

RESOLUTION NO.

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER OR DESIGNEE TO: (1) NEGOTIATE AND EXECUTE CONCESSION AGREEMENTS (AGREEMENTS) BETWEEN CITY OF SAN JOSE AND RECOMMENDED PROPOSER ENTITIES, SUBJECT TO CERTAIN CONDITIONS, FOR THE CONSTRUCTION AND OPERATION OF FOOD AND BEVERAGE CONCESSIONS AT THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT (AIRPORT) FOR PACKAGES I, II AND III AS LISTED IN THE FOOD AND BEVERAGE REQUEST FOR PROPOSALS (RFP); (2) NEGOTIATE AND MODIFY THE CONCESSION CONCEPT TYPES, LOCATIONS, AND/OR DESIGNS WITH THE RECOMMENDED PROPOSER ENTITIES, AS NEEDED, TO ALIGN THE CONCEPTS WITH THE NEEDS OF THE AIRPORT; AND (3) TERMINATE NEGOTIATIONS WITH ANY OF THE RECOMMENDED PROPOSERS FOR PACKAGES I, II, OR III, IN THE EVENT THAT CITY AND RECOMMENDED PROPOSERS CANNOT AGREE UPON THE TERMS OF THE AGREEMENTS AND NEGOTIATE AND EXECUTE AGREEMENTS WITH THE NEXT HIGHEST-RANKED PROPOSERS, IN ORDER OF THEIR RANKING FOR EACH PACKAGE, UNTIL AN AGREEMENT HAS BEEN REACHED WITH AN OPERATOR**

**WHEREAS**, the City of San José (“City”) owns and operates the Norman Y. Mineta San José International Airport; and

**WHEREAS**, on January 4, 2019, City released a Request for Proposal for Food and Beverage Concession Opportunities at the Airport (“RFP”); and

**WHEREAS**, the RFP was structured into three “Packages” for specific locations of food and beverage concessions; and

**WHEREAS**, concurrent with the action contemplated herein, Council approved the selection of the top-ranking proposers for the RFP's Packages I, II, and III; and

**WHEREAS**, Council desires to authorize the City Manager or designee to:

1. Negotiate and execute Concession Agreement(s) ("Agreements") between City and certain proposer entities, effective from the date of execution by City Manager through June 30, 2035; and
2. Negotiate and modify the concept types, locations, and/or designs with the entities above, as needed, to align the concepts with the needs of the Airport; and
3. Terminate negotiations with any of the recommended proposers for Packages I, II, or III in the event that City and the recommended proposer(s) cannot agree upon the terms of the Agreement, and negotiate and execute Agreements with the next highest-ranked proposers, in order of their ranking for each package, until an Agreement has been reached with an operator;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The City Manager or designee is hereby authorized to:

1. Negotiate and execute Agreements between City and the following entities, effective from the date of execution by the City Manager through June 30, 2035:
  - a. SSP America Inc. for the construction and operation of food and beverage concessions at the Airport listed as Package I of the RFP; and

- b. Elevate Gourmet Brands-SJC Group for the construction and operation of a food and beverage concession at the Airport listed as Package II of the RFP; and
  - c. WSE Group Inc. for the construction and operation of a food and beverage concession at the Airport listed as Package III of the RFP.
2. Negotiate and modify the concept type, concept locations, and/or concept designs with the entities above, as needed, to align the concepts with the needs of the Airport.
3. Terminate negotiations with any of the recommended proposers for Packages I, II, or III in the event that City and the recommended proposer(s) cannot agree upon the terms of the Agreement(s), and negotiate and execute Agreements with the next highest-ranked proposers, in order of their ranking for each package, until an Agreement has been reached with an operator.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk