

RESOLUTION NO. 74832

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE DIRECTOR OF AVIATION TO NEGOTIATE AND EXECUTE A LEASE WITH JETBLUE AIRWAYS FOR TERMINAL SPACE AT THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT FROM AUGUST 1, 2008 THROUGH JUNE 30, 2012, WITH ANNUAL INCOME TO THE CITY OF \$333,360.84

WHEREAS, JetBlue Airways (“JetBlue”) began operating at the Norman Y. Mineta San Jose International Airport (“Airport”) as an itinerant airline in June 2004; and

WHEREAS, beginning December 1, 2007, the City entered into new passenger airline lease and operating agreements with the passenger airlines operating at the Airport; and

WHEREAS, at the time, each passenger airline was given an opportunity to become a Signatory Airline provided that: (a) it leased an amount of space in the Terminal for the Term of the Agreement that is deemed sufficient by the Airport to support the airline’s operations; and (b) it operated at least one flight, scheduled year round, at least three days per week; and

WHEREAS, any passenger airline that did not meet the minimum requirements to be a Signatory Airline was given the opportunity to become a Non-Signatory Airline; and

WHEREAS, rates and charges for a Non-Signatory Airline are charged a twenty-five percent (25%) premium over the rates and charges for a Signatory Airline, and are not eligible to participate in any airline consideration of proposed capital projects; and

WHEREAS, JetBlue executed an Airline-Airport Non-Signatory Operating Agreement effective August 1, 2008 and now pays a twenty-five percent (25%) premium on rates and charges pursuant to the terms of that Agreement; and

WHEREAS, the Non-Signatory Operating Agreement does not include the terms and conditions necessary for leasing terminal space at the Airport, because the Airport anticipated that all airlines that leased terminal space would sign the Signatory Airline Lease and Operating Agreement; and

WHEREAS, JetBlue has declined to execute the Signatory Airline Lease and Operating Agreement, but wishes to continue to lease terminal space to support its operations at the Airport;

WHEREAS, approval of the separate lease of Airport premises would allow JetBlue to continue to lease terminal space at the Airport in support of its passenger airline operations;

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

The Director of Aviation is hereby authorized to negotiate and execute a lease of Airport premises with JetBlue Airways for terminal space at the Norman Y. Mineta San Jose International Airport on a month-to-month term, effective August 1, 2008 through June 30, 2012, at a space rental rate calculated pursuant to the terms of the Signatory Airline Lease and Operating Agreement and subject to the twenty-five percent (25%) premium

on all Non-Signatory Airline rates and charges as provided in the Signatory Airline Lease and Operating Agreement, with annual income to the City of \$333,360.84.

ADOPTED this 17th day of March, 2009, by the following vote:

AYES: CAMPOS, CHIRCO, HERRERA, LICCARDO, NGUYEN,
OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: CHU, CONSTANT, KALRA.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk