

# Metropolitan Airports Commission



## Management and Operations Committee

Regular Monthly Meeting Agenda

Wednesday, January 06, 2010

1:00 pm

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# **SEE ATTACHED INFORMATION REGARDING SECURITY CHECKPOINT INFORMATION**

## MANAGEMENT AND OPERATIONS COMMITTEE

Mike Landy, Chair  
Andy Westerberg, Vice Chair  
Pat Harris  
Jack Lanners, Commission Chair  
Bert McKasy, FD&E Chair  
John McDonald  
Don Monaco  
Paul Rehkamp  
Sherry Stenerson  
Daniel Boivin, Human Resources and Affirmative Action Chair

## **METROPOLITAN AIRPORTS COMMISSION NOTICE OF REGULAR MEETING MANAGEMENT & OPERATIONS COMMITTEE**

**Wednesday, January 6, 2010 1:00 p.m.  
Room 3048A, Lindbergh Terminal  
Wold-Chamberlain Field  
Minneapolis-St. Paul International Airport**

## **AGENDA**

### **OPEN FORUM**

The open forum is a portion of the Commission meeting where persons will be allowed to address the Commission on subjects which are not a part of the meeting agenda. Speakers are asked to limit their remarks to two minutes each. Persons wishing to speak must complete a sign-up card prior to the start of the meeting. The sign-up card should be given to any staff person. The Commission may take action or reply at the time of the statement of may give direction to staff at the end of the meeting regarding investigation of the concerns expressed

### **CONSENT**

1. PROFESSIONAL SERVICE AUTHORIZATION (PSA) QUARTERLY REPORT.  
Thomas W. Anderson – General Counsel  
Dennis Probst – Deputy Executive Director, Planning & Environment  
Steve Busch – Deputy Executive Director Finance & Administrative Services
2. RECOMMENDATION REGARDING BANK CARD TRANSACTION PROCESSING  
Arlie Johnson, Assistant Director of MSP Operations/Landside  
Jeff Courteau, Manager of Parking Systems  
Brad Johnson, Purchasing Manager
3. REQUEST AUTHORIZATION TO ISSUE A REQUEST FOR PROPOSALS FOR ELEVATOR, ESCALATOR, MOVING WALK AND TRAM CONSULTANT SERVICES  
Phil Burke, Assistant Director of MSP Operations/Facilities

**DISCUSSION – ACTION**

4. RECOMMENDATION TO ADOPT COMMERCIAL VEHICLE ORDINANCE AS MAC ORDINANCE 110

Steve Wareham, Director MSP Operations

Arlie Johnson, Asst. Director MSP Operations, Landside

**Materials for this meeting are available at the following website:**

<http://www.metroairports.org/mac/meetings/default.aspx>

## **SECURITY CHECKPOINT INFORMATION**

Stop by the information booth near the tram station on the Tram Level. At the information booth, you will be asked to complete a security checkpoint access form and show valid, government-issued photo identification, such as a driver's license. Take your completed access form with you up two floors, to the Ticketing Level security checkpoints. Show your approved access form to security checkpoint personnel. You will then be screened just as if you were traveling. Access forms are only valid for the purpose of attending a public MAC meeting at a particular date and time.

Commission Chambers are located on the Mezzanine Level overlooking the airport's central shopping area (above Chili's Restaurant), past the main security checkpoints.

Allow yourself at least 30 minutes to park, complete the access form and get through the security checkpoint prior to the meeting.

**Parking in the following areas will be validated; please bring your parking ticket to the meeting.**

### **Directions to the Tram Level Information Booth**

**From short-term parking:** At the Lindbergh Terminal entrance, take the escalator or elevator down to Tram Level. The information booth is straight ahead, in the center of the room.

**From general parking:** If you park in the **Blue or Red** ramps, take the elevator down to the tram, which will transport you directly to the Lindbergh Terminal's Tram Level. When you exit the tram, the information booth is straight ahead, in the center of the room. If you park in the **Green or Gold** ramps, take the skyway to the Lindbergh Terminal's Mezzanine Level. From there, take an elevator or escalator to Tram Level. The information booth is straight ahead, in the center of the room.

# MEMORANDUM

ITEM 1

**TO:** Management & Operations Committee

**FROM:** Thomas W. Anderson, General Counsel (726.8178)  
Dennis Probst, Deputy Executive Director – Planning & Environment (726.8187)  
Steve Busch, Deputy Executive Director/Finance & Administrative Services (726.8148)

**SUBJECT:** PROFESSIONAL SERVICE AUTHORIZATION (PSA) QUARTERLY REPORT

**DATE:** December 23, 2009

In February 2003 the Commission adopted a two-part updated version of the Commission's Consultant Use and Selection Policy. In the Use, Monitoring and Payment of Professional Consultants section of the updated policy it states that, on a quarterly basis, reports will be provided to the Commission on all new, adjusted or closed Professional Service Authorizations (PSAs). For the fourth quarter (October, November, December) of 2009, the following are provided:

The reports will be updated on a regular basis and submitted to the Commission on a quarterly basis. The next reports are to be presented in April 2010 for any PSAs issued, adjusted or closed in the next quarter.

**Attachments**      Operating Budget issued PSAs  
                              Capital Improvement Program (CIP) issued PSAs  
                              Adjustments to existing Operating Budget & CIP PSAs  
                              PSAs which have been closed

THIS IS AN INFORMATIONAL ITEM ONLY; NO COMMITTEE ACTION IS REQUIRED.

# Metropolitan Airports Commission (MAC) Professional Services Authorization (PSA) Report

## PSAs issued in the 4th Quarter of 2009 - Operating Budget:

<u>MAC Division</u>	<u>Professional Service Firm/Consultant</u>	<u>PSA Number</u>	<u>Project Description</u>	<u>Amount Authorized</u>
Finance &	BKD LLP	33674 PS	2009 Financial Audit Services	\$ 139,000
Admin. Serv.	Deloitte & Touche	33695 PS	2009 General Airport Revenue Refunding Bonds	\$ 58,000
		33696 PS	2010 Financial Advisory Services: Model/Feas. Report	\$ 200,000
	Jacobs Consulting	33697 PS	2010 Financial Advisory Services: Commercial Paper	\$ 200,000
		33698 PS	2009 Series A & B Bond Refunding Services/Comm. Paper	\$ 200,000
	Kutak Rock	33699 PS	2010 Bond Counsel Services/Eval. Comm. Paper Program	\$ 200,000
		33700 PS	2009 A & B Bond Refunding Services/Eval. Comm. Paper	\$ 200,000
		33701 PS	GARB Bond Rebate Calculation Services: Mult. Series	\$ 18,000
	Springsted	33702 PS	GARB Bond Rebate Calculation Services: Series 13	\$ 2,100
	Vanwaarden Associates	33703 PS	Post-Retirement Medical Benefits Valuation	\$ 15,000
	The Data Recovery Guy, LLC	33721 PS	Personal Computer Forensic Investigation	\$ 4,000
Leverage Consulting	33722 PS	E1 - Consultation/Maintenance/Support Services	\$ 200,000	
Human Resources	National Seminars Group	33682 PS	Manager-Supervisor Training	\$ 6,500
Operations	Environmental Tectonics Corp.	33683 PS	Upgrade MSP Drivers' Record System	\$ 7,400
Planning &	HNTB	33681 PS	Flying Cloud Airport: Accident Risk Analysis	\$ 25,240
Environment	Liesch Associates, Inc.	33676 PS	Pressure Relief Valve (PRV) Manhole Investigation	\$ 56,800
		33684 PS	Environ:Crystal Airport-Shingle Creek WMO Wetland Improve.	\$ 5,000
		33691 PS	Metro Transit Bus Maintenance Facility UST/AST Removals	\$ 4,200
	Obtuse Software LLC	33680 PS	"Bridge" Existing GIS to PostgreSQL/PostGIS System	\$ 6,000
Public Information	Alive Promo	33704 PS	Design/Program (2) Digital, Interactive Directories - MSP	\$ 49,500
Relievers	Airport Business Solutions	33705 PS	Reliever Airports: Minimum Standards Review	\$ 17,500
<b>Total:</b>				<b>\$ 1,614,240</b>

## PSAs issued in the 4th Quarter of 2009 - Capital Improvement Program:

<u>MAC Division</u>	<u>Professional Service Firm/Consultant</u>	<u>PSA Number</u>	<u>Project Description</u>	<u>Amount Authorized</u>	
Planning & Environment	Architectural Alliance	33675 PS	Design: APM Tunnel Piping and Pumps	\$ 58,000	
		33706 PS	Design: Passenger Screening Improvements	\$ 146,115	
		33710 PS	Design: LT Bag. Screening Ph. 2: Site Preparation	\$ 360,000	
		33711 PS	Design: LT Bag. Screening Ph. 2: Building Shell	\$ 1,083,000	
		33712 PS	Design: LT Bag. Screening Ph. 2: Bag Handling System (BHS)	\$ 765,000	
		33713 PS	Design: LT Bag. Screening Ph. 2: BHS/Right of Way/Encl.	\$ 545,000	
		33707 PS	Construction: LT Folded Plate & Drain Repairs	\$ 168,000	
		33714 PS	Construction: MUFIDS - Phase 2	\$ 192,000	
		Kimley-Horn and Associates, Inc.	33678 PS	Schematic: Airport Lane-34th Ave: Data Collect., Traffic Forecast	\$ 50,000
			33689 PS	Construction: 2009 Landside Pavement Rehabilitation	\$ 25,000
	33690 PS		Construction: Lindbergh Terminal Transit Gates	\$ 17,000	
	Kraus-Anderson	33720 PS	Construction: MSP Highway Guide Sign Modifications	\$ 120,000	
		33686 PS	Design: Open Architecture Building Automation - Phase 2	\$ 14,891	
		33688 PS	Design: Electrical Infrastructure - Phase 2	\$ 5,115	
		33708 PS	Design: MUFIDS - Phase 2	\$ 41,294	
			33709 PS	Design: Passenger Screening Improvements	\$ 4,466
			33715 PS	Design: Lindbergh Terminal Sprinkler System - Phase 4	\$ 53,562
		33685 PS	Construction: LT Valet Garage Floor Drains/Flam. Waste Trap	\$ 7,643	

	33687 PS	Construction: Tug Drive Floor Repair - Phase 3	\$	49,213
	33692 PS	Construction: Emergency Power Upgrades - Phase I	\$	31,840
	33693 PS	Construction: Open Architecture Building Automation - Phase 2	\$	58,606
	33718 PS	Construction: MUFIDS - Phase 2	\$	86,678
	33719 PS	Construction: Electrical Infrastructure - Phase 2	\$	45,938
Michaud Cooley Erickson	33679 PS	Preliminary: GO Data Center Fire Alarm & Suppression System	\$	15,000
Miller Dunwiddie	33677 PS	Construction: 2009 Miscellaneous Modifications - Phase 2	\$	25,000
SEH	33717 PS	Design: Crystal Airport Obstructions Removal - Phase 2	\$	12,250
TKDA	33716 PS	Design: Taxiway C-D Complex - Phase 6	\$	100,000
			<b>Total:</b>	<b>\$ 4,080,611</b>

### **Adjustments to existing PSAs - 4th Quarter 2009 - Operating Budget:**

<b><u>MAC Division</u></b>	<b><u>Professional Service Firm/Consultant</u></b>	<b><u>PSA Number</u></b>	<b><u>Project Description</u></b>	<b><u>Amount Authorized</u></b>	<b><u>Adjusted Amount</u></b>	<b><u>Total Amount</u></b>	
<b>Human Resources</b>	National Seminars Group	33682 PS	Manager-Supervisor Training	\$ 6,500	\$ 1,500	\$ 8,000	
<b>Legal Affairs</b>	Faegre & Benson	33540 PS	2009 Legal Services: Kelley Lounsbury Parcel	\$ 50,000	\$ 100,000	\$ 150,000	
		33542 PS	2009 Legal Services: MOAC Land Holdings v. MAC	\$ 450,000	\$ 170,000	\$ 620,000	
<b>Operations</b>	VDA (formerly Van Deusen & Assoc.)	33485 PS	Elevator/Escalator/Moving Walk Services	\$ 69,500	\$ 10,000	\$ 79,500	
<b>Planning &amp; Environment</b>	HNTB	33618 PS	MSP: LTCP (Master Plan) Inventory/Forecasting	\$ 335,994	\$ 17,000	\$ 352,994	
	Liesch Associates	33524 PS	Environmental: 2009 General Environmental Issues	\$ 15,000	\$ 5,000	\$ 20,000	
		33529 PS	Environmental: 2009 Glycol Operations	\$ 273,000	\$ 19,000	\$ 292,000	
		33676 PS	Environmental: Pressure Relief Valve Manhole Investigation	\$ 56,800	\$ 21,800	\$ 78,600	
<b>Public Information</b>	Schuna Group, Inc.	33468 PS	Mapping Design Services	\$ 15,000	\$ 30,000	\$ 45,000	
	Padilla Speer Beardsley	33469 PS	Public Relations Consulting - Concessions Marketing	\$ 480,000	\$ 30,000	\$ 510,000	
				<b>Total:</b>	<b>\$ 1,751,794</b>	<b>\$ 404,300</b>	<b>\$ 2,156,094</b>

### **Adjustments to existing PSAs - 4th Quarter 2009 - Capital Improvement Program:**

<b>Planning &amp; Environment</b>	Architectural Alliance	13140 PS	Design: LT Backlit Signage Replacement - Phase I	\$ 250,000	\$ 77,000	\$ 327,000	
		33655 PS	Design: MUFIDS - Phase 2	\$ 140,000	\$ 66,000	\$ 206,000	
		33551 PS	Design: Emergency Power Upgrades - Phase I	\$ 470,000	\$ 19,600	\$ 489,600	
	Liesch Associates, Inc.	13416 PS	Environmental: FCM Mustang Ln Hangar Pre-Demo Survey	\$ 47,580	\$ 5,420	\$ 53,000	
	Miller Dunwiddie Architecture	33677 PS	Construction: 2009 Miscellaneous Modifications - Phase 2	\$ 25,000	\$ 14,500	\$ 39,500	
				<b>Total:</b>	<b>\$ 932,580</b>	<b>\$ 182,520</b>	<b>\$ 1,115,100</b>

### **Professional Service Authorization Closeouts - 4th Quarter 2009**

<b><u>MAC Division</u></b>	<b><u>Professional Service Firm/Consultant</u></b>	<b><u>PSA Number</u></b>	<b><u>Project Description</u></b>	<b><u>Amount Authorized to Date</u></b>	<b><u>Amount Credited</u></b>	<b><u>Total Amount Authorized</u></b>
<b>Planning &amp; Environment</b>	Architectural Alliance	13346 PS	Preliminary: Lindbergh & Humphrey Terminals Utilization Study	\$ 13,000	\$ (610)	\$ 12,390
		33495 PS	Preliminary: Midfield Administration Building Review	\$ 9,000	\$ (1,255)	\$ 7,745
		12252 PS	Design: LT (2005-2006) Concessions Review/Transition	\$ 165,000	\$ (37,342)	\$ 127,658
		12805 PS	Design: LT (2007) Concessions Development Modifications	\$ 25,000	\$ (1,701)	\$ 23,299
		12840 PS	Design: LT Concourse C Floor Rehabilitation - Stage 3	\$ 70,000	\$ (11,536)	\$ 58,464
		12853 PS	Design: 2007 Miscellaneous Modifications	\$ 367,000	\$ (5,326)	\$ 361,674
		12905 PS	Design: LT Baggage Screening Phase 1B - DP #3	\$ 144,000	\$ (5,017)	\$ 138,983
		13072 PS	Design: 2008 Fiber Net Modifications - Plumbing	\$ 147,000	\$ (7,381)	\$ 139,619
		13073 PS	Design: 2008 Facilities Monitoring	\$ 172,000	\$ (1,072)	\$ 170,928
		13074 PS	Design: LT Tug Drive Floor Waterproofing - Phase 2	\$ 223,000	\$ (9,640)	\$ 213,360
		13075 PS	Design: LT Concourse C Food Courts Renovation	\$ 27,000	\$ (4,499)	\$ 22,501
		13094 PS	Design: LT Carpet Replacement	\$ 318,000	\$ (143)	\$ 317,857
		13104 PS	Design: LT Chilled Water Distribution Improvements	\$ 455,000	\$ (7,903)	\$ 447,097
		13116 PS	Design: LT Sprinkler (and Fire Alarm) System - Phase 3	\$ 1,110,000	\$ (1,485)	\$ 1,108,515

	13126 PS	Design: LT PSA Breakroom Remodel	\$ 23,000	\$ (6,814)	\$ 16,186
	13335 PS	Design: Automated External Defibrillator (AED) Notification Sys	\$ 70,446	\$ (41,268)	\$ 29,178
	13350 PS	Design: Business Center Prototype	\$ 20,000	\$ (20,000)	\$ -
	12826 PS	Construction: LT "E" Concourse Roof Replacement	\$ 152,000	\$ (67,985)	\$ 84,015
	12919 PS	Construction: LT Sprinkler System - Phase 1 (E & F Conc.)	\$ 155,000	\$ (8,102)	\$ 146,898
	13105 PS	Construction: LT Sprinkler System - Phase 2 (A & B Conc.)	\$ 29,500	\$ (2,563)	\$ 26,937
CEE/Center for Energy & Environment	13155 PS	Design: 2008/2009 Noise Mitigation Program - Phase 2	\$ 69,045	\$ (10)	\$ 69,035
Clever Elephant	13356 PS	Noise: Postgre SQL Assistance - GIS Capabilities	\$ 10,000	\$ (4,940)	\$ 5,060
EXT-JS	13112 PS	Noise: Noise Monitoring	\$ 10,000	\$ (6,700)	\$ 3,300
G & T Conveyor Company	12265 PS	Design: LT Baggage Screening Conveyor System	\$ 11,155,140	\$ (2)	\$ 11,155,138
	12586 PS	Design: LT Bag. Screen. Reinsertion Line/Queue Belts	\$ 327,154	\$ -	\$ 327,154
	12604 PS	Design: LT Bag. Screen. Ticket Counter #2 Conveyor Mods	\$ 35,811	\$ -	\$ 35,811
	12605 PS	Design: LT Bag. Screening Conveyor System Bag Diverter	\$ 145,124	\$ -	\$ 145,124
	12655 PS	Design: LT Bag. Screening GTC Ticket Counter Restoration	\$ 55,508	\$ -	\$ 55,508
	12656 PS	Design: LT Bag. Screen. Ticket Counter #2 Restoration	\$ 61,902	\$ -	\$ 61,902
	12886 PS	Design: LT Bag. Screen. Conveyor Sys: Code & Testing Req.	\$ 291,080	\$ -	\$ 291,080
	12265 PS	Construction: LT Baggage Screening Conveyor System	\$ 4,621,347	\$ -	\$ 4,621,347
	12319 PS	Construction: LT Bag. Screening Conveyor System BP1, 3-10	\$ 2,380,807	\$ (8,128)	\$ 2,372,679
	12320 PS	Construction: LT Bag. Screening Conveyor System BP2	\$ 788,235	\$ -	\$ 788,235
	12477 PS	Construction: LT Bag. Screening Conveyor System BP11-Mech	\$ 3,480,905	\$ (65,926)	\$ 3,414,979
	12478 PS	Construction: LT Bag. Screening Conveyor System BP12-Elec.	\$ 2,368,442	\$ (148,560)	\$ 2,219,882
	12577 PS	Construction: W. LT Bag Screening Mid-Term Flat Plate	\$ 60,781	\$ -	\$ 60,781
	12586 PS	Construction: LT Bag. Screen. Reinsertion Line/Queue Belts	\$ 276,567	\$ -	\$ 276,567
	12604 PS	Construction: LT Bag. Screen Ticket Counter#2 Conveyor Mod	\$ 26,729	\$ -	\$ 26,729

MAC Division	Professional Service Firm/Consultant	PSA Number	Project Description	Amount Authorized to Date	Amount Credited	Total Amount Authorized		
Planning & Environment	G & T Conveyor Company (continued)	12605 PS	Construction: LT Bag. Screen. Conveyor System Bag Diverter	\$ 167,030	\$ -	\$ 167,030		
		12655 PS	Construction: LT Bag. Screening GTC Ticket Counter Restor.	\$ 46,312	\$ -	\$ 46,312		
		12656 PS	Construction: LT Bag. Screen. Ticket Counter #2 Restoration	\$ 4,717	\$ -	\$ 4,717		
		12886 PS	Construction: LT Bag. Screen. Sys: Code & Testing Req.	\$ 48,920	\$ -	\$ 48,920		
HNTB		13127 PS	Construction: St. Paul Airport Runway 14/32 RSA-EMAS	\$ 370,000	\$ (26,461)	\$ 343,539		
Jeff Davis		13355 PS	Postgre SQL Assistance	\$ 5,000	\$ (2,600)	\$ 2,400		
Kimley-Horn and Associates, Inc.		13337 PS	Preliminary: AVI Reader Replacement	\$ 20,000	\$ (3,801)	\$ 16,199		
		13359 PS	Preliminary: LT Guaranteed Parking Control	\$ 5,000	\$ (558)	\$ 4,442		
		33572 PS	Preliminary: MSP Highway Guide Sign Modifications	\$ 25,000	\$ (15)	\$ 24,985		
		33641 PS	Preliminary: (Twy C-D Ph. 6) 28th Avenue Reconstruction	\$ 64,910	\$ (48,828)	\$ 16,082		
		12913 PS	Design: 2007 Security (Perimeter) Gates Improvements	\$ 85,000	\$ (10,230)	\$ 74,770		
		13003 PS	Design: 2008 Parking Structure Rehabilitation	\$ 300,000	\$ (5,007)	\$ 294,993		
		13099 PS	Design: MSP Inbound/Outbound Roadway Sign Mod.	\$ 45,000	\$ (6,123)	\$ 38,877		
		13117 PS	Design: 2008 Landside Pavement Rehabilitation	\$ 50,000	\$ (9,087)	\$ 40,913		
		13181 PS	Design: Humphrey ramp VMS/RCS Phase I	\$ 75,000	\$ (18,550)	\$ 56,450		
		13447 PS	Design: AVI Reader Replacement Installation	\$ 20,000	\$ (22)	\$ 19,978		
		33583 PS	Design: Humphrey Parking "O" Ramp Exit Roadway	\$ 65,000	\$ (21)	\$ 64,979		
		33607 PS	Design: 2009 Landside Pavement Rehabilitation	\$ 50,000	\$ (986)	\$ 49,014		
		33651 PS	Design: Lindbergh Terminal Transit Gates	\$ 38,000	\$ (5)	\$ 37,995		
		13004 PS	Construction: Gate 222 Security Improvements	\$ 45,000	\$ (2,895)	\$ 42,105		
		13122 PS	Construction: MSP Inbound/Outbound Rdwy Sign Mods	\$ 25,000	\$ (2,862)	\$ 22,138		
		33590 PS	Construction: Midwest Airlines Signs Modifications	\$ 8,000	\$ (3,403)	\$ 4,597		
		Kraus-Anderson		13366 PS	Design: LT Electrical Infrastructure - Phase I	\$ 5,115	\$ (1,267)	\$ 3,848
				33567 PS	Design: Energy Savings Projects - Phase 10 & 11	\$ 40,709	\$ (1,685)	\$ 39,024
				33568 PS	Design: 2009 Conveyance System Modifications	\$ 7,252	\$ (333)	\$ 6,919
				33571 PS	Design: 2009 Ramp Rehabilitation	\$ 14,967	\$ (303)	\$ 14,664
33575 PS	Design: LT Emergency Power Upgrades - Phase I			\$ 27,845	\$ (610)	\$ 27,235		
33576 PS	Design: 2009 Miscellaneous Modifications			\$ 13,757	\$ (50)	\$ 13,707		
33589 PS	Design: Field Maintenance Bldg. Air Handling Units Replace.			\$ 6,422	\$ (53)	\$ 6,369		
33610 PS	Design: LT Concourses E & F Floor Rehabilitation			\$ 9,606	\$ (678)	\$ 8,928		
33652 PS	Design: Humphrey Terminal Skyway Expansion			\$ 95,924	\$ (18,934)	\$ 76,990		
12589 PS	Construction: Humphrey Parking Ramp Phase R1 - Structure			\$ 2,515,380	\$ (1,944)	\$ 2,513,436		
13146 PS	Construction: LT Chilled Water Distribution System Mods			\$ 96,524	\$ (610)	\$ 95,914		
13176 PS	Construction: LT & HT Backlit Signs Replacement			\$ 44,244	\$ (464)	\$ 43,780		
13177 PS	Construction: 2008 Facilities Monitoring	\$ 23,804	\$ (361)	\$ 23,443				
13353 PS	Construction: Emergency Comm. Center Backup Facility	\$ 64,073	\$ (61)	\$ 64,012				
13367 PS	Construction: LT Electrical Infrastructure - Phase I	\$ 30,601	\$ (2,563)	\$ 28,038				

13385 PS	Construction: Lindbergh Terminal IAF Electrical Modifications	\$	2,505	\$	(1,196)	\$	1,309
13386 PS	Construction: Humphrey Ramp VMS/RCS System - Phase I	\$	29,830	\$	(1,432)	\$	28,398
13387 PS	Construction: LT Concourse "A" Food Court Renovation	\$	3,689	\$	(54)	\$	3,635

**Professional Service Authorization Closeouts - 4th Quarter 2009 (continued)**

MAC Division	Professional Service Firm/Consultant	PSA Number	Project Description	Amount Authorized to Date	Amount Credited	Total Amount Authorized
Planning & Environment	Kraus-Anderson (continued)	13422 PS	Construction: Humphrey Terminal Tenant Improvements	\$ 130,146	\$ (110)	\$ 130,037
		33584 PS	Construction: 2009 Ramp Rehabilitation	\$ 92,912	\$ (1,898)	\$ 91,014
		33614 PS	Construction: LT Carpet Replacement - Asbestos Abatement	\$ 12,571	\$ (75)	\$ 12,496
		33685 PS	Construction: LT Valet Garage Floor Drains/Flam. Waste Trap	\$ 7,643	\$ (2,171)	\$ 5,472
		13103 PS	Environmental: Taxiway P Reconstruction	\$ 20,450	\$ (3,106)	\$ 17,344
	Liesch Associates, Inc.	13305 PS	Environmental: Rwy 12L/30R Seg. 2 - Soil Investigation	\$ 3,575	\$ (545)	\$ 3,030
		13306 PS	Environmental: Taxiway C-D Complex Ph. 5-Soil Investigation	\$ 3,575	\$ (858)	\$ 2,717
		13416 PS	Environmental: FCM Mustang Lane Hangars Pre-Demo Survey	\$ 53,000	\$ (6)	\$ 52,994
	Miller Dunwiddie Architecture	12440 PS	Design: Humphrey Terminal Expansion* <i>*Project deferred</i>	\$ 8,200,000	\$ (6,002,675)	\$ 2,197,325
		12907 PS	Design: Concourse G Expansion Site Preparation	\$ 1,725,000	\$ (783,585)	\$ 941,415
		33579 PS	Design: Field Maintenance Bldg. Air Handling Units Replace.	\$ 35,000	\$ (4)	\$ 34,996
		33626 PS	Design: 2009 Miscellaneous Modifications Projects	\$ 80,000	\$ (22)	\$ 79,978
		13109 PS	Construction: Humphrey Terminal Roof Renovation	\$ 14,000	\$ (2,735)	\$ 11,265
		13304 PS	Construction: Humphrey Terminal 2008 Misc. Modifications	\$ 20,000	\$ (1,942)	\$ 18,058
		33474 PS	Construction: Humphrey Terminal 2008 Tenant Improvements	\$ 145,000	\$ -	\$ 145,000
33532 PS		Construction: 2009 Misc. Projects - Purchase Order Work	\$ 30,000	\$ (37)	\$ 29,963	
SEH/Short Elliott Hendrickson		13086 PS	Preliminary: ANE Xylite Street Relocation* <i>*Project deferred</i>	\$ 34,100	\$ (24,662)	\$ 9,438
		33535 PS	Preliminary: FCM 2010 Pavement Rehabilitation	\$ 33,200	\$ (0)	\$ 33,200
	33536 PS	Preliminary: MIC 2010 Pavement Rehabilitation	\$ 30,300	\$ (296)	\$ 30,004	
	33478 PS	Design: FCM Runway 10R/28L - FAA NAVAIDS	\$ 39,000	\$ (332)	\$ 38,668	
	33649 PS	Design: FCM Runway Incursion-Runway Guard Light Install	\$ 42,100	\$ (0)	\$ 42,100	
	33650 PS	Design: FCM Runway Incursion-Security Gate/Taxilane Sign	\$ 38,000	\$ (1)	\$ 38,000	
TKDA	33475 PS	Preliminary: MSP Alternate Water Supply	\$ 25,000	\$ (40)	\$ 24,960	
	12439 PS	Design: Humphrey Apron Expansion* <i>*Project deferred</i>	\$ 1,050,000	\$ (749,903)	\$ 300,097	
	13083 PS	Design: Runway 12L/30R Reconstruction - Segment 2	\$ 650,000	\$ (554)	\$ 649,446	
	33582 PS	Design: 2009 Airside Bituminous	\$ 10,000	\$ (1,887)	\$ 8,113	
	13008 PS	Construction: Conc. G Expan. Site Prep: Superstruct. Demo.	\$ 160,000	\$ (9)	\$ 159,991	
W.D. Schock	11563 PS	Preliminary: Rwy 17/35 Bloomington Land Acquisition Assist.	\$ 948,596	\$ (1,306)	\$ 947,290	
	11583 PS	Preliminary: FCM 2004 Land Acquisition Assistance	\$ 50,000	\$ (12,486)	\$ 37,514	
	11584 PS	Preliminary: Rwy 17/35 Off-Airport Land Acquis./Relocation	\$ 311,160	\$ (175,727)	\$ 135,433	
	11585 PS	Preliminary: Rwy 17/35 On-Airport Land Acquis./Lease Term	\$ 22,065	\$ (22,065)	\$ -	
	12314 PS	Preliminary: Rwy 17/35 Bloomington Land Acquis. 2005	\$ 697,004	\$ -	\$ 697,004	
	12680 PS	Preliminary: Rwy 17/35 Bloomington Land Acquis. 2006	\$ 395,190	\$ (3,560)	\$ 391,631	
Z-Pulley	13388 PS	Noise: QGIS Functionality Development Assistance	\$ 5,000	\$ (1,430)	\$ 3,570	
<b>Total:</b>				\$ 49,568,246	\$ (8,443,983)	\$ 41,124,263

# MEMORANDUM

ITEM 2

**TO:** Management & Operations Committee

**FROM:** Arlie Johnson, Assistant Airport Director, Landside (612-726-5568)  
Jeff Courteau, Parking Systems Manager (612-726-5840)  
Brad Johnson, Purchasing Manager (612-726-8147)

**SUBJECT: RECOMMENDATION REGARDING BANK CARD TRANSACTION PROCESSING**

**DATE:** December 30, 2009

## Minnesota Data Practices Act

Under state law, the names of bidders and the price bid are public once the bids are opened. All other information submitted by bidders to MAC and information created by MAC as part of the selection or evaluation process remains private or nonpublic until MAC has completed its evaluation and ranking of the bids, which is typically when the staff recommendation is mailed to the committee. When the evaluation and ranking has been completed, the evaluative data created by MAC and the bid data become public (with the exception of trade secret data). Notwithstanding the foregoing, Commissioners may discuss trade secret information at the Committee and Commission meetings to the extent reasonably necessary to conduct the business at hand. **The information contained in this memorandum is public data.**

## Introduction

MAC invited bids on the electronic processing of bank card and personal check transactions used for parking fee transactions, commercial vehicle and taxi operator payments and conference room rent payments, at MSP. The selected vendor must develop an interface between MAC's custom revenue control systems -- Zeag USA parking revenue control system (RCS) and MAC Automatic Vehicle Identification System (MAVIS) -- to process bank card and check payments electronically. Additionally, that vendor must provide settlement services for Visa, Diners Club and MasterCard transactions.

Bank cards and electronic personal check payments are to be accepted in all of the public parking facilities at MSP, the MAC Landside Operations Office, the Ampco parking management office, and the MSP Airport Conference Center.

## Specifications

The proposed bank card service must be able to meet the following minimum requirements:

### 1. Transactions

The transaction process through the system must be capable of handling Visa, MasterCard, American Express, Discover, Diners Club cards and personal checks. American Express and Discover are forwarded to their respective settlement banks. Personal checks are forwarded to Certegy Check Services, Inc. for settlement. Visa, Diners Club and MasterCard transactions processed through the system will be settled by the vendor's affiliated settlement bank.

The authorization network must be able to facilitate a response when needed in less than three (3) seconds to be considered a responsive proposal.

A normal parking exit plaza transaction (which includes the following steps) must be completed in 20 seconds or less:

- a) Customer swipes card in ePark® or eTrip® reader.
  - b) System obtains authorization response as needed.
  - c) Customer accepts transaction and receives a printed receipt
2. Vendor shall provide a redundant system with system availability of 99.5% measured on an average monthly basis, excluding scheduled maintenance downtime.
  3. Transactions must be processed by, at minimum, two distinct processing centers for redundancy. Interface to RCS and MAVIS must be set up to spread the transaction load between processing centers. Interface must include an immediate auto failover so RCS and MAVIS will automatically switch to the second processing center if one center goes down.
  4. MAVIS must be able to process, within 40 minutes, 800 payment transactions from contract parkers who are registered to pay by automated recurring monthly payments charged to their bank cards.
  5. System must provide real-time feedback to RCS and MAVIS, e.g., transactions received okay, transaction not received or re-send.
  6. System must provide batch totals to RCS and MAVIS when batch closes are performed so RCS and MAVIS systems can error check transactions sent.
  7. System must record and transmit transactions with an accuracy rate of 99.5% or greater.
  8. System must be Payment Card Industry (PCI) compliant.
  9. Vendor must provide MAC internet access to transaction data, daily, weekly and monthly reports.

### **Selection**

The bid evaluation was a two-part process. Initially, each vendor was required to submit a test plan to prove their interface meets the requirements of the specifications identified in the bid. This was a pass/fail performance evaluation. Four of the five initial responses received either did not address how they would test their interface with Zeag and MAVIS or provided incomplete information. MAC made a second request of the bidders seeking clarification and completeness of responses. The result is that two bidders, Heartland Payment Systems and First National, passed the test. The other three bidders, Wells Fargo, US Bank and Bank of America, did not pass this test.

### **Pricing**

The second part of the bid evaluation was consideration of the vendors' bid price and responsiveness. The attached Bid Tabulation (**Attachment A**) reflects the pricing submitted by the two responsive bidders, Heartland Payment Systems and First National. Of these two, Heartland submitted the bid with the lowest total cost to MAC. Moreover, as reflected in Attachment A, Heartland Payment Systems has reduced their pricing per transaction from their current contract.

Heartland Payment Systems was the low bidder and provided no exceptions to MAC's terms and conditions. First National took exception to the majority of the Terms and Conditions and submitted a Bid Form that was expressly not signed by an authorized representative, thus making it non-responsive. The initial bid was issued in September and due to the complexity of this topic staff worked with legal counsel for additional review, including outside counsel.

**Recommendation**

Staff recommends that Heartland, the lowest bidder and the only responsive bidder, be awarded the contract for electronic processing of bank card and personal check transactions at MSP.

**COMMITTEE ACTION REQUESTED:**

THAT THE MANAGEMENT AND OPERATIONS COMMITTEE RECOMMEND TO THE FULL COMMISSION

1. ACCEPTANCE OF THE BID FROM HEARTLAND PAYMENT SYSTEMS FOR A FIVE (5) YEAR AGREEMENT WITH AN OPTION TO RENEW FOR AN ADDITIONAL THREE (3) YEARS AT THE DIRECTION OF THE MSP AIRPORT DIRECTOR, AND
2. THAT THE EXECUTIVE DIRECTOR OR HIS DESIGNEE BE AUTHORIZED TO EXECUTE THE NECESSARY DOCUMENTS.

**ATTACHMENT A  
(MEMO ITEM 2)**

		<b>Heartland Payment Systems Proposal</b>		<b>First National Proposal</b>		<b>Heartland Payment Systems Current Contract</b>	
<b>June 2009</b>		<b>Cost per</b>		<b>Cost per</b>		<b>Cost per</b>	
<b>Transaction Type</b>	<b>Transactions</b>	<b>Trans</b>	<b>Total</b>	<b>Trans</b>	<b>Total</b>	<b>Trans</b>	<b>Total</b>
American Express	26,086	\$ 0.0450	\$ 1,173.87	\$ 0.0400	\$ 1,043.44	\$ 0.0700	\$ 1,826.02
Personal Check	97	\$ 0.0450	\$ 4.37	\$ 0.0700	\$ 6.79	\$ 0.0700	\$ 6.79
Discover	3,554	\$ 0.0450	\$ 159.93	\$ 0.0400	\$ 142.16	\$ 0.0500	\$ 177.70
Visa/MasterCard	122,153	\$ 0.0600	\$ 7,329.18	\$ 0.0325	\$ 2,748.44	\$ 0.0700	\$ 8,550.71
Diners	0	\$ 0.0600	\$ -	\$ 0.0325	\$ -	\$ 0.0500	\$ -
<b>Subtotals</b>	<b>151,890</b>		<b>\$ 8,667.35</b>		<b>\$ 3,940.83</b>		<b>\$10,561.22</b>
<b>Interchange Fees</b>			\$73,889.54		\$79,512.51		\$73,889.54
<b>Total :</b>	<b>151,890</b>		<b>\$82,556.89</b>		<b>\$83,453.34</b>		<b>\$84,450.76</b>

# MEMORANDUM

ITEM 3

**TO:** Management & Operations Committee

**FROM:** Phil Burke, Assistant Director of MSP Operations/Facilities, (726-5525)

**SUBJECT:** **REQUEST AUTHORIZATION TO ISSUE A REQUEST FOR PROPOSALS FOR ELEVATOR, ESCALATOR, MOVING WALK AND TRAM CONSULTANT SERVICES**

**DATE:** December 15, 2009

## **BACKGROUND**

The Metropolitan Airports Commission (MAC) oversees all aspects of maintenance, repair and day-to-day operation of 187 elevators, escalators and moving walks and two automated people mover (APM) systems on the MSP campus. This includes all systems at both terminals except for those on the "G" Concourse. Given the volume of traffic traveling through the terminals, layout of MSP facilities, the airport's high visibility as a transportation center, and the risk of equipment failures contributing to missed flights, proper operation of all vertical and horizontal transportation equipment is critical to MSP's overall operation.

To facilitate the required level of service, the MAC incorporates performance-based maintenance and operating agreements with contractors from the vertical and horizontal transportation industry (currently Schindler for elevators, escalators and moving walks, and Schwager-Davis for APMs). Verifying contractor compliance with the MAC maintenance agreement is essential to meeting expectations for a high level of service.

Specialized training, experience, licensing and certification is required to conduct the equipment evaluations, inspections and testing necessary to verify compliance with the contract terms. Because the specialized skills cannot be attained outside of the operational field of expertise, MAC has contracted these inspection services and other oversight tasks since 1998.

Currently Van Deusen & Associates (VDA) provides professional consultant services for MSP's vertical and horizontal transportation systems. The six-year term of the contract expires May 31, 2010.

VDA has provided the technical expertise necessary to assist the MAC in overseeing all performance parameters within the performance-based contracts to ensure contractor accountability and to recommend any associated financial penalties/bonuses. In addition, VDA also has served as an expert witness on the MAC's behalf for administrative, civil, and other legal proceedings.

VDA's fees to provide these services in 2009 are estimated to be \$127,500 (\$50,000 for tram consulting and \$77,500 for elevator/escalator/moving walk consulting).

**PROPOSAL**

Staff believes MAC has received good value by contracting for this expertise rather than adding staff with the requisite knowledge, certification and experience and recommends continuing with a contractual approach.

Staff requests authority to issue a Request for Proposals for elevator, escalator, moving walk and tram consulting services.

Staff also recommends a three-year term with a three-year renewal option.

**COMMITTEE ACTION REQUESTED:**

THAT THE MANAGEMENT AND OPERATIONS COMMITTEE RECOMMEND THAT THE FULL COMMISSION AUTHORIZE STAFF TO ISSUE A REQUEST FOR PROPOSALS FOR ELEVATOR, ESCALATOR, MOVING WALK AND TRAM CONSULTANT SERVICES AND AUTHORIZE THE EXECUTIVE DIRECTOR OR A DESIGNATED REPRESENTATIVE TO EXECUTE THE NECESSARY DOCUMENTS

# MEMORANDUM

ITEM 4

**TO:** Management & Operations Committee

**FROM:** Steve Wareham, Director MSP Operations (726-5519)  
Arlie Johnson, Asst. Director MSP Operations, Landside (726-5568)

**SUBJECT: RECOMMENDATION TO ADOPT COMMERCIAL VEHICLE ORDINANCE AS MAC ORDINANCE 110**

**DATE:** December 30, 2009

Commercial vehicle operations at Minneapolis-St. Paul International Airport are governed by MAC ordinance. Accordingly, fees assessed to commercial vehicle operators are defined in the Commercial Vehicle Ordinance 93.

In 2008, the Commission directed staff to identify additional non-aeronautical revenue sources as well as cost-reduction opportunities. In a series of MAC staff meetings, items identified as possible sources for additional revenue were increased fees to off-airport parking and off-airport car rental operators.

A consultant was hired to assist staff in the review of off-airport parking fee structures and collection processes. Staff met with the four off-airport parking operators that service MSP customers to advise them of the review and to seek their input. A public hearing was held at the Management and Operations Committee meeting on April 8, 2009 that would have amended MAC Commercial Vehicle Ordinance 93 to increase MAC's share of revenues from off-airport parking operations.

Staff recommended adoption of specific Commercial Vehicle Ordinance changes at the May 6, 2009, Management and Operations Committee meeting. There was considerable discussion, including testimony from off-airport parking operators. The Committee asked staff to review some aspects of its recommendations and to provide additional options for consideration. Since that time staff has met with off-airport parking operators individually at their facilities and also jointly. Off-airport parking operators felt very strongly that if there were fee increases they preferred that those increases occur on a per-trip fee basis rather than through a percentage share of gross revenues. MAC staff agrees with this approach. Additional internal MAC review and discussion has resulted in a more moderate fee increase recommendation and a phased approach to its implementation.

The current ratemaking methodology charges only for the costs directly associated with operating the commercial vehicle area and ignores other airport costs which could reasonably be allocated to commercial vehicle operators. The value of the airport property used by off-airport parking operators is greatly in excess of these "direct" costs. Given the fact that virtually all of the off-airport parking business is directly tied to the MAC's operation of MSP airport, a policy change from the current "limited cost recovery" to a "cost recovery plus" per-trip fee method is recommended. The recommended phased implementation will eventually result in a per-trip fee for off-airport parking operators that will be double the annually established per-trip fee for other commercial vehicle operators. That difference reflects the off-airport parking industry's near-total reliance on the successful operation of MSP for its revenues. Those parking businesses would

have virtually no customers under their present business models if not for MAC's investment in airport facilities and operations.

When the Commission set the commercial vehicle per-trip fee for November 11, 2009 through November 10, 2010 at \$2.31, the per-trip fee for off-airport parking operators was left at \$2.50 based upon the anticipated increase in fees. Staff recommends that the per-trip fee for off-airport parking operators remain \$2.50 through November 10, 2010. For the period November 11, 2010 through November 10, 2011, the per-trip fee is recommended to be 1.5 times the cost recovery-only formulation that will be set by the Commission for that fiscal year. Beginning November 11, 2011, the off-airport parking operator per-trip fee is recommended to be double the cost recovery formulation that will be set by the Commission annually. Even at those higher rates, off-airport parking operators will pay less to operate at MSP than they would at a number of comparably sized U.S. airports.

On a separate matter, another change being recommended in the ordinance is in regard to off-airport car rental companies. Staff recommends that the off-airport car rental percentage of gross receipts paid to the MAC increase from 9.5% to 10%, matching the on-airport car rental fees.

If adopted, the proposed new ordinance will replace Ordinance 93 and take effect March 1, 2010.

The following are **attached** for your review: **(1)** Proposed Hearing Officers' Report. **(2)** Findings, Conclusions and Order recommending adoption of the ordinance. **(3)** Proposed Commercial Vehicle Ordinance.

**COMMITTEE ACTION REQUESTED:**

THAT THE MANAGEMENT AND OPERATIONS COMMITTEE:

1. ADOPT THE ATTACHED HEARING OFFICERS' REPORT; AND
2. RECOMMEND THAT THE FULL COMMISSION:
  - A. APPROVE THE ATTACHED FINDINGS, CONCLUSIONS AND ORDER RELATED TO THE ADOPTION OF THE PROPOSED COMMERCIAL VEHICLE ORDINANCE
  - B. ADOPT THE PROPOSED ORDINANCE AS ORDINANCE NO. 110; AND
  - C. AUTHORIZE THE EXECUTIVE DIRECTOR OR HIS DESIGNEE TO EXECUTE THE NECESSARY DOCUMENTS.

**HEARING OFFICERS' REPORT**  
**REGARDING THE ADOPTION OF**  
**COMMERCIAL VEHICLE ORDINANCE**  
**JANUARY 2010**

**I. History of Commercial Vehicle Ordinance**

In 1994, MAC installed AVI software, which made it possible to charge fees to commercial vehicle operators picking up passengers at the airport. At that time, MAC adopted Ordinance 79, establishing per-trip fees for commercial vehicles. In 1998, that ordinance was amended as Ordinance 85, which implemented a percentage of gross receipts fee for off-airport auto rental companies to be consistent with the charges to on-airport auto rental companies. In 2000, the ordinance was amended as Ordinance 93 in response to changes in state statutes.

**II. Ordinance Amendment Process**

In December 2008, the Commission granted authority to hold a public hearing to review the commercial vehicle ordinance. On April 8, 2009, the Management & Operations Committee conducted a public hearing.

Following receipt of public comment, staff revised the ordinance and prepared a draft hearing officers' report, which was presented to the Management & Operations Committee on May 6, 2009. The public hearing draft of the ordinance included a privilege fee for off-airport parking operators of 10% of gross receipts. At that time, the committee commended staff for pursuing additional sources of revenue but directed staff to continue working with the off-airport parking industry regarding alternative approaches to fees for off-airport parking companies.

During summer and fall 2009, staff met with the off-airport parking operators both individually and collectively. Staff provided the Management & Operations Committee with an update in October 2009. Staff met with the off-airport parking industry on December 15, 2009. Based on further review and input, staff now recommends an approach that charges a per-trip fee unique from other commercial vehicles called an Off-Airport Parking Per-Trip Fee. The Off-Airport Parking Per-Trip Fee, when fully implemented by November 11, 2011, will be double the per-trip fee for other commercial vehicles.

**III. Purpose of Revising the Ordinance**

The ordinance regulating Commercial Vehicles at Minneapolis-St. Paul International Airport is being revised to enhance public safety, streamline administration and raise additional revenue. Presently Ordinance 93 governs all Commercial Vehicles at the Airport other than taxicabs.

The method of charging off-airport parking companies is being changed to a cost-plus structure to recognize that off-airport parking companies benefit from the value of the entire airport market and thus should share in the costs of the airport. The current per-trip fees are based on a cost recovery method that only pays for certain aspects of the roadways and ground transportation system at the airport. However, off-airport parking companies exist because of and benefit from the value of the entire airport market. Charging greater than cost recovery is consistent with how MAC charges other airport users such as: on and off-airport rental auto companies, concessionaires, Now Boarding (pet boarding facility that also includes parking), advertising, food & beverage and retail concessions, fixed based operators, airside service licenses.

Based on input from the off-airport parking industry, staff's recommendation is to use a cost-plus formula rather than a percentage of gross receipts because it would be less intrusive, eliminates the need to audit and streamlines administration. Based on the report by Jacob's Consultancy dated March 25, 2009 study and information gathered from the industry, there are many methods to charge off-airport parking operators. The consultant study can be found at <http://www.metroairports.org/mac/meetings/mo.aspx> under the Agenda for April 8, 2009.

After considering several alternatives, a methodology was created that tied to the commercial vehicle per-trip fee. Originally staff had proposed 10% of gross receipts, similar to the highest rate charged by other airports. The revised recommendation equates to approximately 7.3% of gross receipts (using an estimate of the off-airport parking company gross receipts.) This would put the rate in the mid range of that charged by other airports.

Additionally, the ordinance also increases the privilege fee for off-airport rental auto companies from 9.5 to 10% of gross receipts. When the percentage fee was adopted for off-airport rental auto companies, the ordinance included a mechanism to increase this fee to be consistent with the rate MAC charges to the on-airport rental auto companies (although the off-airport rental auto companies do not pay a minimum annual guarantee). The on-airport rate has increased to 10% of gross receipts, so staff proposes to increase the off-airport rate correspondingly. The off-airport rental auto operators were given notice of the public hearing and no comments were received on this change.

#### **IV. Changes to Ordinance Since Public Hearing**

MAC Ordinance 93 currently governs commercial vehicles at the airport. Under Ordinance 93, off-airport parking operators pay a per-trip fee the same as that paid by most other commercial vehicle operators. A public hearing draft dated March 23, 2009 was the basis of the public hearing on April 8, 2009. That draft replaced the per-trip fee with a privilege fee of 10% of gross receipts on off-airport parking operators. A revised draft dated April 29, 2009 was presented to the Management & Operation Committee on May 6, 2009. After the May 2009 Management & Operations Committee declined to recommend adoption of the then-proposed ordinance, staff met with the industry and

formulated a new proposal. The attached proposed ordinance uses a cost-plus model, to be phased in with full implementation on November 11, 2011.

Because the Commission and the industry have seen several versions of the ordinance, the attached ordinance is redlined to show changes from the existing Ordinance 93.

The following substantive changes have been made to the proposed ordinance since the public hearing:

**§ 1.25 – Definition of Off-Airport Parking Company.** The definition was clarified and now reads: “Any Person offering or providing parking off-Airport premises for a fee, charge, offset, discount or other consideration of any kind, directly or indirectly, to customers going to or coming from the Airport.”

**§ 1.26 – Definition of Off-Airport Parking Company Per-Trip Fee.** A new definition was added, which is: “Commercial Vehicle fees imposed upon Off-Airport Parking Companies for the frequency of use of the roadways, curbs, and other facilities.”

**§ 4.5 – Advertising.** Clarified to reflect current practice. In Sections 7.2.c.1., advertising was removed from the definition of gross receipts and added to the list of exclusions in Sections 7.2.3. In Section 4.5, third party advertising on Commercial Vehicles is prohibited except under separate agreement. Payment would be handled under that agreement rather than by the ordinance.

**§ 8 – Off-Airport Parking Company Fees.** The percentage of gross receipts was eliminated and a cost-plus methodology was included as § 8.2. The phase in of the new fee is set forth in Schedule I.

**§ 11.5 - Effective Date.** The ordinance will be effective March 1, 2010. This includes the increase for Off-Airport Auto Rental Agencies, the AVI Activation Fee, and other provisions of the ordinance.

**Schedule I – Schedule of Fees.** Specifies the fees including the phase in of the Off-Airport Parking Company Fee. It remains unchanged until November 10, 2010 and will be fully phased in November 11, 2011.

## V. **Public Hearing and Exhibits**

The April 8, 2009 public hearing and exhibits were summarized in the proposed hearing officers’ report dated May 2009. Sections I. “Public Hearing,” II. “Exhibits” and III. “Purpose of Ordinance” are incorporated here by reference. A copy of that report and the public hearing transcript can be found at <http://www.metroairports.org/mac/meetings/mo.aspx> under agenda for May 6, 2009. Copies of Exhibits K, L, M, and N (letters from the industry) are also available at that website; all other exhibits are available upon request.

## VI. Comments and Responses

The comments provided below are from those received at the public hearing and during the written comment period and are reproduced verbatim from the proposed hearing officers' report dated May 2009. The responses have been updated based on the additional discussion with the industry and input from the Management & Operations Committee presentation in October 2009 to reflect the ordinance being presented for adoption.

### A. Phase In Rate of the Privilege Fee

**Comment:** MAC is proposing a 10% fee for off-airport parking companies. We suggest that MAC start with a lower fee and phase it in over time. For example, begin at 5% and increase it 1% per year, so that we could work it into our business plan.

**Response:** The revised ordinance uses a cost-plus methodology and will be phased in, with full implementation by November 11, 2011.

### B. Effective Date

**Comment:** The draft ordinance would take effect June 1, 2009, which is less than 60 days after the public hearing. We request a later start date.

**Response:** The revised ordinance would take effect on March 1, 2010, but delays the effective date for the off-airport parking company fee increase. The rate for off-airport parking companies remains unchanged until November 11, 2010.

### C. Notice

**Comment:** The industry was given a short amount of time to calculate the impact on its business and negotiate a fee increase.

**Response:** Staff held an informal meeting with the off-airport parking industry on March 12, 2009. Notice of the public hearing was posted on MAC's website on March 16, 2009 and mailed to interested parties on March 20, 2009. The ordinance and the consultant report were posted on MAC's website on March 23 and 26 respectively. They were also provided along with the agenda of the Management & Operations Committee via MAC's website for the meeting on April 8, 2009. An additional meeting was held with the off-airport parking industry on April 29, 2009.

Based on input from the industry at the April public hearing and May Management & Operations Committee, staff worked with the industry, holding individual and collective meetings. An information item was presented at the October 2009 Management and Operations Committee

meeting. If adopted, the ordinance would take effect March 1, 2010. The fee for off-airport parking companies would remain unchanged until November 11, 2010.

**D. Information Provided and Opportunity for Input**

**Comment:** The industry was not given sufficient information at the public hearing and only the Commissioners were allowed to question the consultant.

**Response:** The industry received the same information as the Commissioners did for the public hearing on April 8, 2009. The purpose of the public hearing was for staff and the consultant to make presentations to the Commission and to take input from the affected parties. Three representatives from the industry provided testimony at the hearing. No decisions were made as part of the meeting. See response to C. above.

**E. Ordinance Process**

**Comment:** The vote on this ordinance should be delayed so that parking operators can meet with the airport to come up with a more fair ordinance.

**Response:** The Management & Operations Committee listened to the industry and directed staff to work with the industry. See response to C. above.

**Comment:** We believe there are potentially significant substantive and procedural defects in the manner and amount of these fees that would violate FAA regulations.

**Response:** FAA regulations relate to aeronautical revenue such as airfield landing fees. Fees for ground transportation are non-aeronautical revenue and governed by state and local law, not FAA regulations.

**Comment:** The hearing was on the Commercial Vehicle Ordinance, but the proposed changes target the off-airport parking operators.

**Response:** Ordinance 93 applies to commercial vehicles other than taxicabs and some proposed changes relate to all commercial vehicle operators. Other provisions relate specifically to fees for off-airport auto rental agencies and off-airport parking companies. We believe that this is a reasonable basis of classification of users and consistent with how other airports charge these groups of operators.

**F. Authority of MAC to Adopt Such a Fee**

**Comment:** We believe the amount of the proposed increase is beyond what is allowed by the state legislature, may be anticompetitive, and may be an unconstitutional taking. It certainly is not supported by the process the MAC has undertaken and not fair to the business community or the public.

**Response:** Based on input from the industry, the rate has been reduced from 10% of gross receipts to approximately 7.3% of gross receipts when fully phased in. A trip-based cost-plus methodology more palatable to the industry has replaced the percentage of gross receipts methodology based on industry input.

MAC has the authority to adopt ordinances according to Minnesota Statutes §473.608, subds. 17 and 18, and that process has been followed. MAC has the authority to establish fees according to Minnesota Statutes §473.651, which states:

“The corporation shall have the authority to determine the charges for the use of any of the property under its management and control, and the terms and conditions under which such property may be used. Where there is reasonable basis for classification of users as to any use, the corporation may classify users, but charges as to each class shall be reasonable and uniform for such use, and established with due regard to the value of the property and improvements used and the expense of operation to the corporation....”

The Minnesota Court of Appeals held in *Hyland v. Metropolitan Airports Commission* (1995) that MAC may charge per-trip fees for commercial vehicles on a cost recovery basis. The U.S. Court of Appeals for the 8<sup>th</sup> Circuit held in *Enterprise Leasing Co. v. Metropolitan Airports Commission* (2001) that MAC may charge privilege fees in excess of cost recovery for off-airport auto rental companies. The courts found that MAC did not exceed its statutory or constitutional authority in either case. Other courts have held that airports may charge privilege fees to off-airport parking companies.

**G. Impact on Business**

**Comment:** Impacts on off-airport parking businesses include:

- This would more than double our fees, which will be challenging to absorb.
- It appears that this will triple or quadruple fees for off-airport parking companies.
- Last year Park N Go paid approximately \$140,000 in trip fees to the airport. Under the proposed changes, the fee would more than triple. It is unfair to impose what is in essence a 300% tax increase on a private business.
- The fee is unreasonable because Park N Fly already pays MAC over \$200,000 per year. We have invested \$25 million in our parking structure, pay over \$450,000 in real estate taxes per year and spend over \$300,000 with respect to our vehicles.

- The proposed fee may force us out of business, put our employees out of work and harm the traveling public who will have fewer choices.

**Response:** MAC’s consultant estimated that the 10% of gross receipts originally proposed would have been an increase of 5-7% of gross receipts compared to what the off-airport parking companies are now paying in per-trip fees. This is only an estimate because the parking operators have not been willing to share their gross receipts with MAC. Although this may be a substantial increase, it is well within the range of what other airports are charging off-airport parking operators. MAC currently charges 10% of gross revenue to on-airport auto rental companies. The pet boarding facility pays ground rent plus 9% of gross revenue on parking and other services. Food and beverage and retail operators pay more than 10% of gross revenue to MAC.

Fully phased in, the increase to the off-airport parking industry in the proposed ordinance equates to approximately 3.65% of gross receipts.

## **H. Impact on Customers**

**Comment:** Impacts on off-airport parking customers would include:

- This would effectively remove customer choice and force customers to pay higher rates, either by us increasing rates to cover new fees or by driving us out of business and ultimately forcing all customers to use the on airport spaces, with no other choices available.
- The proposed fee increase would cause us to reduce service because employee expenses are one of the first things we would have to cut.
- The airport has the worst possible timing to increase fees because airport passengers are down and consequently the number of off-airport parking customers is already down.

**Response:** Like private businesses, MAC is in the process of making tough decisions in challenging economic times. The amount of revenue to be raised by user fees is balanced against the impact on companies doing business at the airport and the impact on the traveling public. MAC has revised its original recommendation in consideration of these industry concerns.

## **I. Revenue to MAC**

**Comment:** The proposed fee may decrease revenue to MAC by decreasing customer demand for off-airport parking or putting one or more operators out of business (although we do wonder if that may be your intent here).

**Response:** While MAC staff believes that the proposed ordinance will increase revenue to MAC, it in no way intends to put the off-airport

parking operators out of business. The public ordinance process is a way for MAC to explore options to generate revenue. It is also the opportunity for the impacted parties to provide input into this public process. In this ordinance process, the Commission delayed adoption to provide even more opportunity for input from the industry. See response to H. above.

**J. Role of Off-Airport Parking Companies:**

**Comment:** We are a small business that employs 40 local people. Our revenue is less than 3% of MAC's parking revenue. We have been in business since 1985 and have partnered with the airport when your parking was full. We complement what you offer and provide a choice for customers.

**Response:** MAC respects the role of the off-airport parking operators in serving the traveling public and for the business opportunities it provides to local residents. Fees are designed such that businesses that benefit from the presence of the airport pay their share for this privilege.

**Comment:** Off-airport parking provides competitive pressure on MSP to maintain competitive rates for customers. The percentage of gross fee structure removes free market competition and allows the airport to operate without financial constraint. A trip fee based on service provided allows a measured approach to fees based on services provided.

**Response:** On-airport parking rates have an impact on off-airport parking rates and vice versa. As the comment notes, MAC already charges a fee to off-airport parking operators that derive business from airport customers. The decision being presented to the Commission for action is not whether to charge a fee but rather the methodology and level of the fee structure. Under the proposed ordinance, a trip-based fee would be retained.

**K. Audit Provision**

**Comment:** Please clarify what you mean by audit. We understand the need for verification but currently we do not need a CPA, which would add time and cost.

**Response:** Because the methodology for collecting this fee has been changed to a cost-plus model, the need for audits has been eliminated, and the corresponding portion of the ordinance removed.

**L. Dwell Fees**

**Comment:** The purpose of dwell fees is to avoid congestion. But this may create an incentive to circle to avoid the dwell fees.

**Response:** The purpose of dwell fees is to alleviate congestion in the commercial roadway. Dwell fees will remain in effect in order to promote the open ingress and egress that exists today. While an operator could circle to avoid dwell fees, the return to terminal loop is approximately two

miles. For purposes of customer service, operating costs and liability, MAC does not believe this will be a common practice.

**M. Per-Trip Fees**

**Comment:** Please clarify if the per-trip fee is going away for off-airport parking companies if a privilege fee is adopted.

**Response:** The methodology has been revised and §§ 6.2 and 8.2 have been clarified to reflect the imposition of the Off-Airport Parking Company Per-Trip Fee in place of the general commercial vehicle per-trip fee for Off-Airport Parking operators.

**Comment:** We favor continuing the per-trip fee in which we pay for actual services provided.

**Response:** Comment noted.

**Comment:** A more fair way for the airport to obtain new revenue would be to raise fees proportionally across all airport service industries (hotel, rent-a-car, door-to-door shuttle vehicles, taxis, limos, etc.)

**Response:** Comment noted.

**N. Airport Comparisons in Consultant Report**

**Comment:** The consultant's report lists 30 U.S. airports. What about the other 100 airports in the U.S. Some have graduated fees and some have zero fees for commercial vehicles. Why are other airports not listed?

**Response:** Airports are organized and funded by different mechanisms. Jacobs Consultancy was asked to provide MAC with information on the fee structures for off-airport parking operators at other airports. The selected airports represent a significant number of airports in the industry.

**Comment:** The privilege fee is not in line with other airports. As a group, the off-airport parking companies operate at dozens of national airports and most do not have fees that are comparable to what MAC is proposing.

**Response:** Charging a privilege fee as a percentage of gross receipts is an accepted practice in the airport industry, but it is not a universal practice as this comment notes. Based on subsequent industry input, a different methodology has been selected.

**Comment:** The consultant's report makes no mention of airports with no fees and is wholly inadequate basis for the action MAC is considering.

**Response:** The consultant's report shows that there are a variety of methods that airports use to charge fees to off-airport parking operators,

and establishes the range of fees set by airports that have chosen to charge a privilege fee as a percentage of gross receipts.

**O. MAC's Expenses**

**Comment:** What has MAC done to tighten its belt in these challenging economic times?

**Response:** MAC has worked hard to hold down its expenses by limiting staffing and streamlining procedures. The costs to be recovered through the commercial vehicle per-trip fees, for example, are only \$1,000 higher in 2008 than they were in 2005.

**P. ePark**

**Comment:** Many places give a discount if people pay cash. In MAC's parking facilities, people get a discount if they use a credit card. You probably lose 2% on credit card transactions. This fee structure should be reversed to save MAC money.

**Response:** ePark is MAC's automated self payment process. The vast majority of customers use credit or debit cards to pay for parking. ePark provides a customer service and speeds exit from MAC's parking facility. It also saves over \$2 million per year in operating costs, which is greater than the expense associated with credit card transactions. By providing the \$2 discount, MAC encourages customers to use ePark and shares a portion of the savings with them.

**Q. Fees for Other Businesses**

**Comment:** Other businesses that benefit from the airport should also pay a privilege fee. Travel agencies for example make money based on people who travel through the airport.

**Response:** By statute the Commission has the authority to establish fees for parties that benefit from the use of the airport. The Commission could charge fees to other entities like travel agencies but that is not part of this ordinance.

**R. Taxes**

**Comment:** MAC should not charge a privilege fee because off-airport parking operators pay significant taxes and fees to the state and federal government in addition to the current airport trip fees, some of which also directly benefit the airport. For example, the airport has been built and maintained with the use of Federal Airport Improvement Grants.

**Response:** The airport is primarily funded by user fees pursuant to Minnesota Statutes §473.651. Airport tenants, commercial vehicle

operators, and others that use the airport also pay sales tax, real estate taxes and other applicable taxes.

**Comment:** The proposed fee of 10% of our gross receipts will operate effectively as a tax on a tax because it will tax us for revenues on which we are already taxed.

**Response:** The airport is funded by user fees and they are not considered taxes.

**S. Light Rail Transit**

**Comment:** The proposed fee may cause us to consider ways to operate our business in which we would make use of airport facilities (e.g., using the light rail), which would of course also mean the MAC would receive no fees from us.

**Response:** In challenging economic times, all parties including MAC have to look at alternative ways of doing business.

**VI. Summary**

Attached are the proposed Findings, Conclusions and Order regarding the Commercial Vehicle Ordinance. It is the recommendation of the Hearing Officers that the Commission adopt the Findings, Conclusions and Order and proceed with the adoption of the proposed Ordinance.

Mike Landy, Chair  
Management & Operations Committee

**METROPOLITAN AIRPORTS COMMISSION  
PUBLIC HEARING REGARDING THE ADOPTION OF  
COMMERCIAL VEHICLE ORDINANCE**

**FINDINGS, CONCLUSIONS AND ORDER**

Pursuant to notice duly given, a public hearing was held on April 8, 2009 at the Minneapolis-St. Paul International Airport, in which testimony was taken and other evidence introduced on the issue of the proposed Commercial Vehicle Ordinance.

The hearing was commenced at the time and place designated in the notice and was conducted by the Management & Operations Committee as hearing officers. Betsy Hoiium, MAC Attorney, Arlie Johnson, Assistant Director of MSP Operations – Landside, and Peter Mandle of Jacobs Consultancy represented the Commission. Members of the public had the opportunity to comment.

Exhibits A-J were presented at the hearing and are attached to the record. The hearing record was kept open until April 17, 2009. Four additional exhibits were added to the record.

Additional meetings were held with the off-airport parking industry, both individually and collectively, during the summer and fall of 2009.

NOW, THEREFORE, having given due consideration to the testimony, exhibits, and other evidence submitted and made a part of the record, the Metropolitan Airports Commission makes the following Findings, Conclusions and Order:

**FINDINGS AND CONCLUSIONS**

1. That the Metropolitan Airports Commission is a public corporation operating under Minnesota Statutes Chapter 473 for the purpose of promoting the public welfare and national security; serving the public interest, convenience and necessity; promoting air navigation and transportation, international, national, state and local; promoting the efficient, safe and economical handling of air commerce; developing the full potentialities of the metropolitan area in this state as an aviation center; and assuring the residents of the metropolitan area of the minimum environmental impact from air navigation and transportation.
2. That the purpose of the adoption of the Commercial Vehicle Ordinance is to regulate commercial ground transportation and raise revenue to support the airport.
3. That notice and an opportunity for public review and comment regarding the Commercial Vehicle Ordinance was provided to interested parties during a public hearing held on April 8, 2009 and the subsequent written comment period.

4. That an opportunity for public comments was offered.
5. That comments from the public were received and are recorded pursuant to the Hearing Officers' Report dated January 2010.
6. That the Commission finds off-airport auto rental agencies and off-airport parking operators benefit from and derive customers from the presence of the entire airport, and that it is reasonable to define and set fees for these classes of users.
7. That airports use a wide variety of methods to charge commercial vehicle operators for use of airport property and access to passengers from the airport market. That at least 30 other airports in the United States charge privilege fees as a percentage of gross receipts to off-airport parking companies for use of the airport as set forth in the report from Jacobs Consultancy dated March 25, 2009.
8. That MAC charges fees that are greater than cost recovery to on and off-airport auto rental companies, the pet boarding facility that provides parking as one of its services, food & beverage, retail and service concessions and other users doing business at the airport.
9. That for purposes of administrative convenience and streamlining operations, a trip based fee is preferable to a percentage of gross receipts based fee for off-airport parking operators at this time.
10. That the airport is funded by user fees pursuant to Minnesota Statutes §473.651.
11. That the Commission considered and gave due regard to, among other things, Exhibits C and D, which are the cost recovery model used to establish per-trip fees and the Metropolitan Airports Commission Comprehensive Annual Financial Report (Year Ended December 31, 2007).
12. That the Commission has considered the general economy and the aviation industry, and that the Commission is responsible for finding sources of revenue to operate the airport roadways, terminal buildings, airfield and other airport facilities to serve the traveling public, some of whom are also customers of off-airport parking companies.
13. That the Commission finds that the adoption of the Commercial Vehicle Ordinance is reasonable and is a means of fulfilling the statutory mandate of the Commission to serve the public interest.

Based on the above findings, conclusions, and all the testimony, exhibits and other evidence presented,

**IT IS HEREBY ORDERED** that the Metropolitan Airports Commission adopt the proposed Commercial Vehicle Ordinance as MAC Ordinance No. 110.

**METROPOLITAN AIRPORTS COMMISSION**

**ORDINANCE No. \_\_\_\_\_**

**COMMERCIAL VEHICLES**

**Adopted by Commission:**  
**Effective Date:**

**METROPOLITAN AIRPORTS COMMISSION**

**ORDINANCE NO. 93**

**COMMERCIAL VEHICLES**

An Ordinance to promote and conserve public safety, health, peace, convenience and welfare and to provide for the equitable allocation of the costs of establishing and maintaining ground transportation facilities at the Airport; to manage the operation of various forms of ground transportation at the Airport in recognition of limited roadway capacity; to regulate the operation of all Commercial Vehicles at Minneapolis-St. Paul International Airport, ~~Wold-Chamberlain Field~~, a public airport under the operation, direction and control of the Metropolitan Airports Commission; ~~to conform to changes in the motor carrier laws made by recent state legislation; and repealing Ordinance 85 governing ground transportation.~~

~~WHEREAS, the Minnesota Legislature has enacted legislation amending the motor carrier statutes, which will take effect with respect to the Metropolitan Airports Commission on July 1, 2000; and~~

~~WHEREAS, the state legislation divides passenger ground transportation into four categories, which are incorporated into this Ordinance: Limousine Service, Motor Carrier of Passengers, Small Vehicle Passenger Service and Private Carriers; and~~

WHEREAS, the Airport has limited roadway capacity to accommodate all of the Commercial Vehicles seeking access to the Airport to service passenger needs; and

WHEREAS, the Metropolitan Airports Commission seeks to provide the best possible ground transportation services to the public, and to generate ~~sufficient~~ revenue to support the Airport's facilities; and

WHEREAS, the Minnesota Legislature has authorized the Metropolitan Airports Commission to "regulate ground transportation to and from an airport under its jurisdiction . . . . The authority under this paragraph includes, but is not limited to, regulating the number and types of transportation services, making concession agreements, and establishing vehicle standards." Minn. Stat. § 221.091, Subd. 3.

NOW THEREFORE, the Metropolitan Airports Commission does ordain:

**SECTION 1 - DEFINITIONS**

- 1.1 Airport. Minneapolis-St. Paul International Airport, Wold-Chamberlain Field, a public airport under the supervision, operation, direction and control of the Metropolitan Airports Commission, and located in the County of Hennepin and State of Minnesota.
- 1.2 Agency. See Auto Rental Agency defined below.
- 1.3 Airport Director. The Commission's administrative officer or the officer's designee and, for purposes of permitting and control of Commercial Vehicles and enforcement of this Ordinance, the agent of the Metropolitan Airports Commission, in charge of the terminal areas at the Airport.

- 1.4 Authorized Dealer. An inspection facility approved by the Airport Director that is: (1) utilized by a city, village or other political subdivision which licenses such Commercial Vehicle or, (2) ~~an automobile dealership which deals in new models of that particular make of automobile or,~~ (3) in the event that there is no Authorized Dealer for such make of Vehicle in the seven-county metropolitan area, an Authorized Dealer may be a dealer in new models of any major United States manufacturer of automobiles.
- 1.5 Auto Rental Agency or Agency. Any auto rental company that shuttles passengers to or from sites off Airport premises. This includes (1) auto rental companies that do not have a lease or concession agreement with the Commission and (2) on-airport auto rental companies with respect to any auto rental transactions in which the passenger is shuttled from the Airport to another location to pick up the rental Vehicle, unless the lease or concession agreement with the Commission specifically addresses shuttling passengers to off-Airport locations.
- 1.6 Auto Rental Operating Areas. ~~Designated areas between the public parking ramp and the on-airport auto rental building, or as otherwise~~ Areas designated by the Airport Director, for use by all Auto Rental Vehicles in picking up and dropping off passengers.
- 1.7 Automatic Vehicle Identification (AVI) System. A radio-frequency identifications system which includes AVI Tags, readers, ~~loops, access gates a reader-controller,~~ and a central computer.
- 1.8 AVI Tag. A small device that ~~monitors signals~~ when Vehicles enter or exit the AVI Commercial Lanes or Auto Rental Operating Areas.
- 1.9 Bus. A Vehicle which is designed to transport 20 or more passengers, including the Driver.
- 1.10 Class I Vehicle. A Commercial Vehicle with a Vehicle weight of less than 13,000 ~~pounds~~ and a seating capacity up to 20 people.
- 1.11 Class II Vehicle. A Commercial Vehicle with a Vehicle weight of 13,000 pounds or greater or designed to carry 20 or more people.
- 1.12 Commercial Lanes. Designated traffic lanes on Airport roadways for the use of Commercial Vehicles in picking up passengers or property, excluding Auto Rental Vehicles.
- 1.13 Commercial Vehicle. Limousines, Motor Carriers of Passengers, Small Vehicle Passenger Service, except for Taxicabs, and Private Carriers. This definition does not include Vehicles operated by federal, state, or local governments.
- 1.14 Commission or MAC. The Metropolitan Airports Commission, a public corporation organized and operating pursuant to Chapter 500, Laws of Minnesota 1943 and amendments thereto.
- 1.15 Company Permit. An annual authorization from the Airport Director that is issued to a Person that allows the Person to operate one or more Commercial Vehicles on the Airport, provided that an AVI Tag is obtained for each such Commercial Vehicle.
- 1.16 Driver. Every Person who drives or is in actual physical control of a Commercial Vehicle

under this Ordinance.

- 1.17 Dwell Fee. -A fee imposed on Commercial Vehicles for exceeding the prescribed time in picking up passengers or cargo while operating in the Commercial Lanes.
- 1.18 eTrip Lane. ~~§ A Commercial Lane that utilizes a payment service that allows an operator to enter and exit the Commercial Lane by using a credit or debitbank card. Payment is made at exit with the same credit or debitbank card used to gain entry.~~
- 1.19 Executive Director. The Commission's chief executive officer or a designated representative.
- 1.1920 Hearing Officer. The Executive Director of the Commission or his/her designee who shall conduct hearings, hear evidence and make a determination ~~-~~regarding Suspension or Revocation of Company Permits and AVI Tags.
- 1.2021 Limousine. Limousine shall have the definition contained in Minn. Stat. § 168.011, Subd. 35, or as it may be amended. At the time this Ordinance is adopted, that definition is “a luxury passenger automobile that is not a van or station wagon and has a seating capacity of not more than 12 persons, excluding the Driver.”
- 1.2422 Limousine Service. Limousine Service shall have the definition contained in Minn. Stat. § 221.84, or as it may be amended. At the time this Ordinance is adopted, that definition is “Service that: (1) is not provided on a regular route; (2) is provided in a luxury passenger automobile that is not a van or station wagon and has a seating capacity of not more than 12 persons, excluding the Driver; (3) provides only prearranged pickup; and (4) charges more than a taxicab fare for a comparable trip.”
- 1.2223 MAC Representative. Any Person authorized by the Airport Director to direct or coordinate Commercial Vehicle operations at the Airport.
- 1.2324 Motor Carrier of Passengers. Motor Carrier of Passengers shall have the definition contained in Minn. Stat. § 221.011, Subd. 48, or as it may be amended. At the time this Ordinance is adopted, that definition is “A person engaged in the for-hire transportation of passengers in Vehicles designed to transport eight or more passengers, including the Driver.” Motor Carriers of Passengers include, but are not limited to, Shared Ride Vehicles, Scheduled Shuttles, Outstate Shuttles, and Buses.
- 1.2425 Off-Airport Parking Company. ~~Any Person~~company offering or providing parking off-Airport premises for a fee, charge, offset, discount or other paymentconsideration of any kind, directly or indirectly, to customers going to or coming from the Airport.
- 1.26 Off-Airport Parking Company Per-Trip Fee. ~~Commercial Vehicle fees imposed upon Off-Airport Parking Companies for the frequency of use of the roadways, curbs, and other facilities.~~
- 1.27 Operator. Person who holds the Company Permit.
- 1.25287 Outstate Vehicles. A Motor Carrier of Passengers that provides transportation to destinations outside the seven-county metropolitan area.
- 1.26298 Per-Trip Fee. Commercial Vehicle fees imposed upon Operators for the frequency

of use of the roadways, curbs, and other facilities.

~~1.273029~~ Person. Every natural person, firm, partnership, association, corporation, or entity.

~~1.28319~~ Private Carrier. Private Carrier shall have the definition contained in Minn. Stat. § 221.011, Subd. 26, or as it may be amended. At the time this Ordinance is adopted, that definition is "A person engaged in the transportation of property or passengers by motor vehicle when: (a) the person transporting the property or passengers is engaged in a business other than transportation; and (b) the transportation is within the scope of and furthers a primary business, other than transportation, of that person." Private Carriers include, but are not limited to, hotel and motel courtesy Vehicles, corporate shuttles, Auto Rental Agency Vehicles, off-Airport parking Vehicles and Buses.

~~1.29324~~ Revocation. The discontinuance of a Person's Company Permit or AVI Tag(s).

~~1.30332~~ Scheduled Shuttle. A Motor Carrier of Passengers that provides scheduled transportation to destinations within the seven-county metropolitan area.

~~1.31343~~ Shared Ride Service. A Motor Carrier of Passengers that provides transportation to multiple passengers to a specific destination(s) requested by each passenger.

~~1.32354~~ Small Vehicle Passenger Service. Small Vehicle Passenger Service shall have the definition contained in Minn. Stat. § 221.011, Subd. 49, or as it may be amended. At the time this Ordinance is adopted, that definition is "Service provided by a person engaged in the for-hire transportation of passengers in a Vehicle designed to transport seven or fewer persons, including the Driver."

~~1.33365~~ Suspension. The temporary discontinuance of a Person's Company Permit, or AVI Tag(s).

~~1.34376~~ Taxicab. ~~Taxicab has the definition given in Ordinance 81, section 1.21, or as amended.~~

~~4.35~~ ~~Any motor Vehicle carrying passengers for pay or hire to specific destinations requested by passengers upon public streets and upon the streets, avenues and roads of the Airport, and subject to call on or upon such public streets and Airport streets, avenues or roads or from a garage or other established place of business.~~

~~1.387~~ Vehicle. Every device in, upon or by which any Person or property is or may be transported or drawn upon public streets and upon streets, avenues and roads within the Airport.

## **SECTION 2 – SCOPE**

This Ordinance applies to all Persons and Vehicles other than Taxicabs and Taxicab Drivers engaged in commercial ground transportation at the Airport. This Ordinance does not apply to parking access control for federal employees or other Vehicles assigned by the Airport Director to use the Commercial Lanes that do not meet the definition of Commercial Vehicle, except as governed by separate agreement.

~~This Ordinance replaces Ordinance 85 relating to Commercial Vehicles to conform to changes in the motor carrier laws made by recent state legislation. Transportation Act, 1999 Minn. Sess.~~

~~Law Serv. Ch. 238 (H.F. 2387) (May 25, 1999).~~

### **SECTION 3 - AUTHORITY TO OPERATE**

#### 3.1 Authorized Vehicles

Only the following Commercial Vehicles may pick up passengers at the Airport, subject to compliance with the other provisions of this Ordinance:

- a. Limousine Service;
- b. Motor Carriers of Passengers:
  1. Buses, and
  2. Other Motor Carriers of Passengers, only pursuant to agreement with the Airport Director;
- c. Small Vehicle Passenger Service is prohibited from operating at the Airport, except as a Taxicab operating pursuant to Ordinance ~~81102~~, or as amended;
- d. Private Carriers, provided that Private Carriers designed to transport eight or more passengers, including the Driver, must use the Commercial Lanes; and
- e. Such other Commercial Vehicles as the Airport Director determines will promote the efficient operation of the ground transportation system and orderly traffic flow.

#### 3.2 Company Permit and AVI Tag

All Commercial Vehicles must be registered under an annual Company Permit and have an AVI Tag in order to pick up passengers at the Airport, except that:

a. ~~Cash Lane~~Trip Lanes

Commercial Vehicles that only use the ~~cash Commercial Lane~~Trip Lanes are not required to have a Company Permit or AVI Tag.

b. Auto Rental Agency Vehicles

Auto Rental Agency Vehicles are not required to use an AVI Tag until a notice is posted by the Airport Director 60 days in advance of such requirement outside the Commission meeting rooms. At such time as AVI equipment is installed in Auto Rental Operating Areas, the Operator or Driver of a Commercial Vehicle remaining in the Auto Rental Operating Area longer than the dwell times set forth in Schedule I shall pay a Dwell Fee as set forth in Schedule I.

#### 3.3 Company Permit Requirements

Upon application, the Airport Director may issue an annual Company Permit to an Operator of Commercial Vehicles when the requirements set forth in this section are met and where the interests of the traveling public and the efficient operation of the Airport are best served by such issuance. One Company Permit will be required per Operator at a

specific business location or address. The Airport Director may then issue one AVI Tag for each Vehicle that will be operated under the Permit. All Operators shall maintain the Company Permit requirements at all times.

The Airport Director may deny requests for Company Permits and AVI Tag(s) where the interests of the traveling public and the efficient operation of the Airport are best served by such denial. The Airport Director also may limit the number of Company Permits and AVI Tag(s) issued for a specific type of Commercial Vehicle in order to promote the efficient operation of the Commission's ground transportation system and to promote orderly traffic flow.

a. Vehicle

To qualify for a Company Permit, a Person must lease, operate or own one or more Commercial Vehicles.

b. Operating Authority

The Operator must submit proof of current, valid operating authority if required for the particular type of Commercial Vehicle being operated as granted by the applicable federal, state, or local authorities.

c. Mechanical Inspection

The Operator must submit written proof demonstrating one of the following:

1. That each Commercial Vehicle is regulated by an applicable authority that requires annual mechanical inspections of the Vehicle; or
2. That the Vehicle has passed a mechanical inspection by a currently certified National Institute for Automotive Service of Excellence (ASE) mechanic competent and capable to perform inspections for the type of Vehicle. The inspection must meet standards set by the Airport Director and have been conducted in the past 12 months. This option applies to Vehicles with a seating capacity up to 15 passengers and up to 10,000 pounds; or
3. That the Vehicle has passed a mechanical inspection by a mechanic currently certified by the Minnesota Department of Transportation or Minnesota Department of Public Safety and who is competent and capable to perform inspections for the type of Vehicle. The inspection must meet standards set by the Airport Director and have been conducted in the past 12 months. This option applies to Vehicles with a seating capacity of 15 or more passengers or 10,000 pounds or greater.

The Operator must keep all maintenance and inspection records for each Vehicle for at least a year either in the Vehicle or at the Operator's place of business. These records and proof of the mechanic's credentials to perform such work must be produced at any time upon request for review by a MAC Representative.

d. Insurance

The Operator must assure that proof of insurance is submitted for the Commercial Vehicle as required by this Ordinance.

e. Address and Telephone Number

Each Operator must keep a current address and telephone number on file with the Commission at all times. Each Operator must have the company name and company telephone number registered with Directory Assistance for Minneapolis or St. Paul.

f. No Past Due Balance

The Commission shall not issue a Company Permit or AVI Tag(s) or authorize transfers to an Operator if the Operator has an outstanding balance that is more than ~~30~~60 days past due for any fees.

3.4 AVI Tags

a. Commission Property

An AVI Tag issued to an Operator for a Commercial Vehicle remains the property of the Commission. The AVI Tag shall at all times be affixed to the Vehicle in a location that allows the tag to operate properly. ~~Upon expiration or termination of a Company Permit, the AVI Tag shall be returned to the Commission.~~

b. No Unauthorized Transfer

An AVI Tag shall only be used in the Commercial Vehicle for which it is authorized by a MAC Representative.

3.5 Insurance and Indemnification

a. Commercial Automobile Liability Insurance

The Operator shall have commercial automobile liability insurance for each Commercial Vehicle in force at all times. The amount of such insurance coverage shall be the greater of (i) a combined single limit for each occurrence of at least \$1,500,000 for a Class I Vehicle and \$2,000,000 for a Class II Vehicle or equivalent coverage; or (ii) the applicable state or federal requirement for that type of Vehicle. The insurance policy shall name the Commission as an additional insured. The Operator must have a completed insurance certificate evidencing such coverage on file with the Commission at all times. The insurance certificate shall be on the form provided by the Airport Director.

Insurance will be provided by a company licensed to write such insurance in the State of Minnesota. Also, liability will not be limited due to insolvency or bankruptcy of the insured. The Commission must immediately be notified in writing that a Vehicle(s) is being deleted from the policy. The Commission must be notified in writing 10 days before a policy may be canceled or changed by endorsement. The Operator will be held responsible if proper notice is not provided by the insurance company. Also, coverage will not be limited in any way

when insured Vehicles are driven, used, operated or maintained while the Driver or occupants are under the influence of alcohol or controlled substances or engaged in the illicit transportation of such substances.

b. Indemnification

The Operator shall indemnify and hold harmless the Commission for the negligent acts of the owner, Operator, or Driver with permission, expressed or implied of the owner or Operator of all covered Vehicles resulting in personal injury or property damage within the limits of coverage stated herein.

3.6 Transfers

a. Vehicle-to-Vehicle

AVI Tags granted under a Company Permit may not be transferred from one Vehicle to another ~~only as authorized by MAC. A transfer application must be completed and the requirements of Section 3.3 must be met.~~

b. Company-to-Company

The Operator shall notify MAC of changes to Company name, Company ownership, billing address, telephone number or other changes related to the Company Permit.

**SECTION 4 - COMMERCIAL VEHICLE OPERATION**

4.1 Commercial Lanes

Commercial Vehicles shall only use the Commercial Lanes or other areas established by the Airport Director to pick up passengers at the Airport unless otherwise directed by a MAC Representative, except:

a. Limousine Service

Limousine Service Drivers may also use the public parking areas at applicable rates for passenger pick up. Limousine Service Drivers who use the public parking areas shall not load or unload passengers any place other than a designated, marked parking space.

b. Auto Rental Agency Vehicles

Auto Rental Agency Vehicles shall use only the Auto Rental Areas or other areas established by the Airport Director to pick up and drop off passengers.

4.2 Drivers Remain with Vehicles

Each Driver must remain with his or her Vehicle while in passenger loading area, except:

a. Limousine Service Drivers

Limousine Service Drivers are allowed to be in the Commercial Lanes for

prearranged trips only. Drivers are allowed to meet their prearranged passengers in the baggage claim area. However, Limousine Drivers must place a company identification placard on the dashboard of their Vehicle in plain view, and have a hand held sign not to exceed 8½" x 11" displaying the prearranged passenger's name. The Airport Director may modify the Limousine Service passenger pick up procedures in this paragraph under circumstances he or she deems appropriate.

b. Outstate Vehicle Drivers

Outstate Vehicle Drivers are allowed to leave their Vehicles to operate service desks and facilitate passenger transportation provided that current security requirements are met.

c. Other Drivers

The Airport Director may modify these exceptions, or may allow Drivers of other Vehicles to leave their Vehicles under particular circumstances.

d. Limitation

These exceptions are subject to Ordinance 80 or as amended, which allows the Executive Director to place traffic limitations on Vehicles for operational, safety, or security reasons.

4.3 Vehicle Requirements

a. Cleanliness

All Commercial Vehicles shall be clean, of good appearance, free of body damage and well painted.

b. Vehicle Markings

Commercial Vehicles, except Limousines, shall be clearly marked to show the name and telephone number of the company operating the Vehicle, and any applicable Minnesota Department of Transportation or other applicable operating authority number. All markings required by this subsection shall be painted neatly and plainly on the Commercial Vehicle or otherwise attached by permanent decal approved by the Airport Director. Other markings may be used on a temporary basis as approved by the Airport Director. A placard must be placed on the dashboard of the Limousine while it is operating at the Airport that is readable by a MAC Representative.

4.4 No Vehicle Towing

Only a commercial tow truck shall be authorized to tow or otherwise transport another motorized Vehicle on Airport property.

4.5 Advertising

Operators shall not cause any advertising, signage or phone boards to be placed on Airport property other than as allowed by the Commission Airport Director under separate

agreement. Operators shall not cause any third-party advertising or signage to be placed on Commercial Vehicles other than as allowed by the Airport Director under separate Agreement.

#### 4.6 Compliance with Legal Requirements

##### a. Laws

All Persons and Vehicles engaged in Commercial Vehicle transportation at the Airport shall comply with all applicable federal, state and local laws.

##### b. Orders

All Persons engaged in Commercial Vehicle transportation at the Airport shall comply with all lawful orders or directions given by MAC Representatives.

##### c. Commercial Vehicle Manual

The Airport Director has the authority to establish a Commercial Vehicle Manual if the Airport Director deems it necessary. Every Person engaged in Commercial Vehicle transportation at the Airport shall comply with the Commercial Vehicle Manual at all times. Violation of the Commercial Vehicle Manual is a violation of this Ordinance.

#### 4.7 Compliance Checks

MAC Representatives may conduct random, unannounced compliance checks including Vehicle inspections at any time to determine compliance with this Ordinance. In addition to the mechanical inspections required under Section 3.3, whenever a MAC Representative has reasonable grounds to believe that a Commercial Vehicle is not in compliance with this Ordinance, such personnel may require the Operator or Driver of such Commercial Vehicle to submit such Commercial Vehicle for inspection and certification by an Authorized Dealer or Commission-approved inspection station. Written records of all inspections shall be submitted promptly to the Airport Director.

### **SECTION 5 - DRIVERS**

#### 5.1 Valid Driver's License

Every Driver of a Commercial Vehicle shall have a valid state Driver's license with proper endorsements to operate in the state of Minnesota.

#### 5.2 Solicitation

No Person shall solicit the business of carrying passengers for hire in any Commercial Vehicle and no Commercial Vehicle shall be driven within the limits of the Airport for the purpose of soliciting the carrying of passengers for hire. No Driver of a Commercial Vehicle shall provide any payment to any skycap, MAC Representative, bartender, or any other Person in return for the referral of passengers or preferential treatment.

"Solicitation" means to directly or indirectly, actively or passively, openly or subtly, ask, request, plead for, seek, or try to obtain passengers for hire in a Vehicle, whether or not by

the Operator or Driver of such Vehicle. This includes any effort by use of voice, movement of body or by mechanical contrivance of whatever sort to call attention to the availability of a Vehicle to carry a passenger or baggage for hire.

5.3 Alcohol or Controlled Substance Use

No Driver shall possess, consume or be under the influence of alcohol or a controlled substance while on duty at the Airport. No Driver shall consume alcohol or a controlled substance within 4 hours of beginning a shift at the Airport. "Controlled substance" has the meaning given in Minnesota Statutes Section 152.01, subd. 4 or as amended.

5.4 Smoking

No Driver of a Commercial Vehicle shall have in his or her possession a lighted cigarette, cigar, pipe, or light or smoke same while driving a Commercial Vehicle which is occupied by a passenger unless such passenger shall have first granted permission to do so.

5.5 Weapons

No Driver of a Commercial Vehicle shall have in his or her possession while operating a Commercial Vehicle at the Airport any firearm, knife with a blade length in excess of four (4) inches, or any assault weapon.

5.6 Prostitution

No Driver of any Commercial Vehicle shall allow any Person to occupy or use such Vehicle for the purpose of prostitution. No Driver of any Commercial Vehicle shall direct or offer to direct any Person to any place or Person for the purpose of prostitution, or to transport any Person to any building, place or other Person with knowledge or reasonable cause to know that the purpose of such transportation is prostitution.

5.7 Discrimination

No Operator or Driver shall discriminate against any Person based on race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, or age.

5.8 Driver Conduct

- a. No Driver of a Commercial Vehicle shall interfere with any other Driver with whom any Person is negotiating or inquiring about the transportation of Persons or property.
- b. A Driver of a Commercial Vehicle shall at all times be courteous when dealing with the public or any MAC representative.
- c. A Driver shall not use profane or threatening language or gestures directed at or in front of any passenger or MAC Representative.

## SECTION 6 - FEES

### 6.1 Annual Permit Fee

Each Operator shall pay an annual Permit Fee each November or other date as established by the Airport Director to purchase a Company Permit as set forth in Schedule I or as otherwise modified by the Airport Director.

### 6.2 Per-Trip Fee

Each Operator permitted under this Ordinance shall pay a Per-Trip Fee for use of the AVI Commercial Lanes in order to support the costs described below, except that Off-Airport Auto Rental Agencies shall pay pursuant to Section 7 and Off-Airport Parking Companies shall pay fees pursuant to Section 8.

The Per-Trip Fee shall be established prior to ~~March~~November 11 each year or other date as established by the Commission. For the year beginning ~~March~~November 11, ~~1998~~2009, the Per-Trip Fee shall be as set forth in Schedule I, which recovers 100% of Commercial ~~Vehicles's~~Vehicles' proportionate share of the year's budgeted costs. For each subsequent year the Commission shall establish the Per-Trip Fees to reasonably assure recovery of 100% of such budgeted costs. The fees shall be set by class of Vehicle.

When determining budgeted costs, the Commission shall take into consideration among other things, actual historical costs, operational costs, administration, depreciation, and interest attributable to the Airport terminal roadway system and the commercial ground transportation facilities, and the previous years' historical data regarding the numbers of trips by class of Vehicle.

The fees shall be established by the Commission at public meetings and notice of such meetings shall be provided to Operators and industry advisory committees or councils on file with the Commission. The Fees shall be posted in accordance with Section 109.

### 6.3 AVI Tag ~~Deposit~~Activation Fee

The AVI Tag ~~deposit~~Activation Fee for each Vehicle shall be as set forth in Schedule I. ~~The deposit is refundable if the AVI Tag is returned to the Commission in good condition within 60 days following the expiration or termination of the Company Permit or the discontinued use of a Vehicle for which an AVI Tag is authorized.~~

### 6.4 Dwell Fees

The Operator or Driver of a Commercial Vehicle remaining in ~~the an~~ AVI Commercial Lane or ~~Cash Commercial~~an eTrip Lane longer than the dwell times set forth in Schedule I shall pay a Dwell Fee as set forth in Schedule I. For purposes of Dwell Fees only, Outstate Vehicles are considered Class II, rather than Class I, Vehicles. Dwell Fees apply to Off-Airport Parking Vehicles as set forth in Schedule I. Dwell Fees apply to Off-Airport Auto Rental Vehicles as set forth in Section 3.2 (b).

The Airport Director may increase or decrease the Dwell Fee or the dwell time set forth in Schedule I as needed in order to ensure that commercial roadways operate free of congestion, and may do so to reflect different levels of congestion that may occur during

the day.

6.5 ~~Cash-CommercialeTrip~~ Lane

Each Commercial Vehicle that does not have an active AVI tag, shall pay a fee for each use of the ~~Cash-CommercialeTrip~~ Lane. The fee for the ~~Cash-CommercialeTrip~~ Lane shall be as set forth in Schedule I or as otherwise modified by the Airport Director. ~~The fee for lost tickets shall be as set forth in Schedule I or as otherwise modified by the Airport Director.~~

6.6 Collection of Fees

a. Payment

Each Operator shall pay fees set forth in the monthly billing statement within 30 days of the statement date.

b. Late Fee

A late fee as set forth in Schedule I or as otherwise modified by the Airport Director shall be charged on any past due balances.

c. AVI Tag Deactivation

All AVI Tags assigned to an Operator with an outstanding balance that is ~~60~~30 days past due or greater for any fees due under this Ordinance will be automatically deactivated without further notice to the Operator.

The AVI Tag(s) shall be reactivated as soon as practical (but not later than the next business day) when the outstanding balance has been paid in full or a payment plan acceptable to the Airport Director has been agreed to. The Operator has the right to present additional information to the Airport Director to request review of the situation. If additional information is presented to the Airport Director, the Airport Director shall consider such information and promptly affirm or vacate the AVI Tag deactivation.

6.7 AVI Hardware/Software Failure

In the event of a hardware or software failure in the AVI system that prevents production of a timely monthly billing report, such as a failure of the readers or a major system failure, the Commission may bill Operator, and Operator shall pay, the Per-Trip Fee as calculated by averaging the previous three months' or three weeks usage, whichever is appropriate.

6.8 Other Fees

The Commission has the authority to adjust any of the fees in this section annually when setting the Per-Trip Fee; notice shall be provided as in Section ~~9-10~~. The Airport Director has the authority to establish other fees that cover reasonable administrative costs for services provided to Commercial Vehicles.

**SECTION 7 - AUTO RENTAL AGENCIES**

7.1 Scope

Section 7 applies only to Auto Rental Agencies as defined in Section 1. If any other provision of this Ordinance conflicts with Section 7 with respect to Auto Rental Agencies, Section 7 shall govern. Provisions referring to "Operators" throughout the Ordinance apply to Auto Rental Agencies unless specifically excluded, inconsistent with this section, or inapplicable based on context.

7.2 Auto Rental Agency Fees

a. Amount

Each Agency shall pay an Airport privilege fee equal to the percentage of Auto Rental Gross Receipts of Airport Transactions set forth in Schedule I. The Commission has the authority to adjust this amount and the definition of Auto Rental Gross Receipts in Section 7.2.c. whenever the rates are adjusted for on-airport auto rental companies. Notice shall be provided as in Section ~~109~~.

b. Definition of Airport Transactions

"Airport Transactions" include all transactions arising from passengers who board the Agency's customer courtesy Vehicles on Airport property. For purposes of this

Section, "customer courtesy vehicles" shall include any Vehicle owned or operated by such Agency and used to pick-up or drop off the Agency's customers at the Airport as authorized by this Ordinance.

c. Definition of ~~Auto Rental~~ Gross Receipts

1. General Definition

Auto Rental Gross Receipts means the total amount charged by Auto Rental Agency, ~~whether by cash, credit, or otherwise~~, including any separately stated fees and charges, for all automobiles supplied by Agency to its customers through Airport Transactions, any activities related directly to that business, and any other business of Agency in the Rental Auto Areas or elsewhere at the Airport, including but not limited to the Hubert H. Humphrey Terminal, any other terminals, fixed base operators, and military property. Auto Rental Gross Receipts applies to such charges without regard to the manner in which or place at which the Rental Auto contract is entered into and without regard to whether the Auto is owned, leased or otherwise held by Agency. All revenue is included in Auto Rental Gross Receipts unless specifically excluded by this Agreement.

2. Example of ~~Auto Rental~~ Gross Receipts

Auto Rental Gross Receipts include, but are not limited to:

i. ~~a.~~ Time and Mileage:

The time and mileage charges paid or payable to Agency whether by cash, credit or otherwise.

ii. ~~b.~~ Insurance:

All monies paid or payable from the sale of personal accident insurance, or any insurance of a similar nature, as part of an authorized vehicle rental agreement.

iii. ~~c.~~ Waiver:

Fees received by Agency to waive deductibility in insurance.

iv. ~~d.~~ Fuel:

All monies collected from or charges to customers as reimbursement for refueling an Auto returned pursuant to a rental agreement under which the customer is obligated to return the Auto with a full tank of gas or all monies collected from or charged to customers in advance for gas, pursuant to a rental agreement.

v. ~~e.~~ Intercity Fees:

All Intercity Fees received by Agency.

vi. ~~f.~~ Vehicle Exchange

Monies paid to Agency for Airport Transactions -although the Auto initially rented is exchanged elsewhere and new contract submitted therefore.

vii. ~~g.~~ Other Money Collected

All other monies collected from customers (including, but not limited to, monies from additional or underage drivers, rental of portable telephones, child restraint seats, ski racks, satellite navigation systems or other technology, and other items of personal property) except those specifically excluded by this ~~Agreement~~Ordinance.

3. Exclusions

Unless revenues from Agency's Rental Auto business are expressly and particularly excluded from Auto Rental Gross Receipts under this ~~Agreement~~Ordinance, such revenues shall be included in Auto Rental Gross Receipts. Receipts that may be derived from sources similar but not identical to those described herein shall be included in Auto Rental Gross Receipts unless expressly excluded by this ~~Agreement~~Ordinance. Auto Rental Gross Receipts specifically excludes:

i. ~~a.~~ Recovery of Damages

Charges to Agency's customers for repairs to Autos damaged by such customers to the extent such charges do not exceed the actual cost to repair or replacement.

ii. ~~b.~~ Taxes

Monies collected from Agency's customers for federal, state, county or municipal sales taxes specifically identified as such now in effect or hereinafter levied. No deduction from Auto Rental Gross Receipts shall be allowed for such items including franchise taxes, payroll taxes, vehicle license fees, or taxes levied on Agency's activities, facilities, equipment, operations, real or personal property.

~~iii.~~ ~~c.~~ Theft

Uncollected charges arising upon theft or conversion of Agency's Auto, unless and until such charges are collected, provided that this provision shall not apply to uncollected bad debts where Agency has not actively pursued criminal prosecution.

iv. Advertising

Monies collected for the sale of advertising on Commercial

Vehicles.

4. Prohibited Reductions

Agency may not reduce Auto Rental Gross Receipts by any of the following:

~~a.i.~~ Volume Discounts.

Corporate or volume rebates unless Agency can establish for each corporate or volume customer invoice: (1) the amount of the rebate is specifically stated on the rental agreement at the time that the vehicle is returned; (2) that the customer has a contractual right to the rebate; and (3) that the amount Agency claims as an exclusion from Auto Rental Gross Receipts is attributable to Airport Transactions by that corporate or volume customer. Auto Rental Gross Receipts may not be reduced by volume discounts unless the discount is documented for each transaction and the ~~documentation~~ is submitted with Agency's monthly report.

~~b.ii.~~ Credits for Out-of-Pocket Purchases.

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Credits given to ~~Agency's~~ Agency's customers for such things as out-of-pocket purchases of gas, oil or emergency services, regardless of where made may not be deducted from Auto Rental Gross Receipts.

~~c.iii.~~ No Diversion of Rental Auto Receipts

Diversion, through direct or indirect means, of Rental Auto revenues from the inclusion in Auto Rental Gross Receipts is prohibited. Diversion shall include, but not be limited to, the following situations: shortage of Rental Autos for Airport Transactions while having rental vehicles available elsewhere in the Minneapolis-St. Paul metropolitan area, renting such vehicle to a potential customer that arrived at the Airport and not including the resulting Rental Auto revenue in the Auto Rental Gross Receipts.

~~d.iv.~~ Bad Debts

Agency shall have the right to conduct all or a part of its business on a credit basis; provided, however, that the risk of such operation shall be borne by Agency, and Agency shall include as Auto Rental Gross Receipts any charge the company customarily makes for goods and services even though Agency fails to actually collect such a charge (i.e., there shall be no charge backs of bad debt)."

### 7.3 Payments and Reports

#### a. Payment of Fees

The fees are payable on or before the 20th day of each calendar month following the month in which the fee was incurred unless notified in writing by the Commission of a different payment date.

#### b. Monthly Reports

Each Auto Rental Agency shall include with each monthly payment of the fee, a report of the number and Auto Rental Gross Receipts for Airport Transactions for the previous month's rental transactions. The monthly report shall provide in the absence of sequentially numbered rental agreements, a detailed methodology of identifying rental agreements that are Airport Transactions, the number of Airport Transactions closed during the month, and the average fleet size for the month. Separate reports shall be furnished for each location that provided Airport Transactions. These reports shall show a full and complete breakdown analysis of all items included in the calculation of total Auto Rental Gross Receipts reported, and any other information deemed reasonably necessary by the Commission. Reports by Agencies that also have a lease or concession agreement with the Commission shall clearly distinguish automobiles supplied to passengers at the Airport and automobiles supplied to passengers shuttled from the Airport to another location.

If the Agency discovers an error in the report, the Agency has 60 days beyond the date the report is due to file a corrected report. This does not preclude the Commission from demanding payment as described below if the Agency has underpaid.

#### c. Annual Reports

~~Within 30 days following the end of each calendar year of operation, the Agency shall submit to the Commission a detailed statement of Gross Receipts from Airport Transactions for the preceding year. Such report shall be certified as correct by an authorized representative of the Agency and be accompanied by payment of any amount the Agency underpaid.~~

#### ~~d.~~ Audited Financial Statements

Each Agency shall submit by March 31st annually to the Commission ~~audited financial statements pertaining to Airport Transactions.~~ Audited Statement of Airport Customer Gross Receipts. The expense of such audit shall be borne by the Agency. The audit shall be undertaken by a reputable firm of certified public accountants.

**ed.** Late Payment Penalty

The Agency shall pay a penalty for late or delinquent payments of ~~40~~18% per annum on the balance of the unpaid amount calculated from the date the amount is due until the close of the business day upon which the delinquent payment is received by the Commission. Auto Rental Agencies are not subject to Section 6.6.b.

**fe.** Records

The Agency shall keep accurate accounts, records, books and data ("records") with respect to its auto rental operations in a form satisfactory to the Commission. The records shall among other things show all sales made and services performed for cash, on credit, or otherwise (without regard to whether paid or not), and, also, the Auto Rental Gross Receipts of the business, and the aggregate amount of all sales services and orders, and of all Airport Transactions on a monthly basis. All records, electronic or otherwise, shall be kept for a period of not less than six (6) years.

The records shall be kept in such a manner that the Airport Transactions are identifiable.

7.4 Audits

The records and accounting procedures and practices of the Agency relevant to this Ordinance shall be subject to examination by the Commission auditor(s) and/or other representatives of the Commission ("auditor") to conduct an audit. The Agency may elect, prepare and maintain records in a computerized format. The Agency agrees that, if any related information is maintained in a computerized format, such information will be made available to the Commission in a mutually acceptable format. Accordingly, Agency shall cause such data to be packed, unpacked, downloaded, uploaded, imported, exported, transferred, converted or otherwise manipulated to the extent necessary to provide such data in a mutually acceptable format.

The Agency agrees to provide and to deliver to the Commission in the Minneapolis-St. Paul Metropolitan area, within 10 working days from the date of formal written request by the auditor, records as the Commission may request, showing the Auto Rental Gross Receipts, sales made and services of Agency pertaining to its rental auto business shall likewise be open to inspection by the auditor upon request. Agency agrees that in the event that the requested documentation is not provided within 10 working days from the date of the written request, Agency shall bear the expense of the auditors to travel to and return from the Agency's corporate office to conduct the audit. Agency shall bear the expense of lodging for the auditors for the entire duration that is required to complete the audit in the Agency's corporate office location.

7.5 Transactions

None of the rental transactions arising from Airport passengers shall be consummated on Airport property except under agreement with the Commission.

## **SECTION 8 – OFF-AIRPORT PARKING**

### **8.1 Scope**

Section 8 applies only to Off-Airport Parking Companies as defined in Section 1. If any other provision of this Ordinance conflicts with Section 8 with respect to Off-Airport Parking Companies, Section 8 shall govern. Provisions referring to "Operators" throughout the Ordinance apply to Off-Airport Parking Companies unless specifically excluded, inconsistent with this section, or inapplicable based on context.

### **8.2 Off-Airport Parking Company Fees**

Each Off-Airport Parking Company shall pay an Off-Airport Parking Company Per-Trip Fee pursuant to Section 6 schedule I, and an Airport privilege fee per trip as set forth in Schedule I; provided, however, that for the period beginning with the Ordinance Effective Date and ending November 10, 2010, the total fee paid per trip (inclusive of the privilege fee) by Off-Airport Parking Companies shall equal \$2.50.

## **SECTION 9 - ENFORCEMENT**

### **89.1 Violations**

The sanctions set forth in this section shall apply to Persons committing any of the following (hereinafter referred to as "violations"):

- a. Violations of this Ordinance, or any laws, regulations or manual expressly incorporated by this Ordinance;
- b. Violations of any Ordinance of the Commission for which a criminal penalty may be imposed;
- c. Violations while on Airport property of any law of the State of Minnesota or the United States for which a criminal penalty may be imposed.

### **89.2 Immediate Suspensions**

#### **a. Conduct**

The Manager of the Landside Operations Department (or its successor) or designee may immediately suspend a Company Permit or AVI Tag(s) for specific Vehicles, whichever is applicable, for the following reasons:

1. Failure to maintain insurance coverage as required by this Ordinance or failure to keep evidence of such coverage on file with the Commission.
2. Failure to comply with mechanical inspection requirements of this Ordinance or failure to keep evidence of such inspection on file with the Commission at all times.
3. Failure of an Operator to respond to telephone communications by the Commission within 12 hours provided that the Commission has attempted

to establish telephone contact by calling the number on file with the Commission.

4. Use of an AVI Tag on a Vehicle that is not authorized by a MAC Representative.
5. Violations where the failure to immediately suspend would jeopardize the health, safety or welfare of the traveling public. This includes, but is not limited to, nonfunctioning headlight(s), ~~tailight~~taillight(s), cracked windshield, unsafe tire(s), brakes, steering mechanism or other unsafe or dangerous conditions.

b. Immediate Suspension Order

Upon finding cause for such Immediate Suspension, the Manager of the Landside Operations Department (or its successor) or designee shall immediately issue a written Order of Immediate Suspension. The Immediate Suspension Order shall state the grounds for the Immediate Suspension and inform the Operator that the Operator may present additional information to the Airport Director, if the Operator chooses to request that the Airport Director vacate that order. If such additional information is presented to the Airport Director, the Airport Director shall consider such information and shall promptly affirm or vacate the Order of Immediate Suspension.

c. AVI Tag Deactivation

Upon the issuance of an Order for Immediate Suspension, the Commission may deactivate the AVI Tag for one or more of the Operator's Vehicles.

d. Duration

1. When the Immediate Suspension is for the reasons stated in Paragraph a.1. or 2. or 3. above, the Immediate Suspension shall end and the AVI Tag(s) shall be reactivated as soon as practical (but not later than the next business day) upon remediation of the reasons for the Immediate Suspension.
2. When the Immediate Suspension is for the reason stated in Paragraph a.4., the Immediate Suspension shall continue and AVI Tag(s) remain deactivated for two full business days after the problem is corrected and be reactivated the following business day. During the Immediate Suspension, the Operator is not eligible to transfer or obtain any new AVI Tag(s).
3. When the Immediate Suspension is for the reasons stated in Paragraph a.5. above, the Immediate Suspension shall be for such time as the Manager of the Landside Operations Department (or its successor) or designee determines that there continues to be a threat to the health, safety and welfare of the public; provided that if the Immediate Suspension period shall exceed 7 days after issuance of the Order of Immediate Suspension, the Airport Director shall initiate proceedings for Suspension or Revocation through issuance of an appropriate notice.

89.3 Suspensions

a. Conduct

A Company Permit or AVI Tags for specific Vehicles may be suspended for violations of this Ordinance.

b. Notice of Suspension

The Airport Director shall have the authority to issue a Notice of Suspension. The Notice of Suspension shall set forth:

1. the nature of the violation(s) which is the reason for the Suspension;
2. the date of the violation(s);
3. the length of the Suspension;
4. the date on which the Suspension shall commence;
5. the date of the Notice of Suspension; and
6. the right to a hearing.

The Airport Director shall review any report brought to his/her attention and may conduct additional investigation into such facts as deemed necessary in order to determine whether there are grounds for issuance of a Notice of Suspension. A Suspension shall commence not earlier than 15 days from the issuance of a Notice of Suspension or, where a hearing is requested, the final action of the Commission sustaining the Suspension under Section 89.5.

c. Duration

The Suspension shall be for such time as is ordered by the Airport Director not to exceed 6 months.

d. AVI Tag Deactivation

Upon the commencement of a Suspension, the Commission may deactivate the AVI Tag(s) for the Operator's affected Vehicle or Vehicles for the length of the Suspension.

**89.4** Revocations

a. Conduct

A Company Permit or AVI Tag(s) for specific Vehicles may be revoked where any one of the following exist:

1. A violation(s) for which a Notice of Suspension may issue where the violator has had a previous Suspension within 12 months prior to the violation.
2. Violations that indicate a willful or reckless disregard for, and which has an immediate impact on the health, safety or welfare of the public.

b. Notice of Revocation

The Airport Director shall have the authority to issue a Notice of Revocation. The Notice of Revocation shall set forth:

1. the nature of the violation(s) which is the reason for the Revocation;

2. the date of the violation(s);
3. the length of the Revocation;
4. the date on which the Revocation shall commence;
5. the date of the Notice of Revocation; and
6. the right to a hearing.

The Airport Director shall review any report brought to his/her attention and may conduct additional investigation into such facts as deemed necessary in order to determine whether there are grounds for issuance of a Notice of Revocation. A Revocation shall commence not earlier than 15 days from the issuance of the Notice of Revocation or, where a hearing is requested, the final action of the Commission sustaining the Revocation under Section ~~89~~.5.

c. Duration

The Revocation shall be for 2 years. The Operator shall be eligible to reapply as follows:

1. If the Company Permit (applying to all the Operator's Vehicles) is revoked, the Operator shall not be granted a Company Permit for any Vehicle for a period of 2 years from the date on which the Revocation commences.
2. If the AVI Tags for fewer than all the Operator's Vehicles under the Company Permit are revoked, for a period of 2 years after the date on which the Revocation commences, the total number of AVI-Tagged Vehicles the Operator is eligible to operate shall be the number of Vehicles under the Permit prior to the Revocation minus the number of Vehicles revoked.

~~89~~.5 Procedure

- a. These procedures shall apply to Persons receiving a Notice of Suspension or Revocation but not Order for Immediate Suspension.
- b. Any Person receiving a Notice of Suspension or Revocation may request a hearing before a Hearing Officer. Such request must be made in writing and received by the Airport Director within 15 days after the Suspension or Revocation has been issued.
- c. If the Person requests a hearing, the Airport Director shall so advise the Executive Director, who shall appoint a Hearing Officer to conduct the hearing. The Hearing Officer shall set a time for such hearing to be held as soon as practical. The Airport Director shall notify the Operator or Driver of the time and place of the hearing not less than 5 days before the time set for the hearing.
- d. The hearing shall be conducted by the Hearing Officer, shall be recorded by electrical or mechanical recorder or by a qualified reporter, and shall proceed as follows:

1. The Airport Director shall present evidence, which supports the facts constituting grounds for the Notice.
2. The Person requesting the hearing may appear in person, may be represented by counsel, may cross-examine Airport Director's witnesses who are present, and may present any relevant evidence which the Operator or Driver has relating to the facts constituting grounds for the Notice. The evidence at the hearing shall be limited to that which is relevant to the facts constituting grounds for the Notice.
3. All testimony shall be taken under oath, but both the Airport Director and the Person requesting the hearing may introduce testimony under oath in the form of sworn statements if witnesses are unavailable or refuse to appear in person.
4. The Hearing Officer shall hear the evidence and shall make recommended findings concerning the facts and penalty relevant to the violation(s) set forth in the Notice. The Hearing Officer shall make no recommended findings concerning any substantive issue other than the facts underlying the Notice.
5. The Hearing Officer shall issue a report in writing stating his/her recommended findings as soon as practical following the hearing.
6. Either the Airport Director or the Person requesting the hearing may request review of the Hearing Officer's report by the Executive Director. The review must be requested by filing with the Executive Director a written Request for Review within 10 days of the date of the Hearing Officer's report. The Request for Review must state reasons for reversing or vacating the report. The party not requesting review may submit a written Response to the Request for Review within 10 days of the date of the Request for Review. Based on the record of the hearing, the Request for Review and the Response, the Executive Director shall issue a written ruling that affirms, reverses or vacates the Hearing Officer's report or modifies the penalty imposed. The Executive Director may order remand to a Hearing Officer for a new hearing, a supplemental hearing and/or for additional findings.
7. Where review is requested, the Executive Director's ruling shall be the final action of the Commission. Where review is not requested within 10 days, the Hearing Officer's report shall be the final action of the Commission.

**89.6** Delayed Suspension Repair Notice

a. Conduct

MAC Representatives may issue to the Operator or Driver of any Commercial Vehicle a Delayed Suspension Repair Notice upon observing that the Vehicle is damaged or in need of repair, but which do not relate to the ability of the Vehicle to safely convey passengers.

b. Contents of Notice

The Delayed Suspension Repair Notice shall set forth:

1. The nature of the violation(s).
2. The date on which the violation(s) took place.
3. The date by which the repair of such violation(s) must take place ("repair date"), which shall be up to 30 days from the date of the violation.
4. Notice that the AVI Tag for the Vehicle shall be deactivated on the repair date without further notice unless the Vehicle has passed inspection by a MAC Representative.

c. Duration

A Suspension pursuant to a Delayed Suspension Repair Notice shall be for such time until the Vehicle passes an inspection by a MAC Representative.

d. Other Actions Not Precluded

Any Delayed Suspension Repair Notice shall be without prejudice to other enforcement actions taken under this section.

e. Review

Any Delayed Suspension Repair Notice shall be reviewable by the Airport Director upon written request.

**SECTION 910 - NOTICE**

**910.1** Notice to Individuals

Notice as required by Section **89**, or any other notice required by this Ordinance to be given to an individual or Company, is sufficient if delivered in person, sent by U.S. mail to the last address on file with the Commission, or transmitted by fax. Time of "issuance" means when the notice is hand delivered, placed in the mail, or faxed.

**910.2** Posted Notice

Notice of Commission meetings to review fees, notice of meetings, and notice of issues that affect numerous Operators shall be sufficient if posted outside the Commission meeting room or in other location reasonably calculated to provide notice. Changes to fees (that require Commission action) shall be posted in such manner 30 days prior to implementation.

**SECTION 4011 - GENERAL PROVISIONS**

**4011.1 Penalty**

Any Person violating any of the provisions of this Ordinance shall upon conviction be punished by sentence within the parameters of the maximum penalty for misdemeanors set forth in Minn. Stat. § 609.03 or as amended.

**4011.2 Provisions Severable**

If any part of this Ordinance shall be held unconstitutional or invalid, this does not affect the validity of the remaining parts of this Ordinance. The Commission declares it would have passed the remaining parts of this Ordinance without the unenforceable provisions.

**4011.3 Repealer**

As of the effective date of this Ordinance, Ordinance No. ~~8593~~ is repealed.

**4011.4 Time Periods**

The time periods set forth in this Ordinance shall be based on calendar days unless otherwise specified.

**4011.5 Effective Date**

This Ordinance is effective ~~July~~~~March~~~~February~~ 1, ~~2000-2010~~.

**SCHEDULE I**  
**SCHEDULE OF FEES**

Annual Permit Fee*	\$60.00
Per-Trip Fee for <del>March</del> <u>November</u> 11, 2000 – <del>March</del> <u>2009</u> - <del>November</del> 10, <del>2004</del> <u>2010</u>	\$ <del>2.03</del> <u>31</u>
AVI Tag <del>Deposit</del> <u>Activation Fee</u>	\$50.00

Dwell Rate\*:

Class I Vehicles		Class II Vehicles	
0 - 10:59 minutes	\$ 0.00	0 - 20:59	\$ 0.00
11:00 - 20:59	\$ 1.00	21:00 - 30:59	\$ 1.00
each additional		each additional	
10 minute increment	\$ 2.00	10 minute increment	\$ 2.00

~~Cash~~

eTrip Lane Trip Fee\* \$ 6.00

~~Cash Lane Lost Ticket Fee\* \$20.00~~

~~Auto Rentals Agencies 8½% of Gross Receipts through December 31, 2004~~

~~Auto Rental Agency Privilege Fee 10% of Auto Rental Gross Receipts~~

~~Off-Airport Parking Company Per-Trip Privilege Fee (paid in addition to the Per-Trip Fee):~~

<u>Period</u>	<u>Per Trip Privilege Fee</u>
<u>Ordinance Effective Date – November 10, 2010</u>	<u>\$2.50</u> <del>See Section 8.2</del>
<u>November 11, 2010 – November 10, 2011</u>	<u>10.5 times then current Per-Trip Fee</u>
<u>November 11, 2011 – and thereafter</u>	<u>2.0 times t</u> <del>Then current Per-Trip Fee</del>

Late Fee*	\$5.00 or 1% per month past due, whichever is greater
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Fees are subject to annual review by the Commission according to Section 6.8.

\* These fees may be adjusted periodically by the Airport Director under Sections 6.1, 6.4, 6.5 and 6.6. Check with Landside Operations for current amounts.