PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 6c

Date of Meeting October 13, 2009

DATE: September 18, 2009

TO: Tay Yoshitani, Chief Executive Officer

FROM: James R. Schone, Director, Aviation Business Development
Jolene Culler, Senior Property Manager, Aviation Properties

SUBJECT: Amendment to Lease and Concession Agreements for Rental Car Companies

REQUESTED ACTION

Request for authorization for the Chief Executive Officer to execute an amendment to the Rental Car Lease and Concession Agreement (Agreement) to extend the lease term for the rental car companies operating at Seattle-Tacoma International Airport (Airport) until the opening of the Consolidated Rental Car Facility (CRCF) and modify the Minimum Annual Guarantee (MAG) requirements during this extended lease term.

SYNOPSIS

The CRCF will open in 2012. Until that time, it is necessary for the rental car companies to continue their operations in their existing locations. To accomplish this, the existing lease must be amended.

Port staff seeks approval for a lease amendment to modify the lease term and MAG requirements for the rental car companies operating at the Airport. When the current five-year (2004-2009) Agreement was executed, it was based on an assumption that at the end of the term, the new CRCF would be completed. However, since the CRCF is not scheduled to open until early 2012, staff recommends holding over the current lease until that time. In addition, since the rental car companies submitted bids based on a five-year lease commitment, staff recommends modifying the MAG requirements as well.

BACKGROUND

In 2004, the Port initiated a competitive bid process to allocate floors one and two of the Airport parking garage to the rental car companies. It was clear to all bidders that this space would not be sufficient to accommodate all of the rental car companies that wanted to operate from the garage. Any company that successfully bid for space in the garage would enjoy clear advantages for attracting customers compared to those companies that would have to operate off Airport property. Another factor that played a role in the bidding was the expectation that the long-planned CRCF would open near the end of this lease term. Thus, rental car companies saw an opportunity to gain market share ahead of the move to the new facility as a way to influence the allocation of space in the new facility. These factors led to a very competitive bid environment. Based on the bids, five (5) companies were granted full service concession Agreements that allow them to operate counters in baggage claim and from allocated space in the parking garage, and four (4) companies were granted limited service concession Agreements that allow them to operate counters in baggage claim and from their own off-site rental car lots.

The norm throughout the airport rental car industry is that rental car companies pay 10% of their gross revenues to each airport where they operate. Due to the competitive bid environment previously described, a number of the firms proposed MAG's that turned out to be significantly higher than the standard 10% concession fee over the five-year life of their lease. As such, during these past 5 years, the Airport has received substantially more money, "a premium", from several rental car firms than would normally be expected. For the Agreement Year November 1, 2008 through October 31, 2009, this "premium" is estimated to total $4.2 million.

Over the course of the past 5 years, a number of factors caused a delay in the opening of the CRCF, now planned for early 2012. When Port staff realized the CRCF was not going to open in time for a relatively seamless transition from one Agreement to the next, they discussed the situation with the rental car companies and came to the conclusion that re-bidding and potentially re-allocating the concession for operating in the garage for the short period of twenty-four to thirty months would create numerous problems. It would cause serious disruptions to the current rental car operation, would create significant tenant improvement costs for both the bid winners and losers (and those tenant improvements would barely be finished before it was time to move to the CRCF) and would take away needed focus from the CRCF project. Another factor is the expectation that a re-bidding within the current economic climate and the short timeframe before the opening of the CRCF would not result in "premium" MAG's such as the Port has enjoyed during the current lease. Based on these factors, Port staff and the rental car companies agreed that holding over the current Agreement until the CRCF opened was the best option.

An extension of the lease term, however, created complications for the current structure of the MAG. When the rental car companies submitted their MAG proposals in 2004, they only expected to (and signed a lease that required them to) pay those MAG's for the original five-year term of the lease. As previously mentioned, several of the rental car companies initially bid MAG's that turned out to be substantially in excess of 10% of their gross revenues in order to secure a full service concession in anticipation of the move to the CRCF. The rental car companies would not agree to continue paying those MAG's in the holdover period.

The resulting negotiations between the Port and the rental car companies led to the proposed revision to the existing Agreement which provides some relief to those companies that bid

MAG's significantly higher than 10% of their gross revenues. This relief essentially results in fees paid to the Airport that are in line with the fees more normally paid throughout the airport industry. The proposed language states that for each agreement year of the extension term, the MAG shall not exceed the percentage fee that the rental car company otherwise would have paid (10% of gross revenues) for the agreement year commencing November 1, 2008 and ending October 31, 2009 – the last year of the current lease term. The Port will still, however, enjoy the upside associated with any increase in the rental car companies' gross revenues through the percentage fee. The change is designed to eliminate only the "premium" portion of the MAG bid by several of the companies for what those companies understood was a five – not nearly eight-year term.

SCOPE OF AGREEMENT

The Port would enter into a lease amendment (attached as Exhibit A) to the Agreement (attached as Exhibit B) with each of the rental car companies to make the following modifications:

Term/Effective Date:	Extend term from November 1, 2009 until the opening date of the CRCF.
MAG:	Notwithstanding Section 5.1.1.2 of the Agreement, for each Agreement Year of the Extension Term, the Minimum Annual Guarantee shall be the lesser of: (i) an amount equal to eighty percent (80%) of the total amount (whether by Minimum Annual Guarantee or Percentage Fees) paid or payable by Concessionaire to the Port for the previous Agreement Year or the Minimum Annual Guarantee for the first Agreement Year set forth in Section 5.1.1.1 of the Agreement, whichever is greater, or (ii) ten percent (10%) of Concessionaires Gross Revenues for the Agreement Year commencing November 1, 2008 and ending October 31, 2009. *Note: Section 5.1.1.1 of the Agreement establishes the MAG for each rental car company based on the individual bids submitted.* *Note: Section 5.1.1.2 of the Agreement states: For the second and each subsequent Agreement Year, the Minimum Annual Guarantee shall be an amount equal to eighty percent (80%) of the total amount (whether by Minimum Annual Guarantee or Percentage Fees) paid or payable by Concessionaire to the Port for the previous Agreement Year or the Minimum Annual Guarantee for the first Agreement Year set forth in Section 5.1.1.1, whichever is greater.*

All other terms and conditions of the Agreement will remain unchanged.

STRATEGIC OBJECTIVES

This proposal supports the strategy of "Ensuring Airport and Seaport Vitality" by ensuring business viability for the rental car concession business at the Airport.

ALTERNATIVES CONSIDERED/RECOMMENDED ACTION

- **Alternative 1: Do Nothing**
  The Agreement with the rental car companies will expire on October 31, 2009. There will be no rental car operators in place, which will mean the loss of significant revenue for the Port in 2010, as well as the loss of a critical customer amenity. This is not a recommended alternative.

- **Alternative 2: Re-Bid and Re-allocate the Parking Garage**
  If the Port were to initiate a bid process to re-allocate the garage, it would take a lot of time and money from both the Port and rental car companies. The first and second floors of the garage are configured based on the 2004 bid. A new bid would mean the space would have to be re-allocated, triggering extensive modifications to the first floor lobby and layout of the floors. Both the Port and the rental car companies believe that the costs and disruption caused by this approach does not provide enough benefit. This is not a recommended alternative.

- **Alternative 3: Extend Lease Until the CRCF Opens and Modify the MAG's**
  Extending the lease until the CRCF opens while providing modest MAG relief is the preferred approach. This alternative allows operations at the Airport to continue without disruption and ensures that the rental car companies and Port staff can focus their efforts on completing the CRCF. This alternative provides the most benefit to the Port and the rental car companies. This is the recommended alternative.

FINANCIAL IMPLICATIONS

Several of the rental car companies initially bid MAG's substantially in excess of 10% of their gross revenues in order to secure a full service concession in anticipation of the move to the CRCF. However, those rental car companies only expected to pay that "premium" MAG for the original five-year term of the Agreement. Should the Port decide to re-bid the concession, given the current economy it is doubtful the same bidding "premiums" that occurred in 2004 would be replicated. Re-bidding the concession would also burden the Port with the expenditures associated with executing a competitive bid process and the costs of re-configuring the garage. The proposed amendment will bring the percentage fees paid by the rental car companies at the Airport back in line with fees normally paid throughout the airport industry. Based on projected rental car industry gross revenues during the period November 1, 2008 through October 31, 2009, it is estimated the Port will see a reduction in MAG's of approximately $3.5 million in the first holdover year.

ECONOMIC IMPACTS

The Rental Car Companies employ hundreds of full and part-time employees. The proposed amendment to extend the terms of the lease helps ensure that these Airport-related jobs are secure.

PREVIOUS COMMISSION ACTION

May 13, 2008, the Commission authorized execution of the new Consolidated Rental Car Facility lease.