File No. 120822

Committee Item No. 6
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: Victor Young **Date** September 14, 2012
Completed by: Victor Young **Date** _____

[Lease Amendment - Union Square Garage - 333 Post Street]

Resolution approving and authorizing an amendment to the Lease of the Union Square Garage at 333 Post Street with the City of San Francisco Uptown Parking Corporation to continue the term of the Lease on a month-to-month basis following the retirement of certain parking revenue bonds until the City and the Corporation either execute a new lease to replace the existing Lease, or complete an agreement to terminate the Lease and create a new advisory body in place of the Corporation; and ratifying prior acts.

WHEREAS, The City and County of San Francisco ("the City") owns certain real property located at 333 Post Street in San Francisco, California ("the Premises"), which is used as an off-street parking facility commonly referenced as the "Union Square Garage," which is under the jurisdiction of the City's Recreation and Park Department and managed by the San Francisco Municipal Transportation Authority ("SFMTA"); and

WHEREAS, The City of San Francisco Uptown Parking Corporation ("the Corporation"), a non-profit public benefit corporation whose sole shareholder is the City, was formed on February 24, 1956 for the purpose of assisting the City in acquiring, financing and managing off-street parking facilities; and

WHEREAS, The City has leased the Premises to the Corporation under a lease agreement dated May 1, 1999, and recorded on April 30, 1999 ("the Lease"); and

WHEREAS, On or about April 1, 2001, the Corporation issued certain parking revenue bonds ("the Bonds") to refinance existing bonds issued by the Corporation to finance or refinance the construction and improvement of the Premises; and

WHEREAS, The Lease currently provides that the City has "Buyback" rights by which the City may payoff and retire the Bonds, and that the Lease shall terminate upon the payment of the Bonds; and

WHEREAS, The City, acting by and through the SFMTA, desires to redeem and/or defease the Bonds to facilitate the SFMTA's directly issuing new bonds (the "New Bonds") that will be secured in part by revenues of the Premises; and

WHEREAS, Following redemption and/or defeasance retirement of the Bonds, the City and the Corporation desire to continue the term of the Lease for an interim period on a month-to-month basis pending the parties' entry to a new lease (the "New Lease"), or in the alternative, entry into an agreement terminating the Lease and wrapping up the business of the Corporation, and creating an advisory body to replace the Corporation; and

WHEREAS, The scheduling of the issuance of the New Bonds does not allow sufficient time to obtain necessary approvals for the New Lease, or in the alternative, to assign subleases and vendor agreements, wind-up the affairs of the Corporation, and determine the structure and role of a new advisory body; and

WHEREAS, The City and the Corporation have negotiated a proposed amendment of the Lease (the "Lease Amendment") in substantially the form on file with the Clerk of the Board in File No. 120822, which includes, among other provisions, the following significant terms:

(1) Upon payment and retirement of the Bonds, the term of the Lease shall continue on a month-to-month basis unless and until terminated, or replaced by approval and execution of a New Lease;

(2) The parties agree to work cooperatively and expeditiously following redemption and/or defeasance of the Bonds to either effect the New Lease or to terminate the existing

Lease and create a new advisory body to replace the Corporation within 180 days of the effective date of the Lease Amendment;

(3) Upon the City's payment of the Bonds, the Corporation shall transfer all revenues derived from the Premises, including but not limited to rent and garage parking fees, to the City, on a monthly basis; and

WHEREAS, At its public meeting on June 21, 2012, the Recreation and Park Commission voted to recommend that the Board of Supervisors approve the Lease Amendment, and a copy of Commission Resolution No. 1206-015 is on file with the Clerk of the Board of Supervisors in File No. 120822, and is incorporated herein by reference; and

WHEREAS, The City's Planning Department has found that the Lease Amendment is not subject to the California Environmental Quality Act (a copy of this finding is on file with the Clerk of the Board of Supervisors in File No. 120822, and is incorporated herein by reference); now, therefore, be it

RESOLVED, That the Board of Supervisors hereby approves and authorizes the execution, delivery and performance by the City of the Lease Amendment; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Recreation and Park General Manager to execute and deliver the Lease Amendment in substantially the form filed with the Clerk of the Board in File No. 120822, and to take any and all steps necessary or appropriate to effectuate the execution, delivery and performance of the Lease Amendment. The Recreation and Park General Manager, at his or her discretion and in consultation with the City Attorney and the City's Controller, is authorized to enter into any additions, amendments, or other modifications to the Lease Amendment that the Recreation and Park General Manager determines are in the best interests of the City and do not materially increase the obligations or liabilities of the City or materially decrease the payments or other

benefits to the City, and are necessary or advisable to effectuate the purpose and intent of this Resolution; and, be it

FURTHER RESOLVED, That any and all actions heretofore taken by City employees or officials with respect to the Lease Amendment are hereby approved, confirmed and ratified.

Item 6 File 12-0822	Department: San Francisco Municipal Transportation Agency (SFMTA) Recreation and Park Department (RPD)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve and authorize an amendment to the lease of the Union Square Garage at 333 Post Street between the City, on behalf of Recreation and Park Department (RPD), and the Uptown Parking Corporation (Uptown Parking Corporation), a nonprofit corporation, to continue the term of the lease on a month-to-month basis following the retirement of certain parking revenue bonds until the City and Uptown Parking Corporation either (a) execute a new lease to replace the existing lease or (b) terminate the lease and create a new advisory body in place of Uptown Parking Corporation.

Key Points

- In May 2001, Uptown Parking Corporation issued $19,000,000 of Series 2001 Parking Revenue Bonds to finance improvements to the Union Square Plaza and Garage. On July 11, 2012, the SFMTA issued $43,050,000 of Parking Revenue Bonds, including $16,960,000 for the Union Square Garage resulting in full redemption of the $19,000,000 in Parking Revenue Bonds. Since the $19,000,000 in debt originally issued by Uptown Parking Corporation has been redeemed, the existing lease with Uptown Parking Corporation will terminate in 90 days, on October 9, 2012, in accordance with the existing lease, unless the lease is amended.

- The proposed lease amendment would be effective upon approval by the Board of Supervisors until (a) a new lease is approved, or (b) termination of the existing lease and creation of a new advisory body to replace the Uptown Parking Corporation, both of which are estimated to be completed within 180 days (6 months) of the effective date of this lease amendment.

Fiscal Analysis

- Currently, Uptown Parking Corporation pays $1 in annual rent for the Union Square Garage and would continue to do so under the proposed amended lease. In addition, Uptown Parking Corporation collects all Union Square Garage parking revenues and then deducts operating and management expenses, prior to remitting net revenues to SFMTA and RPD. Uptown Parking Corporation incurred management costs of $135,600 in FY 2011-12, which is deducted from Union Square Parking revenues.

- An alternative management structure in which SFMTA would be responsible for the management of Union Square Garage is estimated by SFMTA to result in additional SFMTA costs of $33,000. Therefore, if the $135,600 currently expended due to Uptown Parking Corporation's management of Union Square Garage were saved, RPD would have saved $102,600 in FY 2011-12.

Policy Considerations

- A Controller's June 9, 2011 report found that (a) based on the results of a survey, the City is the only municipality in California which leases City-owned parking garages to nonprofit corporations who then subcontract the day-to-day operations of those City-owned garages as a standard practice, (b) nonprofit parking corporations do not appear to offer tangible operational advantages, and (c) the City is unlikely to need nonprofit parking corporations to help construct or expand parking garages in the future. This Controller's report also found that the City's practice of leasing City-owned garages to special-purpose nonprofit corporations, such as Uptown Parking Corporation, added a total of approximately $551,070 in additional annual costs to the City. SFMTA believes it has addressed the majority of the Controller's concerns and incorporated specific lease provisions into the new leases currently being negotiated to address specific recommendations that the Controller included in its report.
- Included in the proposed lease amendment is the clause that states that it is "the intention" of the City and Uptown Parking Corporation to continue the existing agreement on a month-to-month basis until either a new lease is completed or there is agreement to terminate the lease and create a new advisory body in its place. However, the 180 day time limit is not legally binding and, if the proposed resolution is approved, the existing lease could continue on a month-to-month, in perpetuity, unless one of the parties decides to terminate.
- Given (a) the Controller's June 9, 2011 report findings, (b) Uptown Parking Corporation would be the only nonprofit corporation whose bonds were redeemed who will continue in its current role of managing City-owned garages, (c) that SFMTA and RPD have already decided to move forward to negotiate a new lease with Uptown Parking Corporation for the Union Square Garage, and (d) SFMTA estimates an annual savings of approximately $67,000 would be achieved if SFMTA instead of Uptown Parking Corporation managed the Union Square Garage, approval of the proposed resolution is a policy decision for the Board of Supervisors.

Recommendations

- Amend the proposed resolution to impose a 180 day time limit on the requested lease amendment.
- Approval of the proposed resolution, as amended, is a policy decision for the Board of Supervisors

MANDATE STATEMENT / BACKGROUND

Mandate Statement

Charter Section 9.118(c) requires that any amendment of a lease, which extends for ten or more years or has anticipated revenue to the City and County of $1,000,000 or more, must first be approved by resolution of the Board of Supervisors.

Background

The Union Square Garage is a public 4-story underground, off-street parking facility at 333 Post Street, beneath Union Square Park which is bordered by Geary Street, Powell Street, Post Street and Stockton Street and is currently under the jurisdiction of the Recreation and Park Department (RPD) and managed by the San Francisco Municipal Transportation Authority (SFMTA). The City of San Francisco Uptown Parking Corporation (Uptown Parking Corporation), a nonprofit corporation,de dicated to the operation of the Union Square and Sutter Stockton Garages, has managed the Union Square Garage for decades, which primarily requires oversight of a day-to-day parking operator agreement, including ensuring that the operator is providing sufficient staffing levels, cleanliness levels, and that all equipment is in proper working order. Uptown Parking Corporation currently contracts with Central Parking SF to provide day-to-day parking garage operations at the Union Square Garage.

Uptown Parking Corporation's Existing Lease with the Recreation and Park Department for Union Square Garage

On May 1, 1999, the City, on behalf of RPD, as lessor, leased the Union Square Garage to Uptown Parking Corporation, as lessee, with the understanding that debt would be issued by Uptown Parking Corporation to complete renovations to the Union Square Plaza and Garage and debt service payments would be sourced from both Union Square Garage and Sutter-Stockton Garage revenues[1]. The May 1, 1999 lease between RPD and Uptown Parking Corporation expires on the earlier of either (a) 50 years after the commencement date or (b) full repayment, retirement, or earlier redemption of the debt. The existing lease stipulates that the City has "buyback" rights, such that the City may pay off the bonds for the Union Square Garage. In accordance with this lease provision, if the City exercises these buyback rights, the lease between Uptown Parking Corporation and the City would terminate and Uptown Parking Corporation must vacate the premises within 90 days.[2]

Under the terms of the existing lease, Uptown Parking Corporation pays $1 in annual rent to RPD. According to Ms. Sonali Bose, Chief Financial Officer for SFMTA, Uptown Parking Corporation historically collected all garage revenue on behalf of RPD and SFMTA and then deducted the annual expenses of operating and managing the Union Square Garage and bond interest, redemption and related costs from those revenues. The remaining net income was remitted by Uptown Parking Corporation to SFMTA[3] who then deducted $94,526 in annual administrative fees and subsequently remitted those funds to RPD as General Fund revenue to support general RPD operations, such as park maintenance, recreation programming, aquatics, urban forestry and park patrol operations. As shown in Table 1 below, RPD received net income of $2,459,685 from the Union Square Garage in FY 2011-12. See Attachment 1 for a complete of summary of operating and management expenses in FY 2011-12.

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[1] The Sutter-Stockton Garage is under the jurisdiction of the SFMTA but managed by Uptown Parking Corporation under a separate lease.

[2] The lease between SFMTA and Uptown Parking Corporation for the Sutter-Stockton Garage would likewise terminate in 90 days from the redemption due to the inclusion of similar "buy-back" rights of the City in that lease.

[3] In addition to Uptown Parking Corporation, SFMTA is reimbursed from parking revenues for administrative costs incurred by SFMTA for overseeing the Union Square Garage.

Table 1: Union Square Garage Operating Expenses Less Total Revenues Projected to be Received in FY 2011-12

Total Revenue Received	$6,432,395
Operating and Management Expenses[4]	-2,570,762
Bond Interest, Redemption and related costs[5]	-1,401,948
Net income to RPD	**$2,459,685**

In addition, the lease between RPD and Uptown Parking Corporation contains a supplemental park maintenance agreement that stipulates Uptown Parking Corporation will provide additional janitorial, gardening, landscaping, and other maintenance services to Union Square Park beyond the RPD's existing basic provision of those same services. According to Ms. Bose, the total cost of the additional maintenance services provided by Uptown Parking Corporation under the supplemental maintenance agreement in FY 2011-12 was $260,712, and are included in the $2,570,762 deductions for operating and management costs (see Attachment1), which are funded from the Union Square Garage revenues. The initial term of the supplemental park maintenance was five years, from May 1, 1999 through April 20, 2004, with five options to extend the agreement in additional five-year increments, for a total of 30 years, or through April 30, 2029. This supplemental maintenance agreement will automatically terminate along with the lease upon expiration or earlier termination of the existing lease due to the "buy-back rights" previously discussed.

A new Union Square Garage operator was selected in February, 2012

Ms. Bose advises that Uptown Parking Corporation issued a Request for Proposal (RFP) for a garage operator to manage the Union Square Garage and Sutter-Stockton Garage in October 2010. The selection panel was made up of members of Uptown Parking Corporation's Board of Directors, as well as SFMTA and RPD staff. Uptown Parking Corporation selected a new garage operator, Central Parking SF, to be responsible for day-to-day garage operations at both the Union Square and Sutter-Stockton Garages with RPD input and SFMTA approval. The term of the management agreement between Uptown Parking Corporation and Central Parking SF is five years, from February 1, 2012 through January 31, 2017.

Existing Lease with Uptown Parking Corporation will terminate on October 9, 2012 due to SFMTA's redemption of remaining $15,690,000 in Parking Revenue Bonds issued to fund Union Square Garage Renovations

In May 2001, Uptown Parking Corporation issued $19,000,000 of Series 2001 Parking Revenue Bonds to finance improvements to the Union Square Garage. As of July 11, 2012, a total principal of $15,690,000 of the original $19,000,000 Parking Revenue Bonds remained.

[4] Operating Expenses include all costs associated with day-to-day operations, including (a) utilities, (b) office, garage, and parking supplies, (c) administrative salaries, and (d) garage security.

[5] $1,384,747, or 98.8 percent of the $1,401,948 is for Bond Interest and Bond Redemption with the remaining $17,201 or1.2% for (a) trustee fees, (b) corporate legal fees, and (c) corporate insurance.

On April 10, 2012, the Board of Supervisors approved the issuance of up to $80,000,000 of SFMTA revenue bonds in order redeem all of the Union Square Garage's outstanding bonds, as part of a larger package to refinance all of the City's previous parking meter and parking garage debt at lower interest rates and achieve significant savings (Resolution No. 120-12). On July 11, 2012, the SFMTA issued $43,050,000 of new Parking Revenue Bonds, including $16,960,000 for the Union Square Garage. As a result of the redemption of the remaining $15,690,000 Union Square Garage Parking Revenue Bonds, and issuance of $16,960,000 of new Union Square Garage Parking Revenue Bonds at lower interest rates, SFMTA will realize an annual savings in debt service of between $147,000 and $150,600. Table 2 below summarizes the use of the $16,960,000 in new Parking Revenue Bonds for the Union Square Garage.

Table 2: Summary of Uses of $16,960,000 in Parking Revenue Bonds for the Union Square Garage

Repayment of Original Bonds	$15,690,000
Funding of New Debt Service Reserve Fund	1,040,000
Costs of Issuance	230,000
Total	**$16,960,000**

Since the $19,000,000 in debt originally issued by Uptown Parking Corporation was redeemed on July 11, 2012, the existing lease with Uptown Parking Corporation will terminate and Uptown Parking Corporation must vacate the premises within 90 days, or by October 9, 2012 in accordance with the existing lease, unless the lease is amended.

The City is in the process of negotiating a new lease with Uptown Parking Corporation to continue managing the Union Square Garage

According to Ms. Katie Petrucione, Director of Administration and Finance for the RPD, on June 13, 2012, Uptown Parking Corporation's Board of Directors voted to approve a lease amendment with RPD to facilitate the repayment of the bonds and to continue on a month-to-month basis until a new lease can be approved with the City for Uptown Parking Garage's continued management and oversight of the Union Square Garage and plaza.

According to Ms. Bose and Ms. Petrucione, both SFMTA and RPD are generally satisfied with Uptown Parking Corporation's historical performance, and after weighing various alternatives and based on Uptown Parking Corporation's desire to continue its oversight role of the garages and park maintenance, RPD and SFMTA support the continuation of Uptown Parking's role in managing the Union Square Garage. As a result, Ms. Bose and Ms. Petrucione advise that their staffs are currently in the process of negotiating a new lease with Uptown Parking Corporation to manage the Union Square Garage.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve and authorize an amendment to the lease of the Union Square Garage at 333 Post Street between the City, as landlord, and Uptown Parking Corporation, as tenant, to continue the term of the lease on a month-to-month basis following the retirement of the parking revenue bonds until the City and Uptown Parking Corporation

either (a) execute a new lease to replace the existing lease,or (b) terminate the lease and create a new advisory body[6] in place of Uptown Parking Corporation. Given that a new future lease with Uptown Parking Corporation is likely to extend for ten years such a lease would be subject to Board of Supervisors approval.

The proposed lease amendment would be effective upon approval by the Board of Supervisors until (a) a new future lease is approved, or (b) termination of the existing lease and creation of new advisory body to replace the Corporation, both of which are estimated to be completed within 180 days (6 months) of the effective date of this lease amendment. Under the proposed lease amendment, "the City's redemption and/or defeasance of the Bonds shall not effect a termination of the Lease or require the Corporation to vacate the premises", as is currently required under the existing lease. Rather, under the proposed lease amendment, upon payment and retirement of the bonds, the term of the lease would continue on a month-to-month basis unless and until terminated by agreement of the parties or replacement by approval and execution of a new lease.

FISCAL ANALYSIS

Currently, Uptown Parking Corporation pays $1 in annual rent to RPD for the Union Square Garage and would continue to do so under the proposed amended agreement. In addition, as discussed above, Uptown Parking Corporation currently collects all garage revenue on behalf of RPD and SFMTA and then deducts the annual expenses of operating and managing the Union Square Garage, with the remaining net income remitted to SFMTA who then remits that net income to RPD to support RPD for general departmental operations.

Ms. Bose advises that Uptown Parking Corporation is simply reimbursed for its actual costs to manage the Union Square Garage. As shown in Table 3 below, Uptown Parking Corporation incurred management costs of $135,600 in FY 2011-12, which are included in the $2,570,762 deductions for operating and management costs (See Attachment 1).

Table 3: Additional Costs Due to Leasing of Union Square Garage to Uptown Parking Corporation in FY 2011-12

Salaries[7] Attributed to Union Square Garage	$93,500
Benefits[8] Attributed to Union Square Garage	16,000
Payroll Taxes Attributed to Union Square Garage	6,900
Legal Expenses[9]	15,000
Corporate Insurance	4,200
Total	**$135,600**

[6] An alternative to executing a new lease with Uptown Parking Corporation as lessee of the Union Square Garage is to have SFMTA manage the Union Square Garage directly and have Uptown Parking Corporation Board of Directors continue to serve as an Advisory Board to SFMTA on operational and community matters.

[7] Salaries include 50 percent of the Corporate Manager's and the Corporate Accountant's salaries as well as $4,500 in sick/vacation accruals.

[8] Benefits include health insurance premiums as well as contributions to pensions.

[9] According to Ms. Bose, legal expenses vary annually dependent on actual legal activities. Uptown Parking Corporation budgets $15,000 annually for legal expenses.

According to Ms. Bose, an alternative management structure in which SFMTA would be responsible for the management of Union Square Garage, instead of Uptown Parking Corporation, is estimated to result in additional SFMTA costs of approximately $33,000. Therefore, as shown in Table 4 below, that alternative management structure is estimated to achieve approximately $102,600 in savings in FY 2011-12[10].

Table 4: Estimated Savings if SFMTA Managed Union Square Garage in FY 2011-12

Total Additional Costs Due to Leasing of Union Square Garage to Uptown Parking Corporation in FY 2011-12	$135,600
Total Estimated Additional SFMTA Costs if SFMTA Managed Union Square Garage in FY 2011-12	33,000
Total Estimated Savings if SFMTA Managed Union Square Garage in FY 2011-12	**$102,600**

POLICY CONSIDERATIONS

The Controller's June 9, 2011 report found that "leasing garages to nonprofit corporations is unnecessarily costly to the City"

On June 9, 2011 the Controller's Office issued a report which found that "leasing garages to nonprofit corporations is unnecessarily costly to the City". This Controller's report found that the City's practice of leasing City-owned garages to special-purpose nonprofit corporations, such as Uptown Parking Corporation, added a total of approximately $551,070 in additional annual costs to the City. Specifically, the Controller found that (a) based on the results of a survey, the City is the only municipality in California which leases City-owned parking garages to nonprofit corporations who then subcontract the day-to-day operations of those City-owned garages as a standard practice, (b) nonprofit parking corporations do not appear to offer tangible operational advantages, and (c) the City is unlikely to need nonprofit parking corporations to help construct or expand parking garages in the future.

The Controller made six specific recommendations in its June 9, 2011 report, which are summarized, along with SFMTA's response in Attachment 2 to this report. Ms. Bose advises that the SFMTA has addressed the majority of the Controller's concerns and incorporated additional lease provisions into the new leases currently being negotiated to address specific recommendations that the Controller made in its report, including (a) the option to terminate the lease with a 90-day notice for convenience and (b) the incorporation of updated SFMTA parking facility operation and management regulations which govern all day-to-day garage operations administered by the SFMTA.

According to Ms. Bose, the leases of the other two non-profit corporations, (a) Ellis O'Farrell Parking Corporation which manages the Ellis O'Farrell Garage, and (b) Downtown Parking Corporation, which manages the Fifth & Mission Garage, whose debt was redeemed on July 11,

[10] Ms. Bose advises that an additional 25 hours per month would be required by SFMTA staff to manage the Union Square Garage without Uptown Parking Corporation. Given an average hourly rate of $110, those additional 25 hours would cost $33,000 annually (25 hours multiplied by 12 months multiplied by $110).

2012 will be terminated on October 9, 2012 as their leases require. In contrast, the SFMTA and RPD are requesting that Uptown Parking Corporation be the only nonprofit corporation that would continue to manage the Sutter-Stockton Garage[11] and the Union Square Garage, City-owned garages whose debt was redeemed on July 11, 2012[12]. Ms. Bose advises that an identical lease amendment to the one currently proposed for the Union Square Garage lease was previously executed by SFMTA for the Sutter-Stockton Garage on June 18, 2012, which was not subject to Board of Supervisors approval because it was executed under the authority of the SFMTA Director of Transportation.

The 180 day provision included in the lease amendment is not legally binding

Included in the proposed lease amendment is a clause that states that it is "the intention" of the City and Uptown Parking Corporation to continue the existing agreement on a month-to-month basis until either a new lease is completed or there is agreement to terminate the lease and create a new advisory body in its place. The proposed lease amendment also states that the City and Uptown Parking Corporation will work cooperatively to either complete the new lease or to terminate the existing lease and create a new advisory body to replace Uptown Parking Corporation within 180 days of the proposed lease amendment's effective date.

However, according to Mr. Rob Stone of the City Attorney's Office, the 180 day time limit is not legally binding and, if the proposed resolution is approved, the existing lease could continue on a month-to-month, in perpetuity, unless one party decides to terminate it. In addition, Mr. Stone advises that it would likely take approximately 180 days to terminate the existing lease and dissolve Uptown Parking Corporation, if the decision was made to do so, given the complicated nature of the lease termination and dissolution of Uptown Parking Corporation. The Budget and Legislative Analyst notes that, although the proposed resolution reflects an alternative to negotiating a new lease with Uptown Parking Corporation involving the dissolution of Uptown Parking Corporation, SFMTA and RPD have decided to negotiate a new lease rather than terminate the existing lease and dissolve Uptown Parking Corporation.

Given the fact that the 180 day time limit for the month-to-month arrangement in the proposed lease amendment is not legally binding, such that the existing lease could continue on a month-to-month basis in perpetuity, the Budget and Legislative Analyst recommends that the proposed lease amendment be further amended to impose an 180-day or six-month time limit on the subject lease amendment in order to ensure that the finalizing of the new lease is completed in an expeditious manner.

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[11] Ms. Bose advises that a new lease between SFMTA and Uptown Parking Corporation for the Sutter-Stockton Garage is being negotiated because, like the lease with the Union Square Garage, the lease terminates in 90 days (October 9, 2012) due to the City's redemption of the $19,000,000 in Parking Revenue Bonds issued by Uptown Parking Corporation for the renovation of the Union Square Garage.

[12] Portsmouth Square Garage and Japan Center Garage continue to be managed by nonprofit corporations.

SFMTA and RPD are in the process of negotiating a new lease with Uptown Parking Corporation for the Union Square Garage

As previously discussed, SFMTA and RPD are in the process of negotiating a new lease with Uptown Parking Corporation for the Union Square Garage. According to Ms. Bose, the proposed term of a new lease between RPD and Uptown Parking Corporation, which is not the subject of the proposed resolution, but would be subject to future Board of Supervisors approval if the lease term is ten or more years, is likely to include an initial term of ten years, at the same $1.00 annual rent, and contain two five-year extension options, also at annual rent of $1.00. Under this proposed lease, the City would have the option to terminate the lease with 90 days' notice, with RPD Commission approval and the RPD General Manager would also have the ability to terminate the lease at any point for good cause, including default by Uptown Parking Corporation on any term of the lease. Likewise, Uptown Parking Corporation would also have the option to terminate the lease with 90 days' notice. The future new lease would also incorporate updated SFMTA parking facility operation and management regulations which govern all day-to-day garage operations administered by the SFMTA.

Given (a) the Controller's June 9, 2011 report findings, (b) Uptown Parking Corporation would be the only nonprofit corporation whose bonds were redeemed which would continue in its current role of managing City-owned garages,, (c) that SFMTA and RPD have already decided to move forward to negotiate a new lease with Uptown Parking Corporation for the Union Square Garage, and (d) SFMTA estimates an annual savings of between $100,600 and $105,600 if SFMTA managed the Union Square Garage instead of Uptown Parking Corporation, approval of the proposed resolution is a policy decision for the Board of Supervisors.

RECOMMENDATIONS

1. Amend the proposed resolution to impose a 180 day time limit on the proposed lease amendment.

2. Approval of the proposed resolution, as amended, is a policy decision for the Board of Supervisors.

Projected Operation Costs of Union Square Garage for FY 2011-12

Operating Cost	Projected for FY 2011-12
Administrative Salaries	$97,690
Parking Operations Salaries	553,751
Janitorial (non-contract)	0
Payroll Taxes	55,319
SF Business & Payroll Taxes	9,716
General Welfare & Pension	186,023
Worker's Compensation	49,727
Electricity	209,828
Water	10,231
Telephone	10,490
Scavenger	11,304
Insurance	135,559
Repairs / Maintenance	119,625
Office Supplies	3,021
Garage Supplies	15,829
Parking Supplies	3,191
Management Fee	43,878
SFMTA Admin Service Cost	94,526
Accounting / Bookkeeping	0
Garage Audit	29,656
Garage Legal	10,234
Garage Security	168,140
Janitorial Contract	65,248
Armored Car	5,172
Bank Charges (non-trustee)	175,145
Uniform Cleaning	4,200
Payroll Processing	867
Other - Administrative	0
Union Square Supplemental Maintenance - Custodial	123,088
Union Square Supplemental Maintenance - Engineer	54,796
Union Square Supplemental Maintenance - Safety	82,828
Taxes & Licenses	69,228
Marketing	350
Damage Claims	0

Operating Cost	Projected for FY 2011-12
Miscellaneous	80
Tenant Legal	5,339
Tenant Utilities	0
Property Management	0
Capital Improvement Projects	166,683
Total Operating Costs	**$2,570,762**

Report Title: «Report_Title»
Department: «Department»
Report Date: «Issue_Date»
Audit Manager: «Audit_Manager»

Recommendation	Implemented	In Process	Not Implemented	Will Not Implement[1]	Explanation for your response	Funds Recovered, Savings, or Increased Costs[2]	Audit Determination[3]
The San Francisco Municipal Transportation Agency should take the following actions:							
1. Compare the costs and benefits to the City of the non-profit parking corporations that are garage tenants. The SFMTA Board of Directors should endorse a formal, long-term policy on whether the City should assume the outstanding debts of non-profit parking corporations and whether it should continue to lease garages to them.	x	x			SFMTA has recently completed issuance of a Parking Revenue Bond that will result in retiring of the outstanding debt of all non-profit corporations. Concurrently, the SFMTA Board approved a new draft lease format for Corporations to consider if they wish to continue to lease the garage(s) they currently oversee. The new lease does incorporate numerous changes that will result in reduced costs and improved efficiencies. In June 2012, two Corporations voted to accept the new lease format and two Corporations voted to terminate the lease and disband the Corporation.		Open
2. Request that each non-profit parking corporation that has not already done so ensure		x			During negotiations regarding the new lease format (see Item		Open

[1]If a department head chooses not to implement a recommendation, a departmental representative should be prepared to explain the basis of this decision before the Board of Supervisors, consistent with the San Francisco Charter, Appendix F, Section F1.105(b).

[2]Indicate all identified funds recovered. Also indicate any savings or costs that are reflected in the department's budget.

[3]CSA's classification of the recommendation's status based on the department's prior response. *Open* = Not yet fully implemented. *Closed* = Fully implemented or no longer applicable. *Contested* = The department indicated it would not implement, but has not otherwise resolved the issue.

Report Title: «Report_Title»
Department: «Department»
Report Date: «Issue_Date»
Audit Manager: «Audit_Manager»

Recommendation	Implemented	In Process	Not Implemented	Will Not Implement[1]	Explanation for your response	Funds Recovered, Savings, or Increased Costs[2]	Audit Determination[3]
that its articles of incorporation or by-laws address the events that will allow or cause the dissolution of the corporation. SFMTA should request that these provisions also state that each corporation's assets shall revert to the City in the event of dissolution.					#1) the Corporations agreed to make these suggested updates to their guiding documents. The guiding documents will be formally updated concurrently with adoption of their new lease by remaining Corporations.		
3. Work with the non-profit parking corporations to add to their lease agreements restrictions on how the corporations can spend City funds.		x			Additional restrictions on expenditures by Corporations are incorporated into the new lease format.		Open
4. Develop a standard or minimum job description for the nonprofit parking corporations' corporate manager positions that clearly defines the position's duties and responsibilities. SFMTA should then seek the agreement of each corporation's board of directors to implement the job description.		x			SFMTA has created a draft job description and salary scale for Corporate Managers. This draft will be shared with the corporations for their review and comments. It is expected that the Corporations will adopt a final job description and salary range soon after the new lease agreements are signed.		Open
5. Develop a compensation scale for the		X			See Item #4.		Open

[1]If a department head chooses not to implement a recommendation, a departmental representative should be prepared to explain the basis of this decision before the Board of Supervisors, consistent with the San Francisco Charter, Appendix F, Section F1.105(b).

[2]Indicate all identified funds recovered. Also indicate any savings or costs that are reflected in the department's budget.

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Report Title: «Report_Title»
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Recommendation	Implemented	In Process	Not Implemented	Will Not Implement[1]	Explanation for your response	Funds Recovered, Savings, or Increased Costs[2]	Audit Determination[3]
corporate manager position at the non-profit parking corporations. The scale should tie the value of each manager's salary and benefits to the size and complexity of the garage managed. SFMTA should then seek the agreement of each corporation's board of directors to conform to the compensation scale.							
6. Consider whether it would be advantageous to the City to have non-profit parking corporations' corporate managers work under employment contracts. If it is found to be advantageous, SFMTA should provide corporations with the elements of a model contract and seek the agreement of each corporation's board of directors to establish such a contract.		x			SFMTA considered this issue as it was developing the job description and compensation scale (see Item #4). Although the breadth of responsibilities and the authority level are much lower, a corporate manager's responsibilities are somewhat comparable to a Parking Manager with SFMTA (class – 9177/Manager III). Therefore, an "at-will" status is preferred for the Corporate Manager position, instead of a long-term contract.		Open

[1]If a department head chooses not to implement a recommendation, a departmental representative should be prepared to explain the basis of this decision before the Board of Supervisors, consistent with the San Francisco Charter, Appendix F, Section F1.105(b).

[2]Indicate all identified funds recovered. Also indicate any savings or costs that are reflected in the department's budget.

[3]CSA's classification of the recommendation's status based on the department's prior response. *Open* = Not yet fully implemented. *Closed* = Fully implemented or no longer applicable. *Contested* = The department indicated it would not implement, but has not otherwise resolved the issue.

Edwin M. Lee, Mayor
Philip A. Ginsburg, General Manager

Date: June 14, 2012

To: Recreation and Park Commission

From: Katie Petrucione, Director of Administration and Finance

Re: Approval of a Lease Amendment to the Union Square Parking Garage Lease

Agenda Item Wording

Discussion and possible action to recommend that the Board of Supervisors approve a Lease Amendment to the Union Square Parking Garage Lease with Uptown Parking Corporation ("Uptown") dated May 1, 1999, to extend the term, upon payment of the bonds, on a month-to-month basis until a new lease is approved by the Board of Supervisors.

Background

Union Square Garage has been managed for decades by the Uptown Parking Corporation, a nonprofit corporation dedicated entirely to the operation of the Union Square and Sutter Stockton Garages. On May 1, 1999, the City and County of San Francisco, on behalf of the Recreation and Park Department ("RPD"), entered into a new lease with the Uptown Parking Corporation for the purpose of issuing debt in the amount of $19 million to fund the renovation of Union Square Plaza.

On December 15, 2011, the Recreation and Park Commission approved the Recreation and Park Department's participation in a San Francisco Municipal Transportation Agency ("SFMTA") bond issuance. The issuance includes up to $30 million to refinance $15.9 million of outstanding debt held by the Uptown Parking Corporation for the Union Square Plaza renovation project and to fund various capital improvements to Civic Center Garage, St. Mary's Square Garage and the Union Square Garage. The SFMTA bond sale is tentatively scheduled to close on July 11, 2012.

Section 49 of the existing lease with the Uptown Parking Corporation provides that the City has "buyback" rights through which the City may pay off the existing bonds for Union Square. However, if the City exercises this right, as it plans to do with the proposed refinancing, the Uptown Parking Corporation must vacate the premises within 90 days. The Corporation considered this option, but on June 13, 2012 the Corporation's Board of Directors voted to enter into a new lease with the City for the continued oversight of Union Square Garage and the plaza. The Corporation approved the form of the new lease as well as a proposed lease amendment which facilitates the repayment of the existing bonds and provides that the existing lease will continue on a month-to-month basis until a new lease is approved.

Discussion

The lease amendment will allow Uptown Parking Corporation to continue to manage the garage and the plaza on a month to month basis while the City and Uptown negotiate a new lease. In addition, the lease amendment facilitates the repayment of existing bonds related to the renovation of the Union Square Plaza. Staff expects that a new lease will be negotiated and approved within six months of approval of the lease amendment.

Proposed terms of a new lease include an initial term of ten years, with $1.00 annual rent, and two – five year extension options, also with annual rent of $1.00. The City will have the option to terminate the lease with a 90-day notice for convenience, with Commission action. The General Manager will have the ability to terminate the lease at any point for good cause, including default by Uptown on any term of the lease. The new lease will also incorporate updated SFMTA parking facility operation and management regulations which govern all day-to-day garage operations administered by the SFMTA.

Next Steps

If the Commission approves the lease amendment, it must be submitted to the Board of Supervisors for their approval. The SFMTA will defease the outstanding debt held by the Corporation upon closing of the SFMTA Bond Issuance and, on behalf of RPD, the SFMTA will continue to negotiate with the Corporation to establish a final new lease.

Recommendation

The approval of the lease amendment allows for the refinancing of outstanding debt related to the Union Square Plaza renovation. The refinancing will result in lower interest rates, creating annual savings on debt service. Approval will also provide additional time to negotiate a new lease with the Corporation for on-going oversight of the Union Square Garage and Plaza.

Staff recommends that the Commission approve the lease amendment.

Opposition

None known.

People to Notify

Uptown Parking Corporation
SFMTA

SAN FRANCISCO
PLANNING DEPARTMENT

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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415.558.6378

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July 23, 2012

Karen Mauney-Brodek
Deputy Director for Park Planning
Capital and Planning Division

Subject: File No. 2012.0935E – [333 Post Street – Union Square Garage month-to-month lease]

Dear Mrs. Mauney-Brodek :

This letter is in regards to environmental the review request for Planning Department Case No. **2012.0935E** for an amendment to the Lease of the Union Square Garage at 333 Post Street with the City of San Francisco Uptown Parking Corporation to continue the term of the Lease on a month-to-month basis following the retirement of certain parking revenue bonds until the City and the Corporation either execute a new lease to replace the existing Lease, or complete an agreement to terminate the Lease and create a new advisory body in place of the Corporation. The Planning Department has reviewed the request and determined that, per *CEQA Guidelines Section 15060 (c) (2) – Non-Physical Exemption,* the proposed amendment to the Lease of the Union Square Garage is not subject to CEQA.

Sincerely,

Monica Cristina Pereira, MS
Environmental Planner

RECREATION AND PARK COMMISSION
City and County of San Francisco
Resolution No. 1206-015

UNION SQUARE GARAGE LEASE AGREEMENT

RESOLVED, That this Commission recommends that the Board of Supervisors approve a Lease Amendment to the Union Square Parking Garage Lease with Uptown Parking Corporation dated May 1, 1999, to extend the term, upon payment of the bonds, on a month-to-month basis until a new lease is approved by the Board of Supervisors.

Adopted by the following vote:

Ayes	7
Noes	0
Absent	0

I hereby certify that the foregoing resolution was adopted at the Special Meeting of the Recreation and Park Commission held on June 21, 2012.

FOR MARGARET MCARTHUR

Margaret A. McArthur, Commission Liaison

Amendment of the Union Square Public Parking Garage Lease between the City and County of San Francisco and the City of San Francisco Uptown Parking Corporation

Recitals

A. Whereas, the City and County of San Francisco ("the City"), a municipal corporation, owns certain real property located at 333 Post Street in San Francisco, California ("the Premises"), which is used as an off-street parking facility commonly referenced as the "Union Square Garage"; and

B. Whereas, the City of San Francisco Uptown Parking Corporation ("the Corporation"), a non-profit public benefit corporation whose sole shareholder is the City was formed on February 27, 1956 for the purpose of assisting the City in acquiring, financing and managing off-street parking facilities; and

C. Whereas, the City leased the Premises to the Corporation under a lease agreement dated May 1, 1999, and recorded on April 30, 1999 ("the Lease"); and

D. Whereas, on or about April 1, 2001 the Corporation issued certain parking revenue bonds ("the Bonds") in the amount of $19,000,000_to refinance existing bonds issued by the Corporation and to finance the construction and improvement of the Premises, and the indenture documents for said Bonds ("the Indenture") were recorded on or about May 16, 2001; and

E. Whereas, U.S. Bank National Association ("Trustee") serves as the trustee for the Bonds, performing the duties of trustee described in the Indenture and other issuing documents and as required by applicable laws; and

F. Whereas, Section 49 of the Lease provides that the City has "Buyback" rights by which the City may payoff and retire the Bonds; and

G. Whereas, Section 2 of the Lease provides that the Lease shall terminate upon the payment of the Bonds and Article X of the Indenture sets out the requirements for the redemption and/or defeasance of the Bonds; and

H. Whereas, following redemption and/or defeasance retirement of the Bonds, the parties desire to continue the term of the Lease for an interim period on a month-to-month basis pending the parties' entry to a new lease (the "New Lease"), or in the alternative, entering into an agreement terminating the Lease and wrapping up the business of the Corporation, and creating an advisory body to replace the Corporation; and

I. Whereas, sections 8A.102(b), 8A.112 and 8A.113 of the City Charter and section 17.8_ of the San Francisco Administrative Code vest authority over the Premises in the San Francisco Municipal Transportation Agency ("SFMTA"); and

J. Whereas, the City, acting by and through the SFMTA, desires to redeem and/or defease the Bonds to facilitate the SFMTA's directly issuing new bonds (the "New Bonds") that will be secured in part by revenues of the Premises; and

K. Whereas, the scheduling of the issuance of the New Bonds does not allow sufficient time to terminate the Lease and obtain necessary approvals of the New Lease, or in the alternative, to assign subleases and vendor agreements, wind-up the affairs of the Corporation, and determine the structure and role of the Corporation as an advisory body, and the parties have therefore agreed to amend the Lease in the interim to provide for the redemption and/or defeasance of the Bonds and restructure the management of the Premises' revenues following said redemption and/or defeasance of the bonds;

Now therefore, based on the statements contained in the above Recitals, which are hereby incorporated into the terms and conditions of this Lease Amendment set out below, and based on the exchange of other good and valuable consideration, receipt and sufficiency of which the City and the Corporation hereby acknowledge, the City and the Corporation agree as follows:

Agreement

1. Lease Amendment. This agreement ("Lease Amendment") amends the Lease referenced above.

2. Effective Date. This Lease Amendment is dated for convenience as of June 13, 2012. This Lease Amendment shall be effective (the "Effective Date") upon the latest date stated on the signature page of this Lease Amendment or upon approval by the San Francisco Board of Supervisors, whichever is later.

3. Payment of Bonds. As provided in Section 49 of the Lease, the Corporation agrees that the City may redeem and/or defease the Bonds and in such event shall pay all outstanding debts and other financial obligations of the Corporation related to the Bonds. The City shall obtain confirmation of the payment of the Bonds from the Trustee. The City shall record the notice from the Trustee confirming the full payment and release of the Bonds, and shall provide the Corporation a copy of that recorded notice. The Corporation hereby appoints the City as its agent for purposes of redeeming and/or defeasing the Bonds and providing directions to the Trustee or taking other actions for this purpose. The Corporation shall comply with federal tax law relating to the use of the Premises as applicable in connection with the SFMTA's refunding bonds, and shall not allow or permit any use of the Premises (or any portion thereof) that will adversely affect the tax-exempt status of SFMTA's refunding bonds.

4. Term. Notwithstanding any provision of the Lease, the City's redemption and/or defeasance of the Bonds shall not effect a termination of the Lease or require the Corporation to vacate the Premises. Upon payment and retirement of the Bonds, the term of the Lease is hereby amended to continue on a month-to-month basis unless and until terminated as provided under Section 22.2 of the Lease, terminated by agreement of the parties, or replacement by approval and execution of a New Lease.

5. Accounting and Transfer of Funds. Upon the City's payment of the Bonds and satisfaction of applicable notice and recording requirements, the Trustee shall have no further role in the administration or management of revenues of the Corporation. Following receipt of notice from the City that the Bonds have been redeemed or defeased, the Corporation shall transfer all revenues derived from the Premises, including but not limited to rent and garage parking fees to the City, on a monthly basis as directed in writing by the Director of Transportation (chief executive of the SFMTA) or his designee. If requested by the City, the Corporation shall provide a full accounting of all revenues, accounts, equipment, outstanding debts and other Premises assets and obligations held by the Corporation under the Lease and shall cooperate with the SFMTA

to confirm that accounting, and the Corporation shall not transfer any revenues or other funds to the Trustee.

6. Interim Lease. The parties intend that this Lease Amendment shall modify and continue the term of the Lease on an interim basis until the parties: (1) can complete and implement a New Lease that will replace the existing Lease; or in the alternative, (2) complete an agreement to terminate the Lease, wrap up the affairs of the Corporation and create a new advisory body in its place. The parties agree to work cooperatively and expeditiously following redemption and/or defeasance of the Bonds to either effect the New Lease or to terminate the existing Lease and create a new advisory body to replace the Corporation within 180 days of the Effective Date of this Lease Amendment. The New Lease, if effected, shall be substantially in the same form and on the same terms and conditions as set out in Appendix C to this Lease Amendment.

7. Recording. The City shall record this Lease Amendment. The Corporation and the SFMTA shall each cooperate with the other and shall take any action and execute any document necessary to effect the provisions and purposes of this Lease Amendment.

8. No Third Party Beneficiaries. This Lease Amendment is for the convenience and benefit of the City and the Corporation alone; no third party beneficiaries are created or intended under this Lease Amendment.

9. Interpretation of Lease Amendment.

   a. This Lease Amendment document contains the entire agreement of the parties as to the matters addressed herein, which supersedes all prior agreements and understandings of the parties as to the matters specifically addressed herein. This Lease Amendment is limited to the matters specifically addressed herein, and no other provision of the Lease is amended or modified.

   b. If any provision of this Lease Amendment or its application to any person or circumstance is held invalid by a court of competent jurisdiction, then the offending provision shall be severed and the remainder of this Lease Amendment, or the application of such provisions to other persons or circumstances, shall not be affected thereby, but shall be construed to give maximum effect to the intent of the parties.

   c. Section titles and headings in this Lease Amendment are for reference and convenience only, and shall not be used to interpret this Lease Amendment.

   d. This Lease Amendment is the product of negotiations between the City and the Corporation, and no law or rule of contract construction that would require any provision of this Lease Amendment to be construed against the drafter shall apply to the interpretation of this Lease Amendment.

10. Included Appendices. A copy of the Lease is appended hereto as Appendix A to this Lease Amendment. A copy of the Bonds Indenture is appended hereto as Appendix B to this Lease Amendment. A copy of the draft New Lease is appended hereto as Appendix C to this Lease Amendment. The documents appended to this Lease Amendment and referenced in this Section of the Lease Amendment are incorporated by reference into the Lease Amendment as if fully set out herein. In case of any conflict of terms, conditions, or requirements between this Lease Amendment and any document incorporated by reference, the terms of this Lease Amendment shall govern.

11. Execution by Counterparts. This Lease Amendment may be executed in counterparts and each of such counterparts shall for all purposes be deemed to be an original, all such counterparts shall together constitute but one and same instrument. Executed counterparts may be delivered by facsimile or PDF via email, and such shall be given the same force and effect as an inked-signed document.

12. Authorized Signatories. This Lease Amendment is subject to the approval of the San Francisco Recreation and Park Commission and the San Francisco Board of Supervisors. The Board of Directors for the Corporation approved this Lease Amendment and authorized Sidney Goodwill as President of the Corporation to sign this Lease Amendment on behalf of the Corporation at its meeting of June 13, 2012.

RECOMMENDED:	**APPROVED:**
Edward D. Reiskin Director of Transportation Municipal Transportation Agency 6-18-12	CITY AND COUNTY OF SAN FRANCISCO (LANDLORD) ATTEST:
Phillip A. Ginsberg General Manager Department of Recreation and Parks	pursuant to resolution No. _____ dated: _____ Margaret McArthur Commission Liaison Recreation and Parks Commission
Approved as to Form: Dennis J. Herrera City Attorney by: Robert K. Stone Robert K. Stone Deputy City Attorney Dated: 6-18-12	ATTEST: _____ Angela Cavillo Clerk of the Board San Francisco Board of Supevisors
	CITY OF SAN FRANCISCO UPTOWN PARKING CORPORATION (TENANT) _____ Sidney Goodwill President Dated: 6-15-2012

AGREEMENT

This Agreement is made and entered into as of the first day of February, 1993, by and between the City and County of San Francisco, a municipal corporation existing under the laws of the State of California (hereinafter "City"), the Parking Authority of the City and County of San Francisco (hereinafter "Authority"), the City of San Francisco Uptown Parking Corporation, a nonprofit corporation organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in the City and County of San Francisco, in said state (hereinafter "Uptown Corporation") and the City of San Francisco Downtown Parking Corporation, a nonprofit corporation organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in the City and County of San Francisco, in said state (hereinafter "Downtown Corporation").

WITNESSETH

WHEREAS, the City by use of its powers of eminent domain acquired that certain real property commonly known as the Sutter-Stockton Garage site being a portion of 50 Vara Block No. 118; and

WHEREAS, the acquisition of said real property was to provide a site for a public off-street parking facility commonly known as the Sutter-Stockton Garage and hereinafter referred to as the "Uptown Garage"; and

WHEREAS, the City desired the Uptown Garage facility to be financed and constructed with monies not of the City; and

WHEREAS, the Uptown Corporation was formed for the sole purpose of assisting the City in this endeavor by financing and constructing the Uptown Garage for and on behalf of the City; and

WHEREAS, the Uptown Corporation has not made, and does not intend to make, any profit by reason of any business or venture in which it may engage or by reason of the construction or operation of the Uptown Garage or any addition thereto, and no part of the Uptown Corporation's net earnings, if any, will ever inure to the benefit of any person except the City; and

WHEREAS, all of the issued and outstanding shares of the capital stock of the Uptown Corporation are beneficially owned by the City pursuant to a Declaration of Trust, dated as of April 30, 1959, as amended by Amendment No. 1 to Declaration of Trust, dated as of April 1, 1975, executed by Crocker-Anglo National Bank (presently Wells Fargo Bank), as trustee

thereunder, by the terms of which said trustee has declared and acknowledged that it holds the title to all of the issued and outstanding stock of the Uptown Corporation in trust for the City; and

WHEREAS, the Uptown Corporation and the City entered into an Agreement dated December 19, 1957 under which the Uptown Corporation agreed to construct the Uptown Garage; and

WHEREAS, the Uptown Corporation issued $3,300,000 principal amount of City of San Francisco Uptown Parking Corporation Bonds (herein called the "1959 Bonds") under an indenture, dated as of April 1, 1959, amended by a first supplemental indenture, dated as of May 20, 1959, and a further supplemental indenture, dated as of August 24, 1972, and further amended by a written consent of the holders of all then outstanding 1959 Bonds as set forth in Article XII of the 1975 Indenture hereinafter mentioned (said indenture as so amended herein called the "1959 Indenture"), between the Corporation and Crocker-Anglo National Bank (presently Wells Fargo Bank), as trustee and succeeded by Bankers Trust Company of California, N.A., and with proceeds of the 1959 Bonds constructed the Uptown Garage; and

WHEREAS, the Uptown Corporation issued $4,100,000 principal amount of City of San Francisco Uptown Parking Corporation 1975 Parking Revenue Bonds (herein called the "1975 Bonds") under an indenture dated as of March 1, 1975 (herein called the "1975 Indenture"), between the Corporation and Crocker National Bank (presently Wells Fargo Bank), as trustee and succeeded by Bankers Trust Company of California, N.A., and with proceeds of the 1975 Bonds constructed an addition to the Uptown Garage; and

WHEREAS, at the time of issuance of the 1975 Bonds, the 1959 Indenture was discharged in the manner set forth in Article XII thereof; and

WHEREAS, the Uptown Corporation issued $3,450,000 principal amount of City of San Francisco Uptown Parking Corporation Bonds (herein called the "1978 Bonds") under an indenture dated as of August 1, 1978 (herein called the "1978 Indenture"), between the Corporation and Crocker National Bank (presently Wells Fargo Bank), as trustee and succeeded by Bankers Trust Company of California, N.A., and with these 1978 Bonds established a fund to provide a portion of monies necessary to redeem, on March 1, 1985, all 1975 Bonds maturing on March 1, 2000; and

WHEREAS, the City and the Uptown Corporation executed an Agreement entitled "Sutter-Stockton Public Parking Lease", dated May 5, 1959 (herein the "Uptown Lease"), setting forth their respective obligations including, in part, the use of

revenues received by or for the Uptown Corporation or any other person from the operation of the Uptown Garage; and

WHEREAS, under the Uptown Lease the parties hereto are not prohibited from using monies for the purposes agreed herein; and

WHEREAS, pursuant to Section 5.02(g) of the 1978 Indenture all monies remaining after deposits required in Section 5.02 subsections A-F thereto are deposited, remain in the Surplus Revenue Fund (as defined in the 1978 Indenture) (herein called the "Uptown Surplus Revenue Fund") to be disbursed by the Trustee only in such manner as it may be directed by written Order of the Uptown Corporation including disbursement for the payment of appropriate indebtedness subordinate to the 1978 Bonds; and

WHEREAS, the City, the Authority and the Uptown Corporation entered into an agreement dated as of March 11, 1982 (herein called the "1982 Surplus Agreement") whereby the Uptown Corporation agreed to transfer to the City, by the last workday of June of each year until all outstanding bonds of the Uptown Corporation are redeemed, 85% of all monies deposited that year in the Uptown Surplus Revenue Fund, except that if the total amount in the Uptown Surplus Revenue Fund were to equal $2,000,000, the Uptown Corporation would transfer 100% of moneys in the Uptown Surplus Revenue Fund in excess of $2,000,000 (the aforementioned transfer requirement hereinafter referred to as the "1982 Surplus Transfer Requirement"); and

WHEREAS, the City by use of its powers of eminent domain acquired that certain real property commonly known as the Fifth and Mission Garage site being Lots 49, 50, 51, 52, 54, 55, 56, 57, 58, 59 and 60 in Assessor's Block 3724; and

WHEREAS, the acquisition of said real property was to provide a site for a public off-street parking facility commonly known as the Fifth and Mission Garage and hereinafter referred to as the "Downtown Garage"; and

WHEREAS, the City desired the Downtown Garage facility to be financed and constructed with monies not of the City; and

WHEREAS, the Downtown Corporation was formed for the sole purpose of assisting the City in this endeavor by financing and constructing the Downtown Garage for and on behalf of the City; and

WHEREAS, the Downtown Corporation has not made, and does not intend to make, any profit by reason of any business or venture in which it may engage or by reason of the construction or operation of the Downtown Garage or any addition thereto, and no part of the Downtown Corporation's net earnings, if any, will ever inure to the benefit of any person except the City; and

WHEREAS, the Downtown Corporation and the City entered into an Agreement dated July 30, 1956 as supplemented by a Supplement to Agreement dated September 30, 1957 under which the Downtown Corporation agreed to construct the Downtown Garage; and

WHEREAS, the Downtown Corporation issued $3,000,000 principal amount of City of San Francisco Downtown Parking Corporation Bonds (herein called the "1957 Bonds") under an indenture, dated as of October 1, 1957, amended by a first supplemental indenture, dated as of April 1, 1961 (said indenture as so amended herein called the "1957 Indenture"), between the Corporation and Crocker-Anglo National Bank (presently Wells Fargo Bank), as trustee and succeeded by Bankers Trust Company of California, N.A., and with proceeds of the 1957 Bonds constructed the Downtown Garage; and

WHEREAS, the 1957 Bonds were fully paid on October 1, 1982 and the 1957 Indenture was discharged in the manner set forth in Article XII thereof; and

WHEREAS, the Downtown Corporation issued $2,000,000 principal amount of City of San Francisco Downtown Parking Corporation Bonds, Issue of 1965, Series A (herein called the "1965 Bonds") under an indenture, dated as of October 1, 1965 (herein called the "1965 Indenture") between the Corporation and Bank of America National Trust and Savings Association, as trustee, and with the proceeds of the 1965 Bonds constructed improvements to the Downtown Garage; and

WHEREAS, the 1965 Bonds were fully paid on October 1, 1990; and

WHEREAS, the City and the Downtown Corporation executed an Agreement entitled "Fifth and Mission Public Parking Lease dated October 28, 1957, as amended by an Amendment to Fifth and Mission Parking Lease (herein called the "1957 Lease"), setting forth their respective obligations including, in part, the use of revenues received by or for the Downtown Corporation or any other person from the operation of the Downtown Garage; and

WHEREAS, the Downtown Garage has a need for seismic retrofitting and expansion of the number of transient parking spaces therein (herein called the "Improvements"); and

WHEREAS, the City and the Downtown Corporation will enter into a Fifth and Mission Public Parking Garage Lease, dated for convenience as of April 1, 1992 (herein called the "1992 Lease") and immediately prior to the recordation thereof will terminate the 1957 Lease; and

WHEREAS, under the terms of the 1992 Lease the parties hereto are not prohibited from using monies for the purposes agreed herein; and

WHEREAS, the Downtown Corporation intends to issue $15,800,000 principal amount of City of San Francisco Downtown Parking Corporation Parking Revenue Bonds, Series 1993 (herein called the "1993 Bonds") under an indenture dated as of February 1, 1993 (herein called the "1993 Indenture") between Bank of America National Trust and Savings Association, as trustee and the Corporation, and with the proceeds of the 1993 Bonds construct the Improvements; and

WHEREAS, in order to provide additional security for the 1993 Bonds which will result in a stronger debt service coverage ratio and facilitate the sale and marketing of the 1993 Bonds, the City, the Authority and the Uptown Corporation desire to amend the 1982 Surplus Agreement to allow moneys in the Uptown Surplus Revenue Fund to be transferred to the Revenue Fund established under the 1993 Indenture (herein called the "1993 Revenue Fund").

NOW, THEREFORE, for the reasons stated above the parties hereto agree as follows:

ARTICLE I

Incorporation of Recitals

Each of the recitals provided hereinabove are incorporated into this Agreement, and, where necessary, shall be referred to in interpreting this Agreement and its intent.

ARTICLE II

Transfers of Surplus Revenues; Extension of Uptown Lease

1. (a) Uptown Corporation, with the assent of the City and the Authority, agrees to transfer to the trustee under the 1993 Indenture, for deposit in the 1993 Revenue Fund, by the last workday of May of each year until all outstanding 1993 Bonds are redeemed, 100% of all monies deposited in the fiscal year ending the preceding April in the Uptown Surplus Revenue Fund (such transfer requirement hereinafter referred to as the "1993 Surplus Transfer Requirement").

(b) Uptown Corporation, with the assent of the City and the Authority, agrees to transfer to the trustee under the 1993 Indenture, for deposit in the Supplemental Construction Fund established under the 1993 Indenture, on the date of issuance of the 1993 Bonds, $1,200,000 from the Uptown Surplus Revenue Fund.

2. Section 1 of this Article II shall be deemed an amendment to the 1982 Surplus Transfer Requirement and to all Uptown Surplus Revenue Fund transfer requirements set forth in the 1982 Surplus Agreement and shall supersede such provisions in all respects.

3. The 1993 Surplus Transfer Requirement shall be deposited in a separate account created in the 1993 Revenue Fund and used, to the extent revenues from the Downtown Corporation are insufficient, to pay debt service on the 1993 Bonds. On June 15 of each year (or the next following business day if such day is not a business day) Downtown Corporation shall cause the trustee under the 1993 Indenture to transfer any and all of the 1993 Surplus Transfer Requirement not so used to pay debt service on the 1993 Bonds (herein the "Remaining 1993 Surplus Transfer Requirement") as follows: (a) 15% of the Remaining 1993 Surplus Transfer Requirement shall be transferred to Uptown Corporation for deposit in the Uptown Surplus Revenue Fund; and (b) 85% of the Remaining 1993 Surplus Transfer Requirement shall be transferred to the City; provided, however, that if the amount on deposit in the Uptown Surplus Revenue Fund shall equal or exceed $2,000,000, 100% of the Remaining 1993 Surplus Transfer Requirement shall be transferred to the City.

4. Downtown Corporation covenants and agrees that the 1993 Indenture shall contain a provision pertaining to the Surplus Revenue Fund established under the 1993 Indenture (herein called the "Downtown Surplus Revenue Fund") which shall require upon completion of a second phase of improvements to the Downtown Garage (namely the refurbishing of the facade of the Downtown Garage and the installation of a ramp extension, all as determined by the Corporation and the Planning Department of the City), a yearly transfer to the City of 85% of all moneys deposited that year in the Downtown Surplus Revenue Fund. After completion of such second phase of improvements to the Downtown Garage should the total amount in the Downtown Surplus Revenue Fund equal or exceed $1,000,000 in any year, Downtown Corporation covenants and agrees that the 1993 Indenture shall require the Downtown Corporation to transfer to the City 100% of all monies deposited that year in the Downtown Surplus Revenue Fund.

5. The City and Uptown Corporation covenant and agree, if necessary to preserve the mechanism of transfers described in this Article, to extend the term of the Uptown Lease and the maintenance of funds originally established under the 1978 Indenture until the final payment of bonds issued by Downtown Corporation.

ARTICLE III

General Provisions

1. If any provision of this Agreement, or its application to any person or circumstance is held invalid, the remainder of this Agreement, or the applications of such provisions to other persons or circumstances, shall not be affected thereby.

2. Wherever applicable, this Agreement shall be subject to the Charter of the City and all local codes and ordinances.

3. Captions of the Articles of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

DEPARTMENT OF PARKING AND TRAFFIC

By _____
Director

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation

By _____
Mayor

CONTROLLER

By _____
Controller

Attest:

By _____
Clerk of the Board of Supervisors

REAL ESTATE DEPARTMENT

By _____
Director of Property

CITY OF SAN FRANCISCO UPTOWN PARKING CORPORATION

By _____
President

APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

By _____
Deputy City Attorney

CITY OF SAN FRANCISCO DOWNTOWN PARKING CORPORATION

By _____
President

FIRST AMENDMENT TO AGREEMENT

Among

The City and County of San Francisco,

Department of Parking and Traffic of The City and County of San Francisco,

City of San Francisco Uptown Parking Corporation,

and

City of San Francisco Downtown Parking Corporation

Dated as of

April 1, 2001

FIRST AMENDMENT TO AGREEMENT

This First Amendment to Agreement (hereinafter "Amended Agreement") is made and entered into as of the 1st day of April, 2001, by and between The City and County of San Francisco, a municipal corporation existing under the laws of the State of California (hereinafter "City"), the Department of Parking and Traffic of The City and County of San Francisco (hereinafter "Department"), the City of San Francisco Uptown Parking Corporation, a non-profit public benefit corporation organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in The City and County of San Francisco in said state (hereinafter "Uptown Corporation") and the City of San Francisco Downtown Parking Corporation, a nonprofit public benefit corporation organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in The City and County of San Francisco in said state (hereinafter "Downtown Corporation").

WITNESSETH

WHEREAS, the City, the Parking Authority of the City and County of San Francisco (hereinafter the "Authority"), the Uptown Corporation and the Downtown Corporation entered into an Agreement, dated as of February 1, 1993 (the "Agreement") concerning the transfer of certain moneys in the Uptown Surplus Revenue Fund (as defined in the Agreement attached hereto as Exhibit A) to provide additional security for the holders of 1993 Bonds (as defined in the Agreement) issued by Downtown Corporation, acting by and on behalf of the City;

WHEREAS, each recital contained in the Agreement is incorporated by reference as if fully set forth herein;

WHEREAS, the bonds referenced in the Agreement and previously issued by the Uptown Corporation pursuant to the 1978 Indenture, as such indenture is defined in the Agreement, have been fully paid;

WHEREAS, the Department is the appropriate entity within the City to execute this Amendment and fulfill the terms and conditions of the Agreement, therefore, the Department hereby ratifies, approves, agrees to and assumes all terms, conditions, covenants and obligations contained in the Agreement and this Amended Agreement;

WHEREAS, the City owns, in downtown San Francisco, an off-street, underground public parking facility with a public park above it, comprising the block bounded by Powell, Geary, Post and Stockton streets and commonly referred to as Union Square Garage and Union Square Park;

WHEREAS, the City desires that certain improvements, upgrades and expansion be made to Union Square Garage and Union Square Park (hereinafter collectively referred to as the "Improvements") to be financed and constructed with moneys that are not moneys of the City;

WHEREAS, the City and the Corporation have entered into the Union Square Public Parking Garage Lease, dated May 1, 1999, as amended, (herein called the "Union Square Garage Lease") pursuant to which the Uptown Corporation will operate the Union Square Garage and finance and construct the Improvements;

WHEREAS, in furtherance of and consistent with the Union Square Lease, the Uptown Corporation has amended its Articles of Incorporation to include in its purpose the financing for and construction of the Improvements on behalf of the City;

WHEREAS, the Uptown Corporation intends to issue $19,000,000 principal amount of City of San Francisco Uptown Parking Corporation Parking Revenue Bonds (Union Square) Series 2001 (herein called the "2001 Bonds") under an indenture dated as of April 1, 2001 (herein called the "2001 Indenture") between U.S. Bank Trust National Association, as trustee (the "2001 Trustee"), and the Uptown Corporation, and with the proceeds of the 2001 Bonds construct the Improvements;

WHEREAS, in order to provide a higher debt service coverage ratio, and to facilitate the sale and marketing of the 2001 Bonds, the City, the Department, the Downtown Corporation and the Uptown Corporation desire to amend the Agreement to allow money in the Uptown Surplus Revenue Fund transferred to the 1993 Revenue Fund (as defined in the Agreement) to be subsequently transferred to the Revenue Fund established under the 2001 Indenture (herein called the "2001 Revenue Fund") for the payment of debt service;

WHEREAS, the Uptown Corporation has not made, and does not intend to make, any profit by reason of any business or venture in which it may engage or by reason of the construction of the Improvements or the operation of the Union Square Garage or any addition thereto or the maintenance of Union Square Park, and no part of the Uptown Corporation's net earnings, if any, will ever inure to the benefit of any person except the City;

WHEREAS, under the terms of the 1999 Lease the parties hereto are not prohibited from using moneys for the purposes agreed herein; and

WHEREAS, on February 22, 1999, the Board of Supervisors of the City approved Ordinance Number 34-99 which was approved by the Mayor of the City on March 5, 1999, authorizing the Union Square Improvements and the related actions in furtherance thereof, including but not limited to this Amendment;

NOW, THEREFORE, for the reasons stated above the parties hereto agree as follows:

ARTICLE I

Incorporation of Recitals

Each of the recitals provided hereinabove are incorporated into this Amended Agreement, and, where necessary, shall be referred to in interpreting this Amended Agreement and its intent.

ARTICLE II

Amendment to Certain Provisions Contained in Article II of the Agreement

1. Section 3 of Article II of the Agreement is supplemented and amended in its entirety as follows:

3. (a) The Trustee under the 1993 Indenture (the "1993 Indenture") shall deposit the 1993 Surplus Transfer Requirement in a separate account in the 1993 Revenue Fund (the "1993 Uptown Transfer Account") held under the 1993 Indenture. On or before each June 15, if the 1993 Trustee does not hold sufficient moneys pursuant to the 1993 Indenture (other than the amounts in the 1993 Uptown Transfer Account) to pay debt service on the 1993 Bonds for the bond year ending April 1 of such year, the 1993 Trustee shall transfer to such debt service accounts from the 1993 Uptown Transfer Account such moneys as are required to pay such debt service on the 1993 Bonds, including but not limited to replenishment of the debt service reserve account for the 1993 Bonds.

(b) The Downtown Corporation shall cause the 1993 Trustee on or before each June 15, to transfer to the 2001 Trustee any and all moneys remaining in the 1993 Uptown Transfer Account after the payments required in (a) above (the "2001 Uptown Transfer Requirement"). When the 1993 Bonds are no longer outstanding, the Uptown Corporation shall transfer the 1993 Uptown Transfer Requirement directly to the 2001 Trustee. The 2001 Trustee shall deposit the transferred funds in a separate account in the 2001 Revenue Fund (the "2001Uptown Transfer Account") held under the 2001 Indenture. On or before June 25, the 2001 Trustee shall transfer to the debt service accounts held under the 2001 Indenture from the 2001 Uptown Transfer Account the sum of:

(i) the positive difference, if any, between (A) the amount for such year set forth in Schedule I (attached hereto and incorporated herein by this reference), *less* (B) an amount equal to 75% of the revenue in excess of $100,000, if any, received by the City from the Union Square Park (including but not limited to use fees, permit fees, and lease and rental payments) during the year ended as of the preceding March 31, as certified by the City; *plus*

(ii) if the 2001 Trustee does not hold sufficient funds pursuant to the 2001 Indenture (other than the amounts remaining in the 2001 Uptown Transfer Account) to pay debt service on the 2001 Bonds for the bond year ending on July 1 of such year, such additional moneys as are required to pay such debt service on the 2001 Bonds, including but not limited to the replenishment of the debt service reserve account for the 2001 Bonds.

(c) On or before each June 25, the Uptown Corporation shall, pursuant to the Union Square Garage Lease, transfer from the 2001 Uptown Transfer Account to the Surplus Revenue Fund held under the 2001 Indenture, such funds as may be annually budgeted for the Union Square Garage for capital repairs and improvements.

(d) The Uptown Corporation shall cause the 2001 Trustee, on or before each June 26, to pay any and all moneys remaining in the 2001 Uptown Transfer Account after the payments required pursuant to (b)(i) and (ii) and (c) above as follows:

(i) to the Uptown Corporation for deposit in the Uptown Surplus Fund an amount equal to:

(A) 15% of the 2001 Uptown Transfer Requirement; *minus*

(B) the positive amount, if any, for such year determined pursuant to subsection 3(b)(i) above; *minus*

(C) 15% of the amount, if any, determined pursuant to subsection 3(b)(ii) above; and

(ii) the remainder to the City.

provided, however, that if the amount of any payment to the Uptown Corporation pursuant to subsection (d)(i) would cause the balance in the Uptown Surplus Fund to exceed $2 million, the amount of any such excess shall be paid to the City.

(d) The amounts transferred to the City pursuant to this section attributable to the Union Square Garage shall be applied by the City in accordance with Section 4.113 of the City Charter, and the amounts so transferred to the City attributable to the Sutter-Stockton Garage applied by the City in accordance with Section 16.110 of the City Charter.

2. Section 5 of Article II of the Agreement is supplemented and amended in its entirety as follows:

5. The City, the Department, Downtown Corporation and Uptown Corporation covenant and agree, if necessary to preserve the mechanism of transfers described in this Article, to extend the term of the Uptown Lease, and the maintenance of funds originally established under the 1978 Indenture, until the final payment of the 1993 Bonds and the 2001 Bonds.

ARTICLE III

General Provisions

1. All provisions of the Agreement, to the extent not amended or supplemented herein, shall remain in full force and effect.

2. If any provision of this Amended Agreement, or its application to any person or circumstance is held invalid, the remainder of this Amended Agreement, or the applications of such provisions to other persons or circumstances, shall not be affected thereby.

3. Wherever applicable, this Amended Agreement shall be subject to the Charter of the City and all local codes and ordinances.

4. Captions of the Articles of this Amended Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Amended Agreement.

5. Whenever in this Amended Agreement a calendar date is specified and that calendar date is a non-Business Day as defined in the 2001 Indenture, the next Business Day shall be deemed t be that date for all purposes under this Amended Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amended Agreement as of the date first above written.

DEPARTMENT OF PARKING AND TRAFFIC

By _____
Director

CONTROLLER

By _____
Controller

REAL ESTATE DEPARTMENT

By _____
Director of Property

APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

By _____
Deputy City Attorney

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By _____
Mayor

Attest:

By _____
Clerk of the Board of Supervisors

CITY OF SAN FRANCISCO UPTOWN PARKING CORPORATION

By _____
President

By _____
Secretary

Attest: _____
Assistant Secretary

CITY OF SAN FRANCISCO DOWNTOWN PARKING CORPORATION

By _____
President

Attest: _____
Secretary

SCHEDULE I

Year (ended June 30)	Debt Service Contribution to 2001 Bonds
2001	$700,000
2002	600,000
2003	600,000
2004	500,000
2005	500,000
2006	500,000
2007	500,000
2008	500,000
2009	500,000
2010	500,000
2011	500,000
2012	500,000
2013	500,000
2014	500,000
2015	500,000
2016	500,000
2017	500,000
2018	500,000
2019	500,000
2020	500,000
2021	500,000
2022	500,000
2023	500,000
2024	500,000
2025	500,000
2026	500,000
2027	500,000
2028	500,000
2029	500,000
2030	500,000
2031	500,000
2032	500,000
2033	500,000
2034	500,000
2035	500,000

EXHIBIT A

AGREEMENT

This Agreement is made and entered into as of the first day of February, 1993, by and between the City and County of San Francisco, a municipal corporation existing under the laws of the State of California (hereinafter "City"), the Parking Authority of the City and County of San Francisco (hereinafter "Authority"), the City of San Francisco Uptown Parking Corporation, a nonprofit corporation organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in the City and County of San Francisco, in said state (hereinafter "Uptown Corporation") and the City of San Francisco Downtown Parking Corporation, a nonprofit corporation organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in the City and County of San Francisco, in said state (hereinafter "Downtown Corporation").

WITNESSETH

WHEREAS, the City by use of its powers of eminent domain acquired that certain real property commonly known as the Sutter-Stockton Garage site being a portion of 50 Vara Block No. 118; and

WHEREAS, the acquisition of said real property was to provide a site for a public off-street parking facility commonly known as the Sutter-Stockton Garage and hereinafter referred to as the "Uptown Garage"; and

WHEREAS, the City desired the Uptown Garage facility to be financed and constructed with monies not of the City; and

WHEREAS, the Uptown Corporation was formed for the sole purpose of assisting the City in this endeavor by financing and constructing the Uptown Garage for and on behalf of the City; and

WHEREAS, the Uptown Corporation has not made, and does not intend to make, any profit by reason of any business or venture in which it may engage or by reason of the construction or operation of the Uptown Garage or any addition thereto, and no part of the Uptown Corporation's net earnings, if any, will ever inure to the benefit of any person except the City; and

WHEREAS, all of the issued and outstanding shares of the capital stock of the Uptown Corporation are beneficially owned by the City pursuant to a Declaration of Trust, dated as of April 30, 1959, as amended by Amendment No. 1 to Declaration of Trust, dated as of April 1, 1975, executed by Crocker-Anglo National Bank (presently Wells Fargo Bank), as trustee thereunder, by the terms of which said trustee has declared and acknowledged that it holds the title to all of the issued and outstanding stock of the Uptown Corporation in trust for the City; and

WHEREAS, the Uptown Corporation and the City entered into an Agreement dated December 19, 1957 under which the Uptown Corporation agreed to construct the Uptown Garage; and

WHEREAS, the Uptown Corporation issued $3,300,000 principal amount of City of San Francisco Uptown Parking Corporation Bonds (herein called the "1959 Bonds") under an indenture, dated as of April 1, 1959, amended by a first supplemental indenture, dated as of May 20, 1959, and a further supplemental indenture, dated as of August 24, 1972, and further amended by a written consent of the holders of all then outstanding 1959 Bonds as set forth in Article XII of the 1975 Indenture hereinafter mentioned (said indenture as so amended herein called the "1959 Indenture"), between the Corporation and Crocker-Anglo National Bank (presently Wells Fargo Bank), as trustee and succeeded by Bankers Trust Company of California, N.A., and with proceeds of the 1959 Bonds constructed the Uptown Garage; and

WHEREAS, the Uptown Corporation issued $4,100,000 principal amount of City of San Francisco Uptown Parking Corporation 1975 Parking Revenue Bonds (herein called the "1975 Bonds") under an indenture dated as of March 1, 1975 (herein called the "1975 Indenture"), between the Corporation and Crocker National Bank (presently Wells Fargo Bank), as trustee and succeeded by Bankers Trust Company of California, N.A., and with proceeds of the 1975 Bonds constructed an addition to the Uptown Garage; and

WHEREAS, at the time of issuance of the 1975 Bonds, the 1959 Indenture was discharged in the manner set forth in Article XII thereof; and

WHEREAS, the Uptown Corporation issued $3,450,000 principal amount of City of San Francisco Uptown Parking Corporation Bonds (herein called the "1978 Bonds") under an indenture dated as of August 1, 1978 (herein called the "1978 Indenture"), between the Corporation and Crocker National Bank (presently Wells Fargo Bank), as trustee and succeeded by Bankers Trust Company of California, N.A., and with these 1978 Bonds established a fund to provide a portion of monies necessary to redeem, on March 1, 1985, all 1975 Bonds maturing on March 1, 2000; and

WHEREAS, the City and the Uptown Corporation executed an Agreement entitled "Sutter-Stockton Public Parking Lease", dated May 5, 1959 (herein the "Uptown Lease"), setting forth their respective obligations including, in part, the use of revenues received by or for the Uptown Corporation or any other person from the operation of the Uptown Garage; and

WHEREAS, under the Uptown Lease the parties hereto are not prohibited from using monies for the purposes agreed herein; and

WHEREAS, pursuant to Section 5.02(g) of the 1978 Indenture all monies remaining after deposits required in Section 5.02 subsections A-F thereto are deposited, remain in the Surplus Revenue Fund (as defined in the 1978 Indenture) (herein called the "Uptown Surplus Revenue Fund") to be disbursed by the Trustee only in such manner as it may be directed by written Order of the Uptown Corporation including disbursement for the payment of appropriate indebtedness subordinate to the 1978 Bonds; and

WHEREAS, the City, the Authority and the Uptown Corporation entered into an agreement dated as of March 11, 1982 (herein called the "1982 Surplus Agreement") whereby the Uptown Corporation agreed to transfer to the City, by the last workday of June of each year until all outstanding bonds of the Uptown Corporation are redeemed, 85% of all monies deposited that year in the Uptown Surplus Revenue Fund, except that if the total amount in the Uptown Surplus Revenue Fund were to equal $2,000,000, the Uptown Corporation would transfer 100% of moneys in the Uptown Surplus Revenue Fund in excess of $2,000,000 (the aforementioned transfer requirement hereinafter referred to as the "1982 Surplus Transfer Requirement"); and

WHEREAS, the City by use of its powers of eminent domain acquired that certain real property commonly known as the Fifth and Mission Garage site being Lots 49, 50, 51, 52, 54, 55, 56, 57, 58, 59 and 60 in Assessor's Block 3724; and

WHEREAS, the acquisition of said real property was to provide a site for a public off-street parking facility commonly known as the Fifth and Mission Garage and hereinafter referred to as the "Downtown Garage"; and

WHEREAS, the City desired the Downtown Garage facility to be financed and constructed with monies not of the City; and

WHEREAS, the Downtown Corporation was formed for the sole purpose of assisting the City in this endeavor by financing and constructing the Downtown Garage for and on behalf of the City; and

WHEREAS, the Downtown Corporation has not made, and does not intend to make, any profit by reason of any business or venture in which it may engage or by reason of the construction or operation of the Downtown Garage or any addition thereto, and no part of the Downtown Corporation's net earnings, if any, will ever inure to the benefit of any person except the City; and

WHEREAS, the Downtown Corporation and the City entered into an Agreement dated July 30, 1956 as supplemented by a Supplement to Agreement dated September 30, 1957 under which the Downtown Corporation agreed to construct the Downtown Garage; and

WHEREAS, the Downtown Corporation issued $3,000,000 principal amount of City of San Francisco Downtown Parking Corporation Bonds (herein called the "1957 Bonds") under an indenture, dated as of October 1, 1957, amended by a first supplemental indenture, dated as of April 1, 1961 (said indenture as so amended herein called the "1957 Indenture"), between the Corporation and Crocker-Anglo National Bank (presently Wells Fargo Bank), as trustee and succeeded by Bankers Trust Company of California, N.A., and with proceeds of the 1957 Bonds constructed the Downtown Garage; and

WHEREAS, the 1957 Bonds were fully paid on October 1, 1982 and the 1957 Indenture was discharged in the manner set forth in Article XII thereof; and

WHEREAS, the Downtown Corporation issued $2,000,000 principal amount of City of San Francisco Downtown Parking Corporation Bonds, Issue of 1965, Series A (herein

called the "1965 Bonds") under an indenture, dated as of October 1, 1965 (herein called the "1965 Indenture") between the Corporation and Bank of America National Trust and Savings Association, as trustee, and with the proceeds of the 1965 Bonds constructed improvements to the Downtown Garage; and

WHEREAS, the 1965 Bonds were fully paid on October 1, 1990; and

WHEREAS, the City and the Downtown Corporation executed an Agreement entitled "Fifth and Mission Public Parking Lease dated October 28, 1957, as amended by an Amendment to Fifth and Mission Parking Lease (herein called the "1957 Lease"), setting forth their respective obligations including, in part, the use of revenues received by or for the Downtown Corporation or any other person from the operation of the Downtown Garage; and

WHEREAS, the Downtown Garage has a need for seismic retrofitting and expansion of the number of transient parking spaces therein (herein called the "Improvements"); and

WHEREAS, the City and the Downtown Corporation will enter into a Fifth and Mission Public Parking Garage Lease, dated for convenience as of April 1, 1992 (herein called the "1992 Lease") and immediately prior to the recordation thereof will terminate the 1957 Lease; and

WHEREAS, under the terms of the 1992 Lease the parties hereto are not prohibited from using monies for the purposes agreed herein; and

WHEREAS, the Downtown Corporation intends to issue $15,800,000 principal amount of City of San Francisco Downtown Parking Corporation Parking Revenue Bonds, Series 1993 (herein called the "1993 Bonds") under an indenture dated as of February 1, 1993 (herein called the "1993 Indenture") between Bank of America National Trust and Savings Association, as trustee and the Corporation, and with the proceeds of the 1993 Bonds construct the Improvements; and

WHEREAS, in order to provide additional security for the 1993 Bonds which will result in a stronger debt service coverage ratio and facilitate the sale and marketing of the 1993 Bonds, the City, the Authority and the Uptown Corporation desire to amend the 1982 Surplus Agreement to allow moneys in the Uptown Surplus Revenue Fund to be transferred to the Revenue Fund established under the 1993 Indenture (herein called the "1993 Revenue Fund").

NOW, THEREFORE, for the reasons stated above the parties hereto agree as follows:

ARTICLE I

Incorporation of Recitals

Each of the recitals provided hereinabove are incorporated into this Agreement, and, where necessary, shall be referred to in interpreting this Agreement and its intent.

ARTICLE II

Transfers of Surplus Revenues; Extension of Uptown Lease

1. (a) Uptown Corporation, with the assent of the City and the Authority, agrees to transfer to the trustee under the 1993 Indenture, for deposit in the 1993 Revenue Fund, by the last workday of May of each year until all outstanding 1993 Bonds are redeemed, 100% of all monies deposited in the fiscal year ending the preceding April in the Uptown Surplus Revenue Fund (such transfer requirement hereinafter referred to as the "1993 Surplus Transfer Requirement").

(b) Uptown Corporation, with the assent of the City and the Authority, agrees to transfer to the trustee under the 1993 Indenture, for deposit in the Supplemental Construction Fund established under the 1993 Indenture, on the date of issuance of the 1993 Bonds, $1,200,000 from the Uptown Surplus Revenue Fund.

2. Section 1 of this Article II shall be deemed an amendment to the 1982 Surplus Transfer Requirement and to all Uptown Surplus Revenue Fund transfer requirements set forth in the 1982 Surplus Agreement and shall supersede such provisions in all respects.

3. The 1993 Surplus Transfer Requirement shall be deposited in a separate account created in the 1993 Revenue Fund and used, to the extent revenues from the Downtown Corporation are insufficient, to pay debt service on the 1993 Bonds. On June 15 of each year (or the next following business day if such day is not a business day) Downtown Corporation shall cause the trustee under the 1993 Indenture to transfer any and all of the 1993 Surplus Transfer Requirement not so used to pay debt service on the 1993 Bonds (herein the "Remaining 1993 Surplus Transfer Requirement") as follows: (a) 15% of the Remaining 1993 Surplus Transfer Requirement shall be transferred to Uptown Corporation for deposit in the Uptown Surplus Revenue Fund; and (b) 85% of the Remaining 1993 Surplus Transfer Requirement shall be transferred to the City; provided, however, that if the amount on deposit in the Uptown Surplus Revenue Fund shall equal or exceed $2,000,000, 100% of the Remaining 1993 Surplus Transfer Requirement shall be transferred to the City.

4. Downtown Corporation covenants and agrees that the 1993 Indenture shall contain a provision pertaining to the Surplus Revenue Fund established under the 1993 Indenture (herein called the "Downtown Surplus Revenue Fund") which shall require upon completion of a second phase of improvements to the Downtown Garage (namely the refurbishing of the facade of the Downtown Garage and the installation of a ramp extension, all as determined by the Corporation and the Planning Department of the City), a yearly transfer to the City of 85% of all moneys deposited that year in the Downtown Surplus Revenue Fund. After completion of such second phase of improvements to the Downtown Garage should the total amount in the Downtown Surplus Revenue Fund equal or exceed $1,000,000 in any year, Downtown Corporation covenants and agrees that the 1993 Indenture shall require the Downtown Corporation to transfer to the City 100% of all monies deposited that year in the Downtown Surplus Revenue Fund.

5. The City and Uptown Corporation covenant and agree, if necessary to preserve the mechanism of transfers described in this Article, to extend the term of the Uptown Lease and the maintenance of funds originally established under the 1978 Indenture until the final payment of bonds issued by Downtown Corporation.

ARTICLE III

General Provisions

1. If any provision of this Agreement, or its application to any person or circumstance is held invalid, the remainder of this Agreement, or the applications of such provisions to other persons or circumstances, shall not be affected thereby.

2. Wherever applicable, this Agreement shall be subject to the Charter of the City and all local codes and ordinances.

3. Captions of the Articles of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

File No. 120822

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: CITY OF SAN FRANCISCO UPTOWN PARKING CORPORATION	
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. See attached	
Contractor address: See attached. 444 STOCKTON ST., SF, CA 94108	
Date that contract was approved: *(By the SF Board of Supervisors)*	Amount of contracts: $
Describe the nature of the contract that was approved: PROPERTY MANAGEMENT OF THE DAY-TO-DAY OPERATIONS OF THE UNION SQUARE PLAZA AND PARKING GARAGE; WORKING WITH REC/PARK DEPT. AND SFMTA.	
Comments: UPTOWN PARKING CORPORATION IS A NON-PROFIT, PUBLIC BENEFIT ORGANIZATION.	

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

CITY OF SAN FRANCISCO UPTOWN PARKING CORPORATION
BOARD OF DIRECTORS

1) Sidney Goodwill — President and Director
R/E Owner - Consultant

2) Arthur Beren — Vice-President and Director
Arthur Beren Shoes

3) Linda Mjellem — Vice-President and Director
Union Square Business Improvement District (Retired)

4) Jed Pogran — Director and Audit Committee
Gump's (Retired)

5) David Nadelman — Director
Grand Hyatt Hotel

6) Susan Gearey — Director
Tiffany's (Retired)

7) Cheryl Fordham — Director
Saks Fifth Avenue

8) Tessa Wilcox — Director
Artsource

9) John Capizzi — Director
Neiman Marcus

10) Sylvia F. Wilkerson — Director
Events Organizers

11) Richard Canciamilla — Director
Barney's New York

12)

Anson Lee — Secretary / Treasurer, Corporate Manager

Paul Newman — Assistant Secretary, Corporate Counsel
Keil and Connolly Law Offices

[Currently, there are eleven (11) active directors and two (2) vacancy for a full slate of thirteen (13) seats on the board.]

James Ludwig — Director Emeritus

Clinton Paul — Director Emeritus

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