

AMENDED IN COMMITTEE  
4/10/2019

FILE NO. 190317

RESOLUTION NO.

1 [Lease Agreement - Tad's, Inc. - 44 Ellis Street - Annual Base Rent of \$5,317,024]

2

3 **Resolution authorizing the Municipal Transportation Agency to execute a retail lease**  
4 **agreement with Tad's, Inc., for approximately 5,368 square feet of retail space at 44**  
5 **Ellis Street, for a ten-year term, to commence upon approval by the Board of**  
6 **Supervisors, plus two five-year extension options, at a total rent over the initial ten-**  
7 **year term of \$5,317,024.**

8

9 WHEREAS, The Ellis-O'Farrell Garage (Garage), located at 123 O'Farrell Street, is  
10 owned by the City and County of San Francisco, and under the jurisdiction of the Municipal  
11 Transportation Agency (SFMTA), offers three retail spaces; and

12 WHEREAS, On May 6, 2015, the Board of Supervisors under Resolution No. 187-15  
13 authorized the Director of Transportation of the SFMTA to execute a lease agreement with  
14 Les Joulins for the retail space designated as 44 Ellis Street and comprised of approximately  
15 5,368 square feet for an initial term of ten years (Lease); and

16 WHEREAS, On March 1, 2017, the Lease was assumed by Tad's Inc. (Tenant); and

17 WHEREAS, The Lease agreement includes a rent schedule for the ten-year initial term  
18 that will result in \$5,127,000 in revenue to the SFMTA and includes \$250,000 in rent credits  
19 upon completion of certain pre-authorized improvements; and

20 WHEREAS, For over 20 years, no major improvements have been made to the retail  
21 space at 44 Ellis Street and the Tenant has determined that the space needs additional work  
22 on top of the pre-authorized improvements contemplated in the Lease in order to comply with  
23 current building codes; and

24 WHEREAS, Tenant desires to enter into a new lease agreement which would allow  
25 them to make investments in the necessary improvements to the retail space and lease the

1 property for a longer term than the six years that remain in the lease; and

2 WHEREAS, The proposed new lease includes a rent schedule for the initial ten-year  
3 term that will result in \$5,317,024 in revenue to the SFMTA, and includes two five-year  
4 options to extend the lease; and

5 WHEREAS, Rent for the first five-year option to extend will be at 103% of the base rent  
6 from the lease year immediately prior; and

7 WHEREAS, Rent for the second five-year option to extend is at the greater of 103% of  
8 the base rent from the lease year immediately prior or 95% of the market rent; and

9 WHEREAS, The proposed lease includes nine months of rent abatement to facilitate  
10 Tenant's construction of certain improvements; and

11 WHEREAS, In November 2018, the SFMTA hired an independent appraiser R. Blum  
12 and Associates (R. Blum), to determine the Market Rent (as defined in Administrative Code,  
13 Section 23.2), and he concluded the Market Rent for the space at 44 Ellis Street to be in a  
14 range between \$82.50 and \$87.50 per square foot per year; and

15 WHEREAS, With consideration of nine months of rent abatement, the market rent is  
16 adjusted upward and determined to be \$87.56 per square foot per year; a second  
17 independent appraiser, David Tattersall, was hired to provide an appraisal review and  
18 reached the same conclusion as R. Blum; and

19 WHEREAS, Comparing the current Lease with the proposed lease over a ten year  
20 term, the result is a net revenue increase of \$190,154; and

21 WHEREAS, Tenant has been operating in the greater Union Square area for over 45  
22 years and retaining a local small business contributes to a proper public purpose; and

23 WHEREAS, On January 3, 2019, the SFMTA, under authority delegated by the  
24 Planning Department, determined that the Commercial Lease Agreement with Tad's Inc. is  
25 not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant

1 Title 14 of the California Code of Regulations, Sections 15060(c) and 15378(b); and

2 WHEREAS, On March 5, 2019, the SFMTA Board of Directors approved Resolution  
3 No. 190305-028 authorizing the Director of Transportation of the SFMTA to execute the Lease  
4 and to forward to the Board of Supervisors for final approval; and

5 WHEREAS, A copy of the Lease, including all exhibits, is on file with the Clerk of the  
6 Board of Supervisors in File No. 190317, which is hereby declared to be part of this motion as  
7 if set forth fully herein; now, therefore, be it

8 RESOLVED, That the Board of Supervisors approves the lease between the City and  
9 County of San Francisco and Tad’s, Inc.; and, be it

10 FURTHER RESOLVED, That The Board of Supervisors authorizes the Director of  
11 Transportation of the SFMTA to enter into a Commercial Lease Agreement with Tad’s Inc. for  
12 retail space, located at 44 Ellis Street in the Ellis-O’Farrell Garage, for a ten-year term and two  
13 five-year options to extend the lease that will result in \$5,317,024 in revenue to the SFMTA;  
14 and, be it

15 FURTHER RESOLVED, That within 30 days of the document being fully executed by  
16 all parties, the final document shall be provided to the Clerk of the Board for inclusion in the  
17 official file.