

ORDINANCE/RESOLUTION REQUEST

Please email requests to the Mayor's Legislative Team

at MileHighOrdinance@DenverGov.org by 9 a.m. Friday. Contact the Mayor's Legislative team with questions

Date of Request: March 27, 2025

Please mark one: ☐ Bill Request or ☒ Resolution Request

Please mark one: The request directly impacts developments, projects, contracts, resolutions, or bills that involve property and impact within .5 miles of the South Platte River from Denver's northern to southern boundary? (Check map [HERE](#))

☐ Yes ☒ No

1. Type of Request:

☒ Contract/Grant Agreement ☐ Intergovernmental Agreement (IGA) ☐ Rezoning/Text Amendment

☐ Dedication/Vacation ☐ Appropriation/Supplemental ☐ DRMC Change

☐ Other:

2. **Title:** Approves a concession agreement utilizing the Premium Value Concession Award Benefit with Mission Yogurt, Inc. d/b/a Que Bueno! Suerte for a \$540,000 Minimal Annual Guarantee (MAG) or percentage fee of 14% up to \$1,000,000, 15% between \$1,000,001-\$2,000,000, 16% for \$2,000,001+, and 18% of Alcohol Sales and for a term of ten years to design, build, manage, and lease on the East Subcore 2, of Concourse B at Denver International Airport, in Council District 11 (PLANE-202475485).

3. **Requesting Agency:** Department of Aviation

4. Contact Person:

| | |
|--|---|
| Contact person with knowledge of proposed ordinance/resolution (e.g., subject matter expert) | Contact person for council members or mayor-council |
| Name: Pamela Dechant, SVP of Concessions | Name: Kevin Forgett, State and Local Legislative Advisor |
| Email: Pamela.Dechant@flydenver.com | Email: Kevin.Forgett@flydenver.com |

5. General description or background of proposed request. Attach executive summary if more space needed:

Denver International Airport (DEN) collaborated with its concession partners to develop and implement the Premium Value Concessions Program (PVC). Concession partners are the population of small, local, and global businesses that operate Retail, Food and Beverage, and Services at DEN. DEN implemented the PVC program in 2012 which was created to drive non-aeronautical revenue and increase customer satisfaction at DEN by rewarding concessions that had the highest sales, highest customer service, and maintained contract compliance. The original PVC program included scoring concessionaires against their peers in the same minor merchandise category. Minor merchandise categories are more specific sub-divisions within major categories, delineating narrower groups of related products and levels of service. Major Merchandise categories represent the broadest classifications of products or goods offered by a concession at DEN, typically encompassing large product groups such as Food and Beverage, Retail, and Services. Scoring was conducted by a 3rd party administrator, DRG Metrix, which was selected by a competitive RFP in 2011 and in 2016. Concessionaire participation in the PVC program was required per the operating contract to include 154 participants since 2012. The top 1/3 performers are awarded the program benefit which is the opportunity to bypass the competitive request for proposal (RFP) process and begin a new lease negotiation with DEN. DEN ensured the equity of the PVC process by offering new concessionaires the necessary information and resources to compete effectively while diligently monitoring both the recipients and non-recipients of Program Benefits, with special attention to small, MWBE, and ACDBE concessionaires. For those concessions not earning the Program Benefit, DEN will issue a RFP and competitively bid out those concession locations.

Mission Yogurt, Inc. d/b/a Que Bueno! Suerte on the East Subcore 2, of Concourse B has earned the PVC Program Benefit. DEN and Mission Yogurt, Inc. negotiated on concept and location to align the placement of the new contract with the Concessions Master Plan. After negotiations, both parties concluded that the new concept will be Que Bueno! Suerte located on the East Subcore 2, of Concourse B. The term for this opportunity is ten (10) years, to allow the concessionaire to amortize their capital investment of \$1,715,850 to build

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out this 2,287.8 square-foot location. Additionally, the term was based on the original term of the awarded contract, as required by the Premium Value Concession Program. No funding or capital investment will be provided by DEN, as the space will be turned over as is.

DEN requests City Council to approve the new contract 202475485, which will dissolve the previous contract on or prior to the opening of the new contracted location.

This project supports Vision 100's goal of "Growing Our Infrastructure" by adding new concession opportunities to meet future passenger demands which will enhance the customer experience and increase non-aeronautical revenue.

6. City Attorney assigned to this request (if applicable): John Redmond

7. City Council District: 11

8. **For all contracts, fill out and submit accompanying Key Contract Terms worksheet**

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Key Contract Terms

Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property): Concession Agreement

Vendor/Contractor Name (including any dba's): Mission Yogurt, Inc. d/b/a Que Bueno! Suerte

Contract control number (legacy and new): Dissolving contract No. AR 07001; New Contract No. 202475485

Location: Denver International Airport

Is this a new contract? ☒ Yes ☐ No **Is this an Amendment?** ☐ Yes ☒ No **If yes, how many?** _____

Contract Term/Duration (for amended contracts, include existing term dates and amended dates):
Ten (10) years

Contract Amount (indicate existing amount, amended amount and new contract total):

| <i>Current Contract Amount (A)</i> | <i>Additional Funds (B)</i> | <i>Total Contract Amount (A+B)</i> |
|---|---------------------------------|---|
| \$540,000 Minimal Annual Guarantee (MAG) or percentage fee of 14% up to \$1,000,000, 15% between \$1,000,001-\$2,000,000, 16% for \$2,000,001+, and 18% of Alcohol Sales. | N/A | \$540,000 Minimal Annual Guarantee (MAG) or percentage fee of 14% up to \$1,000,000, 15% between \$1,000,001-\$2,000,000, 16% for \$2,000,001+, and 18% of Alcohol Sales. |

| <i>Current Contract Term</i> | <i>Added Time</i> | <i>New Ending Date</i> |
|------------------------------|-------------------|------------------------|
| 10 years | N/A | 10 years |

Scope of work:

Mission Yogurt, Inc. will design, build, manage, and lease Que Bueno! Suerte on the East Subcore 2, of Concourse B. Mission Yogurt, Inc. has committed to investing a minimum of \$1,715,850 to design and build this space. To amortize Mission Yogurt, Inc. capital investment, they will receive a contract term of ten (10) years. Denver International Airport (DEN), will receive the greater of either a guaranteed rent/Minimum Annual Guarantee (MAG) of \$540,000.00 or percentage rent of gross sales; 14% up to \$1,000,000, 15% between \$1,000,001-\$2,000,000, 16% for \$2,000,001+, and 18% of Alcohol Sales.

Was this contractor selected by competitive process? No

If not, why not?

Denver International Airport (DEN) collaborated with its concessionaire partners to develop and implement the Premium Value Concessions Program (PVC). The program established an internal competition to recognize the top-performing concessions. These top performers are awarded the program benefit which is the opportunity to bypass the competitive request for proposal (RFP) process and begin a new lease negotiation with the airport. For those concessions not earning the Program Benefit, DEN will issue a RFP and competitively bid out those concession locations.

The PVC program represents a special circumstance, as outlined in Executive Order No. 8, authorized and justified by the DEN CEO as a way to incentivize high performance among DEN's concessionaires and allows DEN to contract directly with the highest of performers with proven track records at DEN. The PVC program was integrated into the respective concession agreements through amendments and in subsequent concession agreements, each approved by City Council, and the concessionaires who earned the PVC

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Program Benefit thereby have a legal contractual right to the privileges of the Program Benefit, including the right to negotiate these contracts without competitive selection.

Has this contractor provided these services to the City before? ☒ Yes ☐ No

Source of funds: Revenue

Is this contract subject to: ☒ W/MBE ☐ DBE ☐ SBE ☐ XO101 ☒ ACDBE ☐ N/A

WBE/MBE/DBE commitments (construction, design, Airport concession contracts): 36% Airport Concessions Disadvantaged Business Enterprise (ACDBE) / 25% M/WBE

Who are the subcontractors to this contract? ACBDE is Mission Yogurt, Inc. (100%). M/WBE firms will be selected by the concessionaire's selected General Contractor, after the execution of the concession agreement and the construction contract. The M/WBE firms are reviewed and approved by DSBO prior to DEN's issuance of Notice to Proceed with construction for the concession location. A Notice to Proceed is provided by DEN to the concessionaire after all applicable documents, such as Bonds, Insurance, Permits, and DSBO approval, have been provided by the concessionaire, and their selected general contractor to begin construction of the concession location.

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