

File No. 101346

Committee Item No 5
Board Item No. 28

COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: December 8, 2010

Board of Supervisors Meeting

Date 12/14/10

Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Ethics Form 126 |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

(Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Victor Young
Completed by: Victor Young

Date: December 3, 2010
Date: 12-8-10

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



1 [Airport Concession Leases - Lori's Diner, Andale, Meyers Holdings, and H. Young
2 Enterprises]

3 **Resolution approving Amendment No. 1 to Domestic Terminals Food and Beverage**
4 **Lease No. 03-0178 with Lori's Diner International; No. 03-0179 with Andale Airports;**
5 **No. 03-0181 with Meyers Holdings, LLC; and No. 03-0188 with H. Young Enterprises,**
6 **and the City and County of San Francisco, by and through its Airport Commission.**

7
8 WHEREAS, The Board of Supervisors adopted Resolution No. 775-03 on December 9,
9 2003, on file with the Clerk of the Board of Supervisors in File No. 031710, awarding 28
10 leases for the Airport's Domestic Terminal Food and Beverage Redevelopment Program ; and

11 WHEREAS, Included in the Resolution were Domestic Terminal Food and Beverage
12 Lease Nos. 03-0178, 03-0179, 03-0181, and 03-0188 with Lori's Diner International, Inc.,
13 Andale Airports, Meyers Holdings, LLC, and H. Young Enterprises, respectively; and

14 WHEREAS, Due to the poor and worsening performance of the Terminal 1 pre-security
15 food courts and the Tenants' request for early termination of their locations in those food
16 courts, the Airport Commission adopted Resolution Nos. 10-0288, 10-0289, 10-0296, and
17 10-0297 on September 7, 2010, approving Amendment No. 1 to Domestic Terminal Lease
18 Nos. 03-0178, 03-0179, 03-0181, and 03-0188, which includes reducing the leased premises,
19 reducing the Minimum Annual Guarantee (MAG), decreasing the combined annual
20 Infrastructure and Food Court Fees, approving the calculation of future annual MAG
21 adjustments, decreasing the annual Promotional Charge, and approving the calculation of
22 future Promotional Charge; now, therefore, be it

23 **RESOLVED**, That the Board of Supervisors' hereby approves the Amendment No. 1 to
24 **Domestic Terminal Food and Beverage Lease No. 03-0178 with Lori's Diner International,**
25 **Inc., No. 03-0179 with Andale Airports; No. 03-0181 with Meyers Holdings, LLC; and**

1 No. 03-0188 with H. Young Enterprises, LLC, copies of which are contained in Board of
2 Supervisors' File No. 101346.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Item 5
File 10-1346

Department(s):
San Francisco Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objective

- The proposed resolution would approve Amendment No. 1 to four Domestic Terminal Food and Beverage Program lease agreements between the City and County of San Francisco, acting on behalf of the San Francisco Airport (Airport), and Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises, to reduce the square footage of the leased premises through an early termination of the Terminal 1 spaces.

Key Points

- In 2003, the Airport conducted a two-step competitive process, which included a Request for Qualifications (RFQ) and a Request for Proposal (RFP), and recommended the award of 28 Domestic Terminals Food and Beverage Program lease agreements, which were previously approved by the Board of Supervisors on December 9, 2003 (File No. 03-1710). All 28 lease agreements have an operating term period of ten years with one two-year option to extend. Of the 28 existing lease agreements, four businesses, Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises, have spaces located in the Terminal 1 pre-security food courts and in the Terminal 3 post-security food courts. Lori's Diner International, Andale Airports, and Meyers Holding have 12-year lease agreements and H. Young Enterprises has a 10-year lease agreement. On May 22, 2009, the Airport Commission approved the two-year option to extend with Lori's Diner International, Andale Airports, and Meyers Holding.

Fiscal Impact

- Under the existing lease agreements, the four lessees pay the Airport an annual rent of either the greater of (a) a percentage of gross sales, or (b) the existing MAG of \$97,008 for Lori's Diner International, \$86,673 for Andale Airports, \$63,264 for Meyers Holding and \$46,012 for H. Young Enterprises. The percentage of gross sales is the sum of: (a) six percent of gross revenues up to \$600,000, (b) eight percent of gross revenues up to \$1,000,000 and (c) ten percent of gross revenues over \$1,000,000. In addition, the four lessees also pay the Airport a Food Court Infrastructure Fee, a Tenant Infrastructure Fee, a Promotional Charge, and a Food Court Cleaning Fee. In CY 2007, CY 2008 and CY 2009, Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises made total annual average payments to the Airport of \$1,540,624 including rent and fees.
- Under the proposed resolution, a total 3,539 square feet of space in the pre-security food courts of Terminal 1 would be reduced for these four lessees. Based on CY 2010 estimates, if the proposed resolution is approved, the Airport will receive approximately \$418,456, or 27.2 percent less in annual rental and fee revenues.

Recommendation

Approve the proposed resolution.

BACKGROUND

Background

In 2003, the San Francisco Airport (Airport) issued a two-part competitive process for the existing Domestic Terminals Food and Beverage Program¹ lease agreements at the Airport, which included an initial Request for Qualifications (RFQ) and a second Request for Proposals (RFP). The Airport received 115 statements of qualifications. From the 115 statements of qualifications, the Airport requested 101 businesses to submit formal proposals. The Airport received 86 formal proposals. Based on the 86 proposals, the Airport recommended awarding 28 Domestic Terminals Food and Beverage Program lease agreements² and on December 9, 2003, the Board of Supervisors approved such lease agreements (File No. 03-1710).

Of the 28 existing lease agreements, four firms including Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises, were awarded leases including 3,539 square feet located in the Terminal 1 pre-security food court areas and 2,615 square feet in the Terminal 3 post-security food court areas, for a total of 6,154 square feet (see Table 1 below).

Under the proposed resolution, the leases with Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises would be reduced by a total of 3,539 square feet in Terminal 1 pre-security space through an early termination of such leased space. According to Ms. Cheryl Nashir, Associate Deputy Airport Director of Revenue Development and Management, the early termination of the 3,539 square feet in Terminal 1 pre-security space is a result of poor performance. Lori's Diner International, Andale Airports, Meyers Holding, and H. Young Enterprises are considered quick serve establishments (facilities that prepare food as ordered without alcoholic drinks except beer and wine).

Table 1 below shows the existing square feet for the Terminal 1 and Terminal 3 spaces for each of these four businesses.

¹ The Domestic Terminals Food and Beverage Program was developed by the Airport in CY 2003 to streamline and standardize the Airport's contracting process to award food and beverage concession leases in the Domestic Terminals (Terminal 1 and Terminal 3). The categories under the Domestic Terminals Food and Beverage Program include (a) Casual Dining/Bar, (b) Quick Serve and Café, (c) Fast Food, and (d) Specialty Coffee.

² Twenty eight food and beverage businesses include (1) Lori's Diner International, Inc.; (2) Andale Airport; (3) Sanraku, Inc.; (4) Meyers Holdings, LLC, Firewood Café, Series I-II; (5) Fung Lum Express, LLC; (6) Bayport Concessions, LLC; (7) Bay Area Restaurant Group Joint Venture; (8) GDDC, Inc.; (9) Tomokazu Japanese Cuisine (SFO), Inc.; (10) (Jonathon Leong) L & H, LLC; (11) H. Young Enterprises, Inc.; (12) WSE Group; (13) San Francisco Soup Co., Inc.; (14) Guava & Java (SFO), Inc.; (15) J. Avery Enterprises; (16) Gotham Enterprises, LLC, SFO Coffee IV-VI Series; (17) H. Young Enterprises; (18) Susie Lee Tong Enterprises, Inc.; (19) Lady Luck Gourmet, LLC; (20) Creative Host Services, Inc.; (21) D-Lew Enterprises, LLC; (22) Burger Joint, Inc.; (23) Creative Host Services, Inc.; (24) Empório Rulli, Inc.; (25) Bay Area Restaurant Group Joint Venture; (26) D-Lew Enterprises, LLC; (27) Bay Area Restaurant Group Joint Venture; and (28) Andre-Boudin Bakeries, Inc.

Table 1: Existing Square Feet

	Total Square Feet in Terminal 1 which would be reduced under the proposed resolution	Total Square Feet in Terminal 3	Total Square Feet
Lori's Diner International	1,290	754	2,044
Andale Airports	991	823	1,814
Meyers Holding	700	633	1,333
H. Young Enterprises	558	405	963
Total	3,539*	2,615	6,154

Source: Airport

*square feet to be reduced

Term Period of the Existing Lease Agreements: Due to the Airport's Infrastructure Improvements³ and Tenant Improvements⁴ conducted in Terminal 1 and Terminal 3, the lease term period of the 28 lease agreements began when the construction of their designated spaces were completed. However, all 28 lease agreements have an operating term period of ten years with one two-year option to extend.

As shown in Table 2 below, Lori's Diner International, Andale Airports, and Meyers Holding currently have a total 12-year lease term including a base ten year lease term with one two-year option, and H. Young Enterprises has a 10-year lease term.

Table 2: The Term Period of the Four Existing Lease Agreements

	Number of Years	Lease Term*	Operating Term
Lori's Diner International	12	November 23, 2004 – May 22, 2017	May 23, 2005 – May 22, 2017
Andale Airports	12	September 7, 2004 – May 24, 2017	May 25, 2005 - May 24, 2017
Meyers Holding	12	November 23, 2005 – May 24, 2017	May 25, 2005 – May 24, 2017
H. Young Enterprises	10	September 6, 2004 – May 24, 2015	May 25, 2005 – May 24, 2015

Source: Airport

* The lease term is inclusive of the construction period and the operating term.

Annual Rent: Under the Domestic Terminals Food and Beverage Program lease agreements, the four businesses pay the Airport an annual rent of either the greater of (a) a percentage of gross sales, or (b) the Minimum Annual Guarantee (MAG). The percentage of gross sales is the sum of: (a) six percent of gross revenues up to \$600,000, (b) eight percent of gross revenues up to \$1,000,000 and (c) ten percent of gross revenues over \$1,000,000. The MAG, as set by the Airport, was calculated at \$40 per square foot annually. The MAG is subject to an annual Consumer Price Index (CPI)⁵ adjustment on the anniversary date of the lease term. If the CPI decreases, the rent will not decrease to a value less than the previous year's rent under the provisions in the proposed leases. Under the existing lease and operating agreement, the MAG

³ The Airport performed various construction work on behalf of the 28 businesses, which is reimbursed to the Airport by the lessees through the payments of annual Infrastructure and Food Court Infrastructure Fees.

⁴ During the first five years of the lease agreements, each of the 28 businesses were required to invest a minimum of \$250 per square foot to refurbish, redecorate and modernize the public area of their leased space(s).

⁵ The CPI represents changes in prices of all goods and services for All Urban Consumers in the San Francisco-Oakland-San Jose area and is published by the Bureau of Labor Statistics under the United States Department of Labor.

increased each year beginning in CY 2007 as shown in Table 3 below, in accordance with annual CPI adjustments.

Table 3: The Existing Lease Agreements MAG Amounts

	Lori's Diner International			Meyers Holding			Andale Airports			H. Young Enterprises		
	T1*	T3*	Total	T1*	T3*	Total	T1*	T3*	Total	T1*	T3*	Total
CY 2005**	\$51,600	\$30,160	\$81,760	\$28,000	\$25,320	\$53,320	\$39,640	\$32,920	\$72,560	\$22,320	\$16,200	\$38,520
CY 2006**	\$51,600	\$30,160	\$81,760	\$28,000	\$25,320	\$53,320	\$39,640	\$32,920	\$72,560	\$22,320	\$16,200	\$38,520
CY 2007**	\$55,109	\$32,211	\$87,320	\$29,903	\$27,041	\$56,944	\$42,613	\$35,389	\$78,002	\$23,994	\$17,415	\$41,409
CY 2008**	\$56,926	\$33,273	\$90,199	\$30,890	\$27,934	\$58,824	\$44,024	\$36,561	\$80,585	\$24,789	\$17,992	\$42,780
CY 2009**	\$58,708	\$34,315	\$93,022	\$31,857	\$28,808	\$60,665	\$45,398	\$37,702	\$83,099	\$25,562	\$18,553	\$44,115
CY 2010**	\$61,223	\$35,785	\$97,008	\$33,222	\$30,042	\$63,264	\$47,350	\$39,323	\$86,673	\$26,661	\$19,351	\$46,012

Source: Airport

* T1 = Terminal 1 ; T3 = Terminal 3

** As stated in the existing lease agreements, the rent is based on Lease Year, which is the period commencing on January 1 and ending on December 31 of each year. Therefore, for the first Lease Year of the existing lease agreements, or CY 2005, the period is (a) May 23, 2005 through December 31, 2005 for Lori's Diner International and (b) May 25, 2005 through December 31, 2005 for Andale Airports, Meyers Holding and H. Young Enterprises. Every Lease Year thereafter commences on January 1 and ends December 31.

Other Airport Fees: Under the Domestic Terminals Food and Beverage Program lease agreements, the four lessees pay the Airport on an annual basis (a) a Food Court Infrastructure Fee, (b) a Tenant Infrastructure Fee, (c) a Food Court Cleaning Fee, and (d) a Promotional Charge. The annual Food Court Infrastructure Fee and the annual Tenant Infrastructure Fee covers the costs associated with conducting various construction work on behalf of the 28 businesses. The Food Court Infrastructure Fee is calculated at \$15 per square foot annually and the Infrastructure Fee is also calculated at \$15 per square foot annually. In addition, the Airport charges an annual Food Court Cleaning Fee, which covers the costs associated with cleaning the food courts, which was originally calculated at \$3,400 per month per location, but in March of 2007 this Fee was revised to a 20/80 formula⁶. The Promotional Charge allows the Airport to recover a portion of the costs for the advertisements and promotions of the food and beverage firms in the Airport. The Promotional Charge is calculated at \$1 per square foot annually.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve Amendment No. 1 to four Domestic Terminals Food and Beverage Program lease agreements between the City and County of San Francisco, acting on behalf of the San Francisco Airport (Airport), as lessor, and Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises, as lessees, resulting in a reduction of the square footage of the leased premises through an early termination of the Terminal 1 pre-security spaces.

As shown in Table 4 below, Amendment No. 1 would result in a reduction of a total of 3,539 square feet, or 57.5 percent from the existing 6,154 square feet to 2,615 square feet.

⁶ The Airport calculates the annual Food Court Cleaning Fee on a 20/80 formula, which means that 20 percent of the cleaning cost is spread evenly among the tenants and 80 percent of the cleaning cost is charged to each business based on their gross revenues.

Table 4: Proposed Square Feet

	Existing Square Feet in Terminals 1 and 3	Remaining Square Feet in Terminal 3 Under the Proposed Amendment No. 1	Square Feet Reduction in Terminal 1	Percent Difference
Lori's Diner International	2,044	754	(1,290)	(63.1%)
Andale Airports	1,814	823	(991)	(54.6%)
Meyers Holding	1,333	633	(700)	(52.5%)
H. Young Enterprises	963	405	(558)	(57.9%)
Total	6,154	2,615	(3,539)	(57.5%)

Source: Airport

FISCAL ANALYSIS

Past Annual Rent and Fees of the Existing Lease Agreements

As noted above, under the existing lease agreements, Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises are required to pay the Airport an annual rent of either the greater of (a) a percentage of gross sales (six percent of gross revenues up to \$600,000, eight percent of gross revenues up to \$1,000,000 and ten percent of gross revenues over \$1,000,000), or (b) the MAG, as listed in Table 3 above. Table 5 below shows the total revenues that the four lessees paid the Airport from CY 2007 through CY 2009. As reflected in Table 5 below, the four lessees paid rent to the Airport based on the percentage of annual gross sales from CY 2007 through CY 2009, since such amounts were greater than the MAG.

Table 5: Annual Rental Payments to the Airport by Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises

Lease Year	MAG	Gross Revenues			Percentage of Gross Revenues*	Total Annual Rental Payments to the Airport from CY2007 through CY2009
		T1	T3	Total		
Lori's Diner International						
CY 2007	\$87,320	\$1,121,231	\$2,291,052	\$3,412,283	\$309,228	\$309,228
CY 2008	\$90,199	\$1,196,422	\$2,323,882	\$3,520,304	\$320,030	\$320,030
CY 2009	\$93,022	\$1,212,068	\$2,299,492	\$3,511,560	\$319,156	\$319,156
Andale Airports						
CY 2007	\$78,002	\$554,578	\$2,280,984	\$2,835,562	\$251,556	\$251,556
CY 2008	\$80,585	\$580,921	\$2,291,120	\$2,872,041	\$255,204	\$255,204
CY 2009	\$83,099	\$360,233	\$2,306,886	\$2,667,119	\$234,712	\$234,712
Meyers Holding						
CY 2007	\$56,944	\$578,688	\$2,573,908	\$3,152,596	\$283,260	\$283,260
CY 2008	\$58,824	\$470,646	\$2,585,874	\$3,056,520	\$273,652	\$273,652
CY 2009	\$60,665	\$228,516	\$2,581,791	\$2,810,307	\$249,031	\$249,031
H. Young Enterprises						
CY 2007	\$41,409	\$262,916	\$2,412,891	\$2,675,807	\$235,581	\$235,581
CY 2008	\$42,780	\$241,773	\$2,432,671	\$2,674,444	\$235,444	\$235,444
CY 2009	\$44,115	\$126,273	\$2,116,701	\$2,242,974	\$192,297	\$192,297

Source: Airport

* Percentage of gross revenue is (a) six percent of gross revenue up to \$600,000, (b) eight percent of gross revenue up to \$1,000,000 and (c) ten percent of gross revenues over \$1,000,000. The percentage of gross revenue is calculated on the total of gross revenues from Terminal 1 and Terminal 3, not on the individual Terminals.

Also noted above, under the lease agreements, the four lessees pay the Airport on an annual basis (a) a Food Court Infrastructure Fee, (b) a Tenant Infrastructure Fee, (c) a Promotional Charge, and (d) a Food Court Cleaning Fee. Table 6 below shows the total fee revenues that the four businesses paid the Airport from CY 2007 through CY 2009.

Table 6: Annual Fee Payments to the Airport by Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises

Lease Year	Total Square Foot	Food Court Infrastructure Fee (\$15 per square foot)	Tenant Infrastructure Fee (\$15 per square foot)	Promotional Charge (\$1 per square foot)	Food Court Cleaning Fee*			Total Annual Fee Payments to the Airport
					T1	T3	Total	
Lori's Diner International								
CY 2007	2,044	\$30,660	\$30,660	\$2,044	\$32,420	\$48,830	\$81,250	\$144,614
CY 2008		\$30,660	\$30,660	\$2,044	\$30,258	\$51,642	\$81,900	\$145,264
CY 2009		\$30,660	\$30,660	\$2,044	\$30,234	\$52,632	\$82,866	\$146,230
Andale Airports								
CY 2007	1,814	\$27,210	\$27,210	\$1,814	\$21,490	\$46,790	\$68,280	\$124,514
CY 2008		\$27,210	\$27,210	\$1,814	\$18,590	\$50,316	\$68,906	\$125,140
CY 2009		\$27,210	\$27,210	\$1,814	\$18,714	\$52,218	\$70,932	\$127,166
Meyers Holding								
CY 2007	1,333	\$19,995	\$19,995	\$1,333	\$25,380	\$53,390	\$78,770	\$120,093
CY 2008		\$19,995	\$19,995	\$1,333	\$20,682	\$57,168	\$77,850	\$119,173
CY 2009		\$19,995	\$19,995	\$1,333	\$17,892	\$58,404	\$76,296	\$117,619
H. Young Enterprises								
CY 2007	963	\$14,445	\$14,445	\$963	\$18,140	\$50,580	\$68,720	\$98,573
CY 2008		\$14,445	\$14,445	\$963	\$13,224	\$53,946	\$67,170	\$97,023
CY 2009		\$14,445	\$14,445	\$963	\$12,576	\$54,882	\$67,458	\$97,311

Source: Airport

* The Airport calculates the annual Food Court Cleaning Fee on a 20/80 formula, which means that 20 percent of the cleaning cost is spread evenly among the tenants and 80 percent of the cleaning cost is charged to each business based on their gross revenues.

Table 7 below shows the combined total rental and fee revenues that the four lessees paid the Airport in CY 2007, CY 2008 and CY 2009, which is a total annual average of \$1,540,624 including \$461,507 for Lori's Diner International, \$372,764 for Andale Airports, \$387,609 for Meyers Holding and \$318,743 for H. Young Enterprises.

Table 7: Total Payments to the Airport by Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises

Lease Year	Total Annual Rental Payments to the Airport	Total Annual Fee Payments to the Airport	Total Payments to the Airport
Lori's Diner International			
CY 2007	\$309,228	\$144,614	\$453,842
CY 2008	\$320,030	\$145,264	\$465,294
CY 2009	\$319,156	\$146,230	\$465,386
		Average	\$461,507
Andale Airports			
CY 2007	\$251,556	\$124,514	\$376,070
CY 2008	\$255,204	\$125,140	\$380,344
CY 2009	\$234,712	\$127,166	\$361,878
		Average	\$372,764
Meyers Holding			
CY 2007	\$283,260	\$120,093	\$403,353
CY 2008	\$273,652	\$119,173	\$392,825
CY 2009	\$249,031	\$117,619	\$366,650
		Average	\$387,609
H. Young Enterprises			
CY 2007	\$235,581	\$98,573	\$334,154
CY 2008	\$235,444	\$97,023	\$332,467
CY 2009	\$192,297	\$97,311	\$289,608
		Average	\$318,743
		Total Average	\$1,540,624

Source: Airport

Decrease in Revenue Based on the Proposed Reduction in Square Feet

If the proposed resolution is approved, based on the total proposed reduction of 3,539 square feet in the subject lessees, there will be a decrease in annual rental payments and annual fee payments from Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises to the Airport. Based on the CY 2010 monthly sales and MAG amounts provided by the Airport, the Budget and Legislative Analyst estimates that the new annual rental payments would be (a) \$194,131 from Lori's Diner International, (b) \$224,781 from Andale Airports, (c) \$221,781 from Meyers Holding and (d) \$176,873 from H. Young Enterprises, as shown in Table 8 below.

Table 8: Estimated Rental Payments to the Airport by Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises with the Proposed Square Feet

	Proposed Square Feet	Estimated MAG*	Estimated Gross Revenues of T3**	Estimated Percentage of Gross Revenues***	Total Annual Rental Payments to the Airport
Lori's Diner International					
	754	\$35,785	\$2,261,309	\$194,131	\$194,131
Andale Airports					
	823	\$39,323	\$2,567,813	\$224,781	\$224,781
Meyers Holding					
	633	\$30,042	\$2,537,811	\$221,781	\$221,781
H. Young Enterprises					
	405	\$19,351	\$2,088,732	\$176,873	\$176,873

Source: Airport

* For Lori's Diner International and Meyers Holding, the estimated total MAG is the proposed square foot multiplied by the existing CY 2010 MAG amount of \$47.46 per square foot annually. For Andale Airports and H. Young Enterprises, the estimated total MAG is the proposed square foot multiplied by the existing CY 2010 MAG amount of \$47.78 per square foot annually.

** To estimate annual gross revenues of proposed resolution, the following average monthly CY 2010 Terminal 3 sales amounts were multiplied by 12 months: (a) \$188,442 for Lori's Diner International, (b) \$213,984 for Andale Airports, (c) \$211,484 for Meyers Holding and (d) \$174,061 for H. Young Enterprises

*** Percentage of gross revenue is (a) six percent of gross revenue up to \$600,000, (b) eight percent of gross revenue up to \$1,000,000 and (c) ten percent of gross revenues over \$1,000,000.

As shown in Table 9 below, based on the CY 2010 Food Court Cleaning Fee amounts and based on the proposed reduction of 3,539 in square feet, the Budget and Legislative Analyst estimates that the new annual fee payments due to the Airport would be (a) \$78,730 from Lori's Diner International, (b) \$80,989 from Andale Airports, (c) \$80,763 from Meyers Holding and (d) \$64,119 from H. Young Enterprises.

Table 9: Estimated Annual Fee Payments to the Airport by Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises with the Proposed Square Feet

	Proposed Square Feet	Estimated Food Court Infrastructure Fee (\$15 per square foot)	Estimated Tenant Infrastructure Fee (\$15 per square foot)	Estimated Promotional Charge (\$1 per square foot)	Estimated Food Court Cleaning Fee*	Estimated Total Annual Fee Payments to the Airport
Lori's Diner International						
	754	\$11,310	\$11,310	\$754	\$55,356	\$78,730
Andale Airports						
	823	\$12,345	\$12,345	\$823	\$55,476	\$80,989
Meyers Holding						
	633	\$9,495	\$9,495	\$633	\$61,140	\$80,763
H. Young Enterprises						
	405	\$6,075	\$6,075	\$405	\$51,564	\$64,119

Source: Airport

* To determine the estimated annual gross revenues of Terminal 3, the following average monthly CY 2010 Terminal 3 Food Court Cleaning Fee amounts were multiplied by 12 months: (a) \$4,613 for Lori's Diner International, (b) \$4,623 for Andale Airports, (c) \$5,095 for Meyers Holding and (d) \$4,297 for H. Young Enterprises. The Food Court Cleaning Fee is based on the CY 2010 monthly Food Court Cleaning fee

As shown in Table 10 below, the Budget and Legislative Analyst estimates that if the proposed resolution is approved, the reduced square feet will result in total estimated reduced annual revenues to the Airport in Terminal 1 of \$418,456 from \$1,540,624 to \$1,122,168, including

reduced annual rental payments and reduced annual fee payments, or a 27.2 percent reduction in revenues to the Airport. The estimated reduced annual revenues to the Airport of \$418,456 include (a) \$188,646 from Lori's Diner International, (b) \$66,994 from Andale Airports, (c) \$85,065 from Meyers Holding and (d) \$77,751 from H. Young Enterprises.

Table 10: Difference between Total Estimated Payments to the Airport and Average Payments from CY 2007 through CY 2009

	Estimated Total Annual Rental Payments (a)	Estimated Total Annual Fee Payments (b)	Total Estimated Payments to the Airport (c) = (a)+(b) (based on the proposed reduction of a total of 3,539 square feet)	Average Payments from CY 2007 through CY 2009 (see Table 7 above) (d)	Difference (e) = (c)-(d)	Percent Difference (e)/(c)
Lori's Diner International						
	\$194,131	\$78,730	\$272,861	\$461,507	(\$188,646)	(40.90%)
Andale Airports						
	\$224,781	\$80,989	\$305,770	\$372,764	(\$66,994)	(18.0%)
Meyers Holding						
	\$221,781	\$80,763	\$302,544	\$387,609	(\$85,065)	(21.9%)
H. Young Enterprises						
	\$176,873	\$64,119	\$240,992	\$318,743	(\$77,751)	(24.4%)
Total			\$1,122,168	\$1,540,624	(\$418,456)	(27.2%)

Source: Airport

As stated in page 1 of the Attachment, a memo dated December 1, 2010 provided by Ms. Nashir, the Airport is proposing this reduction of square footage in the pre-security food court in Terminal 1 for Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises because of "the poor and worsening performance of the Terminal 1 pre-security food courts and the Tenants' request for early termination of their locations in those food courts." The Attachment further states that Airport plans to convert one part of the pre-security food court of Terminal 1 into an employee cafeteria or breakroom and the Airport does not have any immediate plans for the remaining area of the pre-security food court of Terminal 1. Lori's Diner International, Andale Airports, Meyers Holding and H. Young Enterprises will continue to lease a total of 2,615 square feet (see Table 4 above) at the Airport in Terminal 3.

As stated above, the Budget and Legislative Analyst calculated that the approval of the proposed resolution would result in an estimated \$418,456 in reduced annual rental and fee payments to the Airport. However, in the Attachment, the Airport "[assumes] that 70 percent of the sales made in the pre-security food courts will be made elsewhere on the Airport," and "the revenue loss to the Airport during the first year after the closure will be approximately \$201,300." The Attachment further states that "the revenue loss will dissipate over the next few years with USAirways and Continental Airlines moving to Terminal 3, Terminal 2 opening and overall spending increasing due to the increased selection in these other terminals."

The Budget and Legislative Analyst notes that although the Airport will realize reduced rental and fee revenues as a result of the proposed reduction of square footage in the pre-security food court in Terminal 1, the Airport will recover such revenues through future increased spending in

other terminals as well as through the Airport's breakeven policy of recovering all monies needed to balance the Airport's budget from the airlines⁷.

RECOMMENDATION

Approve the proposed resolution.

⁷ The Airport recovers costs from airlines and non-airline businesses using the "residual rate setting methodology" formula, which is a formula that 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 revenues received by the Airport, is equal to the Airport's total costs, including debt service and operating expenditures. Prior to the beginning of each fiscal year, the Airport first determines the total airline rent revenues needed to balance the Airport's budget in the upcoming year, after considering all other non-airline revenue sources (such as concession revenues and parking revenues) and carrying forward any projected budget shortfall or surplus from the current fiscal year.



December 1, 2010

P.O. Box 8097
San Francisco, CA 94128
Tel 650.821.5000
Fax 650.821.5005
www.flysfo.com

BY EMAIL TO MIRTHALA.SANTIZO@SFGOV.ORG

Office of the Budget Analyst
1390 Market Street, Suite 1025
San Francisco, CA 94102
Attn: Harvey Rose

AIRPORT
COMMISSION
CITY AND COUNTY
OF SAN FRANCISCO

GAVIN NEWSOM
MAYOR

LARRY MAZZOLA
PRESIDENT

LINDA S. GRAYTON
VICE PRESIDENT

CARYL ITO

ELEANOR JOHNS

RICHARD J. GUGGENHEIM

JOHN L. MARTIN
AIRPORT DIRECTOR

Subject: Approval of Amendment No. 1 to Domestic Terminal Food and Beverage Lease No. 03-0178 with Lori's Diner International, Inc.; No. 03-0179 with Andale Airports; No. 03-0181 with Meyers Holding, LLC; and No. 03-0188 with H. Young Enterprises, Inc. for Closure of its Terminal 1 Food Court Locations

Dear Mr. Rose:

In response to Ms. Mirthala Santizo's inquiry as to why is the Airport allowing the closures of the Terminal 1 food court locations of the above-referenced Leases and Airport plans for the spaces:

The closures are recommended due to the poor and worsening performance of the Terminal 1 pre-security food courts and the Tenants' request for early termination of their locations in those food courts. Fung Lum has requested, and the Airport has agreed, to remain open in the Boarding Area "C" pre-security food court.

Each of the Leases consists of two locations: a Terminal 1 pre-security food court location and a Terminal 3 post-security food court location. The pairing of the two locations under one lease took place to provide service in Terminal 1, at more marginally performing pre-security locations, while providing for the overall viability of the leases with higher performing Terminal 3 post-security locations. As traffic has increased and the security checkpoints have become more congested in Terminal 1, the pre-security food courts have continually experienced declining sales. Between 2006 and 2009, food and beverage sales decreased 20% at the Terminal 1 pre-security food and beverage locations but grew 44% at the post-security locations. Pre-security locations are averaging sales of \$424 per square foot per year while the post-security locations are averaging \$2,360 per square foot per year.

Mr. Harvey Rose
Page 2
December 1, 2010

Assuming that 70% of the sales made in the pre-security food courts will be made elsewhere on the Airport, the revenue loss to the Airport during the first year after the closure will be approximately \$201,300. This is made up of an estimated annual rental decrease of \$76,300 and an annual decrease of infrastructure and food court fees of \$125,000. The infrastructure and food court fees are reimbursements for capital work conducted by the Airport during the Domestic Terminal Food and Beverage Redevelopment Program. The revenue loss will dissipate over the next few years with USAirways and Continental Airlines moving to Terminal 3, Terminal 2 opening and overall spending increasing due to the increased selection in these other terminals.

With approximately 50% of the passengers leaving Boarding Area "B" in approximately April 2012 with Continental Airlines and USAirways moving to Terminal 3, the Boarding Area "B" food court was likely going to close anyway. From that standpoint, the closure should be viewed as occurring 15 months earlier rather than five years before expiration.

The Tenants have requested authorization to permanently close their locations in the Terminal 1 food courts at Boarding Area B and Boarding Area C due the operating losses they are realizing at the unsustainable sales levels. The Tenants are close to five and one-half (5 1/2) years into their base terms of ten (10) years. Service will be maintained by the three remaining pre-security food and beverage locations: TGI Friday, Just Desserts and Peet's Coffee and Tea, and Fung Lum.

The Airport is in discussions to renovate the food court located pre-security of Boarding Area "B" to an employee cafeteria or employee breakroom. As for Boarding Area "C", there are no current near-term plans for this food court.

Sincerely,



Cheryl Nashir
Associate Deputy Airport Director
Revenue Development and Management

cc: Cathy Widener
Gigi Ricasa



San Francisco International Airport

October 8, 2010

P.O. Box 8097
San Francisco, CA 94128
Tel 650.821.5000
Fax 650.821.5005
www.flysfo.com

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

File 101346

Subject: Approval of Amendment 1 to Domestic Terminal Food and Beverage Lease No. 03-0178 with Lori's Diner International; No. 03-0179 with Andale Airports; No. 03-0181 with Meyers Holdings, LLC; and No. 03-0188 with H. Young Enterprises, Inc., and the City and County of San Francisco, by and through its Airport Commission

AIRPORT
COMMISSION
CITY AND COUNTY
OF SAN FRANCISCO

GAVIN NEWSOM
MAYOR

Dear Ms. Calvillo:

LARRY MAZZOLA
PRESIDENT

LINDA S. CRAYTON
VICE PRESIDENT

CARYL ITO

Attached for the Board of Supervisors' approval are four resolutions approving Amendment No. 1 to Domestic Terminal Food and Beverage Lease No. 03-0178 with Lori's Diner International; No. 03-0179 with Andale Airports; No. 03-0181 with Meyers Holdings, LLC; and No. 03-0188 with H. Young Enterprises, Inc., as a result of the closure of the Terminal 1 pre-security food court locations.

ELEANOR JOHNS
RICHARD J. GUGGENHIME

JOHN L. MARTIN
AIRPORT DIRECTOR

The following is a list of accompanying documents (five sets):

- Board of Supervisors Resolution;
- Approved Airport Commission Resolution Nos. 10-0296, 10-0297, 10-0288, and 10-0289;
- Ethics Form SFEC-126 for Lori's Diner International, Inc., Andale Airports, Meyers Holdings, LLC, and H. Young Enterprises, Inc.;
- Copies of Amendment No. 1 Lease Nos. 03-0178, 03-0179, 03-0181, and 03-0188;
- Approval as to form of Amendment No. 1 from City Attorney's Office.

You may contact Cheryl Nashir, Associate Deputy Director, Revenue Development, at (650) 821-4509 regarding this matter.

Very truly yours,

Jean Caramatti
Commission Secretary

Enclosures

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 OCT 22 PM 1:27
BY AK

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

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Mayor Gavin Newsom; Members, SF Board of Supervisors	City elective office(s) held: Mayor, City and County of San Francisco; Members, SF Board of Supervisors

Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Lori's Diner, International	
<i>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.</i>	
Man J. Kim, Owner and President; Ann Wei, CFO; Francisco Padilla, COO No subcontractors; no political committee sponsored or controlled by contractor	
Contractor address: 500 Sutter Street, Suite 708, San Francisco, CA 94102	
Date that contract was approved: Airport Commission awarded 9/29/2003; ratified by BoS 12/9/2003.	Amount of contract: Initial MAG \$81,760, subject to adjustments upwards
Describe the nature of the contract that was approved: Lease awarded through a Request for Proposal Process	
Comments: Lease term is 10 years with one two-year option	

This contract was approved by (check applicable):

- the City elective officer(s) identified on this form (Mayor, Gavin Newsom)
- 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 <i>(Please print clearly.)</i>	
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

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
Phone: (415) 252-3100
Fax: (415) 252-3112
Email: ethics.commission@sfgov.org
Web: www.sfgov.org/ethics



For SFEC use

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

a. Instructions:

Each City elective officer who approves a contract that has a value of \$50,000 or more in a fiscal year must file this form with the Ethics Commission within five business days of approval. This filing requirement applies if the contract is approved by:

- the City elective officer,
- any board on which the City elective officer serves, or
- the board of any state agency on which an appointee of the City elective officer serves, as described in (d) below.

b. Who files this notice?

The City elective officer who approved the contract, whose board approved the contract, or who has an appointee on the board of a state agency that approved the contract, must file this form. However, the City elective officer is not required to file this form if the clerk or secretary of the board on which the officer or appointee serves has filed this form on behalf of the board.

c. Who is a City elective officer?

A City Elective Officer is any of the following: Mayor, member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, member of the Board of Education of the San Francisco Unified School District, or member of the Governing Board of the San Francisco Community College District.

d. What is a "board of a state agency" that is covered by this filing requirement?

For the purposes of this report, the board of a state agency on which an appointee of a City elective officer serves is limited to the following agencies: Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority, and Local Workforce Investment Board.

e. Is this form required for all contracts?

No. This form is required if the contract has a total anticipated or actual value of \$50,000 or more, or a combination or series of such contracts, amendments or modifications approved by the same City elective officer or board has a value of \$50,000 or more in a fiscal year.

f. What happens after this form is filed?

For a period of six months after the contract is approved, neither the City elective officer nor any political committee that he or she controls may solicit or accept a campaign contribution from the following persons or entities: the party whose contract was approved; the party's board of directors; the party's chairperson, chief executive officer, chief financial officer, or chief operating officer; any person with an ownership interest of more than 20 percent in the party; any subcontractor listed in the bid or contract; or any political committee sponsored or controlled by the contracting party. Nor may any of these persons make a campaign contribution to the City elective officer, a candidate for the office held by such officer, or a political committee controlled by such officer or candidate.

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

THIS AMENDMENT NO. 1 TO LEASE AGREEMENT FOR THE DOMESTIC TERMINAL PROGRAM FOOD AND BEVERAGE LEASE NO. 03-0178 ("Amendment No. 1"), dated as of _____ for reference purposes only, is entered by and between the between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), acting by and through the SAN FRANCISCO AIRPORT COMMISSION ("Airport"), as landlord, and LORI'S DINER INTERNATIONAL, INC., as tenant ("Tenant").

RECITALS

- A. Airport and Tenant entered into Lease No. 03-0178, dated as of March 4, 2003 (the "Lease") for food and beverage facilities located in Terminal 1, pre-security of Boarding of "B" food court, and Terminal 3, Boarding Area "F" hub food court (the "Original Premises"). The Lease was previously approved by the Airport Commission pursuant to Resolution Number 03-0178 and by the Board of Supervisors pursuant to Resolution Number 775-03.
- B. Airport and Tenant have agreed to modify the premises pursuant to Lease Section 1, adjust the rent accordingly, and other related provisions, on the terms and conditions set forth below.
- C. All capitalized terms not otherwise defined herein shall have the same meaning given to them in the Lease.

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

AGREEMENT

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.
2. **Effective Date.** The effective date of 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 T1.2.050B measuring approximately 1,290 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 \$30,160.00 to reflect lower square footage.

6. **Tenant Infrastructure Fee. (Section 4)** This Fee will be decreased to \$22,620.00 to reflect lower square footage.

7. **Tenant Food Court Fee. (Section 4)** This Fee will be decreased to \$22,620.00 to reflect lower square footage.

8. **Promotional Charge. (Section 11)** This Charge will be decrease to \$754.00 to reflect lower square footage.

9. **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."

10. **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.

11. **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.

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

///

///

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: Lori's Diner International, Inc.

By: _____

Name: Man J. Kim
(type or print)

Title: Owner & President

AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. 10-0297
Adopted: September 7, 2010

Attest: _____
Secretary
Airport Commission

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

By: _____
Deputy City Attorney

10.04.2010
X:\TENANTS\Lori's\Agreements\Working Docs\Lori's L03-0178 Amendment 1.doc

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 10-0297

AMENDMENT NO. 1 TO DOMESTIC TERMINAL FOOD AND BEVERAGE LEASE NO. 03-0178 WITH LORI'S DINER INTERNATIONAL, INC., WHICH (1) DECREASES THE LEASE PREMISES, (2) REDUCES THE MINIMUM ANNUAL GUARANTEE, (3) DECREASES THE INFRASTRUCTURE AND FOOD COURT FEES, (4) APPROVES THE CALCULATION OF FUTURE ANNUAL MAG ADJUSTMENTS USING AN INITIAL MAG OF \$30,160.00, (5) DECREASES THE PROMOTIONAL CHARGE, AND (6) APPROVES THE CALCULATION OF FUTURE PROMOTIONAL CHARGE ADJUSTMENTS USING AN INITIAL PROMOTIONAL CHARGE OF \$754.00

WHEREAS, pursuant to Resolution No. 03-0178, adopted by the Airport Commission ("Commission") on September 29, 2003, Lori's Diner International, Inc. was awarded a Domestic Terminal Food and Beverage Lease ("Lease") for approximately 2,044 square feet; and

WHEREAS, the Airport wishes to approve the early closure of Space No. T.1.2.050B in Terminal 1, measuring approximately 1,290 square feet because the space is not viable financially; now, therefore, be it

RESOLVED, that this Commission hereby approves Amendment No. 1 to Domestic Terminal Food and Beverage Lease No. 03-0178 with Lori's Diner International, Inc. (1) decreasing the premises to approximately 754 square feet, (2) reducing the Minimum Annual Guarantee (MAG) to \$36,011.04 for the current Lease Year, (3) decreasing the combined annual Infrastructure and Food Court Fees to \$22,620.00, (4) approving the calculation of future annual MAG Adjustments using an Initial MAG of \$30,160.00, (5) decreasing the annual Promotional Charge to \$754.00; and (6) approving the calculation of future Promotional Charge adjustments using an Initial Promotional Charge of \$754.00; and be it further

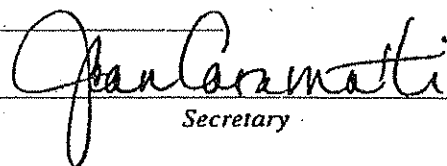
RESOLVED, that these decreases shall be pro-rated for the current Lease Year based on the date Lori's Diner International, Inc. vacates the premises in Terminal 1; and be it further

RESOLVED, that this Commission Secretary is hereby directed to request approval of the Amendment 1 to Domestic Terminal Food and Beverage Lease No. 03-0178 by Resolution of the Board of Supervisors pursuant to Section 9.118 of the Charter of the City and County of San Francisco.

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

at its meeting of _____

SEP 07 2010


Secretary

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

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Mayor Gavin Newsom; Members, SF Board of Supervisors	City elective office(s) held: Mayor, City and County of San Francisco; Members, SF Board of Supervisors

Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Andale Airports	
<i>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.</i>	
Luis J. Sanchez, CEO and President; Victor Alvarez, CFO; Pedro Alvarez, Vice President & Secretary No subcontractors; no political committee sponsored or controlled by contractor	
Contractor address: 845 Market Street, Suite F-E7, San Francisco, CA 94103	
Date that contract was approved: Airport Commission awarded 9/29/2003; ratified by BoS 12/9/2003.	Amount of contract: Initial MAG \$72,560, subject to adjustments upwards
Describe the nature of the contract that was approved: Lease awarded through a Request for Proposal Process	
Comments: Lease term is 10 years with one two-year option	

This contract was approved by (check applicable):

- the City elective officer(s) identified on this form (Mayor, Gavin Newsom)
- 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 <i>(Please print clearly.)</i>	
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

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
Phone: (415) 252-3100
Fax: (415) 252-3112
Email: ethics.commission@sfgov.org
Web: www.sfgov.org/ethics



For SFEC use

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

a. Instructions:

Each City elective officer who approves a contract that has a value of \$50,000 or more in a fiscal year must file this form with the Ethics Commission within five business days of approval. This filing requirement applies if the contract is approved by:

- the City elective officer,
- any board on which the City elective officer serves, or
- the board of any state agency on which an appointee of the City elective officer serves, as described in (d) below.

b. Who files this notice?

The City elective officer who approved the contract, whose board approved the contract, or who has an appointee on the board of a state agency that approved the contract, must file this form. However, the City elective officer is not required to file this form if the clerk or secretary of the board on which the officer or appointee serves has filed this form on behalf of the board.

c. Who is a City elective officer?

A City Elective Officer is any of the following: Mayor, member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, member of the Board of Education of the San Francisco Unified School District, or member of the Governing Board of the San Francisco Community College District.

d. What is a "board of a state agency" that is covered by this filing requirement?

For the purposes of this report, the board of a state agency on which an appointee of a City elective officer serves is limited to the following agencies: Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority, and Local Workforce Investment Board.

e. Is this form required for all contracts?

No. This form is required if the contract has a total anticipated or actual value of \$50,000 or more, or a combination or series of such contracts, amendments or modifications approved by the same City elective officer or board has a value of \$50,000 or more in a fiscal year.

f. What happens after this form is filed?

For a period of six months after the contract is approved, neither the City elective officer nor any political committee that he or she controls may solicit or accept a campaign contribution from the following persons or entities: the party whose contract was approved; the party's board of directors; the party's chairperson, chief executive officer, chief financial officer, or chief operating officer; any person with an ownership interest of more than 20 percent in the party; any subcontractor listed in the bid or contract; or any political committee sponsored or controlled by the contracting party. Nor may any of these persons make a campaign contribution to the City elective officer, a candidate for the office held by such officer, or a political committee controlled by such officer or candidate.

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

THIS AMENDMENT NO. 1 TO LEASE AGREEMENT FOR THE DOMESTIC TERMINAL PROGRAM FOOD AND BEVERAGE LEASE NO. 03-0179 ("Amendment No. 1"), dated as of _____ for reference purposes only, is entered by and between the between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), acting by and through the SAN FRANCISCO AIRPORT COMMISSION ("Airport"), as landlord, and ANDALE AIRPORTS, as tenant ("Tenant").

RECITALS

- A. Airport and Tenant entered into Lease No. 03-0179, dated as of March 3, 2004 (the "Lease") for food and beverage facilities located in Terminal 1, pre-security of Boarding of "B" food court, and Terminal 3, Boarding Area "F" hub food court (the "Original Premises"). The Lease was previously approved by the Airport Commission pursuant to Resolution Number 03-0179 and by the Board of Supervisors pursuant to Resolution Number 775-03.
- B. Airport and Tenant have agreed to modify the premises pursuant to Lease Section 1, adjust the rent accordingly, and other related provisions, on the terms and conditions set forth below.
- C. All capitalized terms not otherwise defined herein shall have the same meaning given to them in the Lease.

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

AGREEMENT

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.
2. **Effective Date.** The effective date of 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 T1.2.050A of approximately 991 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 \$32,920.00 to reflect lower square footage.

6. **Tenant Infrastructure Fee. (Section 4)** This Fee will be decreased to \$12,345.00 to reflect lower square footage.
7. **Tenant Food Court Fee. (Section 4)** This Fee will be decreased to \$12,345.00 to reflect lower square footage.
8. **Promotional Charge. (Section 11)** This Charge will be decrease to \$823.00 to reflect lower square footage.
9. **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."

10. **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.

11. **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.

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

///

///

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: Andale Airports

By: _____

Name: Luis J. Sanchez
(type or print)

Title: CEO & President

AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. 10-0296
Adopted: September 7, 2010

Attest: _____
Secretary
Airport Commission

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

By: _____
Deputy City Attorney

10.04.2010
X:\TENANTS\Andale\Agreements\Working Docs\Andale L03-0179 Amendment 1 v1.doc

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 10-0296

AMENDMENT NO. 1 TO DOMESTIC TERMINAL FOOD AND BEVERAGE LEASE NO. 03-0179 WITH ANDALE AIRPORTS, WHICH (1) DECREASES THE LEASE PREMISES, (2) REDUCES THE MINIMUM ANNUAL GUARANTEE, (3) DECREASES THE INFRASTRUCTURE AND FOOD COURT FEES, (4) APPROVES THE CALCULATION OF FUTURE ANNUAL MAG ADJUSTMENTS USING AN INITIAL MAG OF \$32,920.00, (5) DECREASES THE PROMOTIONAL CHARGE, AND (6) APPROVES THE CALCULATION OF FUTURE PROMOTIONAL CHARGE ADJUSTMENTS USING AN INITIAL PROMOTIONAL CHARGE OF \$823.00

WHEREAS, pursuant to Resolution No. 03-0179, adopted by the Airport Commission ("Commission") on September 29, 2003, Andale Airports was awarded a Domestic Terminal Food and Beverage Lease ("Lease") for approximately 1,814 square feet; and

WHEREAS, by Resolution No. 05-0030, the Commission approved assignment of the Lease to Andale Airports; and

WHEREAS, the Airport wishes to approve the early closure of Space No. T.1.2.050A in Terminal 1, measuring approximately 991 square feet because the space is not viable financially; now, therefore, be it

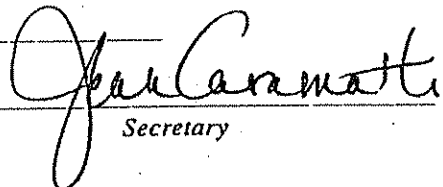
RESOLVED, that this Commission hereby approves Amendment No. 1 to Domestic Terminal Food and Beverage Lease No. 03-0178 with Andale Airports (1) decreasing the premises to approximately 823 square feet, (2) reducing the Minimum Annual Guarantee (MAG) to \$40,145.94 for the current Lease Year, (3) decreasing the combined annual Infrastructure and Food Court Fees to \$24,690.00, (4) approving the calculation of future annual MAG Adjustments using an Initial MAG of \$32,920.00, (5) decreasing the annual Promotional Charge to \$823.00; and (6) approving the calculation of future Promotional Charge adjustments using an Initial Promotional Charge of \$823.00; and be it further

RESOLVED, that these decreases shall be pro-rated for the current Lease Year based on the date Andale Airports vacates the premises in Terminal 1; and be it further

RESOLVED, that this Commission Secretary is hereby directed to request approval of the Amendment 1 to Domestic Terminals Food and Beverage Lease No. 03-0179 by Resolution of the Board of Supervisors pursuant to Section 9.118 of the Charter of the City and County of San Francisco.

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

SEP 07 2010


Secretary

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

City Elective Officer Information (Please print clearly.)	
Name of City elective officer(s): Mayor Gavin Newsom; Members, SF Board of Supervisors	City elective office(s) held: Mayor, City and County of San Francisco; Members, SF Board of Supervisors

Contractor Information (Please print clearly.)	
Name of contractor: Meyers Holdings, 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. Glenn Meyers and Garrett Meyers, CEO; Kai Vance, COO; Gerald Meyers, 25% interest No subcontractors and no political committee sponsored or controlled by contractor	
Contractor address: 133 Stillman Street, San Francisco, CA 94107	
Date that contract was approved: Airport Commission awarded 9/29/2003; ratified by BoS 12/9/2003.	Amount of contract: Initial MAG \$53,320, subject to adjustments upwards
Describe the nature of the contract that was approved: Lease awarded through a Request for Proposal Process	
Comments: Lease term is 10 years with one two-year option	

This contract was approved by (check applicable):

- the City elective officer(s) identified on this form (Mayor, Gavin Newsom)
- 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

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
Phone: (415) 252-3100
Fax: (415) 252-3112
Email: ethics.commission@sfgov.org
Web: www.sfgov.org/ethics



For SFEC use

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

a. Instructions:

Each City elective officer who approves a contract that has a value of \$50,000 or more in a fiscal year must file this form with the Ethics Commission within five business days of approval. This filing requirement applies if the contract is approved by:

- the City elective officer,
- any board on which the City elective officer serves, or
- the board of any state agency on which an appointee of the City elective officer serves, as described in (d) below.

b. Who files this notice?

The City elective officer who approved the contract, whose board approved the contract, or who has an appointee on the board of a state agency that approved the contract, must file this form. However, the City elective officer is not required to file this form if the clerk or secretary of the board on which the officer or appointee serves has filed this form on behalf of the board.

c. Who is a City elective officer?

A City Elective Officer is any of the following: Mayor, member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, member of the Board of Education of the San Francisco Unified School District, or member of the Governing Board of the San Francisco Community College District.

d. What is a "board of a state agency" that is covered by this filing requirement?

For the purposes of this report, the board of a state agency on which an appointee of a City elective officer serves is limited to the following agencies: Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority, and Local Workforce Investment Board.

e. Is this form required for all contracts?

No. This form is required if the contract has a total anticipated or actual value of \$50,000 or more, or a combination or series of such contracts, amendments or modifications approved by the same City elective officer or board has a value of \$50,000 or more in a fiscal year.

f. What happens after this form is filed?

For a period of six months after the contract is approved, neither the City elective officer nor any political committee that he or she controls may solicit or accept a campaign contribution from the following persons or entities: the party whose contract was approved; the party's board of directors; the party's chairperson, chief executive officer, chief financial officer, or chief operating officer; any person with an ownership interest of more than 20 percent in the party; any subcontractor listed in the bid or contract; or any political committee sponsored or controlled by the contracting party. Nor may any of these persons make a campaign contribution to the City elective officer, a candidate for the office held by such officer, or a political committee controlled by such officer or candidate.

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

THIS AMENDMENT NO. 1 TO LEASE AGREEMENT FOR THE DOMESTIC TERMINAL PROGRAM FOOD AND BEVERAGE LEASE NO. 03-0181 ("Amendment No. 1"), dated as of _____ for reference purposes only, is entered by and between the between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), acting by and through the SAN FRANCISCO AIRPORT COMMISSION ("Airport"), as landlord, and MEYERS HOLDINGS, LLC, as tenant ("Tenant").

RECITALS

- A. Airport and Tenant entered into Lease No. 03-0181, dated as of March 2, 2004 (the "Lease") for food and beverage facilities located in Terminal 1, pre-security of Boarding of "C" food court, and Terminal 3, Boarding Area "F" hub food court (the "Original Premises"). The Lease was previously approved by the Airport Commission pursuant to Resolution Number 03-0181 and by the Board of Supervisors pursuant to Resolution Number 775-03.
- B. Airport and Tenant have agreed to modify the premises pursuant to Lease Section 1, adjust the rent accordingly, and other related provisions, on the terms and conditions set forth below.
- C. All capitalized terms not otherwise defined herein shall have the same meaning given to them in the Lease.

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

AGREEMENT

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.
2. **Effective Date.** The effective date of 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 700 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 \$25,320.00 to reflect lower square footage.

6. **Tenant Infrastructure Fee. (Section 4)** This Fee will be decreased to \$18,990.00 to reflect lower square footage.
7. **Tenant Food Court Fee. (Section 4)** This Fee will be decreased to \$18,990.00 to reflect lower square footage.
8. **Promotional Charge. (Section 11)** This Charge will be decrease , to \$633.00 to reflect lower square footage.
9. **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."

10. **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.

11. **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.

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

///

///

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: Meyers Holdings, LLC

By: _____

Name: Glenn J. Meyers
(type or print)

Title: _____

AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. 10-0288
Adopted: September 7, 2010

Attest: _____
Secretary
Airport Commission

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

By: _____
Deputy City Attorney

10.04.2010
X:\TENANTS\Gotham_Meyers\Agreements\Working Docs\Meyers L03-0181 Amendment 1.doc

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 10-0288

AMENDMENT NO. 1 TO DOMESTIC TERMINAL FOOD AND BEVERAGE LEASE NO. 03-0181 WITH MEYERS HOLDING, LLC, WHICH (1) DECREASES THE LEASE PREMISES, (2) REDUCES THE MINIMUM ANNUAL GUARANTEE, (3) DECREASES THE INFRASTRUCTURE AND FOOD COURT FEES, (4) APPROVES THE CALCULATION OF FUTURE ANNUAL MAG ADJUSTMENTS USING AN INITIAL MAG OF \$25,320.00, (5) DECREASES THE PROMOTIONAL CHARGE, AND (6) APPROVES THE CALCULATION OF FUTURE PROMOTIONAL CHARGE ADJUSTMENTS USING AN INITIAL PROMOTIONAL CHARGE OF \$633.00

WHEREAS, pursuant to Resolution No. 03-0181, adopted by the Airport Commission ("Commission") on September 29, 2003, Meyers Holding, LLC was awarded a Domestic Terminal Food and Beverage Lease ("Lease") for approximately 1,333 square feet; and

WHEREAS, the Airport wishes to approve the early closure of Space No. T.2.001B in Terminal 1, measuring approximately 700 square feet because the space is not viable financially; now, therefore, be it

RESOLVED, that this Commission hereby approves Amendment No. 1 to Domestic Terminal Food and Beverage Lease No. 03-0181 with Meyers Holding, LLC (1) decreasing the premises to approximately 633 square feet, (2) reducing the Minimum Annual Guarantee (MAG) to \$30,042.18 for the current Lease Year, (3) decreasing the combined annual Infrastructure and Food Court Fees to \$18,990.00, (4) approving the calculation of future annual MAG Adjustments using an Initial MAG of \$25,320.00, (5) decreasing the annual Promotional Charge to \$633.00; and (6) approving the calculation of future Promotional Charge adjustments using an Initial Promotional Charge of \$633.00; and be it further

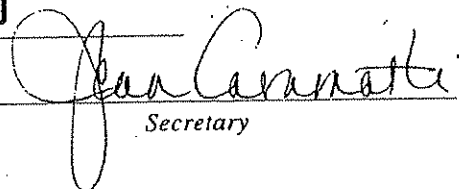
RESOLVED, that these decreases shall be pro-rated for the current Lease Year based on the date Meyers Holding, LLC vacates the premises in Terminal 1; and be it further

RESOLVED, that this Commission Secretary is hereby directed to request approval of the Amendment 1 to Domestic Terminal Food and Beverage Lease No. 03-0181 by Resolution of the Board of Supervisors pursuant to Section 9.118 of the Charter of the City and County of San Francisco.

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

at its meeting of _____

SEP 07 2010


Secretary

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

City Elective Officer Information (Please print clearly.)	
Name of City elective officer(s): Mayor Gavin Newsom; Members, SF Board of Supervisors	City elective office(s) held: Mayor, City and County of San Francisco; Members, SF Board of Supervisors

Contractor Information (Please print clearly.)	
Name of contractor: H. Young Enterprises, Inc.	
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.	
Board of Directors: Howard N. Young, Adrienne Hu Yung, Varina Chin Howard Young, CEO & CFO No subcontractors; no political committee sponsored or controlled by contractor	
Contractor address: 233 Sansome Street, Suite 1100, San Francisco, CA 94104	
Date that contract was approved: Airport Commission awarded 9/29/2003; ratified by BoS 12/9/2003.	Amount of contract: Initial MAG \$38,520, subject to adjustments upwards
Describe the nature of the contract that was approved: Lease awarded through a Request for Proposal Process	
Comments: Lease term is 10 years with one two-year option	

This contract was approved by (check applicable):

- the City elective officer(s) identified on this form (Mayor, Gavin Newsom)
- 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

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
Phone: (415) 252-3100
Fax: (415) 252-3112
Email: ethics.commission@sfgov.org
Web: www.sfgov.org/ethics



For SFEC use

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

a. Instructions:

Each City elective officer who approves a contract that has a value of \$50,000 or more in a fiscal year must file this form with the Ethics Commission within five business days of approval. This filing requirement applies if the contract is approved by:

- the City elective officer,
- any board on which the City elective officer serves, or
- the board of any state agency on which an appointee of the City elective officer serves, as described in (d) below.

b. Who files this notice?

The City elective officer who approved the contract, whose board approved the contract, or who has an appointee on the board of a state agency that approved the contract, must file this form. However, the City elective officer is not required to file this form if the clerk or secretary of the board on which the officer or appointee serves has filed this form on behalf of the board.

c. Who is a City elective officer?

A City Elective Officer is any of the following: Mayor, member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, member of the Board of Education of the San Francisco Unified School District, or member of the Governing Board of the San Francisco Community College District.

d. What is a "board of a state agency" that is covered by this filing requirement?

For the purposes of this report, the board of a state agency on which an appointee of a City elective officer serves is limited to the following agencies: Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority, and Local Workforce Investment Board.

e. Is this form required for all contracts?

No. This form is required if the contract has a total anticipated or actual value of \$50,000 or more, or a combination or series of such contracts, amendments or modifications approved by the same City elective officer or board has a value of \$50,000 or more in a fiscal year.

f. What happens after this form is filed?

For a period of six months after the contract is approved, neither the City elective officer nor any political committee that he or she controls may solicit or accept a campaign contribution from the following persons or entities: the party whose contract was approved; the party's board of directors; the party's chairperson, chief executive officer, chief financial officer, or chief operating officer; any person with an ownership interest of more than 20 percent in the party; any subcontractor listed in the bid or contract; or any political committee sponsored or controlled by the contracting party. Nor may any of these persons make a campaign contribution to the City elective officer, a candidate for the office held by such officer, or a political committee controlled by such officer or candidate.

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

THIS AMENDMENT NO. 1 TO LEASE AGREEMENT FOR THE DOMESTIC TERMINAL PROGRAM FOOD AND BEVERAGE LEASE NO. 03-0188 ("Amendment No. 1"), dated as of _____ for reference purposes only, is entered by and between the between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), acting by and through the SAN FRANCISCO AIRPORT COMMISSION ("Airport"), as landlord, and H. YOUNG ENTERPRISES, INC., as tenant ("Tenant").

RECITALS

- A. Airport and Tenant entered into Lease No. 03-0188, dated as of March 1, 2004 (the "Lease") for food and beverage facilities located in Terminal 1, pre-security of Boarding of "C" food court, and Terminal 3, Boarding Area "F" hub food court (the "Original Premises"). The Lease was previously approved by the Airport Commission pursuant to Resolution Number 03-0188 and by the Board of Supervisors pursuant to Resolution Number 775-03.
- B. Airport and Tenant have agreed to modify the premises pursuant to Lease Section 1, adjust the rent accordingly, and other related provisions, on the terms and conditions set forth below.
- C. All capitalized terms not otherwise defined herein shall have the same meaning given to them in the Lease.

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

AGREEMENT

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.
2. **Effective Date.** The effective date of 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 T1:2.001A of approximately 558 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 \$16,200.00 to reflect lower square footage.

6. **Tenant Infrastructure Fee. (Section 4)** This Fee will be decreased to \$12,150.00 to reflect lower square footage.
7. **Tenant Food Court Fee. (Section 4)** This Fee will be decreased to \$12,150.00 to reflect lower square footage.
8. **Promotional Charge. (Section 11)** This Charge will be decrease to \$405.00 to reflect lower square footage.
9. **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."

10. **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.

11. **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.

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

///

///

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: H. Young Enterprises, Inc.

By: _____

Name: Howard N. Young

Title: President

AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. 10-0289
Adopted: September 7, 2010

Attest: _____
Secretary
Airport Commission

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

By: _____
Deputy City Attorney

10.04.2010
X:\TENANTS\H Young Ent\Agreements\Working Docs\HYoung L03-0188 Amendment 1.doc

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 10-0289

AMENDMENT NO. 1 TO DOMESTIC TERMINAL FOOD AND BEVERAGE LEASE NO. 03-0188 WITH H. YOUNG ENTERPRISES, INC., WHICH (1) DECREASES THE LEASE PREMISES, (2) REDUCES THE MINIMUM ANNUAL GUARANTEE, (3) DECREASES THE INFRASTRUCTURE AND FOOD COURT FEES, (4) APPROVES THE CALCULATION OF FUTURE ANNUAL MAG ADJUSTMENTS USING AN INITIAL MAG OF \$16,200.00, (5) DECREASES THE PROMOTIONAL CHARGE, AND (6) APPROVES THE CALCULATION OF FUTURE PROMOTIONAL CHARGE ADJUSTMENTS USING AN INITIAL PROMOTIONAL CHARGE OF \$405.00

WHEREAS, pursuant to Resolution No. 03-0188, adopted by the Airport Commission ("Commission") on September 29, 2003, H. Young Enterprises, Inc. was awarded a Domestic Terminal Food and Beverage Lease ("Lease") for approximately 963 square feet; and

WHEREAS, the Airport wishes to approve the early closure of Space No. T1.2.001A in Terminal 1, measuring approximately 558 square feet because the space is not viable financially; now, therefore, be it

RESOLVED, that this Commission hereby approves Amendment No. 1 to Domestic Terminal Food and Beverage Lease No. 03-0188 with H. Young Enterprises, Inc. (1) decreasing the premises to approximately 405 square feet, (2) reducing the Minimum Annual Guarantee (MAG) to \$19,350.90 for the current Lease Year, (3) decreasing the combined annual Infrastructure and Food Court Fees to \$12,150.00, (4) approving the calculation of future annual MAG Adjustments using an Initial MAG of \$16,200.00, (5) decreasing the annual Promotional Charge to \$405.00; and (6) approving the calculation of future Promotional Charge adjustments using an Initial Promotional Charge of \$405.00; and be it further

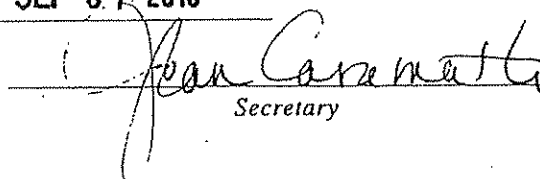
RESOLVED, that these decreases shall be pro-rated for the current Lease Year based on the date H. Young Enterprises, Inc. vacates the premises in Terminal 1; and be it further

RESOLVED, that this Commission Secretary is hereby directed to request approval of the Amendment 1 to Domestic Terminal Food and Beverage Lease No. 03-0188 by Resolution of the Board of Supervisors pursuant to Section 9.118 of the Charter of the City and County of San Francisco.

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

at its meeting of _____

SEP 07 2010


Secretary

