

**CITY AND COUNTY OF SAN FRANCISCO**

**BOARD OF SUPERVISORS**

**BUDGET AND LEGISLATIVE ANALYST**

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May 1, 2020

**TO:** Government Audit and Oversight Committee

**FROM:** Budget and Legislative Analyst



**SUBJECT:** May 7, 2020 Government Audit and Oversight Committee Meeting

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<p><b>Item 1</b> <b>File 20-0113</b></p>	<p><b>Department:</b> Planning Department Department of Building Inspection (DBI)</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed ordinance would amend the Planning and Building Codes to reauthorize the waiver of fees related to granting legal status to existing dwelling units constructed without required permits and extend the waiver through December 31, 2024. The proposed ordinance requires annual reports on the fee waiver program; and makes findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• An accessory dwelling unit (ADU) is a residential unit that is added to an existing housing lot. In an effort to encourage owners to maintain and legalize potential sources of affordable housing in San Francisco, the Board of Supervisors approved an ordinance in July 2015 amending the Planning and Building Codes to waive fees for the review of a permit or the portion of a permit related to granting legal status to existing dwelling units constructed without required permits until January 1, 2020.</li> <li>• Under the proposed ordinance, only fees related directly to legalization of existing ADUs would be waived. The Planning Department and Department of Building Inspection charge certain administrative fees for review of building permit applications, including permit applications that may be submitted to legalize an existing dwelling unit that had been constructed or added without required City permits.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• Approximately \$662,823 in Department of Building Inspection permit fees and \$938,712 in Planning Department fees have been waived since the passage of the original legislation in July 2015, totaling \$1,601,535 over approximately five years. The Department of Building Inspection estimates that approximately \$800,000 in permit fees and the Planning Department estimates approximately \$1,000,000 in permit fees will be waived during the five-year extension (January 1, 2020 through December 31, 2024).</li> </ul> <p style="text-align: center;"><b>Policy Consideration</b></p> <ul style="list-style-type: none"> <li>• The existing waiver of building and planning permit fees to legalize existing ADUs has resulted in 169 units being legalized. Although the existing data cannot tell if property owners would have applied to legalize existing ADUs in the absence of the fee waiver, the impact of the fee waiver to the Building Inspection and Planning Department permit revenues over five years is not large.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approval of the proposed ordinance is a policy matter for the Board of Supervisors.</li> </ul>	

## MANDATE STATEMENT

City Charter Section 2.105 states that all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

## BACKGROUND

An accessory dwelling unit (ADU), also known as an in-law unit, granny flat, or secondary unit, is a residential unit that is added to an existing housing lot. ADUs may be constructed within the existing building, as an extension to the existing building, or as a separate structure, and are typically developed using underutilized spaces within lots, such as garages, storage areas, rear yards, or attics.

In California Government Code Section 65852.150, the Legislature declared that ADUs are a valuable form of housing in California because they "provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods" and that "homeowners who create accessory dwelling units benefit from added income, and an increased sense of security." In an effort to encourage owners to maintain and legalize potential sources of affordable housing in San Francisco, the Board of Supervisors approved an ordinance in July 2015 amending the Planning and Building Codes to waive fees for the review of a permit or the portion of a permit related to granting legal status to existing dwelling units constructed without required permits until January 1, 2020 (File 15-0571).

## DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the Planning and Building Codes to reauthorize the waiver of fees related to granting legal status to existing dwelling units constructed without required permits and extending the waiver through December 31, 2024, including:

- (a) requiring annual reports on the fee waiver program; and
- (b) making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Under the proposed ordinance, only fees related directly to legalization of existing ADUs would be waived. The Planning Department and Department of Building Inspection charge certain administrative fees for review of building permit applications, including permit applications that may be submitted to legalize an existing dwelling unit that had been constructed or added without required City permits. This is currently defined in Planning Code Section 317(b)(13) as "unauthorized units."

If the Director of Building Inspection and the Planning Director determine that the permit application fee waiver is no longer feasible, they could request that the Board of Supervisors consider an ordinance terminating this fee waiver prior to January 1, 2025. A report from the Department of Building Inspection to the Board of Supervisors, Building Inspection Commission,

and Planning Commission is required starting March 2021 and annually thereafter. Under the proposed ordinance, the report should include, but is not limited to, the following information:

- (a) the total amount of fees waived during the prior calendar year and the amount of fees projected to be waived during the current calendar year, including those of the Planning Department, and any administrative costs for the prior calendar year and the current calendar year associated with the Departments' processing of such waivers;
- (b) the number of projects that took advantage of the fee waiver program during the prior calendar year, and the districts or geographical areas of San Francisco in which the legalized units are located;
- (c) the number of units in single-family homes and the number in multi-family buildings, legalized during the prior calendar year;
- (d) the length of time each fee waiver applicant who submitted the application during the prior calendar year has owned the subject property, and if the applicant is an individual or a business;
- (e) for each fee waiver applicant who submitted the application during the prior calendar year, if the applicant owns, in whole or in part, other residential property in the City as an individual or part of a partnership or corporation; and
- (f) for each fee waiver applicant who submitted the application during the prior calendar year, if the applicant has, or had within the past 10 years, building permit applications for other residential properties in the City.

According to Ms. Taras Madison, Chief Financial Officer at the Department of Building Inspection, 705 building permits applications were submitted by property owners under the fee waiver program. Of those 705 building permits, 169 were completed including 133 units in single-family homes and 36 units in multi-family buildings.

## FISCAL IMPACT

According to Ms. Madison, approximately \$662,823 in Department of Building Inspection permit fees<sup>1</sup> have been waived since the passage of the original legislation in July 2015. In addition, according to Ms. Deborah Landis, Deputy Director of Administration at the Planning Department, approximately \$938,712 Planning Department permit fees<sup>2</sup> have been waived. A total of \$1,601,535 in permit fees have been waived for both departments since the passage of the original legislation in July 2015.

According to Ms. Madison, the Department of Building Inspection estimates that approximately \$800,000 in permit fees will be waived during the extension period (January 1, 2020 through December 31, 2024) of the proposed ordinance. Ms. Madison states that this estimate is based on the existing total amount of fees waived since July 2015 and an anticipated increase in waived

<sup>1</sup> This includes the Department of Building Inspections' Plan Review, Express Plan Review and Site Permit Surcharge fees.

<sup>2</sup> This includes the Building Permit Planning Review fee for an existing building.

fees now that the program is better known. According to Ms. Landis, the Planning Department estimates approximately \$1,000,000 in permit fees will be waived during the extension period of the proposed ordinance based on the existing total amount of fees waived.

**Impact of Fee Waiver**

As noted above, the existing waiver of building and planning permit fees to legalize existing ADUs has resulted in 169 units being legalized. Although the existing data cannot tell if property owners would have applied to legalize existing ADUs in the absence of the fee waiver, the impact of the fee waiver to the Building Inspection and Planning Department permit revenues over five years is not large.

**RECOMMENDATION**

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

<p><b>Item 2</b> <b>Files 20-0400</b></p>	<p><b>Department:</b> Department of Elections</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed ordinance would amend the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at the November 3, 2020, Consolidated General Election.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• Under the proposed ordinance, the expansion of the use of vote-by-mail for the November 3, 2020, Consolidated General Election, to the extent not preempted or addressed by State or federal law, would include (1) informing all San Francisco households of the ability to register as vote-by-mail voters and, (2) distributing vote-by-mail ballots to all registered voters, even if they have not applied to become vote-by-mail voters.</li> <li>• The proposed ordinance also requires the Department of Elections to work with the Departments of Public Health and Human Resources to implement measures to protect the health and safety of San Francisco residents and City workers during elections to limit exposure to COVID 19 and other risks.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• According to information provided by the Director of the Department of Elections, the initial cost estimate for mailing ballots to all registered voters in San Francisco and for associated outreach activities is \$1.5 million. Additional costs would be incurred to meet the ordinance requirements, including public health protections and disability access, but estimates were not available at the time of this report.</li> </ul> <p style="text-align: center;"><b>Policy Consideration</b></p> <ul style="list-style-type: none"> <li>• The proposed ordinance provides for written reports from the Department of Elections to the Board of Supervisors in June 2020 on implementation of the ordinance for the November 3, 2020 election, and January 2021 on potential implementation in future elections.</li> </ul> <p style="text-align: center;"><b>Recommendations</b></p> <ul style="list-style-type: none"> <li>• The Government Audit and Oversight Committee should request the Director of the Department of Elections to submit a memorandum to the May 19, 2020 Board of Supervisors meeting on the Department’s initial cost estimates to implement this ordinance.</li> <li>• The Board of Supervisors should consider amending the proposed ordinance to specify that, to the extent possible, the estimated costs to implement the ordinance requirements be included in the Department of Elections written reports to the Board of Supervisors for June 30, 2020, and January 31, 2021.</li> <li>• Approval of the proposed ordinance is a policy matter for the Board of Supervisors.</li> </ul>	

**MANDATE STATEMENT**

City Charter Section 2.105 states that all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

**BACKGROUND****Voter's Choice Act**

In 2016, then-California Governor Jerry Brown signed Senate Bill 450, opening the option for California counties to adopt a new voting model known as the Voter's Choice Act (VCA). The Voter's Choice Act requires counties to mail every registered voter a vote-by-mail ballot and gives voters the options of mailing in their ballot, delivering it to a county-placed ballot drop box, or voting in person at a vote center that will be open for early voting and through Election Day. The Voter's Choice Act is now open to any county that takes steps to implement it, and as of April 2020, more than ten counties have adopted the voting model. San Francisco has not yet implemented the Voter's Choice Act.

**COVID-19 Health Crisis**

On February 25, 2020, San Francisco Mayor London Breed proclaimed a state of emergency based on the coronavirus pandemic (COVID-19). On March 4, 2020, Governor Gavin Newsom declared a state of emergency for California due to COVID-19. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, incorporating an order issued by the State Public Health Officer, requiring California residents to shelter in place except as needed to maintain continuity of operations of certain critical infrastructure sectors.

In response to the COVID-19 health crisis, on March 20, 2020, Governor Newsom issued Executive Order N-34-20 which directed special elections scheduled for the City of Westminster, the California 25th Congressional District, and the 28th State Senate District to be held as "all mail" elections with in-person voting options in a manner consistent with public health and safety. On April 9, 2020, Governor Newsom issued Executive Order N-48-20 which similarly directed special elections scheduled for the City of Santa Ana, the City of Commerce, and the El Rancho Unified School District to be held as "all mail" elections with in-person voting options in a manner consistent with public health and safety.

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance would amend the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at the November 3, 2020, Consolidated General Election, to the extent not preempted or addressed by State or federal law<sup>1</sup>, including:

- 1) requiring the submission of a written report to the Board of Supervisors by June 30, 2020 regarding planning for that election; and
- 2) requiring the submission of a written report to the Board of Supervisors by January 31, 2021 regarding the potential implementation of the Voter's Choice Act in future San Francisco elections to be held in 2021 and later.

Under the proposed ordinance, the expansion of the use of vote-by-mail for the November 3, 2020, Consolidated General Election, to the extent not preempted or addressed by State or federal law, would include (1) informing all San Francisco households of the ability to register as vote-by-mail voters and, (2) distributing vote-by-mail ballots to all registered voters, even if they have not applied to become vote-by-mail voters.

In expanding the use of vote-by-mail for the election, the proposed ordinance would require the following conditions:

- 1) implementing measures, in consultation with the Department of Public Health, to protect public health in the distribution and collection of vote-by-mail ballots, and in-person and ballot drop-off opportunities determined to be safe, especially for populations who are particularly vulnerable to COVID-19 infections, including, but not limited to, persons 65 years and older, persons who reside in a long-term care facility or other congregate settings, persons in custody, and persons with underlying medical conditions;
- 2) implementing measures, in consultation with the Department of Public Health and the Department of Human Resources, to protect the health of the Department's employees and contractors, and employees of other City departments who may assist the Department with the election;
- 3) providing voters with disabilities with adequate facilities and opportunities to cast a ballot through vote-by-mail or alternative means, as required by State and federal laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and the Help America Vote Act of 2002 (52 U.S.C. Section 20901 et seq.); and

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<sup>1</sup> Under the proposed ordinance, if any State or federal law (including but not limited to statutes, executive orders, and regulations) that requires the expansion of vote-by-mail for the election is approved, enacted, or issued prior to or after the effective date of the amendment, the expansion of the use of vote-by-mail voting as described in the proposed ordinance shall be inoperative and shall impose no requirements on the Department.

- 4) conducting outreach to communities and neighborhoods with historically low voter turnout regarding the expansion of vote-by-mail for the Election, in consultation with the Office of Racial Equity and community-based organizations.

## **FISCAL IMPACT**

According to information provided by the Director of the Department of Elections, the initial cost estimate for mailing ballots to all registered voters in San Francisco and for associated outreach activities is \$1.5 million. Additional costs would be incurred to meet the ordinance requirements, including public health protections and disability access, but estimates were not available at the time of this report.

The Government Audit and Oversight Committee should request the Director of the Department of Elections to submit a memorandum to the May 19, 2020 Board of Supervisors meeting on the Department's initial cost estimates to implement this ordinance.

## **POLICY CONSIDERATION**

### **Implementation Plan and Cost Reporting**

As noted above, detailed costs on implementing the proposed ordinance are not available at this time. The ordinance requires the Department of Elections is required a written report to the Board of Supervisors by June 30, 2020 regarding planning for that election. Under the proposed ordinance, the report should include, but is not limited to, the following topics: (1) voter outreach, education, and services, (2) staffing and staff training, (3) voting equipment and capacity, (4) ballot collection and processing; and (5) public health measures and protections.

In addition, the Department of Election is required to submit a written report to the Board of Supervisors by January 31, 2021 regarding the potential implementation of the Voter's Choice Act in future San Francisco elections to be held in 2021 and later. Under the proposed ordinance, the report should include, but is not limited to, the following topics: (1) voter outreach, education, and services, (2) staffing and staff training, (3) voting equipment and capacity, (4) ballot collection and processing; and (5) location and operation of potential vote centers.

The Board of Supervisors should consider amending the proposed ordinance to specify that, to the extent possible, the estimated costs to implement the ordinance requirements be included in the Department of Elections written reports to the Board of Supervisors for June 30, 2020, and January 31, 2021.

**RECOMMENDATIONS**

- The Government Audit and Oversight Committee should request the Director of the Department of Elections to submit a memorandum to the May 19, 2020 Board of Supervisors meeting on the Department's initial cost estimates to implement this ordinance.
- The Board of Supervisors should consider amending the proposed ordinance to specify that, to the extent possible, the estimated costs to implement the ordinance requirements be included in the Department of Elections written reports to the Board of Supervisors by June 30, 2020, and January 31, 2021.
- Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

<p><b>Items 5, 6, 7 &amp; 8</b>  <b>Files 20-0331, 20-0332, 20-0333</b>  <b>and 20-0334</b></p>	<p><b>Department:</b>                  San Francisco International Airport (Airport)</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p style="text-align: center;"><b>Legislative Objectives</b></p>	
<ul style="list-style-type: none"> <li>The proposed resolutions would approve rental car leases between San Francisco International Airport (Airport) as landlord and the following tenants: (i) Avis Budget Car Rental, LLC (Avis), with initial Minimum Annual Guaranteed (MAG) rent of \$11,076,378 (File 20-0331); (ii) Enterprise Rent-A-Car Co of San Francisco, LLC (Enterprise), with initial MAG rent of \$16,087,548 (File 20-0332); (iii) The Hertz Corporation (Hertz), with initial MAG rent of \$16,501,462 (File 20-0333); and (iv) Sixt Rent a Car, LLC (Sixt), with initial MAG rent of \$3,501,004 (File 20-0334). Each lease would have an initial term of five years, from August 2020 through July 2025, with two 2-year options to extend.</li> </ul>	
<p style="text-align: center;"><b>Key Points</b></p>	
<ul style="list-style-type: none"> <li>In 2018, the Airport issued a Request for Bids (RFB) to select up to nine rental car brands to operate and lease space at the Airport. The Airport received 10 bids from five companies, and the following four companies were awarded leases for their nine brands: (i) Avis (for the brands Avis and Budget); (ii) Enterprise (for the brands Alamo, National, and Enterprise); (iii) Hertz (for the brands Hertz, Dollar, and Thrifty); and Sixt (for the brand Sixt). In October 2018, the Airport Commission approved the four leases., the leases did not come forward for Board of Supervisors approval due to litigation filed by the rental car operators related to the City’s prevailing wage laws, which has now been settled.</li> <li>Each lease would have an initial term of five years, with two 2-year options to extend. Under the leases, the rental car operators would pay the greater of the MAG rents or the concession fee, which is 10 percent of gross revenues. They would also pay structure and surface space rent, as well as AirTrain fees of \$16 per rental contract.</li> </ul>	
<p style="text-align: center;"><b>Fiscal Impact</b></p>	
<ul style="list-style-type: none"> <li>Over the initial five-year terms of the leases, the Airport would receive at least \$343,482,770 in MAG rent and structure and surface space rent. If the options to extend are exercised, the Airport would receive total rent of \$618,268,986 over the total nine-year term. Due to the impact of COVID-19 on air travel, the MAG rent will be suspended upon commencement of the lease. The rental car operators would still pay the concession fee and surface and structure rent. AirTrain fee revenue totaled approximately \$30 million per year in FY 2017-18 and FY 2018-19, but cannot be reliably projected in future years.</li> </ul>	
<p style="text-align: center;"><b>Recommendation</b></p>	
<ul style="list-style-type: none"> <li>Approve the proposed resolutions, subject to approval by the Board of Supervisors of the ordinance in File 20-0330.</li> </ul>	

**MANDATE STATEMENT**

City Charter Section 9.118(c) states that any modification, amendment or termination of a lease that had an initial term of ten years or more, including options to extend, or that had anticipated revenues of \$1 million or more is subject to Board of Supervisors approval.

**BACKGROUND**

In March 2018, the San Francisco International Airport (Airport) Commission authorized Airport staff to initiate a Request for Bids (RFB) process for up to nine rental car brands to operate and lease space at the Airport. In August 2018, the Airport Commission approved the minimum requirements and lease specifications and authorized Airport staff to receive bids. Minimum bids, specified as the initial Minimum Annual Guaranteed (MAG) rent in the lease, were set at 8.5 percent of gross revenues in calendar year 2017 for existing operators and \$450,000 for non-existing operators. The Airport received 10 bids<sup>1</sup> from five companies, as shown in Table 1 below.

**Table 1: RFB Bids Received**

<b>Bidding Company</b>	<b>Operating Brand</b>	<b>Bid Amount</b>
The Hertz Corporation	Hertz	\$10,101,154
Avis Budget Car Rental, LLC	Avis	6,420,453
Enterprise Rent-A-Car Co of San Francisco, LLC	Alamo Rent A Car	5,961,600
Enterprise Rent-A-Car Co of San Francisco, LLC	National Car Rental	5,079,913
Enterprise Rent-A-Car Co of San Francisco, LLC	Enterprise Rent-A-Car	5,046,035
Avis Budget Car Rental, LLC	Budget	4,655,925
Sixt Rent a Car, LLC	Sixt rent a car	3,501,004
The Hertz Corporation	Dollar Rent A Car	3,300,154
The Hertz Corporation	Thrifty Car Rental	3,100,154
Fox Rent a Car, Inc.	Fox Rent A Car	2,730,000

The Hertz Corporation (Hertz), Avis Budget Car Rental, LLC (Avis), Enterprise Rent-A-Car Co of San Francisco, LLC (Enterprise), and Sixt Rent a Car, LLC (Sixt) provided the nine highest bids and were awarded leases. In October 2018, the Airport Commission awarded leases to these four companies. According to Ms. Cheryl Nashir, Airport Director of Revenue Development and Management, the leases did not come forward for Board of Supervisors approval due to litigation filed by the rental car operators, which has now been settled.<sup>2</sup>

<sup>1</sup> An 11<sup>th</sup> bid was received from Green Motion SAN LLC, but it was disqualified for lack of a bid bond.

<sup>2</sup> According to Ms. Nashir, the RFB terms stated that rental car operators would be subject to the City's Minimum Compensation Ordinance (MCO). However, the Office of Labor Standards and Enforcement (OLSE) determined that the City's Prevailing Wage law applied, which sets employee wages higher than the MCO. The Airport informed the rental car operators that the leases would be rescinded and the RFB would be reissued. The operators filed a lawsuit, and the court granted their request for a preliminary injunction, prohibiting the Airport from rescinding the leases and finding that OLSE had misapplied the Prevailing Wage law. The City and rental car operators have reached a settlement agreement (the subject of File 20-0330) for which approval is pending before the Board of Supervisors. The settlement agreement provides a payment of \$500,000 to Sixt Rent a Car but not to the other three rental car companies.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolutions would approve rental car leases between the Airport as landlord and the following tenants: (i) Avis (File 20-0331); (ii) Enterprise (File 20-0332); (iii) Hertz (File 20-0333); and (iv) Sixt (File 20-0334). Each lease would have an initial term of five years with two 2-year options to extend. Under the leases, the tenants would pay the greater of the MAG or the Concession Fee, which is 10 percent of gross revenues.<sup>3</sup> The key terms of the leases are shown in Table 2 below.

**Table 2: Key Terms of Proposed Leases**

	<b>Avis (File 20-0331)</b>	<b>Enterprise (File 20-0332)</b>	<b>Hertz (File 20-0333)</b>	<b>Sixt (File 20-0334)</b>
<b>Rental Car Brands</b>	Avis, Budget	Alamo, National, Enterprise	Hertz, Dollar, Thrifty	Sixt
<b>Term</b>	5 years, from August 1, 2020 through July 31, 2025			
<b>Options to Extend</b>	Two 2-year options to extend			
<b>Structure Space</b>	289,582 square feet	437,295 square feet	420,158 square feet	94,605 square feet
<b>Surface Space</b>	163,543 square feet	238,518 square feet	251,742 square feet	52,368 square feet
<b>MAG Rent</b>	\$11,076,378	\$16,087,548	\$16,501,462	\$3,501,004
<b>MAG Adjustment</b>	Adjusted annually to 8.5% of gross revenues of previous year			
<b>Concession Fee</b>	10% of gross revenues			
<b>Space Rent</b>	\$13.23 per square foot per year for structure space, \$2.62 per square foot per year for surface space (adjusted annually based on Consumer Price Index (CPI)) <sup>4</sup>			
<b>Deposit</b>	Equal to ½ of initial MAG (subject to mid-term adjustment)			
<b>AirTrain Fee</b>	\$16 per rental car contract, per the Airport's FY 2019-20 Rates and Charges <sup>5</sup>			
<b>Hours of Operation</b>	Must operate 24 hours per day, 7 days per week, including holidays			

## FISCAL IMPACT

Under the proposed leases, the rental car operators would pay the greater of the MAG rent or the concession fee, which is 10 percent of gross revenues. The operators would also pay structure and surface space rent. Over the initial five-year terms of the leases, the Airport would receive at least \$343,482,770 in total revenue. If the two 2-year options to extend each lease are exercised, the Airport would receive at least \$618,268,986 in total revenue. Revenue projections are shown in Table 3 below.

<sup>3</sup> The rental car operators may apply this amount as a surcharge on customer contracts, labeled as the "Concession Recovery Fee."

<sup>4</sup> For structure space, tenants pay both structure and surface space rent, a total of \$15.85 per square foot per year. According to Ms. Nashir, the surface space rent is eligible for the Airport Service Payment, which returns 15 percent of concession revenues to the City's General Fund, but the structure space rent is not.

<sup>5</sup> Customers arriving at the Rental Car Facility by means besides the AirTrain are not required to pay the AirTrain fee. However, for each tenant, the number of waivers may not exceed one percent of the total signed rental contracts.

**Table 3: Rental Car Lease Revenue Projections**

	<b>Avis</b>	<b>Enterprise</b>	<b>Hertz</b>	<b>Sixt</b>	<b>Total</b>
<b>MAG Rent</b>	\$11,076,378	\$16,087,548	\$16,501,462	\$3,501,004	\$47,166,392
<b>Structure Rent</b>	3,831,170	5,785,413	5,558,690	1,251,624	16,426,897
<b>Surface Rent</b>	1,187,188	1,770,630	1,760,378	385,069	5,103,265
<b>Total Annual Rent</b>	<i>\$16,094,735</i>	<i>\$23,643,591</i>	<i>\$23,820,530</i>	<i>\$5,137,697</i>	<i>\$68,696,554</i>
<b>Total Rent, Initial Term</b>	\$80,473,677	\$118,217,955	\$119,102,652	\$25,688,487	\$343,482,770
<b>Total Rent, Option Terms</b>	64,378,941	94,574,364	95,282,121	20,550,790	274,786,216
<b>Total Rent Paid</b>	<b>\$144,852,618</b>	<b>\$212,792,318</b>	<b>\$214,384,773</b>	<b>\$46,239,277</b>	<b>\$618,268,986</b>

**MAG Suspension**

The leases contain provisions that suspend the MAG rents if Airport enplanements drop below 80 percent of 2017 levels for three consecutive months. The MAG is then reinstated if enplanements increase back to at least 80 percent of 2017 levels for two consecutive months. When the MAG is suspended, the operators continue to pay the concession fee and space rent. With the impact of COVID-19 on air travel, the MAG rents will be suspended upon lease commencement and likely remain so for the foreseeable future.

**AirTrain Fees**

Under each lease, the rental car operators charge each customer an AirTrain fee of \$16 per rental contract. In the past two full fiscal years, FY 2017-18 and FY 2018-19, the Airport received \$30,224,051 and \$29,490,444, respectively, in AirTrain fees. Due to the impact of COVID-19 on air travel, AirTrain fee revenue cannot be reliably projected at this time.

**RECOMMENDATION**

Approve the proposed resolutions, subject to approval by the Board of Supervisors of the ordinance in File 20-0330.