

AGENDA REPORT

Ordinance: Consent to Extend on a Month-to-Month Basis the Existing *Lease* with KaiserAir, Inc. for the Premises and Facilities, including Hangar 3 West, Hangar 4, and Related Airfield Aircraft Apron and Motor Vehicle Parking Spaces, to Adjust Minimum Rent to Fair Market Rental Value of \$107,546 per Month, and Increase the Security Deposit to \$350,000. **(Aviation)**

MEETING DATE: 12/13/2018

AMOUNT: \$1.29 Million Annual Rental Revenue

PARTIES INVOLVED: KaiserAir, Inc. – Oakland, California
Ronald Guerra, President & Owner
Gregg Rorabaugh, Vice President
Howard Fields, Representative

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

APPROVED BY: Danny Wan, Acting Executive Director

ACTION TYPE: Ordinance

EXECUTIVE SUMMARY

Aviation Staff requests the Board's consent (i) to extend on a month-to-month basis the existing *Lease* with KaiserAir, Inc. for its premises and facilities at the North Field at Oakland International Airport; (ii) to adjust rental to the fair market rental value of \$107,546.37 per month; and (iii) to increase the Security Deposit to \$350,000, which is equal to approximately two-times monthly billings.

BACKGROUND

KaiserAir, Inc. ("KaiserAir") and the Port of Oakland ("Port") entered into a long-term *Lease* dated December 1, 1998 for premises on the North Field of Oakland International Airport ("OAK") used for aircraft apron, hangar, office, shop, storage, and vehicle parking, serving as a Fixed Base Operator ("FBO")¹ and commonly referred to as Hangar 3 West and Hangar 4. The initial term of the *Lease* was ten years, with an effective date of February 1, 1999, subject to KaiserAir's option to extend the term for an additional ten years. Pursuant to a *First Supplemental Agreement*, among other issues, the exercise of the option was acknowledged

¹ FBOs conduct a wide range of aeronautical support activities including, but not limited to fueling, maintenance and charter flights. In addition, KaiserAir leases hangar, aircraft apron and support space from the Port, and then subleases some of that space to corporate clients.

by the Port and KaiserAir, which extended the term through January 31, 2019. KaiserAir currently pays rent of \$51,575.50 per month.

Coincidentally, in 2016, the Port issued a limited, Request for Expressions of Interest and conducted a competitive process on nearby properties identified as Hangars 2, 230C & 230D, and the adjacent aircraft apron and vehicle parking lot ("Hangars 2+ Premises"). After submitting the higher ranked proposal, Staff and KaiserAir have been working to maximize the utilization and revenue for these properties and the Port and KaiserAir have been negotiating a proposed lease (the "Hangars 2+ Lease"). Pursuant to its proposal, KaiserAir intends for the Hangars 2+ Premises to serve as space for expansion of its FBO and airline businesses, and/or as an alternate location for these businesses should the Hangar 3 West and Hangar 4 Premises not be available to KaiserAir after the January 31, 2019 expiration of the Lease.



KaiserAir's existing Hangar 3 West and Hangar 4 leasehold is highlighted in yellow; the Hangars 2+ Premises is highlighted blue.

ANALYSIS

For multiple reasons, the Port and KaiserAir have not been able to move forward with redevelopment of the Hangars 2+ Premises. Therefore, Staff has delivered to KaiserAir a draft *Exclusive Negotiating Agreement* ("ENA") documenting the terms, conditions, timeline and performance milestones, and roles and responsibilities of both the Port and KaiserAir leading to the execution of Hangars 2+ Lease and redevelopment of the Hangars 2+ Premises.

In addition, Staff has delivered to KaiserAir a draft *Second Supplemental Agreement* to extend the term of the Hangar 3 West and Hangar 4 Lease by just less than five years, adjust Minimum Rent and the Security Deposit, and update various other terms and conditions from the form lease that is now 20+ years old.

To minimize disruption of KaiserAir's FBO and airline operations as the parties work through the ENA and finalize the *Second Supplemental Agreement*, Staff is recommending the Board's consent to extend the term of the existing Lease on a month-to-month basis and adjust the Minimum Rent based on fair market rental value ("FMRV") as follows:

Lease:

Refers to the Lease dated December 1, 1998 for premises on the North Field of OAK used for aircraft apron, hangar, office, shop, storage, and vehicle parking, commonly referred to as Hangar 3 West and

Hangar 4, and the *First Supplemental Agreement* dated as of October 2, 2007. The *Lease* and the *First Supplemental Agreement* may be referred collectively as the “*Lease*”.

Premises: No change from the *Lease*.

Effective Date of Holdover Status: February 1, 2019.

Term: Month-to-Month Holdover; either party may terminate the *Lease* by delivering 30 days’ written notice.

Consent: The *Lease* specifically requires “the Port’s written consent” to hold over the term after the *Lease* has been terminated (or expires) in any manner.

Rent: As the current term expires on January 31, 2019, Minimum Rent should be adjusted based on FMRV. The Port has established FMRV rates for various property types for both FBOs². As shown in the table below, total Minimum Rent for the Premises would be \$107,546.37 per month. See section below on “Title to Improvements.”

	Sq. Ft.	Annual Rate	Monthly Rate	Rent
Hangar 3 West				
Office	2,018	\$11.16	\$0.930	\$1,876.74
Hangar	12,834	8.18	0.682	8,752.79
Storage	880	4.13	0.344	302.72
Apron - Concrete	64,394	2.23	0.186	11,977.28
Apron - Asphalt	21,800	2.23	0.186	4,054.80
Hangar 3 West Monthly Rental =				<u>\$26,964.33</u>
Hangar 4				
Office	7,433	\$11.16	0.930	\$6,912.69
Hangar	37,572	8.18	0.682	25,624.10
Shop	4,860	7.98	0.665	3,231.90
Storage	7,080	4.13	0.344	2,435.52
Paved Parking	4,918	1.46	0.122	600.00
Apron - Concrete	192,762	2.23	0.186	35,853.73
Apron - Asphalt	31,850	2.23	0.186	5,924.10
Hangar 4 Monthly Rental =				<u>\$80,582.04</u>
Total Monthly Rent =				<u>\$107,546.37</u>

² KaiserAir and Piedmont Hawthorne Aviation, LLC (aka Signature Flight Support; “Signature”) are the two FBOs operating at OAK.

Security Deposit:

In conformance with Port Policy No. AP509, a security deposit equal to three-times monthly billings (not just monthly Rent) applicable to the *Lease* is required. A lesser amount may be approved by the Board based on the tenant's payment history. Staff is recommending a Security Deposit in the amount of \$350,000 representing two-times monthly billings³. Should KaiserAir not maintain its good payment history, then the Security Deposit will be increased to a minimum of three-times average monthly billings as required by Port Policy No. AP509.

Title to Improvements:

Pursuant to Section 9.1 of the *Lease*, "upon termination of this *Lease* whether by expiration of its term, cancellation or otherwise, title [of all Improvements] automatically shall pass to and vest with the Port." While ownership of KaiserAir-constructed facilities automatically reverts to the Port, during the proposed month-to-month extension of the *Lease*, Staff recommends that the Port not adjust the calculation of Minimum Rent to include the value of any of these buildings/facilities; specifically, Port Building Nos. L411 (Terminal) and L308 (T-Hangar). Such temporary waiver of the Port's right to charge FMRV for reverted Improvements in no way limits the Port's ability to charge FMRV in the future.

BUDGET & STAFFING

During the development of the FY2018-19 Operating Budget, for the Hangar 3 West/Hangar 4 *Lease*, Staff projected a 30-month CPI rental (not FMRV) adjustment yielding approximately \$672,000 in hangar and aircraft parking revenue. If rental is adjusted based on the suggested FMRV rates, revenue for February through June would be greater than included in the Budget by approximately \$21,500 per month, or a total of \$107,500 additional revenue for FY2018-19.

There is no staffing impact.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters included 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.

³ Revised Security Deposit = (Monthly Rent of \$107,546) + (Average Fuel Flowage Fees of \$61,413) + (Average Port Utilities of \$5,773) = \$174,733 × 2 Months = \$349,466 ≈ \$350,000.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

Goal: Grow Net Revenues

Goal: Modernize and Maintain Infrastructure

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"), apply to this *Lease* as KaiserAir employs 21 or more employees working on Port-related work and the tenancy agreement is greater than \$50,000.

SUSTAINABILITY

Staff reviewed the Port's 2000 Sustainability Policy and did not complete the Sustainability Opportunities Assessment Form. There are no sustainability opportunities related to this proposed action because it does not involve a development project, purchasing of equipment, or operations that presents sustainability opportunities. If and when KaiserAir develops improvement plans for the Premises, sustainability options must be included.

ENVIRONMENTAL

The Board action to approve the terms and conditions for extending the *Lease* on a month-to-month basis as described above is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301, Existing Facilities. CEQA does 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

Pursuant to Section 727 of the City of Oakland Charter, this project has been determined to conform to the policies for the transportation designation of the Oakland General Plan.

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 projects.

OPTIONS

1. Consent to a month-to-month holdover of the expiring term of the *Lease* with KaiserAir, Inc. for premises on the North Field of Oakland International Airport used for aircraft apron, hangar, office, shop, storage, and vehicle parking, serving as a

Fixed Base Operator and commonly referred to as Hangar 3 West and Hangar 4. Such consent to (i) include a fair market rental value adjustment of Minimum Rent to \$107,546.37 per month; (ii) not include the value of reverted Improvements in the calculation of Minimum Rent; and, (iii) increase the Security Deposit to \$350,000 which is approximately two-times monthly billings. Extending the term of the *Lease* will allow Staff and KaiserAir to finalize (i) an *Exclusive Negotiating Agreement* documenting the terms, conditions, timeline and performance milestones, and roles and responsibilities of both the Port and KaiserAir leading to the execution of a lease and redevelopment of the Hangars 2+ Premises; and, (ii) a *Second Supplemental Agreement* to extend the term of the *Lease* by just less than five years, adjust Minimum Rent and update various other terms and conditions from the form lease that is now 20+ years old. This is Staff's recommendation.

2. Do not consent to a month-to-month holdover of the expiring term of the *Lease* with KaiserAir, Inc. for the Hangar 3 West and Hangar 4 Premises; such action would require KaiserAir, Inc. to vacate the premises by January 31, 2019 and cease its business operations at OAK.
3. Consent to a month-to-month holdover of the expiring term of the *Lease* with KaiserAir, Inc. for the Hangar 3 West and Hangar 4 premises, but under different terms and conditions than those detailed above and recommended by Staff.

RECOMMENDATION

It is recommended that the Board adopt an ordinance to:

- Consent to a month-to-month holdover of the expiring term of the *Lease* with KaiserAir, Inc. for premises on the North Field of Oakland International Airport used for aircraft apron, hangar, office, shop, storage, and vehicle parking, serving as a Fixed Base Operator and commonly referred to as Hangar 3 West and Hangar 4;
- Adjust Minimum Rent based on fair market rental value to \$107,546.37 per month, which would not include the value of reverted Improvements in the calculation of Minimum Rent; and,
- Increase the Security Deposit to \$350,000 which is approximately two-times the Port's monthly billings to KaiserAir vs. the three-times monthly billing as required by Port Policy No. AP509 which the Board may override at its discretion;

Subject to approval by the Port Attorney as to form and legality.