

File No. 110599

Committee Item No. 1

Board Item No. 18

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date May 16, 2011

Board of Supervisors Meeting Date May 24, 2011

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <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                        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input checked="" type="checkbox"/> | <input checked="" 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                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <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                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

- |                                       |                                       |  |
|---------------------------------------|---------------------------------------|--|
| <input checked="" type="checkbox"/>   | <input checked="" type="checkbox"/>   | <u>Municipal Transportation Agency Resolution No. 11-030</u> |
| * <input checked="" type="checkbox"/> | * <input checked="" type="checkbox"/> | <u>Easement Purchase and Sale Agreement</u>                  |
| * <input checked="" type="checkbox"/> | * <input checked="" type="checkbox"/> | <u>Delivery Truck Easement Agreement</u>                     |
| <input type="checkbox"/>              | <input type="checkbox"/>              | <u> </u>   |
| <input type="checkbox"/>              | <input type="checkbox"/>              | <u> </u>   |
| <input type="checkbox"/>              | <input type="checkbox"/>              | <u> </u>   |
| <input type="checkbox"/>              | <input type="checkbox"/>              | <u> </u>   |

Completed by: Alisa Somera Date May 13, 2011

Completed by: Alisa Somera Date May 19, 2011

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

1 [Grant Easement to, and Acceptance of Easement Purchase and Sale Agreement and  
2 Delivery Truck Easement Agreement - Avalon Ocean Avenue, L.P. - Phelan Bus Loop]

3 **Resolution approving the execution of an Easement Purchase and Sale Agreement,**  
4 **together with a Delivery Truck Easement Agreement, by and between the City and**  
5 **County of San Francisco, acting by and through the Municipal Transportation Agency,**  
6 **and Avalon Ocean Avenue, L.P., a Delaware Limited Partnership for the Phelan Bus**  
7 **Loop.**

8 WHEREAS, The SFMTA has jurisdiction over a portion of City Property known as the  
9 Phelan Loop near the intersection of Phelan Avenue and Ocean Avenue, San Francisco,  
10 California ("City Property"), and SFMTA operates a bus loop on the City Property; and

11 WHEREAS, Avalon Ocean Avenue, L. P. ("Avalon") is constructing a commercial  
12 development project ("Avalon Project") with a ground floor grocery store ("Grocery") on its  
13 property ("Avalon Property"), which abuts the City Property; and

14 WHEREAS, The Planning Commission approval of the Avalon Project under Planning  
15 Commission Motion No. 17885 ("Motion") requires Avalon to construct an extension to Lee  
16 Avenue on both a portion of the Avalon Property and the adjacent City Property ("Lee Avenue  
17 Extension"); and

18 WHEREAS, In a General Plan Referral recommendation dated November 5, 2010, the  
19 City's Planning Department found that granting of this and other Easements are consistent  
20 with the City's General Plan and with Planning Code Section 101.1(b). A copy of such letter is  
21 on file with the Clerk of the Board of Supervisors in File No. 110115 and is incorporated herein  
22 by reference; and

23 WHEREAS, The Motion further requires Avalon to obtain SFMTA permission to use a  
24 portion of the City Property comprised of approximately 3,360 square feet ("Easement Area")  
25

1 so delivery trucks servicing Grocery can pull into the Easement Area and back across the Lee  
2 Avenue Extension and onto the Avalon Property to make deliveries to the Grocery; and

3 WHEREAS, Avalon wishes to acquire the Easement for such purposes pursuant to the  
4 terms of an Easement Purchase and Sale Agreement ("EPSA") and a Delivery Truck  
5 Easement Agreement ("Easement Agreement"), copies of both of which are on file with the  
6 Clerk of the Board of Supervisors in File No. 110599; and

7 WHEREAS, SFMTA intends to relocate its bus loop and sell a portion of the City  
8 Property comprised of approximately 25,772 square feet ("Housing Parcel") to the San  
9 Francisco Redevelopment Agency ("SFRA") for an affordable housing project ("Housing  
10 Project") pursuant to SFMTA Board of Directors approval of Resolution No. 09-196 on  
11 November 17, 2009 and SFRA Commission approval of Resolution No. 115-2009 on October  
12 20, 2009, and the approval of Ordinance No. 49-11 by the Board of Supervisors and Mayor on  
13 March 16, 2011. Copies of such Resolutions are on file with the Clerk of the Board of  
14 Supervisors in File No. 110115 and are incorporated herein by reference; and

15 WHEREAS, The Housing Parcel would be affected by the Easement, and SFRA has  
16 consented to the Easement if Avalon pays SFRA \$706,832 ("SFRA Price") for the anticipated  
17 increased Housing Project construction and maintenance costs that will result from Avalon's use of the  
18 Easement Area if SFRA buys the Housing Parcel and develops the Housing Project; and

19 WHEREAS, Under the EPSA, Avalon will pay \$171,360 ("Purchase Price") to the City  
20 and County of San Francisco for the Easement and deliver the SFRA Price to SFRA pursuant  
21 to a Capitalized Operating and Construction Cost Agreement between SFRA and Avalon; and

22 WHEREAS, The Easement Agreement will be recorded in the Official Records of San  
23 Francisco County on the closing date specified in the EPSA, but the Easement will not  
24 become effective unless Avalon receives a temporary certificate of occupancy for the Grocery  
25 and the City Engineer makes a Determination of Completeness for the Lee Avenue Extension

1 and other public improvements under a Public Improvement Agreement between City and  
2 Avalon; and

3 WHEREAS, Should the Easement become effective, it will have a term of fifty-five (55)  
4 years, be subject to requirements related to San Francisco Public Utilities Commission  
5 underground pipelines in the Easement Area, and be subject to additional mitigation  
6 measures to minimize impacts to existing SFMTA bus loop operations in the area;

7 WHEREAS, The SFMTA Board of Directors has approved the EPSA and Easement  
8 Agreement and authorized the Director of Property to submit legislation to the City's Mayor  
9 and Board of Supervisors seeking review and approval of same, pursuant to Resolution No.  
10 11-030, adopted March 1, 2011, a copy of which is on file with the Clerk of the Board of  
11 Supervisors in File No. 110599; now therefore, be it

12 RESOLVED, That the Board of Supervisors hereby adopts the findings set forth in the  
13 Planning Commission Motion No. 17885 that the granting of the Easement is consistent with  
14 the City's General Plan and the Eight Priority Policies of City Planning Code Section 101.1  
15 and hereby incorporates such findings by reference as though fully set forth in this Resolution;  
16 and be it

17 FURTHER RESOLVED, That the Board of Supervisors hereby approves the Easement  
18 Agreement and EPSA and the transaction contemplated thereby and authorizes the Executive  
19 Director/CEO of the SFMTA and the Director of Property to enter into any additions,  
20 amendments or other modifications to the Easement Agreement or EPSA (including, without  
21 limitation, the attached exhibits) that the Director of Property and Executive Director/CEO of  
22 SFMTA, in joint consultation with the City Attorney, determines are in the best interest of the  
23 City, do not decrease the sales prices noted therein or otherwise materially increase the  
24 obligations or liabilities of the City, and are necessary or advisable to complete the transaction  
25 contemplated in the Easement Agreement and EPSA and effectuate the purpose and intent of

1 this Resolution, such determination to be conclusively evidenced by the execution and  
2 delivery by the Director of Property and Executive Director/CEO of SFMTA of the Agreements  
3 and any amendments thereto; and be it

4       FURTHER RESOLVED, That the Director of Property and Executive Director/CEO of  
5 the SFMTA are hereby authorized and urged, in the name and on behalf of the City and  
6 County, to execute and deliver the Easement upon the closing in accordance with the terms  
7 and conditions of the Agreements, and to take any and all steps (including, but not limited to,  
8 the execution and delivery of any and all certificates, agreements, notices, consents, escrow  
9 instructions, closing documents and other instruments and documents) as the Director of  
10 Property deems necessary or appropriate in order to consummate the conveyance pursuant  
11 to the Agreements, or to otherwise effectuate the purpose and intent of this Resolution, such  
12 determination to be conclusively evidences by the execution and delivery by the Director of  
13 Property and/or the Executive Director/CEO of the SFMTA of any such documents.

14  
15  
16 RECOMMENDED:

17  
18   
19 John Updike

20 Acting Director of Property  
21  
22  
23  
24  
25

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

<b>City Elective Officer Information</b> <i>(Please print clearly)</i>	
Name of City elective officer(s): Members, San Francisco Board of Supervisors	City elective office(s) held: Members, San Francisco Board of Supervisors

<b>Contractor Information</b> <i>(Please print clearly)</i>	
Name of Contractor: Avalon Ocean Avenue L.P., a Delaware Corporation	
<i>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.</i>	
Directors: Bryce Blair, Chairman & CEO; Tim Naughton, President Non-employee Directors: Bruce A. Choate, John J. Healy, Jr., Lance R. Primis, H. Jay Sarles, Peter S. Rummell, W. Edward Walter CFO - Thomas J. Sargeant	
Contractor address: Avalon Ocean Avenue, LP c/o California Multiple Financing Inc, Ballston TWR 671 Glebe Rd Suite 800, Arlington, VA	
Date that contract was approved:	Amount of contract: \$878,192.
Describe the nature of the contract that was approved: Easement Purchase and Sale Agreement and Delivery Truck Easement Agreement	
Comments: Purchase of Rights from City & County of San Francisco via the above noted agreements	

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 the form sits

Print Name of Board

<b>Filer Information</b> <i>(Please print clearly)</i>	
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 the 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



*John Updike*  
*Acting Director of Real Estate*



May 9, 2011

Through Amy L. Brown, Acting City Administrator

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

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2011 MAY 10 PM 1:15  
BY [Signature]

**Re: Grant of Easement, Acceptance of Easement Purchase and Sale Agreement, Acceptance of Truck Easement Agreement - The Phelan Loop Development near Ocean – Grocery Element by Avalon**

Dear Board Members:

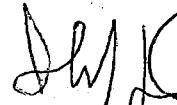
Attached for your consideration is a proposed Resolution that would facilitate the commercial elements of a mixed-use development project west of the intersection of Phelan Avenue and Ocean Avenue, within a portion of Lot 001 of Block 3180. The Resolution would authorize the execution and performance of an Easement Purchase and Sale Agreement & a Delivery Truck Easement Agreement, by and between the City and County of San Francisco and Avalon Ocean Avenue, L.P. These agreements would collectively result in payments to the City in the amount of \$171,360 and to the San Francisco Redevelopment Agency in the amount of \$706,832. Payment to SFRA was calculated to cover the cost of the anticipated increased affordable housing project construction and maintenance costs that will result from Avalon's use of the Easement Area .

Approval of this Resolution will further a mixed-use project, in particular the development of a much anticipated full service anchor grocery store, which requires the proposed easement for loading off of the new proposed extension for Lee Avenue. This is a part of the larger on-going effort to transform the existing Phelan Bus Loop parcel into a fully functional transit-oriented development and to eliminate cub cuts off of Ocean Avenue per the Balboa Station Area Plan.

The SFMTA Board of Directors has adopted the required Resolution in support of the contents of the Resolution now before the Board. This matter is also consistent with San Francisco Redevelopment Agency adoption of Resolution No. 115-2009 on October 20, 2009, which authorized the purchase of adjacent property for affordable housing purposes.

The Real Estate Division recommends approval of the Resolution, and requests that the item be heard at the Land Use and Economic Development Committee's next available meeting date. If you have any questions in this regard, please contact me at 554-9860, or Lisa Pagan of the Office of Economic and Workforce Development at 554-6936.

Respectfully,



John Updike  
Acting Director of Property

Attachments

c: Lisa Pagan, OEWD  
Joan McNamara, MOH  
Jason Gallegos, SFMTA



SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 11-030

WHEREAS, the San Francisco Municipal Transportation Agency (SFMTA) has jurisdiction over a portion of City Property known as the Phelan Loop near the intersection of Phelan Avenue and Ocean Avenue, San Francisco, California (City Property), and SFMTA operates a bus loop on the City Property; and

WHEREAS, Avalon Ocean Avenue, L.P. (Avalon) is constructing a mixed use rental development project (Avalon Project) with a ground floor grocery store (Grocery Store) on its property, which abuts the City Property; and

WHEREAS, The Planning Commission approval of the Avalon Project under Planning Commission Motion No. 17885 (Motion) requires Avalon to construct an extension to Lee Avenue on both a portion of the Avalon Property and the adjacent City Property (Lee Avenue Extension); and

WHEREAS, The Motion further requires Avalon to obtain SFMTA permission to use a portion of the City Property comprised of approximately 3,360 square feet (Easement Area) so grocery store delivery trucks can pull into the Easement Area and back across the Lee Avenue Extension and onto the Avalon Property to make grocery store deliveries; and

WHEREAS, Avalon wishes to acquire the Easement for such purposes pursuant to the terms of an Easement Purchase and Sale Agreement (Purchase Agreement) and a Delivery Truck Easement Agreement (Easement Agreement); and

WHEREAS, SFMTA may relocate its bus loop and sell a portion of the City Property comprised of approximately 25,772 square feet (Housing Parcel) to the San Francisco Redevelopment Agency (Agency) for a housing project (Housing Project) pursuant to the SFMTA Board of Directors Resolution No. 09-196, adopted on November 17, 2009, and SFMTA Board of Directors Resolution No. 10-051, adopted on April 20, 2010; and

WHEREAS, The Housing Parcel would be affected by the Easement, and the Agency has consented to the Easement if Avalon pays the Agency \$706,832 (Agency Price) for the anticipated increased Housing Project construction and maintenance costs that will result from Avalon's use of the Easement Area if Agency buys the Housing Parcel and develops the Housing Project; and

WHEREAS, Under the Purchase Agreement, Avalon will pay \$171,360 (Purchase Price) to the City and County of San Francisco (City) for the Easement and deliver the Agency Price to the Agency pursuant to a Capitalized Operating and Construction Costs Agreement between the Agency and Avalon; and

WHEREAS, The Easement Agreement will be recorded in the Official Records of San Francisco County on the closing date specified in the Purchase Agreement, but the Easement will not become effective unless Avalon receives a temporary certificate of occupancy for the Grocery Store and the City Engineer makes a Determination of Completeness for the Lee Avenue Extension and other public improvements under a Public Improvement Agreement between City and Avalon; and

WHEREAS, Should the Easement becomes effective, it will have a term of fifty-55 years, be subject to requirements related to San Francisco Public Utilities Commission underground pipelines in the Easement Area, and be subject to additional mitigation measures to minimize impacts to existing SFMTA bus loop operations in the area; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors hereby authorizes the Executive Director/CEO to execute the Purchase Agreement and the Easement Agreement to grant to Avalon a 55 year delivery truck turnaround easement over a portion of property comprised of approximately 3,360 square feet at the Phelan Loop, near the intersection of Phelan Avenue and Ocean Avenue, San Francisco, California, for the payment of \$171,360 to City pursuant to the Purchase Agreement and the delivery of \$706,832 to the San Francisco Redevelopment Agency (Agency) pursuant to a Capitalized Operating and Construction Costs Agreement between Avalon and Agency; and be it

FURTHER RESOLVED, That the SFMTA Board of Directors hereby authorizes the Executive Director/CEO of the SFMTA to request the City's Director of Property to prepare and submit legislation to the City's Mayor and Board of Supervisors to approve the execution the Purchase Agreement, the Easement Agreement and the transactions contemplated in such agreements.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of MAR 01 2011.



Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency



EASEMENT PURCHASE AND SALE AGREEMENT

by and between

CITY AND COUNTY OF SAN FRANCISCO,  
as Seller

and

AVALON OCEAN AVENUE, L.P.,  
as Buyer

\_\_\_\_\_, 2011



Free Recording Requested Pursuant to  
Government Code Section 27383

Recording requested by and  
when recorded mail to:

City and County of San Francisco  
San Francisco Municipal Transportation Agency  
Real Estate Section  
1 South Van Ness, 8<sup>th</sup> Floor  
San Francisco, CA 94103  
Attn: Manager, Real Estate

with a copy to:

Real Estate Division  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Attn: Director of Property

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(Space above this line reserved for Recorder's use only)

**DELIVERY TRUCK EASEMENT AGREEMENT**  
(Portion of Assessor's Parcel Block No. 3180, Lot 1)

This Delivery Truck Easement Agreement (this "**Agreement**"), by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), and AVALON OCEAN AVENUE, L.P., a Delaware limited partnership ("**Avalon**"), is executed as of \_\_\_\_\_ (the "**Effective Date**"). City and Avalon may also each be referred to herein as a "**Party**" and together as the "**Parties**".

RECITALS

A. Avalon owns the real property described on the attached Exhibit A (the "**Avalon Property**") and City owns the adjacent real property described on the attached Exhibit B (the "**City Property**").

B. The Redevelopment Agency of the City and County of San Francisco ("**Agency**") is interested in developing a mixed-use development with affordable housing (the "**Housing Project**") on the portion of the City Property described on the attached Exhibit C (the "**Housing Parcel**"), and City and Agency are in discussions regarding City's sale of the Housing Parcel to the Agency for such purpose.

C. Avalon is constructing a development (the "**Avalon Development**") on the Avalon Property that includes a ground floor retail grocery store comprised of approximately 27,500 gross square feet (the "**Grocery Store**"), as further described in San Francisco Planning Commission Motion No. 17885 ("**Motion**").

D. Avalon's affiliate, AvalonBay Communities, Inc. ("**AvalonBay**"), is constructing an extension to Lee Avenue on a portion of the Avalon Property and a portion of the City Property (the "**Lee Avenue Extension**") pursuant to the requirements of the Motion, a Public Improvement Agreement between Avalon and the City, dated \_\_\_\_\_ (the "**PIA**"),