

ORDINANCE/RESOLUTION REQUEST

Date of Request: 10/1/2018

Please mark one: **Bill Request** or **Resolution Request**

1. Type of Request:

- Contract/Grant Agreement** **Intergovernmental Agreement (IGA)** **Rezoning/Text Amendment**
 Dedication/Vacation **Appropriation/Supplemental** **DRMC Change**
 Other:

2. Title: Approves the Fifth Amendment of the Final Approach APRO, LLC commercial property, service lease to update the Food Court operation terms by re-concepting several existing fast food concessions and changing the compensation fee. (AC 59013-05)

3. Requesting Agency: Department of Aviation

4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: George Karayiannakis	Name: Angela Casias
Email: George.Karayiannakis@flydenver.com	Email: Angela.Casias@flydenver.com

5. General description or background of proposed request. Attach executive summary if more space needed:
Denver International Airport (DEN) contracts APRO, LLC, for fast food (Final Approach plus Wendy’s), convenience store, and gasoline provision to airport customers on landside, along Peña Boulevard. The Final Approach plus Wendy’s (the Food Court operation) is an Airport Concessions Disadvantage Business Enterprises (ACDBE) sublease of APRO, LLC. The fifth amendment updates the Food Court operation contract terms in response to current Food Court brand performance. Proposed changes in lease compensation fee and re-concepting would improve net results for the sublease operation. ACDBE participants anticipate a stronger position, post amendment, with an increase in overall revenue opportunities from the Food Court operation changes that allow them to be more competitive in the airport’s landside, fast-food market.

6. City Attorney assigned to this request (if applicable): George Hypolite

7. City Council District: 11

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

To be completed by Mayor’s Legislative Team:

Resolution/Bill Number: RR18 1139

Date Entered: _____

Key Contract Terms

Type of Contract: Revenue Lease for Services

Vendor/Contractor Name: APRO, LLC

Contract control number: AC 59013-05

Location: Denver International Airport Grounds

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

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

Original Term 12/6/1995-12/31/2015;

3d Amendment 10/4/2010, new expiration 12/31/2022;

4th Amendment 4/24/2012, new expiration (14 years from date of food court open-9/24/2013) 9/30/2027.

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

<i>Current Contract Amount</i> (A)	<i>Additional Funds</i> (B)	<i>Total Contract Amount</i> (A+B)
Higher of 15% from fast food gross sales (% or MAG)	3% less from fast food gross sales	Higher of 12% from fast food gross sales (% or MAG)

<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>
12/06/1995 to 09/30/2027	None	12/06/1995 to 09/30/2027

Scope of work:

Amendment authorizes a compensation fee update from 15% to 12% of gross receipts generated under the APRO, LLC, existing lease for the Food Court operation provision, retroactively as of October 31, 2017. The recommended rate change would allow these Peña Boulevard establishments to be competitive and responsive, in hopes of improving net revenue for their struggling ACDBE operators.

The market place also supports an approval to re-concept several of the existing fast food concessions to improve the Final Approach plus Wendy’s net revenue. Specifically, “Subway” to “Schlotzsky’s” to decrease franchise costs, plus “Slice” to “Auntie Anne’s Pretzels” increasing customer traffic though greater national brand recognition.

Lastly, DEN Legal Services will update lease language for clarity.

Was this contractor selected by competitive process? Yes, original agreement was competitively procured through and RFP. This is a non-competitive amendment. **If not, why not?**

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

Source of funds: Revenue/Lease

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

WBE/MBE/DBE commitments (construction, design, Airport concession contracts):

Division of Small Business Opportunity established an ACDBE goal of 25%, in 2012, for the operation of the Food Court. APRO, LLC subleased the Food Court operation with 100% ACDBE.

Who are the subcontractors to this contract? Fresquez Concessions, Inc., and SevenTwoSeven, LLC.

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