

File No. 150964

Committee Item No. 33

Board Item No. 30

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance

Date December 2, 2015

Board of Supervisors Meeting

Date December 8, 2015

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER (Use back side if additional space is needed)

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Completed by: Victor Young Date November 23, 2015
Completed by: [Signature] Date 12/2/15

1 [Lease Amendment - Xpresspa S.F. International, LLC - Airport Concession Lease]

2

3 **Resolution approving Amendment No. 1 of the Terminals 2 and 3 Spa Lease with**
4 **Xpresspa S.F. International, LLC., to revise the definition of lease year within the lease**
5 **to correctly set the first lease year as an eight-month period rather than a twenty-month**
6 **period.**

7

8 WHEREAS, Pursuant to Charter, Section 9.118, and Resolution No. 186-10, adopted
9 April 27, 2010, the Board of Supervisors approved Terminal 2 and 3 Spa Lease (the "Lease").
10 with Xpresspa S.F. International, LLC, which is on file with the Clerk of the Board of
11 Supervisors in File No. 100322; and

12 WHEREAS, By Resolution No. 10-0041, adopted February 18, 2010, the Airport
13 Commission awarded the Terminal 2 and 3 Spa to Xpresspa S.F. International, LLC; and

14 WHEREAS, By Resolution 11-0294, adopted December 6, 2011, the Airport
15 Commission authorized a revision to the definition of Lease Year within the lease as
16 warranted to correctly set the first Lease Year as an eight-month period rather than a twenty-
17 month period; now, therefore, be it

18 RESOLVED, That this Board of Supervisors herby approves Amendment No.1 to the
19 Terminal 2 and 3 Spa Lease with Xpresspa S.F. International, LLC; consisting of the revision
20 of the definition of Lease Year in the Lease; and, be it

21 FURTHER RESOLVED, That Lease Amendment No.1 is on file with the Clerk of the
22 Board of Supervisors in File No. 150964, which is hereby declared to be part of this resolution
23 as if set forth fully herein, and, be it

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FURTHER RESOLVED, That within thirty (30) days of Amendment No. 1 being fully executed by all parties, the Airport Commission shall provide the final document to the Clerk of the Board for inclusion into the official file.



RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

San Francisco International Airport

August 3, 2015 ~~2015~~ SEP 25 PM 1:29

FJB

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Subject: Approval of Amendment No. 1 to Twelve (12) Terminal 2 Concession Leases Correcting Lease Year Definition between Tenants and the City and County of San Francisco, acting by and through its Airport Commission

Dear Ms. Calvillo:

Pursuant to Section 9.118 of the City Charter, I am forwarding for the Board of Supervisors' approval of Amendment No. 1 to the following twelve (12) Terminal 2 concessions leases between the entities listed in the table below and City and County of San Francisco, acting by and through its Airport Commission. The Airport Commission approved this Amendment No. 1 by its Resolution Nos. listed below and the corrective dates require Board approval, as well.

	Concession Lease Name & No.	Tenant	Airport Resolution No. Adopted on 12/6/2011
1.	Terminal 2 Gourmet Market and Wine Bar Lease No. 10-0029	Tastes On The Fly San Francisco, LLC	11-0282
2.	Terminal 2 Coffee & Bakery Facilities Lease No. 10-0030	Gotham Enterprises, LLC	11-0283
3.	Terminal 2 Cocktail Lounge Lease No. 10-0031	HBF Soto JV, LLC	11-0284
4.	Terminal 2 Sit Down Restaurant Lease No. 10-0032	Tastes On The Fly San Francisco, LLC	11-0285
5.	Terminal 2 Quick Serve Lease No. 10-0033	Sankaku, Inc.	11-0286

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

LARRY MAZZOLA
PRESIDENT

LINDA S. CRAYTON
VICE PRESIDENT

ELEANOR JOHNS

RICHARD J. GUGGENHIME

PETER A. STERN

JOHN L. MARTIN
AIRPORT DIRECTOR

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Ms. Angela Calvillo
 Clerk of the Board
 August 3, 2015
 Page Two


	Concession Lease Name & No.	Tenant	Airport Resolution No. Adopted on 12/6/2011
6.	Terminal 2 Quick Serve Lease No. 10-0034	Andale Management Group, Inc.	11-0287
7.	Terminal 2 Quick Serve Lease No. 10-0035	BJ Annex, LLC	11-0288
8.	Terminal 2 Quick Serve Lease No. 10-0036	HBF Soto JV, LLC	11-0289
9.	Terminal 2 Book Store Lease No. 10-0037	Books, Inc.	11-0290
10.	Terminals 2 and 3 Electronics and Technology Lease No. 10-0038	Edge 1 Cellular, L.P.	11-0291
11.	Terminals 2 and 3 Spa Lease No. 10-0041	Xpresspa International San Francisco, LLC	11-0294
12.	Terminal 2 Newsstands, Coffee and Specialty Store Lease No. 10-0232	Host International, Inc.	11-0296

The following is a list of accompanying documents:

- Board of Supervisors Resolutions;
- Approved Airport Commission Resolutions referenced
- Approval as to form of Lease from City Attorney's Office;
- Ethics Forms SFEC-126; and
- Copies of Amendment No. 1 to the subject leases.

You may contact Cathy Widener of Airport Governmental Affairs with any questions at (650) 821-5023 regarding this matter.

Very truly yours,


 Jean Caramatti
 Commission Secretary

**AMENDMENT NO. 1 TO
TERMINAL 2 SPA LEASE NO. 10-0041
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS AMENDMENT NO. 1 TO TERMINAL 2 SPA LEASE NO. 10-0041 ("Amendment No. 1") AT THE SAN FRANCISCO INTERNATIONAL AIRPORT, dated as of _____ 2012 for reference purposes only, is entered by and between the between the CITY AND COUNTY OF SAN FRANCISCO; a municipal corporation ("City"), acting by and through the SAN FRANCISCO AIRPORT COMMISSION ("Airport"), as landlord, XpresSpa S.F. International, LLC, as tenant ("Tenant").

RECITALS

A. The Airport Commission awarded Lease No. 10-0041, ("Lease") for certain concession spaces located at the Airport in Terminal 2 to Tenant on February 18, 2010.

B. Airport and Tenant have agreed to modify the definition Lease Year pursuant to Lease Section 4, adjust the Lease Summary accordingly and other related provisions, on the terms and conditions set forth below.

C. All capitalized terms not otherwise defined herein shall have the same meaning given to them in the Lease.

NOW, THEREFORE, in consideration of the foregoing and for valuable consideration the sufficiency of which is hereby acknowledged, City and Tenant hereby agree to amend the Lease as follows:

AGREEMENT

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.
2. **Effective Date.** The effective date of this Amendment No. 1 and the modifications to the Lease contained in this Amendment No. 1 shall be the date upon which the Tenant and Airport Director signs this Amendment 1.
3. **Lease Summary.** Lease Year is written as follows: "The period commencing on the Rent Commencement Date and terminating on December 31 of the year in which the Rent Commencement Date occurs, and each subsequent 12-month period except that the final Lease Year is less than 12 months."
4. **Article 4.3, Rent, Adjustments to Minimum Annual Guarantee.** The second paragraph is rewritten as follows: "Notwithstanding anything to the contrary herein, in no event will the Minimum Annual Guarantee for any Lease Year of the Term be lower

than the Minimum Annual Guarantee with respect to the prior Lease Year. The first MAG Adjustment Date shall occur on January 1st of the year following the year in which the Rent Commencement Date is. For example: If the Rent Commencement Date occurs on March 1, 2010, the first MAG Adjustment Date shall occur on January 1, 2011. Subsequent MAG adjustments shall occur every January 1st of each year thereafter.”

5. **Entire Agreement.** This Amendment No. 1 contains all of the representations and the entire agreement between the parties with respect to the subject matter of this agreement. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to the subject matter of the Amendment No. 1 are superseded in their entirety by this Amendment No. 1. No prior drafts of this Amendment No. 1 or changes between those drafts and the executed version of this Amendment No. 1 shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider such drafts in interpreting this Amendment No. 1.

6. **Miscellaneous.** This Amendment No. 1 shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto. This Amendment No. 1 is made for the purpose of setting forth certain rights and obligations of Tenant and the Airport, and no other person shall have any rights hereunder or by reason hereof as a third party beneficiary of otherwise.
 - a. Each party hereto shall execute, acknowledge, and deliver to each other party all documents, and shall take all actions, reasonably requested by such other party from time to time to confirm or effect the matters set forth herein, or otherwise to carry out the purposes of this Amendment No. 1. This Amendment No. 1 may be executed in counterparts with the same force and effect as if the parties had executed one instrument, and each such counterpart shall constitute an original hereof. No provision of this Amendment No. 1 that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions hereof are hereby declared to be severable. Time is of the essence of this Amendment No. 1. This Amendment No. 1 shall be governed by the laws of the State of California. Neither this Amendment No. 1 nor any of the terms hereof may be amended or modified except by a written instrument signed by all the parties hereto.

7. **Full Force and Effect.** Except as specifically amended herein, the terms and conditions of the Lease shall remain in full force and effect.

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IN WITNESS WHEREOF, the Airport and the Tenant execute this Amendment No. 1 to the Lease as of the last date set forth below.

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation,
acting by and through its Airport Commission

John L. Martin *cf cat*
Airport Director

TENANT: XpresSpa S.F. International, LLC
a Limited Liability Company

By: _____

Name: Marisol Binn

Title: President

AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. 11-0294

Adopted: Dec. 6, 2011

Attest: _____

Jean Caranatti
Secretary
Airport Commission

APPROVED AS TO FORM:
DENNIS J. HERRERA,
City Attorney

By: _____

Dennis J. Herrera
Deputy City Attorney

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 11-0294

AMENDMENT OF THE TERMINALS 2 AND 3 SPA LEASE WITH XPRESSPA INTERNATIONAL SAN FRANCISCO, LLC

WHEREAS, by Resolution No. 10-0041, adopted February 18, 2010, the Commission awarded the Terminals 2 and 3 Spa Lease (the "Lease") to Xpresspa International San Francisco, LLC; and

WHEREAS, a revision to the definition of Lease Year within the Lease is warranted to correctly set the first Lease Year as an eight-month period rather than a twenty-month period; now therefore, be it

RESOLVED, that this Commission hereby amends the Terminals 2 and 3 Spa Lease with Xpresspa International San Francisco, LLC, under the conditions set forth in the staff memorandum on file with the Commission Secretary consisting of the revision of the definition of Lease Year in the Lease Summary and in Article 4.1(h) in the Lease; and be it further

RESOLVED, that this Commission Secretary is hereby directed to request approval of the Lease Amendment by Resolution of the Board of Supervisors pursuant to Section 9.118 of the Charter of the City and County of San Francisco.

I hereby certify that the foregoing resolution was adopted by the Airport Commission

at its meeting of _____

DEC 06 2011

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Jean Caramatti

Secretary

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 10-0041

AWARD OF THE TERMINALS 2 AND 3 SPA LEASE TO XPRESSPA SF INTERNATIONAL, LLC

WHEREAS, by Resolution No. 09-0218, adopted September 15, 2009, the Airport Commission ("Commission") authorized staff to commence the competitive selection process for the eight (8) Terminal 2 Retail Concession Leases (the "Leases") through Requests for Proposals ("RFPs"); and

WHEREAS, by Resolution No. 09-0259, adopted November 24, 2009, the Commission authorized staff to accept proposals for the Leases; and

WHEREAS, on January 6, 2010, staff received one (1) proposal for the Terminals 2 and 3 Spa Lease from XpresSpa SF International, LLC; and

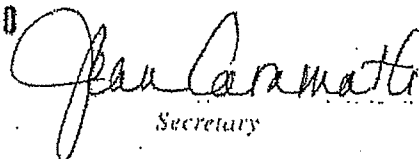
WHEREAS, a five-member panel reviewed the qualifying proposals and determined XpresSpa SF International, LLC to be a responsive and responsible proposer; now therefore, be it

RESOLVED, that this Commission hereby awards the Terminals 2 and 3 Spa Lease to XpresSpa SF International, LLC under the conditions set forth in the staff memorandum on file with the Commission Secretary, including, but not limited to, a term of seven (7) years and a Minimum Annual Guarantee of \$250,000.00 for the first year of the Lease, and subject to its compliance with the Nondiscrimination in Employment Program and Equal Benefits Ordinance; and be it further

RESOLVED, that this Commission Secretary is hereby directed to request approval of the Lease by Resolution of the Board of Supervisors pursuant to Section 9.118 of the Charter of the City and County of San Francisco.

*I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of*

FEB 18 2010


Secretary

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information (Please print clearly.)	
Name of City elective officer(s): Members, SF Board of Supervisors	City elective office(s) held: Members, SF Board of Supervisors
Contractor Information (Please print clearly.)	
Name of contractor: XpresSpa S.F. International, LLC	
Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary. Marisol Binn, President Moreton Binn, CEO Mohammed Ali, Treasurer	
Contractor address: 3 East 54 th Street, 9 th Floor, New York, New York 10022	
Date that contract was approved:	Amount of contract: Minimum Annual Guarantee for the first lease year is \$250,000, subject to adjustment upwards
Describe the nature of the contract that was approved: Principal concessionaire for Terminals 2 and 3 Spa Lease.	
Comments: Awarded through a Request for Proposal process.	

This contract was approved by (check applicable):

- the City elective officer(s) identified on this form
- a board on which the City elective officer(s) serves San Francisco Board of Supervisors
Print Name of Board
- the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information (Please print clearly.)	
Name of filer: Angela Calvillo, Clerk of the Board of Supervisors	Contact telephone number: (415) 554-5184
Address: 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

