

TO: BOARD OF DIRECTORS
FROM: EXECUTIVE COMMITTEE
**SUBJECT: SAN ANTONIO AIRPORT MASTER
CONCESSIONAIRE LABOR PEACE
AGREEMENT**



STATUS: ADOPTED

DATE: February 22, 2018

RECOMMENDATION:

That the Mayor and City Council provide policy direction to the City Manager to withdraw the Labor Peace Agreement provision within the Request for Proposals (RFP) for a Food, Beverage and Retail Prime Concessionaire at the airport or cancel the solicitation entirely as well as conduct a review of the RFP process and include engagement of the business community.

STATUS:

On January 18, 2018, the City of San Antonio issued a request for proposal (RFP) for a firm to operate food, beverage, and retail concessions in Terminal A at the San Antonio International Airport (SAT). For the first time in San Antonio, the City included a provision in the Airport Master Concessionaire RFP that requires respondents to implement a labor peace agreement (LPA) between the concessionaire, its affiliates and subtenants, and any requesting labor organizations which represent or reasonably might represent employees working as part of the prime concession agreement.

The decision to include the LPA provision was made in executive session without prior engagement of the business community or public notice. When your Chamber and other business organizations learned of this LPA provision, the following actions were taken:

- January 27: Letter sent to the Mayor and City Councilmembers requesting they cancel or postpone the solicitation until the business community could have a full briefing to understand the impetus behind including such a provision.
- January 29: A call to action was sent to the Chamber Board of Directors requesting they contact the Mayor and City Councilmembers to oppose the provision.
- February 7: A joint press release with the North San Antonio Chamber of Commerce was distributed to media outlets alerting them of members' concerns and requesting the City of San Antonio withdraw/cancel the solicitation.
- February 8: An article was included in the Chamber Today weekly e-newsletter with an attached sample letter to members urging them to contact the Mayor and City Councilmembers.

In addition, Shaun Kennedy, 2018 Chamber Chairman of the Board and Richard Perez, Chamber President and CEO has been meeting with the Mayor and City Councilmembers to discuss the full impact of the LPA provision on the business community.

On February 9, the City stated that it will issue an addendum the week of February 12, which will ask respondents to submit two separate proposals, one with a Labor Peace Agreement (LPA) and one without. Dual proposals may potentially allow the City to analyze the impacts of an LPA provision in the contract. The scoring criteria along with an understanding of what constitutes a successful proposal must be clearly agreed upon ahead of time in order to ensure clarity of the process.

The San Antonio Chamber of Commerce believes that the labor peace agreement provision is bad public policy, as it takes away important federal employer protections and prevents locally flavored small businesses from bidding on the contract due to indeterminate operating costs at the airport. The Chamber strongly believes this would be the first step toward a larger attempt to include similar provisions across the City's bidding process, including project labor agreements (PLA), a similar collective bargaining agreement that applies to federally funded construction projects.

BACKGROUND:

San Antonio International Airport is owned and operated by the City of San Antonio and served over 8.6 million passengers in 2016. The Airport is currently comprised of two terminals that operate 24 passenger loading gates. Pre-security and Concourse concessions at the airport currently include 20 retail and services concessions, of which 12 are food concessionaires.

The current master concessionaire agreement was finalized in 2012, and the City moved forward under the current RFP with a stated goal of the firm containing 'a balance of local or regional concepts with national name brand concepts which will give passengers at the Airport a sense of San Antonio and the comfort of choosing national brands.' The firm that is ultimately selected through the RFP process will be awarded the non-exclusive rights to approximately 10,127 square feet to lease, operate, manage and/or sublease a combination of concessions consisting of specialty retail and food and beverage.

Current Food/Beverage Concession tenants in Terminal A include: George Gervin's Sports Bar, Mission City Ice House, Fruteria, La Gloria, Famous Famiglia Pizza, La Tapenade, Steak & Shake, Raising Cane's Chicken Fingers, Dunkin Donuts & Auntie Anne's/Cinnabon. In addition to the 12 food concessions, eight retail concessionaires currently operate in Terminal A.

A labor peace agreement is an arrangement between a union and an employer under which one or both sides agree to waive certain rights under federal law with regard to union organizing and related activity. While these agreements can be negotiated voluntarily, some state and local governments have attempted to impose them on employers by passing labor peace ordinances. Under these policies, a private sector employer must secure a labor peace agreement with a union as a condition of doing business at a facility or project in which a government entity asserts a "proprietary interest."¹

Labor peace ordinances come in many different forms, but they all have one essential purpose: to apply economic pressure on employers to compel them to grant organizing concessions to unions. These concessions can include card check (an employer recognizes a union based on signed cards rather than by the results of a secret ballot election), neutrality (an employer refrains from expressing negative opinions about a union and intervening in an organizing campaign), and workplace access (an employer allows outside union organizers into the workplace). In exchange, unions typically must promise not to strike, picket or otherwise disrupt an employer's operations.ⁱⁱ

Labor peace agreements were introduced by municipalities as far back as 1980, when the San Francisco Redevelopment Agency required certain hotel companies to sign labor peace agreements to develop a property on city-owned land. Municipalities such as Washington, D.C., New York City and Pittsburgh, Pennsylvania have also passed various labor peace agreements, often covering operations at hotels.

The National Labor Relations Act (NLRA) of 1935 continues to provide cities and states broad preemption authority, however, labor peace ordinances have become a means for state and local governments to grant unions an organizing advantage. Labor peace ordinances have been identified in various jurisdictions in 11 states; Louisiana, Georgia, and Tennessee have all banned labor peace ordinances.ⁱⁱⁱ

Over the past 5 years, national labor organizers such as UNITE HERE, have grown their presence at airports across the nation. Los Angeles-based employers lost a court decision in 2017, which challenged the labor peace agreement put in place by the Los Angeles International Airport (LAX). In April 2017, the City of Austin required new airport concessionaires to include labor peace agreements as part of their proposals, in advance of a new solicitation for concessionaires for a nine-gate expansion in 2019. Airports across the nation, from San Francisco to Baltimore-Washington, to Portland International, have seen unionization, employee strikes and protests, and efforts to institute labor peace agreements as employer contracts come up for renewal. UNITE HERE, one of the largest labor unions in the United States, currently represents 45,000 employees in the airport concessions and airline catering industries at over 75 airports in the U.S. and Canada.

Proponents of LPA's at many airports across the country debating this issue argue that effective union-employee relations through a LPA help prevent work stoppages which negatively impact passenger satisfaction and airport revenues. Opponents in many of those cities are concerned about the negative impact to small businesses, who often create the local character of the community within the airport.

CONS:

- Impede our ability to attract business investment in San Antonio
- Potential negative impact on minority suppliers
- Cost overruns
- Negative impact on competition
- Delays in work completion and decreased customer experience
- Vendor not chosen based on merit

- Otherwise qualified non-union vendors may choose not to solicit work under such an agreement
- Limitation on vendor speech
- Potentially limits volume of qualified applicants
- Potentially increases risk of such bargaining disputes to more vendors

IMPLEMENTATION:

The San Antonio Chamber of Commerce will communicate this position to the San Antonio City Council, the media and the San Antonio Chamber membership through letters, media releases and through distribution of *The Chamber Today* weekly e-newsletter.

ⁱ https://www.uschamber.com/sites/default/files/documents/files/labor_peace_agreements_2013_09_12.pdf

ⁱⁱ https://www.uschamber.com/sites/default/files/documents/files/labor_peace_agreements_2013_09_12.pdf

ⁱⁱⁱ <http://www.aci>

[na.org/sites/default/files/trends_in_labor_preemption__labor_peace_agreementsfinalwovideos.pdf](http://www.aci.org/sites/default/files/trends_in_labor_preemption__labor_peace_agreementsfinalwovideos.pdf)