

File No. 110536

Committee Item No. 1
Board Item No. 30

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: July 13, 2011

Board of Supervisors Meeting

Date 7/19/11

Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ethics Form 126 |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
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OTHER

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Completed by: Victor Young

Date: July 8, 2011

Completed by: Victor Young

Date: 7-14-11

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Airport Lease Agreement - XpresSpa SF International, LLC and ILJ San Francisco, LLC]

2
3 Resolution approving Amendment No. 1, retroactive to April 14, 2011, to Airport Spa
4 Lease No. 06-0242 with XpresSpa SF International, LLC; and Amendment No. 2 to
5 Technology Stores and Accessories Lease No. 07-0108 with ILJ San Francisco, LLC,
6 and the City and County of San Francisco, acting by and through its Airport
7 Commission.

8
9 WHEREAS, The Airport intends to close Boarding Area E for approximately one year
10 for major renovations; and

11 WHEREAS, XpresSpa SF International, LLC and ILJ San Francisco, LLC will lose
12 approximately 80% of passenger traffic which supports their business during this renovation;
13 and

14 WHEREAS, The Airport Commission approved Resolution Nos. 11-0078 and 11-0079;
15 which includes suspension and reinstatement of the Minimum Annual Guarantee; now,
16 therefore, be it

17 RESOLVED, That the Board of Supervisors hereby approves Amendment No. 1,
18 retroactive to April 14, 2011, to Airport Spa Lease No. 06-0242 with XpresSpa SF
19 International, Inc., and Amendment No. 2 to Technology Stores and Accessories Lease with
20 ILJ San Francisco, LLC as follows:

- 21 1. The Renovation Period commences on April 14, 2001 and ends when the Airport
22 Director, in his sole and absolute discretion, determines that the renovations are
23 complete.
- 24 2. The Minimum Annual Guarantee (MAG) associated with Boarding Area E shall be
25 waived during the Renovation period.

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3. Tenant shall have the option to continue its operations during the Renovation Period. Should Tenant accept this option, Tenant shall pay percentage rent only as stipulated in its Lease. Any other locations associated with these Leases will have a prorated MAG based on its square footage during the Renovation Period.

FURTHER RESOLVED, That the Airport Director shall take all steps necessary to implement such amendments to the Leases, including execution of the appropriate documents.

Items 1 and 2
Files 11-0536 and 11-0540

Department:
 San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- File 11-0536: The proposed resolution would retroactively approve (a) Amendment No. 1 to an existing Spa Lease with XpresSpa SF International, LLC and the City of San Francisco, acting by and through its Airport Commission (Airport) and (b) Amendment No. 2 to an existing Technology Stores and Accessories Lease with ILJ San Francisco, LLC, and the Airport.
- File 11-0540: The proposed resolution would retroactively approve Amendment No. 1 to four existing Food and Beverage Leases between (a) Baysubway Airport (Subway), (b) Luna Azul Corporation (Jalapeno Grill), (c) Guava & Java, Inc. (Guava & Java), and (d) Burger Joint, Inc. (Mission Bar & Grill) and the Airport.

Key Points

- On April 14, 2011, the Airport began renovating Boarding Area E in Terminal 3, which is anticipated to extend approximately 14 to 16 months or through mid-August of 2012. The Airport has projected that the renovation and resulting closure of Boarding Area E in Terminal 3 will significantly reduce passenger traffic that support Airport concessions in this area.
- As a result, the proposed two resolutions would amend six existing leases with Airport concessions to partially waive the Minimum Annual Guarantee (MAG) and fees, otherwise payable by the lessees to the Airport, for the time that the renovations will occur.

Fiscal Impacts

- The Airport estimates foregoing a total of approximately \$469,548 in annual lease payments and fees, if the two proposed resolutions are approved.
- In FY 2009-2010, these six lessees paid a total of \$1,858,142 of lease revenues and \$220,174 of fees, for a total of \$2,078,316 in revenues to the Airport. If the proposed two resolutions are approved, based on the reduced rental and fee revenue of \$469,548, the Airport's annual revenue would be approximately \$1,608,768 from the subject six leases.
- Although under the proposed two resolutions, rent payments and fees will be waived while the Airport's space in Terminal 3 is renovated, any revenue reduction would not directly impact the Airport's budget due to the Airport's residual rate setting methodology (break-even policy).

Recommendations

- Approve the two proposed resolutions.

MANDATE STATEMENT / BACKGROUND**Mandate Statement**

City Charter Section 9.118 (a) requires Board of Supervisors approval of any lease which would result in revenues to the City in excess of \$1,000,000 over the term of the lease.

Background

On April 14, 2011, the Airport began renovating Boarding Area E in Terminal 3 to (a) provide upgraded facilities due to the recent relocation of American Airlines from Terminal 3 into the Airport's recently completed new Terminal 2, (b) relocate Air Canada from two locations in the International Terminal into Terminal 3, and (c) seismically renovate, increase concession space and upgrade all systems in Boarding Area E. Ms. Cheryl Nashir, Associate Deputy Airport Director advises that the current renovation of Terminal 3 is anticipated to extend approximately 14 to 16 months or through mid-August of 2012. The Airport has projected that the renovation and resulting closure of Boarding Area E in Terminal 3 will significantly reduce passenger traffic that support Airport concessions in this area.

The Attachment to this report shows both a smaller overall Airport map with Boarding Area E identified and an enlarged picture of Boarding Area E in Terminal 3 that identifies the specific locations of the six concession tenants that would be directly impacted by the Airport's current renovations. Table 1 below identifies the major terms of the six Airport tenants that have existing leases, and the portion of each lease in square feet, that will be directly impacted by the current renovations of Boarding Area E in Terminal 3.

Table 1: Terms of Six Existing Leases Located in Terminal 3, Boarding Area E

Existing Airport Tenants	BOS Approval No. and Date	Lease Commence Date	Lease Expiration Date	Total Sq Ft Lease	Total Sq Ft in Boarding Area E	Minimum Annual Guarantee (MAG)	Percent Rent
ILJ San Francisco, LLC (Airport Wireless/Techshowcase)	Res. No. 432-07 07/31/07	8/1/2008	7/31/2013 + (2) 1 Year Options	4,199	542	\$504,190	8% on licensed products, plus, on all other products: 12% up to \$5M; + 14% up to \$6M; + 16% over \$6M
XpresSpa SF International, LLC (XpresSpa)	Not Applicable (Less than 10 yrs, \$1M) ¹	4/15/2008	4/14/2013 + (2) 1 Year Options	2,471	805	\$168,888	12% up to \$1.5M; + 14% over \$1.5M
Luna Azul Corporation (Jalapeno Grill)	Res. No. 0775-03 12/09/03	3/15/2005	3/14/2017	506	506	\$24,126	6% up to \$600K; + 8% up to \$1M; + 10% over \$1M
Baysubway Airport (Subway)	Res. No. 0775-03 12/09/03	9/1/2004	3/14/2017	1,307	601	\$63,481	6% up to \$600K; + 8% up to \$1M; + 10% over \$1M
Guava & Java, Inc. (Guava & Java)	Res. No. 0775-03 12/09/03	9/1/2004	3/14/2017	1,200	400	\$58,284	6% up to \$600K; + 8% up to \$1M; + 10% over \$1M
Burger Joint, Inc. (Mission Bar & Grill)	Res. No. 0775-03 12/09/03	12/30/2004	12/29/2016	1,967	1,967	\$94,416	8% up to \$600K; + 10% up to \$1M; + 12% over \$1M

DETAILS OF PROPOSED LEGISLATION

File 11-0536: The proposed resolution would retroactively approve as of April 14, 2011 (a) Amendment No. 1 to an existing Spa Lease with XpresSpa SF International, LLC and the Airport, (b) Amendment No. 2 to an existing Technology Stores and Accessories Lease with ILJ San Francisco, LLC, and the City of San Francisco, acting by and through its Airport Commission (Airport).

File 11-0540: The proposed resolution would retroactively approve as of April 14, 2011 Amendment No. 1 to four existing Food and Beverage Leases between (a) Baysubway Airport (Subway), (b) Luna Azul Corporation (Jalapeno Grill), (c) Guava & Java, Inc. (Guava & Java), and (d) Burger Joint, Inc. (Mission Bar & Grill) and the Airport.

¹ The XpresSpa lease is not over ten years and the Airport did not initially anticipate this lease to result in over \$1,000,000 of revenues to the Airport over the term of the lease. However, based on actual revenues paid by XpresSpa to the Airport to date, the XpresSpa lease will likely result in over \$1,000,000 of revenues to the Airport over the term of this lease, such that the subject lease amendment is subject to the Board of Supervisors approval.

Under each of the existing leases, each lessee pays the Airport the greater of a Minimum Annual Guarantee (MAG), or a specified percentage of gross revenues as shown in Table 1 above. The two proposed resolutions would retroactively approve amendments effective as of April 14, 2011 to six existing leases in order to waive the Minimum Annual Guarantee (MAG) rent payments for the portion of the leases that are located within Boarding Area E in Terminal 3 during the time that these Airport renovations are being completed. As a result, during the construction period from April 14, 2011 through approximately mid-August of 2012, each of the lessees under the proposed amendments would no longer be subject to the MAG based on the square footage located within Boarding Area E in Terminal 3. Instead, each of the lessees that continue to operate during the renovation period would be subject to the percentage rents for the area within Boarding Area E in Terminal 3.

In addition, the proposed resolution would waive the following specific Airport fees, as appropriate, based on the square footage located within Boarding Area E in Terminal 3.

- Tenant infrastructure fees, which are paid by each Food and Beverage lessee at a rate of \$15 per square foot per year, and which are used to amortize the Airport's costs to initially construct individual lessee's concession facilities in the Airport.
- Food court infrastructure fees, which are paid by those Food and Beverage lessees that are located within food courts at a rate of \$15 per square foot per year, and which are used to amortize the Airport's costs to initially construct the food courts, including the shared open spaces and seating areas.
- Food court cleaning fees, which are paid by those Food and Beverage lessees that are located within food courts, change annually based on the actual cost to pay for cleaning the food courts, and which are allocated according to the number of square feet and the annual gross sales of those Food and Beverage lessees located within the food courts.
- Promotional fees, which are paid by all concession leases at a rate of \$1 per square foot per year, and which allow the Airport to recover a portion of the costs to advertise and promote the retail stores in the Airport.

According to Ms. Nanette Hendrickson of the Airport, with the exception of Mission Bar and Grill, which cannot opt to continue operations during the renovation period because their location is barricaded and no passengers are allowed in this section of the Boarding Area, the other five concessionaires have continued to operate during the renovations. However, Ms. Hendrickson advises that because passenger traffic is significantly reduced during this renovation period, once the summer is over, each of the lessees could potentially reduce their hours of operation or close their operations in Boarding Area E in Terminal 3 if sales decrease further. Ms. Hendrickson advises that either of these events would be done with Airport consultation and concurrence, would not affect the terms of the proposed lease amendments and would lead to less percentage rent paid to the Airport by those tenants. According to Ms. Hendrickson, it is likely, however, that lost sales in the Boarding Area E area would result in increased sales in other locations in the Airport.

FISCAL IMPACTS

Table 2 below summarizes the major provisions in the proposed lease amendments by Resolution numbers and highlights the projected annual revenue losses to the Airport that would occur based on reductions in the MAG and each of the Airport fees, as appropriate.

Table 2: Major Provisions of the Proposed Six Lease Amendments

Resolution File Nos.	11-0536	11-0536	11-0540	11-0540	11-0540	11-0540	Total
Tenants	ILJ San Francisco, LLC (Airport Wireless/Techshowcase)	XpresSpa SF International, LLC (XpresSpa)	Luna Azul Corporation (Jalapeno Grill)	Baysubway Airport (Subway)	Guava & Java (SFO), Inc. (Guava & Java)	Burger Joint, Inc. (Mission Bar & Grill)	
Total Square Feet in Lease	4,199	2,471	506	1,307	1,200	1,967	11,650
Square Feet in Boarding Area E	542	805	506	601	400	1,967	4,821
Open During Renovation?	Yes	Yes	Yes	Yes	Yes	No	
Current MAG Rent	\$504,190	\$168,888	\$24,126	\$63,481	\$58,284	\$94,416	\$913,385
Adjusted MAG Rent	\$439,149	\$113,155	\$0	\$34,290	\$38,856	\$0	625,450
Annual MAG Reduced Revenues to Airport	\$65,041	\$55,733	\$24,126	\$29,191	\$19,428	\$94,416	287,935
Percentage Rent	8% on licensed products, plus, on all other products: 12% up to \$5M; + 14% up to \$6M; + 16% over \$6M	12% up to \$1.5M; + 14% over \$1.5M	6% up to \$600K; + 8% up to \$1M; + 10% over \$1M	6% up to \$600K; + 8% up to \$1M; + 10% over \$1M	6% up to \$600K; + 8% up to \$1M; + 10% over \$1M	8% up to \$600k; + 10% up to \$1M; + 12% over \$1M	
Annual Waived Tenant Infrastructure Fees	N/A	N/A	\$7,590	\$9,015	\$6,000	29,505	52,110
Annual Waived Food Court Infrastructure Fee	N/A	N/A	\$7,590	\$9,015	\$6,000	N/A	22,605
Annual Waived Food Court Cleaning Fees	N/A	N/A	\$25,958	\$36,213	\$39,906	N/A	102,077
Annual Waived Promo Fee	\$542	\$805	\$506	\$601	\$400	\$1,967	4,821
Estimated Annual Reduced Revenues to Airport	\$65,583	\$56,538	\$65,770	\$84,035	\$71,734	\$125,888	\$469,548

As shown above in Table 2, the Airport estimates foregoing approximately \$469,548 in annual rents and fees, if the two proposed resolutions are approved.

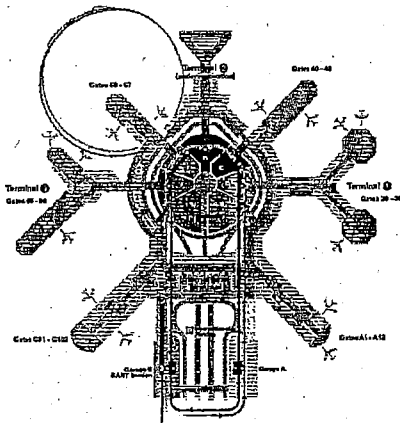
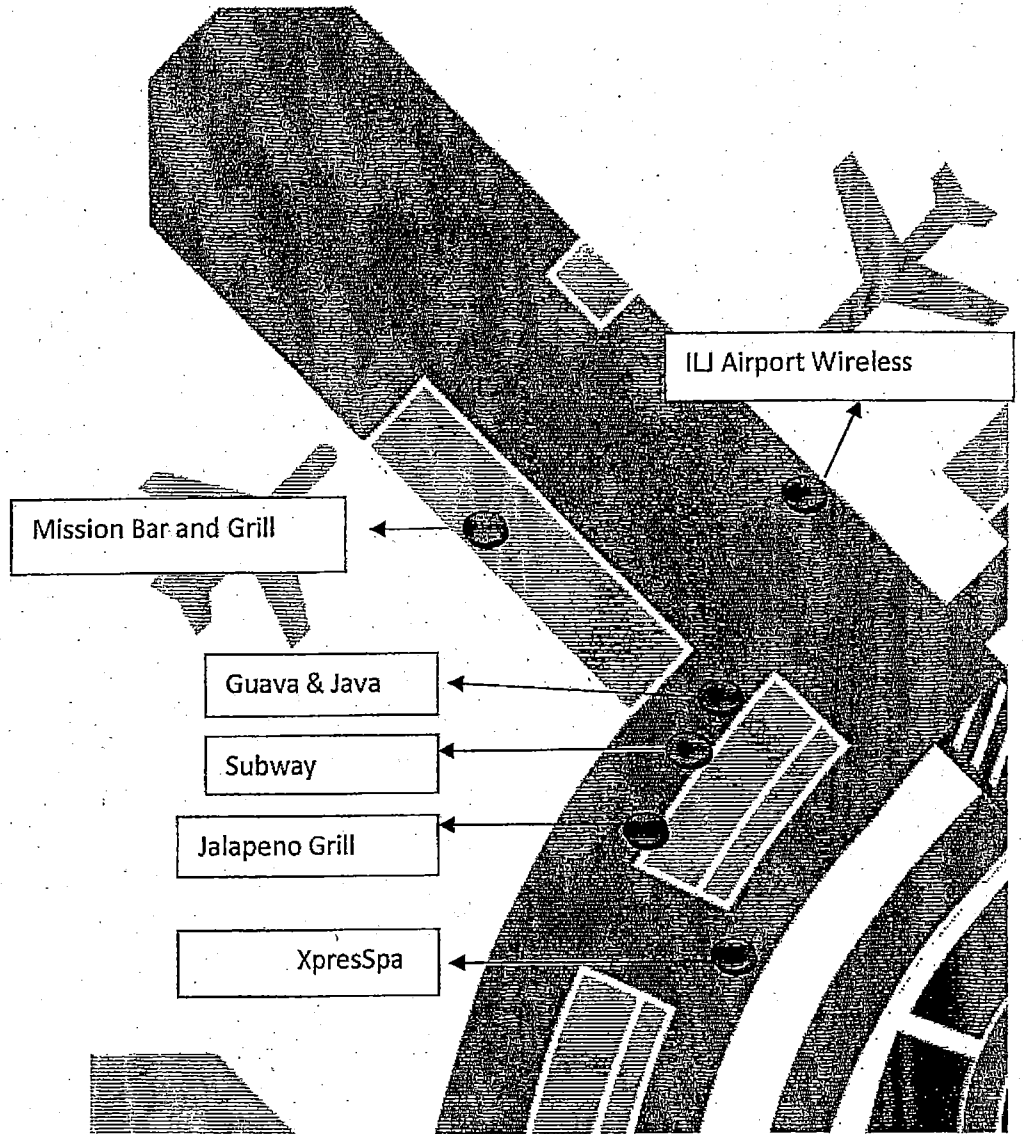
However, as noted above, under the existing leases, each lessee pays the Airport rent consisting of either the greater of a Minimum Annual Guarantee (MAG), or a specified percentage of gross revenues as shown in Table 1 above. Based on actual revenues received by the Airport in FY 2009-10, with the exception of ILJ San Francisco, LLC, which was subject to the MAG, the remaining five of the six lessees made payments to the Airport based on percentage rents rather than the MAG, because the percentage rents were higher. In FY 2009-2010, these six lessees paid a total of \$1,858,142 of lease revenues and \$220,174 of fees, for a total of \$2,078,316 in revenues to the Airport. If the proposed two resolutions are approved, based on the estimated annual reduced rental and fee revenue of \$469,548 shown in Table 2 above, the Airport's annual revenue would be approximately \$1,608,768.

Although under the proposed two resolutions, rent payments and fees will be suspended while the Airport's Terminal 3 space is renovated, any revenue reduction would not directly impact the Airport's budget due to the Airport's residual rate setting methodology (break-even policy). Under the Airport's residual rate setting methodology, any decreases in non-airline revenues (including concession lease revenues and parking revenues) are automatically offset by increasing the total rent payable by the airlines operating at the Airport, through the Airport's formula specified in each airline's lease that recalculates the rental rates, landing fees, and related fees charged to airlines. This break-even policy of the Airport requires that the total revenues paid to the Airport by all airlines in the upcoming year are sufficient to balance the Airport's budget.

RECOMMENDATIONS

Approve both of the proposed resolutions.

Terminal 3
Boarding Area "E"
Affected Tenants



AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 11-0078

APPROVAL OF AMENDMENT NO. 1 TO AIRPORT SPA LEASE NO. 06-0242 WITH XPRESSPA SAN FRANCISCO INTERNATIONAL, LLC

WHEREAS, Pursuant to Resolution No. 06-0242, adopted December 19, 2006, the Airport Commission awarded the Airport Spa Lease ("Lease") to XpresSpa San Francisco, LLC ("Tenant"); and

WHEREAS, the Airport intends to close Terminal 3, Boarding Area "E" on or around May 15, 2011 for a period of approximately one year; and

WHEREAS, staff has negotiated the terms and conditions for Amendment No. 1 to the Lease with Tenant; now, therefore, be it

RESOLVED, that this Commission hereby approves Amendment No. 1 to the Airport Spa Lease No. 06-0242, on the terms and conditions specified on Attachment 1, containing such other terms and conditions as are consistent with the foregoing including suspension of Minimum Annual Guarantee, associated with the Boarding Area "E" location during the Renovation Period; and be it further

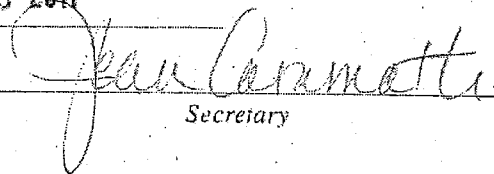
RESOLVED, that this Commission authorizes the Airport Director to enter into any modifications to the Lease that the Airport Director determines, in consultation with the City Attorney, are in the best interests of the City and County of San Francisco ("City"), do not otherwise materially increase the obligations or liabilities of the City, are necessary or advisable to effectuate the purposes of the Lease or this Resolution, and are in compliance with all applicable laws, including the City's Charter; and, be it further

RESOLVED, that this Commission hereby directs the Commission Secretary to seek approval of this Lease Amendment No. 1 from the Board of Supervisors.

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

at its meeting of _____

APR 05 2011


Secretary

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 11-0079

**APPROVAL OF AMENDMENT NO. 2 TO TECHNOLOGY STORE LEASE NO. 07-0108
WITH ILJ SAN FRANCISCO, LLC D/B/A AIRPORT WIRELESS**

WHEREAS, pursuant to Resolution 07-0108, adopted May 15, 2007, the Airport Commission awarded the Technology Store Lease ("Lease") to ILJ San Francisco, LLC d/b/a Airport Wireless ("Tenant"); and

WHEREAS, pursuant to Resolution No. 08-0146, adopted July 15, 2008, the Commission approved the reduction of square footage for the original premises from 4,826 square feet to 3,674 square feet and the addition of approximately 525 square feet to the Lease; and

WHEREAS, the Airport intends to close Terminal 3, Boarding Area "E" in or around May 15, 2011 for a period of approximately one year; and

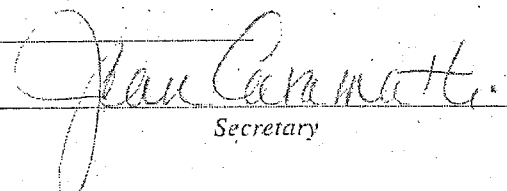
WHEREAS, staff has negotiated the terms and conditions for Amendment No. 2 to the Lease with Tenant; now, therefore, be it

RESOLVED, that this Commission hereby approves Amendment No. 2 to Technology Store Lease No. 07-0108, on the terms and conditions specified on Attachment 1, containing such other terms and conditions as are consistent with the foregoing including suspension of Minimum Annual Guarantee associated with the Boarding Area "E" location during the Renovation Period; and, further be it

RESOLVED, that this Commission authorizes the Airport Director to enter into any modifications to the Lease that the Airport Director determines, in consultation with the City Attorney, are in the best interests of the City and County of San Francisco ("City"), do not otherwise materially increase the obligations or liabilities of the City, are necessary or advisable to effectuate the purposes of the Lease or this Resolution, and are in compliance with all applicable laws, including the City's Charter; and, be it further

RESOLVED, that this Commission hereby directs the Commission Secretary to seek approval of this Lease Amendment No. 2 from the Board of Supervisors.

*I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of* APR 05 2011


Secretary

**AMENDMENT NO. 1 TO
AIRPORT SPA LEASE NO. 06-0242
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS AMENDMENT NO. 1 TO AIRPORT SPA LEASE NO. 06-0242 AT THE SAN FRANCISCO AIRPORT ("Amendment No. 1"), dated as of April 5, 2011 for reference purposes only, is entered by and between the between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City"), acting by and through the SAN FRANCISCO AIRPORT COMMISSION (the "Airport"), as landlord, and XpresSpa SF International, LLC, as tenant (the "Tenant").

RECITALS

A. The Airport and Tenant entered into Lease No. 06-0242, dated as of August 2, 2007, (the "Lease") for certain retail spaces located at the Airport in the International Terminal and Terminal 3 (the "Original Premises"). The Lease was previously approved by the Airport Commission pursuant to Resolution Number 06-0242, and by the Board of Supervisors pursuant to Resolution Number 186-10.

B. On or around April 14, 2011, the Airport closed Boarding Area E for approximately one calendar year for major renovation ("Renovation Period"), subject to the Directors determination mentioned below. Airport Retail Concession Leases provide that the tenant pays annual rent to City equal to the higher of a "Minimum Annual Guarantee" or percentage of gross revenues. Pursuant to Airport Commission Resolution No. 11-0078, the Airport Commission approved suspension and reinstatement of the Minimum Annual Guarantee.

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 the modifications to the Lease contained in shall be the date upon which the Tenant and Airport Director signs this Amendment 1.

3. Rent. Section 4.14 Boarding Area E Renovation is hereby included as part of the Lease and shall read as follows:

4.14 Boarding Area E Renovation. Boarding Area E in Terminal 3 will undergo major renovations which require the closure of Tenant's operation.

- (a) Boarding Area E Renovation Period. The Renovation Period, as defined in Recital Paragraph B above, shall commence in or around on April 14, 2011; continue for approximately one calendar year and shall end when the Airport Director, in his sole and absolute discretion, determines that the renovations are complete.
- (b) Minimum Annual Guarantee ("MAG"). During the Renovation Period, the MAG shall be suspended.
- (c) MAG Reinstatement. At the end of the Renovation Period, the MAG shall be reinstated. The MAG shall be subject to annual adjustments as specified in Lease Section 4.

4. 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.

5. 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.

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.

6. 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
Airport Director

TENANT: XpresSpa SF International, LLC,
a New York Company.

By: _____

Name: _____
(type or print)

Title: _____

**AUTHORIZED BY AIRPORT
COMMISSION**

Resolution No. 11-0078
Adopted: April 5, 2011

Attest: _____

Secretary
Airport Commission

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

By: _____
Deputy City Attorney

2011.04.14
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**AMENDMENT NO. 2 TO
TECHNOLOGY STORES AND ACCESSORIES LEASE NO. 07-0108
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS AMENDMENT NO. 2 TO TECHNOLOGY STORES AND ACCESSORIES LEASE NO. 07-0108 AT THE SAN FRANCISCO AIRPORT ("Amendment No. 2"), dated as of April 5, 2011 for reference purposes only, is entered by and between the between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City"), acting by and through the SAN FRANCISCO AIRPORT COMMISSION (the "Airport"), as landlord, and ILJ San Francisco, LLC, as tenant (the "Tenant").

RECITALS

A. The Airport and Tenant entered into Technology Stores and Accessories Lease No. 07-0108, dated as of October 3, 2007(the "Lease") for certain retail spaces located at the Airport in the International Terminal and Terminals 1&3 (the "Original Premises"). The Lease was previously approved by the Airport Commission pursuant to Resolution Number 07-0108 and by the Board of Supervisors pursuant to Resolution No. 432-07. Amendment No. 1 to the Lease was approved by the Airport Commission pursuant to Resolution No. 08-0146.

B. On or around April 14, 2011, the Airport closed Boarding Area E for approximately one calendar year for major renovation ("Renovation Period"), subject to the Directors determination mentioned below. Airport Retail Concession Leases provide that the tenant pays annual rent to City equal to the higher of a "Minimum Annual Guarantee" or percentage of gross revenues. Pursuant to Airport Commission Resolution No. 11-0079, the Airport Commission approved suspension and reinstatement of the Minimum Annual Guarantee.

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 the modifications to the Lease contained in shall be the date upon which the Tenant and Airport Director signs this Amendment 1.

3. Rent. Section 4.14 Boarding Area E Renovation is hereby included as part of the Lease and shall read as follows:

4.14 Boarding Area E Renovation. Boarding Area E in Terminal 3 will undergo major renovations which require the closure of Tenant's operation.

- (a) Boarding Area E Renovation Period. The Renovation Period, as defined in Recital Paragraph B above, shall commence in or around on April 14, 2011; continue for approximately one calendar year and shall end when the Airport Director, in his sole and absolute discretion, determines that the renovations are complete.
- (b) Minimum Annual Guarantee ("MAG"). During the Renovation Period, the MAG shall be suspended.
- (c) MAG Reinstatement. At the end of the Renovation Period, the MAG shall be reinstated. The MAG shall be subject to annual adjustments as specified in Lease Section 4.

4. Entire Agreement. This Amendment No. 2 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. 2 are superseded in their entirety by this Amendment No. 2. No prior drafts of this Amendment No. 2 or changes between those drafts and the executed version of this Amendment No. 2 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. 2.

5. Miscellaneous. This Amendment No. 2 shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto. This Amendment No. 2 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.

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. 2. This Amendment No. 2 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. 2 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. 2. This Amendment No. 2 shall be governed by the laws of the State of California. Neither this Amendment No. 2 nor any of the terms hereof may be amended or modified except by a written instrument signed by all the parties hereto.

6. 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
Airport Director

TENANT: ILJ San Francisco, LLC,

By: _____

Name: _____
(type or print)

Title: _____

AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. 11-0079
Adopted: April 5, 2011

Attest: _____
Secretary
Airport Commission

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

By: _____
Deputy City Attorney

2011.04.14
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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: ILJ San Francisco, 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. Ilene Berman, President and CEO	
Contractor address: 3260 Fairlane Farms Road #7, Wellington, FL 33414-8793	
Date that contract was approved: Airport Commission 5/15/07; BoS 7/31/07	Amount of contract: Current MAG \$500,000
Describe the nature of the contract that was approved: Through a Request for Proposal process	
Comments: Term of five years with two one-year options; Amendment No. 1 precipitated by the closure of Boarding Area E affecting its operations.	

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

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 SF 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. Marison Binn, President and Chief Operating Officer Moreton Binn, Chairman and Chief Executive Officer Mohammed Ali, Treasurer	
Contractor address: 158 E. 58th Street, 7th Floor, New York, NY 10155	
Date that contract was approved: Airport Commission 2/18/2010	Amount of contract: Current MAG \$168,888
Describe the nature of the contract that was approved: Through a Request for Proposal process	
Comments: Term of five years with two one-year options; Amendment No. 1 precipitated by the closure of Boarding Area E affecting its operations.	

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

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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