

EC-20-136



CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

July 29, 2020


TO: Pat Davis, President, City Council

FROM: Timothy M. Keller, Mayor

SUBJECT: Blanket Amendments to the Rental Car Concession Lease and Agreement and Temporary Amendment to the Hotel Lease and Concession Agreement

Attached for Council action is a copy of the Blanket Amendment to the Rental Car Concession Lease and Agreement and the Temporary Amendment to the Hotel Lease and Concession Agreement ("Amendments"). Due to the urgent nature of the COVID-19 pandemic, this legislation is being submitted for Immediate Action.

Approved:



Sarita Nair Date
Chief Administrative Officer

8/17/20

Approved as to Legal Form:

DocuSigned by:

Esteban A. Aguilar Jr. 7/30/2020 | 3:51 PM MDT

Esteban A. Aguilar, Jr. Date
City Attorney

Recommended:

DocuSigned by:

Nyika Allen 7/30/2020 | 10:46 AM PDT

Nyika A. Allen, C.M. Date
Director of Aviation

Cover Analysis

1. What is it?

This legislation provides short term rental accommodations to two different types of concessionaires at the Albuquerque International Sunport, both of which have requested said rent accommodations due to decreased reservations in their respective industries as a direct result of reduced numbers of air travel passengers because of the COVID-19 pandemic.

The first amendment is a Blanket Amendment to the Rental Car Concession Leases and Agreements between the City and EAN Holding, LLC, Alamo National, Avis, Budget, Payless, Hertz, Dollar/Thrifty, and Advantage providing rent accommodations at the Albuquerque International Sunport due to the substantial financial hardships the rental car concessionaires are undergoing as a result of the COVID-19 pandemic. Companies filing for bankruptcy relief may not be eligible for the amendment, depending on the circumstances.

The second amendment is a Temporary Amendment to the Hotel Concession and Lease Agreement between the City and Terrapin ABQ Airport, LLC providing rent accommodations at the Albuquerque International Sunport due to the substantial financial hardships the hotel concessionaire is undergoing as a result of the COVID-19 pandemic.

2. What will this piece of legislation do?

The amendment provides a temporary suspension of the minimum annual/monthly guarantee payments to the rental car and hotel concessionaires during the months of July, August, and September 2020.

The rental car concessionaires shall only be obligated to remit payment of the Concession Fee equal to ten percent (10%) of its monthly Gross Revenues during the suspension of the minimum annual guarantee payments.

The hotel concessionaire shall only be obligated to remit payment of the various Percentage of Gross Revenue Fees required in the Hotel Lease and Concession Agreement.

Minimum annual/monthly guarantee payments shall resume on October 1, 2020. However, if hotel/rental car reservations do not increase to 75% of 2019 levels, the Director of Aviation will have discretion to extend the suspension through June 2021.

3. Why is this project needed?

The rental car concessions and the hotel located at the Albuquerque International Sunport are undergoing substantial financial hardships due to passenger numbers decreasing by more than ninety-five percent (95%) as a result of the COVID-19 pandemic. Relief is necessary to preserve operations of these tenants which primarily serve airport passengers. See attached Matrix of Responses from Rental Car and Hotel Companies on the Effect of COVID-19.

4. How much will it cost and what is the funding source?

There is no direct cost to the City. The three-month suspension will result in a reduction of revenue of approximately \$2,392,902 from the rental car concessionaires and \$109,679 from the hotel concessionaire for a total reduction in revenue of \$2,502,581 in Fiscal Year 2021. The Aviation Department has already budgeted for the reduction in revenue due to the rental accommodations.

5. Is there a revenue source associated with this Plan? If so, what level of income is projected?

The amount of revenue generated by the Rental Car Concessions agreements and the Hotel Lease and Concessions Agreement will be reduced during the first quarter of Fiscal Year 2021, with the remainder of the fiscal year yet to be determined. The Aviation Department has already budgeted for the reduction in rental income due to the rental accommodations.

FISCAL IMPACT ANALYSIS

TITLE: Blanket Amendment to the Rental Car Concession Lease and Agreement and Temporary Amendment to the Hotel Lease and Concession Agreement R: O:
FUND: 611
DEPT: 7000611

- ☐ No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- ☒ (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	2021	Fiscal Years 2022	2023	Total
Base Salary/Wages	-	-	-	-
Fringe Benefits at	-	-	-	-
Subtotal Personnel	-	-	-	-
Operating Expenses	-	-	-	-
Property	-	-	-	-
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ -	\$ -	\$ -
[] Estimated revenues not affected				
[x] Estimated revenue impact				
Lease Revenues	\$ (2,502,582.09)	-	-	-
City Inkind Match	-	-	-	-
City IDOH	-	-	-	-
Total Revenue	\$ (2,502,582)	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.

* Range if not easily quantifiable.

Number of Positions created _____

COMMENTS: This will waive MAG payments received by AVI from RAC vendors.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

Rental car companies have been adversely affected by the COVID crisis, and as such relief should be considered to help them stay and business and keep community members employed.

PREPARED BY:

DocuSigned by:
Joshua Castellano-Gonzalez 10:27 AM PDT
FISCAL ANALYST

APPROVED:

DocuSigned by:
Myika Allen 7/30/2020 | 10:46 AM PDT
DIRECTOR (date)

REVIEWED BY:

DocuSigned by:
Linda Cutler-Parkhill 2020 | 3:37 PM MDT
EXECUTIVE BUDGET ANALYST

DocuSigned by:

Lauren L. Davis 2020 | 3:37 PM MDT
BUDGET OFFICER (date)

DocuSigned by:

Christina Boenig 2020 | 3:41 PM MDT
CITY ECONOMIST

Matrix of Responses from Rental Car and Hotel Companies on the Effect of COVID-19
Albuquerque International Sunport

Question	Summary of responses
A description of why your need for relief is directly caused by the COVID-19 public health emergency, including any adverse financial impacts you are experiencing as it directly relates to your operation in ABQ.	<ul style="list-style-type: none"> • Since the reduction in travel due to COVID-19, rental car and hotel companies have seen reductions in customer activity and revenue of 80-90%, year-over-year
What percentage of your ABQ workforce has been laid off, furloughed or terminated due to the COVID- 19 health emergency and to what extent would waiver of MAG allow you to reinstate your ABQ workforce?	<ul style="list-style-type: none"> • Due to reduced business as a result of COVID-19, between 50%-80% of full-time employees have been laid off, extended a furlough, or offered early retirement • Part-time employee hours have been almost entirely eliminated • Third party contracts for companies that support operations have been reduced by 75% or eliminated entirely
A description of your current business and financial situation and why a waiver of MAG from ABQ is essential and necessary.	<ul style="list-style-type: none"> • Customer activity and revenues have plummeted with the decline in air traffic, but the costs to operate at the airport (rent and MAG, in addition to general business operating costs) have continued • Efforts have been made to lower all possible operating costs, but revenue is still insufficient to pay monthly MAG costs
A description of any insurance coverage, along with the expected benefit, for which you could make a claim related to the pandemic emergency.	<ul style="list-style-type: none"> • Companies do not have additional insurance coverage, or insurance does not support a claim against the insurance policy
A description of all relief you have applied for under the CARES Act including, but not limited to, payroll support, grants and loans.	<ul style="list-style-type: none"> • One company received a Paycheck Protection Program loan, all other companies were not eligible for CARES Act programs
An explanation as to why you did not apply for any available type of relief under the CARES Act (if applicable).	<ul style="list-style-type: none"> • Most companies were not eligible for CARES Act programs
A description of other types of financial relief available	<ul style="list-style-type: none"> • Companies are ineligible for many programs • Some programs for which they may be eligible, could potentially limit the company's flexibility to address the ongoing impact of the pandemic in a manner that prioritizes and maximizes the company's financial health

Albuquerque International Sunport

Temporary Amendment

Hotel Lease and Concession Agreement

This Temporary Amendment ("Amendment") to the **Hotel Lease and Concession Agreement** ("Lease") is entered into by and between the **City of Albuquerque**, a New Mexico municipal corporation ("City") and **Terrapin ABQ Airport, LLC** ("Lessee").

In consideration of the rights, privileges, and mutual obligations contained in this Amendment, City and Lessee agree as follows:

Section 1. Recitals.

1.1 Lessee, as owner and operator of the hotel on airport property, has requested a rent accommodation due to the worldwide outbreak of COVID-19, which has caused significant disruptions to airline passenger travel and hotel business in the City of Albuquerque, and reduced Lessee's reservations by as much as 90%; and

1.2 Lessee has requested rent relief, and City is willing to grant a temporary rent accommodation, as provided in Section 2 below; and

1.3 The parties have the right and power to enter into this Amendment.

Section 2. Amendment.

Section 7.2 of the Lease is hereby amended to add the following new subsection 7.2.1.2:

7.2.1.2 Temporary Suspension of the Minimum Monthly Guarantee. During the months of July, August, and September, 2020, the requirement to remit Minimum Monthly Guarantee payments will be temporarily suspended, and Lessee shall only be obligated to remit payment of the Percentage of Gross Revenues Fee, as provided in subsection 7.2.2 below.

If reservations have not increased to 75% of 2019 levels by the end of September 2020, the Director of Aviation shall have discretion to extend the suspension for additional months from October 2020 through June 2021. Otherwise, Minimum Monthly Guarantee payment requirements shall resume and remain in place during all months which are not suspended in writing by the Director.

Section 4. Effect of Amendment. Except as expressly stated in this Amendment, the terms and conditions of the Lease shall remain unchanged and in full force and effect.

Section 5. Approval of Amendment. This Amendment shall not become effective or binding until approved by the Albuquerque City Council and signed by City's Chief Administrative Officer.

IN WITNESS WHEREOF, City has caused this Amendment to be executed by its Chief Administrative Officer, and Lessee has caused the same to be executed by its appropriate and authorized officer.

City of Albuquerque:

By: _____
Sarita Nair
Chief Administrative Officer

Date: _____

Recommended:

By: _____
Nyika A. Allen, C.M.
Director of Aviation

Date: _____

Lessee: Terrapin ABQ Airport, LLC

By: _____

Date: _____

Albuquerque International Sunport
Blanket Amendment
Rental Car Concession Lease and Agreement

This Blanket Amendment ("Blanket Amendment") to the **Rental Car Concession Leases and Agreements** is entered into by and between the **City of Albuquerque**, a New Mexico municipal corporation ("City") and the rental car companies who are currently signatories to the **Rental Car Concession Lease and Agreement** at the Albuquerque International Sunport as referenced herein (individually and collectively "Tenant").

In consideration of the rights, privileges, and mutual obligations contained in this Blanket Amendment, City and Tenant agree as follows:

Section 1. Recitals.

1.1 This Blanket Amendment is pertinent to the following Rental Car Concession Leases and Agreements (collectively "Agreement") between the City and Tenant:

- a) EAN Holdings, LLC, commencing July 1, 2011; and
- b) Alamo/National commencing July 1, 2011; and
- c) Avis commencing July 1, 2011; and
- d) Budget commencing July 1, 2011; and
- e) Payless commencing July 1, 2011; and
- f) Hertz commencing July 1, 2011; and
- g) Dollar/Thrifty commencing July 1, 2011; and
- h) Advantage commencing July 1, 2011

1.2 Tenant has requested a rent accommodation due to the worldwide outbreak of COVID-19, which has caused significant disruptions to domestic and international airline passenger travel and rental car business in the City of Albuquerque. Airlines and rental car companies operating at the Albuquerque International Sunport are experiencing substantial financial hardship with passenger numbers decreasing by as much as 95%; and

1.3 City is willing to grant a temporary rent accommodation, as provided in Section 2 below; and

1.4 The parties have the right and power to enter into this Blanket Amendment, subject to the requirements of any Tenant bankruptcy proceeding.

Section 2. Amendment.

Section 9.1 of the Agreement is hereby amended to add the following new subsection 9.1.1.2:

9.1.1.2 Temporary Suspension of the Minimum Annual Guarantee.

During the months of July, August, and September, 2020, the requirement to remit monthly installment payments for the Minimum Annual Guarantee ("MAG") will be temporarily suspended, and Tenant shall only be obligated to remit payment of the Concession Fee equal to ten percent (10%) of its monthly Gross Revenues, as provided in subsection 9.1.2 below, except that the Concession Fee shall apply to all Gross Revenues, whether less or greater than the MAG.

If rental car reservations have not increased to 75% of 2019 levels by the end of September 2020, the Director of Aviation shall have discretion to extend suspension of the MAG installments for additional months from October 2020 through June 2021. Monthly installment payments equal to one twelfth of the MAG shall resume during the months remaining in the Term which are not suspended in writing by the Director. Payment of the Concession Fee and MAG installments when required shall fulfill the MAG requirement for Fiscal Year 2021.

Section 4. Effect of Blanket Amendment. Tenants who have filed for federal bankruptcy protection resulting in lease modification or cancellation are not eligible for this Blanket Amendment. Except as expressly stated in this Blanket Amendment, the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

Section 5. Approval of Blanket Amendment. Following approval by City Council, this Blanket Amendment shall be issued to each eligible Tenant for execution. The Blanket Amendment shall not become effective or binding for a specific Tenant until signed by City's Chief Administrative Officer.

IN WITNESS WHEREOF, City has caused this Blanket Amendment to be executed by its Chief Administrative Officer, and Tenant has caused the same to be executed by its appropriate and authorized officer.

City of Albuquerque:

By: _____
Sarita Nair
Chief Administrative Officer

Date: _____

Recommended:

By: _____
Nyika A. Allen, C.M.
Director of Aviation

Date: _____

Tenant: Enterprise/Alamo/National

By: _____

Date: _____

Tenant: Avis/Budget/Payless

By: _____

Date: _____

Tenant: Hertz/Dollar/Thrifty

By: _____

Date: _____

Tenant: Advantage

By: _____

Date: _____

Albuquerque International Sunport

Temporary Amendment

Hotel Lease and Concession Agreement

This Temporary Amendment ("Amendment") to the **Hotel Lease and Concession Agreement** ("Lease") is entered into by and between the **City of Albuquerque**, a New Mexico municipal corporation ("City") and **Terrapin ABQ Airport, LLC** ("Lessee").

In consideration of the rights, privileges, and mutual obligations contained in this Amendment, City and Lessee agree as follows:

Section 1. Recitals.

1.1 Lessee, as owner and operator of the hotel on airport property, has requested a rent accommodation due to the worldwide outbreak of COVID-19, which has caused significant disruptions to airline passenger travel and hotel business in the City of Albuquerque, and reduced Lessee's reservations by as much as 90%; and

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Chief Administrative Officer

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Recommended:

By: _____

Nyika A. Allen, C.M.
Director of Aviation

Date: _____

Lessee: Terrapin ABQ Airport, LLC

By: _____

Date: _____

Albuquerque International Sunport

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Sarita Nair
Chief Administrative Officer

Date: _____

Recommended:

By: _____
Nyika A. Allen, C.M.
Director of Aviation

Date: _____

Tenant: Enterprise/Alamo/National

By: _____

Date: _____

Tenant: Avis/Budget/Payless

By: _____

Date: _____

Tenant: Hertz/Dollar/Thrifty

By: _____

Date: _____

Tenant: Advantage

By: _____

Date: _____