

**AMENDMENT NO. 1 TO
TERMINAL 1 FOOD AND BEVERAGE CONCESSION LEASE 3 NO. 18-0211
AT SAN FRANCISCO INTERNATIONAL AIRPORT**

THIS AMENDMENT NO. 1 TO TERMINAL 1 FOOD AND BEVERAGE CONCESSION LEASE 3 NO. 18-0211 AT THE SAN FRANCISCO INTERNATIONAL AIRPORT (this "Amendment"), dated as of December 12, 2018 (the "Effective Date"), is entered by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its AIRPORT COMMISSION, as landlord ("City"), and Amy's Kitchen Restaurant Operating Company, LLC ("Tenant").

RECITALS

A. City and Tenant entered into Lease No. 18-0211, effective February 6, 2019 (the "Lease"), for that certain retail facility located at the San Francisco International Airport (the "Airport") in Harvey Milk Terminal 1 (as further described in the Lease, the "Premises"). On July 10, 2018, by Resolution No. 18-0211, Airport Commission (the "Commission") awarded the Lease.

B. Staff has determined that the development costs exceeded supportable standards related to sales projections, rent structure and the term of the Lease.

C. To improve the financial health of the Lease by allowing for a longer development cost amortization period, City and Tenant have agreed to extend the Operating Term of the Lease to July 31, 2031.

D. 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. **Term.** The Expiration Date of the Lease, as defined and as set forth in the Major Lease Term Summary, is modified from August 8, 2029 to July 31, 2031. Nothing in this Amendment shall modify or otherwise affect the option of the Airport Commission to further extend the term of the Lease, as set forth in Section 2.5 of the Lease, which such option remains in full force and effect.

3. **Entire Agreement.** This Amendment contains all of the representations and the entire agreement between the parties with respect to the subject matter of this Amendment. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to the subject matter of this Amendment are superseded in their entirety by this Amendment. No prior drafts of this Amendment or changes between those drafts and the executed version of this Amendment 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.

4. **Miscellaneous.** This Amendment shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto. This Amendment is made for the purpose of setting forth certain rights and obligations of Tenant and City, 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. This Amendment 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 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. This Amendment shall be governed by the laws of the State of California. Neither this Amendment nor any of the terms hereof may be amended or modified except by a written instrument signed by all the parties hereto.

5. **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 parties have executed this Amendment as of the Effective Date.

TENANT: Amy's Kitchen Restaurant Operating Company,
LLC

By:  _____

Name: Michael Resch

Title: Manager

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

Ivar C. Satero
Airport Director

AUTHORIZED BY AIRPORT
COMMISSION

Resolution: 19-0194

Adopted: September 10, 2019

Attest: _____

Secretary
Airport Commission

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

By: _____

Deputy City Attorney