

**AMENDMENT NO. 1 TO
DOMESTIC TERMINAL FOOD AND BEVERAGE LEASE NO. 03-0193
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS AMENDMENT NO. 1 TO LEASE AGREEMENT FOR THE DOMESTIC TERMINAL FOOD AND BEVERAGE PROGRAM NO. 03-0193 ("Amendment No. 1"), dated as of MAY 21 2013 for reference purposes only, is entered by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), acting by and through its SAN FRANCISCO AIRPORT COMMISSION ("Airport"), as landlord, and GOTHAM ENTERPRISES, LLC, as tenant ("Tenant").

RECITALS

A. Airport and Tenant entered into Lease No. 03-0193, dated as of September 29, 2003 (the "Lease") for food and beverage facilities located in Terminal 1, pre-security near the International Terminal connector, and Terminal 3, Boarding Area "F" near Gates 70/71 and T3 pre-security Mezzanine (the "Original Premises"). The Original Lease was approved by the Airport Commission pursuant to Resolution Number 03-0193 with a term of ten years and one option to extend the term for two years ("Option Term") and by the Board of Supervisors pursuant to Resolution Number 775-03."). The Option Term was exercised on May 22, 2009 by Resolution No. 09-0121.

B. Airport and Tenant have agreed to modify the premises pursuant to Lease Section 1 [Premises], adjust the rent accordingly, and other related provisions, on the terms and conditions set forth below.

B. 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 herein shall be the date on which the Tenant signs the Agreement.
3. **Premises. Section 1.1** of the Lease referencing Exhibit A deletes Space T1.2.001B of approximately 310 square feet from the Premises.
4. **Minimum Annual Guarantee. Section 4** The Minimum Annual Guarantee shall be decreased to reflect lower square footage.

5. **Adjustment to Initial MAG. Section 4.2** The Initial MAG used in the formula for annual MAG Adjustment will be decreased to \$29,080 to reflect the lower square footage.
6. **Tenant Infrastructure Fee. Section 4** This Fee will be decreased to \$10,905 to reflect the lower square footage.
7. **Promotional Charge. Section 11** This Charge will be decreased to \$727 to reflect lower the square footage.
8. **City and Other Government Requirements.** The following amendments are made to Lease Section 18.

18.18 **Notification of Limitations on Contributions.** San Francisco Campaign and Governmental Conduct Code (the "Conduct Code") Section 1.126 prohibits any person who contracts with the City for selling or leasing any land or building to or from the City whenever such transaction would require the approval by a City elective officer or the board on which that City elective officer serves, from making a contribution to such an officer, or candidate for such an office, or committee controlled by such officer or candidate at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves. San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective contractor first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective contractor or a City officer or employee. Negotiations are completed when a contract is finalized and signed by the City and the contractor. Negotiations are terminated when the City and/or the prospective contractor end the negotiation process before a final decision is made to award the contract. Through its execution of this Agreement, Tenant acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and sections 87100 et seq and sections 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions and agrees that if it becomes aware of any such fact during the term of this Agreement it shall immediately notify City."

9. **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.

10. **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.

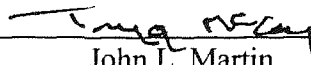
11. **Full Force and Effect.** Except as specifically amended herein, the terms and conditions of the Lease shall remain in full force and effect.

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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: Gotham Enterprises, LLC
SFO Coffee IV-VI Series
A Delaware Limited Liability Company

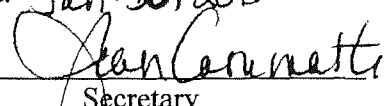
By: 

Name: Glenn J. Meyers 1/16/2013
(type or print)

Title: managing member

AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. 13-0015
Adopted: Jan. 30, 2013

Attest: 

Secretary
Airport Commission

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

By: 

Deputy City Attorney

01-30-2013
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