CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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March 1, 2012

TO: Budget and Finance Sub-Committee

FROM: Budget and Legislative Analyst

SUBJECT: March 7, 2012 Budget and Finance Sub-Committee Meeting

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Item 1 File 12-0139	Department: San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objective

- Resolution approving a new seven-year lease between the Airport and the Hudson Group Retail, LLC (Hudson Group) for three locations, totaling approximately 2,574 square feet, including two newsstands and one specialty store in Terminal 3, from approximately December 4, 2012 through December 3, 2019.

Key Points

- The proposed lease is for three separate locations in Terminal 3, identified as Space T3.2.076, Space F.2.021, and Space F.2.035.
- Space T3.2.076, located in Terminal 3 near the International Terminal, is currently occupied by the Marilla Chocolate Company (Marilla) for use as a specialty retail store. The existing space permit for 1,263 square feet began on November 11, 2008 as a six month trial. According to Mr. John Reeb, Airport Senior Property Manager, the Airport decided not to pursue a longer lease term with Marilla, and continued a month-to-month space permit with Marilla while the Airport decided on how to develop the space.
- Space F.2.021 and Space F.2.035, located in Terminal 3, Boarding Area F, were previously occupied by United Airlines for use as the United Airlines Credit Union and Standby Meals Room respectively. In 2010, as part of the 2011 Lease and Use Agreement, United Airlines returned Space F.2.021 and Space F.2.035 to the Airport, which have remained vacant.
- On January 18, 2011, the Airport issued a new competitive Request for Proposals (RFP) for Space F.2.021, Space F.2.035, and Space T3.2.076, as a single lease totaling 2,574 square feet, for two newsstands, and a specialty store. The Airport selected Hudson Group as the highest ranking, responsive, and responsible proposer.

Fiscal Impacts

- Under the proposed new seven-year lease between the Airport and Hudson Group, the combined rent for the three spaces would be the higher of (a) the Minimum Annual Guarantee (MAG), as determined competitively at $711,000 per year, or (b) percentage rent, as determined by the Airport. The MAG would be adjusted annually based on the standard CPI formula used by the Airport.
- According to Mr. Reeb, Hudson Group's projected annual gross revenues from the three spaces in Terminal 3 are estimated at $5,026,454 per year. This would result in percentage rent being paid by the Hudson Group to the Airport of $774,233 per year which is $63,233 in excess of the MAG of $711,000.

Policy Consideration

- The revenues generated from the proposed concessions lease are considered in the Airport's residual rate setting methodology (breakeven policy), which sets the schedule of all rental rates, landing fees, and related fees to a level which ensures that Airport revenues received from the airlines, plus the non-airline concession and other revenues received by the Airport, are equal to the Airport's total annual costs, including debt service and operating expenditures.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with City Charter Section 9.118(c), leases exceeding ten years and/or having anticipated revenue of $1,000,000 or greater are subject to the Board of Supervisors approval.

Background

The proposed lease is for three separate locations in Terminal 3, identified as Space T3.2.076, Space F.2.021, and Space F.2.035.

Space T3.2.076

Space T3.2.076, located in Terminal 3 near the International Terminal, is currently occupied by the Marilla Chocolate Company (Marilla) for use as a specialty retail store called "Lifestyle Whatever!" The existing space permit for 1,263 square feet of specialty retail space began on November 11, 2008 as a six month trial which included rent of the higher of (a) the Minimum Annual Guarantee (MAG) of $100,000 per year, or (b) 12 percent of gross sales. According to Mr. John Reeb, Airport Senior Property Manager, on May 25, 2009, the Airport decided not to pursue a longer lease term with Marilla, primarily due to lower than expected sales. The Airport decided to continue a month-to-month space permit with Marilla with rent of 12 percent of gross revenues while the Airport decided on how to develop the space. In 2009 and 2010, with the opening of Terminal 2, the Airport attempted to bundle Space T3.2.076 with other Terminal 2 spaces into a single lease package, but none of the proposed packages were attractive to the Airport or potential tenants. On November 12, 2010, the Airport determined that the best use for Space T3.2.076 was a newsstand.

Spaces F.2.021 and F.2.035

Spaces F.2.021 and F.2.035, located in Terminal 3, Boarding Area F, were previously occupied by United Airlines for use as the United Airlines Credit Union and the Standby Meals Room respectively. In 2010, as part of the 2011 Lease and Use Agreement (Files 10-0351, 10-1213, 11-0210, and 11-1152) United Airlines returned Space F.2.021, consisting of 603 square feet, and Space F.2.035, consisting of 708 square feet, to the Airport, and those locations have remained vacant since that time.

Combined Competitive Request for Proposals (RFP) for Spaces T3.2.076, F.2.021, and F.2.035

In February 2011, the Airport issued a new RFP for Spaces T3.2.076, F.2.021, and F.2.035, as a single lease, for two newsstands and one specialty store. Attachment I, provided by the Airport, shows the location of these three spaces.

According to Mr. Reeb, six companies responded to the RFP. The Airport selected Hudson Group as the highest ranking, responsive, and responsible proposer to provide two newsstands and one specialty store in Terminal 3, based on criteria that included: (a) the proposed concept,

(b) design intent and capital investment, (c) the business plan, (d) customer service and quality control, and (e) the proposed MAG amount.[1]

DETAILS OF PROPOSED LEGISLATION

Based on a competitive Request for Proposals basis, the proposed resolution would approve a new seven-year lease between the Airport and the Hudson Group Retail, LLC (Hudson Group) for three locations totaling approximately 2,574 square feet including two newsstands and one specialty store in Terminal 3 from approximately December 4, 2012 through December 3, 2019 (see the Table below).

FISCAL IMPACTS

The proposed new lease between the Airport and Hudson Group would provide 2,574 square feet of space, including two newsstands with 1,866 combined square feet (1,263 plus 603), and one specialty store with 708 square feet. The rent payable by Hudson Group to the Airport is the higher of (a) the Minimum Annual Guarantee (MAG) of $711,000 per year,[2] or (b) percentage rent, which was set by the Airport, at

- 12 percent of gross revenues up to and including $500,000, plus
- 14 percent of gross revenues of $500,001 up to and including $1,000,000, plus
- 16 percent of gross revenues over $1,000,000.

The proposed lease also requires a:

(a) One-time minimum investment by Hudson Group of $350 per square foot, or a total of $900,900 for the 2,574 square feet of retail space, for Hudson Group to refurbish and construct two newsstands in Space T3.2.076 and Space F.2.021 and one specialty store in Space F.2.035; and

(b) Promotional Charge of $1 per square foot per year, or $2,574 per year payable by Hudson Group to the Airport to reimburse the Airport for marketing and advertising costs.

Under the proposed lease, Hudson Group would be responsible for the cost of utilities, janitorial, and any other operating expenses.

According to Mr. Reeb, Hudson Group's projected annual gross revenues from the proposed 2,574 square feet of leased space located in Terminal 3, once all locations are operational, would be $5,026,454 per year. Based on these estimated annual gross revenues, the Hudson Group would pay the Airport annual percentage rent of $774,233, which exceeds the MAG of $711,000 by $63,233.

According to Mr. Reeb, Hudson Group is expected to take possession of the three spaces and begin operating the spaces at different times, depending on the completion of tenant improvements by Hudson Group, as shown in the Table below.

[1] See Attachment II for the scoring of the six proposers.
[2] The MAG would be adjusted annually based on the standard CPI formula used by the Airport.

Table: Approximate Dates of Possession and Operation

Space	Purpose	Approximate Date Hudson Group will take Possession	Approximate Date Hudson Group will begin Operations
T3.2.076	Newsstand	April 1, 2012	July 1, 2012
F.2.021	Newsstand	April 1, 2012	July 1, 2012
F.2.035	Specialty Retail	September 4, 2012	December 4, 2012

POLICY CONSIDERATION

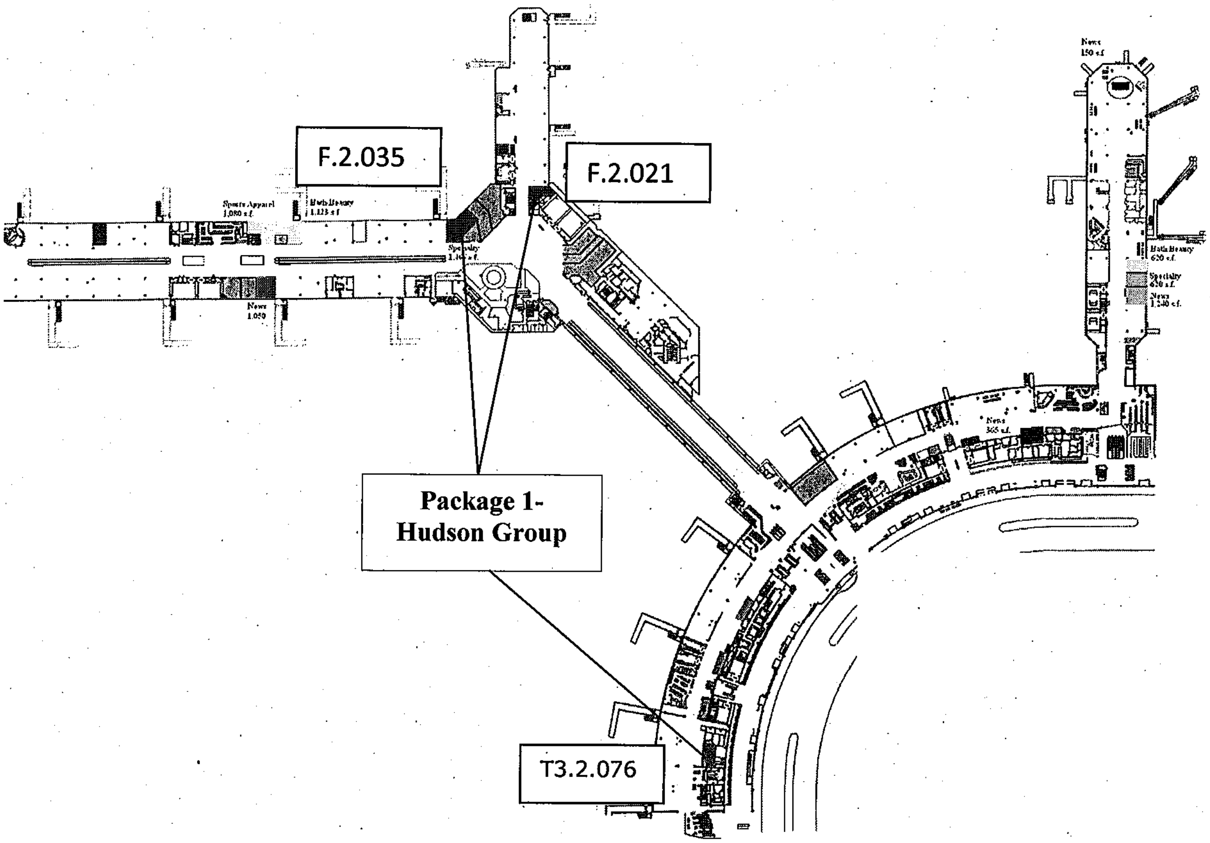
The Airport uses a “breakeven policy” known as the residual rate setting methodology to set the schedule of all rental rates, landing fees, and related fees to a level which ensures that Airport revenues received from the airlines, plus the non-airline revenues (such as concession revenues) received by the Airport, are equal to the Airport’s total costs, including debt service and operating expenditures. According to this methodology, the amount needed to balance the Airport’s budget then becomes the basis for calculating, by a formula specified in the leases with the airlines, the rental rates, landing fees, and related fees charged to airlines operating at the Airport in the upcoming year, such that the total revenues paid to the Airport by all airlines in the upcoming year is sufficient to balance the Airport’s budget. At the end of the fiscal year, any budget shortfall or surplus is carried forward into the following fiscal year and is used in the calculation of the new rental rates, landing fees, and related fees charged to the airlines.

The revenues generated from both the previous and proposed leases are considered in the Airport’s residual rate setting methodology, such that the Airport’s budget will remain fully balanced by the revenues paid by the airlines to the Airport, after considering the Airport’s budgeted expenditures and all non-airline revenues.

RECOMMENDATION

Approve the proposed resolution.

ATTACHMENT I



ATTACHMENT II

Criteria	Possible Points	Hudson	Paradies	Host	Stellar	LS Travel	PGC
Proposed Concept & Site Visit	30.00	17.4	13.73	15.6	12.4	11.47	12.13
Design Intent & Capital Investments	20.00	11.93	13.67	11.8	10.07	10.13	9.87
Business Plan	20.00	15.0	15.0	14.13	14.8	15.0	11.0
Customer Service and Quality Control	20.00	13.33	13.27	12.47	14.47	13.07	13.53
MAG/Proposal Amount	10.00	10.0	9.17	7.79	9.63	6.64	9.14
Total	**100.0**	**67.67**	**64.84**	**61.79**	**61.37**	**56.31**	**55.68**

Item 2 File 12-0160	Department: San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- Resolution approving the First Amendment to the Boarding Area B and C Books and News Store Lease between the Airport and Pacific Gateway Concessions, LLC (PGC), which would authorize the Airport to (a) reclaim 3,183 square feet of space, reducing the leased space from 4,665 square feet to 1,482 square feet; (b) reduce the Minimum Annual Guarantee (MAG) by $150,040 from $220,000 to $69,960 based on the reduction in square footage, (c) reduce the Airport's annual promotional charge from $4,665 to $1,482, and (d) reimburse PGC $59,047 for unamortized tenant improvement costs of $807,695.

Key Points

- On June 21, 2005, the Board of Supervisors approved a lease between the Airport and DeLaVe, Inc. for the Terminal 1 Boarding Areas B and C Books and News Stores, which was subsequently assigned to Pacific Gateway Concessions, LLC (PGC) (File 05-0617). The existing lease is for a term of seven years from July 1, 2005 through June 30, 2012 with one two-year option to extend the lease from July 1, 2012 through June 30, 2014.
- On October 1, 2011, the Airport reclaimed, from PGC, the Boarding Area C Books and News Store space, consisting of 3,183 square feet. PGC will continue to lease the Boarding Area B Books and News Store space, consisting of 1,482 square feet. According to Mr. John Reeb, Airport Senior Property Manager, the Airport reclaimed the space in order to expand the Boarding Area C Security Checkpoint at the request of the U.S. Transportation Security Administration.
- According to Mr. Reeb, the TSA notified the Airport in July of 2011 that the TSA needed to expand the Boarding Area C checkpoint area before Thanksgiving. The Airport Commission approved the First Amendment to the lease on August 16, 2011. Due to a number of other Airport leases and the recess of the Board of Supervisors, Mr. Reeb stated the Airport inadvertently delayed submitting the proposed resolution to the Board of Supervisors.

Fiscal Impacts

- PGC has paid the Airport $35,721 in MAG and promotional charges for the six month period from October 2011 through March 2012, instead of $112,331 that PGC would have paid under the original terms of the lease, a reduction of $76,610.

Policy Considerations

- If the Airport exercises the option to extend the lease for two years, the Airport should amend the lease to specify that the MAG will be adjusted annually based on the CPI for All Urban Consumers-Not Seasonally Adjusted-San Francisco/Oakland/San Jose, California Index, which is the Airport's standard index, rather than the U.S. Department Store Inventory Price Index.
- The revenues generated from the proposed concessions lease are considered in the Airport's residual rate setting methodology (breakeven policy), which sets the schedule of all rental rates, landing fees, and related fees to a level which ensures that Airport revenues received from the airlines, plus the non-airline concession and other revenues received by the Airport, are equal to the Airport's total annual costs, including debt service and operating expenditures.

Recommendations

- Amend the resolution to state that the proposed First Amendment is retroactive to October 1, 2011.
- Approve the proposed resolution, as amended.
- If the Airport exercises the option, under the existing lease, to extend the lease from July 1, 2012 through June 30, 2014, the Budget and Legislative Analyst recommends that the Airport amend the lease to specify that the MAG will be adjusted annually based on the CPI for All Urban Consumers-Not Seasonally Adjusted-San Francisco/Oakland/San Jose, California Index, in order to be consistent with the Airport's other leases.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with City Charter Section 9.118(c), any lease exceeding ten years and/or having anticipated revenue of $1,000,000 or greater is subject to the Board of Supervisors approval.

Background

On June 21, 2005, the Board of Supervisors approved a lease between the Airport and DeLaVe, Inc. for the Terminal 1 Boarding Areas B and C Books and News Stores, which was subsequently assigned to Pacific Gateway Concessions, LLC (PGC) (File 05-0617). The existing lease is for a term of seven years from July 1, 2005 through June 30, 2012 with one two-year option to extend the lease from July 1, 2012 through June 30, 2014.

The Boarding Area B Books and News Store consists of 1,482 square feet, and the Boarding Area C Books and News Store consists of 3,183 square feet, for a total of 4,665 square feet. Both Books and News Stores sell similar products in each of the two boarding areas.

The existing lease allows the Airport to reclaim from PGC all or part of the leased space. On October 1, 2011, the Airport reclaimed the Boarding Area C Books and News Store space, consisting of 3,183 square feet. According to Mr. John Reeb, Airport Senior Property Manager, at the request of the U.S. Transportation Security Administration (TSA), the Airport reclaimed the space in order to expand the Boarding Area C Security Checkpoint area to provide more space for foot traffic to move through that section of Terminal 1.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the First Amendment to the existing lease between the Airport and PGC for the Books and News Stores in Boarding Areas B and C. The First Amendment:

(a) Decreases PGC's leased space in Terminal 1 by 3,183 square feet, from 4,665 square feet to 1,482 square feet, thus eliminating the Boarding Area C Books and News Store, leaving the Boarding Areas B Books and News Store with the remaining 1,482 square feet;

(b) Reduces the Minimum Annual Guarantee (MAG) from $220,000 to $69,960 based on the reduction of square footage; and approves the calculation of annual Consumer Price Index (CPI) adjustments based on the reduced MAG of $69,960;

(c) Reimburses PGC $59,047 for the unamortized portion of the tenant improvement costs of $807,695; and

(d) Decreases the annual promotional charge from $4,665 ($1 per square foot for 4,665 square feet) to $1,482 ($1 per square foot for 1,482 square feet), and approves the reduced promotional charge of $1,482 as the basis for future promotional charge adjustments.

PGC would continue to lease the Boarding Area B News and Books Store, consisting of 1,482 square feet.

FISCAL IMPACTS

Under the existing lease, rent paid by Pacific Gateway Concessions, LLC (PGC) to the Airport, is the higher of (a) the Minimum Annual Guarantee (MAG) of $220,000, (b) or percentage rent, which was set by the Airport, at

- 12 percent of gross revenues up to and including $500,000, plus
- 14 percent of gross revenues from $500,001 up to and including $1,000,000, plus
- 16 percent of gross revenues over $1,000,000.

The proposed First Amendment would reduce the MAG by $150,040, from $220,000 to $69,960, based on a reduction of 3,183 in square feet. The percentage rent would remain the same.

According to Mr. Reeb, FY 2010-11 PGC gross sales for these two leased locations in Terminal 1, Boarding Areas B and C, totaled $562,316. PGC paid the Airport the MAG of $220,000. Of the total $562,316 in gross sales, the Boarding Area C News and Books Store, consisting of 3,183 square feet, which has been reclaimed by the Airport, generated sales of $341,247 and the Boarding Area B News and Books Store, consisting of 1,482 square feet, which would remain under the lease, generated gross sales of $221,069.

The Airport has charged PGC the reduced MAG of $69,960, and the reduced annual promotional charge of $1,482 based on the remaining 1,482 square feet since October of 2011. As shown in the Table below, PGC has paid the Airport $35,721 in rent and promotional charges for the six month period from October 2011 through March 2012, instead of $112,331 that PGC would have paid under the original terms of the lease, a reduction of $76,610.

Table: Original and Proposed Amended Terms of the Lease

	Original Terms of the Lease			**Proposed Terms (already in effect)**		
	MAG Rent (per month)	Promotional Charges (per month)	Total Monthly Rent and Charges	MAG Rent (per month)	Promotional Charges (per month)	Total Monthly Rent and Charges
Oct. '11	$18,333	$388.75	$18,721.75	$5,830	$123.50	$5,953.50
Nov. '11	18,333	388.75	$18,721.75	5,830	123.50	$5,953.50
Dec. '11	18,333	388.75	$18,721.75	5,830	123.50	$5,953.50
Jan. '12	18,333	388.75	$18,721.75	5,830	123.50	$5,953.50
Feb. '12	18,333	388.75	$18,721.75	5,830	123.50	$5,953.50
Mar. '12	18,333	388.75	$18,721.75	5,830	123.50	$5,953.50
			Total: $112,331			**Total: $35,721**

Under the proposed First Amendment to the lease, the Airport will reimburse PGC $59,047 for unamortized tenant improvement costs of $807,695[1]. PGC owes $17,861 in rent and promotional charges for the remaining three months of the lease from April 1, 2012 through June 30, 2012[2]. According to Mr. Reeb, the Airport will apply the balance of rent credits of $41,186[3] to the rents owed by PGC if the Airport exercises the option to extend the lease for two years from July 1, 2012 through June 30, 2014. If the Airport does not exercise the option to extend the lease, the Airport will apply the balance of rent credits to another lease between the Airport and PGC.

POLICY ISSUES

CPI Adjustment

The subject lease has a provision to adjust the MAG annually based on the CPI for the U.S. “Department Store Inventory Price Index”. According to Mr. Reeb, the Department Store Inventory Price Index has not increased since the beginning of the current lease in 2005, and therefore, the MAG of $220,000 has not increased. In contrast to the subject lease Mr. Reeb states that the Airport has standardized CPI adjustments in new leases, using the “All Urban Consumers-Not Seasonally Adjusted-San Francisco/Oakland/San Jose, California Index” to annually adjust the MAG.

If the Airport exercises the option, under the existing lease, to extend the lease from July 1, 2012 through June 30, 2014, the Budget and Legislative Analyst recommends that the Airport amend the lease to specify that the MAG will be adjusted annually based on the CPI for All Urban Consumers-Not Seasonally Adjusted-San Francisco/Oakland/San Jose, California Index, in order to be consistent with the Airport’s other leases.

Retroactivity

According to Mr. Reeb, the TSA notified the Airport in July of 2011 that the TSA needed to expand the Boarding Area C checkpoint area before Thanksgiving. The Airport Commission approved the First Amendment to the lease on August 16, 2011. Due to a number of other Airport leases and the recess of the Board of Supervisors, Mr. Reeb stated the Airport inadvertently delayed submitting the proposed resolution to the Board of Supervisors.

Break Even Policy

The Airport uses a “breakeven policy” known as the residual rate setting methodology to set the schedule of all rental rates, landing fees, and related fees to a level which ensures that Airport revenues received from the airlines, plus the non-airline revenues (such as concession revenues) received by the Airport, are equal to the Airport’s total costs, including debt service and operating expenditures. According to this methodology, the amount needed to balance the Airport’s budget then becomes the basis for calculating, by a formula specified in the leases

[1] $807,695 amortized over 84 months equals $9,615.42 per month or $86,538.75 for nine months. $86,538.75 x 68.23% (reduction in leased space) equals approximately $59,047.

[2] $5,953.50 ($5,832 MAG rent and $123.50 Promotional Charges) x 3 months equals $17,860.50.

[3] $59,047 unamortized tenant improvement costs to be reimbursed less $17,861 (see Footnote 2 in rent amount by PGC) equals $41,186.

with the airlines, the rental rates, landing fees, and related fees charged to airlines operating at the Airport in the upcoming year, such that the total revenues paid to the Airport by all airlines in the upcoming year is sufficient to balance the Airport's budget. At the end of the fiscal year, any budget shortfall or surplus is carried forward into the following fiscal year and is used in the calculation of the new rental rates, landing fees, and related fees charged to the airlines.

The revenues generated from both the previous and proposed leases are considered in the Airport's residual rate setting methodology, such that the Airport's budget will remain fully balanced by the revenues paid by the airlines to the Airport, after considering the Airport's budgeted expenditures and all non-airline revenues.

RECOMMENDATIONS

1. Amend the resolution to state that the proposed First Amendment is retroactive to October 1, 2011.
2. Approve the proposed resolution, as amended.
3. If the Airport exercises the option, under the existing lease, to extend the lease from July 1, 2012 through June 30, 2014, the Budget and Legislative Analyst recommends that the Airport amend the lease to specify that the MAG will be adjusted annually based on the CPI for All Urban Consumers-Not Seasonally Adjusted-San Francisco/Oakland/San Jose, California Index, in order to be consistent with the Airport's other leases.

Item 6 File 12-0140	Department: Real Estate Division, Department of Administrative Services

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a new lease between the City, as tenant, and Redwood Mortgage Investors VIII, L.P., as landlord, for 32,000 square feet of office space at 2712 Mission Street for Department of Public Health (DPH) Community Mental Health Services for the ten-year period from approximately March 1, 2012 through approximately February 28, 2022.

Key Points

- The City had a prior lease for 2712 Mission Street for DPH Community Mental Health Services, which began on October 1, 2001 and expired on September 30, 2011, a period of ten years. DPH Community Mental Health Services has continued to occupy the space on a month-to-month holdover, pending negotiations to enter into the proposed new lease.

- Under the prior lease, DPH paid rent of approximately $40.80 per square foot per year in the tenth year of the lease, totaling $1,305,752 for the 32,000 square feet.

- Under the proposed lease, DPH will pay rent of $24 per square foot per year, equal to $768,000 for the 32,000 square feet, which is an annual reduction of $537,752 or approximately 41.2 percent from the prior rent of $1,305,752. The proposed lease provides for annual Consumer Price Index (CPI) adjustments, beginning in the second year of the lease, of not less than 3 percent and not more than 5 percent.

- Under the proposed lease, the landlord will provide a rent credit of $216,047 to the City if the City enters into the lease prior to March 31, 2012. Therefore, first year rent under the proposed lease is reduced from $768,000 to $551,953.

- The landlord will pay for up to $160,000 for tenant improvements.

Fiscal Impacts

- Over the ten year term of the proposed lease, the total rental costs to the City, net of rent credits of $216,047, would range from $8,588,212 if annual CPI adjustments are 3 percent, to $9,443,774 if annual CPI adjustments are 5 percent.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

Under Charter Section 9.118(c), leases exceeding ten years and/or having anticipated revenue of $1,000,000 or more are subject to Board of Supervisors approval.

Background

In 2001, the City entered into a lease with 2712 Mission Partners, L.P., for 32,000 square feet of office space for the Department of Public Health (DPH) Community Mental Health Services for the ten year period from October 1, 2001 through September 30, 2011 (File 01-1425). The original lease provided for:

- Base rent of $34.10 per square foot per year, equal to $1,091,200 per year;
- Consumer Price Index (CPI) adjustments to the base rent every two years in the second, fourth, sixth, and eighth years of the lease, not-to-exceed 10 percent for each two-year adjustment (not-to-exceed 5 percent per year);
- Three 5-year options to renew the lease, with base rent set to 95 percent of fair market value for each of the options; and
- All utilities, and janitorial and other services paid by the City.

Under the original lease, the City had the option to purchase the building for $11,500,000 if the City exercised the purchase option prior to March 1, 2003, or for $12,000,000 if the City exercised the purchase option after March 1, 2003 and prior to January 4, 2004. According to Ms. Claudine Venegas, Real Estate Division (RED) Senior Real Property Officer, RED evaluated exercising the purchase option, but the Office of Public Finance did not recommend financing for the purchase. Therefore, the purchase option was never exercised.

The City paid annual rent of $1,091,200 in the first year of the lease, which increased every two years by the CPI. From October 1, 2001 through February 28, 2012, the City has paid $11,284,545 in rent, utilities, and janitorial services.

The original lease term expired on September 30, 2011. In order to obtain lower rent, the City began negotiations for a new lease rather than exercising the option to extend the lease. The City has leased 2712 Mission Street on a month-to-month holdover since October 1, 2011 during the course of negotiations with Redwood Mortgage Investors VIII, L.P, as discussed below.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a new lease between the City, as tenant, and Redwood Mortgage Investors VIII, L.P., as landlord, for 32,000 square feet of office space at 2712 Mission Street for DPH Community Mental Health Services for the ten-year period from approximately March 1, 2012 through approximately February 28, 2022. The proposed lease provides for:

- Base rent of $24.00 per square foot per year, equal to $768,000 per year;

- Annual CPI adjustment to the base rent, beginning in the second year of the lease, of not less than 3 percent or more than 5 percent; and
- All utilities, janitorial services, and debris removal paid by the City.

According to Ms. Venegas, the City negotiated a rent credit of $216,047 if the City enters into the lease prior to March 31, 2012 to reimburse the City for rent payments during the holdover period.

The rent credit will be applied to the monthly rent for the first three months of the lease ($2 per square foot x 32,000 square feet equals $64,000 per month, or $192,000 for three months) with the balance of $24,047 ($216,047 less $192,000) applied in the fourth month.

Additionally, the landlord will pay up to $160,000 for tenant improvements. According to Ms. Venegas, Community Mental Health Services staff will be able to occupy the premises during the construction of tenant improvements.

FISCAL IMPACTS

Under the prior lease, DPH paid rent of approximately $40.80 per square foot per year in the tenth year of the lease, totaling $1,305,752.

Under the proposed lease, DPH will pay rent of $24 per square foot per year, equal to $768,000 for 32,000 square feet, which is a reduction of $537,752, or approximately 41.2 percent from the prior rent of $1,305,752 per year.

According to Ms. Venegas, first year rent of $24 per square foot represents fair market value and is less than or equal to rent for equivalent space leased by the City, which ranges from $24 per square foot to $36 per square foot.

If the City enters into the lease prior to March 31, 2012, and thus receives the rent credit of $216,047, first year rent will be $551,953.

Over the ten year term of the proposed lease, total rental costs to the City, net of the $216,047 in rent credits, would range from $8,588,212 if annual CPI adjustments are 3 percent, to $9,443,774 if annual CPI adjustments are 5 percent.

RECOMMENDATION

Approve the proposed resolution.

Item 8 File 12-0200	Department: Port

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a sole source (a) new five-year lease for Parcel A (Seawall Lot 337) and (b) five-year non-exclusive license for Pier 48 Shed A, Pier 48 Shed C, Pier 48 Valley, Parcel A expansion area, Parcel A-1, A-2, Parcel B and access to Seawall Lot 337 from surrounding public rights of way, between the City, on behalf of the Port, and the China Basin Ballpark Company, LLC (CBBC), from April 1, 2012 through March 31, 2017 for ballpark parking, commuter parking, special events and promotional signage.

Key Points

- On September 22, 1997, the Board of Supervisors approved a sole source (a) ten-year, four and one-half month ground lease between the Port, and CBBC, a subsidiary of the San Francisco Giants (Giants), from July 1, 1999 through November 15, 2009, for the development, construction and operation of a new ballpark parking lot at Seawall Lot 337, and (b) the CEQA findings supporting the use of this property as a parking lot.
- The lease has continued on a month-to-month basis, since expiring on November 15, 2009. On April 1, 2011, the Port increased the monthly base rent to CBBC from $117,092 per month, or a total of $1,405,101 annually, to a seasonally adjusted rate of $355,000 per month for the six months between April 1 and September 30 and $45,000 per month for the six months between October 1 and March 31, or a total of $2,400,000 annually.
- On May 25, 2010, the Port Commission authorized Port staff to enter into an Exclusive Negotiation Agreement, with Seawall Lot 337 Associates, LLC, from September 15, 2010 through March 15, 2017, to negotiate the development of Seawall Lot 337 and Pier 48 for a mixed-used development.

Fiscal Impacts

- Under the proposed resolution, CBBC will pay the Port (a) base rent of $2,400,000 in the first year, plus (b) 66 percent of gross receipts for parking, net of the (i) City's Parking Tax, (ii) base monthly rent, and (iii) rent credit of up to $638,600 the first lease year for CBBC's substantiated extraordinary expenses for providing parking for AT&T Park. Each year, both the base rent and rent credits would be increased by three percent.
- Over the five-year term of the proposed lease and license, CBBC would pay the Port a total of $12,743,948 in base parking revenues and CBBC estimates additional payments of $720,000 in percentage parking revenues plus and estimated $225,000 for special events to the Port, for a total of approximately $3,345,000 in 2012.

Policy Considerations

- The Budget and Legislative Analyst questions (a) why a new lease was not submitted to the Board of Supervisors for approval until now, instead of going on a month-to-month basis for over 27 months, and (b) why it took the Port from November 15, 2009 until April 2011, a period of 16.5 months, to increase CBBC's rent on Seawall Lot 337 from a total of $1,405,101 annually, to a total of $2,400,000 annually.
- Although the Port typically conducts public bidding processes to select parking lot operators, the Port is recommending the award of the proposed lease and license on a non-competitive, sole source basis, because, (a) the Giants AT&T Park loan includes a security interest for parking, (b) the Giants again advised the Port of their need to control the main parking lots that serve AT&T Park to ensure uniform pricing, and a safe, consistent user experience for ballpark attendees, and (c) the uncertainties presented by the developer's rights through the Exclusive Negotiating Agreement with Seawall Lot 337 Associates for Seawall Lot 337 and the adjacent Pier 48.

Recommendation

- Approval of the proposed resolution is a policy decision for the Board of Supervisors.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with Section 9.118(c) of the City's Charter, any lease of property that extends for a term of ten years or more or has anticipated revenue to the City of $1,000,000 or more is subject to approval by the Board of Supervisors.

Background

On September 22, 1997, the Board of Supervisors approved (a) a ten-year, four and one-half month ground lease between the City and County of San Francisco, on behalf of the Port, and the China Basin Ballpark Company (CBBC), LLC[1], a subsidiary of the San Francisco Giants (Giants), which extended from July 1, 1999 through November 15, 2009, for the development, construction and operation of a new ballpark parking lot at Seawall Lot 337, and (b) the California Environmental Quality Act (CEQA) findings supporting the use of this property for a parking use (Resolution 880-97; File 262-97-7). Seawall Lot 337 covers 586,447 square feet of land for surface parking for approximately 2,000 vehicles, and is located just south of AT&T Park and China Basin Channel (McCovey Cove), bordered by Third Street to the west, Terry Francois Boulevard to the north and east and Mission Rock to the south, as shown in the attached map, identified as Parcel A, Seawall Lot (SWL) 337.

According to Mr. Phil Williamson, Project Manager at the Port, in the late 1990's, anticipating the construction of AT&T Park[2], the Giants advised the Port and the City as to the need to have one parking lot operator for the main parking lots located immediately south of AT&T Park to insure uniform pricing and a safe, consistent user-experience for baseball park attendees. In addition, Mr. Jack Bair, Senior Vice President for the Giants advises that the loan for the privately-financed AT&T Park which will be fully repaid in September of 2017 includes a security interest for parking, specifying that sufficient parking would be provided to correspond with the 16,000 premium seat licenses. As a result, the Board of Supervisors approved the ground lease between the Port, as the lessee, and CBBC, as the lessor, on a sole source basis, without a competitive bid. CBBC then entered into a separate agreement with Imperial Parking Company to construct and operate the parking lot.

The original lease provided that the parking lot could be used for bicycles and motor vehicles for baseball games and special events at AT&T Park, and any other permitted uses, with the Port's prior written consent, which could not be unreasonably withheld. Mr. Williamson notes that the original lease was subsequently revised in 2000, to allow the subject Seawall Lot 337 parking lot to not only be used for parking for AT&T Park events, but also for commuter parking and special events[3]. Mr. Williamson advises that this revision was not subject to Board of Supervisors approval because, as noted above, the original lease required only the Port's written consent.

[1] China Basin Ballpark Company, LLC is a subsidiary of San Francisco Baseball Associates (dba San Francisco Giants) that was specifically established to develop, construct and operate AT&T Park and the related parking lots.
[2] Construction of AT&T Park commenced in 1997 and concluded in 2000, prior to its opening in April of 2000.
[3] Such special events include using the parking lot site for Cirque du Soleil, Cavallia (an equestrian event) and the County Fair, with all revenue from commuter parking and these special events included in the calculation of net parking revenue.

Under the terms of the existing lease, CBBC paid the Port (a) a monthly base rent, which adjusted after five years equal to the percentage change in the Consumer Price Index, plus (b) 50 percent of net parking revenue, after deducting (1) the City's Parking Tax[4] and (2) capital improvement and operating expenses, which included the base rent paid to the Port. In addition, this lease required CBBC to investigate and remediate hazardous materials in connection with the construction of the parking lot, with allowable rent credits to CBBC of up to $100,000 annually. Mr. Nate Cruz of the Port advises that the Port provided CBBC with $97,437 of rent credits for such hazardous materials remediation in 2000, which is identified in Table 1 below.

Subsequent to the lease expiration date of November 15, 2009, Mr. Williamson states that the existing lease has continued on a month-to-month holdover basis. In accordance with the lease's holdover provisions[5], on April 1, 2011, the Port increased the monthly base rent to CBBC for Seawall Lot 337 from $117,092 per month, or a total of $1,405,101 annually, to a seasonally adjusted rate of $355,000 per month for the six months between April 1 and September 30 and $45,000 per month for the six months between October 1 and March 31, or a total of $2,400,000 annually. Table 1 below shows the actual rents less the credits received by the Port over the term of this lease.

Table 1: Base, Percentage and Other Rents and Credits Paid by CBBC to the Port from September 1999 Through March 2012

Lease Year	Base Rent	Percentage	Other**	Total Rent	Less Credits	Net
FY 1999-00*	$790,126	-	-	$790,126	-	$790,126
FY 2000-01	1,218,648	-	-	1,218,648	($97,437)	1,121,211
FY 2001-02	1,218,648	-	-	1,218,648	-	1,218,648
FY 2002-03	1,218,648	365,903	-	1,584,551	-	1,584,551
FY 2003-04***	1,218,648	544,071	-	1,762,719	(431)	1,762,288
FY 2004-05	1,234,186	508,847	-	1,743,033	-	1,743,033
FY 2005-06	1,405,101	734,539	$500	2,140,140	-	2,140,140
FY 2006-07	1,405,101	640,427	1,000	2,046,528	-	2,046,528
FY 2007-08	1,405,101	854,571	-	2,259,672	-	2,259,672
FY 2008-09	1,405,101	640,985	-	2,046,086	-	2,046,086
FY 2009-10	1,405,101	639,775	-	2,044,877	-	2,044,877
FY 2010-11****	1,053,826	591,795	-	1,645,621	-	1,645,621
FY 2011-12*****	2,280,000	1,051,974	-	3,331,974	(24,000)	3,355,974
Total	**$17,258,235**	**$6,572,886**	**$1,500**	**$23,832,622**	**($121,868)**	**$23,710,754**

*FY 1999-00 includes ten months of data from September 1, 1999 through June 30, 2000. **Other reflects three charges of $500 each for late payments by CBBC to the Port. *** $431 credit is for partial reimbursement by Port to CBBC for billboard advertising revenues. ****FY 2010-11 includes nine months of data from July 1, 2010 through March 31, 2011. *****FY 2011-12 includes 12 months of data from April 1, 2011 through March 31, 2012, at base rent of $331,000 per month instead of $355,000 per month, a credit reduction of $24,000 per month due to overpayments made by CBBC to the Port in February and March of 2011, such that CBBC paid base rent of $2,280,000 instead of $2,400,000 in FY 2011-12.

[4] In accordance with Article 9 of the City's Business and Tax Regulations Code, the City's current Parking Tax rate is 25 percent of the base parking charge. For example, if the base parking charge is $8, then the total parking charges would be $10 for the patron, with $2 for the Parking Tax being remitted by the parking operator to the City Tax Collector's Office.

[5] Section 27 of the current lease provides that any holding over after the expiration of the term with the consent of the Port shall be deemed a month-to-month tenancy and shall be upon each and every one of the terms, conditions and covenants of this lease, except that, at Port's election, the rent shall be adjusted to the then current market rate as reasonably determined by the Port.

In 2003, the Port competitively bid and subsequently awarded a two-year ground lease to Imperial Parking Inc. for operation of a parking lot at Seawall Lot 330, located at the Embarcadero and Bryant Streets, approximately five blocks away from the subject Seawall Lot 337. The lease between the Port and Imperial Parking Inc. allowed for expansion rights to other Port parking facilities, at the discretion of the Port. In 2003, this lease expanded to include Piers 30-32 and in 2005, this lease expanded to include Pier 48, which is immediately adjacent to the subject Seawall Lot 337. Mr. Williamson advises that this original two-year lease, including the expansion areas, between the Port and Imperial Parking, which expired in 2005, has continued on a month-to-month basis.

In October, 2007, the Port issued a Request for Qualifications (RFQ) for a mixed-use development on Seawall Lot 337 and the adjacent Pier 48. Two of the four respondents to the RFQ were invited to respond to the Port's Request for Proposal (RFP) issued in May, 2008. The two respondents merged and formed one entity and in May 2009, the Port Commission selected this remaining team, Seawall Lot 337 Associates, LLC[6], as the preferred developer for these sites. On May 25, 2010, the Port Commission authorized Port staff to enter into an Exclusive Negotiation Agreement, with Seawall Lot 337 Associates, LLC, that extends from September 15, 2010 through March 15, 2017, to negotiate terms and secure entitlements for the development and lease of Seawall Lot 337 and Pier 48 for a mixed-used development, including a parking structure, offices, retail and housing. Mr. Williamson advises that, due to the recent economic and financial market slowdown, the development of these sites has been delayed, such that a revised proposal for the entire site is now to be submitted by Seawall Lot 337 Associates, LLC to the Port by March 15, 2012. According to Mr. Williamson, once a revised proposal is received, the Port will work with Seawall Lot 337 Associates, LLC to negotiate a term sheet, which would result in a Disposition and Development Agreement, and environmental documents, in accordance with CEQA, which would be subject to future Board of Supervisors approval.

DETAILS OF PROPOSED LEGISLATION

As was the case when the existing lease was previously approved by the Board of Supervisors in 1997, the proposed resolution would likewise approve, on a sole source basis, a (a) new five-year lease for Parcel A (Seawall Lot 337), and (b) five-year non-exclusive[7] license for Pier 48 Shed A, Pier 48 Shed C, Pier 48 Valley[8], Parcel A expansion area, Parcel A-1, A-2, Parcel B and access to Seawall Lot 337 from surrounding public rights of way, between the City and County of San Francisco, on behalf of the Port, and the China Basin Ballpark Company, LLC (CBBC) (Giants), from April 1, 2012 through March 31, 2017, for ballpark parking, commuter parking, special events and promotional signage. As discussed above, CBBC currently has a month-to-month lease for Parcel A, Seawall Lot 337.

Table 2 below shows the square footage for the proposed lease and license agreements and the attached map identifies both the location and square footage of each parcel. As shown in Table

[6] Seawall Lot 337 Associates, LLC is a partnership between the SF Giants and The Cordish Companies, a Baltimore, Maryland based retail developer.

[7] The proposed non-exclusive license limits the licensees right of use, allowing others to use the same space, and allows the Port to terminate the license, without cause, with written notice.

[8] Pier 48 Valley is the open space between Pier 48 Shed A and Pier 48 Shed B.

2 below, the square footage of the lease with CBBC is 586,447 square feet, such that the addition of the license areas would result in a total of 801,590 square feet, an increase of 215,143 square feet, or 36.7 percent. As noted in Table 2 below, the square footage of Parcel A Expansion Site, Parcel A-1 and A-2 have not yet been determined, because the square footage will be subject to the realignment of Mission Rock Street, such that the actual increase of square footage will be greater.

Table 2: Sites and Square Footage of Proposed Lease and License

Sites	Square Footage
Lease	
Parcel A (Seawall Lot 337)	586,447
License	
Parcel C (Pier 48 Access Areas)	42,323
Pier 48 Shed A	84,630
Pier 48, Shed C	9,555
Pier 48, Valley	33,285
Parcel B	45,350
Parcel A Expansion Site, A-1 and A-2	To Be Determined (TBD)
Subtotal License (Square Feet)	**215,143**
Total Lease and License (Square Feet)	**801,590**

As discussed above, Pier 48 is currently under a separate expansion month-to-month lease between the Port and Imperial Parking, Inc. Under that lease, Imperial Parking pays the Port 66 percent of gross revenues, after deducting City Parking Taxes. Table 3 below shows the annual rent paid by Imperial Parking to the Port for each of the last five years.

Table 3: Parking Revenues Paid by Imperial Parking to the Port for Pier 48

Fiscal Years (May thru April)	Annual Rent
FY 2006-07	$338,208
FY 2007-08	656,201
FY 2008-09	503,048
FY 2009-10	578,876
FY 2010-11	537,843
Total	**$2,614,176**

The proposed resolution would also approve a license between the Port, as lessee, and CBBC, as lessor, which provides that the Port, at its sole discretion, may offer CBBC potential expansion to include Pier 48 Shed B[9], with 30 days written notice, specifying the additional area, and additional base rent to be paid by CBBC to the Port, to be determined at that time. If the proposed resolution is approved by the Board of Supervisors, such expansion option would not be subject to further Board of Supervisors approval. If CBBC agrees to the expansion option, Shed B would be added to the subject license agreement.

The proposed lease and license also allow CBBC to use its marketing expertise to promote events at Seawall Lot 337 and Pier 48. As part of these marketing efforts, the proposed lease and license allow CBBC to sell promotional space on directional signs within Seawall Lot 337 parking lot. All revenue from such sales of promotional space, net of CBBC's costs of creating the promotional materials, would be shared equally between the Port and CBBC.

Under the proposed lease and license, special events that extend longer than (a) five days would require approval from the Port's Executive Director, (b) 14 days, but do not exceed 60 days would also require approval for the amount of rent from the Port's Executive Director, (c) 60 days would require approval from the City's Zoning Administrator, and (d) 90 days would require approval from the Port Commission.

FISCAL IMPACTS

As discussed above, in accordance with the lease's holdover provisions, on April 1, 2011, the Port increased the monthly base rent to CBBC for Seawall Lot 337 from $117,092 per month, or a total of $1,405,101 annually, to a seasonally adjusted rate of $355,000 per month for the six months between April 1 and September 30 and $45,000 per month for the six months between October 1 and March 31, or a total of $2,400,000 annually.

[9] Pier 48 Shed B is currently being used pursuant to a Memorandum of Understanding (MOU) between the Port and the Department of Elections for storage. This MOU extends from January 2012 through December 2015.

Under the proposed new five-year lease and license CBBC will continue to pay the Port (a) base rent of $355,000 per month for the six month period from April 1st through September 30th and $45,000 per month for the six month period from October 1st through March 31st[10], or a total of $2,4000,000 annually. In addition, CBBC will pay the Port 66 percent of all gross receipts for parking, net of (a) the City's Parking Tax, (b) the base monthly rent, and (c) a rent credit of up to $638,600 in the first lease year for CBBC's substantiated extraordinary expenses[11] for providing parking for AT&T Park. Each year, both the base rent and available rent credits would be increased by three percent.

As shown in Table 4 below, over the five-year term of the proposed lease and license, CBBC would pay the Port a total of $12,743,948 in base parking revenues.

Table 4: Projected Monthly Base Parking Revenues over Five Year Term of Proposed Lease and License

Lease Year	Months	Monthly Base Rates	Total Monthly Revenue	Total Annual Revenue
Year 1	April1 - Sept 30	$355,000	$2,130,000	$2,400,000
	Oct 1- March 31	$45,000	$270,000	
Year 2	April1 - Sept 30	$365,650	$2,193,900	$2,474,000
	Oct 1- March 31	$46,350	$278,100	
Year 3	April1 - Sept 30	$376,620	$2,259,720	$2,546,166
	Oct 1- March 31	$47,741	$286,446	
Year 4	April1 - Sept 30	$387,919	$2,327,514	$2,622,552
	Oct 1- March 31	$49,173	$295,038	
Year 5	April1 - Sept 30	$399,557	$2,397,342	$2,701,230
	Oct 1- March 31	$50,648	$303,888	
Total				**$12,743,948**

In addition, as discussed above, CBBC would also pay the Port (a) 66 percent of all gross receipts for parking, net of the City's Parking Tax, the base monthly rent, less a rent credit of up to $638,600 the first year, to be increased by three percent per year, for CBBC's substantiated extraordinary expenses, (b) special event fees, and (c) 50 percent rent for promotional signage. Currently, the cost to park in Seawall lot 337 is $30.00 for automobiles and $50.00 for oversized vehicles (i.e. RVs and Buses). CBBC has the exclusive right to set the parking rates to be charged under this proposed lease and license.

[10] This differentiation in monthly parking rents is due to the seasonality of baseball games at AT&T Park that occur primarily during the spring and summer months.

[11] Eligible extraordinary expenses include costs not required at other Port surface parking lots, such as 100 percent of security, operation of accessible shuttle buses, temporary bathroom facilities and post-game premises cleaning plus 33 percent of parking attendant labor costs. Mr. Williamson notes that the actual CBBC expenses are significantly higher than the negotiated maximum amount of $638,600 in the first year of the lease.

For each special event under 14 days, CBBC would pay the Port the specified fees outlined in the proposed lease and license, plus 66 percent of parking revenues if 66 percent of the parking revenues exceed the base monthly rent. If the special event exceeds 14 days, the new lease and license require the Port and CBBC to negotiate a market-based agreement that is not less than the Port Commission's previously approved rental rates, subject to approval by the Executive Director of the Port. If a special event displaces percentage rent from parking revenues, CBBC and the Port must then negotiate a payment that makes the Port whole.

According to Mr. Bair, CBBC anticipates installing directional signage in the parking lot to assist customers in locating their vehicles, and CBBC's anticipates approaching sponsors to include banners on these signs in exchange for promotional fees. Mr. Bair estimates that such fees would generate less than $100,000 total revenues annually, and that such fees would primarily be used to fund the costs of the signage and banners. All revenue from such sales of promotional space, net of CBBC's cost to create the promotional materials, would be shared equally between the Port and CBBC.

As shown above in Table 4, with respect to base rent only, CBBC will pay the Port total base rent of $12,743,948 over the proposed five-year term of the proposed lease and license. Mr. Bair advises that, in addition to the $2,400,000 base revenues, CBBC estimates paying an additional $720,000 of percentage parking revenues plus and estimated $225,000 for special events to the Port, for a total approximately $3,345,000 in 2012.

POLICY CONSIDERATIONS

As discussed above, the existing ground lease for Parcel A, Seawall Lot 337 expired on November 15, 2009, such that the lease has continued on a month-to-month holdover basis for over 27 months. In addition, as discussed above, on April 1, 2011, the Port increased the monthly base rent for Seawall Lot 337 from $117,092 per month, or a total of $1,405,101 annually, to a seasonally adjusted rate of $355,000 per month for the six months between April 1 and September 30 and $45,000 per month for the six months between October 1 and March 31, or a total of $2,400,000 annually.

The Budget and Legislative Analyst questions (a) why a new lease was not submitted to the Board of Supervisors for approval until now, instead of going on a month-to-month basis for over 27 months, and (b) why it took the Port from November 15, 2009 until April 2011, a period of 16.5 months, to increase CBBC's rent on Seawall Lot 337 from $117,092 per month, or a total of $1,405,101 annually, to a seasonally adjusted rate of $355,000 per month for the six months between April 1 and September 30 and $45,000 per month for the six months between October 1 and March 31, or a total of $2,400,000 annually, which was determined to be the market rate.[12] As noted above, under Section 27 of the existing lease, if the lease goes into a month-to-month holdover period, the Port can adjust the rent to the then current market rate. In response, Mr.

[12] Mr. Williamson advises that the market rate was based on the Port's total estimated revenues from both Seawall Lot 337 and Pier 48 of $3,000,000. To determine the base rent, Mr. Williamson advises that the Port assumed 80 percent of this total $3,000,000, or $2,400,000 and then divided the calculated amount into high and low season due to the seasonality of baseball and use of AT&T Park.

Williamson advises that it took the Port considerable time to negotiate these new rates with CBBC.

Mr. Williamson advises that the Port typically conducts public bidding processes to select parking lot operators. However, according to Mr. Williamson, the Port did not competitively bid the proposed parking lease and license, and instead has recommended the award of the proposed lease and license on a non-competitive, sole source basis, because, similar to the initial lease entered into in 1999, the Giants again advised the Port of their need to control the main parking lots that serve AT&T Park to ensure uniform pricing, and a safe, consistent user experience for ballpark attendees. In addition, the Giants advised that the loan for the privately-financed AT&T Park, which will be fully repaid in September of 2017, includes a security interest for parking. Furthermore, Mr. Williamson advises that it would be impractical to conduct a public competitive bid process because of the uncertainties presented by the developer's rights through the Exclusive Negotiating Agreement with Seawall Lot 337 Associates for Seawall Lot 337 and the adjacent Pier 48. For example, Mr. Williamson advises that the developer, Seawall Lot 337 Associates, has the right to conduct due diligence which could be invasive and disruptive to parking lot operations, such as soil sampling and core drillings in the parking lots. Because the Giants are members of the developer, Seawall Lot 337 Associates, and the parking lot lessee, CBBC, any invasive or disruptive activities will be fully coordinated to minimize the impacts on both parking and development activities.

Mr. Williamson advises that both the proposed lease and license agreements state that if the Exclusive Negotiating Agreement with Seawall Lot 337 Associates is terminated or expires, the Port has the right to terminate the subject lease and license agreements by November 15 of that year, by providing at least 30 days written notice to CBBC. In fact, according to Mr. Williamson, the Port's right to terminate was considered a material term of the proposed lease and license agreements. Therefore, if the Board of Supervisors approves the proposed lease and license agreements, and the Exclusive Negotiating Agreement with Seawall Lot 337 Associates is terminated, such as for performance or project infeasibility, Mr. Williamson advises that the Port would pursue its typical public competitive bidding process for any future lease of Seawall Lot 337 and the adjacent Pier 48.

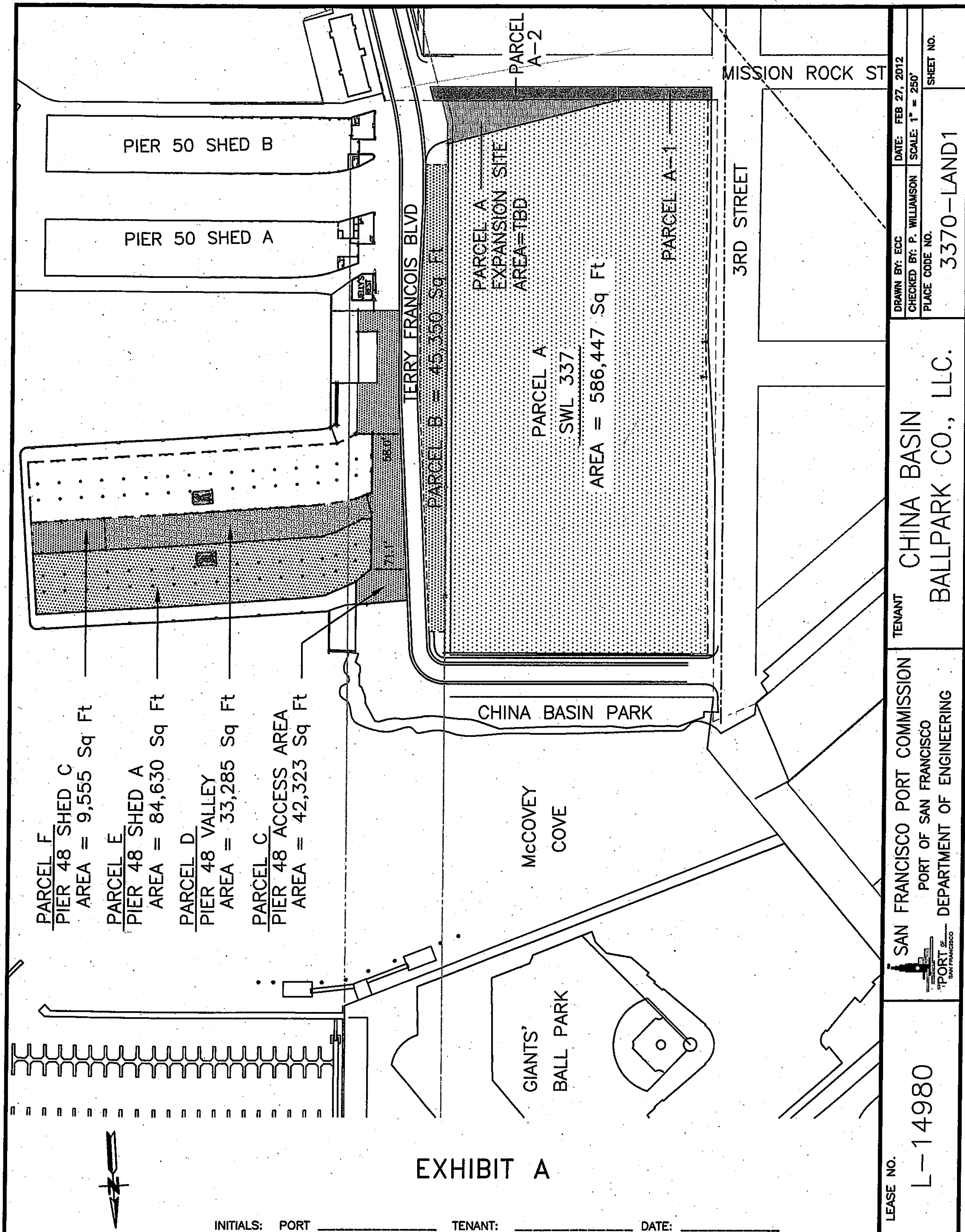
RECOMMENDATION

Approval of the proposed resolution is a policy decision for the Board of Supervisors.

Harvey M. Rose

cc: Supervisor Chu
Supervisor Avalos
Supervisor Kim
President Chiu
Supervisor Campos
Supervisor Cohen
Supervisor Elsbernd
Supervisor Farrell
Supervisor Mar
Supervisor Olague
Supervisor Wiener
Clerk of the Board
Cheryl Adams
Controller
Kate Howard

Attachment



PIER 50 SHED B
PIER 50 SHED A
TERRY FRANCOIS BLVD
PARCEL B = 45,350 Sq Ft
PARCEL A EXPANSION SITE AREA=TBD
PARCEL A-2
PARCEL A-1
MISSION ROCK ST
3RD STREET
PARCEL A SWL 337 AREA = 586,447 Sq Ft
CHINA BASIN PARK
PARCEL F PIER 48 SHED C AREA = 9,555 Sq Ft
PARCEL E PIER 48 SHED A AREA = 84,630 Sq Ft
PARCEL D PIER 48 VALLEY AREA = 33,285 Sq Ft
PARCEL C PIER 48 ACCESS AREA AREA = 42,323 Sq Ft
McCOVEY COVE
GIANTS' BALL PARK
EXHIBIT A
INITIALS: PORT ______ TENANT: ______ DATE: ______
LEASE NO. L-14980
SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING
TENANT CHINA BASIN BALLPARK CO., LLC.
DRAWN BY: ECC
CHECKED BY: P. WILLIAMSON
DATE: FEB 27, 2012
SCALE: 1" = 250'
PLACE CODE NO. 3370-LAND1
SHEET NO.