



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Mukesh (Mookie) Patel

SUBJECT: See Below

DATE: August 4, 2025

Approved

Date:

8/13/25

COUNCIL DISTRICT: Citywide

SUBJECT: Amendment to the Food and Beverage Concession Agreement with
SSP America SJC, LLC

RECOMMENDATION

- (a) Adopt a resolution authorizing the City Manager or her designee to negotiate and execute an amendment to the Food and Beverage Concession Agreement between the City of San José and SSP America SJC, LLC to:
 - (i) Accept the one-time key money remittance of \$2,820,300 towards the completion of SSP America SJC, LLC's remaining construction projects at the San José Mineta International Airport; and
 - (ii) Revise the construction schedule dates and provide a construction incentive credit of \$850 per day per concession location if the concessions open earlier than the revised construction schedule dates.
- (b) Adopt a resolution authorizing the Director of Aviation or his designee to cancel invoice SJC-25215722 in the amount of \$566,950 along with all associated late fees, subject to the execution of the amendment between the City of San José and SSP America SJC, LLC.

SUMMARY AND OUTCOME

The amendment to the Food and Beverage Concession agreement with SSP America SJC, LLC (SSP) will allow SSP to complete critical concession construction projects at the San José Mineta International Airport (Airport) on a revised construction schedule. As part of the agreement SSP will provide a one-time key money payment of \$2,820,300, in recognition of the unforeseen construction delays and as a commitment to complete the construction projects. After the proposed amendment is executed, the City of San José will cancel invoice SJC-25215722 for \$566,950, along with all associated late fees, as the original construction delay liquidated damages are no longer applicable due to the adjusted construction timeline. To further incentivize early

completion, SSP will receive a construction incentive credit of \$850 per day for each concession location that opens ahead of its revised schedule. This incentive is particularly crucial for ensuring the concessions are open prior to the upcoming major events, including Super Bowl 60 and FIFA World Cup. These measures are designed to provide SSP with the necessary financial incentives and flexibility to complete Airport concession projects swiftly, which will benefit the traveler by providing additional dining options, especially with high-profile events on the horizon.

BACKGROUND

During the COVID-19 pandemic, the City Council granted the City Manager the authority to negotiate and execute amendments to concession agreements to provide temporary financial relief to non-aeronautical concessionaires operating at the Airport. Under this authorization, SSP reconcepted six of its concession locations due to the closure of street-side establishments which necessitated redesigns and adjustments to the construction schedule. In 2021, SSP commenced construction, implementing a phased approach to minimize disruption to passengers. To date, construction has been completed for Stumps, Peet's Coffee, and Pizza My Heart/Einstein's locations.

During the construction of the Pizza My Heart/Einstein, Mi Casa, and Bad Egg/Asian Box locations, SSP's initial contractor failed to complete the work within the amended timeline and subsequently halted all construction activities. SSP made multiple attempts to resolve these construction delays with their contractor, addressing issues such as the quality of workmanship, failure to obtain inspection signoffs, and inaccurate construction schedules, among other concerns. These delays adversely impacted the passenger experience and led to revenue losses for both the operator and the Airport. The Airport estimates that its revenue losses from the construction delays at approximately \$2.8 million.

In 2025, SSP engaged a new contractor with an established track record of successful concession construction projects at the Airport. This decision has proven instrumental in re-energizing and advancing the remaining projects. The new contractor has resumed work on all but one of the outstanding concession construction projects and successfully completed the Pizza My Heart/Einstein construction in May 2025. The sole remaining construction project, The Mission, in Terminal B is slated to commence construction in August 2025, following the anticipated opening of Mi Casa. This sequencing ensures optimized resource allocation and minimizes disruption to concession services in Terminal B. The Mission is estimated to complete construction in April 2026.

Furthermore, in coordination with SSP, the new contractor has conducted a comprehensive assessment of the remaining project's scope and provided updated construction schedules of the remaining projects. This thorough review has provided a

clear roadmap and bolstered our confidence in the timely and successful completion of all remaining projects.

ANALYSIS

As of May 2025, SSP has completed 50% of its planned construction projects. Two projects (Mi Casa and Bad Egg/Asian Box) are presently underway, with the final project (Mi Casa) slated to commence construction in late fall 2025. The Airport acknowledges the construction challenges encountered by SSP and commits to supporting their continued commitment to completing these projects. The existing agreement grants the Director of Aviation or his designee the authority to modify construction schedules. Therefore, following the replacement of the initial contractor, the Director of Aviation has renegotiated the timelines for the remaining projects. The revised construction schedules are formally presented below:

Concession Location	Original Opening Dates	Revised Opening Dates
Mi Casa	8/8/2023	8/15/2025
Bad Egg/Asian Box	9/12/2023	10/31/2025
The Mission	6/8/2023	4/4/2026

In recognition of the construction challenges and to affirm its commitment to timely project completion, SSP has formally proposed a one-time monetary payment to the Airport in the total amount of \$2,820,300. This payment aligns with the Airport's estimated revenue losses directly attributable to the construction delays. This payment, coupled with the revised construction schedules, renders the previously invoiced liquidated damages under invoice SJC-25215722 for \$566,950, as well as any accrued late fees, null and void. Airport staff believes that this approach fosters a collaborative path forward while addressing past disruptions.

While this resolves past issues, the Airport retains its contractual right to assess liquidated damages at a rate of \$850 per day for any additional construction delays that extend beyond these newly agreed-upon revised schedules. This ensures accountability and helps maintain momentum toward project completion.

To further incentivize an accelerated construction timeline ideally in advance of the upcoming FIFA event in 2026, the Airport intends to implement a daily incentive credit of \$850 per location. This credit will be applied for each day SSP completes construction prior to the revised opening dates. This proactive measure underscores the Airport's objective to minimize the number of active construction concessions during key operational periods and high-profile events.

EVALUATION AND FOLLOW-UP

The Director of Aviation or his designee shall oversee progress and performance for compliance with the revised agreement.

COST SUMMARY/IMPLICATIONS

The one-time remittance of \$2,820,300 will be received in the Airport Revenue Fund. The incentive credits will be applied to future SSP invoices and will only be earned if a location opens before the revised opening date. Staff will continue to monitor revenue collections within this fund, currently budgeted at \$239.2 million, and will bring forward recommendations to amend the budgeted revenue estimate and corresponding transfers to other Airport Funds, as appropriate, as part of a future budget process.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, and the City Manager's Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the August 26, 2025 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

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PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

Mukesh (Mookie) Patel, C.M.
Director of Aviation

For questions, please contact Matthew Kazmierczak, Division Manager, Airport Department at mkazmierczak@sjc.org or (408) 392-3640.