



**SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT**

**Item No.
12**

Meeting Date: **SEPTEMBER 1, 2011**

Subject:

Grant a Concession Lease to Mission Yogurt, Inc. for Development and Operation of Food Service Package #4

Recommendation:

Adopt Resolution No. 2011-0100, awarding a concession lease to Mission Yogurt, Inc. for development and operation of Food Service Package #4 (as included in the CDP RFP) for a maximum term of nine (9) years and two (2) months, which includes a period not to exceed twenty-six (26) months to allow for Package Completion, and a first year Minimum Annual Guarantee (MAG) of \$288,200 following Package Completion; and authorizing the President/CEO to take all necessary actions to execute the concession lease.

Background/Justification:

For the past three years, staff has been planning for a new concession program at San Diego International Airport (SDIA). The Concession Development Program (CDP) incorporates additional concession opportunities from the Terminal 2 West (Green Build) and Terminal 2 East expansion projects and the re-concepting of most existing locations beginning in December 2012. At its October 26, 2009 meeting, the Board was first informed of the CDP including the goals, objectives, and business strategy of the initiative. Staff further informed the Board of different concession management approaches and recommended a hybrid approach of multiple prime concessionaires with the option for direct leasing. At its November 4, 2010 meeting, staff updated the Board on the CDP Request for Proposals planning and business community outreach efforts. Finally, at its January 6, 2011 meeting, the Board was briefed on RFP packaging guidelines and concession locations in advance of the release of the RFP in February 2011.

On February 2, 2011, eight (8) food service and eight (8) retail concession packages were released via the CDP RFP. The CDP will expand from today's approximately 60,000 square feet to approximately 86,000 square feet of food service and retail space when completed. At full build-out in 2014, the number of food service and retail concession locations will increase from 55 today to up to 87.

As previously briefed to the Board, the CDP RFP included the following goals and objectives:

- Diversity of concepts from local, regional, national, and international brands
- Encourage healthy competition

- Optimize concession revenues
- Capture the spirit of the San Diego region
- Create opportunities for local, small and Airport Concession Disadvantaged Business Enterprises (ACDBE)
- Maximize concession opportunities
- Provide an efficient operating environment
- Exceed passengers' expectations

Each package of the RFP required respondents to propose rent terms that included a fixed MAG and percentage rents of gross sales within a specified range. To ensure a diversity of concepts and encourage competition, the RFP also established the following limitations on the award of concession leases to a single proposer:

- 30% of food service square footage
- 35% of retail square footage
- 30% of total program square footage

On May 25, 2011, a combined total of 48 responsive proposals for food service and retail packages were received from 20 business entities.

Food Service Package 4 Details

Food Service Package #4 encompasses 2% of the total food service square footage. It includes the following 2 locations and concept types:

Location	Square Footage	Concept
T2W Pre-Security	372	Gourmet Coffee w/ Prepared Food and Baked Goods
T1 Post-Security	734	Gourmet Coffee w/ Prepared Food and Baked Goods
Total	1,106	

A map depicting the Food Service Package #4 locations within the terminals is provided in Attachment 1.

The term of the concession lease includes up to 26 months to allow build out of all locations included in the Package (Package Completion), during which time, percentage rent shall be paid. After Package Completion, the MAG requirements set forth below shall apply.

Food Service Package #4 included the following minimum requirements:

Minimum Investment in Fixed Improvements per Square Foot	\$350	
Percentage Rent Range	Food/ Non-Alcohol	14.5% to 17.5%
Minimum Annual Guarantee		
1st Annual Period	\$288,200	
2nd Annual Period following Package Completion Date	90% of the actual rent paid to Authority during the first Annual Period, or 103% of the MAG for the first Annual Period, whichever is greater.	
3rd through 7th Annual Periods	90% of the actual rent paid to Authority during the prior Annual Period, or 103% of the MAG for the prior Annual Period, whichever is greater.	

Food Service Package #4 Proposals

On May 25, 2011, nine proposals were received for Food Service Package #4 from the following entities:

- Green Beans Coffee Co., Inc. (Green Beans Coffee) - Proposed business entity is a Corporation, stock is held by Jason Araghi (55% ownership), and Jon Araghi (45% ownership)
- Guava & Java SFO Inc. (Guava & Java) - Proposed business is a California S Corporation
- High Flying Foods San Diego Partnership (High Flying Foods) - Proposed business entity is comprised of a joint venture between High Flying Foods San Diego, LLC (95% ownership) and Procurement concepts, Inc. (5% ownership).
- Host International, Inc. (Host) - Proposed business entity is comprised of Host International, Inc. as prime Concessionaire with a sublease to a Joint Venture comprised of Host International, Inc. (65% ownership) and Concession Management Services, Inc. (35% ownership)

- Mission Yogurt, Inc. (Mission Yogurt) - Proposed business entity is a corporation, stock held by Roderick Tafoya (50% ownership), Reyes Tafoya (50% ownership)
- Nine Dragons, Inc. (Nine Dragons) - Proposed business entity is a California S Corporation
- RMS Enterprises, LLC (RMS Enterprises) - Proposed business entity is 100% owned by Rinku Marwaha Sodhi
- SAN Airport Partners, Inc. (SAN Airport Partners) - Proposed business entity is comprised of a joint venture between First Class Concessions (40% ownership), Aero Service Group (40% ownership), Sayed Ali (20% ownership)
- SSP America, Inc. (SSP) - Proposed business entity is SSP America, Inc. (a California Corporation), as Prime Concessionaire, with a sublease to a joint venture called SSP America SAN LLC, (a California Corporation), comprised of SSP America, Inc. (75% ownership) and Sarah's Pastries and Candies, Inc. (25% ownership).

A comparison of the proposed concepts associated with the two locations in Food Service Package #4 is provided below:

Location	T2W-1095	T1E-2000
Square Feet	372	734
Proposer	Concepts	
Green Beans Coffee	Green Beans Coffee	Green Beans Coffee
Guava & Java	Guava & Java	Guava & Java
High Flying Foods	Pannikin	Pannikin
Host	St. Tropez Bakery	Starbucks
Mission Yogurt	Einstein Bros. Bagels	Einstein Bros. Bagels
Nine Dragons	The Living Room	The Living Room
RMS Enterprises	Subway	Subway
SAN Airport Partners	Caribou Coffee	People's Organic Coffee
SSP	Ryan Bros. Coffee	Coffee Bean & Tea Leaf

Financial Offer

Proposer	Proposed Percentage Rent	Year One MAG
Green Bean Coffee	\$0-\$1.0M 14.5% \$1.0M-\$1.5M 15% \$1.5M-\$2.0M 15.5% \$2.0M-\$2.5M 16% \$2.5M-\$3.0M 16.5% \$3.0M-\$3.5M 17.0% Over \$3.5M 17.5%	\$ 288,200
Guava & Java	17.5%	\$ 288,200
High Flying Foods	\$0-\$2.0M 15% Over \$2.0M 17.5%	\$ 288,200
HMS Host	14.5%	\$ 288,200
Mission Yogurt	15.0%	\$ 288,200
Nine Dragons	17.5%	\$ 288,200
RMS Enterprise	16.0%	\$ 288,200
SAN Airport Partners	17.5%	\$ 288,200
SSP	17.5%	\$ 288,200

Evaluation Process

The Authority's evaluation panel was comprised of six panelists: (a) three Authority Division Vice Presidents, (b) one Authority Department Director, and (c) two airport concession program managers from San Francisco International and Seattle-Tacoma International Airports.

Proposals were evaluated using the following criteria and weighting factors:

Criteria	Weighting %
Company Background, Experience, Financial Capability and Financial Offer	35
Concept/Brand Development and Merchandise/Menus	20
Designs, Materials, and Capital Investment	15
Management, Staffing Plan, and Training	15
Operations and Maintenance Plan	10
Marketing and Promotions Plan	5

Additional consideration was given in the evaluation process for proposals that met or exceeded the Authority's standards for small business preference (Authority Policy 5.12) and worker retention (Board Resolution 2010-0142R).

The evaluation panel reviewed the nine proposals using the above criteria and ranked the proposals from "1" (best suited) to "9" (least suited). The results of the rankings of each panel member (PM) are presented in the matrix below:

Proposer	PM1	PM2	PM3	PM4	PM5	PM6	Total
Green Beans Coffee	6	8	5	2	5	8	34
Guava & Java	3	3	2	1	8	2	19
High Flying Foods	5	5	4	6	3	7	30
Host	4	6	3	7	4	6	30
Mission Yogurt	1	4	9	3	2	4	23
Nine Dragons	2	1	6	5	7	5	26
RMS Enterprise	9	9	8	6	9	9	50
SAN Airport Partners	7	7	1	8	1	1	25
SSP	8	2	7	4	6	3	30

After reviewing the rankings, the evaluation panel elected to short list the proposers and interview the four highest ranked proposers. The four proposers who proceeded to the interview phase included:

- Guava & Java
- Mission Yogurt
- Nine Dragons
- SAN Airport Partners

Following interviews, the evaluation panel ranked the proposers based on their presentations and answers to standard questions from "1" (best suited) to "4" (least suited):

Proposer	PM1	PM2	PM3	PM4	PM5	PM6	Total
Guava & Java	2	3	2	2	2	4	15
Mission Yogurt	1	2	3	1	1	1	9
Nine Dragons	3	1	4	3	3	2	16
SAN Airport Partners	4	4	1	4	4	3	20

As a result, the evaluation panel recommends that a concession lease be awarded to Mission Yogurt, Inc. for development and operation of Food Service Package #4 (as included in the Request for Proposals for Food Service and Retail Concessions) for a maximum term of nine (9) years and two (2) months with a first year MAG of \$288,200.

Depictions of Mission Yogurt, Inc.'s concepts for this package are presented in Attachment 2.

Protest Resolution:

On July 22, 2011 Nine Dragons, Inc. filed a protest as a result of not being selected for Retail Package #5. The protest was reviewed and evaluated by the Procurement Administrator overseeing the RFP process. On July 29, 2011 the Procurement Administrator issued a response letter rejecting the protest.

This item was presented at the August 4, 2011 Board meeting. At that meeting the Board asked that this item be continued until the protest procedure had been completed.

On August 5, 2011, Nine Dragons, Inc. filed an appeal to the rejection of their protest. The appeal was received and evaluated by the Director of Procurement. On August 26, 2011 the Director of Procurement issued a response letter rejecting the appeal.

Fiscal Impact:

Annual revenue for the Authority will be no less than the MAG amount of \$288,200 for Food Service Package #4. In addition, based on the projected gross sales of the concessionaires, the Authority estimates that total CDP annual operating and maintenance costs (including operating costs for the Central Receiving and Distribution Center) will be recoverable from concessionaires.

Environmental Review:

- A. This Board action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act ("CEQA"), as amended. 14 Cal. Code Regs. §15378. This Board action is not a "project" subject to CEQA. Pub. Res. Code §21065.
- B. California Coastal Act Review: This Board action is not a "development" as defined by the California Coastal Act Pub. Res. Code §30106.

Equal Opportunity Program:

The Authority's small business program promotes the utilization of small, local, disadvantaged, and other business enterprises, on all contracts, to provide equal opportunity for qualified firms. By providing education programs, making resources available, and communicating through effective outreach, the Authority strives for diversity in all contracting opportunities.

The Authority has an Airport Concession Disadvantaged Business Enterprise ("ACDBE") Plan as required by the Department of Transportation, 49 CFR Part 23. The ACDBE Plan calls for the Authority to submit a triennial overall goal for ACDBE participation on all concession projects.

Mission Yogurt, Inc. is a certified ACDBE and will not be subleasing any portion of this package. They will account for 100% ACDBE participation.

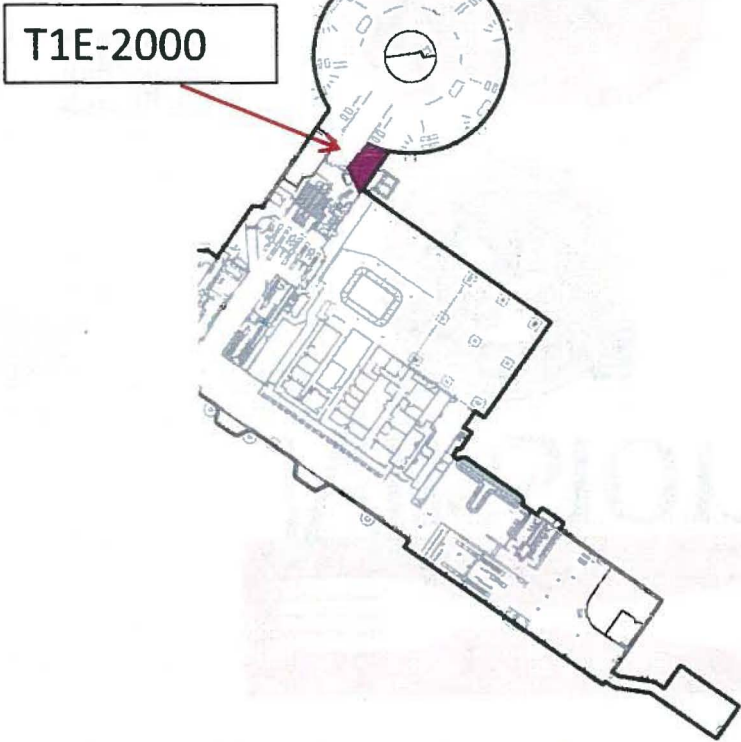
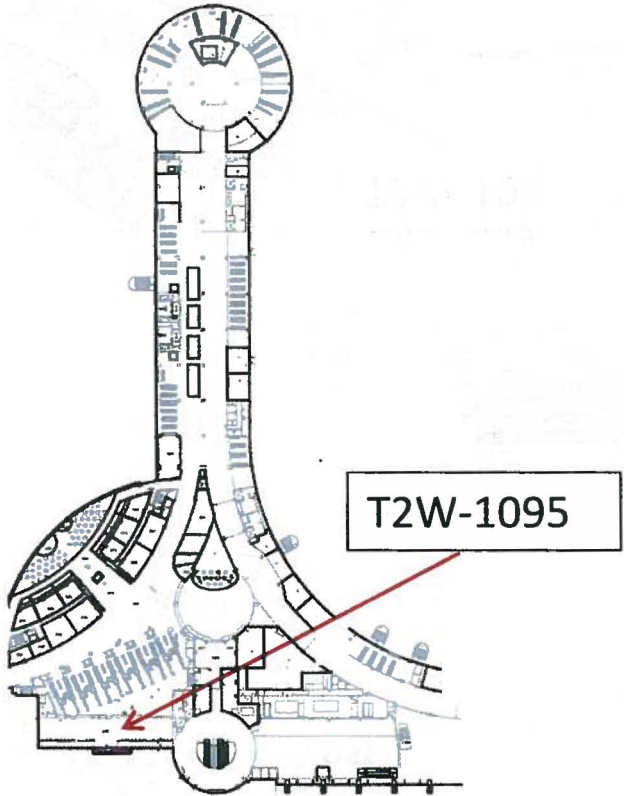
Prepared by:

**VERNON D. EVANS
VICE PRESIDENT, FINANCE/TREASURER**

FOOD SERVICE PACKAGE 4

Terminal 2 West

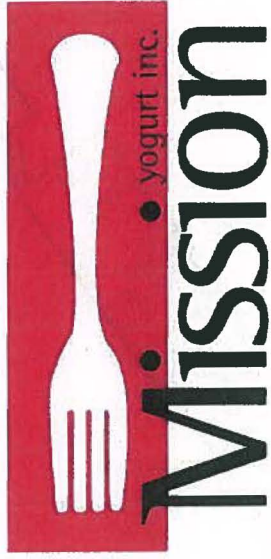
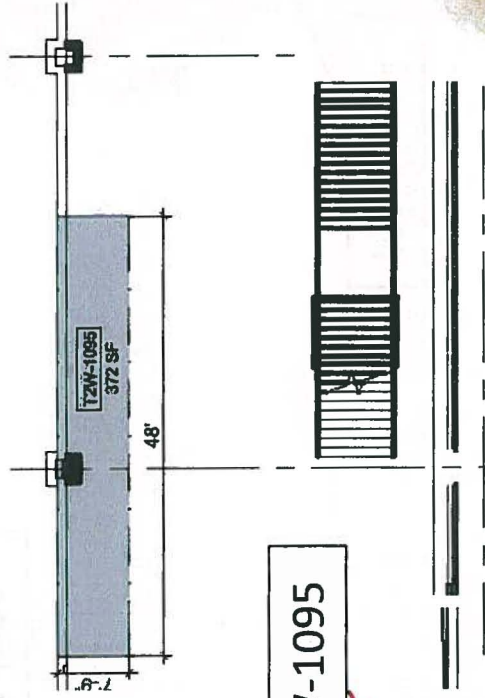
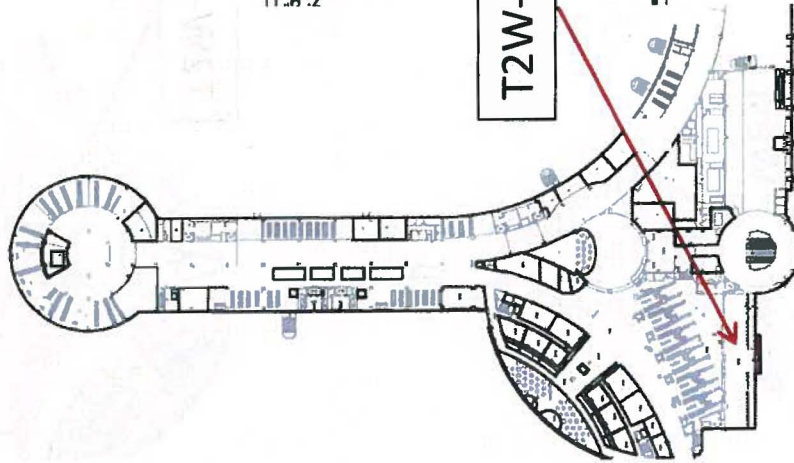
Terminal 1 East



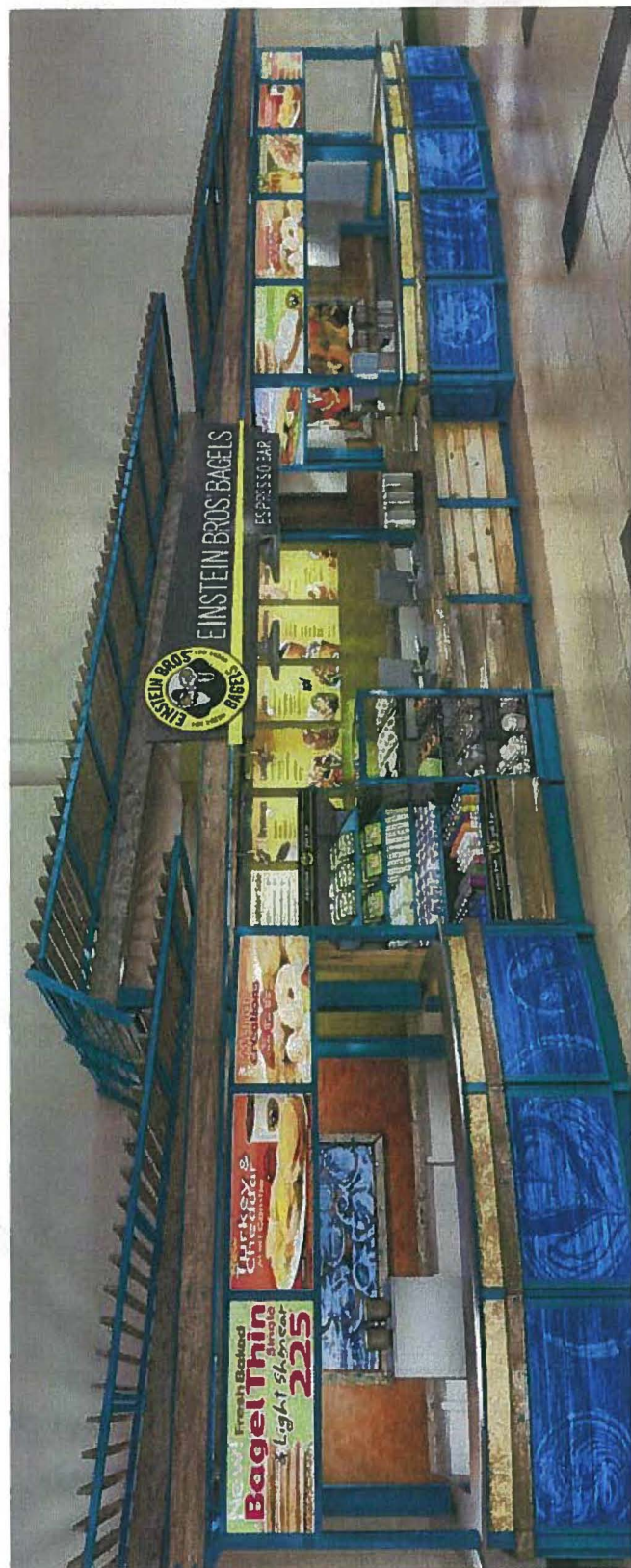
FOOD SERVICE PACKAGE 4

T2W-1095 – 372 SF

Terminal 2 West



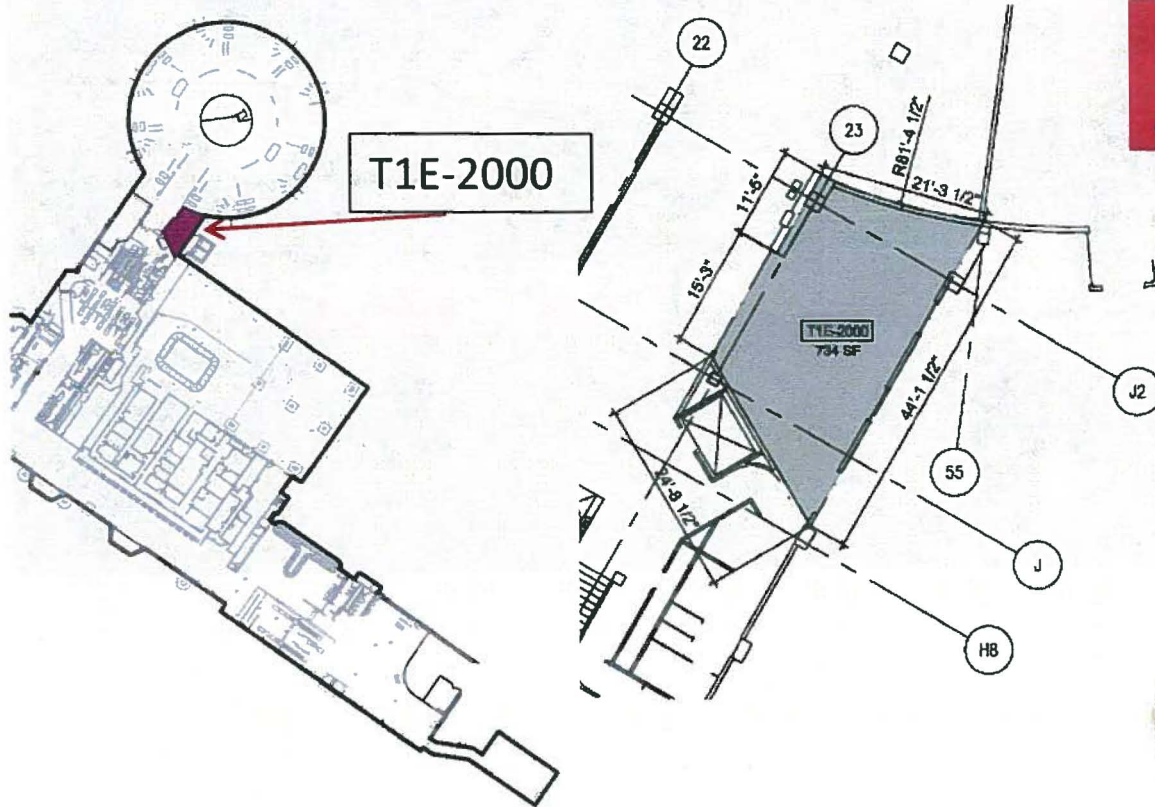
Food Pkg 4: Mission Yogurt



FOOD SERVICE PACKAGE 4

T1E-2000 – 734 SF

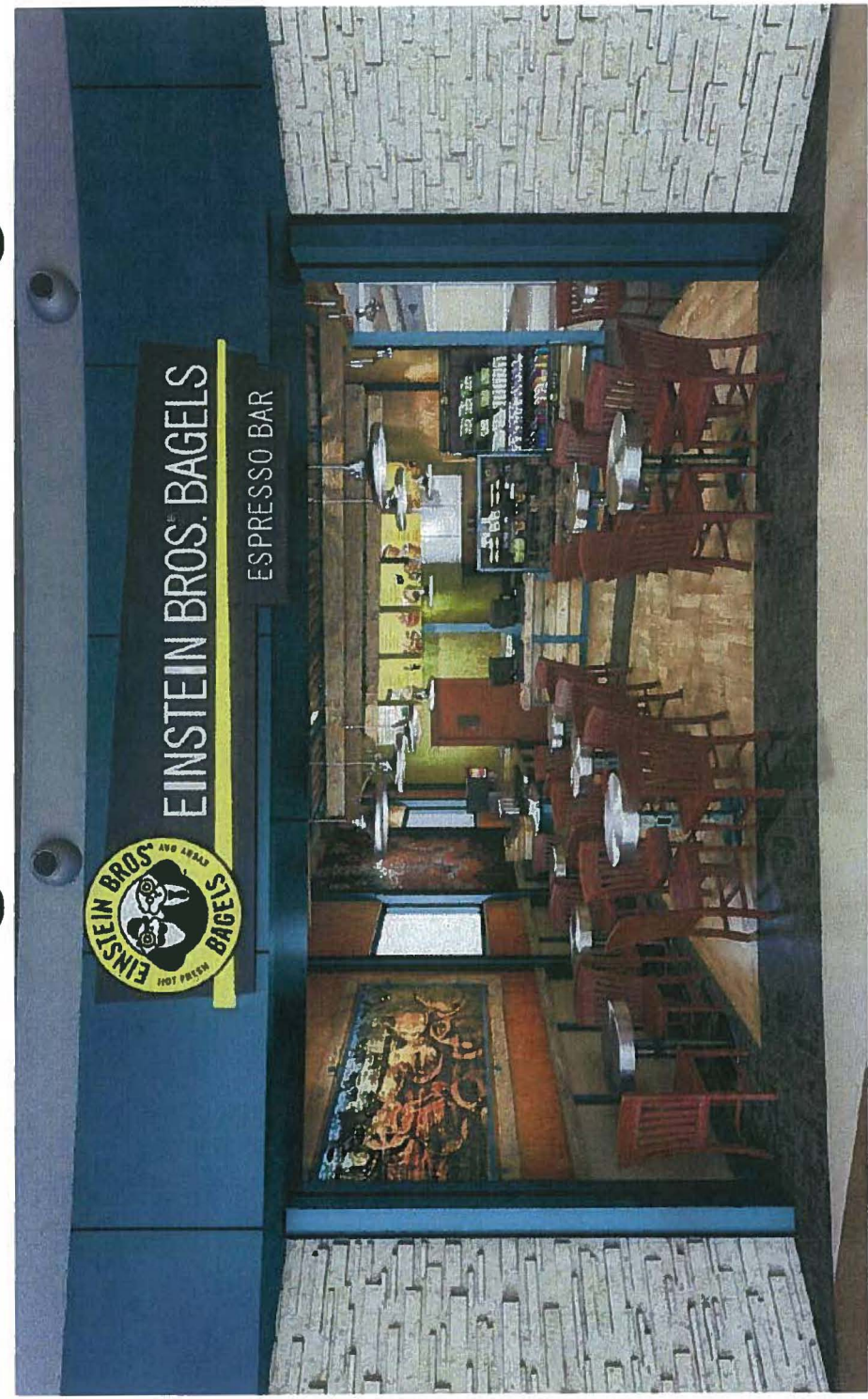
Terminal 1



Mission



Food Pkg 4: Mission Yogurt



RESOLUTION NO. 2011-0100

A RESOLUTION OF THE BOARD OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY, AWARDING A CONCESSION LEASE TO MISSION YOGURT, INC. FOR DEVELOPMENT AND OPERATION OF FOOD SERVICE PACKAGE #4 (AS INCLUDED IN THE CDP RFP) FOR A MAXIMUM TERM OF NINE (9) YEARS AND TWO (2) MONTHS, WHICH INCLUDES A PERIOD NOT TO EXCEED TWENTY-SIX (26) MONTHS TO ALLOW FOR PACKAGE COMPLETION, AND A FIRST YEAR MINIMUM ANNUAL GUARANTEE (MAG) OF \$288,200 FOLLOWING PACKAGE COMPLETION; AND AUTHORIZING THE PRESIDENT/CEO TO TAKE ALL NECESSARY ACTIONS TO EXECUTE THE CONCESSION LEASE

WHEREAS, for the past three years, staff has been planning to solicit responses via a Request for Proposal (RFP) for a new food service and retail concession program at San Diego International Airport; and

WHEREAS, the Concession Development Program (CDP) RFP provides for new concession locations from the Terminal 2 West (Green Build) and Terminal 2 East Expansion projects and complete re-concepting of existing locations, beginning in December 2012; and

WHEREAS, at its October 26, 2009 meeting, the Board was informed of the goals, objectives and business strategy of the CDP; and

WHEREAS, at its November 4, 2010 meeting, staff informed the Board of CDP RFP planning, involving business community outreach efforts; and

WHEREAS, at its January 6, 2011 meeting, the Board was briefed on RFP packaging guidelines and concession locations; and

WHEREAS, on February 2, 2011, the CDP RFP was released. The CDP RFP included eight food service packages totaling 46 locations and eight retail packages totaling 40 locations; and

WHEREAS, each package required respondents to propose a fixed Minimum Annual Guarantee and percentage rents within a specified range; and

WHEREAS, to ensure a diversity of concepts and encourage competition, the CDP RFP also established the following limitations on the award of concession leases to a single proposer:

- 30% of food service square footage
- 35% of retail square footage

- 30% of total program square footage; and

WHEREAS, Food Service Package #4 includes two locations encompassing approximately 1,106 square feet; and

WHEREAS, on May 25, 2011 nine proposals were received for Food Service Package #4; and

WHEREAS, the proposers were evaluated by an evaluation panel using the following criteria:

- company background, experience, financial capability and financial offer;
- concept/brand development and merchandise/menus;
- design, materials and capital investment;
- management, staffing plan, and training;
- operations and maintenance plan; and
- and marketing and promotions plan; and

WHEREAS, additional consideration was given in the evaluation process for proposals that met or exceeded the required standards for small business participation and worker retention; and

WHEREAS, the evaluation panel reviewed the proposals and recommended that a concession lease be awarded to Mission Yogurt, Inc. for development and operation of Food Service Package #4 (as included in the CDP RFP) for a maximum term of nine (9) years and two (2) months (which includes a period not to exceed twenty-six (26) months to allow for base building construction, Authority shell construction and renovation, and build out of the concession locations (Package Completion)) with a total first year Minimum Annual Guarantee (MAG) of \$288,200; and

WHEREAS, Nine Dragons, Inc. filed a protest as a result of not being selected for Retail Package #5; and

WHEREAS, the protest was reviewed and evaluated by the Procurement Administrator overseeing the RFP process and on July 29, 2011 the Procurement Administrator issued a response letter rejecting the protest, a copy of which is attached to this Resolution as Exhibit A and incorporated herein by this reference; and

WHEREAS, Nine Dragons, Inc. filed an appeal to the rejection of their protest; and

WHEREAS, the appeal was received and evaluated by the Director of Procurement and on August 26, 2011 the Director of Procurement issued a response letter rejecting the appeal, a copy of which is attached to this Resolution as Exhibit B and incorporated herein by this reference; and

WHEREAS, the Board adopts the comments and conclusions set forth in Exhibits A and B to this Resolution; and

WHEREAS, the protest procedure has been completed and the protest and appeal have been rejected, the Board finds that awarding a concession lease to Mission Yogurt, Inc. is in the best interest of the Authority.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby AWARDS a concession lease to Mission Yogurt, Inc. for development and operation of Food Service Package #4 (as included in the CDP RFP) for a maximum term of nine (9) years and two (2) months, which includes a period not to exceed twenty-six (26) months to allow for Package Completion, and a first year Minimum Annual Guarantee (MAG) of \$288,200 following Package Completion; and AUTHORIZES the President/CEO to take all necessary actions to execute the concession lease; and

BE IT FURTHER RESOLVED that the Board hereby ADOPTS the comments and conclusions set forth in Exhibits A and B to this Resolution; and

BE IT FURTHER RESOLVED that the Board of the San Diego County Regional Airport Authority finds that this Board action is not a "project" as defined by the California Environmental Quality Act ("CEQA"), Pub. Res. Code §21065; and is not a "development" as defined by the California Coastal Act, Pub. Res. Code §30106.

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a regular meeting this 1st day of September, 2011, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

TONY R. RUSSELL
DIRECTOR, CORPORATE SERVICES/
AUTHORITY CLERK

APPROVED AS TO FORM:

BRETON K. LOBNER
GENERAL COUNSEL



SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

July 29, 2011

Via E-Mail and US Mail
diana.9dsd@gmail.com

Diana MarJip-Chuh
Nine Dragons, Inc.
1034 14th Street
San Diego, CA 92101

Re: Protest Letter, Food Service and Retail Concessions RFP

Dear Ms. MarJip-Chuh:

On July 22, 2011, the San Diego County Regional Airport Authority ("Authority") received a letter from Nine Dragons, Inc. ("Protest") indicating that the letter serves as a protest to the "Protest Procedures contained in the San Diego County Regional Airport Authority's Request for Proposals ("RFP") for Food Service and Retail Concessions published February 02, 2011." The basis of the Protest is that the "Protest Procedures contained in the RFP are extremely biased, unfair and possibly illegal" for 8 reasons detailed in the Protest. This letter constitutes the written decision of the Procurement Administrator in accordance with Part 14.G of the RFP. Each assertion in the Protest is set forth below followed by the Procurement Administrator's determination.

First Assertion: "Section 2) of the Protest Procedures requires that the protest document specifically refer to the part of another (unspecified) document that forms the basis for the protest. This suggests that a protester is only allowed to protest a particular document and does not identify what document. This requirement is impossible to fulfill".

Procurement Administrator's Response: Part 14.G. states that a protest relative to a particular proposal process must be submitted in writing and: (1) contain "a full and complete statement specifying in detail the grounds of the protest and the facts in support thereof"; (2) contain "a complete statement of the factual and legal basis for the protest"; and (3) "refer to the specific portion of the document that forms the basis of the protest." [RFP, Part 14.G, Page 88]. The Protest received from Nine Dragons does not allege that the RFP process was unfair, rather that the "Protest Procedures" are unfair. Nine Dragons alleges that the protest procedures are unfair without providing any factual or legal basis supporting this allegation. The protest requirements and procedure contained in the RFP described in *MCM Construction v. City & County of San Francisco* 66 Cal. App. 4th 359, 378 (1998) (which were enforced by the court) are almost identical to those contained in the Authority's RFP. Bidders in





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the *MCM* case were required to make their protests in writing, with accompanying documentation, including "a complete statement for the basis for the protest." The bid instructions also provided that "[t]he procedure and time limits ...are mandatory and are the bidder's sole and exclusive remedy in the event of bid protest and failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code Claim or legal proceedings." *MCM Const., Inc.*, 66 Cal. App. 4th 359, 378-379. The protest procedures contained in the Authority's RFP are fair and unbiased. Accordingly, the Protest is denied as to Nine Dragon's first assertion.

Second Assertion: "It is impossible to protest a solicitation process, much less provide a factual and legal basis for such a protest (as required in Section 1) of the Protest Procedures, when details of the selection process have not been made available".

Procurement Administrator's Response: The documents related to the solicitation process which are public records, and not otherwise exempt, as defined under the California Public Records Act are available upon request. Accordingly, the Protest is denied as to Nine Dragon's second assertion.

Third Assertion: "Section 4 of the Protest Procedures require any party filing a protest to concurrently transmit a copy of the protest document to all others might be adversely affected by the outcome of the protest including other respondents. This is an impossible requirement to fulfill because the names and contact information of other respondents are not available at this time".

Procurement Administrator's Response: The names of all respondents who participated in the RFP process are public records that are available upon request. Accordingly, the Protest is denied as to Nine Dragon's third assertion.

Fourth Assertion: "The 5 day time limit allowed to gather information, seek professional advice and file a protest is unusually and unreasonably short".

Procurement Administrator's Response: Allowing five business days to file a protest is not an unusually or unreasonably short period of time and is consistent with the industry standard. RFP protest deadlines are typically short (usually five to ten days), and are routinely enforced in California and courts have not hesitated in enforcing these short deadlines. [*MCM Const., Inc.*, 66 Cal. App. 4th 359, 378-379 (holding that failure to protest within a 10 day deadline constituted a waiver of rights); Cal. Pub. Cont. Code § 12102 (statute requiring that RFP protests for California I.T. acquisition contracts must be filed no later than five working days after the issuance of an intent to award); 31 U.S.C.A. §3553(a)(4)(A)(the protest period for unsuccessful bidders on Federal contract awards is 10 days); *Automated Processes, Inc*, Comptroller General, 1974 WL 7796 (the US Army enforces a 5 day protest period in its RFP procedure); *Biometrics, Inc. v. Anthony*, 13 Cal. App. 4th 1145, 1156 (1993)(refusing to rule on issues not raised within the ten day protest period); *Imagistics Int'l, Inc. v. Dep't of Gen. Services*, 150 Cal. App.



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4th 581, 588-89 (2007) (strictly enforcing a seven day RFP protest deadline and stating that the most reliable way to ensure that everyone is treated "fairly and equally" is to not allow agencies discretion to accept protests even a day late). Accordingly, the Protest is denied as to Nine Dragon's fourth assertion.

Fifth Assertion: "Under the Protest Procedures the San Diego County Regional Airport Authority, who is ultimately responsible for awarding the contracts under this solicitation, is not part of or even made aware of any protest. By the time the protest procedure has run its course, the SDCRAA will have likely awarded these contracts. At that point it will be too late to rectify any mistakes – illegal or otherwise – that may have been made".

Procurement Administrator's Response: The Protest will be forwarded to all Board members prior to the August 4th Board Meeting which allows consideration of the Protest by the Board members prior to any action being taken. Moreover, the Authority's Board Meetings are subject to the Brown Act. The public is given notice of all matters before the Authority's Board and any person may appear before them prior to its determination to award a contract. Accordingly, the Protest is denied as to Nine Dragon's fifth assertion.

Sixth Assertion: "An unidentified "Procurement Administer" who is overseeing the RFP is responsible for making a determination on any protest. It is not clear if this administrator is the same person this Protest is being addressed to. Further, it does not seem remotely fair that someone who is overseeing a process should be allowed judge if that process is fair. Clearly the "judge" in this case is biased".

Procurement Administrator's Response: The Procurement Administrator for this solicitation is identified in Part 7 of the RFP. The Procurement Administrator responsible for the RFP Process is the same individual who makes the first level determination regarding the Protest. The protest procedure also allows an appeal to the Director of Procurement who reviews the Protest *de novo*. There is no factual basis supporting the allegation that the Procurement Administrator is "biased". The term "bias" means that the decision maker has some kind of personal animus against the party or a group to which the party belongs to or that he/she is prejudice which means that the decision maker has already decided the facts of the case before the hearing. The Procurement Administrator has no personal animus toward Nine Dragons and has not pre-judged Nine Dragons or the Protest. Accordingly, the Protest is denied as to Nine Dragon's sixth assertion.

Seventh Assertion: "If a protest is initially rejected, the Protest Procedures require that another appeal be made, this time to the Director of the Procurement Department. It is not clear if the Director is the same person as the "Procurement Administrator" or even if the Director reports to the Administrator (and therefore is unlikely to overrule his





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superior). Overall, it is unreasonable to expect (or even believe) that the same organization will overrule one of its prior decisions”.

Procurement Administrator's Response: The Director of the Procurement Department is not the same person as the Procurement Administrator. The Director of Procurement does not report to the Procurement Administrator. The standard of review for all appeals to the Director of Procurement is *de novo*. The protest procedures contained in the Authority's RFP are fair, unbiased and legal. The protest procedures and requirements contained in the RFP as described in *MCM Construction v. City & County of San Francisco* 66 Cal. App. 4th 359, 378 (1998) (which were enforced by the court) are almost identical to those contained in the Authority's RFP. There is no requirement that protests be handled by a third party. In fact, courts have consistently upheld a public entity's protest process where protest findings are made by the same public entity overseeing the competitive process. The protest procedures contained in the Authority's RFP are fair and unbiased. Accordingly, the protest is denied as to Nine Dragon's seventh assertion.

Eighth Assertion: "Because all of the procedures and time limits are mandatory – and, at the same time, some of them are impossible to fulfill – the whole protest process is seriously flawed”.

Procurement Administrator's Response: The protest procedures contained in the Authority's RFP are fair and unbiased. Nine Dragons has offered no evidence to support its allegation that the protest procedures are unfair or impossible to fulfill. Indeed, others have complied with the procedures. The protest requirements and procedures contained in the RFP as described in *MCM Construction v. City & County of San Francisco* 66 Cal. App. 4th 359, 378 (1998) (which were enforced by the court) are almost identical to those contained in the Authority's RFP. Bidders in the *MCM* case were required make their protests in writing, with accompanying documentation, including "a complete statement for the basis for the protest." The bid instructions also provided that "[t]he procedure and time limits . . . are mandatory and are the bidder's sole and exclusive remedy in the event of bid protest and failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code Claim or legal proceedings." *MCM Const., Inc.*, 66 Cal. App. 4th 359, 378-379. Allowing five business days to file a protest is not an unusually or unreasonably short period of time and is not a violation of law. RFP protest periods and protest deadlines are usually very short (usually five to ten days), and courts have not hesitated in enforcing these short deadlines. [*MCM Const., Inc.*, 66 Cal. App. 4th 359, 378-379 (holding that failure to protest within a 10 day deadline constituted a waiver or rights); Cal. Pub. Cont. Code § 12102 (statute requiring that RFP protests for California I.T. acquisition contracts must be filed no later than five working days after the issuance of an intent to award); 31 U.S.C.A. §3553(a)(4)(A) (the protest period for unsuccessful bidders on Federal contract awards is 10 days); *Automated Processes, Inc.*, Comptroller General, 1974 WL 7796 (the US Army enforces a 5 day protest period in its RFP procedure); *Biometrics, Inc. v. Anthony*, 13 Cal. App. 4th 1145,



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1156 (1993) (refusing to rule on issues not raised within the ten day protest period); *Imagistics Int'l, Inc. v. Dep't of Gen. Services*, 150 Cal. App. 4th 581, 588-89 (2007) (strictly enforcing a seven day RFP protest deadline and stating that the most reliable way to ensure that everyone is treated "fairly and equally" is to not allow agencies discretion to accept protests even a day late).] Accordingly, the Protest is denied as to Nine Dragon's eighth assertion.

Conclusion:

The protest by Nine Dragons fails to state even one basis for finding that the RFP itself is legally flawed, that the RFP process was unfair/biased, or that the recommended proposers are not qualified or any other basis to invalidate the process. Based upon the information received, the Protest is denied on the grounds set forth herein.

Please be advised that pursuant to Part 14, section G entitled "Protest Procedures", Nine Dragons, Inc. may appeal this decision. The pertinent section states: If the protest is rejected, the party filing the protest has five (5) working days to file an appeal to the Director of Procurement. The Director will issue a ruling within fifteen (15) working days following receipt of the written appeal. If the Director determines that the protest is frivolous, the party originating the protest may be determined to be irresponsible and that party may be determined to be ineligible for future contract awards."

Sincerely,

A handwritten signature in black ink that reads "Karie Webber".

Karie Webber
Senior Procurement Analyst
San Diego County Regional Airport Authority
P.O. Box 82776 San Diego, CA 92138-2776
619.400.2547



SAN DIEGO
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AIRPORT

SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITYP.O. BOX 82776, SAN DIEGO, CA 92138-2776
619.400.2400 WWW.SAN.ORG

August 25, 2011

Via E-Mail and US Mail
morganc@higgslaw.com
diana9dsd@gmail.comCynthia Morgan
Higgs, Fletcher & Mack LLP
401 West A Street, Suite 2600
San Diego, CA 92101

RE: Appeal of the Authority's denial of the Proposal submitted by Nine Dragons for Food Service and Retail Concessions – Food Package #4 and denial of the protest letter submitted by Diana Mar Jip-Chuh on July 22, 2011.

Dear Ms. Morgan,

On August 5, 2011, the San Diego County Regional Airport Authority ("Authority") received a letter on behalf of Diana Chuh, Nine Dragons, Inc. ("Nine Dragons") formally appealing the Authority's denial of the Proposal submitted by Nine Dragons for Food Service and Retail Concessions – Food Package #4 and denial of the protest letter submitted by Diana Mar Jip-Chuh on July 22, 2011 ("Appeal") on the grounds that: (1) the RFP Process was unfair and biased; (2) the recommended proposers, Mission Yogurt, are not qualified; (3) Ms. Chuh's Proposal fit the RFP's criteria and is economically more sound and fiscally more reliable due to her seventeen years of experience working as a vendor and tenant at the airport; and (4) Ms. Chuh's appeal letter could not adequately address the facts and law because the Authority told her that documents could not be granted to her prior to when the protest letter was due. This letter constitutes the written decision of the Procurement Director.

First Assertion: The RFP Process was unfair and biased.

Response to First Assertion: The RFP requires a "protest relative to a particular process must be submitted in writing to the President/Chief Executive Officer of the Authority on or before 5:00 p.m. of the 5th business day following notification to the Respondent of a recommendation to award a contract to another firm. The protest shall contain a full and complete statement specifying in detail the grounds of the protest and the facts in support thereof." [RFP, Section 14.G.]. The RFP goes on to state that the "procedure and time limits set forth in this paragraph are mandatory and are the Respondent's sole and exclusive remedy in the event of a protest. Failure by a party originating a protest to comply with these procedures shall constitute a waiver of any right to further pursue the protest . . ." [RFP, Section 14.G]. All protests regarding the RFP for Food Package #4 were required to be received by the Authority no later than 5:00 p.m. on July 22, 2011. On July 22, 2011, the Authority received a protest from Nine Dragons on the basis that the "Protest Procedures contained in the RFP are extremely biased, unfair and possibly illegal."

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The protest was reviewed and denied by the Procurement Administrator in a letter dated July 29, 2011. The assertion contained in Nine Dragons' Appeal received on August 5, 2011, alleging that the "RFP process was unfair and biased" was not included in its protest. The assertion that the "RFP process was unfair and biased" was not submitted to the Authority by 5:00 pm on July 22, 2011 and is therefore untimely. Nine Dragons' assertion in the Appeal that the "RFP process is unfair and biased" is untimely and violates the provisions of the Protest Procedures set forth in the RFP and on that basis is rejected.

The Appeal does not dispute the protest findings of the Procurement Administrator and does raise any issues with regard to the protest procedures which formed the basis of the Nine Dragons' protest. For that reason and to the extent the First Assertion is an appeal of the protest findings of the Procurement Administrator, I incorporate by reference in this decision the comments and conclusions of Karie Webber, Procurement Administrator, as stated in her letter to Nine Dragons dated July 29, 2011.

As stated above, the First Assertion in the Appeal is untimely and rejected for that reason. Even if the First Assertion is deemed timely, which is categorically denied by this Procurement Director, the following response is provided.

The Appeal presented no evidence or arguments supporting this First Assertion. The RFP process for Food Service and Retail Concessions – Food Package #4 was conducted in accordance with Authority Policy 6.01 which states that the Authority shall grant leases on a competitive basis to the prospective tenant that in the opinion of the Authority (1) proposes a development or utilization that fulfills Authority land use and development criteria for the property; (2) demonstrates an economically feasible program that will produce a market value rental return to the Authority over the term of the lease; and (3) possesses the financial capacity and managerial ability to develop and maintain the property at its highest and best use over the term of the lease.

Part 5 of the RFP states that proposals received will be evaluated in detail in accordance with the following criteria: (1) Company background, Experience, and Financial Capacity; (2) Concept/Brand Development and Merchandise/Menus; (3) Designs, Materials, and Capital Investment; (4) Management, Staffing Plan, and Training; (5) Operations and Maintenance Plan; (6) Marketing and Promotions Plan. The RFP also states that the evaluation criteria are not of equal value or decision weight and that additional consideration will be given in the form of bonus points for small business preference and worker retention. [RFP, Part 5].

Consistent with Authority Policy, the RFP established an evaluation process wherein proposals were evaluated by an evaluation panel using established criteria. Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. Furthermore, I have carefully reviewed the proposal submitted, conducted interviews and reviewed relevant documents and find that the panel followed the guidance provided in the matrix and used that to rank the proposals. Based upon the foregoing, the RFP was fair and unbiased.

Accordingly, the First Assertion is denied on the basis that it is untimely. Even if the First Assertion is deemed timely, which is categorically denied, it is denied on the grounds set forth above.

Second Assertion: The recommended proposers, Mission Yogurt, are not qualified. In support of this assertion, Nine Dragons states that: Einstein Brothers Bagels is not a Gourmet Coffee Concept with baked goods; Mission Yogurt is not from San Diego; Einstein Bagels is a generic chain store that has no connection to San Diego; Einstein Bagel is large and national not small and local like Nine Dragons.

Response: The RFP requires a "protest relative to a particular process must be submitted in writing to the President/Chief Executive Officer of the Authority on or before 5:00 p.m. of the 5th business day following notification to the Respondent of a recommendation to award a contract to another firm. The protest shall contain a full and complete statement specifying in detail the grounds of the protest and the facts in support thereof." [RFP, Section 14.G.]. The RFP goes on to state that the "procedure and time limits set forth in this paragraph are mandatory and are the Respondent's sole and exclusive remedy in the event of a protest. Failure by a party originating a protest to comply with these procedures shall constitute a waiver of any right to further pursue the protest . . ." [RFP, Section 14.G.]. All protests regarding the RFP for Food Package #4 were required to be received by the Authority no later than 5:00 p.m. on July 22, 2011. On July 22, 2011, the Authority received a protest from Nine Dragons on the basis that the "Protest Procedures contained in the RFP are extremely biased, unfair and possibly illegal." The protest was reviewed and denied by the Procurement Administrator in a letter dated July 29, 2011. The assertion contained in Nine Dragons' Appeal received on August 5, 2011, alleging that the "the recommended proposers, Mission Yogurt, are not qualified" was not included in its protest. The assertion that the "the recommended proposers, Mission Yogurt, are not qualified" was not submitted to the Authority by 5:00 pm on July 22, 2011 and is therefore untimely. Nine Dragons' assertion in the Appeal that the "the recommended proposers, Mission Yogurt, are not qualified" is untimely and violates the provisions of the Protest Procedures set forth in the RFP and on that basis is rejected.

The Appeal does not dispute the findings of the Procurement Administrator and does raise any issues with regard to the protest procedures which formed the basis of the Nine Dragons' protest. For that reason, I incorporate by reference in this decision the comments and conclusions of Karie Webber, Procurement Administrator, as stated in her letter to Nine Dragons dated July 29, 2011.

As stated above, the Second Assertion in the Appeal is untimely and rejected for that reason. Even if the Second Assertion is deemed timely, which is categorically denied by this Procurement Director, the following response is provided. Mission Yogurt's concept proposed a unique coffeehouse experience, with a full barista serving specialty coffee drinks and a signature beverage bar. Both units proposed in Food Package #4 contained a full barista station, bagels, sweets, hot breakfast sandwiches, hot & cold lunch sandwiches/wraps, pizza bagels, bagel dogs, soup, chili, grab & go salads, sandwiches and snacks, assorted bottled and poured drinks. The offerings proposed by Mission Yogurt meet the specified concept criteria set forth in the RFP. [RFP, pages 39 – 40].

Nine Dragons argues that it is more qualified because it is from San Diego. Federal law prohibits the Authority from giving a local geographic preference. [49 CFR Part 23.79]. In addition, the evaluation criteria did not include a separate category for national v. San Diego businesses. Rather, each proposal was evaluated using the following evaluation criteria (1) Company background, Experience, and Financial Capacity; (2) Concept/Brand Development and Merchandise/Menus; (3) Designs, Materials, and Capital Investment; (4) Management, Staffing Plan, and Training; (4) Operations and Maintenance Plan; (5) Marketing and Promotions Plan. The RFP also states that the evaluation criteria are not of equal value or decision weight and that additional consideration will be given in the form of bonus points for small business preference and worker retention. [RFP, Part 5]. Panel members were

instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. Furthermore, I have carefully reviewed the proposals submitted, conducted interviews and reviewed relevant documents and find that the panel followed the guidance provided in the matrix and used that to rank the proposals.

Accordingly, the Second Assertion is denied on the basis that it is untimely. Even if the Second Assertion is timely, which is categorically denied, it is denied on the grounds set forth above.

Third Assertion: Ms. Chuh's Proposal fit the RFP's criteria and is economically more sound and fiscally more reliable due to her seventeen years of experience working as a vendor and tenant at the airport. Seven of the nine proposers bid higher rent than Mission Yogurt. Over the term of the lease, Mission Yogurt's bid would generate over \$800,000 less income to the Authority than the bid by four other proposers, including Nine Dragons.

Response: The RFP requires a "protest relative to a particular process must be submitted in writing to the President/Chief Executive Officer of the Authority on or before 5:00 p.m. of the 5th business day following notification to the Respondent of a recommendation to award a contract to another firm. The protest shall contain a full and complete statement specifying in detail the grounds of the protest and the facts in support thereof." [RFP, Section 14.G.]. The RFP goes on to state that the "procedure and time limits set forth in this paragraph are mandatory and are the Respondent's sole and exclusive remedy in the event of a protest. Failure by a party originating a protest to comply with these procedures shall constitute a waiver of any right to further pursue the protest . . ." [RFP, Section 14.G]. All protests regarding the RFP for Food Package #4 were required to be received by the Authority no later than 5:00 p.m. on July 22, 2011. On July 22, 2011, the Authority received a protest from Nine Dragons on the basis that the "Protest Procedures contained in the RFP are extremely biased, unfair and possibly illegal." The protest was reviewed and denied by the Procurement Administrator in a letter dated July 29, 2011. The assertion contained in Nine Dragons' Appeal received on August 5, 2011, alleging that the "Ms. Chuh's Proposal fit the RFP's criteria and is economically more sound and fiscally more reliable due to her seventeen years of experience working as a vendor and tenant at the airport" was not included in its protest. The assertion that the "Ms. Chuh's Proposal fit the RFP's criteria and is economically more sound and fiscally more reliable due to her seventeen years of experience working as a vendor and tenant at the airport" was not submitted to the Authority by 5:00 pm on July 22, 2011 and is therefore untimely. Nine Dragons' assertion in the Appeal that the "Ms. Chuh's Proposal fit the RFP's criteria and is economically more sound and fiscally more reliable due to her seventeen years of experience working as a vendor and tenant at the airport" is untimely and violates the provisions of the Protest Procedures set forth in the RFP and on that basis is rejected.

The Appeal does not dispute the findings of the Procurement Administrator and does raise any issues with regard to the protest procedures which formed the basis of the Nine Dragons' protest. For that reason, I incorporate by reference in this decision the comments and conclusions of Karie Webber, Procurement Administrator, as stated in her letter to Nine Dragons dated July 29, 2011.

As stated above, the Third Assertion in the Appeal is untimely and rejected for that reason. Even if the Third Assertion is timely, which is categorically denied by this Procurement Director, the following response is provided. The evaluation panel was instructed to review and evaluate each proposal in accordance with the following criteria: (1) company background, experience and financial capacity;

(2) concept/brand development and merchandise/menus; (3) designs, materials and capital investment; (4) management, staffing plan, and training; (5) operations and maintenance plan; (5) marketing and promotions plan. [RFP, Part 5, page 25]. The RFP goes on to state that the "listed evaluation criteria are not of equal value or decision weight". [RFP, Part 5, page 25].

Each evaluation panel member was provided an "Evaluation Matrix" as a guidance tool to be used in the evaluation of the proposals. The Evaluation Matrix provided the weighting of each evaluation criteria as follows:

- Organization Background, Experience, and Financial Background **350 points**
 - Organization Background and Experience – 100 points
 - Financial Evaluation – 100 points
 - Reasonableness, Viability of Proposed Operations and Financial Offer and Ability to Fund the Operation - 75 points
 - Financial Offer – 75 points
- Concept Development and Merchandise/Menus **200 points**
- Designs, Materials, and Capital Investment **150 points**
- Operations and Maintenance Plan **100 points**
- Proposed Management, Staffing and Training **150 points**
- Marketing and Promotions Plan **50 points**
- Board Adopted Preference-Small Business **50 points**
- Board Adopted Preference-Worker Retention **20 points**

The "Financial Background" portion of the category entitled "Organization Background, Experience and Financial Background" consisted of 350 points. A portion of the 350 points – 175 points – listed above was provided to each panel member. The 175 points were made up of the following subcategories: (a) Financial Evaluation and (b) Financial Offer. These scores were derived from financial analysis of common financial ratios which were calculated for each proposal to inform the panel members of the Respondent's financial status. The most current full year of data for each Respondent was used in all calculations. The ratios addressed income, assets, liabilities, debt and shareholder equity. The maximum number of points provided for the category of "Financial Evaluation" was 100 points. An evaluation of the "percentage rent offer" also utilized a mathematical calculation equivalent to the actual percentage rent proposed. The maximum number of points provided for "Financial Offer" was 75 points. Based on the criteria described above, the point equivalency given to Mission Yogurt and Nine Dragons for Food Package #4 is as follows:

Description	Mission Yogurt	Nine Dragons
Financial Evaluation: Current Ratio, Gross Margin, Return of Assets Ratio, Debt to Equity Ratio, Working Capital (maximum 100 points)	95	41
Financial Offer: Percentage Rent Offer (maximum 75 points)	64	75

Consistent with the terms of the RFP, Nine Dragons received a higher point value for their Financial Offer. However, as stated above, Financial Offer was only one of many areas evaluated by the evaluation panel. Panel members were instructed to rank each proposal based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Accordingly, the Third Assertion is denied on the basis that it is untimely. Even if the Third Assertion is timely, which is categorically denied, it is denied on the grounds set forth above.

Fourth Assertion: Ms. Chuh's appeal letter could not adequately address the facts and law because the Authority told her that documents could not be granted to her prior to when the protest letter was due.

Response: The documents related to the solicitation process which are public records, and not otherwise exempt, as defined under the California Public Records Act are available upon request.

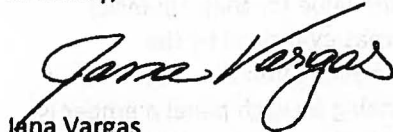
The Authority did not receive a Public Records Request from Ms. Chuh until after the protest period had ended. A Public Records request was received on July 25, 2011. The Authority responded to this request on July 29, 2011 and provided updated information on August 5, 2011. A second request was received by Ms. Chuh to view additional documents on August 17, 2011. In both instances, the Authority responded in a timely manner. The Protest Procedures outlined in the RFP are reasonable and consistent with state law. Allowing five business days to file a protest is not an unusually or unreasonably short period of time and is consistent with the industry standard. RFP protest deadlines are typically short (usually five to ten days), and are routinely enforced in California and courts have not hesitated in enforcing these short deadlines. [*MCM Const., Inc.*, 66 Cal. App. 4th 359, 378-379 (holding that failure to protest within a 10 day deadline constituted a waiver or rights); Cal. Pub. Cont. Code § 12102 (statute requiring that RFP protests for California I.T. acquisition contracts must be filed no later than five working days after the issuance of an intent to award); 31 U.S.C.A. §3553(a)(4)(A)(the protest period for unsuccessful bidders on Federal contract awards is 10 days); *Automated Processes, Inc.*, Comptroller General, 1974 WL 7796 (the US Army enforces a 5 day protest period in its RFP procedure); *Biometrics, Inc. v. Anthony*, 13 Cal. App. 4th 1145, 1156 (1993)(refusing to rule on issues not raised within the ten day protest period); *Imagistics Int'l, Inc. v. Dep't of Gen. Services*, 150 Cal. App. 4th 581, 588-89 (2007) (strictly enforcing a seven day RFP protest deadline and stating that the most reliable way to ensure that everyone is treated "fairly and equally" is to not allow agencies discretion to accept protests even a day late).

To the extent the Fourth Assertion is an appeal of the protest findings of the Procurement Administrator, I incorporate by reference in this decision the comments and conclusions of Karie Webber, Procurement Administrator, as stated in her letter to Nine Dragons dated July 29, 2011.

Accordingly, the Fourth Assertion is denied.

Conclusion: Based upon the information received, the appeal of the Authority's denial of the Proposal submitted by Nine Dragons for Food Service and Retail Concessions – Food Package #4 and denial of the protest letter submitted by Diana Mar Jip-Chuh on July 22, 2011 is denied on the grounds set forth herein.

Sincerely,



Jana Vargas
Director, Procurement
San Diego County Regional Airport Authority

Revised 8/30/11

COMMUNICATION RECEIVED FROM THE PUBLIC



John C. Lemmo
 Direct Dial: (619) 515-3294
 E-mail: john.lemmo@procopio.com
 Personal Fax: (619) 398-0162

August 31, 2011

VIA MESSENGER

Robert H. Gleason, Board Chair
 and Board of Directors
 San Diego County Regional Airport Authority
 Commuter Terminal, Third Floor
 3225 North Harbor Drive
 San Diego, CA 92101

Re: Agenda Item 12: Concession Lease to Mission Yogurt for
 Development and Operation of Food Service Package #4
 (September 1, 2011) - **OPPOSED**

Dear Board Chair Gleason and Members of the Airport Authority Board:

By way of introduction, this firm represents Nine Dragons, Inc. Nine Dragons opposes the award of Food Service Package #4 to Mission Yogurt. Mission Yogurt's "Einstein's Bagels" franchise proposal *does not meet* the "Gourmet Coffee" concept description sought by the Authority, especially when viewed in light of Nine Dragons' local "Living Room Coffeehouse" branded gourmet coffee proposal.

The Authority explicitly sought "concessions [that] will provide airport passengers and the public with a unique and comprehensive experience that captures the true spirit of and commitment to the San Diego region."¹ Mission Yogurt's "Einstein's Bagels" has *zero* local participation. It's a Colorado company selling a New York bagel concept. It has nothing to do with "the true spirit of and commitment to the San Diego region." By contrast, Nine Dragons is 100% local with 17 years of experience at *this* Airport, partnering with a 100% local San Diego gourmet coffee institution: the Living Room Coffeehouse.

¹ SDCRAA Request for Proposals for Food Service and Retail Concessions (the "RFP"), p. 3.

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August 31, 2011
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Contrary to the Board's stated intention, the Authority's entire RFP process has *reduced* local participation in concessions from 35% to *merely 13.8%*, while increasing concession square footage by 41%. Thus, the Authority has virtually shut out local participation for up to the next decade. Based upon the same data relied upon by Authority staff, this means a *loss* in local revenue of *more than \$700 million* over the program term—\$70.2 million in the first year alone.

Nine Dragons urges the Authority Board to: (1) *not* grant the concession lease to Mission Yogurt/Einstein's; and, (2) direct staff to re-evaluate the proposals in a manner consistent with what you pledged to the local community: "concessions that are original and representative of San Diego and the region."²

I. THE MISSION YOGURT/EINSTEIN'S PROPOSAL IS NOT WHAT THE AUTHORITY ASKED FOR.

Food Service Package #4 stated its "Proposed Concept" as "Gourmet Coffee with Prepared Foods/Baked Goods-QS".³ The RFP went on to further define "gourmet coffee" as "branded" coffee.

A. Einstein's Bagels Is *Not* "Gourmet" Branded Coffee.

Mission Yogurt's proposal is an Einstein Bros. Bagels franchise. Einstein's is *not* a gourmet coffee concept. In fact, Einstein Bros. Bagels stores are almost always co-located in commercial settings with Starbuck's Coffee stores. That is because nobody seriously considers Einstein's to be a place for gourmet coffee—even Einstein's doesn't. Einstein Bros. Bagels obviously perceives (probably correctly) that it performs far better when located near a real gourmet coffee seller.

Not surprisingly, there is nothing in the Mission Yogurt/Einstein's proposal that explains how or why it should be considered gourmet "branded coffee". The only information it provided in that regard was a generic bagel sandwich menu that could be picked up at any Einstein's store. Yes, Einstein's sells coffee. But so does every other food concessionaire. The RFP specifically sought a "gourmet" coffee concept. Einstein's is not a gourmet coffee concept—it's a bagel shop.

B. Einstein's has *nothing* to do with "the spirit of San Diego".

The Mission Yogurt/Einstein's proposal utterly fails to "capture the true spirit of and commitment to the San Diego region" as promised in the RFP. Einstein Bros. Bagels is actually a trademark owned by Lakewood, Colorado-based Einstein and Noah Corp.⁴ The corporation's

² RFP, p. 3.

³ RFP, pp. 39-40.

⁴ See, Einstein Bros. Bagels website: <http://www.einsteinbros.com/#/corporate>

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August 31, 2011
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website touts its Einstein's and Noah's trademarks as "like a Lower East-Side deli". Its sister brand, not so coincidentally, is called "Manhattan Bagel".⁵

We urge the Board Members to scour the Mission Yogurt/Einstein's proposal for *any* information or explanation *whatsoever* as to how it captures or reflects anything about San Diego. Similarly, we urge you to look for any information or explanation about any connection whatsoever to the San Diego region. You will find nothing for either.

II. THE AIRPORT IS DECIMATING LOCAL PARTICIPATION FROM 35% TO MERELY 13.8% OR LESS, RESULTING IN A LOSS OF LOCAL REVENUE OF MORE THAN \$700 MILLION.

Prior to this RFP process, the local share of participation in San Diego Airport concessions was already very low; just a 35% share of revenue. By comparison, local participation at San Francisco International Airport accounts for 76% of revenue; and 63% of the operators there are local.⁶ Thus, it is not surprising that in San Diego the Board expressed the need to *increase* local participation through this RFP process. But unfortunately, the *opposite* result occurred.

The winning RFP proposals provide a local revenue share of merely 13.84% of total concession revenue.⁷ But when this Board conducted the Concessions Development Program ("CDP") workshop last fall, it was clear that RFP process was intended to support local concepts and businesses. The Board actually amended its contracting policy earlier this year proclaiming "the Authority is committed to maximizing opportunities for local businesses to the highest extent possible."⁸ By seeking proposals that embody "a memorable San Diego experience", the Board articulated that "local businesses" would fare more favorably:

Chair Gleason noted that the discussions indicate that the evaluation criteria will reflect the desire for local 'flavor' and responses from local businesses might be better able to provide that and therefore rate more favorably.⁹

⁵ See, Einstein and Noah Corp. website: <http://www.einsteinnoah.com/>

⁶ Email communication from Gigi Ricasa, Senior Principal Property Manager of San Francisco International Airport.

⁷ See, winning proposals for each package. We have summarized key data from those proposal in the attached spreadsheet. The percentage of local participation is actually *lower* than 13.8%, but data from one non-local participant (NewZoom Systems) was not made available for review.

⁸ See, SDCRAA Policies, Section 5.13 – "Local Business Opportunities", as amended by Resolution 2011-0011 dated January 6, 2011.

⁹ Board Meeting Minutes, Nov. 4, 2010, p. 14 (emphasis added).

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August 31, 2011
Page 4

And when the RFP was released, it appeared consistent with what the Board had promised the public. The RFP mandated that concessions:

...should provide passengers with a memorable 'San Diego' experience...

The concessions will provide airport passengers and the public with a unique and comprehensive experience that captures the true spirit of and commitment to the San Diego region...

[The CDP] is intended to provide an inviting and memorable experience with concessions that are original and representative of San Diego and the region.¹⁰

Despite the Board's unequivocal expression of support for local San Diego "flavor" and participants, the Authority has essentially abandoned its once-articulated "commitment to the San Diego region." Perhaps this is because the RFP review process was flawed. Or perhaps this is because reviewers and/or staff lost sight of the big picture that the Board sought as part of this process. No matter the cause, that the Airport has missed this once-in-a-decade opportunity to support local participants is demonstrated no more clearly than the staff recommendation for Food Package #4.

III. NINE DRAGONS IS THE ONLY PROPOSAL THAT PRESENTS EXACTLY WHAT THE AIRPORT ASKED FOR.

Nine Dragons responded to *exactly* what the Authority sought for Food Package #4. Nine Dragons partnered with the iconic local San Diego gourmet coffee institution: the Living Room Coffeehouse. Nine Dragons proposed (1) a local gourmet branded coffeehouse, (2) 100% local participation, and (3) more revenue for the Airport than the Mission/Einstein's proposal. Nine Dragons' proposal would unquestionably "provide airport passengers and the public with a unique and comprehensive experience that captures the true spirit of and commitment to the San Diego region," just as the Board said it wanted.¹¹ The proposal explicitly provides for "hand crafted" gourmet coffee drinks, as well as quick service gourmet baked goods. As for local commitment, Nine Dragons currently operates multiple concessions in the Airport and has been there for 17 years. If the Authority awards Food Package #4 to Mission/Einstein's, Nine Dragons will no longer have any presence at the Airport.

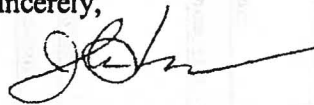
¹⁰ RFP, p. 3.

¹¹ See, RFP, p. 3.

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August 31, 2011
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The problem here is that Authority staff is recommending a *non*-local business proposing a New York-themed bagel franchise over a 100% local homegrown San Diego gourmet branded coffeehouse for Food Package #4, contrary to what was explicitly sought by the RFP. We urge the Airport Authority Board to reject staff's recommendation and direct staff to re-evaluate the proposals in a manner consistent with what you pledged to the local community: "concessions that are original and representative of San Diego and the region."

Sincerely,



John C. Lemmo

JL

cc: Thella F. Bowens, President/CEO
Breton K. Lobner, General Counsel

**San Diego County Regional Airport Authority
Summary of RFP Results
Demonstrating Loss in Local Revenue**

Package	Proposer	Ownership	Location	Local	Revenue	Local Revenue	Local %	Revenue	Local Revenue	Local %	Revenue	Local Revenue
Retail #1	Paradies-San Diego, LLC	The Paradies Shops LLC (70%) CRS Sophisticated Solutions Inc. (30%)	Atlanta, GA Lakeside, CA (local)	No	\$9,751,500.00	\$79,396,795.00	30%	\$2,925,450.00	\$23,819,038.50	6,826,050.00	\$55,577,756.50	
Retail #2	HG-CV-Epicure-Martinez San Diego, JV	Hudson Group Retail, LLC (71%) Concourse Ventures, Inc (3%) Epicure Group International, LLC (13%) Martinez Niebla, LLC (13%)	Rutherford, NJ Los Angeles, CA Las Vegas, NV Santa Ana, CA	No	\$11,730,520.00	\$92,868,420.00	0%	\$0.00	\$0.00	\$11,730,520.00	\$92,868,420.00	
Retail #3	PGC-PCI San Diego, LLC	Pacific Gateway Concessions, LLC (67%) Procurement Concepts, Inc (33%)	San Francisco, CA San Diego, CA (local)	No	\$8,100,000.00	\$102,166,703.00	33%	\$2,673,000.00	\$33,715,011.99	\$5,427,000.00	\$68,451,691.01	
Retail #4	Stellar Partners, Inc.	Susan Stackhouse (51%) Barbara Geller (25%) Ramon Bosquez (24%) Subleases with two local businesses: Jer's Chocolates and Samantha Davimes, Inc.	Tampa, FL Houston, TX Tampa, FL San Diego, CA (local) San Diego, CA (local)	No	\$7,110,000.00	\$58,188,800.00	11.25%	\$799,875.00	\$6,546,240.00	\$6,310,125.00	\$51,642,560.00	
Retail #5	Spa Didicus, Inc.	Spa Export SARL (76%) First Class Concessions (26%)	Paris, France San Diego, CA (local)	Yes	\$1,033,207.00	\$7,937,517.00	26%	\$268,633.82	\$2,063,754.42	\$764,573.18	\$5,873,762.58	
Retail #6	NewZoom, Inc. (only proposal)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Retail #7	HG-CV-Epicure-Martinez, San Diego	Hudson Group Retail, LLC (71%) Concourse Ventures, Inc (3%) Epicure Group International, LLC (13%) Martinez Niebla, LLC (13%)	Rutherford, NJ Los Angeles, CA Las Vegas, NV Santa Ana, CA	No	\$4,742,450.00	\$37,559,809.00	0%	\$0.00	\$0.00	\$4,742,450.00	\$37,559,809.00	
Retail #8	Project Horizon	Project Horizon (55%) ABW Holdings, LLC (45%)	Jacksonville, FL Wellington, FL	No	\$1,000,000.00	\$7,847,577.00	0%	\$0.00	\$0.00	\$1,000,000.00	\$7,847,577.00	
Food #1	Host International, Inc.	Host International, Inc. (65%) Concession Management Services (35%)	Bethesda, MD Los Angeles with Office in San Diego (local)	Yes	\$7,450,000.00	\$89,445,498.00	35%	\$2,607,500.00	\$31,305,924.30	\$4,842,500.00	\$58,139,573.70	
Food #2	Mission Yogurt, Inc.	Smoking Bear, LLC (100%)	Denver, Colorado	No	\$4,294,685.00	\$32,907,861.00	0%	\$0.00	\$0.00	\$4,294,685.00	\$32,907,861.00	
Food #3	High Flying Foods San Diego Partnership	High Flying Foods, LLC (95%) Procurement Concepts, Inc. (5%)	San Francisco, CA San Diego, CA (local)	No	\$5,500,000.00	\$66,033,589.00	5%	\$275,000.00	\$3,301,679.45	\$5,225,000.00	\$62,731,909.55	
Food #4	High Flying Foods San Diego Partnership	High Flying Foods, LLC (95%) Procurement Concepts, Inc. (5%)	San Francisco, CA San Diego, CA (local)	No	\$20,000,000.00	\$240,122,142.00	5%	\$1,000,000.00	\$12,006,107.10	\$19,000,000.00	\$228,116,034.90	
TOTALS					\$80,712,362.00	\$814,474,711.00	13.84%	\$10,549,458.82	\$112,757,755.76	\$70,162,903.18	\$ 701,716,955.24	

Prepared by Nine Dragons, Inc.
All data derived from Public Records Act response of Airport Authority.

Note: NewZoom data was not provided by Authority. NewZoom is non-local (San Francisco), so its revenue would further reduce local revenue percentage below 13.84%.

Guava & Java and Caffé Calabria

August 30, 2011

VIA FEDERAL EXPRESS

Thella F. Bowens, President/CEO
Robert H. Gleason, Board Chair
San Diego County Regional Airport Authority
San Diego International Airport
3225 North Harbor Drive, 3rd Floor
San Diego, California 92101

Dear Ms. Bowens and Mr. Gleason,

I am writing to you on behalf of Guava & Java and San Diego based Caffé Calabria (collectively "Guava & Java") concerning the Airport Selection Panel's recent recommendation that the San Diego County Regional Airport Authority grant a Concession Lease to Mission Yogurt, Inc for Food & Beverage Lease Package #4. We understand that there is a Board Meeting scheduled on September 1st to approve the award of "Gourmet Coffee with Prepared Foods/Baked Goods" (Food Service #4). We would like you to consider the following points before you proceed with the award of this package.

In accordance with the RFP, Guava & Java submitted its sealed package proposal and was rated the highest bidder by the San Diego Regional Airport Authority for the "Gourmet Coffee with Prepared Foods/Baked Goods" (Food Service #4) package.¹ Surprisingly, Guava & Java's rank was lowered to the second highest bidder after our interview. As a result, Guava & Java was not granted the bid. Instead, the bid was granted to Mission Yogurt.

When we first learned that Guava & Java did not receive the Selection Panel's recommendation, we were prepared to accept that the Selection Panel had chosen a more qualified firm than ours. However, when we requested the winning proposal, we discovered the winning proposal was flawed in several ways.² As such, we would like to request that the Board consider the following factors prior to making the final selection.

¹ See Exhibit A.

² Guava & Java did not submit a protest within five days following the notification that Mission Yogurt received the bid. At the time, Guava & Java did not have any information concerning Mission Yogurt's bid. It was only after Guava & Java received Mission Yogurt's bid - 10 days after the notification - did Guava & Java become aware of the facts that would support its protest.

1. **REQUIREMENTS OF THE RFP.** Guava & Java, along with a number of other qualified firms, submitted a proposal in the “Gourmet Coffee with Prepared Foods/Baked Goods” category, as outlined in the RFP.³ Guava and Java’s bid matched the specifications in the RFP. Mission Yogurt’s winning bid for an Einstein Bagels concept, however, does not fit the category specified in the RFP. For instance, the RFP proposed concept requested “pre-packaged prepared foods (such as sandwiches...)” Yet, Mission Yogurt’s bid offered “made to order sandwiches... soup & chili, [etc.]”⁴ Conversely, our proposal was tailored to fit the “Gourmet Coffee with Prepared Foods/Baked Goods” category; our proposal featured a San Diego-based coffee roaster (Caffé Calabria) as well as pastries and sandwiches from San Diego based Bread & Cie.

From our review of the other submitted proposals - particularly those of the short-listed firms - it appears that, with the exception of the winning proposal, the others (including Starbucks, Coffee Bean & Tea Leaf, Caribou, People’s Organic, Ryan Brothers Coffee) also fit the Gourmet Coffee with Prepared Foods/Baked Goods category. We are puzzled why the Selection Panel would recommend a bagel/soup & chili concept to fill a gourmet coffee concession when so many other competitive bids were submitted by firms that appear to more clearly meet the requirements and scope of the Airport’s RFP.

2. **ECONOMICS.** Even more puzzling was the Selection Panel’s decision to select a tenant who offered to pay less rent than Guava & Java. Guava & Java offered the highest rent percentage of 17.5%.⁵ Meanwhile, the proposal of the bagel company offered 15% - the lowest of the firms that were short-listed for the Gourmet Coffee concept and the second lowest of all 9 firms proposing. We are confused why the City of San Diego would select a less than optimal financial proposal.

The Evaluation Process and the Criteria and Weighting state that the financial component of the bids would be given the greatest weight —at 35%— of all considerations. We respectfully ask: (a) what role/weight economic considerations played in the Selection Panel’s recommendation, and (b) what distinguished the winning proposal from the others?

3. **LOCAL TIES.** Three of the nine Lease Goals and Objectives as stated in Part 9 of the RFP refer to local representation and participation including “Capturing the Sprit of San Diego” as well as creating opportunities for participation from local businesses.⁶ As referenced above, Guava & Java is a California corporation that has been operating in California for the past seven years. Guava & Java pays California taxes and purchases

³ The description as set forth in the RFP is attached as Exhibit B for your convenience.

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⁵ See Exhibit B.

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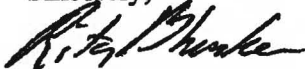
over 95% of its products in California. In addition, we brought in local firms to co-brand our coffee program with San Diego based coffee roaster, Caffé Calabria.

Furthermore, we worked closely with San Diego based *Bread & Cie* to provide our pastries and sandwiches. We believed that a local presence would be beneficial for the Airport and the San Diego area. Nonetheless, although our bid - and the bids of several of the other firms participating in the process - featured strong local ties, we are disappointed and puzzled that the Selection Panel chose to recommend a bidder with what on the surface appears to have no ties to the area.

In our proposal, we clearly adhered to the request as noted in the RFP. However, it appears that the winning firm, Mission Yogurt, has no "Spirit of San Diego" nor is it a local concept.

Please note that while we have some questions regarding the Selection Panel's recommendations, we recognize that there were a number of qualified firms that participated in the process, and simply question the final choice. We remain hopeful that with this additional information, the Board will reconsider the recommendation of the Selection Panel and do what is best for the City of San Diego.

Sincerely,



Rita Bhasker

cc: Greg Cox (via e-mail gcox@san.org)
Jim Desmond (via e-mail jdesmond@san.org)
Lloyd Hubbs (via e-mail lhubbs@san.org)
Jim Panknin (via e-mail jpanknin@san.org)
Tom Smisek (via e-mail tsmisek@san.org)
Anthony Young (via e-mail tyoung@san.org)
Paul Robinson (via Federal Express)
Colonel Frank A. Richie (via Federal Express)
Pedro Reyes (via Federal Express)
Laurie Berman (via Federal Express)

EXHIBIT A

SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Food Service Package 4 Evaluation Panel Rankings For Short List

Proposer	PM1	PM2	PM3	PM4	PM5	PM6	Total
Green Beans Salads	6	8	5	8	5	5	32
United Plaza Horticulture BFSB	4	5	2	1	2	2	16
Woods	8	8	2	7	3	3	34
Mission Yogurt	3	4	3	3	3	4	20
Nine Dragons KWS Enterprise	4	4	6	6	7	9	36
San Airport Batters	3	7	1	3	4	5	23
S&P	3	3	3	3	3	3	18

PM = Panel Member
 "1" is (best suited); "9" (least suited)
 Lowest Total = Best Suited

EXHIBIT B

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

		selection of juice, soft drinks, and water should also be provided.		
Total			8,841	

MINIMUM REQUIREMENTS FOR FOOD SERVICE PACKAGE #3

Minimum Investment In Fixed Improvements per Square Foot	\$350
Minimum Percentage Rent	Food/Non-Alcohol: 13.0%-16.0% Alcohol: 16.0%-20.0%
Minimum Annual Guarantee	\$1,048,400
Additional Fees. <i>Additional fees may be charged for the use of the CRDC, trash removal services, grease removal services, hood cleaning, and common area maintenance (CAM) charges. These fees will be based on a pro-rata share of actual costs and are anticipated to not exceed the maximum percent of sales listed here.</i>	3.5%

FOOD SERVICE CONCEPTS

- Quick Service (QS) – Facilities are expected to have a menu and style of service that allows customers to be served in less than three (3) minutes OR less than eight (8) minutes on cook to order items..
- Full or Modified Service (FS) – Facilities are expected to have a menu and style of service that allows customers to be served their drink orders in less than two (2) minutes and their food orders in less than fifteen (15) minutes.
- All Terminals will provide service for passengers from as early as 5 AM to 10:30 PM or later.
- All food service locations should include menu items for breakfast and a children's menu.
- There are location(s) that are designated as "open concepts." These location(s) may be proposed as the concept suggested for the location, or may be proposed as a different concept.

PACKAGE: FOOD SERVICE # 4

TERM: 7 YEARS

Terminal	Unit Number	Proposed Concept	Sq. Ft.	Unit Available
T2W Pre-Security (M/G Hall)	T2W-1095	Gourmet Coffee with Prepared Foods/Baked Goods-QS. Offerings to include branded coffee; baked goods (also suitable for breakfast, such as muffins and bagels); pre-packaged prepared foods (such as sandwiches, wraps, salads), snack items (yogurt, fruit), and bottled juice, soft drinks, and water.	372	Summer 2013
T1 Post-Security	T1E-2000	Gourmet Coffee with Prepared Foods/Baked Goods-QS. Offerings to	734	Summer 2013

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

		include branded coffee; baked goods (also suitable for breakfast, such as muffins and bagels); pre-packaged prepared foods (such as sandwiches, wraps, salads), snack items (yogurt, fruit), and bottled juice, soft drinks, and water.		
Total			1,106	

MINIMUM REQUIREMENTS FOR FOOD SERVICE PACKAGE #4

Minimum Investment in Fixed Improvements per Square Foot	\$350
Minimum Percentage Rent	Food/Non-Alcohol: 14.5%-17.5%
Minimum Annual Guarantee	\$288,200
Additional Fees. <i>Additional fees may be charged for the use of the CRDC, trash removal services, grease removal services, hood cleaning, and common area maintenance (CAM) charges. These fees will be based on a pro-rata share of actual costs and are anticipated to not exceed the maximum percent of sales listed here.</i>	2.75%

FOOD SERVICE CONCEPTS

- Quick Service (QS) – Facilities are expected to have a menu and style of service that allows customers to be served in less than three (3) minutes OR less than eight (8) minutes on cook to order items.
- Full or Modified Service (FS) – Facilities are expected to have a menu and style of service that allows customers to be served their drink orders in less than two (2) minutes and their food orders in less than fifteen (15) minutes.
- All Terminals will provide service for passengers from as early as 5 AM to 10:30 PM or later. Except unit T2W1095 which will be open 24 hours.
- All food service locations should include menu items for breakfast and a children's menu.

PACKAGE: Food Service # 5

TERM: 10 YEARS

Terminal	Unit Number	Proposed Concept	Sq. Ft.	Unit Available
T2W West	T2W-2080	Bar with Food-FS. Alcoholic beverage offerings shall include a minimum of wine and beer. Menu shall include a variety of appetizers, small plates, light fare, and other items, including sandwiches and salads. A selection of juice, soft drinks, and water should also be provided.	1,168	Summer 2013
T2W-	T2W-	Gourmet Coffee with Prepared Foods/Baked	364	Summer

EXHIBIT C



May 25, 2011
San Diego County Regional Airport Authority
Attn: Corporate Services
3225 North Harbor Drive
San Diego, CA 92101

RE: Request for Proposal (RFP) Food Service Concession Proposal for Package # 4

Dear Corporate Services:

Mission Yogurt, Inc. ("Mission") is pleased to submit this proposal for Food Service Concession Package # 4. Together with our brand partner Einstein Bros Bagels, Mission is committed to serving San Diego travelers with a consistent, brand quality experience. Our goal is to exceed customer expectations on the 1st visit with a unique, old-fashioned experience via a full barista serving specialty coffee drinks, signature bar with 4 daily choices of brew, combined with a broad menu that include all day parts, at value based pricing with exceptional customer service -- to ensure repeat visits.

From consumer feedback we've learned customers do not want to wait in two lines for a meal (lett in one line and egg sandwich in another), accounting for much of the success of Mission's Einstein Bros Bagels at Denver International where in 2010 its 655 sq ft unit grossed over \$4.4 million in sales, outperforming two other coffee brands (one national and one local) in the same concourse. Our consistent, quick and courteous service is also a significant factor in our success at Denver International. This location was the top-performer in 2009 and 2010 for Einstein Bros Bagels system-wide.

From the two spaces on offer in Package 4 -- one at 372 sq ft pre-security in T2W-1095 and one at 734 sq ft post-security in T1E-2000, Mission's demonstrated operational expertise serving the same profile of passengers at its Denver International location positions Mission to deliver on Opening Day and going forward, high levels of customer satisfaction in terms of quality product and speed of service -- all to drive higher sales.

Mission's expertise in financing, designing and operating quick serve, full service and fast casual restaurants resulted in over \$22 Million in sales ending CY 2010, delivering exceptional customer service via its portfolio of national, regional, local and proprietary brands. Mission currently operates at Denver International Airport, Norman Y. Mineta San Jose International Airport, and off-airport in the Denver, Colorado area.

Led by President and co-owner Rod Tafuya, Mission as a certified ACDBE restaurant and bar operator serves travelers well each day, and makes a positive difference in the lives of its more than 300 dedicated employees. Mission applied for ACDBE certification from the San Diego County Regional Airport Authority before submittal of this proposal and is awaiting the authority's review.

Leveraging our depth of restaurant experience with this nationally recognized brand, we will offer from both Package 4 locations a comprehensive Breakfast, Lunch and Anytime menu at San Diego International Airport, comprised of:

- Einstein Bros Bagels Free Trade brand Gourmet coffee for our signature line of Espresso specialty drinks, plus Dam Good Coffee along with hot chocolate, Chai Tea and other teas
- Einstein Bros Bagels high-quality on-premise baked goods, made to order sandwiches, Panini and Signature Sandwiches, a variety of Bagel spreads, 4 breads plus 16 Bagel flavors, ANYTIME salads and soups, and more.
- Einstein Bros Bagels 25% reduced fat, vegetarian and food-sensitivity menu choices
- Einstein Bros Bagels healthy, fun, quick service tradition serving a broad demographic of travelers: business and leisure, kids to seniors, health conscious or picky to "just hungry".



CONCEPT DEVELOPMENT

Mission Yogurt, Inc. is pleased to present our concept development plan featuring the national brand Einstein Bros Bagels for Package 4. We believe this exceptional brand combined with Mission's expertise and success operating airport multi-unit restaurant programs, including an Einstein Bros Bagels unit that was the top performer systemwide for Einstein Bros Bagels – positions us to meet and exceed San Diego County Regional Airport Authority's goals to:

- Capture the spirit of the San Diego Region
- Represent the best local, regional, national, and international concepts/brands
- Provide an efficient operating environment
- Exceed passenger's expectations
- Optimize non-aviation revenues

All menu items are take-away packaged in sturdy beige colored recyclable containers, and include recyclable plastic ware and napkins. We want our customers to enjoy (and remember) how great our food and drinks taste and look, wherever they sit down to enjoy it – in the gate area, on the plane or in their hotel or car when they arrive at their destination.

The 372 sft unit will be open 24 hours while the 734 sft unit will be open from 5:00am to 10:30pm, unless hours change upon prior written approval of the San Diego County Regional Airport Authority.

Einstein Bros Bagels offers a unique coffeehouse experience, with a full barista serving specialty coffee drinks and a signature beverage bar with 4 daily choices of brew (drip coffee) every day which include a flavor version. We will also offer seasonal beverage choices.

Einstein Bros Bagels Grab n Go food program is broader and deeper than the competition, offering a range of choice shown to increase customer satisfaction. As customers seek more choices within a proven one-stop shop environment, Einstein Bros Bagels continues to meet and often exceed their expectations.

From both units in Package 4 we will offer:

- Full Barista Station (Espresso/Frozen Drinks)
- Bagels (10 Flavors) & Cream Cheese
- Sweets (Muffins, Cinnamon Twists, Cookies)
- Hot Breakfast Sandwiches (5 varieties)
- Hot & Cold Lunch Sandwiches/Wraps (8 varieties)
- Pizza Bagels and Bagel Dogs
- Soup and Chili
- Grab & Go (Salads, Sandwiches, Yogurt Parfait, Fresh Fruit)
- Assorted bottled and poured drinks

Please see below our proposed Einstein Bros Bagels menu for all three day parts. Pricing will be set at street+10%.

Down GROUND DEVELOPMENT



EXHIBIT D

Part 9. LEASE GOALS AND OBJECTIVES

Respondents shall use their best efforts to propose premier, world-class concepts and exceptional operations that will enhance the customer experience at the Airport and be consistent with the image and status of San Diego as a foremost domestic and international gateway. The operational plan shall embody the company's full commitment to quality, value and customer service; evidence operations in accordance with the best industry practices; demonstrate compliance with the Authority's maximum standards with regard to service, health, sanitation and safety; and ensure the Respondent's full commitment to the maximum financial return to the Authority. The Selected Respondents will be expected to create a "world-class" concession program that will meet or exceed the following goals and objectives of the Authority throughout the Term of the Leases to be awarded:

- Maximize guest satisfaction
- Optimize revenue to the Authority
- Capture the spirit of the San Diego region by creating a "sense of place"
- Offer a shopping and dining experience that represents the best of local, regional, national, and international concepts
- Ensure a diversity of concession concepts
- Encourage healthy competition through multiple concessionaires
- Create opportunities for participation from local and ACDBE businesses

Guava & Java and Caffé Calabria

August 30, 2011

VIA FEDERAL EXPRESS

Thella F. Bowens, President/CEO
Robert H. Gleason, Board Chair
San Diego County Regional Airport Authority
San Diego International Airport
3225 North Harbor Drive, 3rd Floor
San Diego, California 92101

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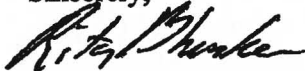
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Sincerely,



Rita Bhasker

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Lloyd Hubbs (via e-mail lhubbs@san.org)
Jim Panknin (via e-mail jpanknin@san.org)
Tom Smisek (via e-mail tsmisek@san.org)
Anthony Young (via e-mail tyoung@san.org)
Paul Robinson (via Federal Express)
Colonel Frank A. Richie (via Federal Express)
Pedro Reyes (via Federal Express)
Laurie Berman (via Federal Express)

EXHIBIT A

SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Food Service Package 4 Evaluation Panel Rankings For Short List

Proposer	PM1	PM2	PM3	PM4	PM5	PM6	Total
Green Beans Lilco	6	8	5	8	5	8	40
Wawa Hartway Eads	8	8	2	1	8	2	20
Hotels	8	5	4	4	2	1	24
Mexican Market	3	4	6	3	3	4	23
Nine Dragons	4	1	6	6	7	8	32
WWS Embarras	6	8	1	6	9	9	39
San Antonio Batters	3	7	1	3	1	8	23
89p	8	2	3	1	6	8	28

PM = Panel Member
 "1" is (best suited); "9" (least suited)
 Lowest Total = Best Suited

EXHIBIT B

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

		selection of juice, soft drinks, and water should also be provided.		
Total			8,841	

MINIMUM REQUIREMENTS FOR FOOD SERVICE PACKAGE #3

Minimum Investment In Fixed Improvements per Square Foot	\$350
Minimum Percentage Rent	Food/Non-Alcohol: 13.0%-16.0% Alcohol: 16.0%-20.0%
Minimum Annual Guarantee	\$1,048,400
Additional Fees. <i>Additional fees may be charged for the use of the CRDC, trash removal services, grease removal services, hood cleaning, and common area maintenance (CAM) charges. These fees will be based on a pro-rata share of actual costs and are anticipated to not exceed the maximum percent of sales listed here.</i>	3.5%

FOOD SERVICE CONCEPTS

- Quick Service (QS) – Facilities are expected to have a menu and style of service that allows customers to be served in less than three (3) minutes OR less than eight (8) minutes on cook to order items..
- Full or Modified Service (FS) – Facilities are expected to have a menu and style of service that allows customers to be served their drink orders in less than two (2) minutes and their food orders in less than fifteen (15) minutes.
- All Terminals will provide service for passengers from as early as 5 AM to 10:30 PM or later.
- All food service locations should include menu items for breakfast and a children's menu.
- There are location(s) that are designated as "open concepts." These location(s) may be proposed as the concept suggested for the location, or may be proposed as a different concept.

PACKAGE: FOOD SERVICE # 4

TERM: 7 YEARS

Terminal	Unit Number	Proposed Concept	Sq. Ft.	Unit Available
T2W Pre-Security (M/G Hall)	T2W-1095	Gourmet Coffee with Prepared Foods/Baked Goods-QS. Offerings to include branded coffee; baked goods (also suitable for breakfast, such as muffins and bagels); pre-packaged prepared foods (such as sandwiches, wraps, salads), snack items (yogurt, fruit), and bottled juice, soft drinks, and water.	372	Summer 2013
T1 Post-Security	T1E-2000	Gourmet Coffee with Prepared Foods/Baked Goods-QS. Offerings to	734	Summer 2013

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

		include branded coffee; baked goods (also suitable for breakfast, such as muffins and bagels); pre-packaged prepared foods (such as sandwiches, wraps, salads), snack items (yogurt, fruit), and bottled juice, soft drinks, and water.		
Total			1,106	

MINIMUM REQUIREMENTS FOR FOOD SERVICE PACKAGE #4

Minimum Investment in Fixed Improvements per Square Foot	\$350
Minimum Percentage Rent	Food/Non-Alcohol: 14.5%-17.5%
Minimum Annual Guarantee	\$288,200
Additional Fees. <i>Additional fees may be charged for the use of the CRDC, trash removal services, grease removal services, hood cleaning, and common area maintenance (CAM) charges. These fees will be based on a pro-rata share of actual costs and are anticipated to not exceed the maximum percent of sales listed here.</i>	2.75%

FOOD SERVICE CONCEPTS

- Quick Service (QS) – Facilities are expected to have a menu and style of service that allows customers to be served in less than three (3) minutes OR less than eight (8) minutes on cook to order items.
- Full or Modified Service (FS) – Facilities are expected to have a menu and style of service that allows customers to be served their drink orders in less than two (2) minutes and their food orders in less than fifteen (15) minutes.
- All Terminals will provide service for passengers from as early as 5 AM to 10:30 PM or later. Except unit T2W1095 which will be open 24 hours.
- All food service locations should include menu items for breakfast and a children's menu.

PACKAGE: Food Service # 5

TERM: 10 YEARS

Terminal	Unit Number	Proposed Concept	Sq. Ft.	Unit Available
T2W West	T2W-2080	Bar with Food-FS. Alcoholic beverage offerings shall include a minimum of wine and beer. Menu shall include a variety of appetizers, small plates, light fare, and other items, including sandwiches and salads. A selection of juice, soft drinks, and water should also be provided.	1,168	Summer 2013
T2W-	T2W-	Gourmet Coffee with Prepared Foods/Baked	364	Summer

EXHIBIT C



May 25, 2011
San Diego County Regional Airport Authority
Attn: Corporate Services
3225 North Harbor Drive
San Diego, CA 92101

RE: Request for Proposal (RFP) Food Service Concession Proposal for Package # 4

Dear Corporate Services:

Mission Yogurt, Inc. ("Mission") is pleased to submit this proposal for Food Service Concession Package # 4. Together with our brand partner Einstein Bros Bagels, Mission is committed to serving San Diego travelers with a consistent, brand quality experience. Our goal is to exceed customer expectations on the 1st visit with a unique, old-fashioned experience via a full barista serving specialty coffee drinks, signature bar with 4 daily choices of brew, combined with a broad menu that includes all day parts, at value based pricing with exceptional customer service - to ensure repeat visits.

From consumer feedback we've learned customers do not want to wait in two lines for a meal (latte in one line and egg sandwich in another), accounting for much of the success of Mission's Einstein Bros Bagels at Denver International where in 2010 its 655 sq ft unit grossed over \$4.4 million in sales, outperforming two other coffee brands (one national and one local) in the same concourse. Our consistent, quick and courteous service is also a significant factor in our success at Denver International. This location was the top-performer in 2009 and 2010 for Einstein Bros Bagels system-wide.

From the two spaces on offer in Package 4 - one at 372 sq ft pre-security in T2W-1095 and one at 734 sq ft post-security in T1E-2000, Mission's demonstrated operational expertise serving the same profile of passengers at its Denver International location positions Mission to deliver on Opening Day and going forward, high levels of customer satisfaction in terms of quality product and speed of service - all to drive higher sales.

Mission's expertise in financing, designing and operating quick serve, full service and fast casual restaurants resulted in over \$22 Million in sales ending CY 2010, delivering exceptional customer service via its portfolio of national, regional, local and proprietary brands. Mission currently operates at Denver International Airport, Norman Y. Mineta San Jose International Airport, and off-airport in the Denver, Colorado area.

Led by President and co-owner Rog Tabora, Mission as a certified ACDBE restaurant and bar operator serves travelers well each day, and makes a positive difference in the lives of its more than 300 dedicated employees. Mission applied for ACDBE certification from the San Diego County Regional Airport Authority before submittal of this proposal and is awaiting the application's review.

Leveraging our depth of restaurant experience with this nationally recognized brand, we will offer from both Package 4 locations a comprehensive Breakfast, Lunch and Anytime menu at San Diego International Airport, comprised of:

- Einstein Bros Bagels Free Trade brand Gourmet coffee for our signature line of Espresso specialty drinks, plus Darn Good Coffee along with hot chocolate, Chai Tea and other teas
- Einstein Bros Bagels high quality on-premise baked goods, made to order sandwiches, Panini and Signature Sandwiches, a variety of Bagel spreads, 4 breads plus 16 Bagel flavors, ANYTIME salads and soups, and more
- Einstein Bros Bagels 25% reduced fat, vegetarian and food-sensitivity menu choices
- Einstein Bros Bagels healthy, fun, quick service tradition serving a broad demographic of travelers: business and leisure, kids to seniors, health conscious or picky to "just hungry".



CONCEPT DEVELOPMENT

Mission Yogurt, Inc. is pleased to present our concept development plan featuring the national brand Einstein Bros Bagels for Package 4. We believe this exceptional brand combined with Mission's expertise and success operating airport multi-unit restaurant programs, including an Einstein Bros Bagels unit that was the top performer systemwide for Einstein Bros Bagels – positions us to meet and exceed San Diego County Regional Airport Authority's goals to:

- Capture the spirit of the San Diego Region
- Represent the best local, regional, national, and international concepts/brands
- Provide an efficient operating environment
- Exceed passenger's expectations
- Optimize non-aviation revenues

All menu items are take-away packaged in sturdy beige colored recyclable containers, and include recyclable plastic ware and napkins. We want our customers to enjoy (and remember) how great our food and drinks taste and look, wherever they sit down to enjoy it – in the gate area, on the plane or in their hotel or car when they arrive at their destination.

The 372 sft unit will be open 24 hours while the 734 sft unit will be open from 5:00am to 10:30pm, unless hours change upon prior written approval of the San Diego County Regional Airport Authority.

Einstein Bros Bagels offers a unique coffeehouse experience, with a full barista serving specialty coffee drinks and a signature beverage bar with 4 daily choices of brew (drip coffee) every day which include a flavor version. We will also offer seasonal beverage choices.

Einstein Bros Bagels Grab n Go food program is broader and deeper than the competition, offering a range of choice shown to increase customer satisfaction. As customers seek more choices within a proven one-stop shop environment, Einstein Bros Bagels continues to meet and often exceed their expectations.

From both units in Package 4 we will offer:

- Full Barista Station (Espresso/Frozen Drinks)
- Bagels (10 Flavors) & Cream Cheese
- Sweets (Muffins, Cinnamon Twists, Cookies)
- Hot Breakfast Sandwiches (5 varieties)
- Hot & Cold Lunch Sandwiches/Wraps (8 varieties)
- Pizza Bagels and Bagel Dogs
- Soup and Chili
- Grab & Go (Salads, Sandwiches, Yogurt Parfait, Fresh Fruit)
- Assorted bottled and poured drinks

Please see below our proposed Einstein Bros Bagels menu for all three day parts. Pricing will be set at street+10%.

Down GOOD DEVELOPMENT



EXHIBIT D

Part 9. LEASE GOALS AND OBJECTIVES

Respondents shall use their best efforts to propose premier, world-class concepts and exceptional operations that will enhance the customer experience at the Airport and be consistent with the image and status of San Diego as a foremost domestic and international gateway. The operational plan shall embody the company's full commitment to quality, value and customer service; evidence operations in accordance with the best industry practices; demonstrate compliance with the Authority's maximum standards with regard to service, health, sanitation and safety; and ensure the Respondent's full commitment to the maximum financial return to the Authority. The Selected Respondents will be expected to create a "world-class" concession program that will meet or exceed the following goals and objectives of the Authority throughout the Term of the Leases to be awarded:

- Maximize guest satisfaction
- Optimize revenue to the Authority
- Capture the spirit of the San Diego region by creating a "sense of place"
- Offer a shopping and dining experience that represents the best of local, regional, national, and international concepts
- Ensure a diversity of concession concepts
- Encourage healthy competition through multiple concessionaires
- Create opportunities for participation from local and ACDBE businesses



San Diego's Law Firm Since 1939

Cynthia Morgan
Partner

morganc@higgslaw.com
D 619.595.4234

VIA HAND DELIVERY

August 5, 2011

Authority Procurement Department (Protest)
3225 North Harbor Drive,
San Diego, CA 92101

RE: Appeal Letter

Dear Authority Procurement Department:

We represent Diana Chuh, Nine Dragons, Inc. in her appeal of the San Diego County Regional Airport Authority's ("Authority") denial of her Proposal for Branded Gourmet Coffee ("Proposal") in response to the Authority's February 2, 2011 Request for Proposals for Food Service and Retail Concessions ("RFP") and denial of her July 22, 2011 protest letter.

This letter shall serve as Ms. Chuh's appeal of the Authority's denial of her Proposal and the July 22, 2011 protest letter. Ms. Chuh asserts that: i) the RFP process was unfair and biased; ii) the recommended proposers, Mission Yogurt, are not qualified; iii) Ms. Chuh's Proposal fit the RFP's criteria and is economically more sound and fiscally more reliable due to her seventeen years of experience working as a vendor and tenant at the airport; and iv) Ms. Chuh's appeal letter could not adequately address the facts and law because the Authority told her that documents could not be granted to her prior to when the protest letter was due. The Authority told her it would take ten (10) days to receive the documents under the California Public Records Act, Government Code section 6250 *et seq.* Therefore, she was prejudiced in her ability to include such information in her appeal letter.

Ms. Chuh's arguments are based on the following reasons:

1. The recommended proposers' concept does not meet the basic criteria for "Branded Gourmet Coffee". Einstein Brothers Bagels is not a Gourmet Coffee Concept with baked goods. The RFP clearly states that a proposer cannot change the concept; it must propose what is requested. The recommended proposer failed to propose a concept that met the "Gourmet Coffee Concept with baked goods" criteria.

1027149.1

2. The Authority desired to optimize concession revenues however, the evaluation panel chose the second to the lowest rent bid proposer. Seven of the nine proposers bid higher rent than the recommended proposers. Over the lease term, the recommended proposer's 15% bid would generate over \$800,000 less income to the Authority than the 17.5% bid by four of the other proposers for this package. Nine Dragons bid was 17.5%. Furthermore, Nine Dragon's Proposal gave realistic profits while the recommended proposer's profit projections were not realistic.
3. The Authority desired a diversity of concepts from local, regional and international brands. Nine Dragon's Proposal offered true local gourmet coffee concept with five Living Room gourmet coffee locations, all in San Diego, with the original store in the SDSU area for over twenty years. The recommended proposers are from Denver, Colorado and are proposing a national chain. The recommended proposers are not from San Diego or California and have no experience in this area of the country.
4. The Authority desired to capture the spirit of the San Diego region. The Living Room is an iconic San Diego fixture well known for its gourmet coffee, fresh bakery items and delicious food with locations near SDSU, La Jolla, Point Loma, Old Town, and National City. An Einstein's Bagel is a generic chain store that has no connection to the food, community, or environment of San Diego.
5. The Authority desired to create opportunities for local, small and Airport Concession Disadvantaged Business Enterprises ("ACDBE"). Although both proposers are ACDBEs, Nine Dragons and the Living Room are also local and small, not large and national like an Einstein's Bagel.
6. The Authority desired to provide an efficient operating environment. Nine Dragon's proposal would have allowed key staff members to attend the Pal's Business Excellent Institute on a regular basis. Nine Dragon, as an experienced vendor and tenant, knows how to provide an efficient operating environment based on the other airport operations it runs. Also, the Living Room has proven to be an efficient operator due to its longevity in the community and outstanding business reputation.
7. The Authority desired to exceed passengers' expectations. Both Nine Dragons and Living Room are highly regarded. Nine Dragons typically receives excellent reviews from Secret Shoppers. Their most recent review by the regional representative from Jamba Juice, who oversees 175 units in the system, gave them a 95.8% score, the

Authority Procurement Department
August 5, 2011
Page 3

highest of any other unit under his jurisdiction. The Living Room is a long-standing fixture in the company with an outstanding reputation for delicious food and drink.

Furthermore, Ms. Chuh's appeal letter was prejudiced and inadequate due to the fact that the Authority told her they could not timely grant her documents requested under the California Public Records Act in order for her to comply with the RFP's protest letter requirements.

We formally request a hearing or meeting to provide detailed facts and evidence to support the following arguments from Ms. Chuh and encourage the panel to reconsider their decision. We look forward to your response. Thank you.
to us. We appreciate the opportunity to be of service and look forward to working with you.

Sincerely,



CYNTHIA MORGAN

of

HIGGS, FLETCHER & MACK LLP

CM:lsb

cc: Office of General Counsel

July 22, 2011

President/Chief Executive Officer
San Diego Airport Authorities
Authority Procurement Department (Protest)
3225 North Harbor Drive
San Diego, CA 92101

NINE DRAGONS, INC.



Concessionaire
Retail
Food & Beverage

3663 North Harbor Dr.
Suite 215
San Diego, CA 92101
619.231.5158 Office
619.231.5172 Fax

To Whom It May Concern,

I am writing to formally protest the Protest Procedures contained in San Diego County Regional Airport Authority's Request for Proposal ("RFP") for Food Service and Retail Concessions published February 02, 2011. As a qualified proposer for multiple food & beverage packages in this solicitation, I was recently notified of recommendations to award all of these contracts to other firms. I believe that the Protest Procedures contained in the RFP are extremely biased, unfair and possibly illegal for the following reasons:

1. Section 2) of the Protest Procedures requires that the protest document specifically refer to the part of another (unspecified) document that forms the basis for the protest. This suggests that a protester is only allowed to protest a particular document and does not identify what document. This requirement is impossible to fulfill.
2. It is impossible to protest a solicitation process, much less provide a factual and legal basis for such a protest (as required in section 1) of the Protest Procedures), when details of the selection process have not been made available.
3. Section 4) of the Protest Procedures require any party filing a protest to concurrently transmit a copy of the protest document to all others who might be adversely affected by the outcome of the protest including other respondents. This is an impossible requirement to fulfill because the names and contact information of other respondents are not available at this time.
4. The 5 day time limit allowed to gather information, seek professional advice and file a protest is unusually and unreasonably short.
5. Under the Protest Procedures the San Diego Regional Airport Authority, who is ultimately responsible for awarding the contracts under this solicitation, is not part of or even made aware of any protests. By the time the protest procedure has run its course, the SDCRAA will have likely awarded these contracts. At that point it will be too late to rectify any mistakes -- illegal or otherwise-- that may have been made.

6. An unidentified "Procurement Administer" who is overseeing the RFP is responsible for making a determination on any protest. It is not clear if this administrator is the same person this Protest is being addressed to. Further, it does not seem remotely fair that someone who is overseeing a process should be allowed to judge if that process is fair. Clearly the "judge" in this case is biased.
7. If a protest is initially rejected, the Protest Procedures require that another appeal be made, this time to the Director of the Procurement Department. It is not clear if the Director is the same person as the "Procurement Administrator" or even if the Director reports to the Administrator (and therefore is unlikely to overrule his superior). Overall, it is unreasonable to expect (or even believe) that the same organization will overrule one of its prior decisions.
8. Because all of the procedures and time limits are mandatory –and, at the same time, some of them are impossible to fulfill—the whole protest process is seriously flawed.

NINE DRAGONS, INC.



Concessions
Retail
Food & Beverage

3663 North Harbor Dr.
Suite 210
San Diego, CA 92101
619.231.8188 Office
619.231.5177 Fax

The Authority promised a fair and transparent process. It specifically solicited and claimed that it would favor both local and women/minority participation. As a current tenant and an experienced local ACDBE with seventeen years of experience owning and operating food and beverage and retail concessions in San Diego Airport, I can't help but question why I am not being recommended for any of the spaces I proposed on. The Protest Procedures specifically make it impossible to lodge a protest.

I am asking for a fair opportunity to gather information and to ascertain for myself if this was a fair solicitation process.

Please send all future communications to:

Diana MarJip-Chuh
Nine Dragons Inc.
1034 14th Street
San Diego, CA 92101

Sincerely,

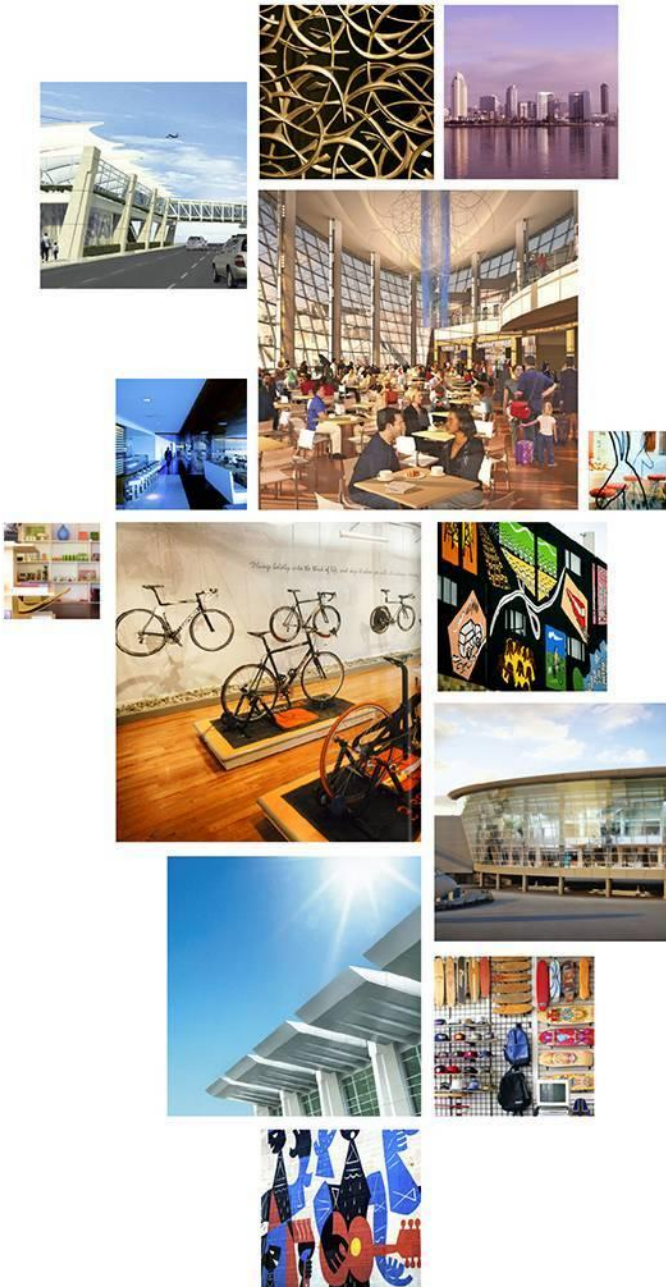
Diana MarJip-Chuh
President
Nine Dragons Inc.
619-231-9108

SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

**CONCESSION DEVELOPMENT PROGRAM (CDP)
GRANT A CONCESSION LEASE TO
MISSION YOGURT, INC. FOR
DEVELOPMENT AND OPERATION OF
FOOD SERVICE PACKAGE #4**

Vernon D. Evans
Vice President, Finance

September 1, 2011





SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

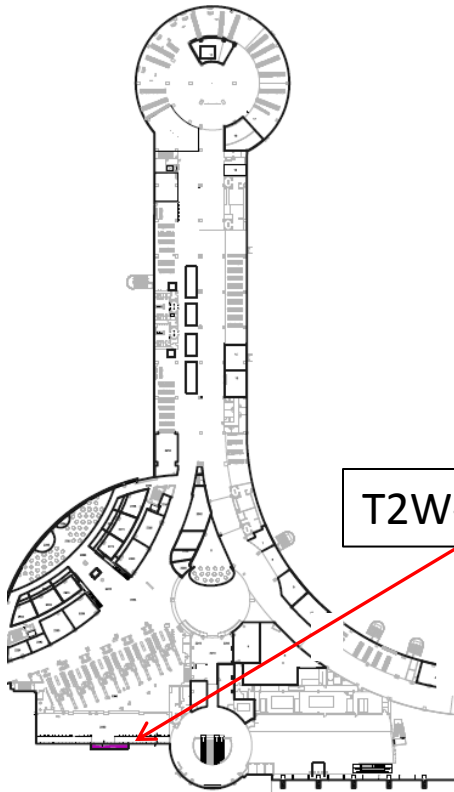
Food Service Package 4

Unit Count	Unit Number	Location	Square Footage	Concept
1	T2W-1095	T2W Pre-Security (M/G Hall)	372	Gourmet Coffee w/ Prepared Foods and Baked Goods
1	T1E-2000	T1 Post-Security	734	Gourmet Coffee w/ Prepared Foods and Baked Goods
2			1,106	

FOOD SERVICE PACKAGE 4

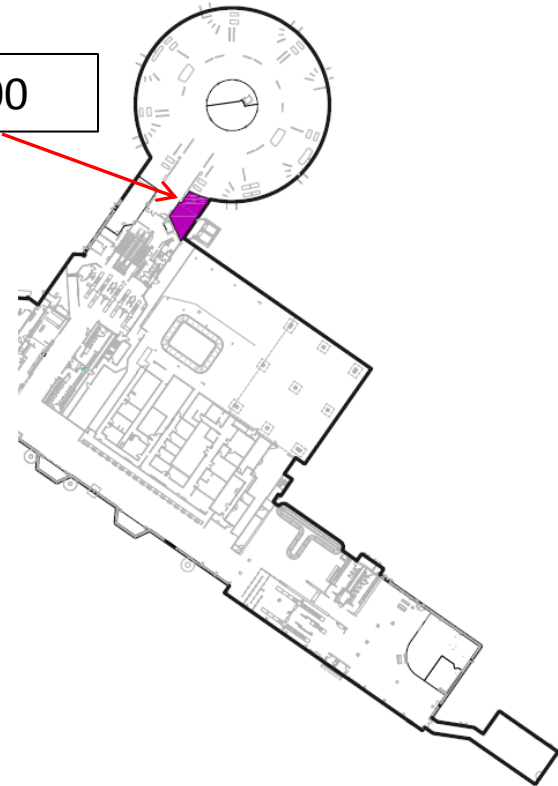
Terminal 2 West

Terminal 1 East



T2W-1095

T1E-2000





SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Food Service Package 4: Minimum Requirements

Minimum Investment in Fixed Improvements per Square Foot	\$350
Percentage Rent (Biddable within Provided Range)	Food/ Non-Alcohol 14.5% to 17.5%
Minimum Annual Guarantee (MAG) (Fixed)	\$288,200



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Food Service Package 4 Proposers

Green Beans Coffee Co., Inc. (Green Beans Coffee)	Proposed business entity is a Corporation, stock is held by Jason Araghi (55% ownership), and Jon Araghi (45% ownership)
Guava & Java SFO Inc. (Guava & Java)	Proposed business is a California S Corporation
High Flying Foods San Diego Partnership (High Flying Foods)	Proposed business entity is comprised of a joint venture between High Flying Foods San Diego, LLC (95% ownership) and Procurement concepts, Inc. (5% ownership).
Host International, Inc. (Host)	Proposed business entity is comprised of Host International, Inc. as prime Concessionaire with a sublease to a Joint Venture comprised of Host International, Inc. (65% ownership) and Concession Management Services, Inc. (35% ownership)
Mission Yogurt, Inc. (Mission Yogurt)	Proposed business entity is a Corporation, stock is held by Roderick Tafoya (50% ownership) and Reyes Tafoya (50% ownership)
Nine Dragons Inc. (Nine Dragons)	Proposed business is a California S Corporation
RMS Enterprises, LLC (RMS Enterprises)	Proposed business entity is 100% owned by Rinku Marwaha Sodhi
SAN Airport Partners, Inc. (SAN Airport Partners)	Proposed business entity is comprised of a joint venture between First Class Concessions (40% ownership), Aero Service Group (40% ownership), Sayed Ali (20% ownership)
SSP America, Inc. (SSP)	Proposed business is 100% owned by its principal shareholder of voting stock: SSP America (USA), LLC, a Delaware limited liability company



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Food Service Package 4

Proposed Concepts by Proposer

Location	T2W-1095	T1E-2000
Square Feet	372	734
Proposer	Concepts	
Green Beans Coffee	Green Beans Coffee	Green Beans Coffee
Guava & Java	Guava & Java	Guava & Java
High Flying Foods	Pannikan	Pannikan
Host	St. Tropez Bakery	Starbucks
Mission Yogurt	Einstein Bros. Bagels	Einstein Bros. Bagels
Nine Dragons	The Living Room	The Living Room
RMS Enterprises	Subway	Subway
SAN Airport Partners	Caribou Coffee	People's Organic Coffee
SSP	Ryan Brothers	Coffee Bean & Tea Leaf



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Food Service Package 4 Financial Offer

Proposer	Proposed Percentage Rent	Year One MAG
Green Bean Coffee	\$0-\$1.0M 14.5% \$1.0M-\$1.5M 15% \$1.5M-\$2.0M 15.5% \$2.0M-\$2.5M 16% \$2.5M-\$3.0M 16.5% \$3.0M-\$3.5M 17.0% Over \$3.5M 17.5%	\$ 288,200
Guava & Java	17.5%	\$ 288,200
High Flying Foods	\$0-\$2.0M 15% Over \$2.0M 17.5%	\$ 288,200
Host	14.5%	\$ 288,200
Mission Yogurt	15.0%	\$ 288,200
Nine Dragons	17.5%	\$ 288,200
RMS Enterprise	16.0%	\$ 288,200
SAN Airport Partners	17.5%	\$ 288,200
SSP	17.5%	\$ 288,200



SAN DIEGO INTERNATIONAL AIRPORT Concession Development Program

Food Service Package 4 Evaluation Panel Rankings For Short List

Proposer	PM1	PM2	PM3	PM4	PM5	PM6	Total
Green Beans Coffee	6	8	5	2	5	8	34
Guava & Java	3	3	2	1	8	2	19
High Flying Foods	5	5	4	6	3	7	30
Host	4	6	3	7	4	6	30
Mission Yogurt	1	4	9	3	2	4	23
Nine Dragons	2	1	6	5	7	5	26
RMS Enterprise	9	9	8	6	9	9	50
SAN Airport Partners	7	7	1	8	1	1	25
SSP	8	2	7	4	6	3	30

PM = Panel Member

“1” is (best suited) ; “9” (least suited)

Lowest Total = Best Suited



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Food Service Package 4 Evaluation Panel Final Rankings

Proposer	PM1	PM2	PM3	PM4	PM5	PM6	Total
Guava & Java	2	3	2	2	2	4	15
Mission Yogurt	1	2	3	1	1	1	9
Nine Dragons	3	1	4	3	3	2	16
SAN Airport Partners	4	4	1	4	4	3	20

PM = Panel Member

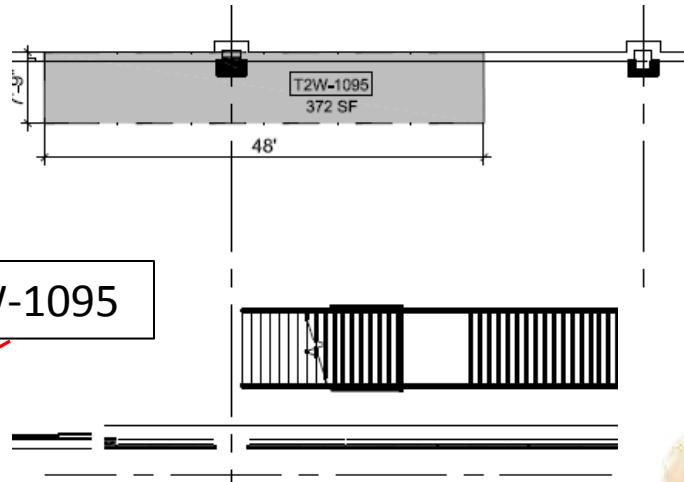
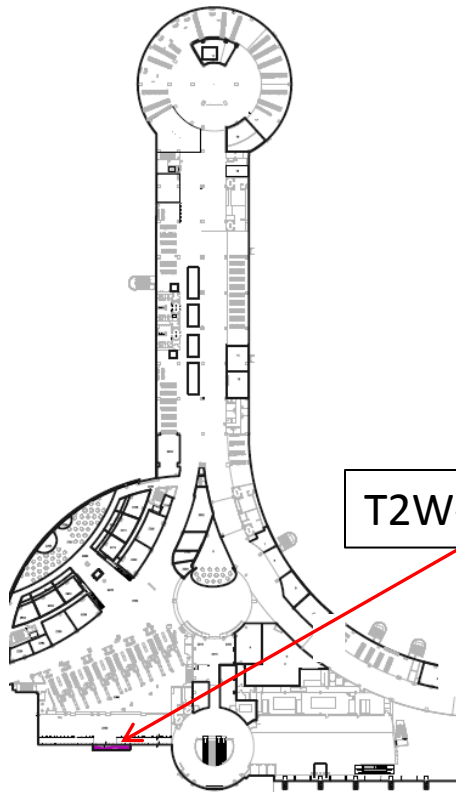
“1” is (best suited) ; “4” (least suited)

Lowest Total = Best Suited

FOOD SERVICE PACKAGE 4

T2W-1095 – 372 SF

Terminal 2 West



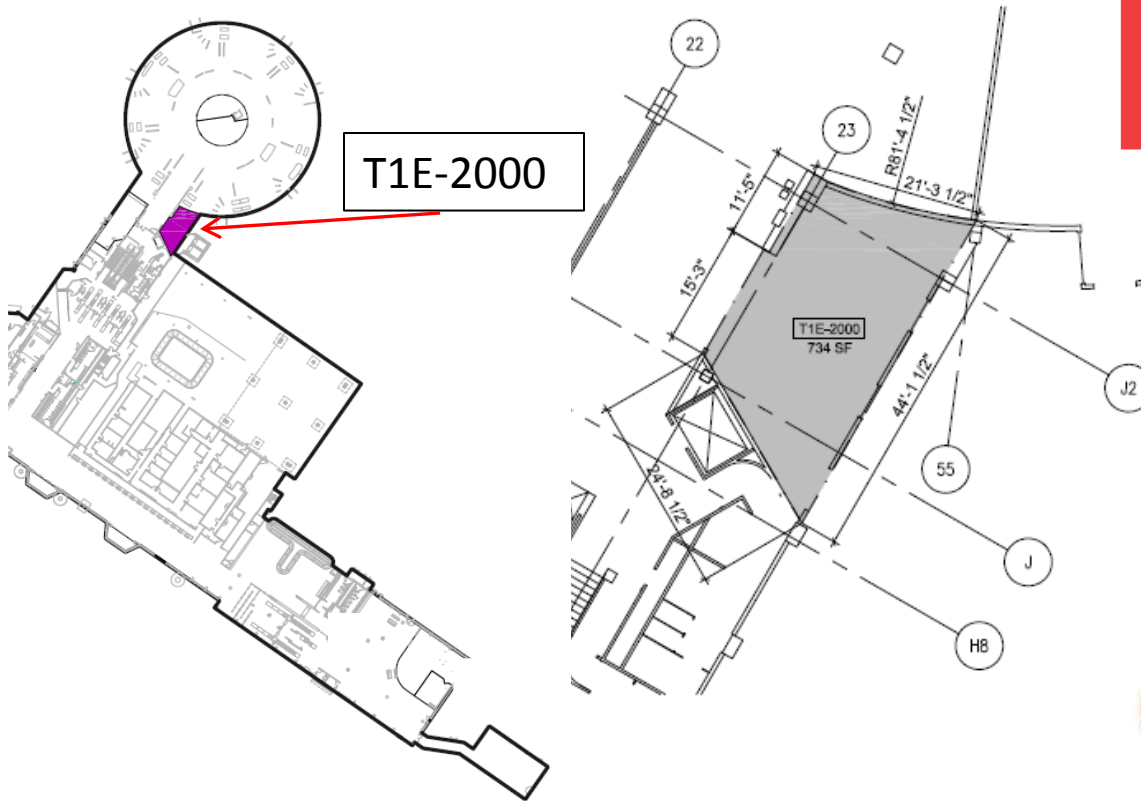
Food Pkg 4: Mission Yogurt



FOOD SERVICE PACKAGE 4

T1E-2000 – 734 SF

Terminal 1



Food Pkg 4: Mission Yogurt



CONCESSION
Development Program



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Food Service Package #4 Summary

Recommendation for Award of Lease:

- Mission Yogurt, Inc.(Mission Yogurt)

ACDBE% - 100%

Worker Retention:

Mission Yogurt will meet minimum retention standards established in “Worker Retention Program Resolution 10-0142R”.



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Protest Process

- Received Nine Dragon's protest – July 22, 2011
- Authority rejected Nine Dragon's protest – July 29, 2011
- Received Nine Dragon's appeal – August 5, 2011
- Authority rejected Nine Dragon's appeal – August 26, 2011