



SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT

Item No.
16

Meeting Date: APRIL 7, 2011

Subject:

Amend Authority Code 9.19, Ground Transportation – Non-Transferable

Recommendation:

Adopt Resolution No. 2011-0048, amending Authority Code 9.19, Ground Transportation, Providing Certain Ground Transportation Service Permit Holder Requirements and Amending the Restrictions on the Transfer of Ground Transportation Service Permits at San Diego International Airport.

Background/Justification:

On March 3, 2011, the Board authorized execution of Memorandums of Agreement ("MOAs") with locally formed taxicab and shuttle van industry associations and SuperShuttle, San Diego, for the purpose of improving ground transportation operations at San Diego International Airport ("SDIA"). The Board considered the stated objectives of the new industry associations to be to improve lines of communication with the Authority, enhance customer service, and achieve improved standards for vehicle appearance and safety. The Authority staff presented an SDIA Ground Transportation Improvement Program that included numerous improvement objectives and timelines to be addressed in the proposed MOAs. Industry representatives expressed a willingness to participate in the proposed new Program and to execute MOAs based in part on the Authority's commitment to supporting their operations and improving operating conditions at SDIA.

The Board was advised that the Authority issues taxicab permits on an annual basis with all such permits expiring on June 30th of each year. The Board was further informed that the Authority issues taxicab permits with a provision that provides that any transfer in violation of the taxicab permit provisions is void and shall entitle the Authority, at its option, to terminate the permit, and further that the acceptance of trip fees or other fees or charges by the Authority or the continuation of operations by the permit holder or the proposed transferee is not a waiver of the Authority's right to terminate the permit on account of the permit holder's failure to secure the Authority's prior written consent.

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The Board approved requiring all taxicab permit holders to affiliate with an industry association of their choosing. In order to be recognized by the Authority, an association must consist of a minimum membership of at least five (5) taxicab permit holders. As a further condition to recognition by the Authority of an association and eligibility to enter into an MOA an association must ensure non-discrimination in the opportunity for association membership/participation and demonstrate an absence of any conflicts of interest.

The Board further considered measures to improve the administrative control over the permitted use and monetary value of taxicab permits operating at SDIA. After considering input from the taxicab industry, community members and staff, the Board approved restrictions on transfers with the plan outlined below. The plan allows for a period of time until the new restrictions become effective, recognizes the monetary and time investment taxicab permit holders have made in their permits, provides for some amortization of the permit value and introduces a transaction fee into the transfer process after 2014. The Board continues to adhere to its policy that all ground transportation services permits, including those for taxicabs, expire each year and the Board retains the sole discretion to renew or not renew such permits. The proposed restrictions on transfers, as stated below, apply where the Authority decides to continue issuing said permits on an annual basis in the future.

The Board acted to restrict the future transfer of taxicab permits by adopting the following schedule and fees, which will apply only in the event the Board exercises its discretion each year to issue ground transportation permits for taxicabs:

- Until June 30, 2014, a taxicab permit holder no longer wishing to operate under or renew a permit must return the permit to the Authority's control or, with the approval of the Authority, transfer the service permit to an eligible recipient.
- Beginning July 1, 2014, taxicab permit holders no longer wishing to operate under or renew a permit must return the permit to the Authority's control, or, with the approval of the Authority, may transfer the permit to an eligible recipient for a fee of \$3,000. The new taxicab permit holder must acknowledge in writing that when he/she no longer wishes to operate under or renew the permit, the permit is to be returned to the Authority.

The attached proposed Code Section 9.19 incorporates the Board's directions to implement restrictions of the transferability of taxicab permits, while retaining all ownership rights and regulatory options in controlling the issuance and use of taxicab ground transportation service permits at SDIA.

The amended Code states explicitly that the Authority's approval of any transfer of a taxicab ground transportation service permit, now and in the future, does not grant any operating right to any taxicab permit holder beyond the one-year term of the permit holder's current year permit.

The amended Code specifies that the Authority retains the right to issue new, replacement taxicab permits at a time of its choosing or prohibit transfers at an earlier date than provided for above.

The amended Code provides that the taxicab ground transportation service permit is personal to the permit holder and that the permit holder may not assign, transfer, license, convey, or sell the permit, or any rights thereunder, whether voluntarily or by operation of law, without prior written approval of Authority.

Fiscal Impact:

No fiscal impacts are anticipated with the adoption of permit transfer restrictions until July 2014. Actual Authority administrative expenses for managing ground transportation service permits will be included in the expense allocation methodology used in the Authority's Cost Recover System for the Ground Transportation Program.

Environmental Review:

- A. CEQA: This Board action, as an administrative action, is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act ("CEQA"), as amended. 14 Cal. Code Regs. §15378. This Board action is not a "project" subject to CEQA. Cal. Pub. Res. Code §21065.
- B. California Coastal Act: This Board action is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code §30106.

Equal Opportunity Program:

Not applicable.

Prepared by:

VERNON EVANS
VICE PRESIDENT, FINANCE/TREASURER

RESOLUTION NO. 2011-0048

A RESOLUTION OF THE BOARD OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY AMENDING CODE 9.19, GROUND TRANSPORTATION, PROVIDING CERTAIN GROUND TRANSPORTATION SERVICE PERMIT HOLDER REQUIREMENTS AND AMENDING THE RESTRICTIONS ON THE TRANSFER OF GROUND TRANSPORTATION SERVICE PERMITS AT SAN DIEGO INTERNATIONAL AIRPORT

WHEREAS, the San Diego County Regional Airport Authority ("Authority") desires to improve Taxicab and Vehicle for Hire operations and ground transportation service delivery at San Diego International Airport ("Airport"); and

WHEREAS, the Board has authorized the execution of Memorandums of Agreement ("MOAs") with local Airport Taxicab and Vehicle for Hire industry associations and SuperShuttle, San Diego, formed for the purpose of implementing various customer service improvements, accelerating environmental regulatory compliance programs and strengthening adherence to the Americans with Disabilities Act; and

WHEREAS, local Taxicab operators serving the Airport have formed industry associations that are free of discrimination in the opportunity for association membership/participation by all Airport permit holders and whose designated representatives are free of conflicts of interest, and

WHEREAS, the President/CEO has been delegated powers and authority to implement codes and policies enacted by the Board for the purpose of properly administrating and regulating ground transportation operations at the Airport; and

WHEREAS, the amended Code further provides that the President/CEO may, as a condition of issuing a Ground Transportation Service Permit, vehicle decal and/or driver permit require the holder of said Ground Transportation Service Permit to join an Authority-approved industry association consisting of a minimum number of Airport permit holders to be determined by the President/CEO; and

WHEREAS, the Authority desires to improve the administrative control and permitted use of Taxicab ground transportation service permits at the Airport with the intent to restrict their future transferability; and

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WHEREAS, the Board desires to restrict the ability of Taxicab Permit holders to effect transfers of Taxicab Permits and to take appropriate steps to restrict their transfer; and

WHEREAS, the Board has absolute discretion to authorize the issuance of Taxicab Permits on an annual basis; and

WHEREAS, the Board may exercise its discretion to not authorize the renewal of Taxicab Permits at any time; and

WHEREAS, holders of Taxicab Permits shall have no expectation of or right of renewal in those Taxicab Permits; and

WHEREAS, the Board considered various measures to provide increased control of the transferability of Taxicab Permits and a schedule for implementation of such controls; and

WHEREAS, since January 2010, the Board has received public comment from the local taxicab industry and taxicab association, members of the public and staff on proposed modifications to the present taxicab permitting system; and

WHEREAS, on March 3, 2011, the Board found it reasonable and prudent to allow for a period of time until the Taxicab Permit restrictions become effective and to recognize the monetary and time investment Taxicab Permit holders have made in the Taxicab Permit and to provide for some amortization of the Permit's present and accrued value and to introduce a transaction fee into the Taxicab Permit transfer process after June 30, 2014; and

WHEREAS, in the event the Board exercises its discretion to issue Taxicab Permits for any subsequent one-year period after June 30, 2014, holders of Taxicab Permits no longer wishing to operate under a Taxicab Permit must do one of the following:

1. Return the Taxicab Permit to the Authority; or
2. Transfer the Taxicab Permit to an Authority-approved recipient ("Transferee"), and
 - a. Pay the Authority a one-time transfer fee of \$3,000, and
 - b. Advise the Transferee in a writing approved by the Authority that the Taxicab Permit is no longer transferrable and must be returned to the Authority if he/she no longer wishes to operate under the Taxicab Permit; and

WHEREAS, the Board reserves the right to move up the prohibition date on Taxicab Permit transfers to an earlier date than specified above and/or to direct staff to withhold consent to any requests for transfer during the interim time for any reason; and

WHEREAS, notwithstanding the MOAs being negotiated by the parties may have a term that extends beyond the one-year term of the respective ground transportation service permits (which grants the right to conduct business on the Airport), the MOAs, if executed, do not and shall not grant any operating right to any permit holder beyond the one-year term of the permit holder's current year permit; and

WHEREAS, the amended Authority Code Section 9.19 incorporates the Board's decisions in restricting future Taxicab Permit transferability while retaining all ownership rights and regulatory options in controlling the distribution and use of taxicab ground transportation service permits at San Diego International Airport; and

WHEREAS, the amended Authority Code states explicitly that the Authority's approval of any transfer of a Taxicab Permit, now and in the future, does not grant any operating right to any taxicab permit holder beyond the one-year term of the permit holder's current year permit; and

WHEREAS, the amended Code specifies that the Authority retains the right to issue new, replacement taxicab permits at a time of its choosing or prohibit transfers to an earlier date than provided for above; and

WHEREAS, the amended Code provides that the Taxicab Permit is personal to the permit holder and that the permit holder may not assign, transfer, license, convey, or sell the permit, or any rights there under, whether voluntarily or by operation of law, without prior written approval of Authority; and

WHEREAS, the Taxicab Permit provides that any transfer in violation of the Taxicab Permit provisions is void and shall entitle the Authority, at its option, to terminate the permit, and further that the acceptance of trip fees or other fees or charges by the Authority or the continuation of operations by the permit holder or the proposed transferee is not a waiver of the Authority's right to terminate the permit on account of the permit holder's failure to secure the Authority's prior written consent.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby ADOPTS the findings stated above and amends Authority Code 9.19 as shown in Attachment A, and DIRECTS staff to take the actions necessary to implement the actions specified in the amended Code Sections; and

BE IT FURTHER RESOLVED that the Board FINDS that this action is not a "project" as defined by the California Environmental Quality Act ("CEQA"), Cal. Pub. Res. Code §21065; and is not a "development" as defined by the California Coastal Act, Cal. Pub. Res. Code §30106.

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PASSED, ADOPTED, AND APPROVED by the Board of the San Diego
County Regional Airport Authority at a regular meeting this 7th day of April, 2011,
by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

TONY R. RUSSELL
DIRECTOR, CORPORATE SERVICES/
AUTHORITY CLERK

APPROVED AS TO FORM:

BRETON K. LOBNER
GENERAL COUNSEL

DRAFT VERSION 3-18-11BKL**SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY****CODES**

ARTICLE 9 - SAN DIEGO INTERNATIONAL AIRPORT
PART 9.1 - GROUND TRANSPORTATION
SECTION 9.19 - ISSUANCE AND NON-TRANSFERABLE

(a) Issuance of Ground Transportation Service Permits, vehicle decals and driver permits

(1) Ground Transportation Service Permits, vehicle decals and driver permits are issued by the San Diego County Regional Airport Authority ("Authority") for the purpose of granting the privilege to conduct business and ~~to regulate the conduct of~~ provide ground transportation services at San Diego International Airport.

(2) A Ground Transportation Service Permit, vehicle decal and driver permit is personal to the individual to whom it is issued.

(3) The Authority has absolute discretion to authorize the issuance of Ground Transportation Service Permits, vehicle decals and/or driver permits on an annual basis.

(4) The Authority may exercise its discretion to not authorize the renewal of Ground Transportation Service Permits, vehicle decals and/or driver permits or to change the way Ground Transportation Service Permits, vehicle decals and/or driver permits are ~~granted or~~ allocated at any time.

(5) Holders of Ground Transportation Service Permits, vehicle decals and driver permits shall have no expectation of or right of renewal in ~~any~~ these Ground Transportation Service Permits, vehicle decals ~~and~~ driver permits.

(6) The President/Chief Executive Officer ~~CEO~~ or his or her designee (the "President/CEO") may require, as a condition of issuing a Ground Transportation Service Permit, ~~vehicle decal and/or driver permit~~ that the holder of said Ground Transportation Service Permit, ~~vehicle decal and/or driver permit~~ shall join an Authority-approved industry association where said association is all of the following:

i. a legal entity consisting of a minimum number, to be determined by the President/CEO, of holders of similar Ground Transportation Service Permits, ~~vehicle decals and driver permits~~; and

ii. open to all holders of ~~all~~ similar Ground Transportation Service Permits, ~~vehicle decals and driver permits~~ on a fair, equitable and nondiscriminatory basis; ~~and; and~~

- iii. a party to a memorandum of agreement with the Authority concerning ground transportation operations at San Diego International Airport; and:
- iv. in compliance with such other requirements as determined by the President/CEO as being in the best interests of the Authority.

~~(a)~~ Transferability.

(b)

(1) The holder of a ~~(a) A Ground Transportation Service Permit, vehicle decal or driver permit~~ Ground Transportation Service Permit, vehicle decal ~~and~~ driver permit shall not in any manner, directly or indirectly, by operation of law or otherwise, ~~sell, be assigned, hypothecated, transferred or encumber~~ (~~“transfer”~~) ~~ed~~ in whole or in part ~~(collectively a “transfer”)~~ said Permit, decal or driver permit without the prior express written consent of the ~~President/CEO, Executive Director or his or her designee~~ (the ~~“President/CEO”~~ ~~“Executive Director”~~) of the San Diego County Regional Airport Authority (the “Authority”)

- i. In the event the holder of a Ground Transportation Service Permit, vehicle decal and/or driver permit is a corporation, partnership or legal entity other than a natural person, ~~said the~~ prior written consent of the President/CEO shall be required for ~~any~~ transfer of ~~any~~ stock, interest, ~~majority~~ ownership or control of that corporation, partnership or legal entity ~~to a person or group of persons acting in concert, none of whom already owns or controls a majority interest. Any such transfer occurring without such prior written consent shall constitute a failure to comply with this provision.~~
- ii. The Authority President/CEO may deny any request to transfer a Ground Transportation Service Permit, vehicle decal and/or driver permit in his or her absolute discretion. -

(b) — Ground Transportation Service Permits are issued by the Authority for the expressed purpose of properly regulating the conduct of ground transportation services at San Diego International Airport and provide that the permit is personal to the Permi24)

Taxicabs.

In the event the Board exercises its discretion to issue Ground Transportation Service Permits, ~~vehicle decals and/or driver permits~~ for taxicabs (“Taxicab Permits”) for any subsequent one-year period after June 30, 2014, the holders of ~~any Taxicab~~ Taxicab Permits no longer wishing to operate under ~~said~~ Taxicab Permit must do one of the following:

- i. Return the Taxicab Permit to the Authority; or
- ii. Transfer the Taxicab Permit to an Authority-approved recipient (“Transferee”), and
 - a. pay the Authority a one-time transfer fee of \$3,000,

- and
- b. secure the prior written consent of the President/CEO, and
 c. advise the Transferee in a writing approved by the Authority that the Taxicab Permit is no longer transferrable and must be returned to the Authority if the Transferee/she no longer wishes to operate under the Taxicab Permit.

Holder and that the Permit Holder may not assign, transfer, license, convey, or sell the permit, or any rights thereunder, whether voluntarily or by operation of law, without prior written approval of Authority; and

(e) Until June 30, 2014, Taxicab Permit Holders no longer wishing to operate under or renew a ground transportation service permit must return the permit to the Authority's control or, with the approval of the Authority, transfer the service permit to an eligible recipient.

(d) Beginning July 1, 2014, Taxicab Permit Holders no longer wishing to operate under or renew a permit must return the permit to the Authority's control, or, with the approval of the Authority, transfer the service permit to an eligible recipient for a fee of \$3,000. The new Permit Holder must acknowledge, in writing, that when he/she no longer wishes to operate under or renew the permit, the permit is to be returned to the Authority's sole possession and control.

Notwithstanding Code Sections contained herein providing for the transfer of ground transportation service permits at San Diego International Airport, the Authority retains exclusive ownership rights to all ground transportation service permits at San Diego International Airport and has the absolute discretion to authorize the issuance of new replacement permits on an annual basis in 2011, 2012, 2013 and the years thereafter, or to, alternatively, not issue new permits and further retains the right to advance the prohibition date on permit transfers to an earlier date than specified in Section 9.19 (e) and/or to withhold consent to any requests for transfer during the interim time for any reason.

The Authority's approval of any transfer of a ground transportation service permit, now and in the future, does not grant any operating right to any permit holder beyond the one year term of the permit holder's current year permit.

(b) In the event that the Permit Holder is a corporation, partnership or legal entity other than a natural person, said prior consent of the President/CEO Executive Director shall be required for any transfer or acquisition of a majority ownership or control of that corporation, partnership or legal entity to a person or group of persons acting in concert, none of whom already owns or controls a majority interest. Any such acquisition or transfer occurring without such prior consent shall constitute a failure to comply with this provision.

(35e) Vehicles for Hire.

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- i. In addition to Subsections (a) and (b) above, if the holder of a proposed transfer of a Ground Transportation Vehicle Service Permit for Vehicles for Hire proposes to permit covers the transfer of all said vehicle decals issued to the holder, an authorized operator, the vehicle decals may may be transferred to any one person or entity- provided authorized to provide such service that person or entity is approved by the California Public Utilities Commission and the prior written consent of the President/CEO is obtained upon Authority approval.
- ii. If the holder of a Ground Transportation Service Permit for Vehicles for Hire proposes to transfer only a portion of itself vVehicle for Hire ddecals covers the transfer of only a portion of said decals issued to an authorized operator, the vehicle decals may only be transferred to another existing authorized person or entity hooperator at the San Diego International Airport that holdings a current valid Ground Transportation Service Permit for Vehicles for Hire Vehiele for Hire permit and only after first obtaining the prior written consent of the President/CEO.

[Resolution No. 2002-02 dated September 20, 2002.]

[Superseded by Resolution No. _____ dated _____.]

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

CODES

- ARTICLE 9 - SAN DIEGO INTERNATIONAL AIRPORT**
PART 9.1 - GROUND TRANSPORTATION
SECTION 9.19 - ISSUANCE AND TRANSFER
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(a) Issuance of Ground Transportation Service Permits, vehicle decals and driver permits

(1) Ground Transportation Service Permits, vehicle decals and driver permits are issued by the San Diego County Regional Airport Authority (“**Authority**”) for the purpose of granting the privilege to conduct business and provide ground transportation services at San Diego International Airport.

(2) A Ground Transportation Service Permit, vehicle decal and driver permit is personal to the individual to whom it is issued.

(3) The Authority has absolute discretion to authorize the issuance of Ground Transportation Service Permits, vehicle decals and/or driver permits on an annual basis.

(4) The Authority may exercise its discretion to not authorize the renewal of Ground Transportation Service Permits, vehicle decals and/or driver permits or to change the way Ground Transportation Service Permits, vehicle decals and/or driver permits are granted or allocated at any time.

(5) Holders of Ground Transportation Service Permits, vehicle decals and driver permits shall have no expectation of or right of renewal in any Ground Transportation Service Permit, vehicle decal or driver permit.

(6) The President/Chief Executive Officer or his or her designee (the “**President/CEO**”) may require, as a condition of issuing a Ground Transportation Service Permit that the holder of said Ground Transportation Service Permit join an Authority-approved industry association where said association is all of the following:

- i. a legal entity consisting of a minimum number, to be determined by the President/CEO, of holders of similar Ground Transportation Service Permits; and
- ii. open to all holders of similar Ground Transportation Service Permits on a fair, equitable and nondiscriminatory basis; and
- iii. a party to a memorandum of agreement with the Authority concerning ground transportation operations at San Diego International Airport; and
- iv. in compliance with such other requirements as determined by the President/CEO as being in the best interests of the Authority.

(b) Transferability.

(1) The holder of a Ground Transportation Service Permit, vehicle decal or driver permit shall not in any manner, directly or indirectly, by operation of law or otherwise, sell, assign, hypothecate, transfer or encumber ("transfer") in whole or in part said Permit, decal or driver permit without the prior express written consent of the President/CEO.

- i. In the event the holder of a Ground Transportation Service Permit, vehicle decal and/or driver permit is a corporation, partnership or legal entity other than a natural person, the prior written consent of the President/CEO shall be required for any transfer of *any* stock, interest, ownership or control of that corporation, partnership or legal entity.
- ii. The President/CEO may deny any request to transfer a Ground Transportation Service Permit, vehicle decal and/or driver permit in his or her absolute discretion.

(2) Taxicabs. In the event the Board exercises its discretion to issue Ground Transportation Service Permits for taxicabs ("Taxicab Permits") for any subsequent one-year period after June 30, 2014, the holder of any Taxicab Permit no longer wishing to operate under said Taxicab Permit must do one of the following:

- i. Return the Taxicab Permit to the Authority; or
- ii. Transfer the Taxicab Permit to an Authority-approved recipient ("Transferee"), and
 - a. pay the Authority a one-time transfer fee of \$3,000,
 - b. secure the prior written consent of the President/CEO, and
 - c. advise the Transferee in a writing approved by the Authority that the Taxicab Permit is no longer transferrable and must be returned to the Authority if the Transferee no longer wishes to operate under the Taxicab Permit.

(3) Vehicles for Hire.

- i. If the holder of a Ground Transportation Service Permit for Vehicles for Hire proposes to transfer all vehicle decals issued to the holder, the vehicle decals may be transferred to any one person or entity provided that person or entity is approved by the California Public Utilities Commission and the prior written consent of the President/CEO is obtained.

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- ii. **If the holder of a Ground Transportation Service Permit for Vehicles for Hire proposes to transfer only a portion of its vehicle decals, the vehicle decals may only be transferred to another person or entity holding a current valid Ground Transportation Service Permit for Vehicles for Hire and only after first obtaining the prior written consent of the President/CEO.**

[Resolution No. 2002-02 dated September 20, 2002.]

[Supceded by Resolution No. _____ dated _____.]

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