

AIRPORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. **20-0180**

**AUTHORIZATION OF AIRPORT STAFF TO IMPLEMENT THE COVID-19
EMERGENCY RENT RELIEF PROGRAM FOR AIRPORT CONCESSION TENANTS**

- WHEREAS, flight and passenger activity immediately and dramatically declined after the March 11, 2020 COVID-19 pandemic declaration by the World Health Organization; and
- WHEREAS, on March 13, 2020, President Trump declared COVID-19 a national emergency and on March 17, 2020, a “Shelter-In-Place” order was issued by public health officials from six Bay Area Counties including San Francisco and San Mateo; and
- WHEREAS, the number of restaurants, stores and passenger services concession locations in operation at the Airport went from 149 to 27 almost overnight as a result of the COVID-19 outbreak and the imposition of the Shelter-in-Place order; and
- WHEREAS, as an initial emergency good faith effort to assist its concession business partners, the Airport offered deferral of all rent and fees for April and May 2020, with such amounts to be paid by June 1, 2021; and
- WHEREAS, while concessions tenants have furloughed or laid off the majority of their employees and product costs naturally decline with a slowing or cessation of business, Airport tenants still have significant fixed costs and are suffering tremendously as a result of the COVID-19 pandemic; and
- WHEREAS, taking whatever action is prudent and reasonable to encourage business recovery, employee rehiring, and the survival and continued operation of concessions at SFO by implementing the COVID-19 Emergency Rent Relief Program is clearly in the Airport’s best interest and consistent with its core values; and
- WHEREAS, in addition, on June 22, 2020, the Federal Aviation Administration issued written guidance to all airport sponsors encouraging temporary rent abatements and minimum annual guarantee waivers for tenants in order to assist their airport business communities during the COVID-19 public health emergency and to help save workers’ jobs; and
- WHEREAS, when the majority of the concessions’ locations closed in mid-March, rent and fees continued to accrue; and
- WHEREAS, concessionaires pay the greater of a Minimum Annual Guarantee (MAG) or a percentage of Gross Receipts, as well as some or all of the following fees: food court cleaning fees, food court infrastructure fees, storage fees, retail infrastructure fees, infrastructure reimbursement fees, marketing fees, pest fees, space permit fees and refuse fees and utility charges, specifically electricity, water/sewage, gas and telecommunication charges; and

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- WHEREAS, although each concession lease contains language providing for a suspension of the MAG after enplanements have severely declined for three consecutive months, and MAGs were suspended effective June 1, 2020 pursuant to these provisions, additional financial relief is necessary to provide adequate support to the Airport's concession tenants; and
- WHEREAS, for food and beverage, retail and services concessions, the COVID-19 Emergency Rent Relief Program provides for the following: (1) MAGs be waived for the months March, April, and May 2020 (with percentage rent still due for March 2020); (2) all fees be waived for April and May 2020; and (3) storage fees, food court cleaning fees, food court infrastructure fees, infrastructure reimbursement fees, marketing fees, and refuse fees be waived for June through December 2020; and
- WHEREAS, for the On-Airport rent car concessions, the COVID-19 Emergency Rent Relief Program provides for a waiver of Space Rent for the months of March, April, and May 2020, and utility costs for April and May 2020; and
- WHEREAS, the COVID-19 Emergency Rent Relief Program is available only to the following categories of concessionaires: (i) concession tenants with a lease commencement date that occurred on or prior to February 1, 2020 and a term that extends through at least August 31, 2021; (ii) concession tenants operating on a holdover basis; or (iii) concession program permittees with operations at the Airport as of February 1, 2020 (each an Eligible Concessionaire); and
- WHEREAS, in order to receive the relief under the COVID-19 Emergency Rent Relief Program, at all times prior to August 31, 2021, an Eligible Concessionaire must satisfy the following ongoing general requirements: (i) if the concessionaire ceased operations due to the COVID-19 pandemic, then it must recommence operations and continue to operate at the Airport in conformance with the schedule provided by the Airport through at least August 31, 2021, as the schedule may be modified from time to time by the Airport Director, in his sole discretion, to adjust to the operational needs of the Airport and (ii) the concessionaire must remain in good standing and not in default of their agreements, beyond notice and cure periods, or in any unresolved dispute with the City at any time during the term of the program through August 31, 2020; and
- WHEREAS, for food and beverage concessions, 33% of the MAG relief granted for March, April and May 2020 must be expended on payroll costs as defined in the CARES Act, no later than August 31, 2021; and
- WHEREAS, for retail concessions, 18% of the MAG relief granted for March, April and May 2020, must be expended on payroll costs as defined in the CARES Act, no later than August 31, 2021; and