

File No. 170271

Committee Item No. 7

Board Item No. 2

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date April 27, 2017

Board of Supervisors Meeting

Date May 23, 2017

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <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 checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input 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)

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Parking Authority Commission Resolution</u>                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Municipal Transportation Agency Board of Directors Resolution</u> |
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Completed by: Linda Wong

Date April 22, 2017

Completed by: Linda Wong

Date May 1, 2017

1 [Administrative Code - Transfer of Moscone Center Garage and Performing Arts Garage to  
2 Municipal Transportation Agency]

3 **Ordinance amending the Administrative Code to transfer the Moscone Center Garage**  
4 **(255 Third Street) and the Performing Arts Garage (360 Grove Street) from the Parking**  
5 **Authority to the Municipal Transportation Agency; and assigning a ground lease for**  
6 **certain Department of Public Works property for access between the Performing Arts**  
7 **Garage and Gough Street; affirming the determination under the California**  
8 **Environmental Quality Act; and making findings of consistency with the General Plan**  
9 **and the eight priority policies of Planning Code Section 101.1.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
13 **Board amendment additions** are in double-underlined Arial font.  
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
15 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
16 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Findings.

17 (a) The San Francisco Municipal Transportation Agency ("SFMTA"), under authority  
18 delegated to it by the Planning Department, has determined that the transfer of ownership of  
19 San Francisco Parking Authority property to the City and County of San Francisco under the  
20 jurisdiction of the SFMTA is not a "project" under the California Environmental Quality Act  
21 ("CEQA") pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and  
22 15378(b). Said determination is on file with the Clerk of the Board of Supervisors in File No.  
23 170271 and is incorporated herein by reference. The Board affirms this determination.

24 (b) On November 15, 2016, the Commission of the Parking Authority of the City and  
25 County of San Francisco ("Parking Authority"), a State agency governed by California Streets

1 and Highways Code Sections 32500 et seq., in Resolution No. 16-156, recommended that the  
2 Board of Supervisors transfer the property of the Parking Authority to the SFMTA. A copy of  
3 said Resolution No. 16-156 is on file with the Clerk of the Board of Supervisors in File No.  
4 170271.

5 (c) On November 15, 2016, the SFMTA Board of Directors, in Resolution No. 16-  
6 155, recommended that the Board of Supervisors transfer the property of the Parking  
7 Authority to the SFMTA. A copy of said Resolution No. 16-155 is on file with the Clerk of the  
8 Board of Supervisors in File No. 170271.

9 (d) The SFMTA and Parking Authority desire at this time that the Moscone Center  
10 Garage and the Performing Arts Garage be transferred from the Parking Authority to the  
11 SFMTA.

12  
13 Section 2. The Administrative Code is hereby amended by adding Section 17.4, to  
14 read as follows:

15 **SEC. 17.4. TRANSFER OF PARKING AUTHORITY PROPERTY TO THE MUNICIPAL**  
16 **TRANSPORTATION AGENCY.**

17 (a) As authorized by California Streets and Highways Code Section 32067, the Moscone  
18 Center Garage, 255 Third Street, San Francisco, Assessor's Parcel Number 3735-060, and the  
19 Performing Arts Garage, 360 Grove Street, San Francisco, Assessor's Parcel Numbers 0792-029 and  
20 0792-022, which includes all real property, interests in property, leases involving and all improvements  
21 and personal property thereon of those parking facilities, are transferred to the Municipal  
22 Transportation Agency. Leases and other interests of the Parking Authority in the Moscone Center  
23 Garage and the Performing Arts Garage are assigned to the Municipal Transportation Agency,  
24 including but not limited to the ground lease of certain property under the jurisdiction of the  
25 Department of Public Works for access between the Performing Arts Garage and Gough Street, a copy

1 of which is on file with the Clerk of the Board of Supervisors in File No. 170271 and is incorporated  
2 herein by reference. The Municipal Transportation Agency, as assignee, shall assume all obligations  
3 and benefits of said Lease from the Parking Authority, as assignor.

4 (b) The Assignment Agreement assigning the Lease dated February 27, 1981, between the  
5 State of California, Department of Transportation, as lessor, and the Parking Authority, as lessee, for  
6 the real property located on Gough Street near Grove Street, which is a portion of Assessor's Parcel  
7 Number 0792-028 and provides access between the Performing Arts Garage and Gough Street, is  
8 approved. Although the City and County owns the fee interest in such real property and holds the  
9 lessor interest in such Lease, the leasehold interest in the real property and the lessee interest in the  
10 Lease are intended to survive the assignment and not intended to merge by operation of law. The  
11 Municipal Transportation Agency, as assignee, shall assume all obligations and benefits of such Lease  
12 from the Parking Authority, as assignor. A copy of the Assignment Agreement and Lease is on file with  
13 the Clerk of the Board of Supervisors in File No. 170271 and is incorporated herein by reference.

14 (c) For purposes of Administrative Code Section 23.3, the transfer of the Moscone Center  
15 Garage and the transfer of the Performing Arts Garage to the Municipal Transportation Agency in this  
16 Section 17.4 is a donation, which does not require an appraisal of the value of the property to be  
17 conveyed. The transfer of those parking facilities from the Parking Authority to the Municipal  
18 Transportation Agency is authorized by California Streets and Highways Code Section 32067. Said  
19 transfer will effect a public purpose, will not change the use of the property as parking facilities, and  
20 will not change the use of the revenues of the property, which Charter Section 8A.105(b)1 requires be  
21 used to support the Municipal Transportation Agency.

22 (d) The SFMTA has affirmed, in correspondence in Board File No. 170271, that it  
23 will provide at a minimum semi-annual written reports to the Board of Supervisors on any  
24 studies and plans to develop the Moscone Center Garage and the Performing Arts Garage,  
25 and will also provide to the Board of Supervisors a public outreach plan to engage the

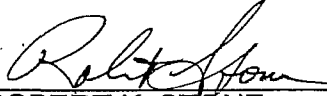
1 community on potential development alternatives, and any completed studies by third-party  
2 consultants shall be made immediately available to the Board of Supervisors.

3 (e) The Municipal Transportation Agency and the Mayor, in consultation with the City  
4 Attorney, are authorized to take such actions as necessary to effect the purposes of this Section 17.4 to  
5 transfer to the Municipal Transportation Agency from the Parking Authority the real property,  
6 personal property, and any other property interests of the Moscone Center Garage and of the  
7 Performing Arts Garage.

8 Section 3. Effective Date. This ordinance shall become effective 30 days after  
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
11 of Supervisors overrides the Mayor's veto of the ordinance.

12  
13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15 By:

  
16 ROBERT K. STONE  
Deputy City Attorney

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5



**SFMTA**  
Municipal  
Transportation  
Agency

Edwin M. Lee, *Mayor*

Cheryl Brinkman, *Chairman*

Malcolm Heinicke, *Vice-Chairman*

Gwyneth Borden, *Director*

Edward D. Reiskin, *Director of Transportation*

Lee Hsu, *Director*

Joél Ramos, *Director*

Cristina Rubke, *Director*

May 10, 2017

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

*Subject: Potential Development Plans for the Moscone Center and Performing Arts Garage  
– File No. 170271*

Dear Board Members:

As part of the approval of the legislation to transfer the Moscone Center and Performing Arts Garage to the SFMTA from the Parking Authority, the SFMTA is affirming that it will provide at a minimum semi-annual written reports to the Board of Supervisors on any studies and plans to develop the Moscone Center Garage and the Performing Arts Garage, and will also provide to the Board of Supervisors a public outreach plan to engage the community on potential development alternatives, and any completed studies by third-party consultants shall be made immediately available to the Board of Supervisors.

If you have any questions regarding this matter, please contact Sonali Bose, Chief Financial Officer, at 415-701-4617 or [Sonali.Bose@sfmta.com](mailto:Sonali.Bose@sfmta.com).

Sincerely,

A handwritten signature in black ink, appearing to read "E. Reiskin", written over a horizontal line.

Edward D. Reiskin  
Director of Transportation

ASSIGNMENT AND ASSUMPTION AGREEMENT

In re Airspace Ground Lease between  
Parking Authority of the City and County of San Francisco  
and the State of California, Department of Transportation,  
concerning the Performing Arts Garage Access Premises

This Assignment and Assumption Agreement ("**Assignment**"), dated for convenience purposes only as of November \_\_, 2016, is entered into by and between the Parking Authority of the City and County of San Francisco, a public entity ("**Parking Authority**" or "**Assignor**"), and the City and County of San Francisco ("**City**"), a municipal corporation, acting by and through its Municipal Transportation Agency ("**SFMTA**" or "**Assignee**").

RECITALS

- A. WHEREAS, the Parking Authority is a State agency created under and governed by the California Parking Law of 1949, California Streets and Highways Code ("**CS&HC**") section 32500 et seq.; and
- B. WHEREAS, the Parking Authority and the State of California, Department of Transportation ("**Caltrans**") entered into an Airspace Ground Lease dated February 27, 1981 (the "**Lease**"), whereby the Parking Authority leases that certain real property located between the Performing Arts Garage and Gough Street in San Francisco, California, which premises is a portion of Assessor's Parcel Number 0792-028 and depicted in Exhibit A to the Lease (the "**Premises**"); and
- C. WHEREAS, Caltrans transferred fee ownership of the Premises, and assigned its interest in the Lease, to City on January 16, 2001, and such ownership and lessor interests are under the jurisdiction of San Francisco Public Works and managed by the Real Estate Division of the Office of the City Administrator ("**RED**"); and
- D. WHEREAS, the Lease permits the Premises to be used for the purposes described in Section 5.1 of the Lease (the "**Permitted Purposes**") on the terms and conditions specified in the Lease for a term that terminates on March 31, 2080, and the Parking Authority paid the one-time advance rent payment required under the Lease to Caltrans prior to the commencement of the Lease, and RED will not require any additional monthly rent payment to be made if the Lease is assigned from the Parking Authority to the SFMTA; and
- E. WHEREAS, three amendments to the Charter of the City effectively merged the functions of the Parking Authority with the off-street parking functions of the City; and
- F. WHEREAS, in 1988, the first of these amendments, Proposition D, created the Department of Parking and Traffic ("**DPT**"); and placed all City parking functions and facilities under the DPT; and mandated that the members of the Parking and Traffic Commission also





serve *ex officio* as the Parking Authority Commission, effectively placing management of all publicly-owned off-street parking facilities within the City (except those owned by the Port and the Airport) under a single department and policy body; and

G. WHEREAS, in 1999, the second of these amendments, Proposition E, created the SFMTA and placed both the Municipal Railway and DPT under it, thereby consolidating public transit and public parking under a single agency; provided for the SFMTA Board of Directors to assume the powers of the Parking and Traffic Commission; and, as authorized by the State law, mandated that the members of the SFMTA Board of Directors also serve *ex officio* as the Parking Authority Commission; and

H. WHEREAS, in 2007, the third of these amendments, Proposition A, eliminated the DPT and formally transferred the DPT's authority over parking facilities to the SFMTA; and

I. WHEREAS, in 2007, the Parking Authority Commission contracted with the SFMTA to manage all Parking Authority facilities, and, under the terms of that contract, the SFMTA Board of Directors sets policies for Parking Authority facilities to mirror SFMTA parking policies, and SFMTA staff manage the Parking Authority's facilities in the same manner as they do the SFMTA's parking facilities; and

J. WHEREAS, the Parking Authority does not have a director nor staff of its own; and

K. WHEREAS, the Parking Authority desires to transfer its properties to the SFMTA, as provided in CS&HC section 32667, so that the SFMTA may explore non-parking uses of some of those properties; and

L. WHEREAS, the SFMTA will continue to utilize the Premises for the Permitted Purposes and will not seek to develop it for other purposes without the express written agreement of RED, which may require prior approval from the City's Board of Supervisors; and

M. WHEREAS, the Parking Authority, as Assignor, desires to assign its interest in the Lease, and the SFMTA, as Assignee, desires to assume such interest the Lease, each on the terms and conditions set forth herein, and the SFMTA and RED desire that the Lease survive such assignment and not merge with City's fee ownership interest of the Premises to allow the SFMTA to the continued use of the Premises for the Permitted Purposes on the terms and conditions of the Lease until March 31, 2080, or any earlier termination of the Lease; and

N. WHEREAS, the SFMTA Board of Directors and Parking Authority Commission voted in support of this Assignment on the date of \_\_\_\_\_; and

O. WHEREAS, the Board of Supervisors of the City and County of San Francisco approved this Assignment by at least a two-thirds vote, as required under CS&HC section 32667, on the date of \_\_\_\_\_;

NOW, THEREFORE, for in consideration of the promises and mutual covenants contained in this Assignment, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor and Assignee agree as follows:

**1. Definitions.** The following definitions shall apply to this Assignment:

- a. **Effective Date.** "Effective Date" shall mean the latest date on which a party to this Assignment, and City, acting by and through RED, as the intended third party beneficiary to this Assignment, executes and approves this Assignment as provided for herein.
- b. **Lease.** "Lease" shall mean the Lease defined in Recital B of this Assignment.
- c. **Other Terms.** Terms used and not defined in this Assignment shall have the meanings assigned to such terms in the Lease.

**2. Assignment.** The Parking Authority, as Assignor, hereby assigns, conveys and transfers to the SFMTA, as Assignee, all of Assignor's right, title and interest in and to the Lease and all of Assignor's duties and obligations thereunder, to the extent arising on or after the Effective Date. This Assignment effects only an assignment and assumption of the Lease from the Parking Authority to the SFMTA, and effects no other changes to the Lease. By its execution of this Assignment, the Parking Authority further transfers to the SFMTA ownership of all improvements on the Premises owned by the Parking Authority, and the Parking Authority represents such improvements are in good operating condition.

**3. Assumption.** The SFMTA, as Assignee, hereby accepts the assignment, transfer and conveyance set forth in Section 2 of this Assignment and agrees to perform all of the Parking Authority's duties and obligations under the Lease, to the extent arising on or after the Effective Date. By its execution of this Assignment, and in reliance of the representation made by the Parking Authority in Section 2 of this Assignment, the SFMTA accepts ownership of all Parking Authority improvements on the Premises.

**4. Consent of Lessor.** By its execution of this Lease, City, acting by and through RED, consents to this Assignment. RED shall be a third party beneficiary of this Assignment (other than Section 5) and shall have the right to enforce this Assignment.

**5. Mutual Indemnities.**

- a. **Assignor.** Assignor shall indemnify, defend and protect Assignee, and hold Assignee harmless from and against, and all liabilities, losses, damages, claims, costs or expenses (including attorney's fees) arising out of (1) any failure of Assignor to convey its interest pursuant to Section 2, free and clear of all third-party liens, claims or encumbrances or (2) any breach by Assignor of the Lease or any other failure to perform or observe any of the duties or obligations of Assignor thereunder, to the extent such breach or failure arises prior to the Effective Date.

b. **Assignee.** Assignee shall indemnify, defend and protect Assignor, and hold Assignor harmless from and against, any and all liabilities, losses, damages, claims, costs or expenses (including attorney's fees) arising out of any breach by Assignee of the Lease or any other failure to perform or observe any of the duties or obligations thereunder assumed by Assignee pursuant to this Assignment.

6. **Governing Law.** This Assignment shall be governed by the laws of the State of California, without regard to its conflict of laws principles.

7. **Headings.** All section headings and captions contained in this Assignment are for reference only and shall not be considered in construing this Assignment.

8. **Entire Agreement.** This Assignment sets forth the entire agreement between Assignor and Assignee relating to the Lease and supersedes all other oral or written provisions.

9. **Further Assurances.** From and after the date of this Assignment, Assignor and Assignee agree to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the assignment, transfer and conveyance contemplated by this Assignment or as may be required by the Lessor.

10. **Severability.** Should the application of any provision of this Assignment to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Assignment shall not be affected or impaired thereby and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the Assignor, Assignee and Lessor.

11. **Successors; Third-Party Beneficiaries.** Subject to the terms of the Lease, this Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Nothing in this Assignment, whether express or implied, shall be construed to give any person or entity (other than the Lessor and the parties hereto and their respective successors and assigns) any legal or equitable right, remedy or claim under or in respect of this Assignment or any covenants, conditions or provisions contained herein.

12. **Notices.** All notices, consents, directions, approvals, instructions, requests and other communications regarding this Assignment or the Lease shall be in writing, shall be addressed to the person and address set forth below and shall be (a) deposited in the U.S. mail, first class, certified with return receipt requested and with appropriate postage, (b) hand delivered or (c) sent via facsimile (if a facsimile number is provided below). All communications sent in accordance with this Section shall become effective on the date of receipt. From time to time, Assignor, Assignee or Lessor may designate a new address for purposes of this Section by notice to the other signatories to this Assignment.

If to Assignor: Secretary to the Parking Authority Commission  
1 South Van Ness Avenue, 7th floor  
San Francisco, CA 94103

If to Assignee: Director of Off-Street Parking  
SFMTA  
1 South Van Ness Avenue, 7th floor  
San Francisco, CA 94103

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

**13. Construction.** The parties to this Assignment acknowledge that they have fully read the contents of this document and that they have had opportunity to be advised by counsel of their choice and that they have full, complete and total comprehension of the provisions contained in this document and are in full agreement with each and every one of those terms, conditions and provisions. As such, the parties agree to waive any and all rights to apply, in the interpretations of any and all terms, provisions or condition of this Assignment, the rule of construction that ambiguities are to be resolved against the drafter of the agreement. For the purposes of this instrument, the parties to this Assignment agree that ambiguities, if any, are to be resolved in the same manner as would have been the case if this instrument had been jointly conceived and drafted.

**14. Incorporation of Recitals.** The parties to this Assignment understand and agree that the recitals set forth above are terms of this Agreement, and are fully incorporated herein by this reference.

**SIGNATURES ON FOLLOWING PAGE**

IN WITNESS WHEREOF, Assignor and Assignee have each duly executed this Assignment.

ASSIGNOR

ASSIGNEE

**PARKING AUTHORITY OF THE CITY  
AND COUNTY OF SAN FRANCISCO**

**CITY AND COUNTY OF SAN  
FRANCISCO MUNICIPAL  
TRANSPORTATION AGENCY**

By \_\_\_\_\_  
Edward D. Reiskin                      **Date**  
Acting as Administrator of  
the Parking Authority

By \_\_\_\_\_  
Edward D. Reiskin                      **Date**  
Director of Transportation

APPROVED BY:

APPROVED BY:

San Francisco Parking Authority  
Commission  
Resolution No: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Attest: \_\_\_\_\_

San Francisco Municipal Transportation  
Agency Board of Directors  
Resolution No: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Attest: \_\_\_\_\_

\_\_\_\_\_  
Secretary, San Francisco Parking  
Authority Commission

\_\_\_\_\_  
Secretary, SFMTA Board of Directors

Approved as to Form:

Dennis J. Herrera  
City Attorney

By \_\_\_\_\_  
Robert Stone                              **Date**  
Deputy City Attorney

**SIGNATURES CONTINUED ON FOLLOWING PAGE**

Performing Arts Garage Access Premises Assignment and Assumption Agreement

RED hereby consents to the assignment and assumption described in Sections 2 and 3 of this Assignment. RED further agrees to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the assignment, transfer and conveyance contemplated by this Assignment.

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
John Updike, Director of Property

Date: \_\_\_\_\_

PARKING AUTHORITY COMMISSION  
OF THE CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. 16-156

WHEREAS, The Parking Authority of the City and County of San Francisco (Parking Authority) is a State agency whose operations are governed by the Parking Law of 1949 (the Act), codified at California Streets & Highway Code section 32500 et seq., which authorizes local agencies to create parking authorities for the limited purposes of constructing and operating public parking facilities; and,

WHEREAS, The Board of Supervisors created the Parking Authority in October 1949 by Ordinance No. 9126; and,

WHEREAS, As directed by the Charter and authorized by the Act, the members of the Board of Directors of the San Francisco Municipal Transportation Agency (SFMTA) serve *ex officio* as the Parking Authority Commission; and,

WHEREAS, Proposition D of 1988, Proposition E of 1999 and Proposition A of 2007 amended the Charter to effectively consolidate the management and operation of publicly owned parking facilities under the SFMTA, which has exclusive authority over City-owned off-street public parking facilities (except parking facilities at the Airport or at the Port); and,

WHEREAS, The Parking Authority on October 18, 2007 contracted with the SFMTA to manage all Parking Authority facilities in accordance with SFMTA off-street parking policies and regulations, and SFMTA staff perform all administrative tasks for the Parking Authority, which has no staff of its own; and,

WHEREAS, The Parking Authority owns in fee the following five parking garages and underlying parcels, and one surface parking lot and underlying parcels, and the Lombard Street Garage on leased land (the Parking Authority Facilities) which provide parking to the general public:

1. Moscone Center Garage, 255 Third Street
2. North Beach Garage, 735 Vallejo Street
3. Performing Arts Garage and adjacent lot, 360 Grove Street
4. Polk/Bush Garage, 1399 Bush Street
5. San Francisco General Hospital Garage, 2500 24<sup>th</sup> Street
6. Surface Lot at 2450 California Street; and,

WHEREAS, The Parking Authority owns the Lombard Street Garage, located at 2055 Lombard Street in San Francisco, and all improvements thereof, and the Parking Authority leases the underlying property from the San Francisco Unified School District which lease will expire in 2044, the assignment of which is subject to Board of Supervisors' approval under Charter section 9.118(c); and,

WHEREAS, "The SFMTA's Real Estate and Facilities Vision for the 21st Century," a report of an extensive study of properties under SFMTA jurisdiction (including Parking Authority properties), issued in February 2013, concluded that some Parking Authority Facilities may be better utilized if developed for other uses in place of or in addition to public parking, such as transit oriented commercial or residential development, but more research and study must be done to explore further potential development opportunities and associated benefits and impacts; and,

WHEREAS, Development of non-parking uses of Parking Authority Facilities may better serve public needs, would effect a public purpose, and would generate revenue to support increasing demands for public transit, as required by the Charter, but such a determination would require further study and review as to economic feasibility, funding, demand, environmental impacts; and,

WHEREAS, The Parking Law of 1949, at Streets and Highway Code section 32804 strictly limits the Parking Authority's ability to develop or use its properties for non-parking uses; and,

WHEREAS, Streets and Highway Code Section 32067 authorizes the Board of Supervisors to transfer by ordinance the Parking Authority's properties to the City by two-thirds vote; and,

WHEREAS, The transfer of the Parking Authority Facilities will not change the use of those properties for public parking and will not change the use of the revenues generated by the Parking Authority Facilities, which Charter Section 8A.105(b)1 dedicates to the SFMTA; and,

WHEREAS, Upon transfer of the Parking Authority Facilities from the Parking Authority to the City, under Charter section 8A.112(a) the Parking Authority Facilities will come under the SFMTA's exclusive jurisdiction over off-street public parking facilities; and,

WHEREAS, Investigation of non-parking uses of the Parking Authority Facilities accords with the directive of Charter Section 8A.109(b) which provides: "The Mayor, the Board of Supervisors, and the Agency diligently shall seek to develop new sources of funding for the Agency's operations, including sources of funding dedicated to the support of such operations, which can be used to supplement or replace that portion of the Municipal Transportation Fund consisting of appropriations from the General Fund of the City and County"; and

WHEREAS, Certain garages have ground floor retail spaces and telecommunications equipment sites that are leased to commercial entities, which leases must be assigned from the Parking Authority to the SFMTA as a condition of the transfer of ownership of the Parking Authority properties, which will be effected by separate agreements conditioned upon the Board of Supervisors' approval of said transfer of ownership; and

WHEREAS, Charter Section 8A.102(b)(1) grants to the SFMTA exclusive authority over the management, operation, use, and control of properties that are under its jurisdiction, which includes the authority to explore alternate, non-parking, revenue-generating uses of its properties; and,



WHEREAS, On October 19, 2016, the SFMTA, under authority delegated by the Planning Department, determined that the Parking Authority Property Ownership Transfer Recommendation is not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and the Parking Authority Commission and is incorporated herein by reference; now, therefore be it

RESOLVED, That the Commission of the Parking Authority of the City and County of San Francisco recommends that the Board of Supervisors by ordinance, in accordance with the requirements of California Streets and Highway Code section 32067, transfer fee title to the City and County of San Francisco the following real property and all improvements and personal property located thereon that are owned by the Parking Authority:

1. Moscone Center Garage, 255 Third Street, San Francisco, Assessor's Parcel Number 3735-060;
2. North Beach Garage, 735 Vallejo Street, San Francisco, Assessor's Parcel Number 0147-029;
3. Performing Arts Garage and adjacent lot, 360 Grove Street, San Francisco, Assessor's Parcel Numbers 0792-029 and 0792-022;
4. Polk/Bush Garage, 1399 Bush Street, San Francisco; Assessor's Parcel Number 0669-012;
5. San Francisco General Hospital Garage, 2500 24<sup>th</sup> Street, San Francisco; Assessor's Parcel Number 4213-001;
6. Surface Parking Lot at 2450 California Street, San Francisco, Assessor's Parcel Numbers 0635-009A and 0635-009; and be it further

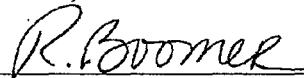
RESOLVED, That the Commission of the Parking Authority of the City and County of San Francisco recommends that the Board of Supervisors by ordinance, in accordance with the requirements of California Streets and Highway Code Section 32067, transfer fee title to the City and County of San Francisco the garage facility, building and other improvements commonly known as the "Lombard Street Garage," located at 2055 Lombard Street, Assessor's Parcel Number 0509-009, and all personal property located thereon that are owned by the Parking Authority; and be it further

RESOLVED, That the Parking Authority Commission of the City and County of San Francisco recommends that the Board of Supervisors approve the assignment of the Parking Authority's leasehold interest in the property under the ground lease dated January 6, 1984 between the San Francisco Unified School District, as lessor, and the Parking Authority, as lessee, for the real property located at 2055 Lombard Street, Assessor's Parcel Number 0509-009, the benefits and obligations of which the SFMTA will assume as lessee in place of the Parking Authority; and be it further

RESOLVED, That the Director of Transportation is authorized to enter into any amendments or modifications of the Assignment Agreement between the Parking Authority, the SFMTA, and the San Francisco Unified School District that the Director of Transportation determines, in consultation with the City Attorney, are in the best interests of the City and are necessary or advisable to effect the transfer of the Lombard Street Garage and effect the purposes of this Resolution, and that do not materially alter the obligations of or costs to the SFMTA or Parking Authority; and be it further

RESOLVED, That the Director of Transportation is authorized to enter into any amendments or modifications of the leases for the ground floor retail spaces and telecommunications equipment sites in certain garages to assign said leases from the Parking Authority to the SFMTA that the Director of Transportation determines, in consultation with the City Attorney, are in the best interests of the City and are necessary or advisable to effect the transfer of those leases and effect the purposes of this Resolution, and that do not materially alter the obligations of or costs to the SFMTA or Parking Authority.

I certify that the foregoing resolution was adopted by the San Francisco Parking Authority Commission at its meeting of November 15, 2016.



---

Secretary to the Commission  
San Francisco Parking Authority

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 16-155

WHEREAS, The Parking Authority of the City and County of San Francisco (Parking Authority) is a State agency whose operations are governed by the Parking Law of 1949 (the Act), codified at California Streets & Highway Code section 32500 et seq., which authorizes local agencies to create parking authorities for the limited purposes of constructing and operating public parking facilities; and,

WHEREAS, The Board of Supervisors created the Parking Authority in October 1949 by Ordinance No. 9126; and,

WHEREAS, As directed by the Charter and authorized by the Act, the members of the Board of Directors of the San Francisco Municipal Transportation Agency (SFMTA) serve *ex officio* as the Parking Authority Commission; and,

WHEREAS, Proposition D of 1988, Proposition E of 1999 and Proposition A of 2007 amended the Charter to effectively consolidate the management and operation of publicly owned parking facilities under the SFMTA, which has exclusive authority over City-owned off-street public parking facilities (except parking facilities at the Airport or at the Port); and,

WHEREAS, The Parking Authority on October 18, 2007 contracted with the SFMTA to manage all Parking Authority facilities in accordance with SFMTA off-street parking policies and regulations, and SFMTA staff perform all administrative tasks for the Parking Authority, which has no staff of its own; and,

WHEREAS, The Parking Authority owns in fee the following five parking garages and underlying parcels, and one surface parking lot and underlying parcels, and the Lombard Street Garage on leased land (the Parking Authority Facilities) which provide parking to the general public:

1. Moscone Center Garage, 255 Third Street
2. North Beach Garage, 735 Vallejo Street
3. Performing Arts Garage and adjacent lot, 360 Grove Street
4. Polk/Bush Garage, 1399 Bush Street
5. San Francisco General Hospital Garage, 2500 24<sup>th</sup> Street
6. Surface Lot at 2450 California Street; and,

WHEREAS, The Parking Authority owns the Lombard Street Garage, located at 2055 Lombard Street in San Francisco, and all improvements thereof, and the Parking Authority leases the underlying property from the San Francisco Unified School District which lease will expire in 2044, the assignment of which is subject to Board of Supervisors' approval under Charter section 9.118(c); and,

WHEREAS, "The SFMTA's Real Estate and Facilities Vision for the 21st Century," a report of an extensive study of properties under SFMTA jurisdiction (including Parking Authority properties), issued in February 2013, concluded that some Parking Authority Facilities may be better utilized if developed for other uses in place of or in addition to public parking, such as transit oriented commercial or residential development, but more research and study must be done to explore further potential development opportunities and associated benefits and impacts; and,

WHEREAS, Development of non-parking uses of Parking Authority Facilities may better serve public needs, would effect a public purpose, and would generate revenue to support increasing demands for public transit, as required by the Charter, but such a determination would require further study and review as to economic feasibility, funding, demand, environmental impacts; and,

WHEREAS, The Parking Law of 1949, at Streets and Highway Code section 32804 strictly limits the Parking Authority's ability to develop or use its properties for non-parking uses; and,

WHEREAS, Streets and Highway Code section 32067 authorizes the Board of Supervisors to transfer by ordinance the Parking Authority's properties to the City by two-thirds vote; and,

WHEREAS, The transfer of the Parking Authority Facilities will not change the use of those properties for public parking and will not change the use of the revenues generated by the Parking Authority Facilities, which Charter Section 8A.105(b)1 dedicates to the SFMTA; and,

WHEREAS, Upon transfer of the Parking Authority Facilities from the Parking Authority to the City, under Charter section 8A.112(a) the Parking Authority Facilities will come under the SFMTA's exclusive jurisdiction over off-street public parking facilities; and,

WHEREAS, Investigation of non-parking uses of the Parking Authority Facilities accords with the directive of Charter Section 8A.109(b) which provides: "The Mayor, the Board of Supervisors, and the Agency diligently shall seek to develop new sources of funding for the Agency's operations, including sources of funding dedicated to the support of such operations, which can be used to supplement or replace that portion of the Municipal Transportation Fund consisting of appropriations from the General Fund of the City and County"; and

WHEREAS, Certain garages have ground floor retail spaces and telecommunications equipment sites that are leased to commercial entities, which leases must be assigned from the Parking Authority to the SFMTA as a condition of the transfer of ownership of the Parking Authority properties, which will be effected by separate agreements conditioned upon the Board of Supervisors' approval of said transfer of ownership; and

WHEREAS, Charter Section 8A.102(b)(1) grants to the SFMTA exclusive authority over the management, operation, use, and control of properties that are under its jurisdiction, which includes the authority to explore alternate, non-parking, revenue-generating uses of its properties; and,

WHEREAS, On October 19, 2016, the SFMTA, under authority delegated by the Planning Department, determined that the Parking Authority Property Ownership Transfer Recommendation is not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and the Parking Authority Commission and is incorporated herein by reference; now, therefore be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors recommends that the Board of Supervisors by ordinance, in accordance with the requirements of California Streets and Highway Code Section 32067, transfer fee title to the City and County of San Francisco the following real property and all improvements and personal property located thereon that are owned by the Parking Authority:

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6. Surface Parking Lot at 2450 California Street, San Francisco, Assessor's Parcel Numbers 0635-009A and 0635-009; and be it further

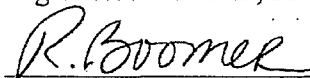
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RESOLVED, That the Director of Transportation is authorized to enter into any amendments or modifications of the Assignment Agreement between the Parking Authority, the SFMTA, and the San Francisco Unified School District that the Director of Transportation determines, in consultation with the City Attorney, are in the best interests of the City and are necessary or advisable to effect the transfer of the Lombard Street Garage and effect the purposes of this Resolution, and that do not materially alter the obligations of or costs to the SFMTA or Parking Authority; and be it further

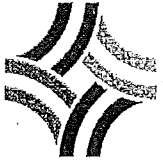
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I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of November 15, 2016.



---

Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency



**SFMTA**  
Municipal  
Transportation  
Agency

Edwin M. Lee, *Mayor*

Tom Nolan, *Chairman*

Cheryl Brinkman, *Vice-Chairman*

Gwyneth Borden, *Director*

Malcolm Heinicke, *Director*

Edward D. Reiskin, *Director of Transportation*

Lee Hsu, *Director*

Joél Ramos, *Director*

Cristina Rubke, *Director*

**Parking Authority Property Ownership Transfer Recommendation**

The San Francisco Municipal Transportation Agency (SFMTA) proposes to recommend that the Board of Supervisors approve an ordinance to transfer all properties and improvements owned by the Parking Authority of the City and County of San Francisco (Parking Authority) to the SFMTA. Upon transfer, those properties would come under the jurisdiction of the SFMTA, and SFMTA would have the authority to develop those properties for non-parking uses.

Not a "project" pursuant to CEQA as defined in CEQA Guidelines Sections 15060(c) and 15378(b) because the action would not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

A handwritten signature in black ink, appearing to read "D Sheeter", is written over a horizontal line.

10/19/16

Daniel Sheeter

Date

San Francisco Municipal Transportation Agency



*Ce  
members*

May 27, 1981

PARKING AUTHORITY  
Performing Arts Center Garage  
99-year Lease

Margaret Brady  
Director  
Parking Authority  
450 McAllister Street  
Room 603  
San Francisco, CA

Dear Mrs. Brady:

Attached for your file is a fully executed copy of the 99-year  
Lease granted by CALTRANS for the Performing Arts Center Garage.

As soon as the City can acquire the property and property rights  
from the Redevelopment Agency, the PAC Garage land package will  
be complete.

Sincerely,

WALLACE WORTMAN  
Director of Property

AJD:rc  
attachment

cc: Robert Kenealey, Deputy  
City Attorney

1981  
MAY 28 4 57 44  
OFFICE OF THE  
DIRECTOR OF PROPERTY



LONG-TERM BUILDING DEVELOPMENT LEASE

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[Lease Area No. 04-SF-101-58 (FLA)]

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
AIRSPACE GROUND LEASE

THIS LEASE is made and entered into this 27th day of February, 1981, by and between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "Landlord," and Parking Authority of the City and County of San Francisco hereinafter called "Tenant."

W I T N E S S E T H

For and in consideration of the rental and of the covenants and agreements hereinafter set forth to be kept and performed by the Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises herein described for the terms, at the rental and subject to and upon all of the terms, covenants and agreements hereinafter set forth.

ARTICLE 1. SUMMARY OF LEASE PROVISIONS

Date: February 27, 1981

Landlord: State of California, Department of Transportation

Tenant: Parking Authority of City and County of San Francisco

Premises: Located in the City of San Francisco

County of San Francisco, State of California.

commonly known as 04-SF-101-58 (FLA), more

particularly described in Article 2.

Lease Term: Ninety Nine Years, commencing

April 1, 1981 and expiring on March 31, 2080.

(Article 3)

Rent Annual \$24,225.00 (Prepaid)

Adjustment to Rent: (Article 4)

Method: None

Frequency: None

Use: Access to Performing Arts Garage plus landscaping and site for sculpture. (Article 5)

Liability Insurance: \$ Self-insured (Article 9)

Address for Notices: (Article   )

To Landlord: State of California

P. O. Box 7791, Rincon Annex

San Francisco, CA 94120

To Tenant: Director of Property

450 McAllister Street, Rm. 600

San Francisco, CA 94102

References in this Article 1 to the other Articles are for convenience and designate other Articles where references to the particular item contained in the Summary of Lease Provisions appears. Each reference in this Lease to the Summary of Lease Provisions contained in this Article 1 shall be construed to incorporate all of the terms provided under the Summary of Lease Provisions. In the event of any conflict between the Summary of Lease Provisions and the balance of the Lease, the latter shall control.

ARTICLE 2. PREMISES

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, for the term, at the rent, and upon the covenants and conditions hereinafter set forth, those certain premises known as Airspace Lease Area No. 04-SF-101-58 (FLA), situated in the City of San Francisco, County of San Francisco, said land or interest therein being shown on the map or plat marked, "Exhibit A," attached hereto and by this reference made a part hereof, and more particularly described as follows:

BEGINNING at a point on the easterly line of Gough Street, distant thereon 70.190 feet northerly from the northerly line of Grove Street, running thence northerly along said line of Gough Street 67.310 feet; thence at a right angle easterly 42.348 feet; thence deflecting 122° 12'58" to the right from the

preceding course and running southwesterly 51.711 feet to the southeasterly line of that certain parcel of land described in the Deed from Lillie Gunther, a widow, to the State of California, dated May 14, 1956, recorded June 15, 1956, in Book 6863 of Official Records, at Page 502, in the Office of the Recorder of the City and County of San Francisco, State of California; thence southwesterly along said southeasterly line of land described in said Deed on the arc of a curve to the left tangent to the preceding course, with radius 6,946 feet, central angle  $0^{\circ}13'46''$ , an arc distance of 27.812 feet to said easterly line of Gough Street and the point of Beginning. Being a portion of Western Addition Block 138. Being also a portion of lot 26 in Assessor's Block 792. Containing 1,424 square feet, more or less.

EXCEPTING THEREFROM all those portions of the above-described property occupied by the supports and foundations of the bridge or viaduct if any. [ALSO EXCEPTING THEREFROM all that portion of said property above a horizontal plane 8 feet below the underside or soffit, whichever is lower, of the viaduct which plane extends to the vertical boundaries of the above-described property, as shown on the diagram marked "Exhibit B," attached hereto and by this reference made a part hereof.]

ARTICLE 3. TERM

The term of this Lease shall be for Ninety-nine  
(99) years, commencing April 1, 1981, and expiring  
March 31, 2080

ARTICLE 4. RENT

4.1 Rental

LESSEE agrees to pay LESSOR as rent for the leased premises the sum of \$24,225.00, representing the rent for the entire ninety-nine (99) year period. Said rent is due and payable in advance and will be delivered to Landlord at the address to which notices to Landlord are given.

4.2 Reevaluation on Transfer

Landlord expressly reserves the right to establish a new minimum monthly rental as a condition to Landlord's approval of any assignment of this lease of all or any portion of the leased premises.

ARTICLE 5. USE

5.1 Specified Use

The premises shall be used and occupied by Tenant only for the purpose of access to Performing Arts Garage plus landscaping and site for sculpture as described in Tenant's Offer and Proposal approved by the Department of Transportation Airspace Advisory Committee on February 4, 1981, and for no other purpose whatsoever without obtaining the prior written consent of Landlord the concurrence of the Federal Highway Administration.

5.2 Condition of Premises

Tenant hereby accepts the Premises in their condition existing as of the date of the execution hereof, subject to all applicable zoning, municipal, county, state and federal laws,

ordinances and regulations governing and regulating the use of the Premises, and accepts this Lease subject thereto and to all matters disclosed thereby and by any exhibits attached hereto. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the condition of the Premises or the suitability thereof for the conduct of Tenant's business, nor has Landlord agreed to undertake any modification, alteration or improvement to the Premises except as provided in this Lease.

### 5.3 Compliance with Law

Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, zoning restriction, ordinance or governmental rule or regulation or requirements of duly constituted public authorities now in force or which may hereafter be in force and with the requirements of the State Fire Marshal or other similar body now or hereafter constituted relating to or affecting the condition, use of occupancy of the Premises. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant. Tenant shall not allow the Premises to be used for any unlawful purpose, nor shall Tenant cause, maintain, or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer to be



committed any waste in or upon the Premises.

#### 5.4 Petroleum Products

Tenant shall not install facilities for, nor operate on the land above or below a highway or freeway, a gasoline or petroleum supply station, nor shall the transportation of gasoline or petroleum products be permitted under the viaduct structures.

#### 5.5. Explosives and Flammable Materials

The premises shall not be used for the manufacture of flammable materials or explosives, or for any storage of flammable materials, explosives, or other materials or other purposes deemed by Landlord to be a potential fire or other hazard to the transportation facility. The operation and maintenance of the leased premises shall be subject to regulations of Landlord so as to protect against fire or other hazard impairing the use, safety and appearance of the transportation facility. The occupancy and use of the area shall not be such as will permit hazardous or unreasonably objectionable smoke, fumes, vapors or odors to rise above the surface of the traveled way of the transportation facility.

#### 5.6 Signs

Tenant shall not construct, erect, maintain or permit any sign, banner or flag upon the premises without the prior written approval of Landlord. The term "sign" means any card, cloth, paper, metal, painted or wooden sign of any character placed for any purpose on or to the ground or any tree, wall, bush, rock, fence, building, structure, trailer or thing.

Landlord may remove any unapproved sign, banner or flag existing on the premises and Tenant shall be liable to and shall reimburse Landlord for the cost of such removal.

#### 5.7 Landlord's Rules and Regulations

Tenant shall faithfully observe and comply with the rules and regulations that Landlord shall from time to time promulgate. Landlord reserves the right from time to time to make reasonable modifications to said rules and regulations for the protection of the Transportation facility. The additions and modifications to those rules and regulations shall be for the note protection of the transportation facility and shall be binding upon Tenant upon delivery of a copy of them to Tenant.

#### 5.8 Wrecked Vehicles

Tenant shall not park or store wrecked or inoperable vehicles of any kind on the leased premises.

#### 5.9 Vending

Tenat shall not conduct or permit the vending or sale of any goods or services upon the leased premises except as specifically permitted under paragraph 5.1.

### ARTICLE 6. COMMENCEMENT AND COMPLETION OF INITIAL CONSTRUCTION

#### 6.1 Commencement of Construction

Tenant shall commence construction of the approved improvements on the premises within 365 calendar days of the date of execution of this lease. For the purpose of this Article construction shall be deemed to have commenced upon the issuance

by Landlord of an encroachment permit under paragraph 7.1. In the event construction is not commenced within the time set forth herein, this lease shall, at the option of Landlord, be considered a default under the terms of this lease.

#### 6.2 Completion of Construction and Occupancy of Improvement

Construction of the improvements shall be completed consistent with the approved construction plans within 365 calendar days after the commencement of construction. Tenant shall not occupy or use any of the improvements until he has received final building approval and a Certificate of Occupancy from the appropriate local agency and Landlord has issued to him an executed Encroachment Permit Completion Notice. In the event Tenant violates any of the provisions of this paragraph, this lease may be terminated by Landlord and be of no further force and effect.

### ARTICLE 7. REQUIREMENTS FOR CONSTRUCTION OR ALTERATION OF IMPROVEMENTS

#### 7.1 Encroachment Permit

Tenant, prior to construction or alteration of any improvements on or of the leased premises shall obtain an executed encroachment permit from Landlord.

Issuance by Landlord of an encroachment permit shall be contingent upon Tenant's providing the following:

- (a) Final construction plans and detailed specifications. All such plans and specifications submitted by tenant to landlord shall be subject to Landlord's review and approval.

Tenant agrees to diligently apply for and meet all requirements for issuance of an encroachment permit and Landlord agrees to not unreasonably withhold issuance of said encroachment permit.

#### 7.2 Standard of Construction

Tenant agrees that any improvements or construction upon the premises shall: (a) be consistent with all fire safety requirements, (b) be subject to the approval of Landlord and the concurrence of the Federal Highway Administration, and (c) in every respect comply with the laws, ordinances and regulations, federal, state, municipal or otherwise, that may govern construction of the same. Tenant shall save Landlord harmless of and from any loss or damage by reason of the construction of said new improvements.

#### 7.3 "As-Built" Plans

Within ninety (90) days after completion of construction of the improvements or alterations, Tenant shall furnish Landlord, at Tenant's expense, one set of Mylar or Cronoflex "As-Built" plans, according to a scale and size designated by Landlord, showing said improvements as constructed in detail, including the location of underground and aboveground utility lines.

#### 7.4 Ownership of Improvements

At the expiration or termination of this lease, all buildings, structures and improvements constructed on the premises by Tenant shall vest in Landlord. Tenant shall deliver said buildings, structures and improvements to Landlord in good

condition and repair, reasonable wear and tear expected, without compensation to Tenant, any subtenant or third party free and clear of all claims to or against them by Tenant, any subtenant or third party, and Tenant shall defend and hold Landlord harmless from all liability arising from such claims or from the exercise by Landlord of its right under this paragraph. In the event said buildings, structures and improvements are not delivered to Landlord in good condition and repair, Landlord shall make the necessary maintenance and repairs and Tenant shall be liable to and shall reimburse Landlord for any such expenditures made. Landlord may elect within 30 days before the expiration of the term, or within 60 days after the termination of the term, to require Tenant to remove any improvements which Tenant has constructed on the premises. If Landlord so elects, Tenant at its cost shall restore the premises to the condition designated by Landlord in its election, before the last day of the term, or within 120 days after notice of election is given, whichever is later.

#### ARTICLE 8. MAINTENANCE AND REPAIRS

##### 8.1 Tenant's Obligations

Tenant, at its own cost and expense, shall maintain the leased premises, improvements and Landscaping thereon, including fences, and guardrails heretofore, or hereafter erected, in good repair and in compliance with all requirements of law. Tenant shall take all steps necessary to protect effectively the fences,

guardrails, and the piers and columns, if any, of the viaduct from damage incident to Tenant's use of said premises and improvements, all without expense to Landlord.

Tenant shall designate in writing to Landlord a representative who shall be responsible for the day-to-day operation and level of maintenance, cleanliness and general order.

#### 8.2 Retention of Existing Improvements

Landlord may at its option retain existing State improvements including fencing, lighting and irrigation facilities. If Landlord elects to retain any improvements, Tenant shall remove same and deliver same to Landlord's nearest maintenance station at no cost to Landlord.

#### 8.3 Landlord's Rights

In the event Tenant fails to perform Tenant's obligations under this Article, Landlord shall give Tenant notice to do such acts as are reasonably required to so maintain the premises. If Tenant fails to do the work and diligently prosecute it to completion, the Landlord shall have the right, but not the obligation, to do such acts and expend such funds at the expense of Tenant, as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant promptly after demand. Landlord shall have no liability to Tenant for any damage, inconvenience or interference with the use of the premises by Tenant as a result of performing any such work.

## ARTICLE 9. INSURANCE

### 9.1 Exemption of Landlord from Liability

This lease is made upon the express condition that Landlord is to be free from all liability and claims for damages by reason of any injury to any person or persons, including Tenant, or property of any kind whatsoever and to whomsoever belonging, including Tenant, from any cause or causes resulting from the operations or use of the premises by Tenant, its agents, customers or business invitees. Tenant hereby covenants and agrees to indemnify and save harmless Landlord from all liability, loss, cost and obligation on account of any such injuries or losses.

### 9.2 Self Insurance Provision

It is understood and agreed that the City and County of San Francisco is self insured and tenant specifically agrees that it is responsible for any liability incident to the use of the leased premises or resulting from the injury to or death of any person or injury or damage to any property in or about the leased premises and tenant further agrees to protect the Landlord from any and all claims for damage to property or injury to, or death of any person, or any other cause incident to the use of the leased premises.

### 9.3 Waiver of Subrogation

Landlord and Tenant each hereby waive any and all rights of recovery against the other, or against the officers, employees, agents and representatives of the other, for loss of or damage to

such waiving party or its property or the property of others under its control to the extent that such loss or damage is insured against under any insurance policy in force at the time of such loss or damages. The insuring party shall upon obtaining the policies of insurance required hereunder, give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in the lease.

#### ARTICLE 10. DAMAGE OR DESTRUCTION

If during the term of this lease any building or improvement on, it or appurtenant to the land at the commencement of the term or thereafter erected thereon shall be destroyed or damaged in whole or in part by fire or other cause, or shall be declared unsafe or unfit for use or occupancy by a public entity with the authority to make and enforce such declaration, Tenant shall give to Landlord immediate notice thereof, and Tenant shall within thirty (30) days commence, and diligently pursue to completion, the repair, replacement or reconstruction of the same, at least to the extent of the value and as nearly as possible to the character of the buildings and improvements existing immediately prior to such occurrence; and Landlord shall in no event be called upon to repair, replace or rebuild any such buildings or improvements. Tenant shall continue to pay rent hereunder during the period said improvements shall be damaged or destroyed.



ARTICLE 11. PAYMENT OF TAXES

Tenant agrees to pay and discharge, or cause to be paid and discharged when due, before the same become delinquent, all taxes, assessments, impositions, levies and charges of every kind, nature and description, whether general or special, ordinary or extraordinary, which may at any time or from time to time during the term of this lease by or according to any law or governmental, legal, political, or other authority whatsoever, directly or indirectly, taxed, levied, charged, assessed or imposed upon or against, or which shall be or may be or become a lien upon said premises or any buildings, improvements or structures at any time located thereon; or any estate, right, title, or interest of Tenant in and to said premises, buildings, improvements or structures. Tenant shall pay when due, before delinquency, personal property taxes on fixtures, equipment and facilities owned by Tenant, whether or not the same have become so fixed to the land as to comprise a part of the real estate. Tenant further agrees that any such obligation, including possessory interest tax that the city or county may impose upon Tenant's interest herein, shall not reduce any rent due Landlord hereunder and any such obligation shall become the liability of and be paid by Tenant. In the event Tenant shall fail to discharge any of the above obligations, Landlord may, at his option, discharge the same and the amount so paid by Landlord shall be added to the rentals next accruing under this lease; provided that Tenant shall have the privilege at its (his) own expense and before delinquency occurs of contesting, objecting to or opposing the legality or validity

or amount of such taxes. Any default in the payment of said obligations shall, at the option of Landlord, be considered a default under the terms of this lease.

#### ARTICLE 12. RIGHT OF ENTRY

Landlord, through its agents or representatives, and other city, county, state and federal agencies, through their agents or representatives, shall have full right and authority to enter in and upon the premises and any building or improvements situated thereon at any and all reasonable times during the term of this lease for the purpose of inspecting the same without interference or hindrance by Tenant, its agents or representatives.

Landlord further reserves the right of entry for the purpose of inspecting the premises, or the doing of any and all acts necessary or proper on said premises in connection with the protection, maintenance, reconstruction, and operation of the freeway structures and its appurtenances; provided, further, that Landlord reserves the further right, at its discretion, to immediate possession of the same in case of any national or other emergency, or for the purpose of preventing sabotage, and for the protection of said freeway structures, in which event the term of this lease shall be extended for a period equal to the emergency occupancy by Landlord, and during said period Tenant shall be relieved, to the degree of interference, from the performance of

conditions or covenants specified herein. Landlord further reserves the right of entry by any authorized officer, engineer, employee, contractor or agent of the Landlord for the purpose of performing any maintenance activities upon the property which Tenant has failed to perform.

#### ARTICLE 13. CONDEMNATION

##### 13.1 Termination of Lease as to Part Condemned

In the event the whole or any part of the premises is condemned by a public entity in the lawful exercise of the power of eminent domain, this lease shall cease as to the part condemned upon the date possession of that part is taken by the public entity.

##### 13.2 Nonsubstantial Taking

If only a part is condemned and the taking of that part does not substantially impair the capacity of the remainder to be used for the purposes required in this lease, Tenant shall continue to be bound by the terms, covenants, and conditions of this lease; provided, however, that the minimum annual rent shall be reduced in proportion to the relationship that the compensation paid by the public entity for the portion of the premises condemned bears to the value of the whole of the premises as of the date possession of the part is taken by the public entity.

##### 13.3 Substantial Taking

If only a part is condemned and the taking of the part substantially impairs the capacity of the remainder to be used for the purposes required in this lease, Tenant may elect to:

- (a) Terminate this lease and be absolved of obligations hereunder which have not accrued at the date possession is taken by the public entity;
- or
- (b) Continue to occupy the remainder of the premises and remain bound by the terms, covenants, and conditions of this lease. If Tenant elects to continue to occupy the remainder, the minimum monthly rent shall be reduced in proportion to the relationship that the compensation paid by the public entity for the portion of the premises condemned bears to the value of the whole of the premises as of the date possession of the part is taken by the public entity.

Tenant shall give notice in writing of its election hereunder within thirty (30) days of the date possession of the part is taken by the public entity.

#### 13.4 Compensation

The leased premises shall be considered a single parcel, and Tenant shall be compensated based upon the value of its (his) interest in said single parcel and the improvements constructed thereon without regard to adjoining uses or ownership.

Landlord shall be entitled to receive and shall receive all compensation for the condemnation of all or any portion of the premises by exercise of eminent domain except as hereinafter provided. Tenant shall be entitled to that portion of said compensation which is the value of the loss of use of Tenant-constructed improvements for the remainder to the lease term. The amount to which Tenant shall be entitled hereunder shall not exceed the actual cost of improvements constructed by Tenant, reduced in proportion to the relationship that the expired lease term bears to the original lease term.

#### ARTICLE 14. UTILITIES

Tenant shall pay prior to delinquency for all water, gas, heat, light, power, telephone, sewage, air conditioning and ventilating, scavenger, janitorial and landscaping and all other materials and utilities supplied to the premises. Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility service furnished to the premises, and no such failure or interruption shall entitle Tenant to terminate this lease.

#### ARTICLE 15. LIENS

##### 15.1 Exemption of Landlord from Liability

Tenant shall at all times indemnify and save Landlord harmless from all claims for labor or materials in connection with

construction, repair, alteration, or installation of structures, improvements, equipment, or facilities within the premises, and from the cost of defending against such claims, including attorney fees.

#### 15.2 Tenant's Obligations

In the event a lien is imposed upon the premises as a result of such construction, repair, alteration, or installation, Tenant shall either:

1. Record a valid Release of Lien, or
2. Deposit sufficient cash with Landlord to cover the amount of the claim on the lien in question and authorize payment to the extent of said deposit to any subsequent judgment holder that may arise as a matter of public record from litigation with regard to lien holder claim, or
3. Procure and record a bond in accordance with Section 3143 of the Civil Code, which frees the premises from the claim of the lien and from any action brought to foreclose the lien.

Should Tenant fail to accomplish one of the three optional actions within a reasonable time after the filing of such a lien, the lease shall be in default and shall be subject to immediate termination.

ARTICLE 16. DEFAULT

16.1 Default

The occurrence of any of the following shall constitute a material default and breach of this lease by Tenant.

a. Any failure by Tenant to pay rent or any other monetary sums required to be paid hereunder, where such failure continues for three (3) days after written notice thereof has been given by Landlord to Tenant.

b. A failure by Tenant to observe and perform any other provisions of this lease to be observed or performed by Tenant, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such default is such that it cannot be reasonably cured within such thirty (30) day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

c. The making by Tenant of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against tenant the same is dismissed with sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets, where possession is not restored to Tenant within forty-five (45) days; or the attachment,

execution or other judicial seizure of substantially all of Tenant's assets, were such seizure is not discharged within thirty (30) days.

#### 16.2 Landlord's Remedies

In the event of any material default of breach by Tenant, Landlord may at any time thereafter, without limiting Landlord in the exercise of any right of remedy at law or in equity which Landlord may have by reason of such default or breach:

a. Maintain this lease in full force and effect and recover the rent and other monetary charges as they become due, without terminating Tenant's right to possession, irrespective of whether Tenant shall have abandoned the premises. In the event Landlord elects not to terminate the lease, Landlord shall have the right to attempt to re-let the premises at such rent and upon such conditions and for such a term, and to do all acts necessary to maintain or preserve the premises as Landlord deems reasonable and necessary without being deemed to have elected to terminate the lease, including removal of all persons and property from the premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant. In the event any such re-letting occurs, this lease shall terminate automatically upon the new tenant taking possession of the premises. Notwithstanding that Landlord fails to elect to terminate the lease initially, Landlord at any time during the term of this lease may elect to terminate this lease by virtue of such previous default of Tenant.



b. Terminate Tenant's right to possession by any lawful means, in which case this lease shall terminate and Tenant shall immediately surrender possession of the premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including without limitation thereto, the following: (i) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus (ii) the worth as the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that is proved could have been reasonably avoided; plus (iii) 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 such rental loss that is proved could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform his obligations under this lease or which in the ordinary course of events would be likely to result therefrom; plus (v) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable State law. Upon any such re-entry Landlord shall have the right to make any reasonable repairs, alterations or modifications to the premises, which Landlord in its sole discretion deems reasonable and necessary. As used in subparagraphs (i) and (ii), above, the "worth at the time of award" is computed by allowing interest at a

rate equal to the Federal Reserve Bank discount rate per annum from the date of default. As used in subparagraph (iii), above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank at the time of award. The term "rent" as used in this Article shall be deemed to be and to mean rent to be paid pursuant to Article 4 and all other monetary sums required to be paid by Tenant pursuant to the terms of this lease.

### 16.3 Landlord's Right to Cure Tenant's Default

At any time after Tenant is in default or material breach of this lease, Landlord may cure such default or breach at Tenant's cost. If landlord at any time, by reason of such default or breach, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid by Landlord shall be additional rent.

## ARTICLE 17. ASSIGNMENTS, SUBLEASE AND ENCUMBRANCES

### 17.1 Voluntary Assignment, Subleases and Encumbrances

Tenant shall not voluntarily assign its interest in this lease or in the premises, or allow any other person or entity (except Tenant's authorized representatives) to occupy or use all or any part of the premises, without first obtaining Landlord's written consent and the concurrence of the Federal Highway Administration, except as expressly permitted by the provisions of this Article. Tenant's failure to obtain Landlord's required written approval of any assignment shall render such assignment void. Occupancy of the leased premises by a prospective transferee, or assignee before approval of the transfer, or

by Landlord shall constitute a breach of this lease. Landlord's consent to any assignment shall not constitute a waiver of any of the terms, covenants or conditions of this lease. Such terms, covenants and conditions shall apply to each and every assignment of this lease and shall be severally binding upon each and every party thereto. Any document to transfer, or assign the leased premises or any part thereof shall incorporate directly or by reference all the provisions of this lease.

It is understood and agreed that Tenant shall have the right to sublease the premises to qualified parking garage operators for the purposes specified under Article 5.1. The Tenant shall not ask to be relieved of its primary responsibility under the terms of this lease.

#### 17.2 Encumbrance

Tenant shall not encumber the lease premises in any manner whatsoever, however, it is understood and agreed that Tenant shall have the right to sell bonds for the construction of the Performing Arts Center Garage. It is further understood and agreed that this Lease shall not be subordinate to said bonds.

#### ARTICLE 18. FAIR EMPLOYMENT PRACTICES

Tenant, for itself, its personal representatives, successors in interest, and assigns, as a part of the consider-

ation hereof, does hereby covenant and agree as a covenant running with land that: (1) no person, on the ground of race, color or national origin shall be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in the use of said facilities, (2) that in connection with the construction of any improvements on said land and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors, in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors, (3) that such discrimination shall not be practiced against the public in their access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed or operated on, over, or under the premises, and (4) that Tenant shall use the land in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21 (49 C.F.R., Part 21) and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the Landlord shall have the right to terminate this lease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

#### ARTICLE 19. ADDITIONAL PROVISIONS

##### 19.1 Quiet Enjoyment

Landlord covenants and agrees with Tenant that upon

Tenant paying rent and other monetary sums due under the lease and performing its covenants and conditions, Tenant shall and may peaceably and quietly have, hold and enjoy the premises for the term, subject however, to the terms of the lease and of any of the mortgages or deeds of trust described above.

#### 19.2 Captions, Attachments, Defined Terms

The captions of the Articles of this lease are for convenience only and shall not be deemed to be relevant in resolving any questions of interpretation or construction of any section of this lease. Exhibits attached hereto, and addendums and schedules initialed by the parties, are deemed by attachment to constitute part of this lease and are incorporated herein. The words "Landlord" and "Tenant", as used herein, shall include the plural as well as the singular. Words used in neuter gender includes the masculine and feminine and words in the masculine or feminine gender include the neuter. If there be more than one Landlord or Tenant, the obligations hereunder imposed upon Landlord or Tenant shall be joint and several. If the Tenants are husband and wife, the obligations shall extend individually to their sole and separate property as well as to their community property.

#### 19.3 Entire Agreement

This instrument along with any exhibits and attachments hereto constitutes the entire agreement between Landlord and Tenant relative to the premises and this Agreement and the exhibits and attachments may be altered, amended or revoked only

by an instrument in writing signed by both Landlord and Tenant. Landlord and Tenant agree hereby that all prior or contemporaneous oral agreements between and among themselves and their agents and representatives relative to the leasing of the premises are merged in or revoked by this Agreement.

#### 19.4 Severability

If any term or provision of this lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this lease shall not be affected thereby, and each term and provision of this lease shall be valid and be enforceable to the fullest extent permitted by law.

#### 19.5 Costs of Suit

If Tenant or Landlord shall bring any action for any relief against the other, declaratory otherwise, arising out of this lease, including any suit by Landlord for the recovery of rent or possession of the premises, the losing party shall pay the successful party a reasonable sum for attorney's fees which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Should Landlord, without fault on Landlord's part be made a party to any litigation instituted by Tenant or by any third party against Tenant, or by or against any person holding under or using the premises by license of Tenant, or for the foreclosure of any lien for labor or materials furnished to or for Tenant or any such other person or otherwise arising out of or resulting from any act

or transaction of Tenant or of any such other person, Tenant shall save and hold Landlord harmless from any judgment rendered against Landlord or the premises or any part thereof, and all costs and expenses, including reasonable attorney's fees, incurred by Landlord in connection with such litigation.

19.6 Time, Joint and Several Liability

Time is of the essence of this lease and each and every provision hereof, except as to the conditions relating to the delivery of possession of the premises to Tenant. All the terms, covenants and conditions contained in this lease to be performed by either party if such party shall consist of more than one person or organization, shall be deemed to be joint and several, and all rights and remedies of the parties shall be cumulative and non-exclusive of any other remedy at law or in equity.

19.7 Binding Effect; Choice of Law

The parties hereto agree that all the provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate paragraph hereof; subject to any provisions hereof restricting assignment or subletting by Tenant, all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This lease shall be governed by the laws of the State of California.

19.8 Waiver

No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party

against whom the waiver is claimed and any waiver or the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Acceptance by Landlord of any performance by Tenant after the time the same shall have become due shall not constitute a waiver by Landlord of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by Landlord in writing.

19.9 Surrender of Premises

The voluntary or other surrender of this lease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall, at the option of the Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such sublease or subtenancies.

19.10 Holding Over

If Tenant remains in possession of all or any part of the premises after the expiration of the term hereof, with or without the express or implied consent of Landlord, such tenancy shall be from month to month only and not a renewal hereof or an extension for any further term and in such case, rent and other monetary sums due hereunder shall be payable in the amount and at the time specified in this lease and such month to month tenancy shall be subject to every other term, covenant and agreement contained herein.

19.11 Recording

Tenant shall not record this lease without Landlord's



of Landlord, constitute a non-curable default of Tenant hereunder. Either party shall, upon request of the other, execute, acknowledge and deliver to the other a short form memorandum of this lease for recording purposes.

19.12 Notices

All notices or demands of any kind required or desired to be given by Landlord or Tenant hereunder shall be in writing and shall be deemed delivered forty-eight (48) hours after depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the Landlord or Tenant respectively at the addresses set forth in Article 1.

19.13 No Reservation

Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for lease; it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

19.14 Corporate Authority

If Tenant is a corporation, each individual executing this lease on behalf of said corporation represents and warrants that he/she is duly authorized to execute and deliver this lease on behalf of said corporation in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the Bylaws of said corporation, and that this lease is binding upon said corporation in accordance with its terms. If Tenant is a corporation Tenant shall, within thirty (30) days after execution of this lease, deliver to Landlord a

certified copy of resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this lease.

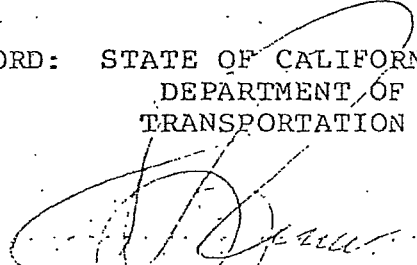
ARTICLE 20. CERTIFICATION OF FUNDS

This Lease is subject to certification as to funds by Controller pursuant to Section 6.302 of the City Charter.

In Witness Whereof Landlord and Tenant have executed this Lease as of the date first written above.

LANDLORD: STATE OF CALIFORNIA,  
DEPARTMENT OF  
TRANSPORTATION


By:

  
G. L. RUSSELE  
Deputy Director


TENANT:

Parking Authority of the  
City and County of  
San Francisco.

By:

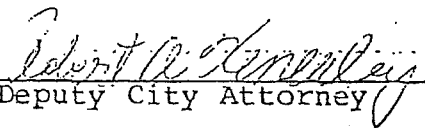
  
Margaret L. Brown  
Director, Parking Authority

By:

  
Wallace Wortman  
Director of Property

APPROVED AS TO FORM  
GEORGE AGNOST, CITY ATTORNEY,

BY:

  
Robert A. Kennedy  
Deputy City Attorney

Amy

## ASSIGNMENT OF LEASES

THIS ASSIGNMENT is made and entered into as of the 16<sup>th</sup> day of January, 2001, by and between the STATE OF CALIFORNIA acting by and through the Department of Transportation ("Assignor") and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Assignee"),

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, effective as of the effective date (as defined above) Assignor assigns and transfers to Assignee all of Assignor's right, title claim and interest in and under certain leases executed with respect to that certain real property designated as Parcels A through L (the property), as more particularly described in the attached hereto Exhibit D, (collectively, the "Leases").

### ASSIGNOR AND ASSIGNEE FURTHER HEREBY AGREE AND COVENANT AS FOLLOWS:

1. Assignor represents and warrants that as of the date of this Assignment and the Effective Dates the attached Exhibit D includes all of the leases and occupancy agreements affecting the listed Property parcels.
2. Assignee has reviewed the full text of each and every lease agreement referenced herein and understands all terms and conditions of each and every lease agreement referenced herein.
3. Assignor hereby agrees to indemnify Assignee against and hold Assignee harmless from any and all costs, Liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees), origination prior to the Effective Date and arising out of the landlord's obligations under the leases.
4. Effective as of the Effective Date, Assignee hereby assumes all of the landlord's obligations under the Leases and agrees to indemnify, defend and keep Assignor harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees), originating subsequent to the Effective Date and arising out of the landlord's obligations under the leases. All obligations, if any, under State and Federal law pertaining to Relocation Assistance originating subsequent to the Effective Date shall rest with Assignee.
5. Any rental and other payments due a lessor under the Leases shall be prorated between the parties as of the Effective Date. On the Effective Date, Assignor shall transfer to Assignee the entire security deposits for each of the Leases shown on Exhibit D.
6. Rent under the Leases shall not be apportioned as of the Effective Date, regardless of whether or not such rents have paid to Assignor. With respect to any rent arrearage under the Leases outstanding as of the Effective Date, Assignee shall pay to Assignor any rent that is actually collected after the Effective Date and is applicable to the period preceding the Effective Date; provided, however, that all rent collected by Assignee shall be applied first to all unpaid rent accruing on and after the Effective Date, and only then to unpaid rent accruing prior to the Effective Date. Assignee shall not be obligated to take any steps to recover any rent arrearage.

**EXHIBIT 'D'**  
**Summary of Leases**

**Turk Street to Fell Street**

<u>Ref. No.</u>	<u>Lease Number</u>	<u>Current Tenant</u>
A	SF-101-68	SF Redev Agency
B	SF-101-01	Car Park Management
C	SF-101-64	Federal Auto Parks
D	SF-101-02	Al Giannini
D	SF-101-65	Al Giannini
D	SF-101-66	Al Giannini
E, E-st	SF-101-03	SF Unified School Dist
F	SF-101-05	San Francisco Opera
G	SF-101-06	San Francisco Opera
G	SF-101-58	Parking Authority SF
H	SF-101-07	Safe Park Corp
I	SF-101-08	Safe Park Corp
J	SF-101-09	SF Symphony Association
K	SF-101-10	Safe Park Corp
L	SF-101-11	Safe Park Corp

**Fell Street to Market Street (Area "A")\***

<u>Ref. No.</u>	<u>Lease Number</u>	<u>Current Tenant</u>
M	SF-101-12	Park Bay
N	SF-101-15	Safe Park Corp
O	None	None
P	SF-101-13	B & A Towing
Q	SF-101-14	Safe Park Corp
R	SF-101-16	Car Park Management
S	SF-101-17	Gethsemane Church
T	SF-101-18	Car Park Management
U	SF-101-19	Car Park Management
V	SF-101-20	Americo Real Estate
V	SF-101-21	Americo Real Estate

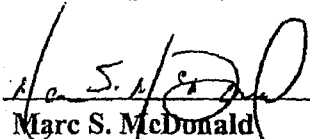
\*State to retain an easement for all air space, surface and subsurface rights, including the right to lease these parcels, until such time as State's Freeway Demolition Project is declared complete by State.

Assignor and Assignee have executed this Assignment as of the day and year written above.


**ASSIGNOR  
STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION**

By:  Date: 2-3-04  
**MARTA A. BAYOL**  
Office Chief, Property Management Services

**ASSIGNEE  
CITY AND COUNTY OF SAN FRANCISCO  
A municipal corporation**

By:  Date: 3.6.03  
**Marc S. McDonald**  
Director of Property

**APPROVED AS TO FORM:**

By:   
**Antonio R. Anziano**  
Attorney, Caltrans

**APPROVED AS TO FORM:**

By:   
**Amy L. Brown**  
Deputy City attorney



**SFMTA**  
Municipal  
Transportation  
Agency

Edwin M. Lee, *Mayor*

Cheryl Brinkman, *Chairman*

Malcolm Heinicke, *Vice-Chairman*

Gwyneth Borden, *Director*

Lee Hsu, *Director*

Tom Nolan, *Director*

Joél Ramos, *Director*

Cristina Rubke, *Director*

Edward D. Reiskin, *Director of Transportation*

March 13, 2017

Angela Calvillo, Clerk of the Board  
Board of Supervisors  
1 Carlton B. Goodlett Place, Room 244  
San Francisco, California 94102

*Subject: Transfer of Parking Authority Properties*

Dear Ms. Calvillo:

Please also find enclosed the original and two copies of a proposed ordinance for consideration by the San Francisco Board of Supervisors. The ordinance requests approval of the agreement described above.

- BOS Cover Letter
- Briefing letter
- Ordinance
- Performing Arts Garage Assignment of Lease
- MTAB Resolution 16155
- Parking Authority Commission Resolution 16156

We respectfully request that this item be scheduled in the appropriate committee.

Please contact Janet Martinsen of my staff at (415) 701-4693, or [janet.martinsen@sfmta.com](mailto:janet.martinsen@sfmta.com) if you have any questions regarding this matter.

Sincerely,

Edward D. Reiskin  
Director of Transportation

Enclosures

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