

FIRST LEASE AMENDMENT

This First Lease Amendment ("Amendment"), dated as of November 23, 2003 is by and between FP 2001 Co. LLC, successor in interest to Polk Market Co. ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), as lessee. The rights and responsibilities of Calfox, Inc. as Managing Agent of Polk Market Co. under the Lease have been assigned to Landlord.

Recitals

A. Landlord and City entered into a lease dated September 9, 1996 ("the Lease") for approximately 25,526 square feet of office space and approximately 413 feet of storage space (the "Premises") at Fox Plaza, 1390 Market Street, San Francisco, California commonly known and numbered Suites 210, 230, 820 and 910, and as Storage Spaces C, D and E for use as the Administrative offices of San Francisco Public Health Department, Bureau of Environmental Health Management. Such Lease expires on November 30, 2003.

B. City currently pays the following base rent pursuant to the Lease:

<u>Suites</u>	<u>Square Footage</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
210	14,549	\$229,146.75	\$19,095.96
230	3,247	\$ 52,387.50	\$ 4,365.63
820	2,759	\$ 46,744.50	\$ 3,895.38
910	<u>4,971</u>	<u>\$ 81,988.50</u>	<u>\$ 6,832.38</u>
Total	25,526	\$410,267.25	\$34,188.94

<u>Storage Spaces</u>	<u>Annual Rent</u>
C,D & E	\$ 3,386.60

C. City and Landlord have agreed that City will exercise its' first option to extend the Initial Term, as defined in Paragraph 4(C) of the Lease, and will pay \$523,283 per annum and \$43,606.92 per month for Suites 210, 230, 820 and 910 for the period December 1, 2003 through November 30, 2008.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and City hereby agree to amend the Lease as follows:

Agreement

1. **Recitals.** The Foregoing recitals are true and correct and are incorporated herein by reference.
2. **Defined Terms.** All capitalized items not defined herein have the same meaning as set forth in the Lease.
3. **Term.** The Term of this Lease shall be extended for a period of five (5) years to expire on November 30, 2008.
4. **Rent.** Effective December 1, 2003 and continuing through November 30, 2008 the base rent shall be as follows:

<u>Suites</u>	<u>Square Footage</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
210	14,549	\$298,254.50	\$24,854.54
230	3,247	\$ 66,564.19	\$ 5,547.02
820	2,759	\$ 56,561.60	\$ 4,713.47
910	<u>4,971</u>	<u>\$101,902.71</u>	<u>\$ 8,491.89</u>
Total	25,526	\$523,283.00	\$43,606.92

<u>Storage Spaces</u>	<u>Square Footage</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
C,D & E	413	\$ 4,407.96	\$ 367.33
TOTAL		\$527,690.96	\$ 43,974.25

5. **Additional Rent.** Effective December 1, 2003 the Base Year for the Premises set forth in Paragraph 6 (B) (5) and in the Basic Lease Information shall be changed to 2003.

6. **Tenant Improvements.** Notwithstanding the provisions of Paragraph 4(C)(1), Landlord, at Landlord's sole cost, shall perform the following work: Shampoo and trim existing Carpet.

7. **No Further Amendments: Conflicts.** All the terms and conditions of the Lease remain in full force and effect except as expressly amended herein. The Lease as amended by this Amendment constitutes the entire agreement between Landlord and City and may not be modified except by an instrument in writing duly executed by the parties hereto. In the event of any conflict between the terms of the Lease and the terms of this Amendment, the terms of this Amendment shall control.

8. **Effective Date: Approval.** The date on which this Amendment shall become effective (the "Effective Date") is the date upon which (i) City's Mayor and Board of Supervisors, in their sole and absolute discretion, adopt a resolution approving this Amendment in accordance with all applicable laws and (ii) this Amendment is duly executed by the parties hereto.

9. **Expansion.** Paragraph 30 (EXPANSION) of the Lease provided City with two (2) expansion opportunities in the Building. Landlord and City hereby agree and acknowledge that City declined to exercise the expansion opportunities and, therefore, they are of no further force or effect.

10. **Landlord Access to Sprinkler.** Landlord is required by law to install sprinklers in the Premises before the initial extended term expires. Landlord, at no cost to the City, shall install such sprinklers in the highest professional and workmanlike manner and in such a way to minimize any disruption to Tenant's business and activities. Such installation shall be done:

- (1) after hours and on weekends; after hours week day work shall mean after 6:00pm and completely vacated by 7:00 am.

- (2) with advance notice: Landlord shall provide Tenant at least 30 days in advance, a written work schedule and timeline. Landlord and Tenant shall meet weekly and such schedule shall be updated as necessary.
- (3) in accordance with all applicable laws including but not limited to those dealing with asbestos; Landlord shall hire a qualified industrial hygienist, to monitor the installation and, at City's request, provide copies of reports given to Landlord.
- (4) with particular emphasis on taking all commercially reasonable measures to prevent dust on any Tenant surfaces or disruption to Tenants normal work routine.

Landlord shall indemnify City for damages, if any, caused by such work.

11. **Non-Discrimination in City Contracts and Benefits Ordinance.**

a. **Covenant Not to Discriminate.**

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

b. **Subcontracts.**

Landlord shall include in all subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, Landlord shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Landlord's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

c. **Non-Discrimination in Benefits.**

Landlord does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits specified above within the United States, between employees with domestic partners and employees with spouses, and/or between domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the condition set forth in Section 12.B2(b) of the San Francisco Administrative Code.

d. **HRC Form.**

As a condition to this Lease, Landlord represents it has not changed the information previously provided in its "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101). Landlord hereby represents that prior to execution of this Amendment Landlord executed and submitted to the Human Rights Commission ("HRC") Form HRC-128-101 with supporting documentation.

e. **Incorporation of Administrative Code Provisions by Reference.**

The provisions of Chapters 128 and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of property to City are incorporated in this Section by reference and made a part of this Amendment as though fully set forth herein. Landlord shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Landlord understands that pursuant to Section 128.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be, assessed against Landlord and/or deducted from any payments due Landlord.

12. **Counterparts.** This Lease Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE AMENDMENT, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL THE CITY'S BOARD OF SUPERVISORS SHALL HAVE DUL Y ADOPTED A RESOLUTION APPROVING THIS AMENDMENT AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS AMENDMENT SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE AMENDMENT, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS LEASE AMENDMENT BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

Landlord and City have executed this Amendment as of the date first written above.

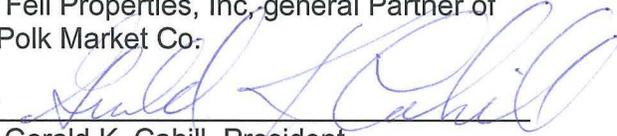
SIGNATURE BLOCKS ON THE NEXT PAGE

LANDLORD:

FP 2001 CO., LLC
A Delaware limited liability company

By Polk Market Co., its sole member

By Fell Properties, Inc, general Partner of
Polk Market Co.

By 
Gerald K. Cahill, President

TENANT:

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation


Director of Property

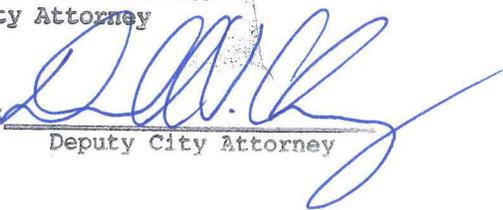
Pursuant to Resolution 159-03

RECOMMENDED:


Public Health Department

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: 
Deputy City Attorney