



San Francisco International Airport

MEMORANDUM

June 4, 2024

TO: AIRPORT COMMISSION
Hon. Malcolm Yeung, President
Hon. Everett A. Hewlett Jr., Vice President
Hon. Jane Natoli
Hon. Jose F. Almanza
Hon. Mark Buell

24-0126

JUN 4 2024

FROM: Airport Director

SUBJECT: Approval of the Section 559 Reimbursable Services Agreement Contract No. 50020 with U.S. Customs and Border Protection

DIRECTOR’S RECOMMENDATION: APPROVE THE SECTION 559 REIMBURSABLE SERVICES AGREEMENT CONTRACT NO. 50020 WITH U.S. CUSTOMS AND BORDER PROTECTION AND DIRECT THE COMMISSION SECRETARY TO REQUEST APPROVAL OF THE AGREEMENT FROM THE BOARD OF SUPERVISORS PURSUANT TO SECTION 9.118 OF THE CHARTER OF THE CITY AND COUNTY OF SAN FRANCISCO.

Executive Summary

In 2014, the San Francisco International Airport (Airport) was selected by U.S. Customs and Border Protection (CBP) to participate in a pilot program, commonly known as the Section 559 Reimbursable Services Program (Program), which allowed the Airport to reimburse CBP for expanded hours of staffing in the Federal Inspection Services (FIS) areas to accommodate flights that arrive outside of CBP’s established operational hours. The Airport Commission (Commission) first approved this Section 559 Reimbursable Services Agreement (Agreement) in 2014. The Agreement has no defined term but is terminable by either party upon 60 days’ notice. At the time, the Airport did not anticipate that the Agreement would last beyond 10 years. The Commission initially approved a five-year authorization period for the Agreement that lasted through December 2019, and approved an additional four-year authorization period, which expired on December 31, 2023. Staff desires to retain the ability to use CBP’s expanded services provided under the Agreement, which are anticipated to become more necessary and desirable for the busy summer travel season. Staff now seeks renewed Commission approval of the Agreement. Given that the Agreement has an indefinite term which will likely exceed 10 years later this year, Staff also recommends directing the Commission Secretary to request Board of Supervisors’ (Board) retroactive approval of the Agreement under Section 9.118 of the Charter of the City and County of San Francisco (Charter).

THIS PRINT COVERS CALENDAR ITEM NO. 9

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED MAYOR MALCOLM YEUNG PRESIDENT EVERETT A. HEWLETT, JR. VICE PRESIDENT JANE NATOLI JOSE F. ALMANZA MARK BUELL IVAR C. SATERO AIRPORT DIRECTOR

Background

On January 3, 2013, the United States of America implemented the Program, which was designed to enhance security and improve service levels of CBP at select ports of entry into the United States. Under the Program, designated airports could request expanded hours of staffing by CBP in the FIS areas to accommodate flights that arrive outside the established operational hours of CBP, subject to reimbursement agreements entered into between airports and CBP.

On August 19, 2014, by Resolution No. 14-0167, the Commission first approved the Agreement. Pursuant to CBP standards for this type of agreement, the Agreement has no definite term, no specified funding amount, and is terminable by either party upon 60 days' notice. The Commission's approval provided for a five-year authorization period with a projected cost not to exceed \$1.48 million for FY 2014/15 and Staff returning to the Commission annually for each fiscal year's funding.

On June 4, 2019, by Resolution No. 19-0146, the Commission approved an additional four-year authorization period for the Agreement with additional funding of up to \$4.5 million for the corresponding period, which expired on December 31, 2023. During the COVID-19 pandemic, passenger traffic decreased as did the need for these additional services by CBP.

Proposal

Since the start of the Agreement to date, reimbursements to CBP have totaled approximately \$5.7 million. Staff see a continued need for the Program due to anticipated increases in international flight activity for the busy summer travel season. Staff anticipates that the required funding for the Agreement for FY 24/25 will total approximately \$750,000. The Agreement is not being modified, but Staff is now seeking renewed approval for the Agreement given its indefinite term which will continue in effect until terminated by either party with 60 days' written notice. Going forward, Staff will seek approval for the funding of the reimbursements to CBP under the Agreement as part of its annual budget approval process.

Board Approval

As described above, the Agreement dates back to 2014. Charter Section 9.118 requires Board approval of certain contracts with a term that exceeds 10 years or requiring anticipated expenditures by the City of \$10 million or more. The Agreement was not previously presented to the Board for approval, as Staff did not anticipate that the term of the Agreement would exceed 10 years. At the time, Airport staff, in consultation with the City Attorney's Office, structured the approvals for the Agreement as approval of separate four and five-year authorization periods. As the Agreement has no defined term, and it is anticipated the Agreement will exceed 10 years in duration later this year, the City Attorney's Office advised Staff that to resolve any uncertainty about whether Board approval is required due to the indefinite term, the safest course is to seek retroactive Board approval under Charter Section 9.118 of the Agreement back to 2014.

Recommendation

I recommend the Commission approve the Section 559 Reimbursable Services Agreement Contract No. 50020 with U.S. Customs and Border Protection and direct the Commission Secretary to request Board of Supervisors' retroactive approval of the Agreement under Charter Section 9.118.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Ivar C. Satero
Airport Director

Prepared by: Jeff Littlefield
Chief Operating Officer

Attachment