



**SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT**

**Item No.
11**

Meeting Date: **SEPTEMBER 1, 2011**

Subject:

Grant a Concession Lease to Spa Didacus, Inc. (A Joint Venture) for Development and Operation of Retail Package #5

Recommendation:

Adopt Resolution No. 2011-0095, awarding a concession lease to Spa Didacus, Inc. for development and operation of Retail Package #5 (as included in the CDP RFP) for a maximum term of nine (9) years and four (4) months, which includes a period not to exceed twenty-eight (28) months to allow for Package Completion, with a first year Minimum Annual Guarantee (MAG) of \$119,000; and authorizing the President/CEO to take all necessary actions to execute the concession lease.

Background/Justification:

For the past three years, staff has been planning for a new concession program at San Diego International Airport (SDIA). The Concession Development Program (CDP) incorporates additional concession opportunities from the Terminal 2 West (Green Build) and Terminal 2 East expansion projects and the re-concepting of most existing locations beginning in December 2012. At its October 26, 2009 meeting, the Board was first informed of the CDP including the goals, objectives, and business strategy of the initiative. Staff further informed the Board of different concession management approaches and recommended a hybrid approach of multiple prime concessionaires with the option for direct leasing. At its November 4, 2010 meeting, staff updated the Board on the CDP Request for Proposals planning and business community outreach efforts. Finally, at its January 6, 2011 meeting, the Board was briefed on RFP packaging guidelines and concession locations in advance of the release of the RFP in February 2011.

On February 2, 2011, eight (8) food service and eight (8) retail concession packages were released via the CDP RFP. The CDP will expand from today's approximately 60,000 square feet to approximately 86,000 square feet of food service and retail space when completed. At full build-out in 2014, the number of food service and retail concession locations will increase from 55 today to up to 87.

As previously briefed to the Board, the CDP RFP included the following goals and objectives:

- Diversity of concepts from local, regional, national, and international brands
- Encourage healthy competition
- Optimize concession revenues
- Capture the spirit of the San Diego region
- Create opportunities for local, small and Airport Concession Disadvantaged Business Enterprises (ACDBE)
- Maximize concession opportunities
- Provide an efficient operating environment
- Exceed passengers' expectations

Each package of the RFP required respondents to propose rent terms that included a fixed MAG and percentage rents of gross sales within a specified range. To ensure a diversity of concepts and encourage competition, the RFP also established the following limitations on the award of concession leases to a single proposer:

- 30% of food service square footage
- 35% of retail square footage
- 30% of total program square footage

Retail Package #5 Details

Retail Package #5 encompasses 5% of the total retail square footage. It includes the following two locations and concept types:

Location	Square Footage	Concept
T2E Post-Security	875	Spa Services
T2W Core	582	Spa Services
Total	1,457	

A map depicting the Retail Package #5 locations within the terminals is provided in Attachment 1.

The term of the concession lease includes up to 28 months to allow build out of all locations included in the Package (Package Completion), during which time, percentage rent shall be paid. After Package Completion, the MAG requirements set forth below shall apply.

Retail Package #5 included the following minimum requirements:

Minimum Investment in Fixed Improvements per Square Foot	\$300
Percentage Rent Range	10.5%-14.0%
Minimum Annual Guarantee	
1st Annual Period	\$119,000
2nd Annual Period following Package Completion Date	90% of the actual rent paid to Authority during the first Annual Period, or 103% of the MAG for the first Annual Period, whichever is greater.
3rd through 7th Annual Period	90% of the actual rent paid to Authority during the prior Annual Period, or 103% of the MAG for the prior Annual Period, whichever is greater.

Retail Package Proposals

On May 25, 2011, two proposals were received for Retail Package #5 from the following entities:

- Spa Didacus, Inc. (Spa Didacus) - Proposed business entity is comprised of a joint venture between Spa Export SARL (74% ownership) and First Class Concessions (26% ownership)
- XpresSpa San Diego Airport, LLC (XpresSpa) - Proposed business entity is comprised of a joint venture between XpresSpa (74% ownership) and Casa Unlimited Enterprises, Inc. (26% ownership)

A comparison of the proposed concepts associated with the two locations in Retail Package #5 is provided below:

Location	T2E-2020	T2W-2006
Square Feet	875	582
Proposer	Concepts	
Spa Didacus	Be Relax	Be Relax
XpresSpa	XpresSpa	XpresSpa

Financial Offer

Proposer	Proposed Percentage Rent	Year One MAG
Spa Didacus	(years 1-4) 10.5% (years 5-7) 11%	\$ 119,000
XpresSpa	\$0-\$2.0M 11% Over \$2.0M 12% Retail Sales 14%	\$ 119,000

Evaluation Process

The Authority's evaluation panel was comprised of six panelists: (a) three Authority Division Vice Presidents, (b) one Authority Department Director, and (c) two airport concession program managers from San Francisco International and Seattle-Tacoma International Airports.

Proposals were evaluated using the following criteria and weighting factors:

Criteria	Weighting %
Company Background, Experience, Financial Capability and Financial Offer	35
Concept/Brand Development and Merchandise/Menus	20
Designs, Materials, and Capital Investment	15
Management, Staffing Plan, and Training	15
Operations and Maintenance Plan	10
Marketing and Promotions Plan	5

Additional consideration was given in the evaluation process for proposals that met or exceeded the Authority's standards for small business preference (Authority Policy 5.12) and worker retention (Board Resolution 2010-0142R).

The evaluation panel reviewed the two proposals using the above criteria and ranked the proposals as either "1" (best suited) or "2" (next best suited). The results of the rankings of each panel member (PM) are presented in the matrix below:

Proposer	PM1	PM2	PM3	PM4	PM5	PM6	Total
Spa Didacus	1	1	1	1	2	2	8
XpresSpa	2	2	2	2	1	1	10

The evaluation panel recommends that a concession lease be awarded to Spa Didacus for development and operation of Retail Package #5 (as included in the Request for Proposals for Food Service and Retail Concessions) for a maximum term of nine (9) years and four (4) months with a first year MAG of \$119,000.

Depictions of Spa Didacus' concepts for this package are presented in Attachment 2.

Protest Resolution:

On July 22, 2011 XpresSpa filed a protest as a result of not being selected for Retail Package #5. The protest was reviewed and evaluated by the Procurement Administrator overseeing the RFP process. On July 27, 2011 the Procurement Administrator issued a response letter rejecting the protest.

This item was presented at the August 4, 2011 Board meeting. At that meeting the Board asked that this item be continued until the protest procedure had been completed and that staff bring this item back to the September 1, 2011 Board Meeting with additional analysis of the two proposals.

On August 5, 2011, XpresSpa filed an appeal to the rejection of their protest. The appeal was received and evaluated by the Director of Procurement. On August 25, 2011 the Director of Procurement issued a response letter rejecting the appeal.

Fiscal Impact:

Annual revenue for the Authority will be no less than the MAG amount of \$119,000 for Retail Package #5. In addition, based on the projected gross sales of the concessionaires, the Authority estimates that total CDP annual operating and maintenance costs (including operating costs for the Central Receiving and Distribution Center) will be recoverable from concessionaires.

Environmental Review:

- A. This Board action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act ("CEQA"), as amended. 14 Cal. Code Regs. §15378. This Board action is not a "project" subject to CEQA. Pub. Res. Code §21065.
- B. California Coastal Act Review: This Board action is not a "development" as defined by the California Coastal Act Pub. Res. Code §30106.

Equal Opportunity Program:

The Authority's small business program promotes the utilization of small, local, disadvantaged, and other business enterprises, on all contracts, to provide equal opportunity for qualified firms. By providing education programs, making resources available, and communicating through effective outreach, the Authority strives for diversity in all contracting opportunities.

The Authority has an Airport Concession Disadvantaged Business Enterprise ("ACDBE") Plan as required by the Department of Transportation, 49 CFR Part 23. The ACDBE Plan calls for the Authority to submit a triennial overall goal for ACDBE participation on all concession projects.

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This solicitation is an airport concession opportunity; therefore, it will be applied toward the Authority's overall ACDBE goal. Spa Didacus, Inc. is proposing 26% ACDBE participation on this project.

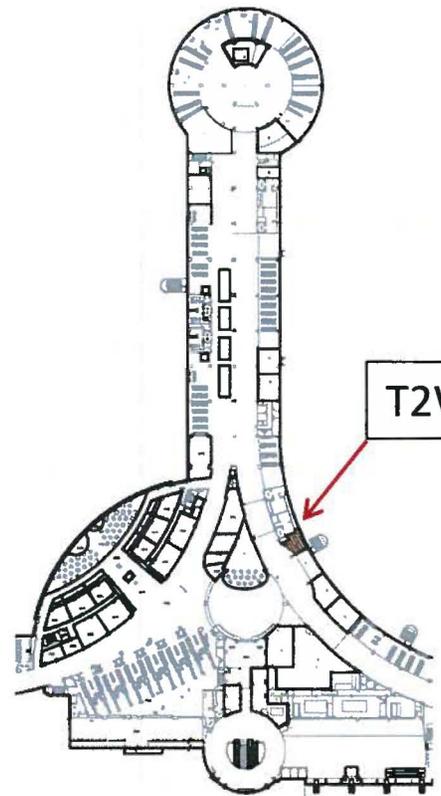
Prepared by:

VERNON D. EVANS
VICE PRESIDENT, FINANCE/TREASURER

RETAIL PACKAGE 5

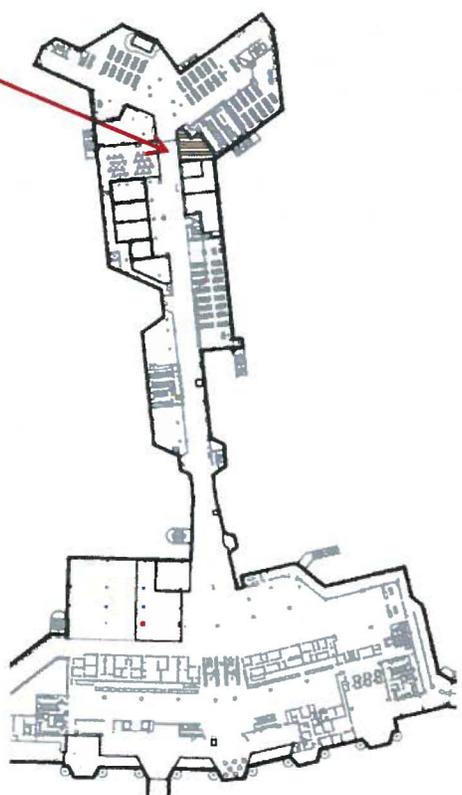
Terminal 2 West

Terminal 2 East



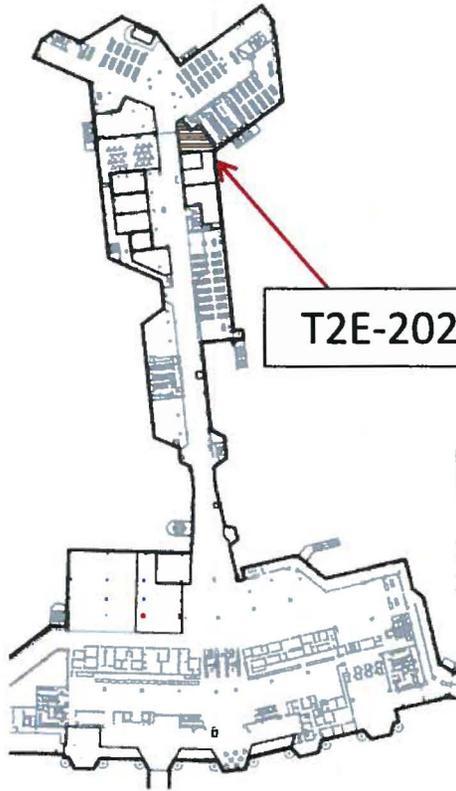
T2W-2006

T2E-2020

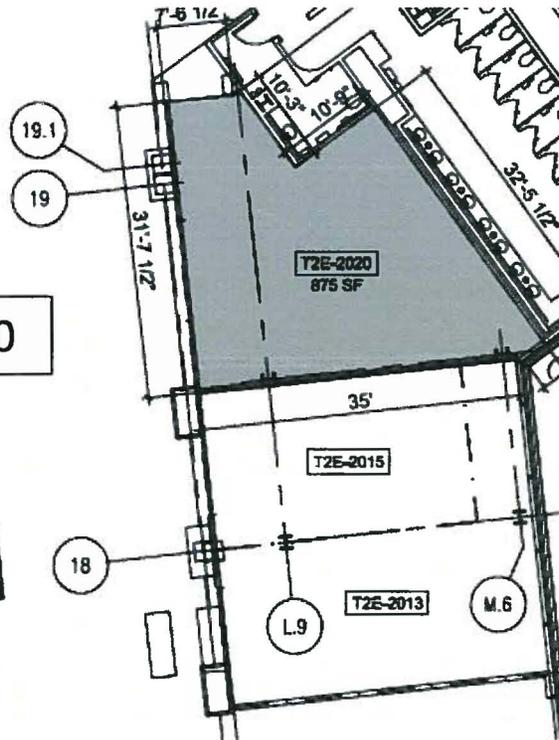


RETAIL PACKAGE 5 T2E-2020 – 875 SF

Terminal 2 East



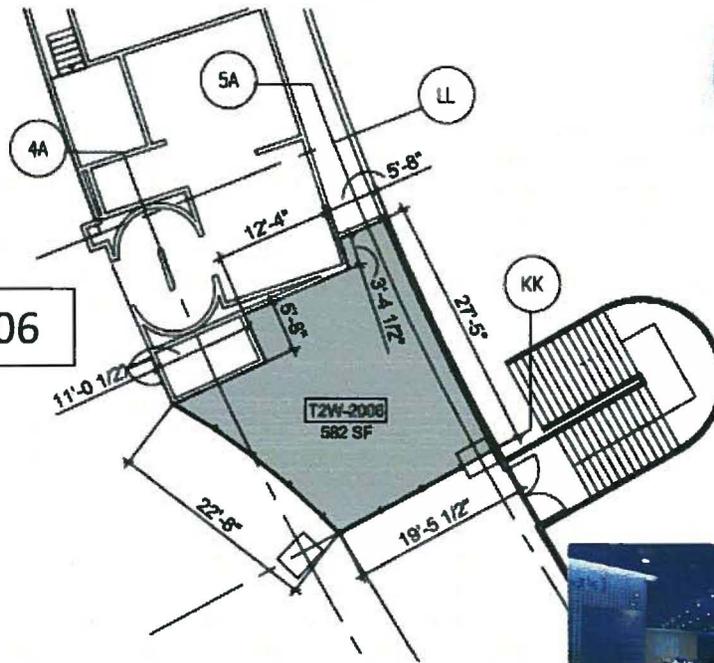
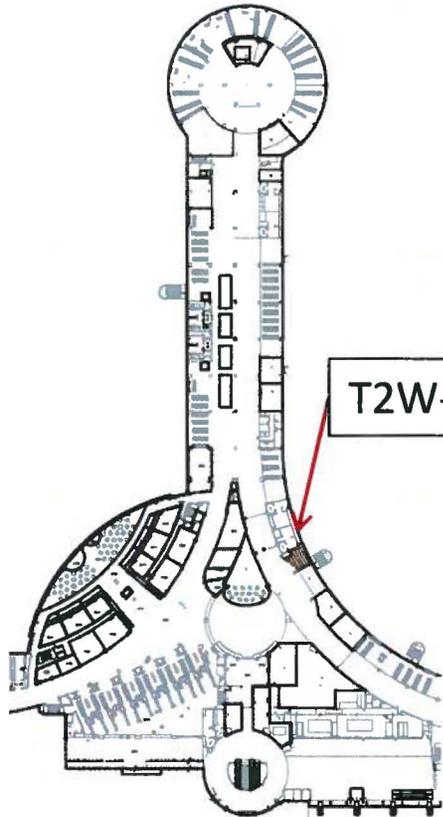
T2E-2020



RETAIL PACKAGE 5

T2W-2006 – 582 SF

Terminal 2 West



Retail Pkg 5: Be Relax Spa (2 locations)



RESOLUTION NO. 2011-0095

A RESOLUTION OF THE BOARD OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY, AWARDED A CONCESSION LEASE TO SPA DIDACUS, INC. FOR DEVELOPMENT AND OPERATION OF RETAIL PACKAGE #5 (AS INCLUDED IN THE CDP RFP) FOR A MAXIMUM TERM OF NINE (9) YEARS AND FOUR (4) MONTHS, WHICH INCLUDES A PERIOD NOT TO EXCEED TWENTY-EIGHT (28) MONTHS TO ALLOW FOR PACKAGE COMPLETION, WITH A FIRST YEAR MINIMUM ANNUAL GUARANTEE (MAG) OF \$119,000; AND AUTHORIZING THE PRESIDENT/CEO TO TAKE ALL NECESSARY ACTIONS TO EXECUTE THE CONCESSION LEASE

WHEREAS, for the past three years, staff has been planning to solicit responses via a Request for Proposal (RFP) for a new food service and retail concession program at San Diego International Airport; and

WHEREAS, the Concession Development Program (CDP) RFP provides for new concession locations from the Terminal 2 West (Green Build) and Terminal 2 East Expansion projects and complete re-concepting of existing locations, beginning in December 2012; and

WHEREAS, at its October 26, 2009 meeting, the Board was informed of the goals, objectives and business strategy of the CDP; and

WHEREAS, at its November 4, 2010 meeting, staff informed the Board of CDP RFP planning, involving business community outreach efforts; and

WHEREAS, at its January 6, 2011 meeting, the Board was briefed on RFP packaging guidelines and concession locations; and

WHEREAS, on February 2, 2011, the CDP RFP was released. The CDP RFP included eight food service packages totaling 46 locations and eight retail packages totaling 40 locations; and

WHEREAS, each package required respondents to propose a fixed Minimum Annual Guarantee and percentage rents within a specified range; and

WHEREAS, to ensure a diversity of concepts and encourage competition, the CDP RFP also established the following limitations on the award of concession leases to a single proposer:

- 30% of food service square footage
- 35% of retail square footage
- 30% of total program square footage; and

WHEREAS, Retail Package #5 includes two locations encompassing approximately 1,457 square feet; and

WHEREAS, on May 25, 2011 two proposals were received for Retail Package #5; and

WHEREAS, the proposers were evaluated by an evaluation panel using the following criteria:

- company background, experience, financial capability and financial offer;
- concept/brand development and merchandise/menus;
- design, materials and capital investment;
- management, staffing plan, and training;
- operations and maintenance plan; and
- and marketing and promotions plan; and

WHEREAS, additional consideration was given in the evaluation process for proposals that met or exceeded the required standards for small business participation and worker retention; and

WHEREAS, the evaluation panel reviewed the proposals and recommended that a concession lease be awarded to Spa Didacus, Inc. for development and operation of Retail Package #5 (as included in the CDP RFP) for a maximum term of nine (9) years and four (4) months (which includes a period not to exceed twenty-eight (28) months to allow for base building construction, Authority shell construction and renovation, and build out of the concession locations (Package Completion), with a first year Minimum Annual Guarantee (MAG) of \$119,000; and

WHEREAS, XpresSpa filed a protest as a result of not being selected for Retail Package #5; and

WHEREAS, the protest was reviewed and evaluated by the Procurement Administrator overseeing the RFP process and on July 27, 2011 the Procurement Administrator issued a response letter rejecting the protest, a copy of which is attached to this Resolution as Exhibit A and incorporated herein by this reference; and .

WHEREAS, XpresSpa filed an appeal to the rejection of their protest; and

WHEREAS, the appeal was received and evaluated by the Director of Procurement and on August 25, 2011 the Director of Procurement issued a response letter rejecting the appeal, a copy of which is attached to this Resolution as Exhibit B and incorporated herein by this reference; and

WHEREAS, the Board adopts the comments and conclusions set forth in Exhibits A and B to this Resolution; and

WHEREAS, the protest procedure has been completed and the protest and appeal have been rejected, the Board finds that awarding a concession lease to Spa Didacus, Inc. is in the best interest of the Authority.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby AWARDS a concession lease to Spa Didacus, Inc. for development and operation of Retail Package #5 (as included in the CDP RFP) for a maximum term of nine (9) years and four (4) months, which includes a period not to exceed twenty-eight (28) months to allow for Package Completion, with a first year Minimum Annual Guarantee (MAG) of \$119,000; and AUTHORIZES the President/CEO to take all necessary actions to execute the concession lease; and

BE IT FURTHER RESOLVED that the Board hereby ADOPTS the comments and conclusions set forth in Exhibits A and B to this Resolution; and

BE IT FURTHER RESOLVED that the Board of the San Diego County Regional Airport Authority finds that this Board action is not a "project" as defined by the California Environmental Quality Act ("CEQA"), Pub. Res. Code §21065; and is not a "development" as defined by the California Coastal Act, Pub. Res. Code §30106.

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a regular meeting this 1st day of September, 2011, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

TONY R. RUSSELL
DIRECTOR, CORPORATE SERVICES/
AUTHORITY CLERK

APPROVED AS TO FORM:

BRETON K. LOBNER
GENERAL COUNSEL



SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

July 27, 2011

Via E-Mail and US Mail
cneils@sheppardmullin.com

Christopher B. Neils
Sheppard, Mullin, Richter & Hampton LLP
5011 West Broadway, 19th Floor
San Diego, CA 92101

For: XpresSpa

Re: Protest Letter, Food Service and Retail Concessions RFP, Retail Package #5

Dear Mr. Neils:

On July 22, 2011, the San Diego County Regional Airport Authority ("Authority") received a letter from XpresSpa formally protesting the Authority's recommendation to award Retail Package #5 to Spa Didicus, Inc. ("Protest") on the grounds that: (1) the Authority failed to follow the evaluation criteria set forth in the RFP; (2) if the Authority had followed the stated evaluation criteria, an award would have been made to XpresSpa based on its superior offering; and (3) the awardee's proposal was non responsive for failure to provide supporting documentation of its good faith efforts to meet the Airport Concession Disadvantaged Business Enterprise (ACDBE) participation level.

Each issue within the protest letter is set forth below and followed by my finding as the Procurement Administrator.

First Assertion: "The Authority failed to follow the evaluation criteria as set forth in the RFP".

Procurement Administrator's Finding: The RFP states that "[a]n evaluation panel ("Panel") established by the Authority will evaluate the Proposals in accordance with Part 5." [RFP, Part 4.A., page 23]. Part 5 provides that the Proposals received will be evaluated in detail in accordance with the following criteria: (1) company background, experience and financial capacity; (2) concept/brand development and merchandise/menus; (3) designs, materials and capital investment; (4) management, staffing plan, and training; (5) operations and maintenance plan; (5) marketing and promotions plan. [RFP, Part 5, page 25]. The RFP goes on to state that the "listed evaluation criteria are not of equal value or decision weight". [RFP, Part 5, page 25]. The "Evaluation Matrix" attached as "Exhibit E" to the Protest was used as a guidance tool for panel members. Panel members were instructed to rank each proposer based



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upon the criteria set forth in the RFP using their expertise and independent judgment. The scoring by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel and it would be inappropriate for the Procurement Administrator to independently evaluate the proposals and substitute her judgment for that of the evaluation panel. Accordingly, the Protest is denied as to XpresSpa's first assertion.

Second Assertion: "If the Authority had followed the stated evaluation criteria, an award would have been made to XpresSpa based on its superior offering".

Procurement Administrator's Finding: The RFP states that "[a]n evaluation panel ("Panel") established by the Authority will evaluate the Proposals in accordance with Part 5." [RFP, Part 4.A., page 23]. Part 5 provides that the Proposals received will be evaluated in detail in accordance with the following criteria: (1) company background, experience and financial capacity; (2) concept/brand development and merchandise/menus; (3) designs, materials and capital investment; (4) management, staffing plan, and training; (5) operations and maintenance plan; (5) marketing and promotions plan. [RFP, Part 5, page 25]. The RFP goes on to state that the "listed evaluation criteria are not of equal value or decision weight". [RFP, Part 5, page 25]. The "Evaluation Matrix" attached as "Exhibit E" to the Protest was used as a guidance tool for panel members. Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The scoring by each panel member is subjective and based upon each individual's analysis of the proposals. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel and it would be inappropriate for the Procurement Administrator to independently evaluate the proposals and substitute her judgment for that of the evaluation panel. Accordingly, the Protest is denied as to XpresSpa's second assertion.

Third Assertion: "The awardee's proposal was non-responsive for failure to provide supporting documentation of its good faith efforts to meet the Airport Concession Disadvantaged Business Enterprise ("ACDBE") participation level".

Procurement Administrator's Finding: The Good Faith Effort Requirements (GFE) are set forth in Attachment M of the RFP. The RFP states: "Failure to meet the Airport Concession Disadvantaged Business Enterprise (ACDBE) participation level will not itself be the basis for disqualification or determination of noncompliance with this policy. However, it is incumbent on the Respondent to submit appropriate documentation to demonstrate that a 'good faith effort' was made to reach out to minority business enterprises (MBE), women owned business enterprises (WBE), ACDBE's or other small business enterprises (OBE). Failure to provide supporting documentation of a good faith effort with your submittal and failure to achieve a minimum of 75 out of 100 Good Faith Effort evaluation points will render the bid/proposal non-responsive and will result in its rejection."



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On March 18, 2011 the Authority issued its written response to question # 39 in the Q&A section of Addendum No. 2 to the RFP. Question #39 states:

“If a proposer’s food/beverage submittal will include ACDBE participation of 25% or higher, does the proposer still need to complete Attachment M (Good Faith Effort) and score at least 75 points to meet the ACDBE requirement? Or is Attachment M to be completed only by proposers that are unable to achieve 25% ACDBE participation?”

The Authority provided the following response that was shared with all registered recipients of the RFP:

“The Demonstration of Good Faith Effort must be completed even though a prime contractor has achieved 25% or more ACDBE participation. Such participation through an acceptable partnership, as defined in the Request for Proposals, may satisfy indicator 3, 5, 6, 7, 9, 10 via the following assumptions: Indicator 3 – Demonstrated by indicator 5. Indicator 5 - If you have a written commitment from the ACDBE(s), it will be assumed that there was notice provided to potential partners. Indicator 6 – As a result of an agreement reached, it will be assumed that solicitation follow-up was performed. Indicator 7 – It will be assumed that plans, specifications & requirements were shared with the partner for them to make a business decision to partner with the prime. Indicator 9 – It will be assumed good faith negotiations took place in order for an agreement to be reached. Indicator 10 – It is assumed that hurdles caused by financial obligations were overcome as result of the partnership.”

The Authority’s Small Business Development Department independently reviewed all proposals for compliance with GFE. It specifically reviewed Spa Didacus’ GFE score sheet which was part of its submission to the RFP and determined that Spa Didacus achieved 81 points in the GFE requirements as follows:

1. Spa Didacus is a joint venture with 74% going to Spa Export SARL and 26% going to First Class Concession (FCC). FCC is certified as an ACDBE and qualifies as an MBE, WBE, ACDBE and OBE. Per the Q&A identified above, the 26% participation by FCC fulfilled the requirements for categories 3, 5, 6, 7, 9 & 10 for a total of 71 points.
2. Category 2 provided 10 points if the Respondent attended the pre-submittal conference. Required documentation to satisfy this category is for Respondent to “Attend pre-submittal meeting and be listed on the attendance sheet.” Tasneem Vakharia attended the pre-submittal meeting and is identified on the sign in sheet. She is the President of FCC, 26% partner in Spa Didacus, the Respondent; therefore the Respondent was awarded the 10 points.

Spa Didacus timely submitted its GFE documentation and achieved 81 out of 100 good faith effort points. Accordingly, the Protest is denied as to the XpresSpa’s third assertion.



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Conclusion:

Based upon the information received, this protest is denied on the grounds set forth herein.

Please be advised that pursuant to Part 14, section G entitled "Protest Procedures", XpresSpa may appeal this decision. The pertinent section states: If the protest is rejected, the party filing the protest has five (5) working days to file an appeal to the Director of Procurement. The Director will issue a ruling with fifteen (15) working days following receipt of the written appeal. If the Director determines that the protest is frivolous, the party originating the protest may be determined to be irresponsible and that party may be determined to be ineligible for future contract awards."

Sincerely,

A handwritten signature in black ink that reads "Karie Webber".

Karie Webber
Senior Procurement Analyst
San Diego County Regional Airport Authority
P.O. Box 82776 San Diego, CA 92138-2776
619.400.2547



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EXHIBIT B

August 25, 2011

Via E-Mail and US Mail

cneils@sheppardmullin.com

Christopher B. Neils

Sheppard, Mullin, Richer & Hampton LLP

5011 West Broadway, 19th Floor

San Diego, CA 92101

For: XpresSpa

RE: Appeal Letter—Request for Proposal for Food Service and Retail Concessions—Retail Package #5

Dear Mr. Neils:

On August 5, 2011, the San Diego County Regional Airport Authority ("Authority") received a letter on behalf of XpresSpa to formally "Appeal the Denial of Protest of the Recommendation for Award by the Authority for the Request for Proposal for Food Service and Retail Concessions—Retail Package #5" ("Appeal") on the grounds that: (1) The Evaluation Panels subjective ranking matrix does not capture or compare the important differences between the two proposals; and (2) XpresSpa submitted a superior proposal promoting a better business deal for the Authority and San Diego. The Appeal also included a request that the Director of Procurement perform an independent evaluation of the two proposals.

This letter constitutes the written decision of the Procurement Director. Each assertion in the Appeal is summarized and set forth below followed by my determination. I incorporate by reference in this decision and adopt herein the comments and conclusions of Karie Weber, Procurement Administrator, as stated in her letter to you dated July 27, 2011.

First Assertion: The Evaluation Panels subjective ranking matrix does not capture or compare the important differences between the two proposals. The ranking matrix simply lists the panel members' respective overall rankings of the competitors and does not compare the competing proposals on any of the specific criteria. The proposal from XpresSpa better achieves the Goals and Objectives. The Procurement Administrator is not bound by the evaluation panels ranking and can provide an independent evaluation comparing the two proposals on their objective merits.



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Procurement Director's Response: Part 5 of the RFP states that proposals received will be evaluated in detail in accordance with the following criteria: (1) Company background, Experience, and Financial Capacity; (2) Concept/Brand Development and Merchandise/Menus; (3) Designs, Materials, and Capital Investment; (4) Management, Staffing Plan, and Training; (4) Operations and Maintenance Plan; (5) Marketing and Promotions Plan. The RFP also states that the evaluation criteria are not of equal value or decision weight and that additional consideration will be given in the form of bonus points for small business preference and worker retention. [RFP, Part 5].

Each evaluation panel member was provided an "Evaluation Matrix" as a guidance tool to be used in the evaluation of the proposals. The Evaluation Matrix provided the weighting of each evaluation criteria as follows:

- Organization Background, Experience, and Financial Background **350 points**
 - Organization Background and Experience—100 points
 - Financial Evaluation—100 points
 - Reasonableness, Viability of Proposed Operations and Financial Offer and Ability to Fund the Operation - 75 points
 - Financial Offer—75 points
- Concept Development and Merchandise/Menus **200 points**
- Designs, Materials, and Capital Investment **150 points**
- Operations and Maintenance Plan **100 points**
- Proposed Management, Staffing and Training **150 points**
- Marketing and Promotions Plan **50 points**
- Board Adopted Preference-Small Business **50 points**
- Board Adopted Preference-Worker Retention **20 points**

The "Financial Background" portion of the category entitled "Organization Background, Experience and Financial Background" consisted of 250 points. A portion of the 250 points—175 points—listed above was provided to each panel member. The 175 points were made up of the following subcategories: (a) Financial Evaluation and (b) Financial Offer. These scores were derived from financial analysis of common financial ratios which were calculated for each proposal to inform the panel members of the Respondent's financial status. The most current full year of data for each Respondent was used in all calculations. The ratios addressed income, assets, liabilities, debt and shareholder equity. The maximum number of points provided for the category of "Financial Evaluation" was 100 points. An evaluation of the "percentage rent offer" also utilized a mathematical calculation equivalent to the actual percentage rent proposed. The maximum number of points provided for "Financial Offer" was 75 points. Based upon the analysis described above, the number of points given to each proposer and provided to each panel member for ranking consideration on Retail Package 5 is as follows:

Description	XpresSpa	Spa Didacus
Financial Evaluation: Current Ratio, Gross Margin, Return of Assets Ratio, Debt to Equity Ratio, Working Capital (maximum 100 points)	1	75
Financial Offer: Percentage Rent Offer (maximum 75 points)	75	70

Each panel member scored all other categories based upon the criteria set forth in the RFP using their expertise and independent judgment. Each proposal was scored using the same criteria and for that reason, a side by side comparison was in fact done. In other words, the evaluation panel: analyzed and

scored the Organization Background and Experience of each proposal; analyzed and scored the Concept Development and Merchandise/Menus of each proposal; analyzed and scored the Designs, Materials, and Capital Investment of each proposal ; analyzed and scored the Operations and Maintenance Plan, etc. This was done for each evaluation criteria and, as stated above, the financial aspect of each proposal was compared and a score was given to each proposal for use by the panel members. The scoring by each panel member was then used to rank each proposal. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the information provided to each evaluation panel member and the evaluation criteria outlined in the RFP did not capture or compare important differences between the two proposals received for Retail Package 5.

XpresSpa suggests that the Procurement Administrator conduct an independent evaluation of the proposals. This would be in direct conflict with the provisions of the RFP and Authority Policy, both of which are in place for the purpose of stimulating open and fair competition.

Authority Policy 6.01 states that the Authority shall grant leases—on a competitive basis to the prospective tenant that in the opinion of the Authority (1) proposes a development or utilization that fulfills Authority land use and development criteria for the property; (2) demonstrates an economically feasible program that will produce a market value rental return to the Authority over the term of the lease; and (3) possesses the financial capacity and managerial ability to develop and maintain the property at its highest and best use over the term of the lease. Consistent with Authority Policy, the RFP established an evaluation process wherein proposals were evaluated by an evaluation panel using established criteria. To allow the Procurement Administrator to supplant her evaluation for that of the evaluation panel is contrary to Authority Policy and the provisions of the RFP. Furthermore, I have carefully reviewed the proposal submitted by XpresSpa and Spa Didacus, conducted interviews and reviewed relevant documents and find that the panel followed the guidance provided in the matrix and used that to rank the proposals.

Accordingly, XpresSpa's Appeal is denied as to XpresSpa's First Assertion.

Second Assertion: XpresSpa submitted a superior proposal promoting a better business deal for the Authority and San Diego. Critical areas of superiority include; Revenue to the Authority, Percentage of Sales as Rent, Total Projected Sales, Jobs for San Diego, Experience, Investment, Sense of Place and Green Build.

Procurement Director's Response: Proposal content requirements specified in the RFP [RFP, Part 3, pages 12–22] includes relevant information pertaining to minimum qualifications, background, experience, financial capability, financial offer, concept, designs, materials, capital investment, management, staffing, training, operations, marketing and promotions. XpresSpa and Spa Didacus included all of the information requested in their proposal for consideration by the evaluation panel. The panel considered all the information provided in the proposal in accordance with the evaluation criteria and ranked according to their analysis.

I will respond to each subcategory individually as indicated below.

Revenue to the Authority: XpresSpa asserts that XpresSpa is projected to pay the Authority over \$1.5 million more in rent than Spa Didacus due to XpresSpa offering the Authority a higher percentage return on XpresSpa's sales and XpresSpa's reasonably projected gross sales being significantly higher than those obtainable by Spa Didacus.

Response: The evaluation panel was instructed to review and evaluate each proposal in accordance with the following criteria: (1) company background, experience and financial capacity; (2) concept/brand development and merchandise/menus; (3) designs, materials and capital investment; (4) management, staffing plan, and training; (5) operations and maintenance plan; (5) marketing and promotions plan. [RFP, Part 5, page 25]. The RFP goes on to state that the 'listed evaluation criteria are not of equal value or decision weight'. [RFP, Part 5, page 25].

The 'Evaluation Matrix' tool included both objective and subjective criteria to be considered in the panel members ranking of each proposal. Each panel member was provided the scores for 'Financial Evaluation' and 'Financial Offer'. The scores provided to the evaluation panel members for these areas were derived from financial analyses of common financial ratios that were calculated for each proposal to inform the panel members of the Respondent's financial status. The maximum point equivalency for 'Financial Evaluation' was 100 points. An evaluation of the 'percentage rent offer' also utilized a mathematical calculation equivalent to the actual percentage rent proposed. The maximum point equivalency for 'Financial Offer' was 75 points. Based on the criteria described above, the point equivalency given to each proposer and provided to each panel member for Retail Package 5 is as follows:

Description	XpresSpa	Spa Didacus
Financial Evaluation: Current Ratio, Gross Margin, Return of Assets Ratio, Debt to Equity Ratio, Working Capital (maximum 100 points)	1	75
Financial Offer: Percentage Rent Offer (maximum 75 points)	75	70

XpresSpa received the maximum number of points ~~75~~ for 'Financial Offer' while Spa Didicus received 70 points thus reflecting the difference in the two proposals with regard to the percentage rent offered. As stated above, percentage rent offer constitutes 75 points out of a maximum of 1070 points for consideration in ranking the proposals. XpresSpa was given the higher score in this particular category. The scores were then used by the panel members to rank each proposal.

'Projected Sales' is an estimate that cannot be quantified for operations at San Diego International Airport (SDIA). Therefore, combining 'Percentage Rent' and 'Projected Sales' to estimate Total Revenue to the Authority is also an estimate that cannot be quantified.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Percentage of Sales as Rent: XpresSpa offered a higher percentage of its sales as rent than Spa Didicus. Spa Didicus proposed a rent percentage of 10.5% of sales for Years 1-4 and 11% for Years 5-7. In comparison, XpresSpa proposed a flat 14% on all product sales. Even if both companies had the same total sales, XpresSpa would still pay a higher rent to the Authority.

Response: The evaluation panel was instructed to review and evaluate each proposal in accordance with the following criteria: (1) company background, experience and financial capacity; (2) concept/brand development and merchandise/menus; (3) designs, materials and capital investment; (4)

management, staffing plan, and training; (5) operations and maintenance plan; (5) marketing and promotions plan. [RFP, Part 5, page 25]. The RFP goes on to state that the "listed evaluation criteria are not of equal value or decision weight". [RFP, Part 5, page 25].

The "Evaluation Matrix" tool included both objective and subjective criteria to be considered in the panel members ranking of each proposal. Each panel member was provided the scores for "Financial Evaluation" and "Financial Offer". The scores provided to the evaluation panel members for these areas were derived from financial analyses of common financial ratios that were calculated for each proposal to inform the panel members of the Respondent's financial status. The maximum number of points provided for "Financial Evaluation" was 100 points. An evaluation of the "percentage rent offer" also utilized a mathematical calculation equivalent to the actual percentage rent proposed. The maximum number of points provided for "Financial Offer" was 75 points. Based on the criteria described above, the point equivalency given to each proposer and provided to each panel member for Retail Package 5 is as follows:

Description	XpresSpa	Spa Didacus
Financial Evaluation: Current Ratio, Gross Margin, Return of Assets Ratio, Debt to Equity Ratio, Working Capital (maximum 100 points)	1	75
Financial Offer: Percentage Rent Offer (maximum 75 points)	75	70

XpresSpa received the maximum point consideration for "Financial Offer" while SpaDidicus received 70 points thus reflecting the difference in the two proposals with regard to the percentage rent offered. As stated above, percentage rent offer constitutes 75 points out of a maximum of 1070 points for consideration in ranking the proposals. XpresSpa was given the higher score in this particular category. The scores were then used by the panel members to rank each proposal.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Total Projected Sales: XpresSpa's projected sales revenues double those projected by Spa Didicus, as demonstrated in Exhibit G of the protest and in Exhibit 3 to this Appeal. XpresSpa's locations at San Diego International Airport would generate more sales and more revenue to the Authority than Spa Didicus, and XpresSpa has the experience in the U.S. market to prove it.

Response: "Total Projected Sales" is an estimate that cannot be quantified for operations at San Diego International Airport (SDIA). Each proposer provided "Financial Projections" that were evaluated by the Authority in terms of reasonableness, viability of the proposed operation and financial offer, and ability to fund continuing operations from funds generated by the business. [RFP, Part 3, page 15]. Proposal content requirements relevant to "Organization Background and Experience" [RFP, Part 3C, page 13] includes; a brief history of the respondent's company, descriptions and detailed information of up to ten of the respondent's operations most relevant to those being proposed. Detailed information for each location referenced included; square footage occupied, gross sales for the last three years, enplanements for those years, average sales per transaction, minimum annual guaranteed rent, percentage rent, actual rent paid, term of lease and the names, addresses and telephone numbers of the current landlords or property managers. XpresSpa cited Atlanta Airport, JFK Terminal 7 and

LaGuardia Airport as relevant operations. Spa Didacus cited Paris CDG, Frankfurt, Zurich and London Airports as relevant operations. The evaluation panel considered the information provided in each proposal in their evaluation. It should be noted that the RFP did not limit experience to existing operations within the United States, rather, it simply requested each proposer to provide information regarding experience. Both XpresSpa and Spa Didacus included all of the information requested in their proposal for consideration by the evaluation panel.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Jobs for San Diego: XpresSpa proposed 20 positions for 34 total employees. Spa Didacus proposed only 13 positions.

Response: The RFP did not contain a separate evaluation criteria for job creation. The number of positions was considered in the evaluation category of Proposed Management, Staffing and Training. This category provided up to 150 points or a weight of 15% to be considered by the evaluation panel in their ranking. In addition to the number of positions, this category included the following: organization chart illustrating the reporting relationship between corporate and on-site management and between all on-site staff; metrics used to ascertain levels of staffing required to provide excellent customer service and product quality; resumes for the proposed on-site General Manager, regional manager, and any other key management; labor and training practices; compliance with worker retention; employee incentive programs; description of management and staffing responsibilities of the proposed ACDBE participation; general description for employee dress code or uniform by location. It is clear that the number of positions proposed was one of many considerations in this evaluation category and to consider the number of positions to the exclusion of all other items listed in this category is inconsistent with the provisions of the RFP.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Experience: At the time of its submittal, Be Relax had no actual experience operating in the U.S. market place. Spa Didacus' ACDBE partner is a food and beverage concessionaire with no retail experience at San Diego International Airport.

Response: Proposal content requirements relevant to "Organization Background and Experience" [RFP, Part 3C, page 13] include a brief history of the respondent's company, descriptions and detailed information of up to ten of the respondent's operations most relevant to those being proposed. Also requested was information regarding any recently-awarded leases or contracts as well as any leases or contracts for which design or build-out is currently underway, information on any of the respondent's leases or contracts that have been terminated, a list of any judgments or lawsuits currently pending and relevant information regarding any affiliate of the Respondent. Experience was not limited to "existing operations within the United States". Spa Didacus submitted information regarding its operations in Paris CDG, Frankfurt, Zurich and London Airports as relevant operations. Spa Didacus also listed operations and agreements with Munich Airport, Manchester Airport, Rome Fiumicino Airport, Mila-

Malpensa and Milan- Linate Airports, Baltimore-Washington Airport and Boston Logan Airport. Spa Didacus's ACDBE partner, First Class Concessions, has extensive experience in managing and operating a variety of airport concession concepts including restaurants, coffee concepts, quick serve foods and news and gift retail concessions. Retail experience in San Diego International Airport was not an ACDBE requirement included in the RFP.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Investment in the Spa Locations: XpresSpa's proposal included a total investment of \$899,306 (with an additional \$97,850 for mid-term refurbishment) compared to only \$583,830 (with \$25,000 for mid-term refurbishment) by Spa Didicus.

Response: The RFP contained an evaluation category entitled "Designs, Materials and Capital Investment" which provided up to 150 points of a total of 1070 points or a weight of 15% to be considered by each evaluation panel member to rank each proposal. The purpose of this category was to provide the panel members with information regarding the quality of the proposed tenant construction, the proposed investment in the construction and the financial plan to fund the equipment and other improvements. Each Respondent was required to provide in their proposal preliminary renderings of the proposed concepts along with floor plans and a list of the materials to be used at each concession location. While XpresSpa proposed a larger total investment, both XpresSpa and Spa Didicus met the requirements set forth in the RFP and included all of the information relevant to this category in their proposal for consideration by each panel member.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

San Diego Sense of Place: XpresSpa proposed using local San Diego artists, public art graphics, local tourism information, local materials and beach glass, and local retail products to promote both San Diego and the Airport's Sunset Cove theme. In comparison, Spa Didicus has proposed the cookie-cutter corporate design of Be-Relax's overseas brand with zero reference to San Diego.

Response: The RFP does not contain a separate category for San Diego sense of place. Concept Development considers specific concept descriptions, how the concept would be incorporated into the Airport's concessions program, proposed store names, merchandise mix, price ranges, unique attributes of the proposed concepts, percentage of store selling area, back-of-house area, merchandising techniques and concept-specific quality assurance procedures. Both XpresSpa and Spa Didicus met the requirements set forth in the RFP and included all of the information relevant to this category in their proposal for consideration by each panel member.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based

upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Green Build: Spa Didicus made no reference to any sustainable or green efforts and no proposals to be good stewards of the San Diego environment. XpresSpa is the greenest airport spa in the United States. XpresSpa would incorporate "greener" construction materials, lighting, recycling, and retail packaging initiatives and build a unique "Living Wall" to further promote the Green Build.

Response: The RFP did not contain a separate category for "green build". The RFP contained an evaluation category entitled "Designs, Materials and Capital Investment" which provided up to 150 points of a total of 1070 points or a weight of 15% to be considered by each evaluation panel member to rank each proposal. The purpose of this category was to provide the panel members with information regarding the quality of the proposed tenant construction, the proposed investment in the construction and the financial plan to fund the equipment and other improvements. Each Respondent was required to provide in their proposal preliminary renderings of the proposed concepts along with floor plans and a list of the materials to be used at each concession location. The list of materials was to include; floor covering, wall covering, ceiling treatment, service counter and display units or fixtures, any proposed signage, interior and exterior, and any use of sustainable, renewable, recycled, and/or locally sourced materials. Both XpresSpa and Spa Didicus met the requirements and included all of the information relevant to this category in their proposal for consideration by each panel member.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Accordingly, XpresSpa's Appeal is denied as to XpresSpa's Second Assertion.

Conclusion: I have carefully reviewed the proposal submitted by XpresSpa and Spa Didicus, conducted interviews and reviewed relevant documents. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Based upon the information received, the "Appeal the Denial of Protest of the Recommendation for Award by the Authority for the Request for Proposal for Food Service and Retail Concessions—Retail Package #5" submitted on behalf of XpresSpa is denied on the grounds set forth herein.

Sincerely,



Jana Vargas

Director, Procurement

San Diego County Regional Airport Authority



SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

Board Communication

Date: August 1, 2011
To: Board Members
From: Angela Shafer-Payne, Vice President, Planning and Operations 
Subject: Findings Related to Two Protests Received - Concessions Development Program RFP

The Authority received two protests related to the Request for Proposals for the Concessions Development Program: one protest from XpresSpa and one protest from Nine Dragons. Copies of the protests were provided to Board Members in their Board packet. Since the Board packets were distributed, the Authority's Procurement Administrator has rendered her findings with regard to the protests. Attached are the Procurement Administrator's findings. Each protestor has five (5) business days upon receipt of the Procurement Administrator's findings to file an appeal.

Attachment



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SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

July 27, 2011

Via E-Mail and US Mail
cneils@sheppardmullin.com

Christopher B. Neils
Sheppard, Mullin, Richter & Hampton LLP
5011 West Broadway, 19th Floor
San Diego, CA 92101

For: XpresSpa

Re: Protest Letter, Food Service and Retail Concessions RFP, Retail Package #5

Dear Mr. Neils:

On July 22, 2011, the San Diego County Regional Airport Authority ("Authority") received a letter from XpresSpa formally protesting the Authority's recommendation to award Retail Package #5 to Spa Didicus, Inc. ("Protest") on the grounds that: (1) the Authority failed to follow the evaluation criteria set forth in the RFP; (2) if the Authority had followed the stated evaluation criteria, an award would have been made to XpresSpa based on its superior offering; and (3) the awardee's proposal was non responsive for failure to provide supporting documentation of its good faith efforts to meet the Airport Concession Disadvantaged Business Enterprise (ACDBE) participation level.

Each issue within the protest letter is set forth below and followed by my finding as the Procurement Administrator.

First Assertion: "The Authority failed to follow the evaluation criteria as set forth in the RFP".

Procurement Administrator's Finding: The RFP states that "[a]n evaluation panel ("Panel") established by the Authority will evaluate the Proposals in accordance with Part 5." [RFP, Part 4.A., page 23]. Part 5 provides that the Proposals received will be evaluated in detail in accordance with the following criteria: (1) company background, experience and financial capacity; (2) concept/brand development and merchandise/menus; (3) designs, materials and capital investment; (4) management, staffing plan, and training; (5) operations and maintenance plan; (5) marketing and promotions plan. [RFP, Part 5, page 25]. The RFP goes on to state that the "listed evaluation criteria are not of equal value or decision weight". [RFP, Part 5, page 25]. The "Evaluation Matrix" attached as "Exhibit E" to the Protest was used as a guidance tool for panel members. Panel members were instructed to rank each proposer based



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upon the criteria set forth in the RFP using their expertise and independent judgment. The scoring by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel and it would be inappropriate for the Procurement Administrator to independently evaluate the proposals and substitute her judgment for that of the evaluation panel. Accordingly, the Protest is denied as to XpresSpa's first assertion. .

Second Assertion: "If the Authority had followed the stated evaluation criteria, an award would have been made to XpresSpa based on its superior offering".

Procurement Administrator's Finding: The RFP states that "[a]n evaluation panel ("Panel") established by the Authority will evaluate the Proposals in accordance with Part 5." [RFP, Part 4.A., page 23]. Part 5 provides that the Proposals received will be evaluated in detail in accordance with the following criteria: (1) company background, experience and financial capacity; (2) concept/brand development and merchandise/menus; (3) designs, materials and capital investment; (4) management, staffing plan, and training; (5) operations and maintenance plan; (5) marketing and promotions plan. [RFP, Part 5, page 25]. The RFP goes on to state that the "listed evaluation criteria are not of equal value or decision weight". [RFP, Part 5, page 25]. The "Evaluation Matrix" attached as "Exhibit E" to the Protest was used as a guidance tool for panel members. Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The scoring by each panel member is subjective and based upon each individual's analysis of the proposals. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel and it would be inappropriate for the Procurement Administrator to independently evaluate the proposals and substitute her judgment for that of the evaluation panel. Accordingly, the Protest is denied as to XpresSpa's second assertion.

Third Assertion: "The awardee's proposal was non-responsive for failure to provide supporting documentation of its good faith efforts to meet the Airport Concession Disadvantaged Business Enterprise ("ACDBE") participation level".

Procurement Administrator's Finding: The Good Faith Effort Requirements (GFE) are set forth in Attachment M of the RFP. The RFP states: "Failure to meet the Airport Concession Disadvantaged Business Enterprise (ACDBE) participation level will not itself be the basis for disqualification or determination of noncompliance with this policy. However, it is incumbent on the Respondent to submit appropriate documentation to demonstrate that a 'good faith effort' was made to reach out to minority business enterprises (MBE), women owned business enterprises (WBE), ACDBE's or other small business enterprises (OBE). Failure to provide supporting documentation of a good faith effort with your submittal and failure to achieve a minimum of 75 out of 100 Good Faith Effort evaluation points will render the bid/proposal non-responsive and will result in its rejection."



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On March 18, 2011 the Authority issued its written response to question # 39 in the Q&A section of Addendum No. 2 to the RFP. Question #39 states:

"If a proposer's food/beverage submittal will include ACDBE participation of 25% or higher, does the proposer still need to complete Attachment M (Good Faith Effort) and score at least 75 points to meet the ACDBE requirement? Or is Attachment M to be completed only by proposers that are unable to achieve 25% ACDBE participation?"

The Authority provided the following response that was shared with all registered recipients of the RFP:

"The Demonstration of Good Faith Effort must be completed even though a prime contractor has achieved 25% or more ACDBE participation. Such participation through an acceptable partnership, as defined in the Request for Proposals, may satisfy indicator 3, 5, 6, 7, 9, 10 via the following assumptions: Indicator 3 – Demonstrated by indicator 5. Indicator 5 - If you have a written commitment from the ACDBE(s), it will be assumed that there was notice provided to potential partners. Indicator 6 – As a result of an agreement reached, it will be assumed that solicitation follow-up was performed. Indicator 7 – It will be assumed that plans, specifications & requirements were shared with the partner for them to make a business decision to partner with the prime. Indicator 9 – It will be assumed good faith negotiations took place in order for an agreement to be reached. Indicator 10 – It is assumed that hurdles caused by financial obligations were overcome as result of the partnership."

The Authority's Small Business Development Department independently reviewed all proposals for compliance with GFE. It specifically reviewed Spa Didacus' GFE score sheet which was part of its submission to the RFP and determined that Spa Didacus achieved 81 points in the GFE requirements as follows:

1. Spa Didacus is a joint venture with 74% going to Spa Export SARL and 26% going to First Class Concession (FCC). FCC is certified as an ACDBE and qualifies as an MBE, WBE, ACDBE and OBE. Per the Q&A identified above, the 26% participation by FCC fulfilled the requirements for categories 3, 5, 6, 7, 9 & 10 for a total of 71 points.
2. Category 2 provided 10 points if the Respondent attended the pre-submittal conference. Required documentation to satisfy this category is for Respondent to "Attend pre-submittal meeting and be listed on the attendance sheet." Tasneem Vakharia attended the pre-submittal meeting and is identified on the sign in sheet. She is the President of FCC, 26% partner in Spa Didacus, the Respondent; therefore the Respondent was awarded the 10 points.

Spa Didacus timely submitted its GFE documentation and achieved 81 out of 100 good faith effort points. Accordingly, the Protest is denied as to the XpresSpa's third assertion.



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Conclusion:

Based upon the information received, this protest is denied on the grounds set forth herein.

Please be advised that pursuant to Part 14, section G entitled "Protest Procedures", XpresSpa may appeal this decision. The pertinent section states: If the protest is rejected, the party filing the protest has five (5) working days to file an appeal to the Director of Procurement. The Director will issue a ruling with fifteen (15) working days following receipt of the written appeal. If the Director determines that the protest is frivolous, the party originating the protest may be determined to be irresponsible and that party may be determined to be ineligible for future contract awards."

Sincerely,

A handwritten signature in black ink that reads "Karie Webber".

Karie Webber
Senior Procurement Analyst
San Diego County Regional Airport Authority
P.O. Box 82776 San Diego, CA 92138-2776
619.400.2547



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P.O. BOX 82776, SAN DIEGO, CA 92138-2776
619.400.2400 WWW.SAN.ORG

ITEM 11

August 25, 2011

Via E-Mail and US Mail

cneils@sheppardmullin.com

Christopher B. Neils

Sheppard, Mullin, Richer & Hampton LLP

5011 West Broadway, 19th Floor

San Diego, CA 92101

For: XpresSpa

RE: Appeal Letter—Request for Proposal for Food Service and Retail Concessions—Retail Package #5

Dear Mr. Neils:

On August 5, 2011, the San Diego County Regional Airport Authority ('Authority') received a letter on behalf of XpresSpa to formally "Appeal the Denial of Protest of the Recommendation for Award by the Authority for the Request for Proposal for Food Service and Retail Concessions—Retail Package #5" ('Appeal') on the grounds that: (1) The Evaluation Panels subjective ranking matrix does not capture or compare the important differences between the two proposals; and (2) XpresSpa submitted a superior proposal promoting a better business deal for the Authority and San Diego. The Appeal also included a request that the Director of Procurement perform an independent evaluation of the two proposals.

This letter constitutes the written decision of the Procurement Director. Each assertion in the Appeal is summarized and set forth below followed by my determination. I incorporate by reference in this decision and adopt herein the comments and conclusions of Karie Weber, Procurement Administrator, as stated in her letter to you dated July 27, 2011.

First Assertion: The Evaluation Panels subjective ranking matrix does not capture or compare the important differences between the two proposals. The ranking matrix simply lists the panel members' respective overall rankings of the competitors and does not compare the competing proposals on any of the specific criteria. The proposal from XpresSpa better achieves the Goals and Objectives. The Procurement Administrator is not bound by the evaluation panels ranking and can provide an independent evaluation comparing the two proposals on their objective merits.



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Procurement Director's Response: Part 5 of the RFP states that proposals received will be evaluated in detail in accordance with the following criteria: (1) Company background, Experience, and Financial Capacity; (2) Concept/Brand Development and Merchandise/Menus; (3) Designs, Materials, and Capital Investment; (4) Management, Staffing Plan, and Training; (4) Operations and Maintenance Plan; (5) Marketing and Promotions Plan. The RFP also states that the evaluation criteria are not of equal value or decision weight and that additional consideration will be given in the form of bonus points for small business preference and worker retention. [RFP, Part 5].

Each evaluation panel member was provided an "Evaluation Matrix" as a guidance tool to be used in the evaluation of the proposals. The Evaluation Matrix provided the weighting of each evaluation criteria as follows:

- Organization Background, Experience, and Financial Background **350 points**
 - Organization Background and Experience—100 points
 - Financial Evaluation—100 points
 - Reasonableness, Viability of Proposed Operations and Financial Offer and Ability to Fund the Operation - 75 points
 - Financial Offer—75 points
- Concept Development and Merchandise/Menus **200 points**
- Designs, Materials, and Capital Investment **150 points**
- Operations and Maintenance Plan **100 points**
- Proposed Management, Staffing and Training **150 points**
- Marketing and Promotions Plan **50 points**
- Board Adopted Preference-Small Business **50 points**
- Board Adopted Preference-Worker Retention **20 points**

The "Financial Background" portion of the category entitled "Organization Background, Experience and Financial Background" consisted of 250 points. A portion of the 250 points—175 points—listed above was provided to each panel member. The 175 points were made up of the following subcategories: (a) Financial Evaluation and (b) Financial Offer. These scores were derived from financial analysis of common financial ratios which were calculated for each proposal to inform the panel members of the Respondent's financial status. The most current full year of data for each Respondent was used in all calculations. The ratios addressed income, assets, liabilities, debt and shareholder equity. The maximum number of points provided for the category of "Financial Evaluation" was 100 points. An evaluation of the "percentage rent offer" also utilized a mathematical calculation equivalent to the actual percentage rent proposed. The maximum number of points provided for "Financial Offer" was 75 points. Based upon the analysis described above, the number of points given to each proposer and provided to each panel member for ranking consideration on Retail Package 5 is as follows:

Description	XpresSpa	Spa Didacus
Financial Evaluation: Current Ratio, Gross Margin, Return of Assets Ratio, Debt to Equity Ratio, Working Capital (maximum 100 points)	1	75
Financial Offer: Percentage Rent Offer (maximum 75 points)	75	70

Each panel member scored all other categories based upon the criteria set forth in the RFP using their expertise and independent judgment. Each proposal was scored using the same criteria and for that reason, a side by side comparison was in fact done. In other words, the evaluation panel: analyzed and

scored the Organization Background and Experience of each proposal; analyzed and scored the Concept Development and Merchandise/Menus of each proposal; analyzed and scored the Designs, Materials, and Capital Investment of each proposal ; analyzed and scored the Operations and Maintenance Plan, etc. This was done for each evaluation criteria and, as stated above, the financial aspect of each proposal was compared and a score was given to each proposal for use by the panel members. The scoring by each panel member was then used to rank each proposal. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the information provided to each evaluation panel member and the evaluation criteria outlined in the RFP did not capture or compare important differences between the two proposals received for Retail Package 5.

XpresSpa suggests that the Procurement Administrator conduct an independent evaluation of the proposals. This would be in direct conflict with the provisions of the RFP and Authority Policy, both of which are in place for the purpose of stimulating open and fair competition.

Authority Policy 6.01 states that the Authority shall grant leases—on a competitive basis to the prospective tenant that in the opinion of the Authority (1) proposes a development or utilization that fulfills Authority land use and development criteria for the property; (2) demonstrates an economically feasible program that will produce a market value rental return to the Authority over the term of the lease; and (3) possesses the financial capacity and managerial ability to develop and maintain the property at its highest and best use over the term of the lease. Consistent with Authority Policy, the RFP established an evaluation process wherein proposals were evaluated by an evaluation panel using established criteria. To allow the Procurement Administrator to supplant her evaluation for that of the evaluation panel is contrary to Authority Policy and the provisions of the RFP. Furthermore, I have carefully reviewed the proposal submitted by XpresSpa and Spa Didacus, conducted interviews and reviewed relevant documents and find that the panel followed the guidance provided in the matrix and used that to rank the proposals.

Accordingly, XpresSpa's Appeal is denied as to XpresSpa's First Assertion.

Second Assertion: XpresSpa submitted a superior proposal promoting a better business deal for the Authority and San Diego. Critical areas of superiority include; Revenue to the Authority, Percentage of Sales as Rent, Total Projected Sales, Jobs for San Diego, Experience, Investment, Sense of Place and Green Build.

Procurement Director's Response: Proposal content requirements specified in the RFP [RFP, Part 3, pages 12–22) includes relevant information pertaining to minimum qualifications, background, experience, financial capability, financial offer, concept, designs, materials, capital investment, management, staffing, training, operations, marketing and promotions. XpresSpa and Spa Didacus included all of the information requested in their proposal for consideration by the evaluation panel. The panel considered all the information provided in the proposal in accordance with the evaluation criteria and ranked according to their analysis.

I will respond to each subcategory individually as indicated below.

Revenue to the Authority: XpresSpa asserts that XpresSpa is projected to pay the Authority over \$1.5 million more in rent than Spa Didacus due to XpresSpa offering the Authority a higher percentage return on XpresSpa's sales and XpresSpa's reasonably projected gross sales being significantly higher than those obtainable by Spa Didacus.

Response: The evaluation panel was instructed to review and evaluate each proposal in accordance with the following criteria: (1) company background, experience and financial capacity; (2) concept/brand development and merchandise/menus; (3) designs, materials and capital investment; (4) management, staffing plan, and training; (5) operations and maintenance plan; (5) marketing and promotions plan. [RFP, Part 5, page 25]. The RFP goes on to state that the "listed evaluation criteria are not of equal value or decision weight". [RFP, Part 5, page 25].

The "Evaluation Matrix" tool included both objective and subjective criteria to be considered in the panel members ranking of each proposal. Each panel member was provided the scores for "Financial Evaluation" and "Financial Offer". The scores provided to the evaluation panel members for these areas were derived from financial analyses of common financial ratios that were calculated for each proposal to inform the panel members of the Respondent's financial status. The maximum point equivalency for "Financial Evaluation" was 100 points. An evaluation of the "percentage rent offer" also utilized a mathematical calculation equivalent to the actual percentage rent proposed. The maximum point equivalency for "Financial Offer" was 75 points. Based on the criteria described above, the point equivalency given to each proposer and provided to each panel member for Retail Package 5 is as follows:

Description	XpresSpa	Spa Didacus
Financial Evaluation: Current Ratio, Gross Margin, Return of Assets Ratio, Debt to Equity Ratio, Working Capital (maximum 100 points)	1	75
Financial Offer: Percentage Rent Offer (maximum 75 points)	75	70

XpresSpa received the maximum number of points—75— for "Financial Offer" while Spa Didicus received 70 points thus reflecting the difference in the two proposals with regard to the percentage rent offered. As stated above, percentage rent offer constitutes 75 points out of a maximum of 1070 points for consideration in ranking the proposals. XpresSpa was given the higher score in this particular category. The scores were then used by the panel members to rank each proposal.

"Projected Sales" is an estimate that cannot be quantified for operations at San Diego International Airport (SDIA). Therefore, combining "Percentage Rent" and "Projected Sales" to estimate Total Revenue to the Authority is also an estimate that cannot be quantified.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Percentage of Sales as Rent: XpresSpa offered a higher percentage of its sales as rent than Spa Didicus. Spa Didicus proposed a rent percentage of 10.5% of sales for Years 1-4 and 11% for Years 5-7. In comparison, XpresSpa proposed a flat 14% on all product sales. Even if both companies had the same total sales, XpresSpa would still pay a higher rent to the Authority.

Response: The evaluation panel was instructed to review and evaluate each proposal in accordance with the following criteria: (1) company background, experience and financial capacity; (2) concept/brand development and merchandise/menus; (3) designs, materials and capital investment; (4)

management, staffing plan, and training; (5) operations and maintenance plan; (5) marketing and promotions plan. [RFP, Part 5, page 25]. The RFP goes on to state that the "listed evaluation criteria are not of equal value or decision weight". [RFP, Part 5, page 25].

The "Evaluation Matrix" tool included both objective and subjective criteria to be considered in the panel members ranking of each proposal. Each panel member was provided the scores for "Financial Evaluation" and "Financial Offer". The scores provided to the evaluation panel members for these areas were derived from financial analyses of common financial ratios that were calculated for each proposal to inform the panel members of the Respondent's financial status. The maximum number of points provided for "Financial Evaluation" was 100 points. An evaluation of the "percentage rent offer" also utilized a mathematical calculation equivalent to the actual percentage rent proposed. The maximum number of points provided for "Financial Offer" was 75 points. Based on the criteria described above, the point equivalency given to each proposer and provided to each panel member for Retail Package 5 is as follows:

Description	XpresSpa	Spa Didacus
Financial Evaluation: Current Ratio, Gross Margin, Return of Assets Ratio, Debt to Equity Ratio, Working Capital (maximum 100 points)	1	75
Financial Offer: Percentage Rent Offer (maximum 75 points)	75	70

XpresSpa received the maximum point consideration for "Financial Offer" while SpaDidicus received 70 points thus reflecting the difference in the two proposals with regard to the percentage rent offered. As stated above, percentage rent offer constitutes 75 points out of a maximum of 1070 points for consideration in ranking the proposals. XpresSpa was given the higher score in this particular category. The scores were then used by the panel members to rank each proposal.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Total Projected Sales: XpresSpa's projected sales revenues double those projected by Spa Didicus, as demonstrated in Exhibit G of the protest and in Exhibit 3 to this Appeal. XpresSpa's locations at San Diego International Airport would generate more sales and more revenue to the Authority than Spa Didicus, and XpresSpa has the experience in the U.S. market to prove it.

Response: "Total Projected Sales" is an estimate that cannot be quantified for operations at San Diego International Airport (SDIA). Each proposer provided "Financial Projections" that were evaluated by the Authority in terms of reasonableness, viability of the proposed operation and financial offer, and ability to fund continuing operations from funds generated by the business. [RFP, Part 3, page 15]. Proposal content requirements relevant to "Organization Background and Experience" [RFP, Part 3C, page 13] includes; a brief history of the respondent's company, descriptions and detailed information of up to ten of the respondent's operations most relevant to those being proposed. Detailed information for each location referenced included; square footage occupied, gross sales for the last three years, enplanements for those years, average sales per transaction, minimum annual guaranteed rent, percentage rent, actual rent paid, term of lease and the names, addresses and telephone numbers of the current landlords or property managers. XpresSpa cited Atlanta Airport, JFK Terminal 7 and

LaGuardia Airport as relevant operations. Spa Didacus cited Paris CDG, Frankfurt, Zurich and London Airports as relevant operations. The evaluation panel considered the information provided in each proposal in their evaluation. It should be noted that the RFP did not limit experience to existing operations within the United States, rather, it simply requested each proposer to provide information regarding experience. Both XpresSpa and Spa Didacus included all of the information requested in their proposal for consideration by the evaluation panel.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Jobs for San Diego: XpresSpa proposed 20 positions for 34 total employees. Spa Didacus proposed only 13 positions.

Response: The RFP did not contain a separate evaluation criteria for job creation. The number of positions was considered in the evaluation category of Proposed Management, Staffing and Training. This category provided up to 150 points or a weight of 15% to be considered by the evaluation panel in their ranking. In addition to the number of positions, this category included the following: organization chart illustrating the reporting relationship between corporate and on-site management and between all on-site staff; metrics used to ascertain levels of staffing required to provide excellent customer service and product quality; resumes for the proposed on-site General Manager, regional manager, and any other key management; labor and training practices; compliance with worker retention; employee incentive programs; description of management and staffing responsibilities of the proposed ACDBE participation; general description for employee dress code or uniform by location. It is clear that the number of positions proposed was one of many considerations in this evaluation category and to consider the number of positions to the exclusion of all other items listed in this category is inconsistent with the provisions of the RFP.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Experience: At the time of its submittal, Be Relax had no actual experience operating in the U.S. market place. Spa Didacus' ACDBE partner is a food and beverage concessionaire with no retail experience at San Diego International Airport.

Response: Proposal content requirements relevant to "Organization Background and Experience" [RFP, Part 3C, page 13] include a brief history of the respondent's company, descriptions and detailed information of up to ten of the respondent's operations most relevant to those being proposed. Also requested was information regarding any recently-awarded leases or contracts as well as any leases or contracts for which design or build-out is currently underway, information on any of the respondent's leases or contracts that have been terminated, a list of any judgments or lawsuits currently pending and relevant information regarding any affiliate of the Respondent. Experience was not limited to "existing operations within the United States". Spa Didacus submitted information regarding its operations in Paris CDG, Frankfurt, Zurich and London Airports as relevant operations. Spa Didacus also listed operations and agreements with Munich Airport, Manchester Airport, Rome Fiumicino Airport, Mila-

Malpensa and Milan- Linate Airports, Baltimore-Washington Airport and Boston Logan Airport. Spa Didacus's ACDBE partner, First Class Concessions, has extensive experience in managing and operating a variety of airport concession concepts including restaurants, coffee concepts, quick serve foods and news and gift retail concessions. Retail experience in San Diego International Airport was not an ACDBE requirement included in the RFP.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Investment in the Spa Locations: XpresSpa's proposal included a total investment of \$899,306 (with an additional \$97,850 for mid-term refurbishment) compared to only \$583,830 (with \$25,000 for mid-term refurbishment) by Spa Didicus.

Response: The RFP contained an evaluation category entitled "Designs, Materials and Capital Investment" which provided up to 150 points of a total of 1070 points or a weight of 15% to be considered by each evaluation panel member to rank each proposal. The purpose of this category was to provide the panel members with information regarding the quality of the proposed tenant construction, the proposed investment in the construction and the financial plan to fund the equipment and other improvements. Each Respondent was required to provide in their proposal preliminary renderings of the proposed concepts along with floor plans and a list of the materials to be used at each concession location. While XpresSpa proposed a larger total investment, both XpresSpa and Spa Didicus met the requirements set forth in the RFP and included all of the information relevant to this category in their proposal for consideration by each panel member.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

San Diego Sense of Place: XpresSpa proposed using local San Diego artists, public art graphics, local tourism information, local materials and beach glass, and local retail products to promote both San Diego and the Airport's Sunset Cove theme. In comparison, Spa Didicus has proposed the cookie-cutter corporate design of Be-Relax's overseas brand with zero reference to San Diego.

Response: The RFP does not contain a separate category for San Diego sense of place. Concept Development considers specific concept descriptions, how the concept would be incorporated into the Airport's concessions program, proposed store names, merchandise mix, price ranges, unique attributes of the proposed concepts, percentage of store selling area, back-of-house area, merchandising techniques and concept-specific quality assurance procedures. Both XpresSpa and Spa Didicus met the requirements set forth in the RFP and included all of the information relevant to this category in their proposal for consideration by each panel member.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based

upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Green Build: Spa Didicus made no reference to any sustainable or green efforts and no proposals to be good stewards of the San Diego environment. XpresSpa is the greenest airport spa in the United States. XpresSpa would incorporate "green" construction materials, lighting, recycling, and retail packaging initiatives and build a unique "Living Wall" to further promote the Green Build.

Response: The RFP did not contain a separate category for "green build". The RFP contained an evaluation category entitled "Designs, Materials and Capital Investment" which provided up to 150 points of a total of 1070 points or a weight of 15% to be considered by each evaluation panel member to rank each proposal. The purpose of this category was to provide the panel members with information regarding the quality of the proposed tenant construction, the proposed investment in the construction and the financial plan to fund the equipment and other improvements. Each Respondent was required to provide in their proposal preliminary renderings of the proposed concepts along with floor plans and a list of the materials to be used at each concession location. The list of materials was to include; floor covering, wall covering, ceiling treatment, service counter and display units or fixtures, any proposed signage, interior and exterior, and any use of sustainable, renewable, recycled, and/or locally sourced materials. Both XpresSpa and Spa Didicus met the requirements and included all of the information relevant to this category in their proposal for consideration by each panel member.

Panel members were instructed to rank each proposer based upon the criteria set forth in the RFP using their expertise and independent judgment. The ranking by each panel member is subjective and based upon each individual's analysis of the proposals using the evaluation criteria set forth in the RFP. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Accordingly, XpresSpa's Appeal is denied as to XpresSpa's Second Assertion.

Conclusion: I have carefully reviewed the proposal submitted by XpresSpa and Spa Didicus, conducted interviews and reviewed relevant documents. There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel.

Based upon the information received, the "Appeal the Denial of Protest of the Recommendation for Award by the Authority for the Request for Proposal for Food Service and Retail Concessions--Retail Package #5" submitted on behalf of XpresSpa is denied on the grounds set forth herein.

Sincerely,

A handwritten signature in black ink that reads "Jana Vargas". The signature is written in a cursive, flowing style.

Jana Vargas

Director, Procurement

San Diego County Regional Airport Authority

COMMUNICATION RECEIVED FROM THE PUBLIC



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August 31, 2011

Our File Number: 07WK-163136

VIA HAND DELIVERY

Members of the Board
San Diego Regional Airport Authority Board
3225 North Harbor Drive
San Diego, CA 92101

Re: San Diego County Regional Airport Authority Request for Proposal for Food Service and Retail Concessions – Retail Package #5

Item 11, Agenda for Board Hearing on September 1, 2011

Dear Members of the Board:

As you know, this law firm represents XpresSpa, which, in a joint venture with Casa Unlimited Enterprises, Inc., submitted a proposal to the San Diego County Regional Airport Authority ("Authority") in connection with the Request for Proposal ("RFP") for Food Service and Retail Concessions – Retail Package #5. The Board's decision on granting a concession lease for Retail Package #5 is scheduled as Item 11 of the Board's September 1, 2011 meeting agenda.

PRELIMINARY STATEMENT: GET THE BEST BUSINESS DEAL

The purpose of this letter is to request that the Board independently examine the deciding factors of the award for Retail Package #5 and be sure it is choosing the best business deal for the Authority. There are five significant points of comparison between the two proposals. If the Board does not consider these factors, no one will. The procurement staff was asked to compare these factors in both XpresSpa's protest and appeal. However, the staff specifically declined to do so, stating that it was not their province to make their own evaluation, but that they must instead trust the process of the evaluation panel that originally considered the proposals.

This is not a question about the evaluation panel or the process that they followed. However, the process is a means to an end, and not an end unto itself. At the end of the day, the goal for the Authority should be to have the best possible business deal for the best interests of San Diego's Airport. It is your duty, as members of the Authority Board, to make the final decision. We urge that, if you do not look at the comparative information presented, you will never be assured that you made the best business deal.

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August 31, 2011
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We believe that the comparison of the two proposals will demonstrate that XpresSpa's proposal is superior. However, the final evaluation is up to you. After you look at the comparative factors, even if you disagree with XpresSpa's position, you will at least be assured that you made a comparison and awarded the lease for Retail Package #5 to the company that you believe made the best offer.

A. Key Comparisons Between The Two Proposals

The five key comparisons between the two proposals are: rental rate, total projected revenue to the Airport Authority, total jobs created, total investment in the concession location, and aesthetic factors including emphasis of a San Diego theme and utilization of "green" construction and materials. These and other factors are more thoroughly discussed below. However, the five key comparisons were summarized by XpresSpa to the Board at its meeting on August 4, 2011. The comparative charts provided to the Board at that meeting are also attached here as Exhibit 1.

In short, by awarding Retail Package #5 to Spa Didacus instead of XpresSpa, the Authority would be leaving over \$1.5 million of revenue on the table, generating half the jobs for the San Diego community, and presenting its customers with a generic retail space with almost 40% less investment, no San Diego character and no green initiatives. Moreover, the Authority would be passing over the company with the most experience as a spa provider in U.S. airports for an overseas company that had no actual experience in the U.S. market at the time of its proposal.

B. The Authority's Procurement Administrator And Director Of Procurement Admit They Are Not Willing To Compare The Two Proposals

On July 22, 2011, XpresSpa formally protested the recommendation to award Retail Package #5 to Spa Didacus. Attached to its protest, XpresSpa submitted a comparative chart detailing the major differences between the two competing proposals and showing that XpresSpa had provided the superior offering. On July 29, 2011, the Procurement Administrator denied XpresSpa's protest, stating that "*it would be inappropriate for the Procurement Administrator to independently evaluate the proposals and substitute her judgment for that of the evaluation panel.*" By her own admission, the Procurement Administrator did not consider or address the differences between the two proposals or the comparative chart provided with XpresSpa's protest.

On August 5, 2011, XpresSpa appealed the denial of its protest to the Authority's Director of Procurement. XpresSpa's appeal again attached a comparative chart detailing a side-by-side comparison of the two proposals in several major categories and specifically requested that the Director of Procurement compare those factors. In denying XpresSpa's appeal, the Director of Procurement specifically refused to do so, stating her opinion that "[t]o allow the

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Procurement Administrator to supplant her evaluation for that of the evaluation panel is contrary to Authority Policy and the provisions of the RFP.” The Director of Procurement refused to compare the two proposals to determine which one presented the best business deal for the Authority.

Further, although the Director of Procurement discussed each of the comparative criteria suggested by XpresSpa, she specifically declined to actually compare the proposals on those criteria. After summarizing each criteria raised by XpresSpa, she referred to the fact that the panel had been asked to rank the applicants and stated words to the effect of *"There is no evidence that the evaluation process outlined in the RFP was not followed by the evaluation panel."* (The letter denying XpresSpa's appeal used such a phrase nine times with respect to the comparative factors.) On that basis, the appeal was denied.

XpresSpa asserts that, to best fulfill its responsibilities, the Board do that which the Procurement Administrator and Director of Procurement refused to do. The Board is not bound by the procurement staff recommendation or the panel rankings. The Board may make its own business decision, and it can award the lease for Retail Package #5 based on its own independent evaluation of the objective merits of the two proposals. XpresSpa asks the Board to compare the two proposals and choose the best business deal for the Authority.

C. Comparison Of Key Factors In The Two Proposals

The purpose of the RFP should be to find the best possible concessions for the Airport. Ultimately, that is a business judgment based on business factors. The business deal offered by XpresSpa is better across the board. In every category, XpresSpa exceeds the offerings of Spa Didacus, and in many instances by substantial margins. A more detailed, though non-exhaustive, comparative chart showing XpresSpa's superior offering was attached to XpresSpa's protest and is attached hereto as Exhibit 2. Rather than restate each of these differences in full, XpresSpa would like to highlight the critical areas, based on the RFP evaluation criteria (indicated in parenthesis) and the stated goals and objectives of the Authority.

1. Revenue to the Authority (Organization Background, Experience, and Financial Background – Financial Offer)

As explained to the Board on August 4, 2011 and set forth on page 1 of Exhibit 1, over the term of the lease, XpresSpa is projected to pay the Authority over \$1.5 million more in rent than Spa Didacus. This disparity is the result of XpresSpa offering the Authority a higher percentage return on XpresSpa's sales and XpresSpa's reasonably projected gross sales being significantly higher than those obtainable by Spa Didacus.

2. Percentage of Sales as Rent (Organization Background, Experience, and Financial Background – Financial Offer)

XpresSpa offered a higher percentage rent than Spa Didacus. Spa Didacus proposed a rent percentage of 10.5% of sales for Years 1-4 and 11% for Years 5-7. In comparison, XpresSpa proposed a rent percentage of 11% of service sales up to \$2 million (and 12% over that amount) and a flat 14% on all product sales. Even if both companies had the same total sales, XpresSpa would still pay a higher rent to the Authority.

3. Total Projected Sales (Organization Background, Experience, and Financial Background – Financial Offer)

XpresSpa's projected sales revenues double those projected by Spa Didacus, as demonstrated in Exhibits 1 and 2. Let there be no doubt: XpresSpa locations at the San Diego International Airport would generate more sales and more revenue to the Authority than Spa Didacus, and XpresSpa has the experience in the U.S. market to prove it.

To corroborate this point, attached as page 1 of Exhibit 3 is a chart showing the historical and projected sales of several XpresSpa locations most comparable to the proposed locations at San Diego. [These are 7 of the 12 which were shown in Exhibit 1.] Based on the number of exposed enplanements, which focuses on the amount of actual foot traffic that passes the spa locations, XpresSpa has comparable airport locations in terminals at John F. Kennedy, San Francisco, Dallas-Forth Worth, Philadelphia, and Las Vegas.¹

¹ XpresSpa bases its projections on locations with comparable exposed enplanements. Spa Didacus has asserted, and again asserted in its August 24, 2011 letter, that airports smaller than San Diego, such as Raleigh-Durham (RDU), provide a better comparison. To the contrary, RDU and the XpresSpa facility there would provide quite an inaccurate comparison to the spas proposed for San Diego International. RDU is not a Large Hub airport, whereas San Diego is designated as a large hub airport by the U.S. Department of Transportation. Furthermore, the RDU XpresSpa unit is smaller than those proposed for San Diego, and sub-optimally placed in the airport compared with the locations proposed for San Diego. XpresSpa's own track record for successfully meeting and exceeding its projections shows that its projections based on exposed enplanements are both reasonable and achievable for San Diego. Therefore, the locations in Exhibit 3, such as Las Vegas, are comparable to the proposed locations for San Diego and support XpresSpa's projected sales numbers.

XpresSpa does not know how the Authority's consultant evaluated the reasonableness of the competitors' projections.² However, the most accurate comparisons are XpresSpa's historical and projected sales at the comparable locations shown in Exhibit 3, which are consistent with XpresSpa's projected sales at the proposed locations for San Diego.

Moreover, XpresSpa has a track record for reliability in such projections. Exhibit 4 shows the projections and actual results from four airports which had a public RFP process. These show the reliability of XpresSpa's projections by comparing its projections for comparable locations at the time they were proposed with actual sales data for 2010.

The disparity between projected sales for XpresSpa and Spa Didacus is not surprising considering that Be Relax's (the overseas parent company for Spa Didacus) historical

² XpresSpa notes that the Staff Report indicates that XpresSpa's projections for sales were more than double that of the staff's consultant. XpresSpa does not know the methodology used by the consultant in calculating projected sales for spa services in the San Diego Airport, but we submit this methodology was deficient. Indeed, any accurate objective sales projection in the airport spa industry would, by necessity, utilize XpresSpa's own published revenue figures as benchmarks – as XpresSpa operated 28 out of 33 full-service spas in the United States that have been open at for at least one year. The airport spa industry remains in its infancy and has only taken off in the last few years. Unlike the food and beverage, news and retail concessions, there is not a long track record of historical data to draw conclusions. Before XpresSpa, airport spas tended to be thought of as destinations or an amenity and not a true revenue producer. In fact, XpresSpa's success has changed the paradigm for airport spas.

In the past, XpresSpa has performed significantly beyond projections calculated by independent consultants, and indeed, has often performed beyond its own projections. For example, as shown in Exhibit 4, XpresSpa significantly outperformed projections for a JetBlue terminal location in JFK. Following that RFP process, it came to XpresSpa's attention that the consultant retained in connection with the RFP had projected \$400,000 for Year 1 sales (November 2008 – October 2009); XpresSpa projected \$540,000 for Year 1 sales in its proposal; and XpresSpa's actual sales for that location in Year 1 amounted to \$994,000, which was almost two and half times higher than that projected by the consultant. As shown in Exhibit 4, XpresSpa continued to outperform its own projections in 2010 at that location. Coincidentally, XpresSpa finds itself in a similar situation here in San Diego, where XpresSpa's projections are over double that of the consultant's projection (as noted in the Staff Report). As a result of the evaluation process, it appears that XpresSpa is being penalized for its ability to outperform projections and maximize revenue from spa services at airport locations. XpresSpa stands by its projections, which are double those of the consultant, and which are backed by XpresSpa's historical performance in the U.S. market.

sales and actual performance at other airports, based on the information in its proposal, show that no single location generates more than \$1 million in sales. In comparison, as shown on page 2 of Exhibit 1, at the time of its proposal, XpresSpa had 12 U.S. airport locations generating over \$1 million in sales. XpresSpa is able to generate that amount of sales because of its commitment to investing in both its spa locations and its employees.

4. Jobs for San Diego (Proposed Management, Staffing and Training)

The XpresSpa proposal also creates more jobs for San Diego. As shown on page 1 of Exhibit 1, XpresSpa has proposed 20 positions for 34 total employees. Spa Didacus proposed only 13 positions. XpresSpa is planning for twice as many jobs, twice as many employees, twice the level of service, and twice the level of revenue.

XpresSpa knows the amount of labor ideally required in the U.S. spa environment, and is committed to maximizing the number of jobs it can bring to the San Diego region. XpresSpa, in all of its airport spas nationwide, hires the most local talent of any concessionaire per square foot. As shown on page 1 of Exhibit 1, the total projected payroll and benefits for employees over the seven year lease term is \$9,133,438 for XpresSpa compared to only \$3,468,904 for Spa Didacus. An award to Spa Didacus would deprive the San Diego economy of millions of dollars in jobs. Not only would XpresSpa's proposal bring many more jobs to San Diego than Spa Didacus, but it will ensure a superior experience for San Diego customers. Spa customers go to spas to feel pampered and treated well. Only a large enough staff can ensure that passengers aren't "left out in the cold" while waiting for service.

5. Experience (Organization Background, Experience, and Financial Background – Organizational Background and Experience)

At the time of its submittal, Be Relax—the French parent company for Spa Didacus—had no actual experience operating in the U.S. airport market. Be Relax had zero dollars in U.S. revenue from spa services at the time of its proposal, zero spa services provided in the U.S., and zero customers in the U.S. The Spa Didacus ACDBE partner is certified as a food and beverage concessionaire with no retail experience in San Diego International Airport.

As shown on page 1 of Exhibit 1, at the time of its submittal, XpresSpa had 29 operating airport locations. Of these, all except two were in the U.S. XpresSpa grew up in the U.S. airport environment. This is no small matter – XpresSpa has learned through years of experience that the U.S. airport concession market is nothing like the European market. All aspects of the business—from the labor pool and labor expenses, to the legal framework, to cultural differences among customers and staff—contribute to a very different experience which requires a steep learning curve. There is no question that in the U.S. market, XpresSpa is the leader. Though XpresSpa has not been given access to the Be Relax financials presented in Spa Didacus' proposal, XpresSpa is of the reasonable belief that XpresSpa's aggregate gross sales

dwarf those of Be Relax. There can be little question that XpresSpa is the more experienced player.

Furthermore, XpresSpa has a global labor pool of approximately 600 employees, the vast majority of which are U.S.-based. From the materials in the Spa Didacus proposal, it does not appear that the Be Relax labor pool approaches this number. Furthermore, XpresSpa has been operating spas in the unique market of California since 2005. The second spa in XpresSpa's network was in San Francisco Airport. XpresSpa has since expanded its presence in San Francisco to 4 operating stores, with the fourth having just opened in August 2011, and a store in LAX is projected to open in Fall 2011.

XpresSpa notes that the Director of Procurement's letter denying the appeal stated that XpresSpa received a low score in the Financial Capability scoring category. This was a formulaic calculation based on applying a stated formula to specified financial information categories. XpresSpa submits that the formulaic calculation for financial capability does not accurately reflect what it takes to run a successful business. XpresSpa continues to expand to new airports and has been invited numerous times by airports to expand or increase its airport locations where it has done business. XpresSpa is the industry standard for airport spa services, and world-class airports have found its financial capability to be top-notch. These are all indications that XpresSpa is financially capable and likely to remain so. Assuming that is true, then it is clear that XpresSpa will be successful in San Diego.

XpresSpa's ACDBE partner has operated *exclusively* in the high-volume airport environment, with a plethora of stores in both Phoenix Sky Harbor International Airport **as well as two retail stores in the San Diego International Airport.**

6. Investment in the Spa Locations (Designs, Materials, and Capital Investments)

The XpresSpa model places a premium on construction of its facilities. The beautiful environs are what attract its customers and what create a loyal fan base of repeat visitors. From the start, XpresSpa has sought to create an "oasis of tranquility" away from the stresses of the airport environs. XpresSpa has demonstrated, time and again, that its investment in premium construction has paid dividends for the spa, the customers, and the airport. A lesser investment per square foot inevitably results in a "cheap" looking environment, doing a disservice to both the airport and its passengers. Accordingly, as shown on page 1 of Exhibit 1, XpresSpa's bid included a total initial investment of \$899,306 compared to only \$582,830 by Spa Didacus.

7. San Diego "Sense of Place" (Concept Development and Merchandise/Menus)

Throughout the RFP and in countless presentations, the Authority has emphasized the importance of creating a San Diego "sense of place" to celebrate the rich, vibrant and diverse culture and community of San Diego. The "theme" of San Diego was repeatedly referenced in the August 4, 2011 Board meeting, with Board members extolling the positive promotion of local San Diego imagery and businesses in a number of the awardee's proposals. Further, despite the Director of Procurement's assertion that "[t]he RFP does not contain a separate category for San Diego sense of place," page 2 of the September 1, 2011 Staff Report for Item 11 restates that one of the goals and objectives of the RFP was to "Capture the Spirit of the San Diego Region." As shown on page 4 of Exhibit 1, XpresSpa proposed using local San Diego artists, public art graphics, local tourism information, local materials and beach glass, and local retail products to promote both San Diego and the Airport's Sunset Cove theme. In comparison, based on a review of the proposal, Spa Didacus has proposed the cookie-cutter corporate design of Be Relax's overseas brand with zero references to San Diego.

8. Green Build (Designs, Materials, and Capital Investment)

The Authority has promoted a Green Build and sustainable design to pursue Leadership in Energy and Environmental Design (LEED) silver certification, with the stated goals of decreased water usage, reduced energy consumption and use of alternative energy sources. Spa Didacus made no reference to any sustainable or green efforts and no proposals to be good stewards of the San Diego environment. XpresSpa, on the other hand, is the greenest airport spa in the United States. As shown on page 4 of Exhibit 1, XpresSpa would incorporate "green" construction materials, lighting, recycling, and retail packaging initiatives and build a unique "Living Wall" to further promote the Green Build. XpresSpa has also entered into a wind energy partnership to decrease its carbon footprint.

D. Conclusion

The Board should evaluate the two proposals and choose the superior offering for the Authority.

For the above stated reasons, XpresSpa believes that its offering provides the best business deal. However, the Board should make its own decision, based on the objective comparison.

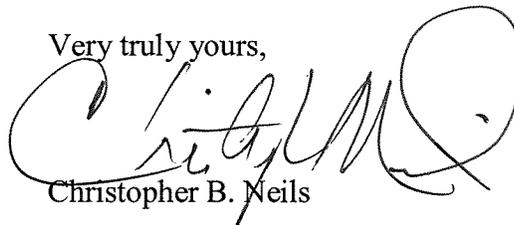
XpresSpa requests to be heard for a total not to exceed 15 minutes at the September 1, 2011 meeting of the Board in advance of its voting on the award of the lease for Retail Package #5. XpresSpa is also available to meet with individual members of the Board

SHEPPARD MULLIN RICHTER & HAMPTON LLP

San Diego County Regional Airport Authority Board
August 31, 2011
Page 9

prior to the September 1, 2011 Board meeting to answer any questions and provide additional information as requested.

I appreciate your attention to this matter. If you have any questions or comments, please contact me at (619) 338-6530 or my partner, Scott Roybal, at (213) 617-4226.

Very truly yours,

Christopher B. Neils

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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Attachments

cc: Thella F. Bowens, President/CEO, *via* hand delivery
San Diego Regional Airport Authority
3225 North Harbor Drive
San Diego, CA 92101

Breton K. Lobner, Esq., *via* hand delivery

Office of General Counsel
San Diego County Regional Airport Authority
P.O. Box 82776
San Diego, CA 92138

Scott F. Roybal, Esq.

EXHIBIT 1

Revenue to Airport & JOBS, JOBS, JOBS

San Diego Package #5 (2 Locations)	XpresSpa ⁽¹⁾	Spa Didacus (Be Relax) ⁽²⁾
Projected Rent (7 Years)	\$2,446,689	\$880,336
Projected Sales (7 Years)	\$20,856,263	\$7,937,517
Total Initial Investment	\$899,306	\$582,830
Mid Term Refurbishment	\$97,850	\$25,000
Total Positions	20	13
Employees	34	na
Projected Payroll & Benefits (7 Years)	\$9,133,438	\$3,468,904

1. Source: XpresSpa Proposal Binder 1 & 2
2. Source: SpaDidacus Proposal Binder 1 & 2.

XpresSpa-Sales Above \$1M per Location

Location	SALES (2010 Actual)	Square Footage
JFK 5	\$1,000,000	340
SFO 3	\$1,300,000	805
LAS D	\$1,300,000	1,132
DFW A	\$1,100,000	824
PHL C	\$1,100,000	1,061
JFK 4	\$2,000,000	1,952
JFK 7	\$1,800,000	1,317
JFK 1	\$1,500,000	1,152
DFW D	\$1,000,000	1,165
ATL A	\$1,500,000	2,284
ATL C	\$2,000,000	1,350
JFK 4 B	\$1,000,000	844

Location	SALES (Projected)	Sq. Ft.
SAN T2E	\$1,380,000	875
SAN T2W	\$1,032,072	582

Experience

As of May 2011 (Date of RFP Proposal)	XpresSpa	Spa Didacus (Be Relax)
US Locations	29	0
US Revenues (2010)	\$23,486,000	\$0.00
US Full-Service Spas	19	0
US Airports	13	0
Average Sales per Location (2010)	\$840,000	na
US Locations > \$1 Million (2010)	12	0
<u>San Diego Airport Retail</u> Experience	Casa Unlimited 2 SAN Retail Stores	NONE

1. Full-Service as defined by Spa Journal | annual directory offering full massage and nail and beauty services plus treatment rooms.

Concept

	XpresSpa	Spa Didacus (Be Relax)
San Diego <u>Sense of Place</u>	<ul style="list-style-type: none"> • San Diego Artists • San Diego Public Art Graphics • San Diego Tourism Information • San Diego Materials & Beach Glass • Sunset Cove theme • Local San Diego Retail products 	<p>NO EVIDENCE OF SAN DIEGO SENSE OF PLACE</p> <p>~Standard Corporate Design</p>
Green Initiatives	<ul style="list-style-type: none"> • “Green” construction materials, lighting; recycling initiatives • Green retail packaging initiatives • A unique Living Wall • Wind Energy Partnership 	NONE
Other Unique	<ul style="list-style-type: none"> • SEPHORA/LVMH PARTNERSHIP w/ Nail Art Boutiques • ARN Award for Customer Service • XpresSpa Membership of 50,000 • Gate Guru, Expedia, Advertising, Airline Partnerships • Mileage Awards With Purchases (“Thanks Again”) 	

EXHIBIT 2

NOTABLE DIFFERENCES BETWEEN THE PROPOSALS

Category	Be Relax d/b/a SPA Didacus, Inc.	XpresSpa
COMPANY BACKGROUND, EXPERIENCE, AND FINANCIAL CAPABILITY		
Rent	<p>Years 1-4: 10.5% Years 5-7: 11%</p> <p>Projected to pay MAG only in year 1. In year 2 they project paying only \$837 above MAG.</p> <p>Total estimated rent over the term is projected to be: \$783,266</p>	<p>Product Sales: 14%</p> <p>Service Sales: 11% up to \$2M; 12% over.</p> <p>Projected to pay more than double the MAG starting in Year 1 and accelerating from there.</p> <p>Total estimated rent over the term is: \$2,749,283 – almost \$2M higher</p>
Gross Sales	<p>Projections are at approx. \$1M per year.</p> <p>Based on the comp sales provided by BeRelax it appears they have no locations that generate more than \$1M</p>	<p>Projections are approx. \$2M per year.</p> <p>Reasonability of projections is well-founded, based on XpresSpa's long experience operating in the US market. Attachment C-2 provides comparable XpresSpa operations, all in major US airports (Atlanta, JFK and LaGuardia), which amply justify the projected gross sales that are set forth in the San Diego proposal.</p> <p>If, indeed, XpresSpa's projections were looked at unfavorably compared with a consultant's projections, we submit it is likely that there were flaws in the consultant's projections. It seems highly unlikely that the consultant was fully experienced in the nuances of the XpresSpa</p>

Category	Be Relax d/b/a SPA Didacus, Inc.	XpresSpa
		<p>business model, and without the benefit of seeing that report, we cannot demonstrate what flaws may exist.</p> <p>Presumably, in the airport consultant's effort to evaluate the "reasonableness" of the sales projections as provided for in evaluation criteria, they would have used benchmarks from airport spas in the United States.</p> <p>As of the time of the proposal submission we estimate there were 38 full-service spas in the U.S, over 30 of which are XpresSpas. Therefore any assessment of the reasonableness of US spa sales estimates would by definition have to rely heavily on XpresSpa benchmarks. Further, several other non-XpresSpa full-service airport spas are underperforming and their inclusion would be erroneous and not comparable to San Diego's expectations or XpresSpa's operations.</p> <p>Any disregard for XpresSpa's expertise and knowledge of spa sales potential in the U.S. would appear to be an indication of potential bias against XpresSpa.</p>

Category	Be Relax d/b/a SPA Didacus, Inc.	XpresSpa
<p>Proven ability to manage and generate projected sales.</p>	<p>We understand from its proposal that Be Relax generated only approximately \$647,520 in 2010 in its Frankfurt Terminal 2 location – an airport that has 2.2 Million enplanements.</p> <p>We understand that the Be Relax Frankfurt spa is approximately 1238 square feet, which equates to revenue of approximately \$523 per square foot.</p>	<p>In stark contrast, XpresSpa in 2010 generated approximately \$1.00 per enplanement at JFK Terminal 7 (\$1,835,000 in sales from 1,863,000 enplanements) or approximately \$1,400 per square foot.</p>
<p>Experience – Prime</p>	<p>At the time of its submittal, we understand that Be Relax had no actual experience operating in the US airport market. Any assertion that it "operated" two stores in BWI airport and one in Boston Logan was false.</p> <p>Be Relax had zero dollars in U.S. revenue from spa services at the time of the Proposal; zero spa services provided in U.S.; zero customers in the U.S.</p>	<p>At the time of its Proposal, XpresSpa had 30 operating locations. As of today, that number has increased to 33, and by Labor Day is projected to be at 36. Of these, all except three are in the US. XpresSpa grew up in the US airport environment. This is no small matter: XpresSpa has learned through years of experience that the US airport concession market is nothing like the European market. All aspects of the business, from the labor pool and labor expenses, to the legal framework, to cultural differences among customers and staff, all contribute to a very different experience which requires a steep learning curve. XpresSpa has operations in three European stores, all in Schiphol Amsterdam Airport. XpresSpa chose to learn the European market carefully by limiting its presence and growing gradually, with the understanding</p>

Category	Be Relax d/b/a SPA Didacus, Inc.	XpresSpa
		<p>that the differences between the two markets could lead to disastrous results—unless these differences are fully understood, appreciated and accounted for. There is no question that in the US market, XpresSpa is the leader.</p> <p>Though we have no access to the Be Relax financials presented in their Proposal, we are of the reasonable belief that XpresSpa’s aggregate gross sales dwarf those of Be Relax. There can be little question that XpresSpa is the more experienced player.</p> <p>Note, further, that XpresSpa has a global labor pool of approximately 600 employees, the vast majority of which are US-based. From the materials in the Spa Didacus proposal, it does not appear that the Be Relax labor pool approaches this number. Furthermore, XpresSpa has been operating spas in the unique market of California since 2005. The second spa in XpresSpa’s network was in San Francisco Airport. XpresSpa has since expanded its presence in San Francisco to 3 operating stores, with a fourth projected to open in August 2011; and a store in LAX that is projected to open by Labor Day 2011.</p>
Experience – ACDBE Partner	The Be Relax ACDBE partner is a food and beverage concessionaire which has operated	XpresSpa’s ACDBE partner has operated <i>exclusively</i> in the high-volume airport

Category	Be Relax d/b/a SPA Didacus, Inc.	XpresSpa
	<p>primarily in small, low-volume airport venues. The cited experience is in the airports of Panama City, FL; Oklahoma City; Phoenix Sky Harbor International; St. Petersburg, FL; Fort Wayne, IN; and, as of May 2011, Santa Barbara. Of those, only Phoenix Airport is comparable to San Diego International. The Be Relax ACDBE partner appears from the proposal to have no experience in San Diego International Airport.</p>	<p>environment, with a plethora of stores in both Phoenix Sky Harbor International Airport as well as San Diego International Airport.</p>
ACDBE Certification / Experience	<p>The Be Relax ACDBE partner is certified as Food Service Contractor – Eating & Drinking Places. This does not appear to be an appropriate certification for a partner in a spa business.</p>	<p>XpresSpa's ACDBE partner is certified as Airport Concessionaire – Gift, Novelty, and Souvenir Shop. This certification demonstrates experience which is directly on point with retail sales, a key component of the ideal spa package offering. XpresSpa knows from long experience that retail products add "take-along value" to customers which keep them coming back every time they fly through the airport. XpresSpa's ACDBE partner is qualified to drive this key component of the business.</p>
DESIGNS, MATERIALS, AND CAPITAL INVESTMENT		
Investment per Sq. Ft.	\$400 per square foot	\$617 per square foot. The XpresSpa model places a premium on construction of our facilities. The beautiful environs are what attract our customers and what create a loyal

Category	Be Relax d/b/a SPA Didacus, Inc.	XpresSpa
		<p>fan base of repeat visitors. From the start, XpresSpa has sought to create an "oasis of tranquility" away from the stresses of the airport environs. XpresSpa has demonstrated, time and again, that its investment in premium construction has paid dividends for the spa, the customers, and the airport.</p> <p>A lesser investment per square foot inevitably results in a "cheap" looking environment, doing a disservice to both the airport and its passengers.</p>
<p>Repeatedly throughout the RFP and public presentations, the Authority emphasized the importance of the concession program to create a "sense of place."</p> <ul style="list-style-type: none"> • Design Strategy: Integrate Advertising and Art • Design Strategy: Unique design that represents San Diego • The Authority's airport-wide Concession Development Program is intended to provide an inviting and memorable experience with concessions that are original and representative of 	<p>From the renderings and proposal text, it appears that Be Relax offered its standard European Corporate brand and design with zero unique elements identified with San Diego. No "sense of place."</p>	<p>XpresSpa incorporated extensive use of San Diego design elements that celebrate the vibrant San Diego community. There is no mistaking that you are in San Diego when in our spa.</p> <ul style="list-style-type: none"> • Local Hand-blown Light fixtures from local artists • San Diego graphics of local public art sculptures • San Diego tourism information on our video displays • Local Beach Glass incorporated into the design • Sunset Cove theme recognition • Local San Diego Retail products

Category	Be Relax d/b/a SPA Didacus, Inc.	XpresSpa
<p>San Diego and the region.</p> <ul style="list-style-type: none"> • Concession programs establish a "sense of place" and provide an experience that is unique to the geographic area • Upon arrival offer them a glimpse of what the local community is like • Airport concession programs serve as a vital extension of the local community • Concessions playing a vital role in establishing the identity of the airport brand itself • The concessions in Sunset Cove are included in this RFP and should provide passengers with a memorable "San Diego" experience, in a town center environment. • The concessions will provide airport passengers and the public with a unique and comprehensive experience that captures the true spirit of and commitment to the San Diego region. 		

Category	Be Relax d/b/a SPA Didacus, Inc.	XpresSpa
<ul style="list-style-type: none"> The Authority's airport-wide Concession Development Program is intended to provide an inviting and memorable experience with concessions that are original and representative of San Diego and the region. 		
<p>Green Build / Sustainability – The Airport, through the Green Build project will pursue Leadership in Energy and Environmental Design (LEED) silver certification.</p> <p>Goals of the project's sustainable design include decreased water usage, reduced energy consumption and use of alternative energy sources.</p>	<p>Zero Sustainability Initiatives</p> <p>Be Relax has proposed a cookie-cutter design that mimics their European operations and presents no apparent environmental benefits.</p>	<p>XpresSpa has gone above and beyond and shares the Airport's priorities and values to be the greenest airport and greenest spa in the country.</p> <p>XpresSpa's proposal is replete with sustainability initiatives that are beneficial to the environment and in tune with the desires of much of the local demographic. Notably, the XpresSpa proposal points to "Green" construction materials; lighting; recycling initiatives; waste reduction initiatives; Green retail packaging initiatives; a unique Living Wall feature that provides a beautiful aesthetic while reducing energy loads; and a collaboration with a Wind Energy Generation company.</p>

Category	Be Relax d/b/a SPA Didacus, Inc.	XpresSpa
MANAGEMENT, STAFFING PLAN, AND TRAINING		
Staffing	<p>Be Relax has a very low level of employees to offer services:</p> <p>T2E-2020: 2 Managers plus 2 employees (4 total); ONLY 2 Per shift – ONLY 1 Manager plus 1 Employee</p> <p>T2W-2006: 2 Managers plus 6 technicians (8 total); ONLY 4 Per shift – ONLY 1 Manager plus 3 Technicians</p> <p>Insufficient labor can translate into poor service, long lines, waiting, underperforming real estate, low sales.</p> <p>This could be interpreted as yet another sign that Be Relax is not familiar with the U.S. market and has much to learn.</p>	<p>T2E-2020: 1 Manager, 2 Assistant Managers, 6 Technicians (9 total); 5 employees per shift</p> <p>T2W-2006: 1 Manager, 2 Assistant Managers, 8 Technicians (11 total); 8 employees per shift to maximize service to passengers and revenue to the city.</p> <p>XpresSpa is planning for twice as many jobs, twice as many employees, twice the level of service, and twice the level of revenue.</p> <p>XpresSpa, in all of its airport spas nationwide, hires the most local talent of any concessionaire per square foot. XpresSpa's proposal will bring many more jobs to San Diego than Be Relax. XpresSpa's greater labor pool will ensure a superior experience for San Diego customers. Spa customers go to spas to feel pampered, treated well. Only a large enough staff can ensure that passengers aren't "left out in the cold" while waiting for a service.</p> <p>XpresSpa knows the amount of labor ideally required in the US spa environment, and is committed to maximizing the number of jobs it can bring to the San Diego region.</p> <p>Furthermore, XpresSpa is supported by a</p>

Category	Be Relax d/b/a SPA Didacus, Inc.	XpresSpa
		US-based back-office support staff of over 25 individuals in the corporate office, as well as at least 4 individuals in the office of our ACDBE partner. By contrast, Be Relax has no significant US support staff beyond its ACDBE partner and a small office that is believed to be staffed by no more than one (1) individual in Maryland.
MINIMUM QUALIFICATIONS		
Good Faith Efforts documentation, required by Revised Attachment M of the RFP.	Not included.	Included and requirement satisfied.
Administrative (All Applicable Forms) – Attachment B – Business Organization Statement	Statement does not appear to be signed. Also, statement alludes to receipt of 3 addenda when there were in fact 4.	No errors.

EXHIBIT 3



COMPARABLE LOCATIONS

SAN DIEGO SALES PROJECTION

			A	B	C	D = C / B	E = A X D	F	G = F / E	H	I = H / F
YEAR	LOCATION	Area Square Feet	Enplanements	Total Gates	Adjacent Gates	% of Total Adjacent Gates	Enplanements Exposed (Available)	Actual Customers Per Year	Capture Rate % Exposed Enplanements	Actual Sales Per Year	Average Customer Purchase
2010	JFK 5	320	5,977,360	25	6	24%	1,434,566	22,912	1.60%	\$ 970,751	\$42.37
2010	SFO 3	805	10,312,893	41	10	24%	2,515,340	30,224	1.20%	\$ 1,275,741	\$42.21
2010	JFK 4B	844	2,711,576	11	10	91%	2,465,069	28,559	1.16%	\$ 999,568	\$35.00
2010	DFW A	824	7,043,208	39	10	26%	1,805,951	24,923	1.38%	\$ 1,058,954	\$42.49
2010	DFW D	1,165	6,441,499	40	10	25%	1,610,375	22,432	1.39%	\$ 980,787	\$43.72
2010	PHL C	1,061	3,282,714	16	15	94%	3,077,544	26,286	0.85%	\$ 1,135,210	\$43.19
2010	LAS D	1,132	7,182,568	58	13	22%	1,609,886	31,425	1.95%	\$ 1,317,083	\$41.91
2010	AVERAGE 7 XpresSpa	879	6,135,974				2,074,104	26,680	1.29%	1,105,442	\$41.43

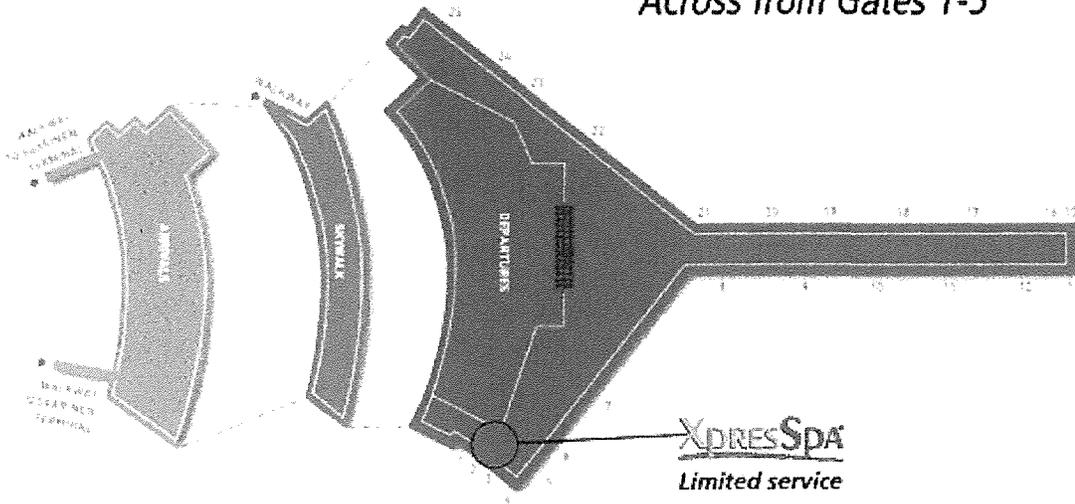
To make historical actual sales comparable to the San Diego locations that will open in 2012 and 2013 respectively

Growth Assumptions Per Year		3.0%		3.0%		3.0%					
2012	AVERAGE XpresSpa	879	6,509,655			2,200,417	30,029	1.36%	\$ 1,319,956	\$43.96	
2013	AVERAGE XpresSpa	879	6,704,944			2,266,430	31,857	1.41%	\$ 1,442,351	\$45.28	
San Diego Locations:											
2012	T2E-2020	875	1,467,000	11	9	82%	1,200,000	23,467	1.96%	\$ 1,056,000	\$45.00
2013	T2W-2006	582	3,562,000	19	16	84%	3,000,000	30,667	1.02%	\$ 1,380,000	\$45.00

United Airlines merger with Continental expected to cause relocation to T2 from T1

NEW YORK JFK INT'L AIRPORT

Terminal 5 *Across from Gates 1-5*



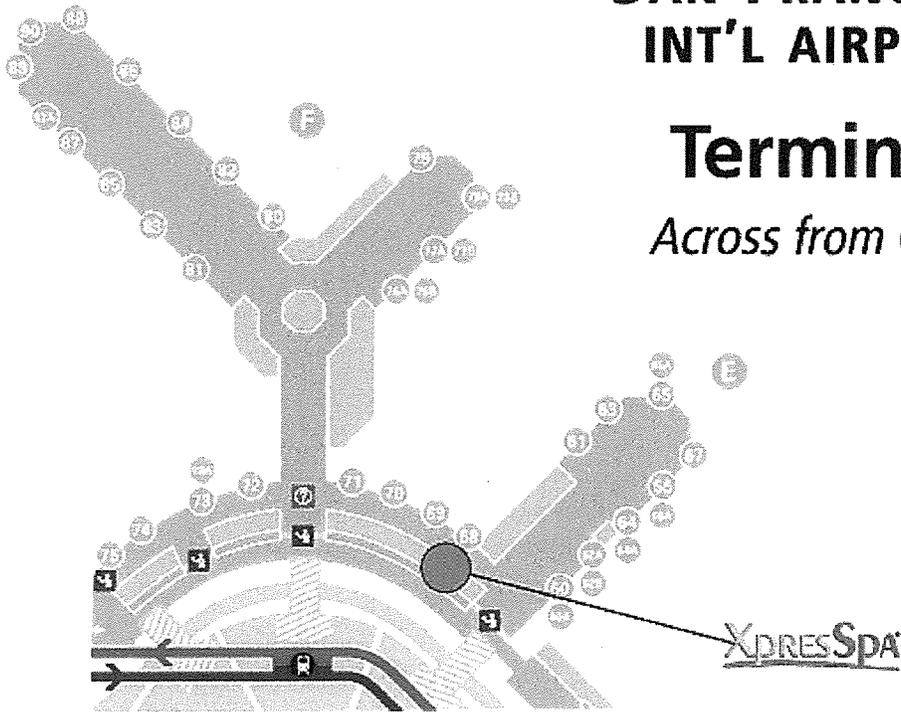
John F. Kennedy Int'l Airport (JFK) - JetBlue Terminal 5, Across from Gates 1-5

Tel: (718) 995-5329

SAN FRANCISCO INT'L AIRPORT

Terminal 3

Across from Gate 68



San Francisco Int'l Airport (SFO) - Terminal 3, Gate 68

Tel: (650) 821-8530

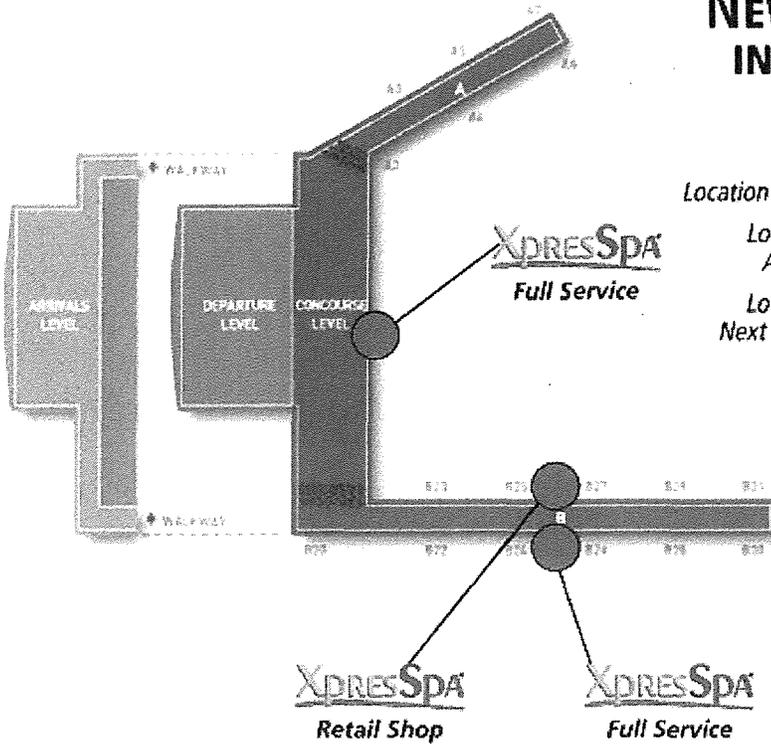
NEW YORK JFK INT'L AIRPORT

Terminal 4

Location 1: Main Atrium, Pre-Security

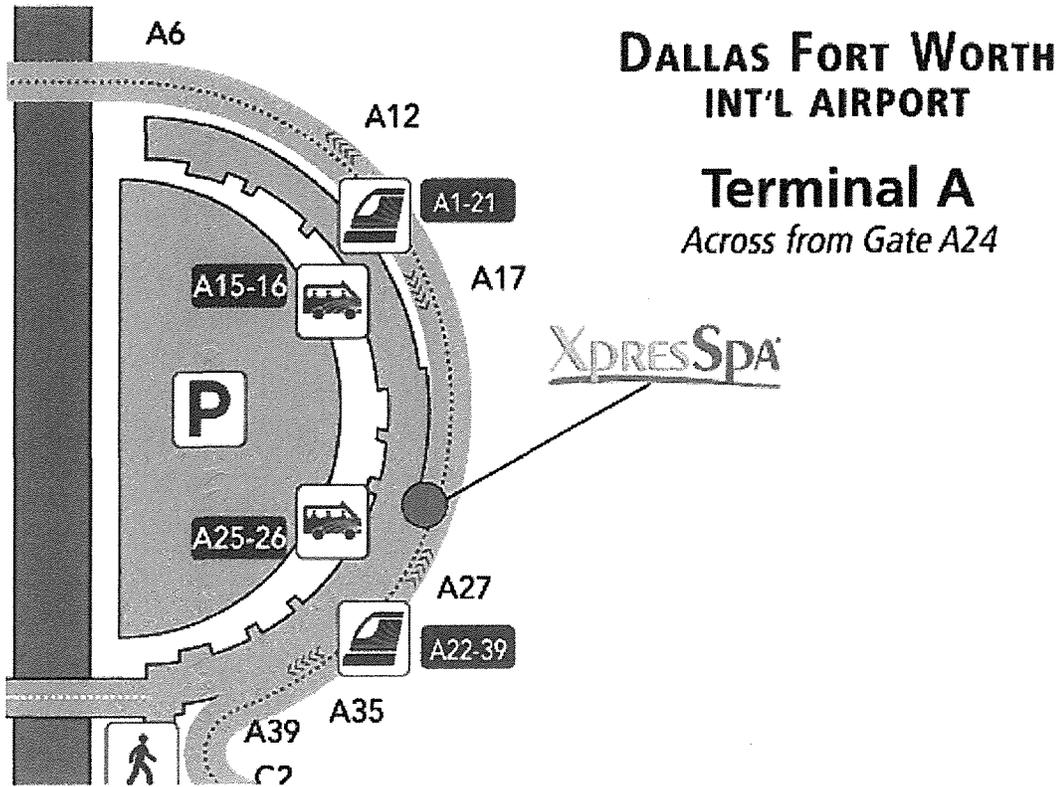
*Location 2: Concourse B,
Across from Gate B25*

*Location 3: Concourse B,
Next to Gate B25, Retail Shop*



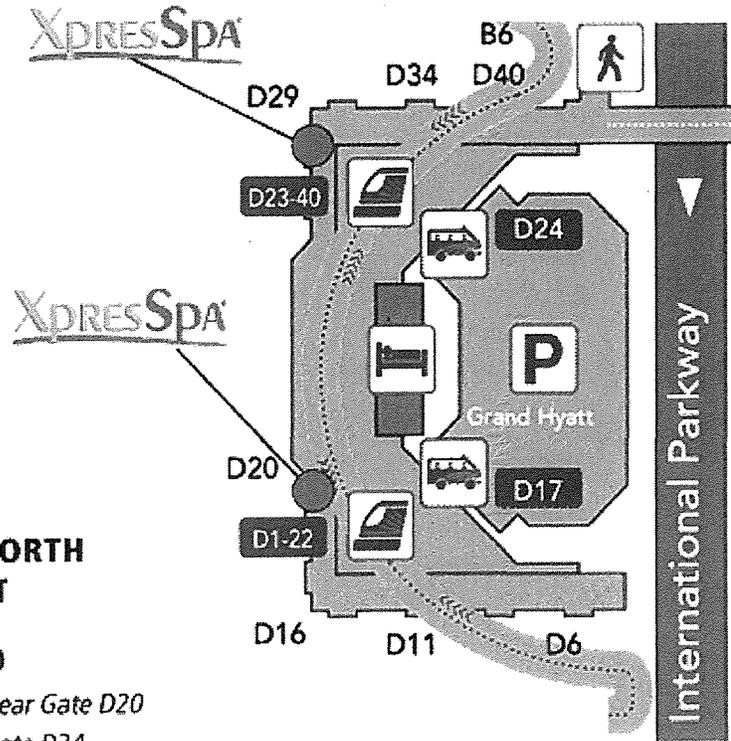
Terminal 4 - Concourse B, across from Gate B25

(718) 751-4630



Dallas/Fort Worth Int'l Airport (DFW) - Terminal A, across from Gate A24

Tel: (972) 456-2771



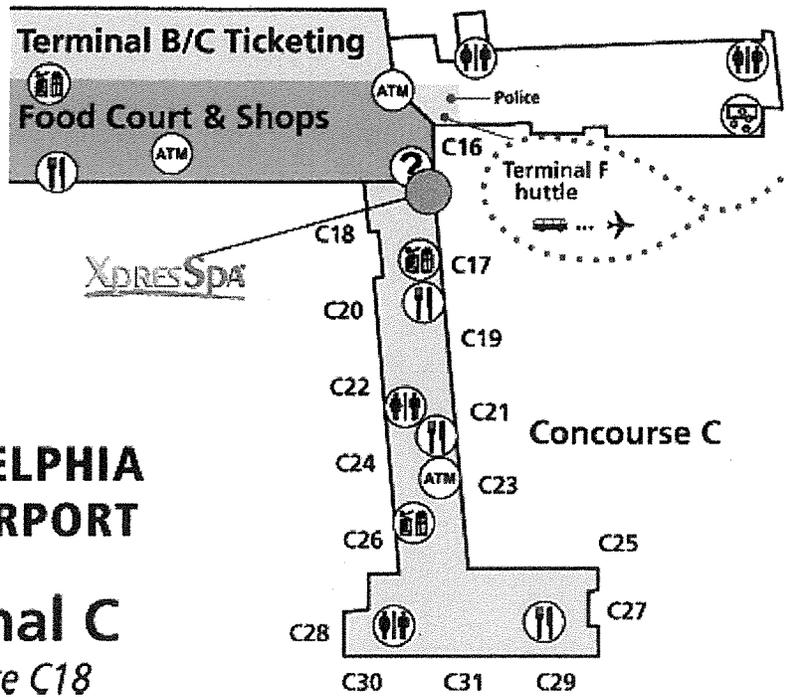
**DALLAS FORT WORTH
INT'L AIRPORT**
Terminal D

Location 1: South Retail Hall Near Gate D20
Location 2: Kiosk, Near Gate D24

Dallas/Fort Worth Int'l Airport (DFW) - Terminal D, South Retail Hall Near Gate D20

Tel: (972) 973-4466

**PHILADELPHIA
INT'L AIRPORT**
Terminal C
Near Gate C18



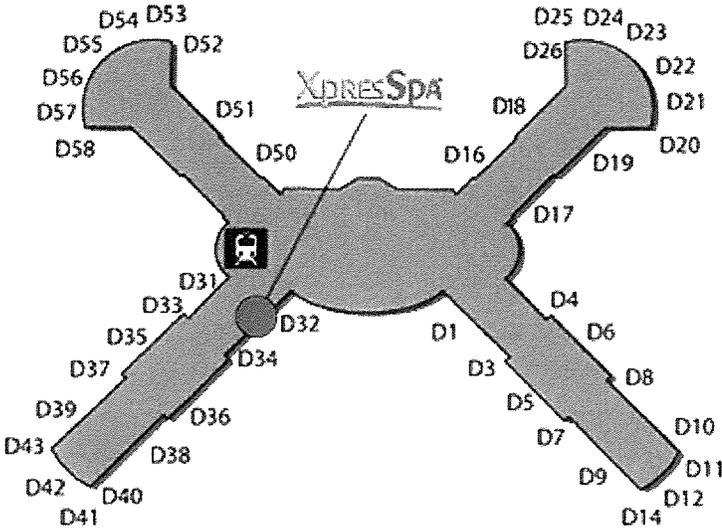
Philadelphia Int'l Airport (PHL)- Terminal C, near Gate C18

Tel: (215) 365-2515

**LAS VEGAS, McCARRAN
INT'L AIRPORT**

Terminal D

Near Gate D32



Las Vegas McCarran Int'l Airport (LAS)

Terminal D, near Gate D32

EXHIBIT 4



Comparison of Actual Results Achieved versus RFP

San Diego Sales Comparison

Airport	XpresSpa RFP Sales Estimate	Actual
JFK T5 Jet Blue (Near Gates 1-5)	\$644,879 (From XpresSpa RFP Submittal Year 3 (~2010) sales estimate.)	\$970,751 (2010 XpresSpa Actual Sales)
San Francisco Terminal 3 (Gate 68)	\$1,101,214 (From XpresSpa RFP Submittal Year 3 (~2010) sales estimate.)	\$1,275,741 (2010 XpresSpa Actual Sales)
Las Vegas Terminal D (Gate D32)	\$1,322,001 (From XpresSpa RFP Submittal Year 3 (~2010) sales estimate.)	\$1,317,083 (2010 XpresSpa Actual Sales)
Dallas Fort Worth A (Gate A 24)	\$717,119 (From XpresSpa RFP Submittal Year 3 (~2010) sales estimate.)	\$1,058,954 (2010 XpresSpa Actual Sales)

ITEM 11

Be Relax World Headquarters
SPA DIDACUS, Inc
Executive Plaza I
11350 McCormick Road, Suite 502
Hunt Valley, Maryland 21031

Frederic Briest
Chief Executive Officer
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Facsimile: 410-771-9660
fbriest@berelax.com
www.berelas.com

August 24, 2011

Ms. Thella F. Bowens, President/CEO
San Diego Regional Airport Authority
Authority Procurement Department
3225 North Harbor Drive
San Diego, CA 92101

RE: Response to "Protest of Award" for Concession Retail Package #5

Dear Ms. Bowens:

Our company, SPA DIDACUS, Inc, a subsidiary of BE RELAX, is proud to have been selected for the award of Package 5 (Spa services) by the Airport Authority Evaluation Panel. We are committed to bringing to San Diego the unique European Spa experience we have already introduced at 27 airport locations in Europe and 3 locations in the U.S.

The purpose of this letter is to respond to the issues raised by the protesting party, XpresSpa, during the Authority Board meeting on August 4, 2011. There were six main issues raised in the handout presented by the protesting party:

- Revenue projections
- Employment projections
- Comparative locations
- Experience
- Concept
- Green Initiatives

Revenue Projections

XpresSpa's revenue "projections" do, in fact, exceed those of SPA DIDACUS. However, the projections from XpresSpa are unrealistic and recklessly overstated. For example, XpresSpa proposes first year sales of \$1,380,000 at San Diego's T2E. Meanwhile, their comparably sized Spa at JFK 4B generates sales of only \$1,000,000 annually, and their store at DFW A generated only \$1,100,000. To add some perspective, JFK saw 46,495,876 passengers in 2010; DFW reported 56,905,066 passengers, while San Diego saw 18,125,163 passengers. In addition, JFK and Dallas are both hub airports meaning their transit passengers also have a longer dwell time than in SAN.

It would have been more realistic to compare San Diego with airports like Pittsburgh and Raleigh Durham. The protesting party, XpresSpa, operates in both those locations and their own figures report 2009 sales of \$397,000 for PIT, and \$664,000 for RDU. SPA DIDACUS projects San Diego sales of \$1,033,207 for the first year. While we appreciate lofty goals, we want a relationship with SDIA that is based upon realistic expectations. Indeed, we credit due diligence and realistic forecasts as the primary reasons that BE RELAX/SPA DIDACUS has never had to close a store site.

We believe that your Minimum Annual Guarantee reflects a more accurate assessment of the market in San Diego. Our sales forecasts remain forecasts and the rent will automatically rise in case of over-performance. BE RELAX / SPA DIDACUS offers achievable, guaranteed revenues – not theoretical sales numbers and rents intended for RFP purposes.

Employment Projections

Given the revenue projections outlined above and our current experience at BWI, we stand by our employment projections of approximately 20 employees filling 13 positions, with an average salary of \$18.00 per hour. SPA DIDACUS pays above the industry average, resulting in very low turnover, and employees who are motivated to provide the best customer service.

Comparative Locations

Not a single location cited by XpresSpa on page 2 of their handout (presented at August 4 Board meeting) is comparable to San Diego. Atlanta is rated #1 nationally in passenger volume, Dallas is #4, JFK is #6, Las Vegas is #7, while San Diego is #28. This is an apples to oranges comparison, hoping that no one will be the wiser. The sales statistics we provided in our RFP response came from airports comparable to San Diego.

While not pertinent to the RFP, we would like to point out for the record that BE RELAX also enjoys outstanding sales at our larger locations (with high traffic and international passengers) such as our store at London Heathrow T5A which averages more than \$3,500.00 in sales revenue per square foot per year – almost 16% higher than that of XpresSpa's top performing store, JFK 5 (\$2,941 per sq. ft.).

Experience

BE RELAX operates 27 spa stores in Europe and three in the U.S. – two at BWI, and our newest store at Boston Logan opening in September 2011. While we are relatively new

to the U.S. market, our brand in Europe signifies quality and service as evidenced by our selection as “#1 Shop” by Mystery Shopper at London Heathrow, and our “Most Innovative Store” award at Frankfurt Airport.

Our certified ACDBE partner, Ms Tasneem Vakharia, is a U.S Citizen and a San Diegan. She is President of First Class Concessions, a San Diego company with operations at U.S. Airports large and small, including Phoenix Sky Harbor, Will Rogers World Airport, Northwest Florida Beaches International Airport, and Santa Barbara Airport. Ms. Vakharia has built First Class Concessions around first class customer service. Tasneem also brings first hand knowledge of both San Diego and the needs of the travelling public. BE RELAX / SPA DIDACUS chose Ms. Vakharia for her outstanding reputation and commitment to customer service.

Concept

From our very first Spa design, BE RELAX / SPA DIDACUS has recognized the challenge of creating an elegant Spa concept inside a busy airport environment. To help us solve this problem, we sought help from one of the best. Our architect is Jean Michel Wilmotte, designer of the Champs Elysees in Paris, and ranked as one of the leading architects in the world. To design our cosmetic products line, we turned to Jean Grisoni, logo designer for Christian DIOR.

At the same time, we suggest that the quality of airport stores cannot be measured solely by cost per square foot of construction. Our proposed investment of \$582,800 uses a cost efficient approach based upon fair pricing of construction costs, but does not include transfer of exaggerated internal overhead costs.

Please note also that the protester incorrectly stated that our mid-term refurbishment would be \$25,000 while our RFP submittal proposed \$65,000.

All that being said, we think the public’s reaction to our stores is the best indicator of our ability to present the right concept. Regarding our two locations at Baltimore/Washington International Airport, *Airmail Magazine* said,

“This major airport retail management company has insisted on the quality of the BE RELAX design that has no equivalent in the USA.”

Green Initiatives

With regard to green initiatives, I would offer you our track record for building 10 locations in two countries with the most strict green regulations in the world – Germany and Switzerland. In both places, authorities regularly check your garbage and issue fines for improper disposal; the airport dictates which building materials are allowed; and delivery trucks are restricted in size in order reduce pollution and gas consumption. We are completely comfortable operating in these environments, and have made it a policy to apply the highest environmental standards in our U.S. stores, including energy saving bulbs and appliances, and green construction products like paint and fixtures.

Conclusion

BE RELAX / SPA DIDACUS, together with our ACDBE partner First Class Concessions are thrilled about the opportunity to be part of SDIA's novel concession program that will set a new standard for airports around the country. We commit to providing the same high standards in San Diego that BE RELAX is known for throughout Europe, and we look forward to contributing to the success of San Diego International Airport. If you have any additional questions, we will be happy to respond at the Board Meeting on September 1, 2011.

Best Regards,

A handwritten signature in black ink, appearing to read "Frederic Briest". The signature is fluid and cursive, with a long horizontal stroke at the end.

Frederic Briest

Cc: Board members
Nyle Marmion

Be Relax World Headquarters
SPA Didacus, Inc.
Executive Plaza I, Suite 502
11350 McCormick Road
Hunt Valley, Maryland 21031

Frederic Briest
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www.berelax.com

Thella F. Bowens, President/CEO
San Diego Regional Airport Authority
Authority Procurement Department
3225 North Harbor Drive
San Diego, CA 92101

July 30, 2011

RE: Response to Protest of Award for Concession Retail Package #5, Submitted by XpresSpa

Dear Ms. Bowens:

Our company, SPA DIDACUS, Inc is honored to have been selected by the Airport Authority Evaluation Panel for the award of Package 5 (Spa services) of the Retail Concession RFP. We look forward to the opportunity to bring to San Diego the same world class SPA services that we currently operate at other major world airports.

However, on July 23rd, 2011, we received the protest letter from XpresSpa regarding the award of Package 5. The letter from XpresSpa attempts to establish that the Airport Authority's selection process was poorly managed and flawed, and that the submittal provided by SPA DIDACUS was non-responsive. While we have found the RFP process to be competitive and thorough, we will limit our comments in this letter to the truly relevant points and particularly to the accusations that the submittal from SPA DIDACUS was non-responsive.

SPA DIDACUS is a subsidiary of Be Relax, which has operated SPA services in airports for more than 7 years (Be Relax was founded in 2004) at sites including Paris CDG, London Heathrow or Roma Fiumicino. Our professionalism and the impeccable quality of our services have been recognized by major airport authorities worldwide, and is supported by recent mystery shopper reports at London Heathrow (we ended with 100% satisfaction and were ranked 1st shop of the entire airport), Paris CDG or Manchester Airport. Moreover, at

Frankfurt Airport where Be Relax has received a “Most Innovative Store” Award each of the past two years.

Our certified ACDBE partner, Ms Tasneem VAKHARIA, is a U.S Citizen, a San Diegan, and is President of First Class Concessions, a San Diego company with operations at U.S. Airports large and small, including Phoenix Sky Harbor, Will Rogers World Airport, Northwest Florida Beaches International Airport, and Santa Barbara Airport. Ms. Vakharia has built First Class Concession around first class customer service. Ms. Vakharia brings first had knowledge of San Diego and the needs of the travelling public. SPA DIDACUS chose Ms. Vakharia for her outstanding reputation and commitment to customer service. **Service remains our core business and our ability to provide the highest customer satisfaction explains our high retail market share that has no equivalent in our industry. Be Relax aims at always reaching 100% satisfaction.**

Please know that Be Relax is no stranger to the U.S. Frederic BRIEST, Be Relax CEO, studied (Dean’s List at the University of Chicago) and worked in the US, as did his entire family, and most of our executives have been educated, employed or have had regular business relationships with companies in the United States.

With regard to the issue of our experience at U.S. Airports, San Diego will be our third major U.S. presence. Earlier this year, Be Relax opened two new Spa stores at BWI Airport, employing a total of more than 20 people. We also recently won a location at Boston Logan Airport Terminal C. We are under construction with that site and will open in late September. San Diego is our third presence in the U.S., adding to Be Relax's 27 other locations worldwide.

XpresSpa offers many misleading statistics and comparisons in its letter, but the most egregious is its frequent attempt to compare apples to oranges. It is misleading to use sales and customer data from JFK or Atlanta as a bench mark for anticipated performance in San Diego. We believe that your consultant would agree that to do so creates false expectations and an airport concession program doomed to fail. A comparison with airports like BWI, St. Louis, or Raleigh Durham would have been more realistic and accurate.

While we all aspire to greatness, using improper bench marks leads to unrealistic forecasts and unrealistic expectations. We believe that your Minimum Annual Guarantee reflects a more honest assessment of the market in San Diego. Our sales forecasts remain forecast and the rent will automatically rise in case of over performance. Be Relax offers guaranteed revenues to airports and not theoretical sales numbers and rents intended for RFP purposes.

Regarding the issue of investment per square foot, I assure you that Be Relax’s cost efficient approach is based on fair pricing of construction costs and rejects all exaggerated transfer of internal architectures costs. Moreover, the Be Relax design is praised for its unique features. Our coherent and elegant shops, designed by Jean-Michel WILMOTTE, Architect of the Champs Elysées, and Jean GRISONI (Christian DIOR), reflect our commitment to offering an unsurpassed Spa environment that defines the ultimate passenger experience. We are proud of the comments from *Airmall* magazine for our stores at BWI:

“This major airport retail management company has insisted on the quality of the Be Relax design that has no equivalent in the United States.”

With regard XpresSpa’s accusations that our proposed staffing levels are inadequate, this claim conflicts with independent industry measures of our performance such as mystery shopper surveys and our reputation for providing personalized customer service. Truly, our customers tell the story. We would never have been able to capture such a large share of the Airport SPA market without having earned the respect of our customers and the airports in which we operate.

In addition, Be Relax is able to retain outstanding employees by paying fair wages and investing in training. We are fortunate to have found a partner, First Class Concessions, that shares the same commitment and philosophy. That translates to minimal employee turnover, and the kind of motivated, service-oriented employees that SDIA would like to see in all its concession operations.

In conclusion, Be Relax (SPA Didacus), together with our ACDBE partner First Class Concessions, stands by the integrity of our submittal which we believe to be completely responsive to the Airport Authority’s RFP. We are extremely excited about a partnership with SDIA and the opportunity of bringing our previous successes to San Diego to develop the first class SPA facilities that San Diego travelers deserve and expect. Our CEO, Mr. Frederic Briest will be attending the Airport Authority meeting on August 4, and will be available to answer any additional questions that you may have. In the meantime, if you need additional information or assistance, please do not hesitate to contact me. Recognizing that the time difference between San Diego and Paris may pose a challenge, you may also contact our representative in San Diego, Mr. Jack Monger whose cell number is 619 922-7200 and office number is 619 522-9000.

Thank you for your consideration.

Sincerely,

Frederic Briest
CEO

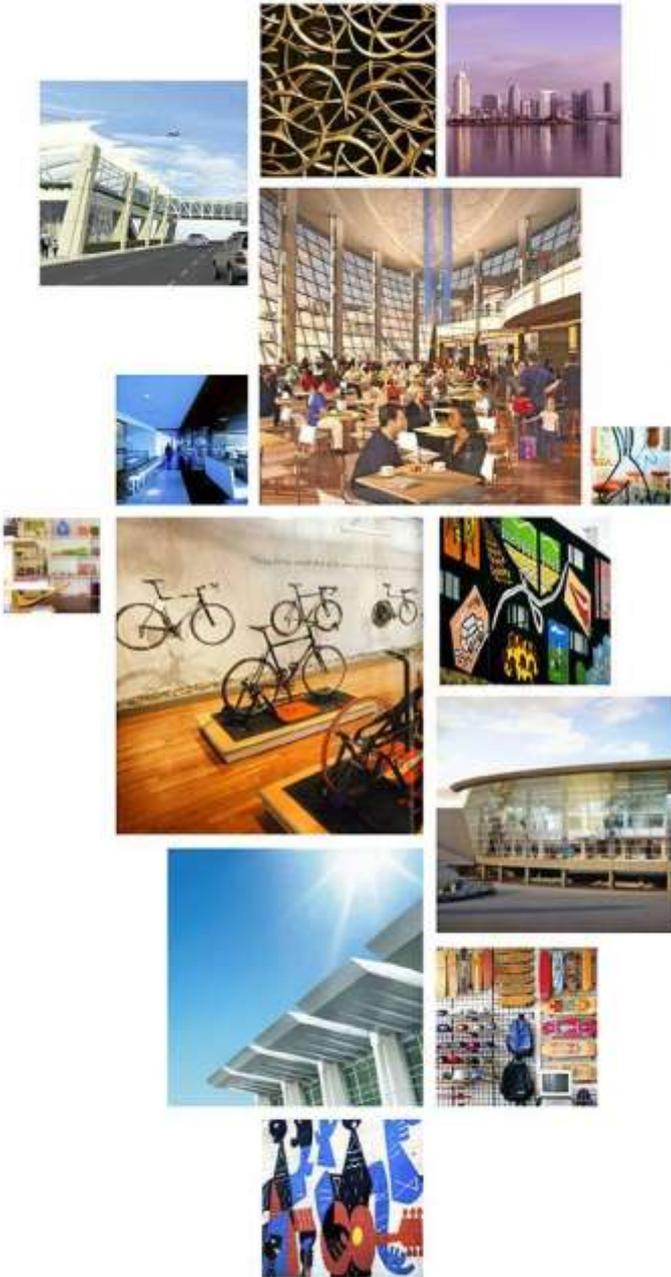


SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

**CONCESSION DEVELOPMENT PROGRAM (CDP)
GRANT A CONCESSION LEASE TO SPA
DIDACUS, INC. (A JOINT VENTURE) FOR
DEVELOPMENT AND OPERATION OF RETAIL
PACKAGE #5**

Vernon D. Evans
Vice President, Finance

September 1, 2011





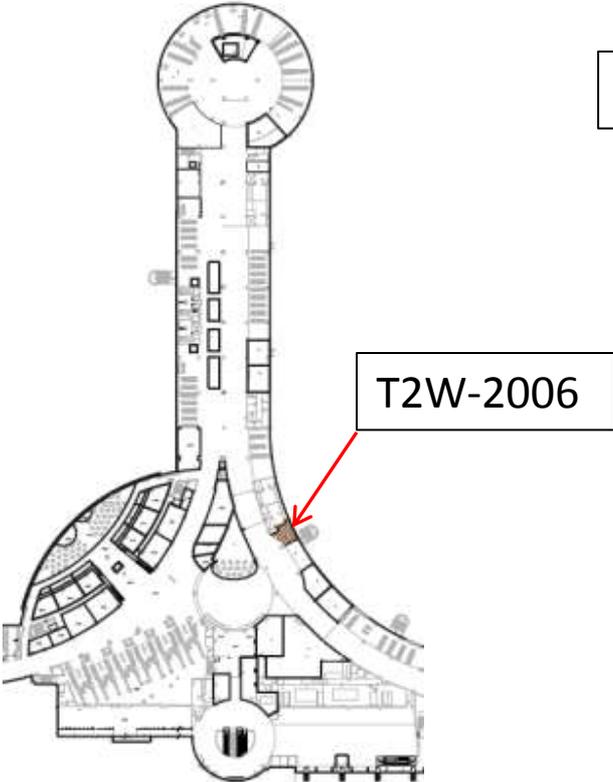
SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Retail Package 5

Unit Count	Unit Number	Location	Square Footage	Concept
1	T2E-2020	T2E Post-Security	875	Spa Service
1	T2W-2006	T2W Core	582	Spa Service
2			1,457	

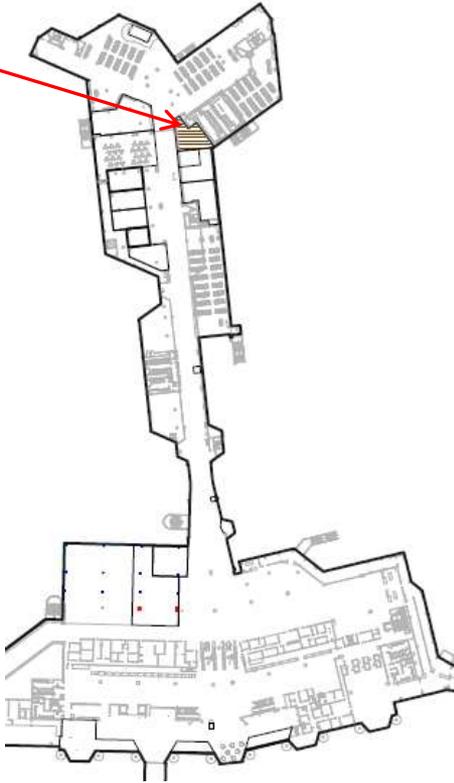
RETAIL PACKAGE 5

Terminal 2 West



Terminal 2 East

T2E-2020





SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Retail Package 5: Minimum Requirements

**Minimum Investment in Fixed Improvements
per Square Foot**

\$300

**Percentage Rent
(Biddable within Provided Range)**

10.50% to 14.00%

**Minimum Annual Guarantee (MAG)
(Fixed)**

\$119,000



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Retail Package 5 Proposers

Spa Didacus, Inc. (Spa Didacus)	Proposed business entity is comprised of a joint venture between Spa Export SARL (74% ownership) and First Class Concessions (26% ownership)
XpresSpa San Diego Airport, LLC (XpresSpa)	Proposed business entity is comprised of a joint venture between XpresSpa (74% ownership) and Casa Unlimited Enterprises, Inc.(26% ownership)



SAN DIEGO INTERNATIONAL AIRPORT
 Concession Development Program

Retail Package 5

Proposed Concepts by Proposer

Location	T2E-2020	T2W-2006
Square Feet	875	582
Proposer	Concepts	
Spa Didacus	Be Relax	Be Relax
XpresSpa	XpresSpa	XpresSpa



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Retail Package 5 Financial Offer

Proposer	Proposed Percentage Rent	Year One MAG
Spa Didacus	(years 1-4) 10.5% (years 5-7) 11%	\$ 119,000
XpresSpa	\$0-\$2.0M 11% Over \$2.0M 12% Retail Sales 14%	\$ 119,000



SAN DIEGO INTERNATIONAL AIRPORT
 Concession Development Program

Retail Package 5 Evaluation Panel Rankings

Proposer	PM1	PM2	PM3	PM4	PM5	PM6	Total
Spa Didacus	1	1	1	1	2	2	8
XpresSpa	2	2	2	2	1	1	10

PM = Panel Member

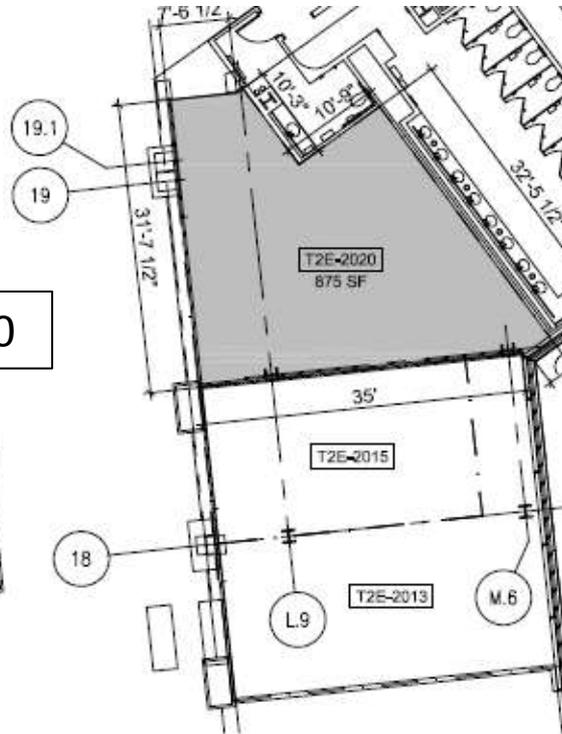
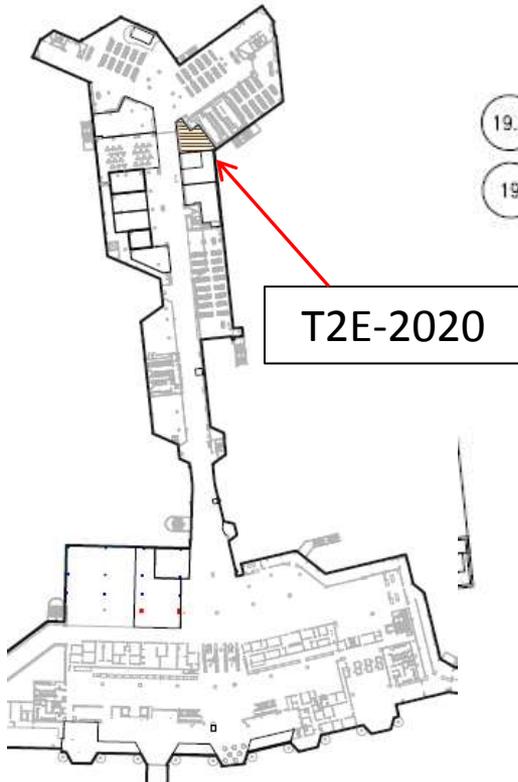
“1” is (best suited) ; “2” (next best suited)

Lowest Total = Best Suited

RETAIL PACKAGE 5

T2E-2020 – 875 SF

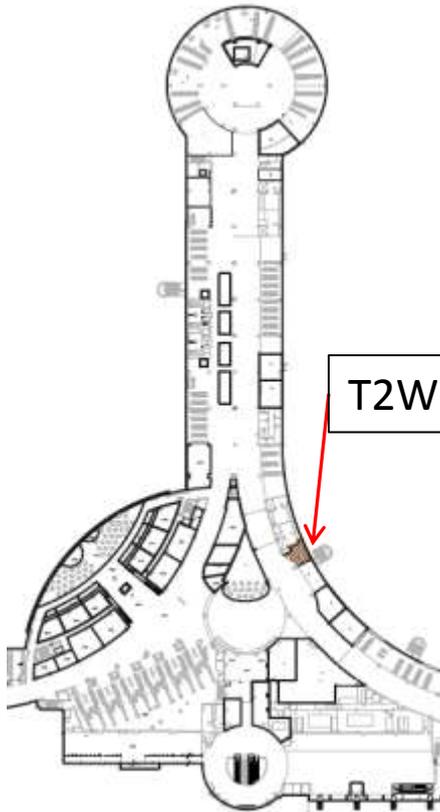
Terminal 2 East



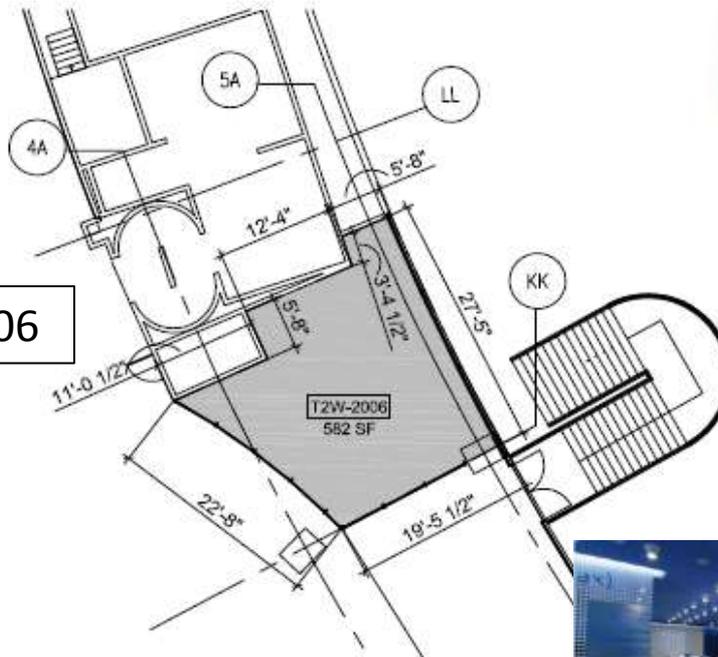
RETAIL PACKAGE 5

T2W-2006 – 582 SF

Terminal 2 West



T2W-2006



Retail Pkg 5: Be Relax Spa (2 locations)





SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Retail Package #5 Summary

Recommendation for Award of Lease:

- Spa Didacus, Inc. (Spa Didacus)

ACDBE% - 26%

Worker Retention:

Spa Didacus will meet minimum retention standards established in “Worker Retention Program Resolution 10-0142R”



SAN DIEGO INTERNATIONAL AIRPORT
 Concession Development Program

2010 XpresSpa Sales

Presented to Board by XpresSpa August 4, 2010

Location	Sales
JFK 5	\$ 1.0M
SFO 3	\$1.3M
LAS D	\$1.3M
DFW A	\$1.1M
PHL C	\$1.1M
JFK 4	\$2.0M

Location	Sales
JFK 7	\$ 1.8M
JFK 1	\$1.5M
DFW D	\$1.0M
ATL A	\$1.5M
ATL C	\$2.0M
JFK 4 B	\$1.0M

- All large Hub Airports with significant international enplanements
- The 2010 sales represented above were not presented in the response to the RFP by XpresSpa except for ATL C and JFK 7.



SAN DIEGO INTERNATIONAL AIRPORT Concession Development Program

XpresSpa RFP Response

- In the “Organization Background and Experience” section of the RFP proposers were asked to provide (in part) the following information:
 - “Provide descriptions of up to ten (10) of the organization’s operations most relevant to those being proposed. For these relevant operations, list the square footage occupied, gross sales for the last three years, enplanements for those years (if an airport property), average sales per transaction, minimum annual guaranteed rent, percentage rent, actual rent paid, term of lease (including commencement and expiration dates), capital investment (broken down into initial build-out and refurbishments, if applicable) and photographs (if available). Also provide the names, addresses and telephone numbers of the current landlords or property managers for each of these operations who will be familiar with the day-to-day operations.”
- XpresSpa responded with only three airports they considered to be most relevant: (1) Atlanta Terminal C, (2) JFK Terminal 7, (3) LaGuardia



SAN DIEGO INTERNATIONAL AIRPORT Concession Development Program

XpresSpa RFP Response

- In addition to the three relevant airports, XpresSpa provided the following information for 2005 through 2009 in the Minimum Qualification Section of the RFP.

Location	# of Facilities	Open/ Close Dates	Description of Concept	Gross Sales (\$ millions)				
				2009	2008	2007	2006	2005
JFK Term 1	2	2/04-present	Manicure, Pedicure, Spa, Retail	\$1.7M	\$1.8M	\$1.50M	\$1.37M	\$1.15M
SFO Term A	1	11/04 12/06	Manicure, Pedicure, Spa, Retail	NA	NA	NA	\$425K	\$350K
PIT Terms A & B	2	4/05-present	Manicure, Pedicure, Spa, Retail	\$397K	\$542K	\$745K	\$720K	\$600K
JFK Terms 4 & 4B	2	7/05-present	Manicure, Pedicure, Spa, Retail	\$3.0M	\$2.3M	\$1.60M	\$1.22M	\$385M
PHL Terms C & A-West	2	5/06-present	Manicure, Pedicure, Spa, Retail	\$1.34M	\$1.4M	\$1.30M	\$700K	
RDU Terms 1 & 2	2	2/07-present	Manicure, Pedicure, Spa, Retail	\$664K	\$710K	\$830K		
DFW Terms A & D	2	6/07-present	Manicure, Pedicure, Spa, Retail	\$1.7M	\$975K	\$1.1M		
SFO Terms G & 3	2	11/07-present	Manicure, Pedicure, Spa, Retail	\$1.5M	\$1.3M	\$540K		
JFK Term 7	1	10/07-present	Manicure, Pedicure, Spa, Retail	\$1.8M	\$2.1M			
Amsterdam	1	2/08-present	Manicure, Pedicure, Spa, Retail	\$1.1M	\$1.1M			



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

XpresSpa RFP Response

- Based on the information contained in the preceding chart, the average unit volumes for 2009 were as illustrated below:

Location	# of Units	2009 XpresSpa Sales Included in RFP	Average Unit Sales
SFO 3	2	\$1.5M	\$750K
DFW A & D	2	\$1.7M	\$850K
PHL C	2	\$1.34M	\$670K
JFK 4	2	\$3.0M	\$1.5M
JFK 7	1	\$1.8M	\$1.8M
JFK 1	2	\$1.7M	\$850K
PIT A&B	2	\$397K	\$198K
RDU 1&2	2	\$664K	\$332K
Amsterdam	1	\$1.1M	\$1.1M



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Financials

	XpresSpa	Be Relax
Proposers Year 2 Projected Sales	\$2,600,000	\$1,056,949
Variance from Consultant's Projections	+106.0%	-12.6%
Payroll	41.1%	42%
Employees	20	16
MAG	\$119K	\$119K
Percentage Rent	11% up to \$2M 12% over \$2M 14% All Retail*	10.5% Years 1-4 11.0% Years 5-7
Percentage Rent in excess of MAG based on Consultant's Sales Projections and Proposer's Rent Percentages**	\$16,024	\$5,146

* Over the last three (3) years retail has accounted for approximately 14% of total sales.
[Source: XpresSpa Financial Statements]

** First Full Year of Operation



SAN DIEGO INTERNATIONAL AIRPORT
Concession Development Program

Protest Process

- Received XpresSpa's protest – July 22, 2011
- Authority rejected XpresSpa's protest – July 27, 2011
- Received XpresSpa's appeal – August 5, 2011
- Authority rejected XpresSpa's appeal – August 25, 2011