



Los Angeles World Airports

Item 16

# REPORT TO THE BOARD OF AIRPORT COMMISSIONERS

Approved by *Dave Jones*  
Dave Jones, Director, Terminals Business Management

Reviewed by: *Debbie L. Bowers*  
Debbie L. Bowers, Deputy Executive Director

*Timothy J. [Signature]*  
City Attorney

*Gina Marie Lindsey*  
Gina Marie Lindsey - Executive Director

Meeting Date:

1/15/2015

CAO Review:

Completed  
 Pending  
 N/A

Reviewed for	Date	Approval Status	By
Capital Budget	12/16/2014	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA	DS
Operating Budget	12/30/2014	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> NA	RW
CEQA	12/11/2014	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	VW
Procurement	12/24/2014	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> Cond	MT

**SUBJECT: Amendment to the Terminal Commercial Management Concession Agreement with Westfield Concessions Management LLC at Los Angeles International Airport**

Approve the First Amendment to Terminal Commercial Management Concession Agreement LAA-8613 with Westfield Concessions Management LLC at Los Angeles International Airport to extend the term of the Agreement for premises in the Tom Bradley International Terminal by three years and in Terminal 2 by six months.

**RECOMMENDATIONS:**

Management RECOMMENDS that the Board of Airport Commissioners:

- ADOPT the Staff Report.
- 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.
- APPROVE the First Amendment to Terminal Commercial Management Concession Agreement LAA-8613 with Westfield Concessions Management LLC.
- AUTHORIZE the Executive Director to execute the First Amendment to Terminal Commercial Management Concession Agreement LAA-8613 with Westfield Concessions Management LLC upon approval as to form by the City Attorney and approval of City Council.

## **DISCUSSION:**

### **1. Purpose**

Address impact on Westfield Concessions Management LLC (Westfield) of delivery delays in the Tom Bradley International Terminal (TBIT) and Terminal 2, and to compensate for construction cost increases arising from Los Angeles World Airports (LAWA) and its construction contractors in TBIT.

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

- January 23, 2012 – Board Resolution 24670  
The Board of Airport Commissioners (Board) approved award of a 17-year Terminal Commercial Manager (TCM) Concession Agreement to Westfield to develop, lease, and manage convenience retail, specialty retail, food and beverage, and certain passenger services in the Tom Bradley International Terminal (TBIT) and Terminal 2, which included an option to redevelop the Theme Building that has since expired (TCM Agreement LAA-8613).

### **3. Current Action**

In order to meet scheduled opening of gates in TBIT, Westfield was required to build out the retail and food and beverage concession space concurrent with LAWA's base building contractor. This overlap of construction activities delayed delivery of space to Westfield and caused significant increases in construction cost in an amount claimed by Westfield for itself and its Concessionaires to be approximately \$17 million or 37% above originally approved investment plans. There were multiple reasons for the schedule delays and Westfield and its Concessionaires costs increases. After considerable investigation and evaluation, staff has since determined that excesses of approximately \$8.4 or 18.5% above original investment plans is a reasonable assessment of impacts for which Westfield was not responsible.

TCM Agreement LAA-8613 was part of the competitive process and included a definitive not-to-exceed termination date, namely January 31, 2029, which is not extendable without an amendment. The TCM Agreement LAA-8613 contemplated providing the successful proposer no less than 180 months to operate concession facilities and depreciate capital investments.

With delayed delivery of the space, unless amended to extend the term, TCM Agreement LAA-8613 will not fairly deliver to Westfield what LAWA envisioned. In addition, staff found the best means to remedy the construction cost increases and erase any claims from Westfield or its Concessionaires was to offer a term extension rather than to have a monetary settlement for construction of concessions in the new Bradley West portion of TBIT. As a result, staff recommends that LAWA amend TCM Agreement LAA-8613 to extend the term by a total of three years for premises located in TBIT.

Staff also recommends a six-month extension for Terminal 2 premises as Westfield incurred a six-month delay in delivery of the space by LAWA. This delay arose from LAWA's (1) request that Westfield develop of a total scope of work for the entirety of the Terminal 2 concourse, (2) goal of renovating the public space simultaneously with concession space,

thereby inconveniencing the traveling public for the shortest possible period, and (3) objective of avoiding the problems inherent in having multiple overlapping contractors working jointly in one area.

While the term extension would eliminate any compensation claims by Westfield or its Concessionaires cause by LAWA's contractors, the extension will result in LAWA receiving additional guaranteed rent of at least \$35.5 million during the extended term.

***Action Requested***

Staff requests the Board approve the First Amendment to TCM Agreement LAA-8613 and authorize the Executive Director to execute the Frist Amendment after approval as to form by the City Attorney and upon approval of City Council.

***Fiscal Impact***

Approving this amendment will result in no additional cost to LAWA and will generate a minimum of \$35.5 million in additional revenue to LAWA over the extension term.

**4. Alternatives Considered**

- ***Take No Action or Monetary Payment to Settle all Claims***

Not amending TCM Agreement LAA-8613 to add term will result in protracted negotiations to settle delay and construction costs claims requiring LAWA to make a cash payment to Westfield and lose an additional \$35.5 million of guaranteed revenue.

**APPROPRIATIONS:**

Approval of this action will not require an appropriation of funds from LAWA's Capital or Operating Budgets.

**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 the requirements of the California Environmental Quality Act (CEQA) pursuant to Article III, Class 1 (18) (c) of the Los Angeles City CEQA Guidelines.
2. This Agreement will be approved 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 the Los Angeles City Charter Section 606.
4. Westfield is required by contract to comply with the provisions of the Living Wage Ordinance.
5. Procurement Services Division has reviewed this action (File #5124) and established the following ACDBE goals: Food/Beverage – 25%; Retail – 20%. Westfield proposed 25%

ACDBE participation for Food/Beverage and 20% ACDBE participation for Retail. Westfield has achieved 49% participation for Food/Beverage and 35% participation for Retail to date.

6. Westfield is required by contract to comply with the provisions of the Affirmative Action Program.
7. Westfield has been assigned Business Tax Registration Certificate number 0002573628-0001-4.
8. Westfield is required by contract to comply with the provisions of the Child Support Obligations Ordinance.
9. Westfield has approved insurance documents, in the terms and amounts required, on file with the Los Angeles World Airports.
10. This action is not subject to the provisions of Charter Section 1022 (Use of Independent Contractors).
11. Westfield has submitted the Contractor Responsibility Program Pledge of Compliance and will comply with the provisions of the Contractor Responsibility Program.
12. Westfield must be determined by Public Works, Office of Contract Compliance to be in compliance with the provisions of the Equal Benefits Ordinance prior to execution of the Amendment.
13. Westfield will be required to comply with the provisions of the First Source Hiring Program for all non-trade Airport jobs.
14. Westfield has submitted the Bidder Contributions CEC Form 55 and will comply with its provisions.