instruments that may be necessary in connection with the execution of the Second Amended and Restated Terminal Facilities Lease and License Agreement.

***Fiscal Impact***

If approved, the proposed action would result in a reduction in the fixed rental revenues of approximately \$18.2m in FY2021, based on the CY2021 Terminal Rental Rates, paid by the Tom Bradley International Terminal Equipment Company under the lease. Los Angeles World Airports would take control of the equipment and space, and calculate and collect rates, fees, and charges for use of the space and equipment by airlines who use the space and equipment based on their activity (aircraft turns and enplaned or deplaned passengers). Once Los Angeles World Airports revises the Common Use rates, the additional activity-based revenues received from the common use airlines would offset the decrease in the fixed rental revenues.

**4. Alternatives Considered**

• ***Take No Action***

Not approving the proposed amendment will prevent the establishment of equalized common use rate across the airport facilities and limit Los Angeles World Airports ability to assert greater control for rate setting and to apply mitigation cost saving measures to the common use baggage rates.

**APPROPRIATIONS:**

No appropriation of funds is required for this action.

**STANDARD PROVISIONS:**

1. The issuance of permits, leases, agreements, gate and space assignments, and renewals, amendments or extensions thereof, or other entitlements granting use of existing airport facilities or its operations is exempt from California Environmental Quality Act (CEQA)

requirements pursuant to Article III, Class 1 (18)(c) of the Los Angeles City CEQA Guidelines.

2. This proposed document(s) is/are subject to approval as to form by the City Attorney.
3. Actions taken on this item by the Board of Airport Commissioners will become final pursuant to the provisions of Los Angeles City Charter Section 606.
4. TBITEC is required by contract to comply with the provisions of the Living Wage / Worker Retention Ordinances.
5. The SBE/LBE/LSBE/DVBE Programs do not apply to Leases.
6. TBITEC is required by contract to comply with the provisions of the Affirmative Action Program.
7. TBITEC has been assigned Exempt Business Tax Registration Certificate number 0000224444-0001-7.
8. TBITEC is required by contract to comply with the provisions of the Child Support Obligations Ordinance.
9. TBITEC has approved insurance documents, in the terms and amounts required, on file with Los Angeles World Airports.
10. This action is not subject to the provisions of Charter Section 1022 (Use of Independent Contractors).
11. TBITEC has submitted the Contractor Responsibility Program Pledge of Compliance and will comply with the provisions of the Contractor Responsibility Program.
12. TBITEC must be determined by Public Works, Office of Contract Compliance to be in compliance with the provisions of the Equal Benefits Ordinance.
13. TBITEC will be required to comply with the provisions of the First Source Hiring Program for all non-trade LAX jobs.
14. This action is not subject to the provisions of the Bidder Contributions CEC Form 55.