



RESOLUTION NO. 27003

BE IT RESOLVED that, on recommendation of Management, the Board of Airport Commissioners approved revision of the payment terms of all Concession Agreements listed in Attachments 1, 2, and 3 of the Board-adopted staff report, attached hereto and made part hereof, to only require payment of percentage rent as defined in their respective Concession Agreement instead of Minimum Annual Guarantee for the period starting April 1, 2020 through June 30, 2020; and

LAX

Van Nuys

City of Los Angeles

Eric Garcetti  
Mayor

Board of Airport  
Commissioners

Sean O. Burton  
President

Valeria C. Velasco  
Vice President

Gabriel L. Eshaghian  
Beatrice C. Hsu  
Nicholas P. Roxborough  
Dr. Cynthia A. Telles  
Karim Webb

Justin Erpacci  
Interim Chief Executive Officer

BE IT FURTHER RESOLVED that Board further approved revision of the payment terms for all Concession Agreements listed on Attachment 1 of the Board-adopted staff report, attached hereto and made part hereof, to allow deferral of payment of percentage rent until July 1, 2020 through December 31, 2020 in equal monthly installments; and

BE IT FURTHER RESOLVED that the Board established a temporary Overflow Rental Car Parking Rate of \$3.61 per square foot per year; and

BE IT FURTHER RESOLVED that the Board authorized the Interim Chief Executive Officer to implement a Program to revise Concession Agreements and implement a temporary policy to forbear on implementing default provisions related to payment of Minimum Annual Guarantees for the affected Concessionaires as set forth in the Board-adopted staff report, attached hereto and made part hereof; and

BE IT FURTHER RESOLVED that the Board further authorized the Interim Chief Executive Officer or designee to execute Letter Agreements with the terms and conditions in the Program, subject to City Attorney approval as to form and Los Angeles City Council approval; and

BE IT FURTHER RESOLVED that this item, as a continuing administrative, maintenance and personnel-related activity, is administratively exempt from California Environmental Quality Act (CEQA) requirements pursuant to Article II, Section 2.f of the Los Angeles City CEQA Guidelines; and

BE IT FURTHER RESOLVED that this action is subject to the provisions of Los Angeles City Charter Sections 606.

o0o

I hereby certify that this Resolution No. 27003 is true and correct, as adopted by the Board of Airport Commissioners at its Special Meeting held on Thursday, April 16, 2020.

Grace Miguel - Secretary  
BOARD OF AIRPORT COMMISSIONERS





Los Angeles World Airports

Item Number  
7  
Date

## REPORT TO THE BOARD OF AIRPORT COMMISSIONERS

*Dave Jones*

Approved by: Dave Jones - Director Airline Property and Concession Services

*[Signature]*

Reviewed by: Jeffrey Utterback, Deputy Executive Director – Commercial Development Group

*D. Timothy Dazé*

City Attorney

*Justin Erbacci*

Justin Erbacci, Interim Chief Executive Officer

Meeting Date:

4/16/2020

CAO Review:

☐ Completed  
☒ Pending  
☐ N/A

| <u>Reviewed for</u> | <u>Date</u> | <u>Approval Status</u>   | <u>By</u> |
|---------------------|-------------|--|-----------|
| Finance             | 4/6/2020    | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA   | CI        |
| CEQA                | 4/6/2020    | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N                               | PI        |
| Procurement         | 4/6/2020    | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Cond | LK        |
| Guest Experience    | 4/6/2020    | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N                               | BY        |
| Strategic Planning  | 4/6/2020    | <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA   | KV        |

**SUBJECT: Approval of Revisions of the Terms of all Concessions Agreements based on Minimum Annual Guarantees for the Concessions at Los Angeles International Airport affected by the decline in passengers resulting from Travel Restrictions due to COVID-19.**

Approve revision of the payment terms of all Concessions Agreements based on Minimum Annual Guarantee so that all concessionaires impacted by the decline in passengers resulting from COVID-19 travel restrictions will only be required to pay percentage rent as defined in their Concession Agreement instead of Minimum Annual Guarantee from April 1, 2020 through June 30, 2020.

### **RECOMMENDATIONS:**

Management RECOMMENDS that the Board of Airport Commissioners:

1. ADOPT the Staff Report.
2. DETERMINE that this action is administratively exempt from the California Environmental Quality Act (CEQA) pursuant to Article II, Section 2.f of the Los Angeles City CEQA Guidelines.
3. APPROVE a revision of the payment terms of all Concession Agreements listed in Attachments 1, 2, and 3 to only require payment of percentage rent as defined in their respective Concession Agreement instead of Minimum Annual Guarantee for the period starting April 1, 2020 through June 30, 2020;

4. APPROVE a revision of the payment terms for all Concession Agreements listed on Attachment 1 to allow deferral of payment of percentage rent until July 1, 2020 through December 31, 2020 in equal monthly installments;
5. ESTABLISH a temporary "Overflow Rental Car Parking Rate of \$3.61 PSFPY; and,
6. AUTHORIZE the Interim Chief Executive Officer to implement a Program to revise Concession Agreements and implement a temporary policy to forbear on implementing default provisions related to payment of Minimum Annual Guarantees for the affected Concessionaires as set forth in this report.
7. AUTHORIZE the Interim Chief Executive Officer or his designee to execute Letter Agreements with the terms and conditions in the Program, subject to City Attorney approval as to form and Los Angeles City Council approval.

### **DISCUSSION:**

#### **1. Purpose**

To implement a revision of the terms of all Concessions Agreements based on Minimum Annual Guarantee (MAG) so that all concessionaires impacted by the decline in passengers resulting from COVID-19 will only be required to pay percentage rent as defined in their Concession Agreement instead of MAG from April 1 through June 30, 2020.

#### **2. Prior Related Actions**

None

#### **3. Current Action**

Los Angeles World Airports (LAWA) operates a comprehensive concessions program at Los Angeles International Airport (LAX) that includes Advertising and Sponsorship, Duty Free Merchandise, Food and Beverage, Retail, and Services operators in the terminal facilities and on-airport and off-airport Rental Car operations outside the terminals. A complete list of concession operators at LAX is shown in Attachment 1.

These concessionaires provide LAX guests a complete line of food, beverage, retail, service and rental car options. The concessions program at LAX has received multiple awards for excellence in overall program and design. Concession sales correlate directly to passenger traffic.

Contractually, concessionaires pay rent to LAWA in an amount equal to the greater of a percentage of gross sales and a MAG. Due to the highly competitive concession environment at LAX, the contractually established MAG are quite substantial. The only exception is the smaller off-airport rental car companies who pay a monthly license fee similar to a MAG.

Despite the high MAG amounts, the concessionaires at LAX have historically performed well because of high passenger volumes and generated sales at levels that pushed their rent payments into percentage rent, meaning that the concessionaires' businesses were

performing at levels that exceeded the "minimum thresholds" and generating sustainable revenues and income.

#### Impacts of COVID-19

The passenger declines due to the COVID-19 impact on travel have resulted in sales declines in direct relation to the approximately 90% decline in passenger traffic year over year, based on Transportation Security Administration (TSA) screenings reported for the last week of March 2020. This decline in sales has forced all concessions at LAX to revisit their operating hours and take other cost cutting measures, including closing some locations and laying off staff. As of March 26, 2020, concessionaires have laid off or furloughed 1,390 staff out of the approximately 4,000 employed prior to the downturn in passenger traffic.

Rent is one of the largest operating expenses for concessionaires along with cost of goods sold and salaries and benefits. Due to the decline in passenger traffic, concession sales have fallen below the percentage rent threshold, and all concessionaires are now subject to MAG rent payments. At this time monthly guaranteed rent payments now greatly exceed monthly total sales. Paying MAG rent in excess of their monthly earnings, in addition to paying required salary and benefits with depleted earnings is not sustainable for our concessionaire business partners. Without relief, it appears to be difficult for the concessionaires to resume normal operations after passenger traffic has resumed to historical levels.

LAWA has conducted multiple meetings and outreach sessions with the concessionaires to facilitate information sharing as COVID-19 impacted passenger traffic and operating procedures developed. At these meetings, the concessionaires shared revised operating plans that focus on the safety of their employees and LAX guests in accordance with health department directives, and the emergency measures to alter operating hours they have been enacted in reaction to the passenger traffic declines from restrictions on travel to the U.S. from many international destinations. As noted above, sales income has fallen to the point where the concessionaires have said that monthly rent obligations exceed monthly income. LAWA also has conducted outreach sessions with labor organizations representing the workers for these businesses.

The recently-enacted federal relief law allocates funds to certain airports and airport stakeholders, provided they take particular steps, including keeping their workforces intact. Although the legislation does not specifically provide relief to concessionaires, they and their employees will be important to the airport's recovery. Consistent with that legislation, LAWA has developed the following program to provide assistance to our concession business partners.

#### Proposed In-Terminal Agreement Revisions

To provide assistance to concession business partners, LAWA proposes to amend the terms defined in each of the Concession Agreements listed in Attachment 1, 2, and 3, to only require payment of percentage rent instead of MAG. This action is necessary to prevent the permanent shutdown of Food and Beverage, Retail, Rental Car and Service concessions, which are a vital part in the operations and financial sustainability of LAX. Based on differences with the concession operations, LAWA developed the following three temporary relief programs:

I. In-Terminal Food and Beverage, Retail, and Services Concessions

For the in-terminal food and beverage, retail and services concession agreements listed on Attachment 1:

- The Duration Period shall be the period from April 1, 2020 to June 30, 2020;
- Revise the terms of each of these Concession Agreements to only require payment of the specific percentage rents defined in each Agreement instead of MAG;
- Extend the payment period by which these Concessionaires are obligated to pay percent rents accrued during the Duration Period to allow accrued amounts to be remitted in six equal monthly installments from July 1, 2020 through December 1, 2020;
- Extend the time period by which these Concessionaires are obligated to pay in-terminal concession storage rent accrued during the Duration Period to allow accrued amounts to be remitted in six equal monthly installments from July 1, 2020 through December 1, 2020; and,
- LAWA will not impose any late fees or charge any interest on rent amounts paid in full within this six-month payment period from July 1, 2020 to December 1, 2020.

For In-Terminal Concessionaires to qualify for this temporary relief program each concessionaires will be required to:

- a) Comply with all applicable City Ordinances;
- b) Commit to re-employ laid off staff in direct proportion to increases in sales during the recovery period so that on a quarterly basis, employment numbers increase in proportion to sales increases, using December 2019 payroll levels and sales as the basis of full employment/sales; and to re-employ staff and management in the same proportion and ratio as was in place in December 2019; Additionally Concessionaires shall adhere to all federal requirements with respect to use of funds in the event they qualify and receive funding from the Coronavirus Aid, Relief, and Economic Security Act, widely known as the CARES Act or any future federal relief program;
- c) Maintain health insurance coverage for two months at the same rate and level as prior to the layoffs or reduction in hours for all employees who qualified for health insurance coverage during February 2020. This requirement applies to all employees who have been laid off, furloughed, or experienced reduced hours since March 1, 2020 or may be laid off or furloughed as a result of COVID 19;
- d) Pass along to all sub-concessionaires the same benefits received by the prime and/or Terminal Commercial Manager on a ratable basis;
- e) Have all accounts receivable status current;
- f) Have fully funded Faithful Performance Guarantees (FPG) and agree that LAWA can draw down on the FPG if concessionaire misses any payments; and,
- g) Demonstrate that the concessionaire is not entitled to any business interruption insurance benefits that are redundant to this program

II. Advertising and Sponsorship Concession – Terminal Media Operator

For the advertising/sponsorship concessionaire agreement listed on Attachment 2:

- The Duration Period shall be the 90-day period from April 1, 2020 to June 30, 2020; and,
- Revise the terms of the Terminal Media Operator agreement to require payment of the specific percentage fees defined in the Agreement instead of MAG.

For the Terminal Media Operator to qualify for this temporary relief program they will be required to:

- a) Comply with all applicable City Ordinances;
- b) Commit to re-employ laid off staff in direct proportion to increases in sales during the recovery period so that on a quarterly basis, employment numbers increase in proportion to sales increases, using December 2019 payroll levels and sales as the basis of full employment/sales;
- c) Have all accounts receivable status current;
- d) Have fully funded Faithful Performance Guarantees (FPG) and agree that LAWA can draw down on the FPG if concessionaire misses any payments; and,
- e) Demonstrate that the concessionaire is not entitled to any business interruption insurance benefits that are redundant to this program

III. Rental Car Concessions

For the On-Airport Rental Car concession agreements listed on Attachment 3:

- The Duration Period shall be the 90-day period from April 1, 2020 to June 30, 2020; and,
- Revise the terms of each of these Concession Agreements to only require payment of the specific percentage rents defined in each Agreement instead of MAG.

For On-Airport and Off-Airport Rental Car Concessionaires to qualify for this temporary relief program each concessionaires will be required to:

- a) Comply with all applicable City Ordinances
- b) Commit to re-employ laid off staff in direct proportion to increases in sales during the recovery period so that on a quarterly basis, employment numbers increase in proportion to sales increases, using December 2019 payroll levels and sales as the basis of full employment/sales;
- c) Pass along to all sub-concessionaires the same benefits received by the prime on a ratable basis;

- d) Have all accounts receivable status current;
- e) Have fully funded Faithful Performance Guarantees (FPG) and agree that LAWA can draw down on the FPG if concessionaire misses any payments; and,
- f) Demonstrate that the concessionaire is not entitled to any business interruption insurance benefits that are redundant to this program.

#### Proposed Rental Car Temporary Overflow Parking Rate

Because of the dramatic decline in passenger traffic, the rental car companies are experiencing a large over supply of rental cars. The rental car concessionaires have requested that LAWA lease them currently vacant land temporarily to allow them to store this excess inventory. Staff have identified several vacant lots and plan to offer these spaces in proportion to the rental car current market share. The current approved rates for similar land is \$5.91 PSFPY. Staff propose to establish a new temporary "Overflow Rental Car Parking Rate" of \$3.61 PSFPY for the rental car companies to store vehicles during this extraordinary time.

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

This action advances this strategic goal and objective: *Sustain a Strong Business; Diversify and grow revenue sources, and manage costs.* Authorizing and approving Temporary Rent Relief and Forbearance Period Program for the concessionaires impacted by the decline in passenger traffic resulting from the impacts of COVID-19 will enable the concessionaires to substantially reduce operating expenses during the period that sales are impacted. Temporarily relieving the burden of the MAG rent component will allow concessionaires to pay rent based on percentage of sales and airport revenues will recover in parallel to passenger level increases, which are highly correlated with concession sales levels.

#### ***Action Requested***

LAWA staff request the Board of Airport Commissioners authorize the Interim Chief Executive Officer to 1) implement the proposed Temporary Rent Relief and Forbearance Period Program for affected Concessionaires as set forth in this report, and 2) execute Letter Agreements with the various concessionaire with the terms described above and subject to approvals to form by the City Attorney and approval by the Los Angeles City Council, and establish a temporary Overflow Rental Car Parking Rate of \$3.61 PSFPY effective April 1, 2020 through June 30, 2020.

#### ***Fiscal Impact***

The Fiscal Impact of this action will be the estimated loss of revenue of approximately \$24-31 million. Implementation of the temporary adjustment to rent by temporarily eliminating MAG payments will reduce LAWA FY2020 unrestricted cash by \$43-51 million, depending on the levels of passenger traffic for the temporary period April 1, 2020 to June 30, 2020 due to the COVID-19 impacts. Staff believes that because of the decline in passengers, most concessionaires would not generate enough revenue to meet the MAGs and thus would be unable to pay them. Thus, the financial impacts are not so much the result of this action but are due to the impacts of lower passenger traffic.

#### **4. Alternatives Considered**

- ***Take No Action***

Taking no action would require all concessionaires to pay rents at MAG levels established during normal passenger activity and corresponding sales levels. The approximate 90% decline in passenger traffic makes these MAG payments unsustainable.

#### **APPROPRIATIONS:**

No appropriation of funds is required for this action.

#### **STANDARD PROVISIONS:**

1. This item, as a continuing administrative, maintenance and personnel-related activity, is administratively exempt from California Environmental Quality Act (CEQA) requirements pursuant to Article II, Section 2.f 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. This action is not subject to the provisions of the Living Wage/Service Contractor Worker Retention Ordinances.
5. This action is not subject to the provisions of the Business Enterprise (BE) Programs.
6. This action is not subject to the provisions of the Affirmative Action Program.
7. This action does not require a Business Tax Registration Certificate number.
8. This action is not subject to the provisions of the Child Support Obligations Ordinance.
9. This action is not subject to the insurance requirements of the Los Angeles World Airports.
10. This action is not subject to the provisions of Charter Section 1022 (Use of Independent Contractors).
11. This action is not subject to the provisions of the Contractor Responsibility Program.
12. This action is not subject to the provisions of the Equal Benefits Ordinance.
13. This action is not subject to the provisions of the First Source Hiring Program.
14. This action is not subject to the provisions of Bidder Contributions CEC Form 55.

**LAWA Concession Operators/Agreements  
Terminal Concessions**

**Attachment 1**

|   |  |          |
|---|--|----------|
| Terminal Commercial Management Concession Agreement   | URW Airports, LLC  | LAA-8640 |
| Terminal Commercial Management Concession Agreement   | URW Airports, LLC  | LAA-8613 |
| Airport Duty Free Merchandise Concession Agreement  | DFS Group, L.P.  | LAA-8647 |
| Retail Concession Agreement (Hudson Group)  | Hudson-Magic Johnson Enterprises-Concourse Ventures, LLC | LAA-8550 |
| Retail Concession Agreement (Hudson Group)  | LAX Retail Magic 2 JV                                    | LAA-8551 |
| Retail Concession Agreement (Hudson Group)  | LAX Retail Magic 3-4 JV                                  | LAA-8552 |
| Retail Concession Agreement (Hudson Group)  | LAX Retail Magic 3-4 JV                                  | LAA-8542 |
| Food and Beverage Concession Agreement  | Areas USA LAX, LLC                                       | LAA-8546 |
| Food and Beverage Concession Agreement  | Areas USA LAX, LLC                                       | LAA-8547 |
| Food and Beverage Concession Agreement  | Areas USA LAX, LLC                                       | LAA-8548 |
| Branded Coffee and Food and Beverage Concession Agreement                                     | Areas USA LAX, LLC                                       | LAA-8843 |
| Fast Casual Dining and Branded Coffee Food and Beverage Agreement                             | Areas USA LAX, LLC                                       | LAA-8964 |
| Food and Beverage Concession Agreement (Delaware North Companies Travel Hospitality Services) | DN/Dakota JME 8589 Farmers, LLC                          | LAA-8589 |
| Food and Beverage Concession Agreement (Delaware North Companies Travel Hospitality Services) | DN/Dakota JME 8549 Pucks, LLC                            | LAA-8549 |
| Food and Beverage Concession Agreement (HMS Host Corp)  | Host International, Inc                                  | LAA-8554 |
| Food and Beverage Concession Agreement (HMS Host Corp)  | Host International, Inc                                  | LAA-8586 |
| Food and Beverage Concession Agreement (HMS Host Corp)  | Host International, Inc                                  | LAA-8587 |
| Automated Retail Concession Agreement   | New Zoom, Inc. dba ZoomSystems                           | LAA-8852 |
| Concession Agreement (For Vending Machine Services)   | Bottling Group LLC                                       | LAA-8882 |
| Non-Exclusive Space Use License Agreement (For Expedited Traveler Services)                   | AIClear, LLC   | LAA-8946 |
| Concession Agreement  | XpresSpa   | LAA-8543 |
| Currency Exchange and Business Services Concession Agreement                                  | Lenlyn Ltd dba ICE Currency Services                     | LAA-8831 |

---

**LAWA Concession Operators/Agreements**  
**Terminal Concessions**

**Attachment 2**

Terminal Media Operator Concession Agreement

JCDecaux Airport, Inc. LAA-8796

**LAWA Concession Operators/Agreements  
On Airport Rental Cars**

**Attachment 3**

|                      |                       |   |          |
|----------------------|-----------------------|---|----------|
| Concession Agreement | On-Airport Rental Car | Alamo Rental (US) LLC                             | LAA-8139 |
| Concession Agreement | On-Airport Rental Car | Avis Rent A Car System, LLC                       | LAA-8137 |
| Concession Agreement | On-Airport Rental Car | Budget Rent A Car System, Inc.                    | LAA-8138 |
| Concession Agreement | On-Airport Rental Car | DTG Operations, Inc. dba Dollar Rent A Car        | LAA-8141 |
| Concession Agreement | On-Airport Rental Car | DTG Operations, Inc. dba Thrifty Car Rental       | LAA-8144 |
| Concession Agreement | On-Airport Rental Car | Enterprise Rent-A-Car Company of Los Angeles, LLC | LAA-8142 |
| Concession Agreement | On-Airport Rental Car | Fox Rent A Car, Inc.                              | LAA-8143 |
| Concession Agreement | On-Airport Rental Car | The Hertz Corporation                             | LAA-8136 |
| Concession Agreement | On-Airport Rental Car | National Rental (US) LLC                          | LAA-8140 |
| Concession Agreement | On-Airport Rental Car | Sixt Rent A Car, LLC                              | LAA-8870 |