

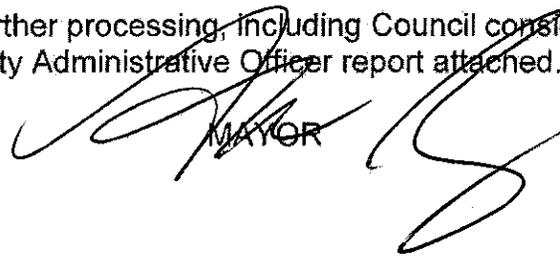
0150-09712-0003

TRANSMITTAL

TO Deborah Flint, Executive Director Department of Airports	DATE <i>MAY 02 2016</i>	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 11	

Request for Approval of Second Amendment to Terminal Commercial Management Concession Agreement with Westfield Airports, LLC to Extend the Term for Management of the Concessions in the Los Angeles International Airport Terminal 2

Transmitted for further processing, including Council consideration. See the City Administrative Officer report attached.


MAYOR
Ana Guerrero

MAS:WDC: 10160080t

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: April 28, 2016

CAO File No. 0150-09712-0003

Council File No.

Council District: 11

To: The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Communication from the Department of Airports dated April 15, 2016; referred by the Mayor for report on April 18, 2016

Subject: **APPROVAL OF SECOND AMENDMENT TO TERMINAL COMMERCIAL MANAGEMENT CONCESSION AGREEMENT WITH WESTFIELD AIRPORTS, LLC TO EXTEND THE TERM FOR MANAGEMENT OF THE CONCESSIONS IN THE LOS ANGELES INTERNATIONAL AIRPORT TERMINAL 2**

SUMMARY

The Executive Director of the Los Angeles World Airports (LAWA; Department) requests approval to execute a Second Amendment to Terminal Commercial Management Concession Agreement LAA-8613 with Westfield Airports, LLC (Westfield; contractor). The Second Amendment will extend the term of performance for concessions management at the Los Angeles International Airport (LAX) Terminal 2 (T2) by two years and six months (to January 31, 2032) for the purpose of aligning the termination date with that of the Tom Bradley International Terminal (TBIT) concession agreement, which was extended for three years by the First Amendment and approved by the Council in June 2015 (C.F. 15-0131). In addition to the TBIT extension, the First Amendment also extended the term of performance for Terminal 2 for six months, to July 31, 2029, to accommodate a LAWA request to expand the scope of work and expedite the completion of improvements needed in time for the City's hosting of the 2015 Special Olympics. By extending the T2 term an additional two and one-half years, the concession agreements for the TBIT concessions and those for Terminal 2 will conclude at the same time.

By extending the agreement terms as proposed, it will retain the original agreement's two-phase scope of work, which is a 17-year period comprised of a two-year development period followed by a 15-year operating period, and help to compensate Westfield for its expedited work and accompanying cost increases.

According to the Department, approval of the proposed Second Amendment will result in additional rental revenue to LAWA of at least \$8.5 million over the extended two-year and six-month term extension with no additional cost to LAWA.

Westfield Concessions Management, LLC was selected by LAWA in 2012, using a competitive process involving three proposers, to develop, lease, and manage concessions (e.g., convenience and specialty retail, food and beverage, and various types of passenger services) in the TBIT,

Terminal 2, and, as an option, the Theme Building (also known as the "Encounter Restaurant") using a Terminal Concessions Manager (TCM) model. The original Westfield TCM contract, for 84,261 square feet of concessions space, was approved by the Council on February 22, 2012 (C.F. 12-0136). Subsequent to that approval, on November 19, 2015, the Board of Airport Commissioners (Board) consented to a name change from the original Westfield Concession Management, LLC to Westfield Airports, LLC.

At its meeting of April 21, 2016, the Board of Airport Commissioners (Board) approved the proposed Second Amendment with Westfield and, pursuant to Charter Section 606, authorized the Department to proceed with executing the Amendment, subject to approval by the Council. The above-referenced aspects of the proposed Second Amendment, and this report, are based upon revised information received from the Department subsequent to the initial request submittal.

BACKGROUND

Rationale for Proposed Amendment

After approving the original TCM concession agreement for the TBIT, Terminal 2, and the Theme Building in January 2012, the Board approved the First Amendment to extend the term for concessions in the TBIT for three years (for a total of 20 years) and in Terminal 2 for six months (for a total of 17 years and six months). The term extensions were implemented as a means to resolve issues with delays in the opening of the Tom Bradley International Terminal and redevelopment of Terminal 2 that were not the fault of Westfield but, nonetheless, negatively impacted the firm's schedule and costs.

While the term extensions authorized by the First Amendment were intended to standardize the contract termination dates for both the TBIT and Terminal 2 at 20 years, the full three-year extension was withheld for Terminal 2 in favor of a six-month extension conditional upon Westfield's meeting a critical construction deadline for the 2015 Special Olympics held in Los Angeles. The deadline was met but with an additional cost to Westfield of \$12.8 million. As a consequence of Westfield's meeting the deadline and incurring the unexpected costs, LAWA is recommending approval of the Second Amendment extending the agreement an additional two years and six months, for a total of 20 years, to conclude at the same time as the concession agreement for the TBIT (the Theme Building development option has expired). The Department will also benefit from the extension in that an additional \$8.5 million in rental revenue will be obtained from Westfield.

Alternatives to Approving the Second Amendment

According to the Department, not taking action to approve the proposed Second Amendment to Concession Agreement LAA-8613 with Westfield would be to (1) ignore the firm's expedited completion of the Terminal 2 improvements—at significant cost—in time for the 2015 Special Olympics and (2) create a situation whereby the firm could seek reconsideration of the January 2015 three-year extension to the original 17-year TBIT concessions agreement. For those reasons, the Department recommends approval of the Second Amendment.

Compliance with City Administrative Requirements

The proposed Second Amendment must be approved by the City Attorney as to form. Westfield has been assigned a Business Tax Registration Certificate number and has approved insurance documents on file with the Department, in the terms and amounts required.

Westfield has submitted the Contractor Responsibility Program Pledge of Compliance and must comply with its provisions. Westfield is also required to comply with the following City Standard Provisions for contracting: the Affirmative Action Program; Child Support Obligations Ordinance; Living Wage Ordinance; the First Source Hiring Program for all non-trade airport jobs; and the Bidder Contributions CEC (City Ethics Commission) Form 55.

In conformance with Charter Section 1022, LAWA staff determined that work specified in the TCM contract can be performed more feasibly and economically by an independent contractor than by City employees, largely due to the unique requirements for maintaining and operating the custom architectural features of the concessions spaces. According to staff, there were no objections to the original agreement by the City's labor unions.

Staff from the Department of Public Works, Office of Contract Compliance, determined that the contractor is in compliance with the provisions of the Equal Benefits Ordinance.

The Department's Procurement Services staff reviewed this action and established two categories of participation goals for the following ACDBE (Airport Concession Disadvantaged Business Enterprises) program: 25 percent for Food and Beverage concessions and 20 percent for Retail concessions. Staff reports that Westfield also proposed ACDBE participation levels of 25 percent and 20 percent for Food and Beverage and Retail concessions, respectively. To date, the contractor has achieved 53.39 percent participation for Food and Beverage concessions and 54.94 percent participation for Retail concessions.

The issuance of permits, leases, agreements or other entitlements granting use of existing facilities at a municipal airport involving negligible or no expansion of use beyond that previously existing or permitted 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. Pursuant to Charter Section 606 and the Los Angeles Administrative Code Section 10.5, the Second Amendment must be approved by the Council in that the underlying concession agreement is for a period longer than five years.

RECOMMENDATIONS

That the Mayor:

1. Approve, subject to City Attorney approval as to form, the Second Amendment to Terminal Commercial Management Concession Agreement LAA-8613 between the Los Angeles World Airports (LAWA) and Westfield Airports, LLC to extend the current term of performance by two years and six months for Terminal 2 concessions for the purpose of aligning the termination date with that of the Tom Bradley International

Terminal concession agreement, subject to Westfield's compliance with the City's Standard Provisions for Contracting including the Affirmative Action Program; Child Support Obligations Ordinance; Living Wage Ordinance; the First Source Hiring Program for all non-trade airport jobs; and the Bidder Contributions CEC (City Ethics Commission) Form 55;

2. Authorize the Executive Director of the Los Angeles World Airports to execute the proposed Second Amendment to Terminal Commercial Management Concession Agreement LAA-8613 with Westfield Airports, LLC; and
3. Return the Second Amendment to the Department for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

Approval of the proposed Amendment will generate a minimum of \$8.5 million in additional revenue for LAWA over the two-and-one-half year term extension with no additional cost to LAWA and no appropriation of funds from the Department's Capital or Operating Budgets. Both the Second Amendment and the underlying agreement comply with the Department of Airports adopted Financial Policies. Approval of the proposed Amendment with Westfield Airports, LLC will have no impact on the City's General Fund.

Time Limit for Council Action

Consistent with Charter Section 606, "Process for Granting Franchises, Permits, Licenses and Entering Into Leases," and the Los Angeles Administrative Code Section 10.5, "Limitation and Power to Make Contracts," unless the Council takes action disapproving a contract that is longer than five years within 30 days after submission to Council, the contract shall be deemed approved.

MAS:WDC:10160080