

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND PROVIDE COMPENSATION TO AIRPORT TENANTS FOR CHANGES TO TENANT LEASEHOLD AND CONCESSION AREAS NECESSARY TO ACCOMMODATE THE AIRPORT'S CAPITAL DEVELOPMENT PROGRAM IN A TOTAL AMOUNT NOT TO EXCEED \$500,000

WHEREAS, in 2008, the City of San Jose, ("City") entered into new Concession Agreements with Host International, Inc., AMS-SJC JV, and Areas USA for food & beverage and retail concessions at the Airport through June 30, 2020; and

WHEREAS, the concessionaires have committed to investing over \$20 million in new capital improvements for 48 new food & beverage and retail stores; and

WHEREAS, the pace of the Airport Terminal Area Improvement Program ("TAIP") construction can result in the need for accommodation between improvements being made for the benefit of the travelling public and improvements being made by third party tenants in their exclusive use space; and

WHEREAS, while the existing concession agreements with tenants at the Airport provide for the City to compensate tenants for the remaining unamortized value of tenant improvements that are required by the City to be removed after construction and during the term of the concession agreement, the existing concession agreements do not provide a mechanism for compensating tenants for costs associated with required changes by the Airport to planned tenant improvements, where the changes are made for the benefit of the travelling public;

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

The City Manager is authorized to negotiate with, and provide compensation to, Airport tenants for planning, design, permit and construction costs incurred where the Airport, for the benefit of the travelling public, requires changes to planned tenant improvements, under the following guidelines:

1. The Director of Aviation determines that the required change is not the responsibility of the tenant and is required for the benefit of the travelling public.
2. The Director of Aviation receives written confirmation from compensated tenants confirming that they have been fully compensated for all costs in connection with the space relocation.
3. The Director of Aviation reports any compensation provided to tenants and provides an explanation of that action in a subsequent TAIP Quarterly Report.
4. The aggregate compensation provided to tenants will not exceed \$500,000.

ADOPTED this _____ day of _____, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk