



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 12/6/2016

Agenda Placement: 6E

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors

**FROM:** Steven Lederer - Director of Public Works  
Airport

**REPORT BY:** Kathy Wagenknecht, Staff Services Analyst II - 259-8683

**SUBJECT:** Approval of Amendment No. 3 to Lease Agreement No. 8211 with McCann, Inc., dba The Runway  
By Patrick

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### **RECOMMENDATION**

Director of Public Works requests approval of and authorization for the Chairman to sign Amendment No. 3 to the Airport Lease Agreement No. 8211 with McCann, Inc. for the purpose of amending a portion of the "Runway by Patrick" Restaurant Lease Agreement reducing their monthly rent, establishing a payment plan for the payment of owed rent, penalties and fees and amending the term of the agreement to extend the initial term through 2022.

### **EXECUTIVE SUMMARY**

Lease Agreement No. 8211 with McCann, Inc. to operate "The Runway by Patrick" restaurant was approved on September 9, 2014. The requested action would be the third amendment to the lease agreement. Since opening in 2014, "The Runway by Patrick" has had less than anticipated business traffic due to the delay in the commencement of operations at the International Airline Training Academy (IATA) and has requested reduced lease amounts from the County to be able to continue operating at the Airport. Amendment No. 1 was approved on May 5, 2015 and reduced the base rent from \$5,000 to \$500 per month from October 1, 2014 through December 31, 2014 after which time rent was scheduled to increase on an annual basis. The amendment also allowed for a credit of \$9,000 used towards future rental payments. Amendment No. 2 was approved on October 6, 2015 and reduced rental payments for the time period October 1, 2015 through December 31, 2015 to \$500 per month to ensure the continued operation of the restaurant again increasing the rent after that period. It also extended the First Option period.

Operations at IATA have still yet to fully commence, and McCann, Inc. has incurred approximately \$70,000 in past due rent and penalties/fees now owed to the County. Based on the benefits to the County of having an operational restaurant at the Airport to serve the public and Airport customers, staff is recommending approval of Amendment No. 3 which will amend the initial term, option period, lease rent, and late charge calculation and will include the

addition of a past due payment plan. The Initial term end date will be extended from December 31, 2015 to December 31, 2022. The first option term will begin on January 1, 2023 for four additional years.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Airport-Operations Budget (Fund 5010, Sub-Division 5010000).
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Due to the delay in the initiation of flight school operations at the Airport, McCann, Inc. has experienced significantly lower than expected return on their investment in the lease. As it is a benefit to the public and general airport clientele for a restaurant operation to be located on-site, this amendment would allow McCann, Inc. to continue operations while the flight school operations continue to move forward, as well as provide payment of owed lease and penalty fees to the County.
Is the general fund affected?	No
Future fiscal impact:	The restaurant will be able to remain open and the County will benefit by payment of on-going lease amounts and owed lease and penalties. The Lessee will pay \$1 per month rent effective December 1, 2016 plus \$1,026 per month beginning on April 1, 2017 for past due rent and late fees through December 31, 2018 after which time the monthly rent will begin to increase annually and payment for past due amounts will continue until all debt is completely absolved. Beginning on January 1, 2023 there is one option period of four years. Rent will increase to \$5,500 per month at that time.
Consequences if not approved:	The restaurant is still undergoing financial challenges. Even if approved, there is no guarantee that the restaurant will survive, and although IATA continues to pay their rent, there is no indication as to when they will actually be up and operating. If the rent is not reduced it is likely that the restaurant will not be able to operate and the Airport would lose this amenity. If the Board chooses not to adopt the amendment, and assuming the restaurant does go out of business, it is likely that we would leave the facility vacant until IATA does finally start bringing in students. We would then go back out with a new solicitation at that time to attempt to find a new operator.
Additional Information:	

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

On September 9, 2014 the Board of Supervisors approved Lease Agreement No. 8211 between the County of Napa and McCann, Inc. for the purpose of operating a new restaurant, The Runway By Patrick which is located at the Napa County Airport. The lease with McCann, Inc. commenced on October 1, 2014 for one year with two additional option terms. The lease space includes 7,185 square feet of restaurant dining, bar, lunch counter, food preparation, storage and office areas. Also included is an outside wash/service area and 2,002 square feet of the non-exclusive use of the entryway, lobby and restrooms of the Administration Building.

Taking into account all of the required tenant improvements, and the delay in commencement of operations by International Airline Training Academy (IATA) which caused a delay in anticipated restaurant business from IATA, Amendment No. 1 was approved on May 5, 2015 reducing the \$5,000 rent to \$500 for the time period October 1, 2014 through March 31, 2015, and the restaurant received a credit of \$9,000 used towards future rental payments. Amendment No. 2 was approved on October 6, 2015 to reduce rental payments for the time period October 1, 2015 through December 31, 2015 to \$500 per month to ensure the continued operation of the restaurant.

As of this date, IATA has not started student operations. In order to continue offering quality food service at the Napa County Airport, it is again necessary to amend a portion of the Lease Agreement regarding Rent and Late Charges. Amendment No. 3 to Lease No. 8211 includes the following adjustments:

- | The amended initial lease term, which in the previous lease amendment ended on December 31, 2015, will end on December 31, 2022.
- | A revised rent schedule is included in the amendment. Rent paid from December 1, 2016 to December 31, 2018 will be reduced to \$1 per month after which time it is expected that IATA will be fully operational. Base monthly rent will increase to \$500 beginning on January 1, 2019; \$1,000 per month on January 1, 2020; \$2,000 per month on January 1, 2021 and \$3,000 per month on January 1, 2022.
- | The First Option Period of the lease will begin on January 1, 2023 and will extend the lease by one additional period of four years. On January 1 of the option term, the base rent of \$5,500 per month will also include a compounded annual increase based on the Consumer Price Index with a minimum of 3% and maximum of 5%
- | As of December 1, 2016 the restaurant owes \$70,750 in past due rent and late fees. This amount will be paid back over the term beginning April 1, 2017 to December 31, 2022 in the amount of \$1,026.36 per month.
- | If the monthly lease or payment plan payments are not received within 10 days of the due date then the entire remaining amount due that is subject to the payment plan will be subject to the late payment provisions. The County would also have the option to pursue termination of the lease at that time.

The Runway By Patrick is open Tuesday - Saturday from 11:30 a.m. to 8:00 p.m. and closed Sundays and Mondays.

### **SUPPORTING DOCUMENTS**

None

CEO Recommendation: Approve

Reviewed By: Bret Prebula