



## Legislation Text

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**File #:** 14-0490, **Version:** 1

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Recommendation to authorize City Manager to amend Concession Agreement No. 29276 between the City of Long Beach and SSP America, Inc., replacing the \$500,000 mid-term refurbishment requirement with a \$175,000 one-time payment, eliminating the Minimum Annual Guarantee requirement, and allowing for an early termination of the Agreement. (District 5)

The City of Long Beach (City) entered into Concession Agreement No. 29276 with Creative Host Services, Inc., on October 7, 2005. The purpose of the Agreement (Agreement) with Creative Host Services, Inc., now SSP America, Inc. (SSP America), was to provide food and beverage concession services to passengers and employees of the Long Beach Airport (Airport).

Spaces allocated to SSP America consisted of both exclusive and non-exclusive areas, with the latter located primarily within the Temporary Boarding Lounges in use at the time. The Agreement had a term of ten years, with a five-year extension option.

In 2011, the Airport commenced the Request for Proposal (RFP) process for all concessions in the New Passenger Concourse (Concourse), which opened the following year. Although SSP America was one of the companies submitting proposals, another company was selected to operate the concessions in the Concourse.

The current SSP America-operated facilities at the Airport consist of a restaurant and snack bar in the Terminal Building, along with two adjacent outdoor kiosks. As the vast majority of concession sales take place in the post-security environment of the Concourse, SSP America's sales at the Airport have decreased significantly, falling over 70 percent versus prior periods.

SSP America is requesting that it be allowed to terminate its Agreement with the City prior to the current expiration date in October 2015. In addition, citing a materially changed business environment due to the opening of the Concourse, SSP America is requesting that the \$500,000 mid-term facility refurbishment, required by the Agreement, be reduced to a \$175,000 one-time payment to the Airport.

SSP America's Agreement with the City also included a Minimum Annual Guarantee (MAG) provision, where SSP America's annual payments to the Airport would either be a percentage of prior year gross receipts, or the MAG amount of \$450,000 per year, whichever is greater. SSP America has asked that the MAG be waived effective January 2013, the first full month of its greatly reduced operations at the Airport, and that it instead pay the straight percentage

fee.

In return for the requested early termination, reduced mid-term refurbishment requirement and elimination of MAG amount, SSP America will transfer to the Airport ownership of additional hard assets not required to be left behind at the conclusion of its Agreement, including fixtures and equipment. In addition, SSP America has agreed to transfer the state-issued full liquor license to either the Airport or a new concessionaire at no cost, other than reasonable legal fees related to such transfer. There is significant value to the latter item, as such full liquor licenses are extremely difficult to obtain. Airport staff believes that the consideration requested by SSP America detailed above is reasonable and in the best interest of both parties.

An RFP effort in late 2013 resulted in the receipt of one non-conforming proposal for the Terminal restaurant. The Airport proposes to release a new RFP, with a reduced minimum concession fee requirement and inclusion of the existing fixtures, equipment and liquor license, in order to attract a greater variety of local operators to the process. Airport staff believes that, with proper marketing of the restaurant, and increased breadth of offerings in the snack bar, those facilities can remain open and operate successfully. Staff is also of the opinion that, with the greater number of concession choices available both pre- and post-security to the Airport customer, the two outdoor kiosks could be better utilized repurposed to other Airport-related functions.

Airport staff is in discussion with potential month-to-month operators of the two pre-security food and beverage facilities. The goal is that these facilities can operate uninterrupted in the timeframe between the termination of SSP America's Agreement with the City of Long Beach and the start of operations of the concessionaire(s) selected via the upcoming RFP process.

This matter was reviewed by Deputy City Attorney Richard F. Anthony and by Budget Management Officer Victoria Bell on June 17, 2014.

Authorization to proceed is necessary in order to allow SSP America to close its operations at Long Beach Airport in a timely manner, and to allow the month-to-month operators to commence service to Airport customers and employees without interruption.

The one-time payment of \$175,000 requested by SSP America, Inc., in recognition of its unimplemented mid-term refurbishment requirement of \$500,000, will be deposited to the Airport Fund (EF 320). Waiving of the MAG payment amount of \$450,000 and converting to a percentage of gross receipts for the period of January 2013 through June 2014 represents approximately \$631,000 in unrealized revenue from Airport operations.

Approve recommendation.

REGINALD I. HARRISON

ACTING DIRECTOR  
LONG BEACH AIRPORT

APPROVED:

PATRICK H. WEST  
CITY MANAGER