

**CITY OF SAN JOSE  
SMALL BUSINESS DEVELOPMENT COMMISSION  
AUGUST 10, 2011, 6:00 – 8:00 P.M.**

**SAN JOSE CITY HALL – 200 E. SANTA CLARA ST. – TOWER 1352**

- 1. CALL TO ORDER**
- 2. APPROVAL OF THE AGENDA – 1 MIN.**
- 3. APPROVAL OF MAY 11, 2011 MINUTES – 5 MIN.**
- 4. OPEN FORUM/ PUBLIC COMMENT / ORAL PETITION PERIOD – 2 MIN. EACH**  
Any person may address the Commission on any subject not on the agenda. Speakers are asked to state their name and address for the record. Since the subject is not on the agenda, the Brown Act (State Open Meeting Law) prohibits action by Commission members or City Staff. However, Commission members and City Staff may briefly respond to statements or questions and/or provide referral to Staff. The Commission may place the item on an agenda for a future meeting.
- 5. CONVENTION CENTER EXPANSION – 20 MIN.** STAFF, INFORMATION  
The Commission will receive an update on the outreach plans for subcontractors.
- 6. 3-YEAR AIRPORT CONCESSION ACDBE PLAN – 20 MIN.** STAFF, ACTION  
Discussion and possible action on the 3-year Airport Concession ACDBE plan update.
- 7. AD-HOC COMMITTEE ON TOURISM LOCATIONS – 10 MIN.** BRAUNSTEIN, ACTION  
Ad-hoc committee will report out on their activities and recommend action be taken where appropriate.
- 8. AD-HOC COMMITTEE ON COUNCIL COMMUNICATION – 10 MIN.** WANG, ACTION  
Ad-hoc committee will report out on their activities and recommend action be taken where appropriate.
- 9. REVIEW OF COMMISSION WORKPLAN – 10 MIN.** COMMISSION, ACTION  
The Commission will review progress on the workplan.

**10. STAFF REPORT**

**11. CHAIR REPORT**

**12. NEW AGENDA ITEMS – 5 MIN.**

**13. ADJOURNMENT**

For questions regarding the agenda, please contact Dhez Woodworth at (408) 535-8181.

You may view this agenda and related documents at <http://www.sjeconomy.com/businessassistance/sbdc.asp> along with minutes, agendas and packets from previous meetings.

The City of San Jose is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public. San Jose's ethics standards are listed at [http://www.sanjoseca.gov/clerk/cp\\_manual/CPM\\_0\\_15.pdf](http://www.sanjoseca.gov/clerk/cp_manual/CPM_0_15.pdf).

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the City Manager's Office at San Jose City Hall, 200 E. Santa Clara St., 17<sup>th</sup> Floor, San Jose, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

To request an accommodation or alternative format for City-sponsored meetings, events or printed materials, please call Rosemary Maire or Dhez Woodworth of the Office of Economic Development at (408) 535-8181 or (408) 294-9337 (TTY) as soon as possible, but at least three business days before the meeting/event.

**CITY OF SAN JOSE  
SMALL BUSINESS DEVELOPMENT COMMISSION**

Synopsis (Not Approved)  
May 11, 2011

200 E. Santa Clara St. – Tower 1352

START TIME: 6:05                      ADJOURNMENT 8:00

COMMISSIONERS PRESENT:

Miguel Olivo  
Joyce Puopolo  
Johnny Khamis  
Brian Ho  
Molly Uzoh  
Leo Cortez  
Harmeet Bhugra  
Helen Wang  
David Clancy  
Robert Braunstein (arrived at 6:50)

COMMISSIONERS ABSENT

None

Council Liaison  
Anh Tran

City Staff  
Dhez Woodworth (work2future)

Public Present  
Rudy Rodriguez  
Perple Lu

1. CALL TO ORDER  
Called to order by Olivo at 6:05 pm

2. APPROVAL OF AGENDA

Corrections:

- None

Motion: Approval

Motion:            1) Khamis            2) Cortez            X App            no

### 3. APPROVAL OF FEBRUARY 9, 2010 SYNOPSIS

Corrections:

- None

Motion: Approval

Motion:            1) Khamis            2) Bhugra            X App            no

### 4. OPEN FORUM/ PUBLIC COMMENT / ORAL PETITION PERIOD

- Rudy Rodriguez is a former Commissioner who continues to be interested in the SBD Commissions' activities and will volunteer to work on AdHoc Committees
- Perple Lu is a journalist invited by Commissioner Wang
- Anh Tran will report back to Councilmember Chu, the Council Liaison to the Commission.

### 5. CONVENTION CENTER EXPANSION (discussed after item 6)

- Harry Freitas, Deputy Director for Public Works discussed a presentation done on Contracting Outreach with additional information regarding the convention center expansion
- \$60 to \$70 million will be spent with subs not identified in the bid response.
- Mr. Freitas will return to a future meeting with additional information regarding the outreach plan and market studies upon which the design will be based.

### 6. BUDGET UPDATE

- Dhez Woodworth presented public budget information including public hearings

### 7. UPDATE ON DOCUMENTS TO RULES COMMITTEE

- The Annual Report, Workplan and ByLaws will go to Rules Committee in early June.

### 8. AD-HOC COMMITTEE MEETINGS

- Commissioners discussed Ad-Hoc Committee meetings.
  - i. Assign Commissioners to each Councilmember
    1. Commissioners **Wang**, Cortez, Clancy, Bhugra and Khamis will participate

2. Meeting scheduled for June 1<sup>st</sup> at noon
- ii. Prepare and present Mentor-Protégé program
  1. Commissioners **Uzoh**, Puopolo, Olivo will participate
  2. Meeting to be scheduled
- iii. Tourist attractions
  1. Commissioners **Braunstein**, Ho, Puopolo will participate
  2. Meeting will be held at noon on June 8

9. UNEXCUSED ABSENCES

- Commissioners decided not to make recommendations

10. STAFF REPORT

- Small Business Social Media Conference on June 23.

11. CHAIR REPORT

- None

12. NEW AGENDA ITEMS

- Reports from Ad-Hoc Committees
- Convention Center Outreach Update

13. ADJOURNMENT 8:00

Attachment 3

**Section 23.45: Overall Goal Calculation for Concessions Other Than Car Rentals  
Federal Fiscal Years 2012 - 2014**

**Amount of Goal**

The City's overall race-neutral target for concessions other than car rentals during the period beginning October 1, 2011 and ending September 30, 2014, collectively Federal Fiscal Years 2012-2014, is 9.67% of the estimated total gross revenue of \$109,466,886 for non-rental car concessions at Norman Y. Mineta San José International Airport ("SJC" or "Airport"). In accordance with 49 CFR Part 23, the following are not included in this revenue estimate: (a) the gross receipts of rental car operations; (b) the dollar amount of a management contract or subcontract with a non-ACDBE; (c) the gross receipts of business activities to which a management contract or subcontract with a non-ACDBE pertains; and (d) any portion of a firm's estimated gross receipts that will not be generated from a concession.

The concession opportunities anticipated during this goal period are: Brochure Display/Distribution, Currency Exchange, Luggage Carts, Security Checkpoint Mailing Services, Automated Retail Vending, Wi-Fi Sponsorship, Coin Operated Massage Chairs, Shuttle Bus Services Management, and On-Demand Ground Transportation Management. The estimated gross revenue of these concessions is \$2,210,324. If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the City will submit an appropriate adjustment to the overall target to the FAA for approval at least 6 months before executing the new concession agreement. (49 CFR Section 23.45(i).)<sup>1</sup>

The City has determined the following Market Areas for concession opportunities anticipated during this goal period:

- Brochure Display/Distribution: State of California
- Currency Exchange: Los Angeles-Long Beach-Riverside, California CSA and the San Jose-San Francisco-Oakland, California CSA
- Luggage Carts: National
- Security Checkpoint Mailing Services: Market Area Undetermined
- Shuttle Bus Services Management: State of California
- On Demand Ground Transportation Management: State of California

On March 18, 2011, the City executed a one-year concession agreement, with a six-month extension option, for the provision of Wi-Fi Sponsorship on a trial basis at the Airport. The City has not yet decided whether this agreement will be renewed when it expires in FFY 2012. The City may solicit letters of interest or requests for qualifications during this goal period for the provision of one Automated Retail Vending machine and for four Coin Operated Massage Chairs to be located at SJC on a trial basis. These concessions are not anticipated to generate average annual gross revenue of \$200,000 or greater during this goal period. Appropriate goal-setting analyses, however, will be conducted if the City decides to continue them after the trial periods. The revenues from

---

<sup>1</sup> Hereinafter, all section references are to Code of Federal Regulations Title 49.

these three concessions and the revenue that the Airport generates from a separate City-wide Vending agreement are included in our FFY 2012-2014 goal calculation.

The City's process for ascertaining ACDBE availability includes outreach to and consultation with minority and women business groups, community organizations, and trade associations representing concessionaires currently located at the Airport which could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the City's efforts to increase participation of ACDBEs. Outreach for concession opportunities anticipated in FFYs 2012-14 included obtaining information from other airports and conducting telephone surveys in May and June 2011 of a sampling of existing concessionaires and potential concessionaires to ascertain their interest and ability to participate in SJC's FFYs 2012-2014 concessions opportunities. The telephone survey and the California UCP Directory were also utilized to attempt to confirm the ethnicity and gender of business owners and their ACDBE certification status.

On May 9, 2005, the Ninth Circuit Court of Appeals issued a decision regarding how 49 CFR Part 26 DBE programs should be implemented at a local level under the Equal Protection Clause of the United States Constitution. (*See Western States Paving Co., Inc. v. Washington State Department of Transportation*, 407 F.3d 983 (9th Cir. 2005).) It is unclear whether the *Western States* decision will have an impact on 49 CFR Part 23 ACDBE programs. The Airport, however, considered that decision in preparing its Part 23 ACDBE program.

The March 10, 2010 San Diego County Regional Airport Authority ("SAN") Disparity Study was also reviewed and considered, but it was not used because it does not contain availability estimates, market areas or other information relative to the specific types of concession opportunities anticipated at SJC in FFYs 2012 - 2014.

The U.S. Census Bureau's ("Census") North American Industry Classification System ("NAICS") was utilized to determine concession-relevant NAICS codes, and its California Combined Statistical Areas ("CSAs") data was utilized to determine a market area for the Currency Exchange concession opportunity. We did not use Census County Business Patterns data to identify ready, willing and able businesses because it does not consider relevant factors such as business size standards, personal net worth and other eligibility requirements for firms to be able to participate in the ACDBE program, and it can cause over-estimates of ready, willing and able firms. This data also has limited relevance for developing market areas and availability figures for the types and characteristics of businesses that are ready, willing and able to participate in airport concessions.

## Methodology used to Calculate Overall Goal

### Goods and Services

Section 23.3's definition of "concession" includes a business that provides goods and services to concessionaires even if it does not maintain an office, store, or other business location on an airport, as long as the activities take place on the airport. Thus, we can meet the percentage target by including the purchase from ACDBEs of goods and services used in concession businesses conducted at the Airport. We, and the businesses at the Airport, shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises. The dollar value of purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value of purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

SJC is in the process of requesting information from its concessionaires concerning ACDBEs and other small businesses that are participating in our concessions. Concessionaires operating at SJC are encouraged to use all reasonable efforts to maximize procurement of goods and services from certified ACDBEs.

### Management Contracts or Subcontracts

Section 23.3's definition of "concession" also includes management contracts and subcontracts. We can meet the percentage target by including management contracts or subcontracts performed by an ACDBE that provides services to the public on the Airport, even if the ACDBE business does not maintain an office, store or other business location on the Airport. We, and the businesses at the Airport, will add the dollar amount of a management contract or subcontract with an ACDBE to the total participation by ACDBEs in airport concessions (both the numerator AND the denominator) and to the base from which the airport's percentage goal is calculated. However, the dollar amount of a management contract or subcontract with a non-ACDBE and the gross receipts of business activities to which the management contract or subcontract with a non-ACDBE pertains will not be added to this base in either the numerator or denominator. We note that this approach is required by federal regulations. (Section 23.47(c).)

### **Step 1:** Section 23.51(c)

We calculated the base figure for the relative availability of ACDBEs other than car rentals as follows:

$$\text{Base figure} = \frac{\text{Ready, willing, and able non-car rental ACDBEs in the Market Area}}{\text{All ready, willing and able non-car rental concession firms in the Market Area}}$$

The data sources used to derive the numerator were:

1. California Unified Certification Program DBE database
2. Concessions information from numerous other airports<sup>2</sup>
3. SJC's FFYs 2008-2010 Annual ACDBE Achievements Reports to the FAA
4. Direct contact with existing and potential concessionaires
5. Direct contact with business organizations
6. San Jose Silicon Valley Chamber of Commerce Business Directory
7. Hispanic Chamber of Commerce of Silicon Valley
8. Company websites
9. American Ground Transportation Association
10. Airport Minority Advisory Council DBE Directory
11. Airports Council International-North America Membership Directory
12. International Association of Professional Brochure Displays

The data sources used to derive the denominator were:

1. California Unified Certification Program DBE database
2. Concessions information from numerous other airports
3. SJC's FFYs 2008-2010 Annual ACDBE Achievements Reports to the FAA
4. Direct contact with existing and potential concessionaires
5. Direct contact with business organizations
6. San Jose Silicon Valley Chamber of Commerce Business Directory
7. Hispanic Chamber of Commerce of Silicon Valley
8. Company websites
9. American Ground Transportation Association
10. Airport Minority Advisory Council DBE Directory
11. Airports Council International-North America Membership Directory
12. International Association of Professional Brochure Displays

When we divided the numerator by the denominator and made the appropriate adjustments, we arrived at our overall race-neutral target for non-car rental concessions of 9.67%, calculated as follows:

---

<sup>2</sup> ABQ; ANC; BOS; CLT; DFW; DTW; JAX; JFK; LAX; OAK; PHL; PHX; SAN; SAV; SFO; YYJ

**Goal Calculation for Individual Concession and Management Contract/Subcontract Opportunities – FFYs 2012-2014**

***Brochure Display/Distribution*** (NAICS Code 541870)

Concession Description

This opportunity is for the installation, operation and management of the brochure and magazine display racks concession in Terminals A and B, and in the Consolidated Rental Car Facility. A Request for Proposals may be issued in FFY 2014 for a new contract that will be awarded in FFY 2014. The current contract expires May 31, 2014.

Market Area

Utilizing the California UCP Directory, the International Association of Professional Brochure Displays membership directory, the Airport Minority Advisory Council DBE directory, and the Hispanic Chamber of Commerce membership directory, we determined that the majority of seekers of this opportunity (16 of 30 firms) are located throughout the State of California. The firm generating all of the gross revenue from the Brochure Display/Distribution concession is located in Vista, California. Therefore, we determined that the State of California is SJC's Market Area for the Brochure Display/Distribution concessions business.

Step One

Of the 16 firms in the Market Area, 13 are ACDBEs. As a result, the availability of ACDBE firms for this opportunity accounts for 81.25% of all the firms identified, calculated as follows:  $13 \div 16 = 81.25\%$ .

Step Two

We adjusted our 81.25% base figure to 0% because:

- ACDBE firms have not pursued this opportunity in the past.
- There has not been past ACDBE participation in this concession.
- The existing contract is a sole source contract that was awarded pursuant to the San Jose Municipal Code §25.08.1320.
- The Airport does not have data to rely on from a disparity study, as we could not identify any disparity studies conducted in the State of California or elsewhere that are specific to brochure display/distribution concessions.

Although there has not been ACDBE participation in this concession, we did not find evidence of discrimination. The City will conduct outreach in its Market Area for the upcoming opportunity.

## *Currency Exchange* (NAICS Code 523130)

### Concession Description

This opportunity is for the installation, operation and maintenance of the foreign currency exchange services concession in Terminal A. A Request for Proposals may be issued in FFY 2012 for a new contract that will be awarded in FFY 2012. The current contract expires October 31, 2012.

### Market Area

Utilizing the California UCP Directory, the Airport Minority Advisory Council DBE directory, and information from airport and company websites, we determined that the substantial majority of seekers of this opportunity (7 of 12 firms) are located in two of the Census Bureau's California Combined Statistical Areas (CSAs). The firm generating all of the gross revenue from the Currency Exchange concession is located in one of these CSAs, in Los Angeles, California. Therefore, we determined that the combination of the Los Angeles-Long Beach-Riverside, California CSA and the San Jose-San Francisco-Oakland California, CSA is SJC's Market Area for the Currency Exchange concessions business.

### Step One

Of the 7 firms in the Market Area, 3 are ACDBEs. As a result, the availability of ACDBE firms for this opportunity accounts for 42.85% of all the firms identified, calculated as follows:  $3 \div 7 = 42.85\%$ .

### Step Two

We adjusted our 42.85% base figure to 0% because:

- ACDBE firms have not pursued this opportunity in the past.
- There has not been past ACDBE participation in this concession.
- The Airport does not have data to rely on from a disparity study, as we could not identify any disparity studies conducted in the State of California or elsewhere that are specific to currency exchange concessions.
- Because of the size of this opportunity and the limited amount of revenue it generates, it may be impractical for a non-ACDBE to achieve ACDBE participation.

Although there has not been past ACDBE participation in this concession, we did not find evidence of discrimination. The City will conduct outreach in its Market Area for this upcoming opportunity.

## *Luggage Carts* (NAICS Code 812990)

### Concession Description

This opportunity is for the management, operation, and maintenance of the luggage cart concession. A Request for Proposals may be issued in FFY 2014 for a new contract that will be awarded in FFY 2014. The current contract expires July 31, 2014.

Utilizing the California UCP Directory, the Airport Minority Advisory Council DBE directory, direct contact with potential concessionaires, information from other airports, and company websites, we determined that of the substantial majority of seekers of this opportunity (4 of 6 firms), 4 firms are national and/or international firms. A national/international operator located in Minneapolis, MN is currently generating all of SJC's luggage cart concession revenue. The Market Area for this opportunity was therefore determined to be National.

### Step One

Of the 6 firms in the Market Area, 2 are ACDBEs. As a result, the availability of ACDBE firms for this opportunity accounts for 33.33% of all the firms identified, calculated as follows:  $2 \div 6 = 33.33\%$ .

### Step Two

We adjusted our 33.33% base figure to 0% because:

- Airport luggage cart concessions have traditionally been a niche market for two non-ACDBE companies, and only a handful of ACDBEs have participated in these opportunities at airports across the country in the last decade.
- There has not been ACDBE participation in this concession at SJC since FFY 2005.
- The Airport does not have data to rely on from a disparity study, as we could not identify any disparity studies conducted in the State of California or elsewhere that are specific to luggage cart concessions.
- There are few ACDBEs still in this line of business.

Although there has not been ACDBE participation in this concession in recent years, we did not find evidence of discrimination. The City will conduct outreach in its Market Area for this upcoming opportunity.

***Security Checkpoint Mailing Services*** (NAICS Code: 561431)

Concession Description

This opportunity is for the installation, operation and maintenance of drop boxes at the security checkpoints in Terminals A and B. A Request for Proposals may be issued in FFY 2014 for a new contract that will be awarded in FFY 2014. The current contract expires December 31, 2013.

Market Area

Airport security checkpoint mailing services have been available at U.S. airports for approximately eight years. These services are not available at all U.S. airports and some airports provide this service themselves. As a result of limited opportunities and the infancy of security checkpoint mailing services, the provision of these services has resulted in a niche market primarily for one ACDBE firm located in Kernersville, North Carolina that currently operates in 28 airports, including SJC. It receives all of SJC's revenue from the security checkpoint mailing services concession. One other firm located in League City, Texas is a more recent provider of these services at approximately six airports. Thus, we could not establish a Market Area for this opportunity.

Step One

We utilized several sources, without success, to try to identify interested seekers of this opportunity, including the California UCP directory, direct contact with firms in NAICS code 561431, the Airport Minority Advisory Council DBE directory, company websites, the Airports Council International-North America membership directory, the San Jose Silicon Valley Chamber of Commerce Business Directory, the Hispanic Chamber of Commerce of Silicon Valley membership directory, and the National Association of Women Business Owners Silicon Valley membership directory. Thus, it is impractical to establish a base figure with only two interested seekers.

Step Two

Since we could not establish a base figure because of the limited number of firms in this line of business, a step two adjustment was not made. The City will, however, conduct additional outreach to try to identify other qualified firms.

***On-Demand Ground Transportation Management*** (NAICS Codes: 485999/485310)

Concession Description

This opportunity consists of the management of on-demand taxi and ground transportation services at SJC. A Request for Proposals may be issued in FFY 2012 for a new contract that will be awarded in FFY 2012. The current contract expires September 30, 2012.

## Market Area

Utilizing the California UCP DBE directory, the Airport Ground Transportation Association membership directory, the San Jose Silicon Valley Chamber of Commerce membership directory and our telephone survey, we determined that the substantial majority of seekers (58 of 59 firms) of this opportunity are located in various cities in the State of California. The management firm generating the substantial majority of SJC's on-demand ground transportation management revenue is located in San Jose, California. Based on this analysis, we determined that the State of California is the Market Area for SJC's on-demand ground transportation management contract opportunity.

## Step One

Of the 58 firms in the Market Area, 50 are ACDBEs and 8 are non-ACDBEs. As a result, the availability of ACDBE firms for this opportunity accounts for 86.20% of all the firms identified, calculated as follows:  $50 \div 58 = 86.20\%$ .

## Step Two

We adjusted our 86.20% base figure to 2% to more accurately reflect our ACDBE participation expectations and provide an opportunity to develop more accurate estimates for future contracts, based on the following factors:

- An 86.20% ACDBE participation target is unrealistic based on the scope of work, the capacity of ACDBE firms in the Market Area, and our cost estimates for the services associated with this opportunity.
- The estimated management fees are 98% and the estimated fees for janitorial services are 2%.
- The estimated cost of the janitorial services that could be provided by subcontractors in this management contract can vary based on the decision of the contractor and the requirements of the contract.
- There has not been past ACDBE participation in this concession.
- Only one ACDBE firm expressed interest in this business opportunity in the last goal period (FFYs 2006-2008).
- The Airport does not have data to rely on from a disparity study, as we could not identify any disparity studies conducted in the State of California or elsewhere that are specific to on-demand ground transportation management concessions.

Although there has not been past ACDBE participation in this concession, we did not find evidence of discrimination. The City will conduct additional outreach in its Market Area for this upcoming opportunity.

## *Shuttle Bus Services Management* (NAICS Codes 485999/561330)

### Concession Description

This opportunity is for the management of personnel and scheduling of shuttle bus service between SJC's economy parking and rental car facilities and commercial airlines terminals. A Request for Proposals may be issued in FFY 2013 for a new contract that will be awarded in FFY 2013. The current contract expires February 28, 2013.

### Market Area

Utilizing the California UCP DBE directory, the Airport Ground Transportation Association membership directory, the San Jose Silicon Valley Chamber of Commerce membership directory and our telephone survey, we determined that the substantial majority of seekers (63 of 65 firms) of this opportunity are located in various cities throughout the State of California. The management firm generating the substantial majority of SJC's shuttle bus services management revenue is located in San Jose, California. Based on this analysis, we determined that the State of California is the Market Area for SJC's shuttle bus services management contract opportunity.

### Step One

Of the 63 management services firms in the Market Area, 52 are ACDBEs and 11 are non-ACDBEs. As a result, the availability of ACDBE firms for this opportunity accounts for 82.54% of all the firms identified, calculated as follows:  $52 \div 63 = 82.54\%$ .

### Step Two

We adjusted our 82.54% base figure to 2% to more accurately reflect our ACDBE participation expectations and provide an opportunity to develop more accurate estimates for future contracts, based on the following factors:

- An 82.54% ACDBE participation target is unrealistic based on the scope of work, the capacity of ACDBE firms in the Market Area, and our cost estimates for the services associated with this opportunity.
- The estimated management fees are 98%, the estimated fees for janitorial services are 1%, and the estimated fees for staffing services are 1%.
- The estimated cost of the janitorial services and staffing services that could be provided by subcontractors in this management contract can vary based on the decision of the contractor and the requirements of the contract.
- There has not been past ACDBE participation in this concession.
- The Airport does not have data to rely on from a disparity study, as we could not identify any disparity studies conducted in the State of California or elsewhere that are specific to shuttle bus services management concessions.

Although there has not been past ACDBE participation in this concession, we did not find evidence of discrimination. The City will conduct additional outreach in its Market Area for this upcoming opportunity.

As noted above, SJC is in the process of requesting information from all concessionaires concerning ACDBEs and other small businesses that are participating in our concessions. The concessionaires operating at SJC are encouraged to use all reasonable efforts to maximize procurement of goods and services from ACDBEs that may be certified in the California UCP.

**ACDBE Availability Base Figure** (Step 1: Section 23.51(c).)

The City calculated its overall ACDBE availability base figure of 16.03% for non-rental car concession opportunities by dividing the estimated non-rental car gross revenue from ACDBEs by the estimated gross revenue from all non-rental car concessions, as follows:<sup>3</sup>

All Non-rental Car Concessions	Estimated Gross Revenue and Management Fees FFYs 2012-14	Potential ACDBE Amount of Gross Revenue and Management Fees	ACDBE Race-Neutral Target
Advertising	\$ 5,953,955	\$ 335,207	5.63%
ATMs	\$ 618,897	\$0	0%
Brochure Display/Distribution	\$ 127,493	\$0	0%
Food and Beverage	\$65,445,920	\$8,717,397	13.32%
Currency Exchange	\$ 92,804	\$0	0%
Luggage Carts	\$ 517,290	\$0	0%
News, Gifts & Specialty Retail	\$ 34,707,303	\$7,576,604	21.83%
Security Checkpoint Mailing Services	\$ 56,491	\$0	0%
Vending**	\$ 20,487	\$0	0%
Automated Retail Vending	\$ 551,603	\$0	0%
Wi-Fi Sponsorship	\$ 407,269	\$0	0%
Coin Operated Massage Chairs	\$ 49,031	\$0	0%
CNG Fueling Station Management	\$ 0	\$0	0%
Parking Facilities Management	\$ 510,000	\$ 510,000	5%
On-Demand Ground Transportation Management	\$ 54,343	\$ 54,343	2%
Shuttle Bus Management of Personnel and Scheduling	\$ 354,000	\$ 354,000	2%
<b>TOTALS</b>	<b>\$109,466,886</b>	<b>\$17,547,551</b>	
<b>FFYs 2012-2014 BASE FIGURE</b>			<b>16.03%</b>

\*\*City-wide agreement

**Adjustment to Base Figure** (Step 2: Section 23.51(d).)

<sup>3</sup> The dollar amount of management contracts or subcontracts with non-ACDBEs and the gross receipts of business activities to which the management contract or subcontract with a non-ACDBE pertains are not included in the chart, in accordance with §23.47 of the ACDBE regulations contained in 49 CFR Part 23.

After calculating the base figure of the relative availability of ACDBEs, we determined that an adjustment to the base figure was needed based on the Step 2 factors stated above for each upcoming concession opportunity. We also examined SJC's Annual ACDBE Achievements Reports to the FAA for FFYs 2006 through 2010, to determine median past participation in non-rental car concessions. This figure was derived by finding the median of the ACDBE participation percentages, excluding rental car concessions, as shown in the chart below:

Federal Fiscal Year	Total Gross Revenue (excludes rental cars)	ACDBE Gross Revenue (excludes rental cars)	ACDBE Participation
2006	\$32,440,167	\$858,918	2.65%
2007	\$30,943,397	\$942,317	3.05%
2008	\$31,533,518	\$1,044,363	3.31%
2009	\$26,839,150	\$1,213,626	4.52%
2010	\$28,809,943	\$1,442,599	5.00%
MEDIAN ACDBE PAST PARTICIPATION = 3.31%			

Next, the Step One Base Figure was adjusted for past participation by adding together the Step One Base Figure (16.03%) and the median past participation percentage (3.31%) and divided by 2 as follows:

$$16.03\% + 3.31\% \div 2 = \underline{9.67\% \text{ Adjusted Base Figure}}$$

The March 10, 2010 San Diego County Regional Airport Authority (SAN's) Disparity Study was also reviewed and considered, but it was not used because it does not contain availability estimates, market areas or other information relative to the specific types of concession opportunities anticipated at SJC in FFYs 2012 - 2014.

Our overall race-neutral target for non-car rental concessions for FFYs 2012 through 2014 is 9.67%. We adjusted our base figure to reflect as accurately as possible the ACDBE participation we expect in the absence of discrimination.

**Consultation with Stakeholders (§23.43)**

Prior to submitting this target to the FAA, the City consulted with the minority and women's business groups, community organizations, trade associations representing concessionaires currently located at the airport, as well as existing concessionaires themselves, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the City's efforts to increase participation of ACDBEs. The lists of firms we identified from our telephone survey and other sources are attached.

## **Breakout of Estimated Race-Neutral & Race Conscious Participation - Section 23.51**

The City will meet the maximum feasible portion of its overall target by using race-neutral means of facilitating ACDBE participation. The City uses the following race-neutral measures to increase ACDBE participation:

- Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires;
- Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;
- When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
- Providing advice to ACDBEs in overcoming limitations such as the inability to obtain bonding, financing, or technical assistance;
- Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the City's ACDBE program will affect the procurement process;
- Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation;
- Providing information to ACDBE firms about the City, its function and full range of contractual needs;
- Offering instructions and clarifications on solicitation requirements, the City's procurement policies, procedures, and general proposal requirements;
- Conducting debriefing sessions to explain why certain proposals were unsuccessful;
- Providing information to ACDBE firms on future concession opportunities, contracting schedules, subcontracting opportunities and bonding requirements;
- Providing instructions about job performance requirements;
- Placing solicitation notices in periodicals of interest to the disadvantaged business community; and
- Taking other race-neutral steps to foster ACDBE participation in the City's concession opportunities.

We estimate that in meeting our overall target of 9.67%, we will obtain 100% from race-neutral participation and 0% through race-conscious measures. If we project that race-neutral measures, standing alone, are not sufficient to meet our ACDBE participation targets, the following race-conscious measures will be implemented in the City's program, but only to the extent the City is able to demonstrate the need for race-conscious action to meet the overall target:

1. Establishing concession-specific goals for particular concession opportunities. (Section 23.35(e)(1).), as follows:

a. If the objective of the contract-specific goal is to obtain ACDBE participation through a direct ownership arrangement with an ACDBE, the goal will be calculated as a percentage of the total estimated annual gross receipts from the concession.

b. If the goal applies to purchases and/or leases of goods and services, the goal will be calculated by dividing the estimated dollar value of such purchases and/or leases from ACDBEs by the total estimated dollar value of all purchases to be made by the concessionaire.

c. To be eligible to be awarded the concession, competitors must make good faith efforts to meet the goal. A competitor may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so.

d. The administrative procedures applicable to contract goals in Sections 26.51–53, apply with respect to the City's concession-specific goals.

2. Negotiating with a potential concessionaire to include ACDBE participation, through direct ownership arrangements or measures, in the operation of the concession. (Section 23.35(e)(2).)

3. With FAA's prior approval, other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession. (Section 23.35(e)(3).)

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if we use concession specific goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (Section 26.51(f)) and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry an ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award. We will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively.

# **Norman Y. Mineta San Jose International Airport**

## **Attachment 4**

### **Section 23.45: Overall Goal Calculation for Rental Car Concessions Federal Fiscal Years 2012 - 2014**

#### **Amount of Goal**

The City will continue to implement and abide by the previously submitted 0% overall ACDBE participation target for on-airport rental car concessions at Norman Y. Mineta San José International Airport for the period beginning October 1, 2011 and ending September 30, 2014, collectively Federal Fiscal Years 2012-2014.

#### **Concession Description**

Five rental car companies operate on-airport rental car concessions at SJC. New non-exclusive contracts with these existing companies were signed in January 2008, and these contracts became effective when the new consolidated rental car facility became operational in the summer of 2010. It is anticipated that these contracts will not change during this goal period.

The City is currently in the process of negotiating and executing a concession agreement with Payless Car Rental and the agreement will likely be finalized in less than six months. The new rental car concession opportunity is estimated to have average annual gross revenues in excess of \$200,000. Due to an oversight, the City did not submit a timely request to the FAA for an adjustment to the overall goals, pursuant to Part 23 section 23.45(i). We respectfully request that the FAA waive the error since the City's rental car concessions goal is 0% for both the current FFY 2009 – 2011 reporting period and for the FFY 2012 – 2014 goal period covered in this Plan. Thus, this new opportunity will not change our overall rental car goal.

However, if a new car rental concession opportunity with estimated annual gross receipts of \$200,000 or greater arises at a time that falls between normal submission dates for overall goals, SJC will submit an appropriate adjustment to its overall goal to the FAA for approval at least six months before executing the concession agreement for the new opportunity.

#### **Methodology used to Calculate Overall Goal**

We do not currently have adequate or reliable data to determine a Market Area and the availability of ACDBE firms. However, historical data from our ACDBE achievement reports for FFYs 2005-2010 confirms that none of SJC's rental car concessionaires have achieved ACDBE participation during any of the six fiscal years reviewed. Thus, our past participation has been 0%.

We could not use a disparity study to determine availability of ACDBE firms for the rental car concessions because there are not any valid, applicable disparity studies in the

State of California or elsewhere that examine ACDBE participation in airport rental car concessions.

SJC is in the process of requesting information from the rental car concessionaires concerning ACDBEs and other small businesses that are participating in our rental car concessions. Even though there is not an ACDBE participation target and the rental car concessionaires are not required to commit to an ACDBE participation percentage in their concessions at SJC, the rental car concessionaires are encouraged to use all reasonable efforts to maximize procurement of goods and services from ACDBEs that may be certified in the California UCP and the UCPs of other states.

In accordance with the provisions of Section 23.53, rental car concessionaires' purchases of goods and services from ACDBEs will be counted as follows:

1. All purchases or leases of vehicles from an ACDBE vendor will be counted as race-neutral ACDBE participation.
2. The entire amount of the cost charged by an ACDBE for repairing vehicles will be counted as race-neutral ACDBE participation, provided that such cost is reasonable and not excessive as compared with fees customarily allowed for similar services.
3. The entire amount of the fee or commission charged by an ACDBE to manage a car rental concession under an agreement with a rental car concessionaire will be counted as race-neutral ACDBE participation, provided that such fee or commission is reasonable and not excessive as compared with fees or commissions customarily allowed for similar services.
4. For other goods and services, ACDBE participation will be counted as provided in Sections 26.55 and 23.55. In the event of any conflict between these two sections, §23.55 controls.
5. If a rental car company has a national or regional contract with an ACDBE, the pro-rated share of the amount of that contract that is attributable to its car rental concession at SJC will be counted as race-neutral ACDBE participation.
6. No portion of a fee paid by a manufacturer to an ACDBE car dealership for reimbursement of work performed under the manufacturer's warranty will be counted as ACDBE participation.

We are hopeful that the USDOT and FAA will develop a nationwide approach to ACDBE participation in rental car concessions.

## Small Business Development Commission Workplan for 2011

Objective for FY 2010-11	Area	Actions	Timeframe
Provide more contract Literacy Awareness Programs	Procurement	Schedule quarterly or semi-annual classes (training/workshop) for SBE on the ABC of how to be successful with San Jose City contracts	2 <sup>nd</sup> Quarter
Provide more contract Literacy Awareness Programs	Procurement	Make self-paced version of the classes available online so the those that could not attend the instructor-led classes can access them online	4 <sup>th</sup> Quarter
Market contract opportunities adequately to San Jose residents	Procurement	Publish procurement opportunities using Councilmember Newsletters, TV community bulletins, and brochures (to be available on City Building lobbies) as well as City web site.	3 <sup>rd</sup> Quarter
Market contract opportunities adequately to San Jose residents	Procurement	Organize semi-annual procurement fairs	3 <sup>rd</sup> Quarter
Designate some contracts as "Small Business Set-Aside"	Procurement	Advocate for very simple contract procedure for very small contracts (e.g. below \$50,000)	3 <sup>rd</sup> Quarter
Facilitate Mentor-Protégé program	Procurement	Prepare and present Mentor-Protégé program proposal to the City Council for approval	2 <sup>nd</sup> Quarter
Facilitate Mentor-Protégé program	Procurement	Facilitate the City Council approval of the Mentor-Protégé program	2 <sup>nd</sup> Quarter
Monitor procurement pipeline and Awards	Procurement	Request that quarterly procurement updates be presented to SBDC quarterly	2 <sup>nd</sup> , 3 <sup>rd</sup> , and 4 <sup>th</sup> Quarters
Provide Awareness that Small Business Development Commission exists	Awareness	Assign Commissioners to each councilmember for a direct discussion about the commission's function, accomplishments, current work plan, and the support we will need from them to make our commission more effective.	2 <sup>nd</sup> Quarter
Provide Awareness that Small Business Development Commission exists	Awareness	Encourage council members to invite us to awareness sessions in their district. (Re-active? Pro-active?)	2 <sup>nd</sup> Quarter

**Small Business Development Commission  
Workplan for 2011 (continued)**

Provide Awareness that Small Business Development Commission exists	Awareness	Commissioners to report their efforts at each commission meeting	2 <sup>nd</sup> , 3 <sup>rd</sup> , and 4 <sup>th</sup> Quarters
Provide awareness about existing City Business Services	Awareness	Appoint Liaisons to Business Associations and Chambers - Attend various chamber and business association meetings, in addition to inviting them to our meetings	2 <sup>nd</sup> Quarter
Provide Awareness that Small Business Development Commission exists	Awareness	Organize a public Input session that integrates presentation about SBD Commission	2 <sup>nd</sup> Quarter
Provide Awareness that Small Business Development Commission exists	Awareness	Create a message	2 <sup>nd</sup> Quarter
Provide Awareness that Small Business Development Commission exists	Awareness	Prepare brochure and other marketing collaterals	2 <sup>nd</sup> Quarter
Provide Awareness that Small Business Development Commission exists	Awareness	Take advantage of CreaTV and SJ Mercury News as media tools	2 <sup>nd</sup> Quarter
Identify and Support Job Creating Projects	Job Creation	Develop capacity to support Chinese (Foreign?) investment	2 <sup>nd</sup> Quarter
Identify and Support Job Creating Projects	Job Creation	Identify potential tourist attractions (e.g.: adventure zone)	2 <sup>nd</sup> Quarter