



CITY COUNCIL STAFF REPORT

DATE: October 7, 2009 CONSENT CALENDAR

SUBJECT: AMENDMENT NO.1 TO NON-EXCLUSIVE OPERATING AND LEASE AGREEMENT NO. 5361 WITH USO – GREATER LOS ANGELES AREA, INC. FOR AN ADDITIONAL 114 SQ. FT. AT NO ADDITIONAL COST

FROM: David H. Ready, City Manager

BY: Department of Aviation

SUMMARY

The United Service Organization (USO) located within the Palm Springs International Airport Terminal is very popular and currently occupies 975 SF in the Airport's main baggage claim area. This action will provide the USO with an additional 114 SF of space adjacent to the occupied area.

RECOMMENDATION:

1. Approve Amendment No. 1 to Agreement No. 5361 Non-Exclusive Operating & Lease Agreement with USO – Greater Los Angeles Area, Inc. for an additional 114 SF at no additional cost effective November 1, 2009 and valid until October 31, 2011.
2. Authorized the City Manager to execute all necessary documents.

STAFF ANALYSIS:

The USO has a five-year lease which began in November 2006 and expires in 2011. The USO is very popular and proudly serves an average of over 1,000 military personnel and families each month. During busy times it has become increasingly difficult for the USO staff to handle all the baggage typically associated with their military customers. Thanks to the cooperation of another airport terminal tenant, The Paradise Shops, the USO will be able to use a small room adjacent to their main operation. This small, but optimally, located space will allow the USO to stack customer baggage out of the way.


Due to a recent change in City Council meeting dates, this item could not go to the Airport Commission before City Council consideration. The Airport Commission will be advised of this action at their October 14, 2009 meeting.

FISCAL IMPACT:

The 114 SF Office Space will be included in the base agreement with the USO which currently pays \$1 per year in rental payments.



Thomas Nolan, A.A.E.
Executive Director



for David H. Reedy
City Manager

Attachments:

Amendment No. 1 to USO Agreement 5361

FAA Approval 9/6/09

USO – GREATER LOS ANGELES AREA, INC.
AMENDMENT No. 1 TO
NON-EXCLUSIVE OPERATING AND LEASE AGREEMENT
FOR TERMINAL SPACE
AT PALM SPRINGS INTERNATIONAL AIRPORT

THIS Amendment No. 1 to Agreement 5361 is made and entered into this 1st day of November 2009, by and between the CITY OF PALM SPRINGS, a charter city and California municipal corporation ("City"), and USO – Greater Los Angeles Area, Inc. a California corporation ("Tenant"). City and Tenant may hereinafter be referred to individually as a "Party" and collectively as "Parties".

RECITALS

A. Tenant requires additional space to lease and operate a USO Service Club at Palm Springs International Airport ("Airport").

B. City believes that the flow of military personnel, retired military personnel and military dependants within the City's airport terminal would benefit from the convenience and accessibility of additional space for the USO Service Club at Palm Springs International Airport.

C. The Federal Aviation Administration has approved the additional space at no additional cost to the Tenant.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises of the parties hereto and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Tenant agree as follows:

1. Subsection 1.1 in the Lease shall be amended to include an addition 114 square feet of exclusive use space located adjacent to the current USO space and more particularly described on the revised Exhibit "A" attached hereto effective November 1, 2009 at no additional cost to Tenant.

2. Due Execution. The person(s) executing this Amendment on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) the entering into of this Amendment does not violate any provision of any other agreement to which said party is bound.

3. Full Force and Effect. The parties further agree that, except as specifically provided in this amendment, terms of the Lease shall remain unchanged and in full force and effect.

(EXECUTION PAGE FOLLOWS)

IN WITNESS WHEREOF, the parties have executed and entered into this Lease as of the date first written above.

CITY OF PALM SPRINGS

a municipal corporation

ATTEST:

By: _____

City Clerk

By: _____

City Manager

APPROVED AS TO FORM:

By: [Signature]

City Attorney

CONTRACTOR: USO - Greater Los Angeles Area, Inc.
Check one: Individual Partnership Corporation

Corporations require two notarized signatures: One from each of the following: A. Chairman of Board, President, or any Vice President; AND B. Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, or Chief Financial Officer.

By: [Signature]
Signature (notarized)

By: [Signature]
Signature (notarized)

Name: John A. Garcia

Name: Carl Burkhardt

Title: Chief Executive Officer

Title: V.P.

State of _____

State of _____

County of _____

County of _____

On _____ before me, _____

On _____ before me, _____

Personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

see attached CA Acknowledgment

Notary Signature: _____

Notary Signature: _____

Notary Seal:

Notary Seal:



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

On Sept. 14, 2009 before me,

Virginia Kerkochian, Notary Public

Here Insert Name and Title of the Officer

personally appeared John A. Garstka and Carl Burhanan

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature Virginia Kerkochian

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Agreement

Document Date: undated

Number of Pages: 3

Signor(s) Other Than Named Above: none

Capacity(ies) Claimed by Signer(s)

Signer's Name: John A. Garstka

- Individual
- Corporate Officer --- Title(s): CFO
- Partner --- Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: U.S.O.

Signer's Name: Carl Burhanan

- Individual
- Corporate Officer --- Title(s): V-P
- Partner --- Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

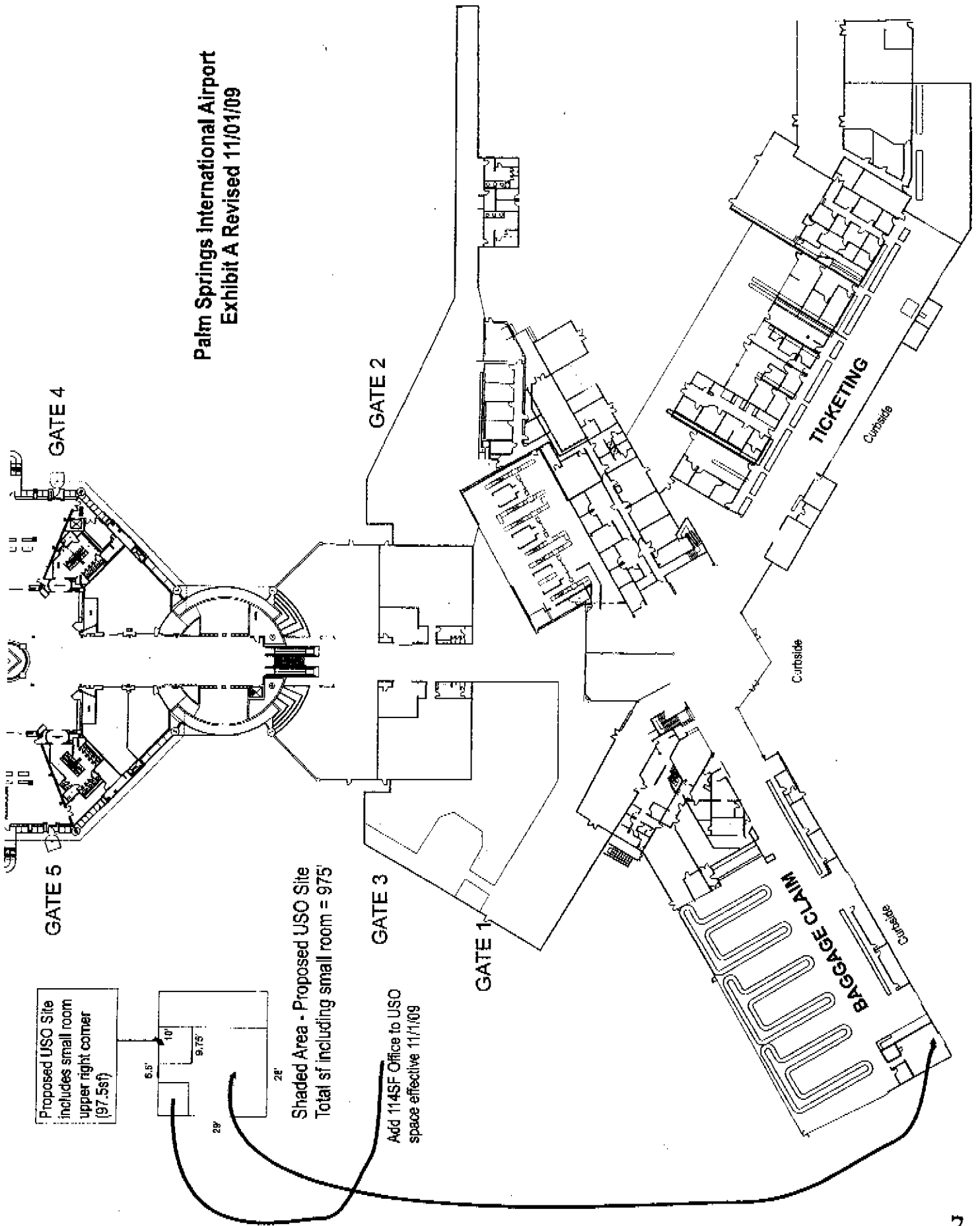
Top of thumb here

Signer Is Representing: U.S.O.

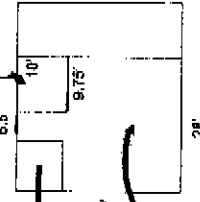
Revised Exhibit "A"
USO Service Club
Terminal Space

See Attached

Palm Springs International Airport
Exhibit A Revised 11/01/09



Proposed USO Site
includes small room
upper right corner
(97.5sf)



Shaded Area - Proposed USO Site
Total sf including small room = 975'

Add 114SF Office to USO
space effective 11/1/09

Janet Sheraton

From: Anthony.Garcia@faa.gov
Sent: Sunday, September 06, 2009 2:03 PM
To: Thomas Nolan
Cc: Janet Sheraton; Margie.Drilling@faa.gov
Subject: Feedback Regarding the USO Space at PSP Airport

FAA
APPROVAL
✓ AI



pic00041.jpg (46 KB)

Tom Nolan

In accordance with the prior FAA opinion, we do not object to the use of an additional 114 square feet of adjacent space to accommodate military travelers at PSP.

Tony Garcia
FAA Airports
XX

(Embedded image moved to file: pic00041.jpg)

"Thomas Nolan"
<Thomas.Nolan@palmsprings-ca.gov>

08/31/2009 02:18 PM

To
Anthony Garcia/AWP/FAA@FAA
cc
Margie Drilling/AWP/FAA@FAA, "Janet Sheraton"
<Janet.Buck@palmsprings-ca.gov>
Subject
USO at PSP Airport

Mr. Garcia:

As seen on the attached FAA letter of approval in October of 2006, PSP airport was granted support to provide the USO some space within the baggage claim area. Thank you for that support. The program has been tremendously successful to both the United States military personnel and the airport operations.

We have a simple request to make. That same space which was approved has a closet like space adjacent to it that is being vacated and we intend to allocate it to the USO because they are in desperate need of additional space. We believe allocating this 114 square

foot space will not only assist them again but the airport as well because it will allow military staff baggage to be removed from outside the door and brought into the closet for storage.

Your support of this terminal space allocation is requested. Again, the additional space will just be included into the existing use agreement with all the same terms.

Thomas Nolan

Executive Director

Palm Springs International Airport [attachment "USO FAA APPROVAL LETTER 10 31 06.pdf" deleted by Anthony Garcia/AWP/FAA]



U.S. Department
of Transportation

Federal Aviation
Administration

Western-Pacific Region
Airports Division

Federal Aviation Administration
P.O. Box 92007
Los Angeles, CA 90009-2007

October 31, 2006

Richard S. Walsh
Director of Aviation
Palm Springs International Airport
3400 E. Tahquitz Canyon Way, Suite OFC
Palm Springs, CA 92262-6966

RECEIVED

NOV 15 2006

BY: DEPT. OF AVIATION

Dear Mr. Walsh:

**Palm Springs International Airport (PSP)
New USO Facility**

We are replying to your letter dated October 16, 2006, that requested our concurrence with the proposed agreement between the City of Palm Springs and USO-Greater Los Angeles Area, Inc. for the space at Palm Springs International Airport to operate a USO facility.

The City proposes to enter into a five-year lease with the USO for the use of airport property, including utilities, at the annual rental rate of one dollar. The space is located at the north end of the terminal baggage claim area. This area consists of 975 square feet and is presently vacant. The agreement will include a termination provision permitting PSP to cancel the agreement or relocate the USO to another airport location. The USO will be responsible for routine improvements, janitorial services, and telephone service.

The City believes that the agreement will improve service to the traveling public because military personnel will be well accommodated in a safe, secure, and comfortable environment while, at the same time, reducing the number of passengers using the public airport terminal. The presence of the USO will not have a negative impact on airport safety, security, or efficiency of operations.

The USO is a non-profit organization that relies on public donations and volunteers to serve the needs of servicemen and servicewomen. Based on the proposal, the USO facility, like the airport terminals, will be directly and substantially related to the air transportation of passengers, namely, members of the Armed Forces. Furthermore, the USO presence at the airport will provide a public service function to military personnel while maintaining positive community goodwill. Under these circumstances, a nominal-cost facility operated by the USO and dedicated to military personnel in transit would not violate the requirements of the self-sustaining rate structure assurance as long as PSP does not subsidize or pay for the operation of USO programs and maintenance of USO property and fixtures.

Based on the expectation that the USO will be providing services to military travelers, we do not object to the implementation of the proposed agreement with the USO.

If you have any questions or wish to discuss this matter, please call me at (310) 725-3634.

Sincerely,

A handwritten signature in cursive script that reads "Tony Garcia". The signature is written in dark ink and is positioned above the typed name.

Tony Garcia
Airports Compliance Specialist