File No. 120885

Committee Item No. 5
Board Item No. 20

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget and Finance Committee Date 09/12/2012

Board of Supervisors Meeting Date September 18, 2012

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Completed by: Victor Young Date September 7, 2012
Completed by: Victor Young Date 9-13-12

[Real Property Sublease Amendment - General Assistance Services - 1235 Mission Street]

Resolution establishing rent and term for second extension and confirming second sublease extension of a Lease with the San Francisco Unified School District for real property at 1235 Mission Street for the Human Services Agency for general assistance services.

WHEREAS, On August 1, 1992, The City and County of San Francisco ("City") previously entered into a Sublease ("Sublease") with the San Francisco Unified School District ("SFUSD") for approximately 118,000 square feet of office space at 1235 Mission Street ("Premises") to accommodate the Human Services Agency, which was authorized by the Board of Supervisors through Board Resolution No. 20-92 adopted January 16, 1992; and

WHEREAS, By a Notice of Establishment of Rent for First Extension Period, dated May 29, 2003, City and SFUSD agreed to a five year extension of the sublease, which was approved by the Board of Supervisors through Board Resolution No. 404-03 adopted June 27, 2003; and

WHEREAS, The Human Services Agency continues to provide vital General Assistance Services from the Premises; and

WHEREAS, The Director of Property, in consultation with the City Attorney's Office, has negotiated an Agreement Establishing Rent and Term for Second Extension Period and Confirming Second Sublease Extension ("Second Extension") to extend the term for the Premises to August 31, 2013 at a fixed rate of $18.05 per square foot per year, on file with the Clerk of the Board in File No. 120885, and by reference made a part hereof; and

WHEREAS, The Director of Property has determined that the proposed rental rate for

the entire extension period, from July 1, 2008 through August 31, 2013, as set forth in the Second Extension, is equal to 95% of fair market rent for the Premises, as prescribed in the renewal process of the Sublease; now, therefore, be it

RESOLVED, That in accordance with the recommendation of the City Attorney and the Director of Property, the Board of Supervisor hereby approves the Second Extension and transaction contemplated thereby in substantially the form of such agreement presented to the Board and authorizes the Director of Property to execute and deliver the Second Extension, and authorizes City staff to take all actions, on behalf of the City, to perform its obligations and exercise its rights under the Sublease as amended by the Second Extension; and, be it

FURTHER RESOLVED, That all actions heretofore taken by any employee or official of the City with respect to this Second Extension are hereby approved, confirmed and ratified; and, be it

FURTHER RESOLVED, That the application of the terms and conditions of the Second Extension shall be retroactive to the date of July 1, 2008, including payment of accrued rent as detailed in the Second Extension; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of Property to enter into any amendments or modifications to the Second Extension (including without limitation, the exhibits) that the Director of Property determines, in consultation with the City Attorney, are in the best interest of the City, do not materially increase the obligations or liabilities of the City, do not materially decrease the benefits to the City, or are necessary or advisable to effectuate the purposes of the Second Extension or this Resolution, and are in compliance with all applicable laws, including City's Charter; and, be it

FURTHER RESOLVED, That said Second Extension shall be subject to certification as to funds by the Controller, pursuant to Section 3.105 of the Charter.

$3,208,629 Available

(Accrued amount owed in rent from July 1, 2008 through September 30, 2012 plus rent owed from October 1, 2012 through June 30, 2013)

Fund/Subfund:	1GAGFAAA
Program:	CAO
Index Code:	45ADOH
Sub object:	03011

Controller

RECOMMENDED:

John Updike
Acting Director
Real Estate Division

RECOMMENDED:
HUMAN SERVICES AGENCY

(for)

Trent Rhorer
Director
Human Services Agency

Item 5 File 12-0885	Departments: Human Services Agency (HSA) and Real Estate Division (RED)

EXECUTIVE SUMMARY

Legislative Objective

- The proposed resolution would: (1) retroactively approve the second five-year option to extend the sublease from July 1, 2008 through June 30, 2013, between the Human Services Agency (HSA) and the San Francisco Unified School District (SFUSD) for the 117,826 square feet of office space at 1235 Mission Street; (2) extend the term by an additional two months from June 30, 2013 through August 31, 2013; (3) retroactively approve a flat rental rate of $2,126,759 annually, or $18.05 per square foot per year, which is 95% of the current Fair Market Rate; (4) confirm all other obligations in the sublease agreement remain the same as the current sublease provisions.

Key Points

- In 1992, the Board of Supervisors approved an initial sublease between HSA and SFUSD from November 2, 1992 through June 30, 2003 for the 1235 Mission property to house HSA's CalFresh Food Stamps Program and the County Adult Assistance Program (CAAP) (Resolution 20-92), which stipulated: (1) a rental rate of 95% of the Fair Market Rate, or $15.75 per square foot per year; (2) all operating expenses to be paid by the City; and (3) an option to renew for two additional five-year periods.
- In 2003, the Board of Supervisors approved the first five-year option, from July 1, 2003 through June 30, 2008, for the sublease with SFUSD (File 03-0780). The first five-year option provided: (1) the same $15.75 per square foot per year rate over the five-year period, determined to be 95% of the Fair Market Rate; (2) all operating expenses to be paid by the City; and (3) an option to renew the sublease for a second five-year term.
- With the completion of the first five-year option in 2008, HSA continued to occupy and rent the 1235 Mission Street space, paying the same rate of $15.75 per square foot per year to SFUSD, but without formally entering into the second five-year option sublease because SFUSD and the Real Estate Division, until Summer of 2012, could not agree on a rental rate for the 1235 Mission Street property.

Fiscal Impacts

- Under the proposed resolution, the proposed rent would be $18.05 per square foot per year, to be approved retroactively for the period July 1, 2008 through August 31, 2013, which reflects a 14.6 percent increase from the current rate of $15.75 per square foot per year. The proposed increase in the rental rate to $18.05 per square foot per year falls in the range of the independent third-party 2008 appraisal which determined that 95% of the Fair Market Rate for the 1235 Mission Street property was between $17.16 and $18.24 per square foot per year.
- Under the proposed sublease, HSA would be obligated to pay SFUSD a total of $8,507,036, or an additional $1,081,868 in rent for the period between July 1, 2008 and June 30, 2012,
- HSA continues to be responsible for all operating expenses for the property, totaling $1,900,173 annually.
- The total estimated rent of the proposed five-year option, reflecting both the increase in the rental rate and the two month extension of the lease term, is $10,988,255.

Policy Consideration

- Prior to August 2013, the SFUSD will assume ownership of the 1235 Mission Street building from Encore Bank of Texas, and the additional two-month extension on the proposed second five-year option period, from July 1, 2013 through August 31, 2013, is intended to provide time for the transfer of ownership and a subsequent renegotiation of the terms of a new lease between SFUSD, the lessor, and the City, the lessee.

Recommendation

- Given that the Director of Real Estate advises that the proposed retroactive sublease rental rate of $18.05 per square foot per year represents 95% of the Fair Market Value, approve the proposed resolution.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with Administrative Code Section 23.27, leases, in which the City is a lessee, are subject to Board of Supervisors approval.

Background

The San Francisco Unified School District (SFUSD) currently leases an 117,826-square-foot office building at 1235 Mission Street, between 8th and 9th Streets, from Encore Bank of Texas.

In 1992, the Board of Supervisors approved an initial 128-month (10 years, 8 months) sublease for the 117,826 square foot office space at 1235 Mission Street from SFUSD to house the Human Service Agency's (HSA) CalFresh Food Stamps Program and the County Adult Assistance Program (CAAP) (Resolution 20-92). The initial sublease agreement provided: (1) the term extended from November 2, 1992 through June 30, 2003; (2) the rental rate be 95% of the Fair Market Rate, which was determined to be $15.75 per square foot per year in the initial agreement, or $1,856,292 annually; (3) utilities, janitorial services, maintenance services, security services, along with all other operating expenses be paid by the City; and (4) there be two five-year renewal options.

In 2003, the Board of Supervisors approved exercising the first five-year option to renew the sublease with SFUSD for the period from July 1, 2003 through June 30, 2008 (File 03-0780), which included: (1) a continuation of the same flat rental rate of $15.75 per square foot per year, or $1,856,292 annually, which was still determined to be 95% of the Fair Market Rate; (2) utilities, janitorial services, maintenance services, security services, along with all other operating expenses continue to be paid by the City; and (3) one remaining five-year option to renew the sublease.

Since the completion of the first five-year option term on June 30, 2008, HSA has continued to occupy the 1235 Mission Street building, and to pay SFUSD the same flat rental rate of $15.75 per square foot per year, or $1,856,292 annually. However, since July 1, 2008, the City has not renewed the sublease agreement with SFUSD because the Real Estate Division and SFUSD could not agree on a new Fair Market Rate for the subject property.

According to Mr. John Updike, Acting Director of the Real Estate Division, the Real Estate Division contracted with Cornish & Carley Commercial in December 2008 for an independent, third-party appraisal, which concluded that 95% of the Fair Market Rate for the 1235 Mission Street property was between $17.16 per square foot per year and $18.24 per square foot per year. Despite this appraisal determination, according to Mr. Updike, SFUSD and the Real Estate Division, until Summer of 2012, could not agree on a rental rate for the 1235 Mission Street property for the second five-year option period, which extends from July 1, 2008 through June 30, 2013. Mr. Updike also notes that there were various staffing changes at the SFUSD, a third-party broker involved at the request of SFUSD, and a lawsuit filed by another party of interest in the property during negotiations, complicating resolution, which collectively contributed to the delay in finalizing the proposed rental rate at 1235 Mission Street.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would:

- Retroactively approve exercising the second five-year option on the sublease between SFUSD and HSA, from July 1, 2008 through June 30, 2013, for 117,826 square feet of office space at 1235 Mission Street;
- Extend the second five-year option term for an additional two months, from July 1, 2013 through August 31, 2013, as the ownership of the property is anticipated to transfer from Encore Bank of Texas to the SFUSD just prior to August 2013;
- Retroactively approve a flat rental rate for the entire five-year and two-month extension period of $18.05 per square foot per year or $2,126,759 total annually ($1.50 per square foot per month or $177,230 total per month), which is 95% of the current Fair Market Rate;
- Retain all other obligations in the sublease agreement as contained in the current sublease provisions.

Under the proposed sublease, according to Mr. David Curto, HSA Director of Contracts, HSA will continue to operate the County Adult Assistance Program (CAAP) and the CalFresh Food Stamps Program at 1235 Market Street.

FISCAL IMPACTS

Under the proposed resolution, the monthly rent for the period from July 1, 2008 through August 31, 2013, would be $177,230 per month ($18.05 per square foot per year or $2,126,759 annually), which reflects a $22,539 increase, or a 14.6 percent increase, in the current monthly rent of $154,691 ($15.75 per square foot per year or $1,856,292 annually). On an annual basis, the proposed increase from $1,856,292 to $2,126,759 reflects an increase of $270,467, or 14.6 percent increase.

The proposed increase in the rental rate to $18.05 per square foot per year falls in the range of the independent third-party 2008 appraisal, which reported that 95% of the Fair Market Rate for the 1235 Mission Street property was between $17.16 per square foot per year and $18.24 per square foot per year. According to Mr. Updike, the proposed rental rate increase would be the first increase in rent since the November 1992 inception of the subject sublease. Mr. Updike further advises that the proposed retroactive rental rate of $18.05 per square foot per year effective from July 1, 2008 through August 31, 2013 represents 95% of the Fair Market Value of the subject property for that period of time.

As noted above, HSA has continued to occupy the 117,826 square feet of space at 1235 Mission Street, and HSA has continued to pay the SFUSD $15.75 per square foot per year, or a total of $1,856,292 per year. As shown in the Table below, between July 1, 2008 and June 30, 2012, HSA paid SFUSD a total of $7,425,168. The proposed resolution would retroactively approve HSA to pay the higher rental rate, of $18.05 per square foot per year, or $2,126,759 per year, from July 1, 2008 through August 31, 2013, an increase of $270,467 each year, as shown in the Table below. Therefore, under the proposed sublease, HSA would be obligated to pay SFUSD a

total of $8,507,036, or an additional $1,081,868 in rent for the period between July 1, 2008 and June 30, 2012, as identified in the Table below.

As also shown in the Table below, the total estimated rent for the proposed five-year and two month second option period between July 1, 2008 and August 31, 2013 would be $10,988,255.

Table: Total Rental Costs by Lease Year under the Proposed Five-Year Sublease Agreement

	Current Annual Rent	Proposed Annual Rent	Proposed Amount Owed
July 1, 2008-June 30, 2009	$ 1,856,292	$ 2,126,759	$ 270,467
July 1, 2009-June 30, 2010	1,856,292	2,126,759	270,467
July 1, 2010-June 30, 2011	1,856,292	2,126,759	270,467
July 1, 2011-June 30, 2012	1,856,292	2,126,759	270,467
Subtotal of amount paid to date	**$ 7,425,168**	**$ 8,507,036**	**$ 1,081,868**
July 1, 2012-June 30, 2013	1,856,292	2,126,759	270,467
July 1, 2013-August 31, 2013	-	354,460	354,460
Total	**$ 9,281,460**	**$ 10,988,255**	**$ 1,706,795**

In addition to the proposed annual rent of $2,126,759, according to Mr. Curto, the lease would continue to require HSA to pay utilities, janitorial services, maintenance services, along with all other operating expenses (approximately $900,000), and security services ($1,000,173), for a total estimated additional cost of $1,900,173 annually. Mr. Curto noted that because the 1235 Mission Street location houses services for single adults, the location requires a greater security presence than any other HSA offices.

According to Mr. Curto, $1,081,868 in HSA funds, comprised of approximately 25% federal funds, through the Food Stamps Program, and 75% General Fund monies, have been encumbered in anticipation of the need to pay SFUSD the subject retroactive increase in rent for 1235 Mission Street property to cover the existing rent differential for the period from July 1, 2008 through June 30, 2012.

POLICY CONSIDERATION

According to Mr. Curto and Mr. Updike, prior to August 2013, the SFUSD will assume ownership of the 1235 Mission Street building from Encore Bank of Texas through the completion of payment on a loan on the property. Mr. Updike advises that the additional two-month extension on the proposed second five-year option period, from July 1, 2013 through August 31, 2013, on the proposed sublease is intended to provide additional time for the transfer of ownership of the subject property, and a subsequent window of time for the Real Estate Division, HSA, and SFUSD to renegotiate the terms of a new lease in which SFUSD will be the owner of the property and lessor, and the City would be the lessee, rather than a sublessee. Mr. Updike advises that he is in discussions with the SFUSD to determine the basis for setting a new lease rental rate commencing in September of 2013.

RECOMMENDATION

Given that the Director of Real Estate advises that the proposed retroactive sublease rental rate of $18.05 per square foot per year represents 95% of the Fair Market Value, approve the proposed resolution.

John Updike
Acting Director of Real Estate

City and County of San Francisco
REAL ESTATE DIVISION

August 30, 2012

Sublease Extension and Rent Confirmation – 5 Years
1235 Mission St.
HSA – Human Services Agency

Through Naomi Kelly,
City Administrator

Honorable Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Board Members:

Attached for your consideration is a Resolution authorizing the execution of an Agreement Establishing Rent and Term for Second Extension Period and Confirming Second Sublease Extension ("Agreement") at 1235 Mission Street on behalf of the Human Services Agency. The proposed Agreement clarifies the rent and term through August 31, 2013 for approximately 118,000 square feet, which is the entirety of the building.

The Human Services Agency ("HSA") delivers a variety of General Assistance programs from this site and has used the space since 1992. In 2008, the City properly notified the San Francisco Unified School District (sub-landlord) of our intent to renew the sublease for an additional five years, and as outlined in the sublease agreement, provided an estimate of fair market rent for that five year extension term. While both parties negotiated the final fair market rental amount, it was agreed that the City would simply continue to pay the District the amount paid monthly under the sublease, which was a rate of $15.75/square foot per year. The final negotiated fair market rental amount for the renewal term from July 1, 2008 through August 31, 2013 is $18.05/square foot per year. This Agreement ratifies those understandings and clarifies the timing of the City's payment of accrued rent (the difference between $18.05/sf/year and $15.75/sf/year) over the past 51 months, for a total sum of $1,149,486.50 owed.

In addition to rent paid, the City is responsible for on-going maintenance expenses for the interior of the building, utilities, security and janitorial services.

Office of the Director of Real Estate 25 Van Ness Avenue, Suite 400 • San Francisco, CA 94102
(415) 554-9850 • FAX: (415) 552-9216

We recommend approval of the proposed Agreement. If you have any questions regarding this matter, please contact me at the number below.

Respectfully,

John Updike
Acting Director of Real Estate

cc. Marta Bayol, Real Estate Division
David Curto, Human Services Agency

Agreement Establishing Rent and Term for Second Extension Period and Confirming Second Sublease Extension

The City and County of San Francisco ("City") is the Sublessee under a sublease dated August 1, 1992 ("Sublease") with the San Francisco Unified School District ("District") as Sublessor for premises commonly known as 1235 Mission Street, San Francisco, California ("Premises"). The Sublease previously was amended pursuant to a Notice of Establishment of Rent for First Extension Period, dated May 29, 2003. That extended term expired in 2008 and City by written notice dated January 11, 2008 ("January 2008 Renewal Letter") exercised its second option to extend the term again.

This Agreement dated as of July 23, 2012, between the City and the District (this "Agreement"), shall confirm the agreement between the City and the District with regard to the second extension term of the Sublease and establish the base rental rate during that period.

1. Agreement Concerning Term of Second Renewal Term

The City's January 2008 Renewal Letter exercised its option to renew the Sublease for a second renewal term, subject to the approval of the Board of Supervisors. The January 2008 Renewal Letter incorrectly stated that the First Renewal Period expired on June 30, 2008. The parties now confirm their understanding and agreement as to the correct term.

Pursuant to Section 3.2 of the Sublease the initial term of the Sublease commenced on November 2, 1992 and continued for 128 months, ending on the last day of the 128th month, on July 31, 2003. Thereafter, the first renewal period extended the Sublease term by 5 years through July 31, 2008. The parties further agree that, therefore, the January 2008 Renewal Letter extended the Sublease term by another five years through July 31, 2013 ("Second Renewal Term").

As the City is aware, the District plans to acquire fee title ownership of the Property at the end of the term of the Lease Purchase Agreement which ends on August 31, 2013. In order to avoid disruption of the City's occupancy, the parties desire and agree to continue the Sublease after July 31, 2013 through August 31, 2013. The end of the Sublease term therefore is August 31, 2013 with no further renewal or extension rights.

Through the end of the Sublease term, the City and the District shall continue to perform all of their respective obligations under the Sublease. For the avoidance of doubt, the Sublease rental payments during the Sublease term will continue to be made directly by the City to the Trustee under the Trust Agreement, which Trustee currently is Bank of New York Mellon.

2. Agreement Concerning Rental Rate

According to the terms of the Sublease, the base rent payable by the City for each 5-year extension is to be adjusted to the greater of (i) 95% of the fair market rent as agreed by the parties or (ii) the current rental rate (Section 4.1(b)).

As of June 30, 2008 the base rent payable under the Sublease was $154,691 per month ($1,856,292 per year) or approximately $15.75 psf annually on the building area, net of all expenses (NNN). Pending final agreement between the parties regarding the rent for the Second Renewal term, City has been paying $154,691 per month.

Having entered into protracted negotiations the parties now agree, SUBJECT TO APPROVAL BY THE CITY'S BOARD OF SUPERVISORS AND MAYOR, that the fair market rental value of the Premises for the Second Renewal Term is $19 psf annually and that 95% of that number is $18.05 psf annually. The Premises currently is 117,826 square feet. Accordingly, the parties agree that the monthly base rental rate for the Second Renewal Term is $177,229.94 per month ($2,126,759.30 per year) in accordance with the terms of the Sublease. Accordingly City shall pay base rent of $177,229.95 per month for the Second Renewal Term (through August 31, 2013) retroactively to the beginning of the Second Renewal Term, and on an ongoing basis through the Sublease term as set forth below. City shall continue to pay any additional charges as and when required under the Sublease.

Retroactive application of said base rent amount shall be implemented as follows:

Because the City has paid rent to date for the Second Renewal Term at the rate in effect before the start of the Second Renewal Term, the total accrued unpaid additional base rent owed by the City for the 51-month period from July 1, 2008 through September 30, 2012 is $1,149,486.50. The City shall pay this amount within fifteen (15) days following the effective date of a resolution adopted by the Board of Supervisors approving this Agreement. Effective October 1, 2012, City shall make base rent payments under the Sublease in the amount of $177,229.94 per month and continuing each month until the end of the Sublease term as confirmed above. For avoidance of doubt such payments will be made directly by the City to the Trustee under the Trust Agreement which currently is Bank of New York Mellon.

3. Further Provisions

The parties ratify and confirm that the Sublease is in full force and effect and that neither party is in breach of the Sublease, and all payments hereunder shall be made in accordance with and subject to the terms and conditions of the Sublease.

The Parties acknowledge that no person has made any promise, representation or warranty whatsoever, express or implied, not contained herein concerning the subject matter hereof, to induce the execution of this Agreement, and each signatory hereby

acknowledges that said signatory has not executed this Agreement in reliance upon any such promise, representation or warranty. This Agreement constitutes the complete agreement of the parties with respect to the matters contained herein and constitutes the entire understanding between the Parties and together supersede all prior negotiations, representations or agreements between the Parties, either written or oral, as to the subject hereof. This Agreement may be amended only by written instrument designated as an amendment to this Agreement and executed by the Parties or their respective successors, following any necessary approvals.

The parties understand that any amendment of the Sublease is subject to approval by Guardian (now Encore Bank, N.A.). The parties will endeavor to obtain the written consent of Encore to this Agreement. Should the failure to obtain such consent result in this Agreement becoming void or invalid, then the parties shall not be obligated under it.

Agreed, Accepted, and Receipt Acknowledged

San Francisco Unified School District, Sublessor

By _____

Its Deputy Superintendent

Date July 23, 2012

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, DISTRICT ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL THE CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS AGREEMENT, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS AGREEMENT BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

City and County of San Francisco

By _____

Its Acting Director of Property

Date _____

Board Resolution No. _____
Adopted on _____

APPROVED AS TO FORM:

Dennis J. Herrera
City Attorney

By: Anita L Wood
~~Charles Sullivan~~, Deputy City Attorney
Anita L. Wood

Agreement Establishing Rent and Term for Second Extension Period and Confirming Second Sublease Extension

The City and County of San Francisco ("City") is the Sublessee under a sublease dated August 1, 1992 ("Sublease") with the San Francisco Unified School District ("District") as Sublessor for premises commonly known as 1235 Mission Street, San Francisco, California ("Premises"). The Sublease previously was amended pursuant to a Notice of Establishment of Rent for First Extension Period, dated May 29, 2003. That extended term expired in 2008 and City by written notice dated January 11, 2008 ("January 2008 Renewal Letter") exercised its second option to extend the term again.

This Agreement dated as of July 23, 2012, between the City and the District (this "Agreement"), shall confirm the agreement between the City and the District with regard to the second extension term of the Sublease and establish the base rental rate during that period.

1. Agreement Concerning Term of Second Renewal Term

The City's January 2008 Renewal Letter exercised its option to renew the Sublease for a second renewal term, subject to the approval of the Board of Supervisors. The January 2008 Renewal Letter incorrectly stated that the First Renewal Period expired on June 30, 2008. The parties now confirm their understanding and agreement as to the correct term.

Pursuant to Section 3.2 of the Sublease the initial term of the Sublease commenced on November 2, 1992 and continued for 128 months, ending on the last day of the 128th month, on July 31, 2003. Thereafter, the first renewal period extended the Sublease term by 5 years through July 31, 2008. The parties further agree that, therefore, the January 2008 Renewal Letter extended the Sublease term by another five years through July 31, 2013 ("Second Renewal Term").

As the City is aware, the District plans to acquire fee title ownership of the Property at the end of the term of the Lease Purchase Agreement which ends on August 31, 2013. In order to avoid disruption of the City's occupancy, the parties desire and agree to continue the Sublease after July 31, 2013 through August 31, 2013. The end of the Sublease term therefore is August 31, 2013 with no further renewal or extension rights.

Through the end of the Sublease term, the City and the District shall continue to perform all of their respective obligations under the Sublease. For the avoidance of doubt, the Sublease rental payments during the Sublease term will continue to be made directly by the City to the Trustee under the Trust Agreement, which Trustee currently is Bank of New York Mellon.

2. Agreement Concerning Rental Rate

According to the terms of the Sublease, the base rent payable by the City for each 5-year extension is to be adjusted to the greater of (i) 95% of the fair market rent as agreed by the parties or (ii) the current rental rate (Section 4.1(b)).

As of June 30, 2008 the base rent payable under the Sublease was $154,691 per month ($1,856,292 per year) or approximately $15.75 psf annually on the building area, net of all expenses (NNN). Pending final agreement between the parties regarding the rent for the Second Renewal term, City has been paying $154,691 per month.

Having entered into protracted negotiations the parties now agree, SUBJECT TO APPROVAL BY THE CITY'S BOARD OF SUPERVISORS AND MAYOR, that the fair market rental value of the Premises for the Second Renewal Term is $19 psf annually and that 95% of that number is $18.05 psf annually. The Premises currently is 117,826 square feet. Accordingly, the parties agree that the monthly base rental rate for the Second Renewal Term is $177,229.94 per month ($2,126,759.30 per year) in accordance with the terms of the Sublease. Accordingly City shall pay base rent of $177,229.95 per month for the Second Renewal Term (through August 31, 2013) retroactively to the beginning of the Second Renewal Term, and on an ongoing basis through the Sublease term as set forth below. City shall continue to pay any additional charges as and when required under the Sublease.

Retroactive application of said base rent amount shall be implemented as follows:

Because the City has paid rent to date for the Second Renewal Term at the rate in effect before the start of the Second Renewal Term, the total accrued unpaid additional base rent owed by the City for the 51-month period from July 1, 2008 through September 30, 2012 is $1,149,486.50. The City shall pay this amount within fifteen (15) days following the effective date of a resolution adopted by the Board of Supervisors approving this Agreement. Effective October 1, 2012, City shall make base rent payments under the Sublease in the amount of $177,229.94 per month and continuing each month until the end of the Sublease term as confirmed above. For avoidance of doubt such payments will be made directly by the City to the Trustee under the Trust Agreement which currently is Bank of New York Mellon.

3. Further Provisions

The parties ratify and confirm that the Sublease is in full force and effect and that neither party is in breach of the Sublease, and all payments hereunder shall be made in accordance with and subject to the terms and conditions of the Sublease.

The Parties acknowledge that no person has made any promise, representation or warranty whatsoever, express or implied, not contained herein concerning the subject matter hereof, to induce the execution of this Agreement, and each signatory hereby

acknowledges that said signatory has not executed this Agreement in reliance upon any such promise, representation or warranty. This Agreement constitutes the complete agreement of the parties with respect to the matters contained herein and constitutes the entire understanding between the Parties and together supersede all prior negotiations, representations or agreements between the Parties, either written or oral, as to the subject hereof. This Agreement may be amended only by written instrument designated as an amendment to this Agreement and executed by the Parties or their respective successors, following any necessary approvals.

The parties understand that any amendment of the Sublease is subject to approval by Guardian (now Encore Bank, N.A.). The parties will endeavor to obtain the written consent of Encore to this Agreement. Should the failure to obtain such consent result in this Agreement becoming void or invalid, then the parties shall not be obligated under it.

Agreed, Accepted, and Receipt Acknowledged

San Francisco Unified School District, Sublessor

By Myong Leigh

Its Deputy Superintendent

Date July 23, 2012

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, DISTRICT ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL THE CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS AGREEMENT, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS AGREEMENT BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

City and County of San Francisco

By _____

Its Acting Director of Property

Date _____

Board Resolution No. _____
Adopted on _____

APPROVED AS TO FORM:

Dennis J. Herrera
City Attorney

By: _____
~~Charles Sullivan~~, Deputy City Attorney
Anita L Wood

Agreement Establishing Rent and Term for Second Extension Period and Confirming Second Sublease Extension

The City and County of San Francisco ("City") is the Sublessee under a sublease dated August 1, 1992 ("Sublease") with the San Francisco Unified School District ("District") as Sublessor for premises commonly known as 1235 Mission Street, San Francisco, California ("Premises"). The Sublease previously was amended pursuant to a Notice of Establishment of Rent for First Extension Period, dated May 29, 2003. That extended term expired in 2008 and City by written notice dated January 11, 2008 ("January 2008 Renewal Letter") exercised its second option to extend the term again.

This Agreement dated as of July 23, 2012, between the City and the District (this "Agreement"), shall confirm the agreement between the City and the District with regard to the second extension term of the Sublease and establish the base rental rate during that period.

1. Agreement Concerning Term of Second Renewal Term

The City's January 2008 Renewal Letter exercised its option to renew the Sublease for a second renewal term, subject to the approval of the Board of Supervisors. The January 2008 Renewal Letter incorrectly stated that the First Renewal Period expired on June 30, 2008. The parties now confirm their understanding and agreement as to the correct term.

Pursuant to Section 3.2 of the Sublease the initial term of the Sublease commenced on November 2, 1992 and continued for 128 months, ending on the last day of the 128th month, on July 31, 2003. Thereafter, the first renewal period extended the Sublease term by 5 years through July 31, 2008. The parties further agree that, therefore, the January 2008 Renewal Letter extended the Sublease term by another five years through July 31, 2013 ("Second Renewal Term").

As the City is aware, the District plans to acquire fee title ownership of the Property at the end of the term of the Lease Purchase Agreement which ends on August 31, 2013. In order to avoid disruption of the City's occupancy, the parties desire and agree to continue the Sublease after July 31, 2013 through August 31, 2013. The end of the Sublease term therefore is August 31, 2013 with no further renewal or extension rights.

Through the end of the Sublease term, the City and the District shall continue to perform all of their respective obligations under the Sublease. For the avoidance of doubt, the Sublease rental payments during the Sublease term will continue to be made directly by the City to the Trustee under the Trust Agreement, which Trustee currently is Bank of New York Mellon.

2. Agreement Concerning Rental Rate

According to the terms of the Sublease, the base rent payable by the City for each 5-year extension is to be adjusted to the greater of (i) 95% of the fair market rent as agreed by the parties or (ii) the current rental rate (Section 4.1(b)).

As of June 30, 2008 the base rent payable under the Sublease was $154,691 per month ($1,856,292 per year) or approximately $15.75 psf annually on the building area, net of all expenses (NNN). Pending final agreement between the parties regarding the rent for the Second Renewal term, City has been paying $154,691 per month.

Having entered into protracted negotiations the parties now agree, SUBJECT TO APPROVAL BY THE CITY'S BOARD OF SUPERVISORS AND MAYOR, that the fair market rental value of the Premises for the Second Renewal Term is $19 psf annually and that 95% of that number is $18.05 psf annually. The Premises currently is 117,826 square feet. Accordingly, the parties agree that the monthly base rental rate for the Second Renewal Term is $177,229.94 per month ($2,126,759.30 per year) in accordance with the terms of the Sublease. Accordingly City shall pay base rent of $177,229.95 per month for the Second Renewal Term (through August 31, 2013) retroactively to the beginning of the Second Renewal Term, and on an ongoing basis through the Sublease term as set forth below. City shall continue to pay any additional charges as and when required under the Sublease.

Retroactive application of said base rent amount shall be implemented as follows:

Because the City has paid rent to date for the Second Renewal Term at the rate in effect before the start of the Second Renewal Term, the total accrued unpaid additional base rent owed by the City for the 51-month period from July 1, 2008 through September 30, 2012 is $1,149,486.50. The City shall pay this amount within fifteen (15) days following the effective date of a resolution adopted by the Board of Supervisors approving this Agreement. Effective October 1, 2012, City shall make base rent payments under the Sublease in the amount of $177,229.94 per month and continuing each month until the end of the Sublease term as confirmed above. For avoidance of doubt such payments will be made directly by the City to the Trustee under the Trust Agreement which currently is Bank of New York Mellon.

3. Further Provisions

The parties ratify and confirm that the Sublease is in full force and effect and that neither party is in breach of the Sublease, and all payments hereunder shall be made in accordance with and subject to the terms and conditions of the Sublease.

The Parties acknowledge that no person has made any promise, representation or warranty whatsoever, express or implied, not contained herein concerning the subject matter hereof, to induce the execution of this Agreement, and each signatory hereby

acknowledges that said signatory has not executed this Agreement in reliance upon any such promise, representation or warranty. This Agreement constitutes the complete agreement of the parties with respect to the matters contained herein and constitutes the entire understanding between the Parties and together supersede all prior negotiations, representations or agreements between the Parties, either written or oral, as to the subject hereof. This Agreement may be amended only by written instrument designated as an amendment to this Agreement and executed by the Parties or their respective successors, following any necessary approvals.

The parties understand that any amendment of the Sublease is subject to approval by Guardian (now Encore Bank, N.A.). The parties will endeavor to obtain the written consent of Encore to this Agreement. Should the failure to obtain such consent result in this Agreement becoming void or invalid, then the parties shall not be obligated under it.

Agreed, Accepted, and Receipt Acknowledged

San Francisco Unified School District, Sublessor

By Myong Cook

Its Deputy Superintendent

Date July 23, 2012

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City and County of San Francisco

By _____

Its Acting Director of Property

Date _____

Board Resolution No. _____
Adopted on _____

APPROVED AS TO FORM:

Dennis J. Herrera
City Attorney

By: Anita L. Wood
~~Charles Sullivan~~, Deputy City Attorney
Anita L. Wood

File No. 120885

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

City Elective Officer Information *(Please print clearly.)*	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information *(Please print clearly.)*	
Name of contractor: **San Francisco Unified School District**	
Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary. Board Members: Norman Yee, President; Rachel Norton, Vice-President; Sandra Lee Fewer, Kim-Shree Maufas, Hydra Mendoza, Emily Murase, Jill Wynns Superintendent: Richard Carranza, Deputy Superintendent of Operations: Myong Leigh	
Contractor address: 555 Franklin Street, San Francisco, CA 94102	
Date that contract was approved: *(By the SF Board of Supervisors)*	Amount of contract: $3,208,629 (for entire lease term)
Describe the nature of the contract that was approved: Lease Extension Agreement for 1235 Mission Street	
Comments:	

This contract was approved by (check applicable):

☐ the City elective officer(s) identified on this form

☑ a board on which the City elective officer(s) serves: San Francisco Board of Supervisors
Print Name of Board

☐ the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

_____
Print Name of Board

Filer Information *(Please print clearly.)*	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer) — Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk) — Date Signed