

File No. 100670

Committee Item No. 4

Board Item No. 9

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date July 26, 2010

Board of Supervisors Meeting Date August 3, 2010

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER

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| * <input checked="" type="checkbox"/> | * <input checked="" type="checkbox"/> | <u>Proxy Development Lease Agreement, Dated July 14, 010</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Department, General Plan Determination, Dated May 14, 2010</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Ground Lease btwn Redevelopment Agency and CCSF, dtd 1/30/04</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>First Amendment to Ground Lease</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
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Completed by: LaTonia Stokes Date July 23, 2010

Completed by: Alisa Somera Date July 20, 2010

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

P

1 [Sublease of Real Property - Parcel K (Portion of Assessor's Block No. 0817, Lot No.30)]

2
3 **Resolution approving the sublease of property located at the southeast corner of**
4 **Octavia Boulevard and Hayes Street and commonly known as Parcel K (portion of**
5 **Assessor's Block No. 0817, Lot No. 30) to PROXYDevelopment, LLC, for three years at**
6 **a monthly base rent of \$5,000 per month.**

7 WHEREAS, The State of California transferred certain property (the "Central Freeway
8 Parcels") in the Hayes Valley neighborhood to the City and County of San Francisco ("City")
9 as part of the demolition of the former Central Freeway and on the condition that City use the
10 proceeds from any disposition of the Central Freeway Parcels in connection with City's
11 Octavia Boulevard project and for transportation and related purposes set forth in Section
12 72.1(f)(1) of the California Streets and Highways Code; and,

13 WHEREAS, The City sold a Central Freeway Parcel commonly known as Parcel K
14 (portion of Block 0817, Lot 30) (the "Parcel K ") to the San Francisco Redevelopment Agency
15 ("Agency") and leased Parcel K back from the Agency under a lease dated as of January 30,
16 2004, a copy of which is on file with the Clerk of the Board of Supervisors in File No.
17 100670 (the "Agency Ground Lease"); and

18 WHEREAS, The Agency Ground Lease is on a month to month basis for \$1 per month,
19 and permits the City to use Parcel K as a staging area for the construction of the City's
20 Octavia Boulevard project and for parking uses; and,

21 WHEREAS, The Agency has agreed to amend the Agency Ground Lease to have a
22 fixed three year term, and to permit for additional uses and subleases of Parcel K, if such
23 changes are requested by City and approved by Agency's Executive Director, as further set
24 forth in an amendment to ground lease, a copy of which is on file with the Clerk of the Board
25 of Supervisors in File No. 100670 (the "Ground Lease Amendment"); and,

1 WHEREAS, The City owns additional Central Freeway Parcels that are either currently
2 vacant or leased for parking and other uses (the "Remaining Parcels"), and which the City
3 intends to sell when current economic conditions improve; and

4 WHEREAS, The City wishes to lease some of the Remaining Parcels for interim uses
5 that will activate the Remaining Parcels until they are sold by the City, and activate Parcel K
6 while it is leased by City, to provide additional amenities to the public and promote economic
7 development; and

8 WHEREAS, The City's Office of Economic and Workforce Development ("OEWD"),
9 issued a Request for Proposals on December 1, 2009, seeking proposals from qualified
10 respondents for such interim uses on the Remaining Parcels (the "RFP"); and

11 WHEREAS, PROXYdevelopment LLC ("Subtenant") submitted a proposal to sublease
12 Parcel K for retail activities (including the sale of foods and beverages), the operation of
13 restaurants, and the operation of a membership-based car sharing business; and

14 WHEREAS, The City wishes to sublease Parcel K to the Subtenant for three years at a
15 monthly base rent of \$5,000 per month for such uses under a lease substantially in the form
16 on file with the Clerk of the Board of Supervisors in File No. 100670 (the
17 "Sublease"), if the Agency's Executive Director approves revising the Agency Ground Lease
18 to have a three year term and approves the Sublease; and

19 WHEREAS, The Director of Planning, by letter dated May 14, 2010, a copy of which is
20 on file with the Clerk of the Board of Supervisors in File No. 100670, found that the
21 proposed sublease of Parcel K is categorically exempt from environmental review and is in
22 conformance with the City's General Plan; now, therefore, be it

23 RESOLVED, That in accordance with the recommendation of the Director of OEWD
24 and the Director of Property, the Director of Property is hereby authorized to request the
25 Agency's Executive Director approval to revise the Agency Ground Lease to have a three


1 year term and to permit City to sublease Parcel K to Subtenant on the terms set forth in the
2 Sublease; and, be it

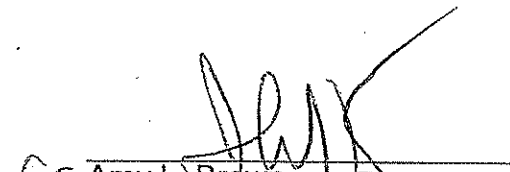
3 FURTHER RESOLVED, If the Agency's Executive Director approves such request to
4 revise the Agency Ground Lease and to approve the Sublease, the Director of Property is
5 hereby authorized to execute the Sublease; and, be it

6 FURTHER RESOLVED, That all actions heretofore taken by any employee or official of
7 the City with respect to the RFP, the Amendment to Ground Lease and the Sublease are
8 hereby approved, confirmed and ratified; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
10 Property to enter into any amendments or modifications to the Sublease that the Director of
11 Property determines, in consultation with the City Attorney, are in the best interest of the City,
12 do not materially reduce the rent or otherwise materially increase the obligations or liabilities
13 of the City, are necessary or advisable to effectuate the purposes of the Sublease and are in
14 compliance with all applicable laws, including City's Charter.

15
16 RECOMMENDED:

17 
18 Michael Cohen
19 Director, Office of Economic
and Workforce Development

20 
21 Amy L. Brown
22 Director of Property
23
24
25

LEASE

between

CITY AND COUNTY OF SAN FRANCISCO, Landlord

and

PROXYDEVELOPMENT, LLC, Lessee

**For the lease of Parcel K
(near the SE Corner of Hayes and Octavia)
San Francisco, California**

July 14, 2010

GROUND LEASE

between

REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO,

as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,

as Tenant

For the lease of

Portion of Lot 030, Block 0817
San Francisco, California

January 30, 2004

GROUND LEASE

THIS GROUND LEASE (the "Lease"), dated as of this 30th day of January, 2004, is by and between the REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO ("Landlord"), a public body corporate and politic established pursuant to the Community Redevelopment Law of the State of California, and the CITY AND COUNTY OF SAN FRANCISCO ("City" or "Tenant"), a municipal corporation. For purposes of this Lease, "Party" means City or Landlord, as a party to this Agreement; and "Parties" means both City and Landlord, as parties to this Agreement.

Landlord and City hereby agree as follows:

1. PREMISES

1.1. Leased Premises. Subject to the terms, covenants and conditions of this Lease, Landlord leases to City that certain land located in the City and County of San Francisco, California, more particularly described in Exhibit A-1 attached hereto and shown on the map attached hereto as Exhibit A-2 located thereon (the "Premises").

2. TERM

2.1. Term of Lease. The Premises are leased for a month-to-month term (the "Term") commencing on the Commencement Date as defined below. The Term of this Lease shall commence on the later of February 1, 2004 (the "Estimated Commencement Date"), or the date the Parties have duly executed and delivered this Lease. Landlord may terminate this Lease as to any portion of the Premises upon sixty-(60) days written notice to City. Landlord agrees that it shall not terminate the Lease as provided hereunder until Landlord requires site control of the Premises or any portion thereof for development.

2.2. Commencement Date and Expiration Date. The dates on which the Term commences and terminates pursuant hereto are referred to respectively as the "Commencement Date" and the "Expiration Date." If the Commencement Date occurs on a date other than the Estimated Commencement Date, then promptly thereafter Landlord shall deliver to City a notice substantially in the form of Exhibit B attached hereto, confirming the actual Commencement Date, but Landlord's failure to do so shall not affect the commencement of the Term.

3. RENT

3.1. Base Rent. Beginning on the Commencement Date, City shall pay to Landlord during the Term rent in the amount of One Dollar (\$1.00) per month ("Base Rent").

3.2. Additional Charges. In addition to Base Rent, City shall pay any and all taxes, including possessory interest taxes and other costs, impositions and expenses related to the Premises as provided in Section 4 hereof, plus all other charges related to the Premises otherwise payable by City to Landlord hereunder, including, without limitation, all utility charges (together, the "Additional Charges"). Together, Base Rent and Additional Charges shall hereinafter be referred to as the "Rent."

4. TAXES, ASSESSMENTS AND OTHER EXPENSES

4.1. Taxes and Assessments, Licenses, Permit Fees and Liens.

(a) Payment Responsibility. City shall be responsible for the payment of any and all applicable real and personal property taxes, including, but not limited to, possessory

interest taxes, general and special assessments, excises, licenses, permit fees and other charges and impositions of every description levied on or assessed against the Premises, any Alterations, City's Personal Property, or City's use of the Premises or any Alterations during the Term. City shall make all such payments directly to the charging authority when due and payable and at least ten (10) days prior to delinquency.

(b) **No Liens.** City shall not allow or suffer a lien for any taxes payable by City hereunder to be imposed upon the Premises or upon any equipment or other property located thereon without discharging the same as soon as practicable, and in no event subsequent to delinquency.

(c) **Reporting Information.** City agrees to provide such information as Landlord may request to enable Landlord to comply with any possessory interest tax reporting requirements applicable to this Lease.

4.2. **Other Expenses.** This is a "triple net" Lease. Accordingly, City shall be responsible for any and all other charges, costs and expenses related to its use, occupancy, operation or enjoyment of the Premises or any Alterations permitted thereon, including, without limitation, the cost of any utilities and all property maintenance, including any landscaping of parking areas, or any other services necessary for City's use.

4.3. **Evidence of Payment.** City shall, upon Landlord's request, furnish to Landlord within ten (10) days after the date when any charges are due and payable, official receipts of the appropriate taxing authority or other evidence reasonably satisfactory to Landlord, evidencing payment thereof.

5. USE; COVENANTS TO PROTECT PREMISES

5.1. **City's Permitted Use.** The Premises shall be used and occupied for parking uses consistent with the parking uses that exist on the Premises as of the date of this Lease, and for use as a staging area for construction purposes in connection with the City's Octavia Boulevard Project.

5.2. **No Unlawful Uses, Nuisances or Waste.** Without limiting the foregoing, City shall not use, occupy or permit the use or occupancy of any of the Premises in any unlawful manner or for any illegal purpose. City shall eliminate any nuisances relating to its activities on or about the Premises.

6. ALTERATIONS

6.1. **Alterations.** City shall not construct, install, make or permit to be made any subsequent alterations, installations or additions ("Alterations") on, to or about the Premises, without Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld or delayed. Subject to Landlord's consent as provided above, any permitted Alterations shall be done at City's sole expense (i) in strict accordance with plans and specifications approved in advance by Landlord in writing, (ii) by duly licensed and bonded contractors or mechanics approved by Landlord, (iii) in a good and professional manner, (iv) in strict compliance with all applicable present or future federal, state, local and administrative laws, rules, regulations, orders and requirements (collectively, "Laws"), and (v) subject to all other conditions that Landlord may reasonably impose. In no event shall the construction, installation or the making of any Alterations impair the use or operation of the Property, or any portion thereof, or Landlord's access thereto. Prior to the commencement of any work on the Premises to construct any permitted Alterations, City, at its sole expense, shall procure all required permits and approvals and shall promptly upon receipt deliver copies of all such documents to Landlord. No material change from plans and specifications for Alterations

approved by Landlord may be made without Landlord's prior consent. Landlord and Landlord's Agents shall have the right to inspect the course of construction on the Premises at all times.

6.2. Ownership of Improvements and Alterations. Any Alterations constructed on or affixed to the Premises by or on behalf of City pursuant to the terms and limitations of this Section 6 shall be and remain City's property during the Term. Upon the termination of this Lease, City shall remove all such Improvements and Alterations from the Premises in accordance with the provisions of Section 6 hereof.

6.3. City's Personal Property. All articles of movable personal property and equipment installed on the Premises by or for the account of City that can be removed without material damage to the Premises (all of which are herein called "City's Personal Property") shall be and remain the property of City and may be removed by it subject to the provisions of Section 6 hereof. City shall be solely responsible for providing any security or other protection of or maintenance to City's Personal Property.

7. REPAIRS AND MAINTENANCE

7.1. City Responsible for Maintenance and Repair. City assumes full and sole responsibility for the condition, operation, repair and maintenance and management of the Premises from and after the Commencement Date and shall keep the Premises in good condition and repair. Landlord shall not be responsible for the performance of any repairs, changes or alterations to the Premises, nor shall Landlord be liable for any portion of the cost thereof. City shall be responsible for all repairs which may be necessary to maintain the Premises at all times in clean, safe, and sanitary condition and in good order and repair. If any portion of the Premises is damaged by any activities conducted by City or City's Agents or City's Invitees hereunder, City shall immediately, at its sole cost, repair all such damage and restore the Premises to its previous condition.

7.2. Utilities. City shall be responsible for furnishing, at its sole costs, any utilities or services that City may need for its use of the Premises.

8. LIENS

City shall keep the Premises free from any liens arising out of any work performed, material furnished or obligations incurred by or for City. In the event City does not, within five (5) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, Landlord shall have in addition to all other remedies provided herein and by law or equity the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses it incurs in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Landlord by City upon demand.

9. COMPLIANCE WITH LAWS

9.1. Compliance with Laws. City shall promptly, at its sole expense, maintain the Premises and City's use and operations thereon in strict compliance at all times with all present and future Laws, whether foreseen or unforeseen, ordinary as well as extraordinary, provided however, that City shall not be required to make repairs or structural changes to the Premises required solely to correct conditions affecting the Premises existing prior to the Commencement Date or not related to City's use of the Premises, unless the requirement for such changes is imposed as a result of any Alterations made or requested to be made by City. No occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall give City any right to seek redress against Landlord for failing

to comply with any Laws. City waives any rights now or hereafter conferred upon it by any existing or future Law to compel Landlord to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

9.2. Regulatory Approvals. City understands and agrees that City's use of the Premises and construction of Alterations permitted hereunder may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. City shall be solely responsible for obtaining any and all such regulatory approvals. City shall not seek any regulatory approval without first obtaining the written consent of Landlord. City shall bear all costs associated with applying for, obtaining and maintaining any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval. Any fines or penalties levied as a result of City's failure to comply with the terms and conditions of any regulatory approval shall be immediately paid and discharged by City, and Landlord shall have no liability, monetary or otherwise, for any such fines or penalties. City shall indemnify, protect, defend and hold harmless forever ("Indemnify") the Landlord, including, but not limited to, all of Landlord's officers, directors, employees, and agents (the "Indemnified Parties") against any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs ("Losses") arising in connection with City's failure to obtain or comply with the terms and conditions of any regulatory approval.

10. DAMAGE OR DESTRUCTION

10.1. Damage or Destruction to the Premises. In the case of damage to or destruction of the Premises by earthquake, flood or any other casualty, City may terminate this Lease upon thirty (30) days prior written notice and upon any such termination City shall surrender the Premises in accordance with Section 15.1 (except for damage caused by the casualty) and both Parties shall be relieved of any liability for such termination or for repairing such damage. City may, in its sole discretion and at its sole cost, restore, repair, replace or reconstruct the Premises to the condition the Premises were in prior to such damage or destruction. Under no circumstances shall Landlord have any obligation to repair, replace or rebuild the Premises in the event of a casualty.

10.2. Waiver. The Parties understand and agree that the foregoing provisions of this Section are intended to govern fully the rights and obligations of the Parties in the event of damage or destruction to the Premises or Alterations, and Landlord and City each hereby waives and releases any right to terminate this Lease in whole or in part under Sections 1932.2 and 1933.4 of the Civil Code of California or under any similar Laws now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

11. ASSIGNMENT AND SUBLETTING

11.1. Parking Subleases. City may sublease the Premises for parking uses consistent with the parking uses that exist on the Premises as of the date of this Lease, without Landlord's consent, provided that any such sublease shall be terminable upon thirty (30) days notice from City. Such permissible subleases include, without limitation, any of those certain month-to-month leases between City's predecessor-in-interest, the State of California, Department of Transportation, and parking lot operators, which continue in effect.

11.2. Restriction on Other Assignment and Subletting. Other than the subleases permitted under Section 11.1, City shall not directly or indirectly (including, without limitation, by merger, acquisition or other transfer of any controlling interest in City), voluntarily or by operation of Law, sell, assign, encumber, pledge or otherwise transfer any part of its interest in or rights with respect to the Premises, any Improvements or Alterations or its interest in this Lease,

or permit any portion of the Premises to be occupied by anyone other than itself, or sublet any portion of the Premises, without Landlord's prior written consent in each instance, which Landlord may grant or withhold in its sole and absolute discretion.

12. DEFAULT; REMEDIES

12.1. Events of Default. Any of the following shall constitute an event of default ("Event of Default") by City hereunder:

(a) **Failure to Pay Rent.** Any failure to pay any Rent or any other sums due hereunder, including sums due for utilities, within ten (10) days after such sums are due;

(b) **Covenants, Conditions and Representations.** Any failure to perform or comply with any other covenant, condition or representation made under this Lease, provided City shall have a period of ten (10) days from the date of written notice from Landlord of such failure within which to cure such default under this Lease, or, if such default is not capable of cure within such ten (10) day period, City shall have a reasonable period to complete such cure if City promptly undertakes action to cure such default within such ten (10) day period and thereafter diligently prosecutes the same to completion and uses its best efforts to complete such cure within sixty (60) days after the receipt of notice of default from Landlord;

(c) **Vacation or Abandonment.** Any abandonment of the Premises for more than fourteen (14) consecutive days; and

(d) **Remedies.** Upon the occurrence of an Event of Default by City, Landlord shall have the rights and remedies provided by law California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate City's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that City proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2.

13. INDEMNIFICATION

13.1. City's Indemnity. City shall indemnify, defend and hold harmless ("Indemnify") Landlord and its Agents from and against any and all claims, costs and expenses, including, without limitation, reasonable attorneys' fees, (collectively, "Claims"), incurred as a result of (a) City's use of the Premises, (b) any default by City in the performance of any of its material obligations under this Lease, or (c) any negligent acts or omissions of City or its Agents in, on or about the Premises or the Property; provided, however, City shall not be obligated to Indemnify Landlord or its Agents to the extent any Claim arises out of the negligence or willful misconduct of Landlord or its Agents. In any action or proceeding brought against Landlord or its Agents by reason of any Claim Indemnified by City hereunder, City may, at its sole option, elect to defend such Claim by attorneys in City's Office of the City Attorney, by other attorneys selected by City, or both at its sole cost. City shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that Landlord shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. City's obligations under this Section shall survive the termination of the Lease.

13.2. Landlord's Entry and Indemnity. In connection with any entry by Landlord or its Agents (as defined in Section 17.4 below) onto the Premises during the Term, Landlord shall give City reasonable advance written notice of such entry and shall conduct such entry and any inspections in connection therewith so as to minimize, to the extent possible, interference with uses being made of the Premises and otherwise in a manner and on terms and conditions acceptable to City. All entries by Landlord or its Agents onto the Premises to perform any testing

or other investigations which could affect the physical condition of the Premises (including, without limitation, soil borings) or the uses thereof will be made only pursuant to the terms and conditions of a permit to enter substantially similar to the City's form and with such insurance and indemnity provisions as are reasonably satisfactory to City. Without limiting the foregoing, prior to any entry to perform any on-site testing, Landlord shall give City written notice thereof, including the identity of the company or persons who will perform such testing and the proposed scope of the testing. City shall have the right to approve or disapprove the proposed testing within ten (10) business days after receipt of such notice. City or its representative may be present to observe any testing or other inspection performed on the Option Parcels.

Landlord shall maintain, and shall require that its Agents maintain, public liability insurance, including self-insurance reasonably acceptable to City, and property damage insurance in amounts and in form and substance adequate to insure against all liability of Landlord and its Agents arising out of any entry or inspection of the Premises, and Landlord shall provide City with evidence of such insurance coverage upon request from City.

To the fullest extent permitted under law, Landlord shall indemnify, defend and hold harmless City, its Agents and Invitees, and each of them, from and against any liabilities, costs, damages, losses, liens, claims and expenses (including, without limitation, reasonable fees of attorneys, experts and consultants and related costs) arising out of or relating to the conduct of Landlord, its Agents, contractors or subcontractors or its or their activities during any entry on, under or about the Premises in performing the inspections, testings or inquiries provided for in this Lease, whether prior to the date of this Lease or during the term hereof, including, without limitation, any injuries or deaths to any persons (including, without limitation, Landlord's Agents) and damage to any property, from any cause whatsoever. The foregoing indemnity shall survive beyond the termination of this Lease.

14. INSURANCE

14.1. Self-Insurance. Landlord acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any insurance with respect to this Lease. City assumes the risk of damage to any of City's Personal Property, except for damage caused by Landlord or its Agents. In addition, City acknowledges that Landlord reserves the right to fulfill the insurance obligations required by this Agreement through self insurance, including Landlord's participation in the public liability self-insurance and property damage insurance program available to the Landlord through its membership in the Bay Cities Joint Powers Insurance Landlord ("BCJPIA"), as well as any successor to BCJPIA.

15. SURRENDER

15.1. Surrender of the Premises. Upon the termination of this Lease, City shall surrender to Landlord the Premises in the same condition as of the Commencement Date, ordinary wear and tear excepted, and free and clear of all liens, easements and other encumbrances created or suffered by, through or under City. On or before any termination hereof, City shall, at its sole cost, remove any and all of City's Personal Property from the Premises and demolish and remove any and all Alterations from the Premises. In addition, City shall, at its sole expense, repair any damage to the Premises resulting from the removal of any such items and restore the Premises to their condition immediately prior to the presence of any Alterations. In connection therewith, City shall obtain any and all necessary permits and approvals, including, without limitation, any environmental permits, and execute any manifests or other documents necessary to complete the demolition, removal or restoration work required hereunder. City's obligations under this Section shall survive the termination of this Lease. Any items of City's Personal Property remaining on or about the Premises after the termination of this Lease may, at Landlord's option and after thirty (30) days written notice to City, be deemed

abandoned and in such case Landlord may dispose of such property in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by Law.

16. HAZARDOUS MATERIALS

16.1. No Hazardous Materials. City covenants and agrees that neither City nor any of City's Agents or City's Invitees shall cause or permit any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment, including, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing improvements on the Premises, or are naturally occurring substances on, in or about the Premises; and petroleum, including crude oil or any fraction thereof, and natural gas or natural gas liquids ("Hazardous Material") to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or transported to or from the Premises without the prior written approval of Landlord, which approval may be withheld in Landlord's sole and absolute discretion, save and except that City may permit such substances on the Premises in such reasonably limited amounts as are customarily used for the automobile parking operations permitted hereunder in compliance with all applicable Environmental Laws at all times. City shall immediately notify Landlord if and when City learns or has reason to believe there has been any release of Hazardous Material in, on or about the Premises.

16.2. City's Environmental Indemnity. If City breaches any of its obligations contained in Section 16.1 above, or, if any act or omission or negligence of City or any of City's Agents or City's Invitees results in any spilling, leaking, pumping, pouring, emitting, discharging, injecting, escaping, leaching or dumping ("Release") of Hazardous Material in, on, under or about the Premises or the Property, without limiting City's general Indemnity contained in Section 13.1 above, City, on behalf of itself and City's Agents, shall Indemnify the Indemnified Parties, and each of them, from and against all any and all enforcement, investigation, remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Environmental Laws together with any and all Losses made or threatened by any third party against Landlord, Landlord's Agents, or the Premises, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, Release or discharge of any Hazardous Materials, including, without limitation, Losses based in common law, investigation and remediation costs, fines, natural resource damages, damages for decrease in value of the Premises, the loss or restriction of the use or any amenity of the Premises and attorneys' fees and consultants' fees and experts' fees and costs ("Hazardous Materials Claims") arising during or after the Term of this Lease and relating to such Release. The foregoing Indemnity includes, without limitation, all costs associated with the investigation and remediation of Hazardous Material and with the restoration of the Premises or the Property to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, natural resource damages and losses, and revegetation of the Premises or other Landlord property. Without limiting the foregoing, if City or any of City's Agents or City's Invitees, causes or permits the Release of any Hazardous Materials in, on, under or about the Premises or the Property, City shall, immediately, at no expense to Landlord, take any and all appropriate actions to return the Premises or other Landlord property affected thereby to the condition existing prior to such Release and otherwise investigate and remediate the Release in accordance with all Environmental Laws. City shall provide Landlord with written notice of and afford Landlord a full opportunity to participate in any discussions with governmental regulatory

agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, permit, approvals, or other compromise or proceeding involving Hazardous Material.

17. GENERAL PROVISIONS

17.1. **Notices.** Except as otherwise expressly provided in this Lease, any notice given hereunder shall be effective only in writing and given by delivering the notice in person, or by sending it first class mail or certified mail with a return receipt requested or reliable commercial overnight courier, return receipt requested, with postage prepaid as follows:

Notice Address of City: Department of Real Estate
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property
Fax No.: (415) 552-9216

with a copy to: Office of the City Attorney
City Hall, Second Floor
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Amy L. Brown
Deputy City Attorney
Fax No.: (415) 554-4755

Landlord: Redevelopment Agency of the City and County
of San Francisco
770 Golden Gate Avenue
San Francisco, California 94102
Attn: Marcia Rosen, Executive Director

with a copy to: Redevelopment Agency of the City and County
of San Francisco
770 Golden Gate Avenue
San Francisco, California 94102
Attn: James B. Morales, Agency General Counsel

Either Party hereunder may designate a new address for notice purposes hereunder at least ten (10) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first class or certified mail, one day after the date it is made, if sent by commercial overnight carrier, or upon the date personal delivery is made, and any refusal by either Party to accept the attempted delivery of any notice, if such attempted delivery is in compliance with this Section 17.1 and applicable Laws, shall be deemed receipt of such notice.

17.2. **Amendments.** Neither this Lease nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the Parties hereto.

17.3. **Authority.** Landlord represents and warrants to City that the execution and delivery of this Lease by Landlord has been duly authorized and does not violate any provision of any agreement, law or regulation to which Landlord or the Property is subject.

17.4. **Parties and Their Agents; Approvals.** If applicable, the word "Landlord" as used in this Lease shall include the plural as well as the singular. As used in this Lease, the term "Agents" when used with respect to either party shall include the agents, employees, officers and

contractors of such party, and the term "Invitees" when used with respect to City shall include the clients, customers, invitees, guests, licensees, assignees or subtenants of City. All approvals, consents or other determinations permitted or required by City under this Lease shall be made by or through City's Director of Property unless otherwise provided in this Lease, subject to any applicable limitations in the City's Charter and Administrative Code.

17.5. Interpretation of Lease. The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the party responsible for drafting any part of this Lease. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or Landlord holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Lease, whether or not language of non-limitation, such as "without limitation" or similar words, are used. Unless otherwise provided herein, whenever the consent of Landlord is required to be obtained by City hereunder, Landlord may give or withhold such consent in its sole and absolute discretion.

17.6. Successors and Assigns. The terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Landlord and City and, except as otherwise provided herein, their personal representatives and successors and assigns; provided, however, that upon any transfer by Landlord (or by any subsequent Landlord) of its interest in the Premises as lessor, including any transfer by operation of Law, Landlord (or any subsequent Landlord) shall be relieved from all subsequent obligations and liabilities arising under this Lease subsequent to such transfer.

17.7. Severability. If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the fullest extent permitted by Law.

17.8. Governing Law. This Lease shall be construed and enforced in accordance with the Laws of the State of California and the City's Charter.

17.9. Entire Agreement. This instrument (including the exhibits hereto, which are made a part of this Lease) contains the entire agreement between the Parties and supersedes all prior written or oral negotiations, discussions, understandings and agreements. The Parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts of this Lease and any changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Lease. City hereby acknowledges that neither Landlord nor Landlord's Agents have made any representations or warranties with respect to the Premises or this Lease except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by City by implication or otherwise unless expressly set forth herein.

17.10. Attorneys' Fees. In the event that either Landlord or City fails to perform any of its obligations under this Lease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other

party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees.

17.11. Time of Essence. Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

17.12. Cumulative Remedies. All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

17.13. Survival of Indemnities. Termination of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, nor shall it affect any provision of this Lease that expressly states it shall survive termination hereof. City specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, City has an immediate and independent obligation to defend Landlord and the other Indemnified Parties from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to City by Landlord and continues at all times thereafter.

17.14. Relationship of Parties. Landlord is not, and none of the provisions in this Lease shall be deemed to render Landlord, a partner in City's business, or joint venturer or member in any joint enterprise with City. This Lease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided. The granting of this Lease by Landlord does not constitute authorization or approval by Landlord of any activity conducted by City on, in or relating to the Premises.

17.15. Transfer of Landlord's Interest. Landlord shall have the right to transfer its interest in the Premises to any other financially responsible person or entity. In the event of any such transfer, Landlord shall be relieved, upon notice to City of the name and address of Landlord's successor, of any obligations accruing hereunder from and after the date of such transfer and upon delivering to City an express assumption by the transferee of all of Landlord's obligations hereunder.

17.16. Non-Liability of City Officials, Employees and Agents. Notwithstanding anything to the contrary in this Agreement, no elective or appointive board, commission, member, officer, employee or agent of City shall be personally liable to Landlord, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Landlord, its successors and assigns, or for any obligation of City under this Lease.

17.17. Controller's Certification of Funds. The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the Charter of the City and County of San Francisco. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by City under this Agreement unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the Charter of the City and County of San Francisco, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of City after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of Rent and any other payments required under this Lease are not appropriated, then City may terminate this Lease, without penalty, liability or expense of any kind to City, as of the last date on which sufficient funds are appropriated. City shall use its reasonable efforts to give Landlord reasonable advance notice of such termination.

17.18. Recording. City agrees that it shall not record this Lease or any memorandum or short form hereof in the official records of any county.

17.19. Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

18. SPECIAL PROVISIONS

18.1. Non-Discrimination.

(a) **Covenant Not to Discriminate.** In the performance of this Lease, Landlord covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, height, weight or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or, any City employee working with, or applicant for employment with, Landlord in any of Landlord's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Landlord.

(b) **Contracts.** Landlord shall include in all contracts relating to the Premises a non-discrimination clause applicable to such contractor in substantially the form of subsection (a) above. In addition, Landlord shall incorporate by reference in all contracts the following provisions:

(1) Contractor will, in all solicitations or advertisements for employees placed by it or on its behalf, state it is an equal opportunity employer.

(2) If contractor intends to utilize subcontractors in the provision of services, it must consult with the Agency's Contract Compliance Division and comply with all the applicable provisions of the Agency's Purchasing Policy and Procedures in regard to subcontracting with Minority and Woman-Owned Business Enterprises.

(3) Contractor agrees not to discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, and shall comply fully with all provisions of the Agency's Nondiscrimination in Contracts Policy ("Policy"), adopted by Agency Resolution No. 175-98, as such Policy may be amended from time to time.

(4) Contractor shall provide all services to the public under the contract in facilities that are accessible to persons with disabilities as required by state and federal law.

(5) Contractor agrees, if applicable, during the term of the contract to provide a minimum level of compensation and to offer health plan benefits to all "Covered Employees" who perform work on this contract or to make payments to the Agency or to participate in a health benefits program developed by the Agency, as defined by the Agency's Minimum Compensation Policy and Health Care Accountability Policy (the "Policies"), adopted by Agency Resolution 164-2001, as such policy may be amended from time to time.

18.2. MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 *et seq.* The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. City acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.


18.3. Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product, except as expressly permitted by the of Sections 802(b) and 803(b) of the San Francisco Environmental Code.

Landlord and City have executed this Lease in triplicate as of the date first written above.

LANDLORD:

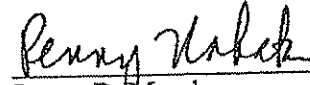
REDEVELOPMENT AGENCY OF THE CITY
AND COUNTY OF SAN FRANCISCO,
a public body corporate and politic

Authorized by Agency Resolution
No. 38-2002, adopted February 26, 2002

By: 
Ayisha J. Benhan
Deputy Executive Director – Finance
and Administration

Date: 02/03/04

APPROVED AS TO FORM:

By: 
for James B. Morales
Agency General Counsel

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: 
STEVE LEGNITTO
Director of Property

Date: 2/4/04

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: 
Deputy City Attorney

EXHIBIT A-1
LEGAL DESCRIPTION



Willie Lewis Brown, Jr., Mayor
Edwin M. Lee, Director

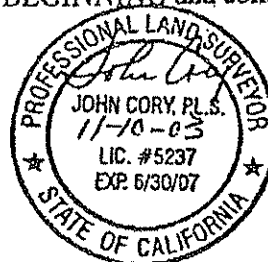


(415) 554-8200
FAX (415) 554-8218
<http://www.sfdpw.com>
Department of Public Works
Bureau of Street Use and Mapping
875 Stevenson Street, S.F., CA 94103
P.O. Box 429360
San Francisco, CA 94142-9360
Barbara Moy, Bureau Manager

**LEGAL DESCRIPTION
PARCEL K
CENTRAL FREEWAY DISPOSITION PARCELS**

All that certain parcel of land, being a portion of the lands described in that certain Director's Deed (Quitclaim) from the State of California to the City and County of San Francisco recorded January 16, 2001 in Reel H804 at Image 0167, being also the whole of that certain parcel described in that certain Grant Deed (Individual) from Ervin E. Scharff, a widower, to the State of California recorded December 12, 1955 in Volume 6751 at Page 398 (also known as State Deed No. 15734), together with the whole of that certain parcel described in that certain Grant Deed (Individual) from Ruth Anna Knoph, also known as Ruth A. Knoph, executrix of the will of Georgie Anna Randolph, deceased, to the State of California recorded July 17, 1956 in Volume 6882 at Page 248 (also known as State Deed No. 15733), together with a portion of that certain parcel described in that certain Grant Deed (Individual) from John A. Boegman and Helen F. Boegman, husband and wife, to the State of California recorded January 18, 1956 in Volume 6771 at Page 303 (also known as State Deed No. 15732), all said instruments recorded in the Official Records of the City and County of San Francisco, and situate between Linden Street and Hayes Street and to the east of Octavia Street, in the City and County of San Francisco, and more particularly described as follows:

BEGINNING at a point on the northerly line of said Linden Street, distant thereon 162.50' easterly from the easterly line of said Octavia Street, said point also being the southeasterly corner of said State Deed No. 15734, being also the southwesterly corner of that certain parcel of land described in that certain Trustee's Deed Upon Sale from First American Title Insurance Company, a Corporation, to 350 Linden, Inc., a California corporation, recorded June 14, 2000 in Reel H658 at Image 0105; thence, (1) South 80°55'00" West, a distance of 95.25 feet, along said northerly line of Linden Street, to a point; thence, (2) North 09°05'00" West, a distance of 120.00 feet, along the remainder of said State Deed No. 15732, to a point in southerly line of said Hayes Street; thence, (3) North 80°55'00" East, a distance of 95.25 feet, along last said southerly line, to a point at the northeasterly corner of said State Deed No. 15734; thence, (4) South 09°05'00" East, a distance of 120.00 feet, along that certain parcel of land described in that certain Quitclaim Deed from the City and County of San Francisco, a municipal corporation, to said 350 Linden, Inc., a California corporation, recorded July 1, 2003 in Reel I420 at Image 0463 and along said Trustee's Deed Upon Sale, to the POINT OF BEGINNING and containing an area of 11,430 square feet.



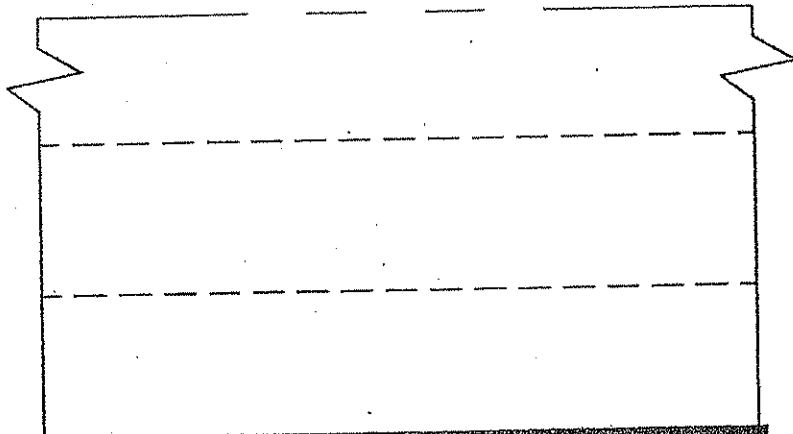
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"IMPROVING THE QUALITY OF LIFE IN SAN FRANCISCO" We are dedicated individuals committed to teamwork, customer service

EXHIBIT A-2
MAP OF THE PREMISES



GOUGH ST.



HAYES ST.

95.25'

120.00'

(K)

11,430 sq.ft.

95.25'

LINDEN ST.

120.00'



BLK 0817
LOT 030

OCTAVIA ST.

C:\EDRME\ROMANI\OCTAVIA\ORIGINALDRAWINGS\PARCELK.DWG

EXHIBIT A-2

EXHIBIT B

[Date]

Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

RE: Acknowledgement of Commencement Date, Lease Between REDEVELOPMENT AGENCY OF CITY AND COUNTY OF SAN FRANCISCO (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for premises located in San Francisco, California

Dear Mr. _____:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Section 2.2 of the Lease) is _____, 200_.

Please acknowledge your acceptance of this letter by signing and returning a copy of this letter.

Very truly yours,

By: _____

Title: _____

Accepted and Agreed:

By: _____

Director of Property

Dated: _____

FIRST AMENDMENT TO GROUND LEASE

This FIRST AMENDMENT TO GROUND LEASE ("Amendment") is entered into as of March 16, 2010, by and between the REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO ("Agency" or "Landlord"), a public body corporate and politic established pursuant to the Community Redevelopment Law of the State of California, and the CITY AND COUNTY OF SAN FRANCISCO ("City" or "Tenant"), a municipal corporation.

RECITALS

A. Landlord and Tenant executed a Ground Lease dated as of January 30, 2004 (the "Ground Lease"), which was authorized by Landlord through Resolution 38-2002, adopted February 26, 2002, concerning the lease of a portion of Lot 030, Block 0817 (the "Premises"), on a month-to-month term for the parking uses consistent with the parking uses that existed on the Premises as of the date of the Lease, and for use as a staging area for construction purposes in connection with the City's Octavia Boulevard Project. Terms not defined herein shall have the meaning given to the term in the Ground Lease and the Ground Lease, as modified by this Amendment, shall be referred to as the "Lease".

B. The Premises have been designated by the Agency as a future site for housing development as part of the Agency's Citywide Tax Increment Housing Program. The Agency does not intend to develop the Premises within the next three years.

C. The City has requested that terms of the Ground Lease be amended to allow for uses other than parking or construction staging and to extend the term of the Ground Lease for three years.

D. The Landlord and Tenant desire to modify certain terms of the Ground Lease and are entering into this Amendment.

AGREEMENT

NOW THEREFORE, in consideration of the mutual obligations of the parties hereto, the Landlord and Tenant hereby amend the Ground Lease, for the term, and subject to the terms, covenants, agreements and conditions hereinafter set forth, to each and all of which the Landlord and Tenant hereby mutually agree.

1. **ARTICLE 2: TERM** Section 2.1 of the Ground Lease is deleted in its entirety and replaced with the following language:

2.1 **Term of Lease.** The Premises are leased for a month-to-month term (the "Term") commencing as of February 1, 2004. Landlord may terminate this Lease as to any portion of the Premises upon sixty-(60) days written notice to City. Landlord agrees that it shall not terminate the Lease as provided hereunder until Landlord requires site control of the Premises or any portion thereof for development. The Executive Director of the

Agency may, upon request of the City, modify the Term to be a fixed term of up to three years if the Landlord does not foresee development of affordable housing by the Agency on the Premises within such fixed term. Landlord shall not have the right to terminate the Lease during any such fixed term except pursuant to its rights under Section 12.1 of the Ground Lease.

2. **ARTICLE 5: USE; COVENANTS TO PROTECT COVENANTS** Section 5.1 of the Ground Lease is deleted in its entirety and replaced with the following language:

5.1 **City's Permitted Use.** The Premises shall be used and occupied for parking uses consistent with the parking uses that exist on the Premises as of the Commencement Date, and for use as a staging area for construction purposes in connection with the City's Octavia Boulevard Project. The Executive Director of the Agency may, upon request of the City, additionally permit the Premises to be used for non-parking uses provided that (1) such proposed uses are allowable uses under, and are in all respects in compliance with, the applicable sections of the City's Planning Code and applicable environmental standards; and (2) the revenue from such non-parking uses is equal to or greater than the most recent parking use revenues generated from the Premises at the time of City's request for the change in-use and, if such non-parking use revenues are less, the Base Rent shall be revised to be the difference between the revenues generated by the prior parking use and the permitted new use revenues.

3. **ARTICLE 11: ASSIGNMENT AND SUBLETTING** Section 11.2 of the Ground Lease is deleted in its entirety and replaced with the following language:

11.2 **Restriction on Other Assignment and Subletting.** Other than the subleases permitted under Section 11.1 of the Ground Lease, City shall not directly or indirectly (including, without limitation, by merger, acquisition or other transfer of any controlling interest in City), voluntarily or by operation of Law, sell, assign, encumber, pledge or otherwise transfer any part of its interest in or rights with respect to the Premises, any Improvements or Alterations or its interest in this Lease, or permit any portion of the Premises to be occupied by anyone other than itself, or sublet any portion of the Premises, without the Agency's Executive Director's prior written consent in each instance, which the Agency's Executive Director may grant or withhold in his sole and absolute discretion. If any such sublease is permitted by Agency's Executive Director, the subtenant for such sublease shall (a) expressly waive its entitlement, if any, to any and all relocation assistance and benefits in connection with such sublease, (b) agree that any person performing labor in the construction of tenant improvements at the Premises pursuant to such sublease shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California, and (c) enter into a first source hiring agreement (as defined in Section 83.4(f) of the San Francisco Administrative Code) with the City unless such sublease is exempted from the First Source Hiring Program set forth in Chapter 83 of the San Francisco Administrative Code.

4. **MISCELLANEOUS** (a) This Amendment shall become effective on the date that it is

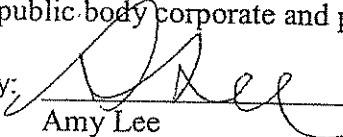
executed by Landlord and Tenant. (b) If there is any conflict between this Amendment and the Ground Lease, this Amendment shall control. If any one or more of the provisions in this Amendment is invalid, illegal or unenforceable in any respect, the remaining provisions contained herein shall not be affected in any way thereby. (c) This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. (d) If a dispute arises concerning this Amendment, the party not prevailing in such dispute shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees.

IN WITNESS WHEREOF, the Tenant and the Landlord have executed this First Amendment to the Ground Lease as of the day and year first above written.

LANDLORD:

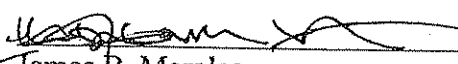
Authorized by Agency Resolution
No. 24-2010, adopted March 16, 2010

REDEVELOPMENT AGENCY OF THE CITY
AND COUNTY OF SAN FRANCISCO,
a public body corporate and politic

By: 
Amy Lee
Deputy Executive Director,
Finance & Administration

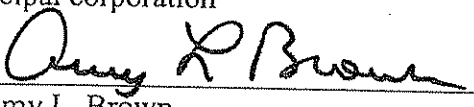
Date: 5.13.10

APPROVED AS TO FORM:

By: 
James B. Morales
Agency General Counsel

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: 
Amy L. Brown
Director of Property

Date: 6/7/10

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney


By: 
Carol Wong
Deputy City Attorney

Exhibit C

Notice of Commencement Date

[Date]

Ms. Amy L. Brown
Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

RE: Acknowledgement of Commencement Date, Lease Between
_____ (Lessee), and the City and County of
San Francisco (Landlord), for the Premises located at _____

Dear Ms. Brown:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Section 4.2 of the Lease) is _____, 20__.

Please acknowledge your acceptance of this letter by signing and returning a copy of this letter.

Very truly yours,

By: _____
Title: _____

Accepted and Agreed:

By: _____
Amy L. Brown
Director of Property

Dated: _____



SAN FRANCISCO PLANNING DEPARTMENT

May 14, 2010

Ms. Amy Brown
Director of Real Estate
San Francisco Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

Re: Case No. 2010.0359R
Central Freeway Parcels K and L (0817/030, 0817/033)
Proposed Leases for Interim Uses

Dear Ms. Brown,

The Department received your request on 5/12/2010, for a General Plan Referral as required by Section 4.105 of the San Francisco Charter, and Section 2A.53 of the San Francisco Administrative Code.

Project Description

Parcels K and L were vacated as part of the demolition of the Central Freeway and construction of Octavia Boulevard. Parcel K was transferred by the City to the San Francisco Redevelopment Agency. The Redevelopment Agency plans eventually to develop affordable housing on this parcel, but does not anticipate doing so for several years. In the meantime, the City has leased this parcel back from the Redevelopment Agency for the purpose of interim uses. Parcel L is owned by the City and awaits future disposition to a developer.

In December 2009, the City issued a Request for Proposals from qualified respondents for interim uses on several vacant Central Freeway parcels, including parcels K and L, for the purpose of activating these parcels to provide additional amenities to the public and promote economic development, until the economy will allow for housing development on these sites.

These parcels were rezoned as part of the Market Octavia Plan. Their current zoning is Hayes NCT. The Market Octavia Plan envisions mixed use development on these parcels ultimately, with ground floor retail on both parcels.

As a result of a competitive solicitation, the City intends to enter into leases with PROXYDevelopment, LLC for the purpose of providing interim retail activities, including the sale of foods and beverages, the operation of restaurants, and the operation of a membership-based car sharing business. The term of the Parcel K lease is three years and the term of the Parcel L lease is four years. The detailed proposal from PROXYDevelopment is attached to this letter and incorporated by reference.

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

Reception:
415.558.6378

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Planning
Information:
415.558.6377

Case No. 2010.0359R
Central Freeway Parcels K and L (0817/030, 0817/033)
Proposed Leases for Interim Uses

Environmental Review

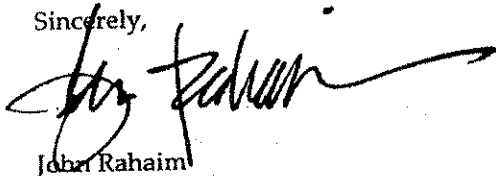
The Major Environmental Review section of the Planning Department has determined that the Project is exempt from Environmental Review as a non physical project per CEQA Guidelines Section 15060(c)(2).

Staff has determined that the Project is consistent with the Eight Priority Policies of the Planning Code Section 101.1 (see Attachment 3).

Staff has determined that the project is, on balance, IN CONFORMANCE with the General Plan.

Please note that this referral covers only the proposed interim leases described above. A further referral may be required when proposed development on the parcels is considered by the Planning Department.

Sincerely,



John Rahaim
Director of Planning

cc: Stephen Shotland, Planning Department
Ken Rich, Planning Department
Rich Hillis

Attachments:

1. General Plan Case Report
2. Eight Priority Policies Findings- Planning Code Section 101.1
3. List of Project Improvements

F:\Citywide\General Plan\General Plan Referrals\2010\2010.0395R Parcels K and L Interim Lease.doc

Case Report

Attachment 1

Case No. 2010.0359R
Central Freeway Parcels K and L (0817/030, 0817/033)
Proposed Leases for Interim Uses

Staff reviewer: Ken Rich
Date: 5/13/2010

General Plan Policy Findings

Note: General Plan Objectives are in **BOLD CAPS**, and Policies are in **bold font**, General Plan text is in regular font, and staff comments are in *italic font*.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 6:

**MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS
EASILY ACCESSIBLE TO CITY RESIDENTS.**

POLICY 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

POLICY 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

POLICY 6.4

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

Comment: The proposed interim leases will support retail, arts and food-related activities which will support the General Plan goals and objectives above.

Case No. 2010.0359R
Central Freeway Parcels K and L (0817/030, 0817/033)
Proposed Leases for Interim Uses

MARKET AND OCTAVIA AREA PLAN

OBJECTIVE 1.1

CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD

POLICY 1.1.3

Encourage housing and retail infill to support the vitality of the Hayes-Gough, Upper Market, and Valencia Neighborhood Commercial Districts.

POLICY 1.1.8

Reinforce continuous retail activities on Market, Church, and Hayes Streets, as well as on Van Ness Avenue.

OBJECTIVE 6.2

ENCOURAGE NEW DEVELOPMENT ON THE CENTRAL FREEWAY PARCELS AND THE MARKET STREET SAFEWAY SITE TO HEAL THE PHYSICAL FABRIC OF THE NEIGHBORHOOD AND IMPROVE NEIGHBORHOOD CHARACTER.

POLICY 6.2.1

Provide guidelines for new development that respond to the opportunities presented by the Central Freeway parcels

Comment: The proposed interim leases will further the goals and objectives above, related to encouraging strong retail activities in this area and appropriately re-using the Central Freeway parcels.

Case No. 2010.0359R

Central Freeway Parcels K and L (0817/030, 0817/033)

Proposed Leases for Interim Uses

The following Priority Policies are hereby established. They shall be included in the preamble to the General Plan and shall be the basis upon which inconsistencies in the General Plan are resolved:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;
The Project is not in conflict with this policy. The Project will provide for interim retail uses of vacant parcels and will compliment existing retail in Hayes Valley.
2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;
The Project is not in conflict with this policy. The interim uses on Parcel K will be replaced in the future with affordable housing
3. That the City's supply of affordable housing be preserved and enhanced;
The Project is not in conflict with this policy.
4. That commuter traffic not impede Muni transit services or overburden our streets or neighborhood parking;
The Project is not in conflict with this policy. The project will not affect or create commute trips.
5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;
The Project is not in conflict with this policy.
6. That the City achieve the greatest possible preparedness to protect against injury and the loss of life in an earthquake.
The Project is not in conflict with this policy.
7. That landmarks and historic buildings be preserved; and
The Project is not in conflict with this policy.

8. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project is not in conflict with this policy.

**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, San Francisco Board of Supervisors	City elective office(s) held: Members, San Francisco Board of Supervisors
Contractor Information (Please print clearly.)	
Name of contractor: PROXY development, LLC	
Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary. DOUGLAS BURNHAM, SOLE MEMBER	
Contractor address: 1661 20TH ST. No. 1 OAKLAND, CA 94607	
Date that contract was approved:	Amount of contract: LOT L: \$2,000/MO, 4 YR. TERM LOT K: \$5,000/MO, 3 YR. TERM
Describe the nature of the contract that was approved: LEASES FOR OCTAVIA BLVD LOTS K + L	
Comments:	

This contract was approved by (check applicable):

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

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

