

## AGENDA REPORT

**Ordinance:** Approval of *Amendment No.1* to the *Space/Use Permit for Self Service Luggage Cart Concession* with Smarte Carte, Inc. at Oakland International Airport. (Aviation)

**MEETING DATE:** 6/8/2017

**AMOUNT:** \$18,705 Estimated Net Revenue

**PARTIES INVOLVED:** Smarte Carte, Inc., White Bear Lake, Minnesota  
Edward Rudis, President and CEO

**SUBMITTED BY:** Bryant L. Francis, C.M. Director of Aviation

**APPROVED BY:** J. Christopher Lytle, Executive Director

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

This action would give first reading to an ordinance to approve the terms and conditions, and authorize execution by the Executive Director of *Amendment No. 1* (the *Amendment*) to the *Space/Use Permit for Self Service Luggage Cart Concession* (the *2012 SUP*) with Smarte Carte, Inc. ("Smarte Carte") extending the term of the *2012 SUP* for five periods of one-year each, allowing Smarte Carte to continue to provide non-exclusive self-service luggage cart rental services at Oakland International Airport ("OAK") potentially through June 30, 2022. The Board is also requested to approve a variance in the amount of the Performance Deposit required pursuant to Port Policy No. AP 509.

### **BACKGROUND**

On January 1, 1996, the Port entered into a *License and Concession Agreement* with Smarte Carte, Inc., granting Smarte Carte a non-exclusive license and concession to engage in the business of operating a self-service luggage cart rental service for a period of five (5) years, scheduled to terminate on December 31, 2000 and continuing thereafter on a month to month holdover basis.

In 2012, Aviation staff determined to undertake a Request for Proposals ("RFP") process to re-evaluate the self-service luggage cart concession with the intent of identifying the most competitive provider while opening the opportunity for any new and/or local entities. A "Request for Proposals for Non-Exclusive Self-Service Luggage Cart Concession"



was issued on February 22, 2012. The opportunity was posted on the Port and Airport websites and advertised through AMAC (Airport Minority Advisory Council), ACI (Airports Council International), and presented to local businesses, non-profit organizations, and skilled labor organizations, along with general and group-specific chambers of commerce throughout Oakland, the County of Alameda and the greater San Francisco Bay Area. Smarte Carte was the only entity to submit a proposal in response to the RFP. On June 21, 2012 the Board approved entering into the *2012 SUP* with Smarte Carte, which, without further action by the Board, will terminate on June 30, 2017.

At OAK, Smarte Carte currently provides self-service luggage cart rental services with a minimum of 350 total carts at sixteen locations throughout the airport plus complimentary carts in the International Arrivals Building ("IAB"). The vend rate is \$5.00 except in the IAB, where the carts are complimentary for arriving international passengers. The Port reimburses Smarte Carte \$1.25 for each complimentary cart used in the IAB, resulting in average monthly payments from the Port to Smarte Carte of approximately \$4,650.

Revenue to the Port consists of Minimum Annual Guarantee rent of \$66,693, or 25% of gross sales, whichever is greater, plus space rent of approximately \$651 per month for 133 square feet of Category VIII space (Concession Office/Storage Space). During the term of the *2012 SUP*, Smarte Carte sales have exceeded MAG each year resulting in average annual revenue of \$83,000, including space rent.

## **ANALYSIS**

The luggage cart rental industry has been in decline for many years. It remains a necessary amenity but many smaller airports are finding that they must pay a concessionaire to provide this service or they must provide the service directly to their passengers.

As noted above, when Aviation staff conducted the RFP for this concession in 2012, Smarte Carte was the only respondent, and apparently, it remains the only active vendor for this service. In April 2017, a nationwide airport luggage cart rental survey was conducted asking the airport industry, "who provides the luggage cart rental service at your airport?" and, of the 33 responding airports, 28 were served by Smarte Carte and 5 airport sponsors provided luggage carts (or the equivalent service) themselves. Of the 28 responding airports where Smarte Carte operates, the OAK vend rate of \$5.00 is equal to the vend rate of nearly all of the respondents (three have a vend rate of \$4.00) and the OAK percentage rent provision at 25% is in the highest quartile, with a reported range of 5%-30%.

In the absence of any other viable luggage cart rental service provider, and not wanting to provide the service using Port resources, Staff has negotiated the *Amendment* as an extension of the *2012 SUP* with the following terms and conditions:

Permittee:	Smarte Carte, Inc.
Service Provided:	Passenger Luggage Cart Rentals/Services
Premises:	Check-Out/In stations throughout the Terminal Complex plus 133 square feet of storage space in Building M102

Rental: Greater of MAG or Percentage

MAG: \$66,693

Percentage: 25% of gross revenue

Space: \$651 based on \$4.90± per square foot; anticipated FY2017-18 Rates & Charges

Term: Five (5) One (1)-Year Terms exercisable by Smarte Carte

Performance Deposit\* \$17,000 (approximately 2.7 x average monthly billings); which is the current amount held by the Port.

\* Port Policy No. AP 509 requires tenants to post a Performance Deposit generally equal to three-times monthly billings. Smarte Carte has an excellent payment history with the Port and Aviation staff is requesting the Board to approve this lesser amount.

### **BUDGET & STAFFING**

There is no budgetary or staffing impact in FY 2016-17. Smarte Carte revenues and expenses are included in the proposed FY 2017-18 budget.

	Monthly	Annual
<b>Space Rent</b>	\$651	\$7,812
<b>MAG*</b>	\$5,558	\$66,693
<b>IAB Usage (est)</b>	(\$4,650)	(\$55,800)
<b>Net Revenues:</b>	<b>\$1,559</b>	<b>\$18,705</b>

\* Assumes no Percentage Rental

### **MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

The matters contained in this Agenda Report do not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply.

### **STRATEGIC PLAN**

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Plan:

<http://www.portofoakland.com/pdf/about/strategicPlan2011-2015.pdf>

#### **Goal A: Create Sustainable Economic Growth for the Port and Beyond**

- Goal A: Objective 1: Maximize the use of existing assets.

## **LIVING WAGE**

Living wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), do not apply to this agreement as the tenant does not employ 21 or more employees working on Port-related work. However, the tenant will be required to certify that should living wage obligations become applicable, the tenant will comply with the Living Wage Regulations.

## **ENVIRONMENTAL**

CEQA Determination: Port staff have determined that entering into the *Amendment* with Smarte Carte, Inc. is categorically exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities. The CEQA provisions do not apply to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

## **GENERAL PLAN**

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

## **OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)**

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by this Agenda Report as they are not capital improvement construction or design projects.

## **OPTIONS**

1. Adopt an Ordinance approving the terms and conditions, and authorizing execution by the Executive Director, of the proposed *Amendment No. 1* to the *Space/Use Permit for Self Service Luggage Cart Concession*, effective July 1, 2017, extending the term of the *Space/Use Permit for Self Service Luggage Cart Concession* for five periods of one year each, potentially through June 30, 2022. In addition, approve a deviation of Port Policy No. AP 509 by authorizing the proposed \$17,000 Performance Deposit, which is approximately 2.7x monthly billings (vs. the three-times monthly billings required by the Policy). Approval of this *Amendment* as outlined above is the staff's recommended action;
2. Do not adopt an Ordinance approving the terms and conditions, and authorizing execution by the Executive Director, of the proposed *Amendment* to the *Space/Use Permit for Self Service Luggage Cart Concession*, which would eliminate luggage cart rentals at the airport by Smarte Carte;

3. Do not approve the *Amendment* as outlined above, but recommend different terms and conditions for modifying the *Space/Use Permit for Self Service Luggage Cart Concession*.

### **RECOMMENDATION**

Adopt an Ordinance approving the terms and conditions, and authorizing execution by the Executive Director, of the proposed *Amendment No. 1* to the *Space/Use Permit for Self Service Luggage Cart Concession*, effective July 1, 2017, extending the term of the *Space/Use Permit for Self Service Luggage Cart Concession* for five periods of one year each, potentially through June 30, 2022, and including a Performance Deposit of \$17,000, subject to the Port Attorney's approval as to the form and legality of the *Amendment*.