

LEASE TERMINATION AGREEMENT

Agreement between the City and County of San Francisco and the Uptown Parking Corporation to Terminate the Lease of the Sutter Stockton Garage

Recitals

- A. Whereas, the City and County of San Francisco ("the City"), a municipal corporation, owns certain real property located at 444 Stockton Street, San Francisco, California ("the Premises"), which is used as an off-street parking facility commercial and retail spaces, all of which is commonly referenced as the Sutter Stockton Garage; and
- B. Whereas, the City of San Francisco Uptown Parking Corporation ("the Corporation"), a non-profit 501(c)(2) corporation, was formed in 1956 for the sole purpose of assisting the City in acquiring the Premises by financing the purchase cost through the sale of bonds of the Corporation secured by a lease of the Premises from the City to the Corporation; and
- C. Whereas, the City leased the Premises to the Corporation under a lease agreement dated May 5, 1959, which was amended on March 1, 1973 and April 1, 2001, which lease was subsequently replaced with another lease agreement dated February 23, 2013, ("the Lease"); and
- D. Whereas, sections 8A.102(b), 8A.112 and 8A.113 of the City Charter and section 17.8 of the San Francisco Administrative Code vest authority over the Premises in the San Francisco Municipal Transportation Agency ("SFMTA"); and
- E. Whereas, Section 2.3 of the Lease provides that the City may terminate the lease upon 90 days written notice; and
- F. Whereas, the SFMTA has determined that the Corporation's Board of Directors has fulfilled its duties, that leasing the Sutter Stockton Garage to the Corporation is no longer in the best financial interest of the City, and the members of the Corporation's Board of Directors should therefore be relieved of their obligations and liability under the Lease;

Now therefore, based on the statements contained in the above Recitals, which are hereby incorporated into the terms and conditions of this Lease Termination Agreement ("Termination Agreement") set out below, and based on the exchange of other good and valuable consideration, receipt and sufficiency of which the City and the Corporation hereby acknowledge, the City and the Corporation agree as follows:

Agreement

1. Early Termination Date. The Lease shall terminate on February 28, 2018 at 11:59 PM, which date and time shall be the "Early Termination Date." This Agreement effecting said termination is dated for convenience as December 1, 2017. The termination of the Lease is for the convenience of the City and the Corporation, and is not a termination for cause. Except as specifically provided in this Agreement, the termination of the Lease shall terminate the respective obligations of the City as landlord and the Corporation as tenant under the Lease.

2. Accounting and Transfer of Accounts.
 - a. The Corporation shall within five business days following the Early Termination Date transfer title and control of all monies, deposits, and accounts of the Corporation to the SFMTA.

 - b. No more than 45 calendar days following the Early Termination Date, unless extended by mutual agreement, the Corporation shall provide an audit report and full accounting to the SFMTA of all revenues, accounts, equipment, outstanding debts, and other Premises assets and obligations held by the Corporation under the Lease and shall cooperate with the SFMTA to confirm that accounting.

 - c. Within 30 calendar days of receipt of the audit report and accounting described in Section 3.b., the SFMTA shall review and provide written comments and indicate required corrections to said audit report and accounting. If the SFMTA requires the Corporation to make corrections or address omissions in the audit report and accounting, within 10 calendar days following receipt of said corrections and confirmation of the transfer of accounts and assets (provided in Section 3.a.), the SFMTA shall in writing hold the Corporation, its Board, officers and agents harmless, as provided in Section 9 of this Agreement; otherwise, the hold harmless shall be provided upon confirmation of the transfer of assets and 10 days after receipt of the accepted audit report.

3. Corporation Vendor and Service Contracts. The Corporation has entered into contracts with the vendors and contractors listed below, which are in effect as of the date of this Agreement, and which may be assigned from the Corporation to the SFMTA or to the garage management company under contract with the SFMTA to manage the Premises. Each assignment of contract, to the extent any are assigned, shall be memorialized as provided herein by separate agreement approved by the SFMTA (and its Board of Directors, as may be required by SFMTA policy or City ordinance), the Corporation, and the individual vendor or contractor. If a vendor or contractor agreement is not so formally assigned, then said vendor or contractor agreement shall be deemed terminated as of the Effective Date of this Termination Agreement unless such time is extended by written agreement with the City.

- a. Central Parking SF
- b. Charles Schwab
- c. Paychex
- d. Keil & Connolly
- e. US Bank
- f. Elavon
- g. US Bank – Equipment Finance
- h. HUB International
- i. ISU
- j. HUB Parking Technology
- k. Marina Security Services
- l. Costless Maintenance Services
- m. Kone Elevators
- n. Otis Elevators
- o. Garda
- p. T&S Office Systems
- q. Gardener's Guild
- r. Terminix
- s. Nick's Custom Golf cart
- t. A-Total Fire Protection
- u. Coast Fire Equipment
- v. Tennant Sales & Service
- w. Applied Video Solutions
- x. Commercial Steam Cleaning Co.
- y. Stanley
- z. Aramark
- aa. AT&T
- bb. WiLine
- cc. SFPUC
- dd. NRC
- ee. Recology Golden Gate

4. Corporation Subtenants. The Corporation has entered into subleases with the individuals and entities listed below, which subleases are in effect as of the date of this Agreement. Each sublease shall be assigned to the City as provided herein by separate agreement approved by the City, the Corporation and the individual subtenant

- a. Jos. A. Bank
- b. Custom Clothier
- c. Jerome Molles Salon
- d. William Glen & Son
- e. COP Copine
- f. Scheuer Linens
- g. Bibbo's Salon
- h. Blooming Alley
- i. Nobel Shoes

- j. Richard's Hair Design
- k. Sutter Café
- l. Hats on Post
- m. La Belle
- n. Montgomery Gallery
- o. Bernard Photography

5. Assignment of Subleases and Vendor Contracts. The Corporation shall assign all subcontracts and subleases to the SFMTA as follows:
- a. No less than 15 calendar days prior to the Early Termination Date, the Corporation shall provide notice of the termination of the Lease to all persons or entities with which it has current agreements for the provision of goods and/or services and to all subtenants. Said notice shall include a copy of this Agreement and shall note the Effective Date of this Agreement and applicable effective date of the termination or assignment of the notice recipient's contract with the Corporation. The parties affirm that the vendors whose service contracts will be assigned to the City (as listed Section 4 of this Agreement) have been notified and provided assignment agreements for signature.
 - b. No less than 30 calendar days prior to the Early Termination Date, the Corporation shall give notice to each of the subtenants listed in Section 5, above, informing each of the termination of the Lease and intended assignment to the City of their respective subleases.
 - c. No less than 15 calendar days prior to the Early Termination Date, Corporation shall provide original (signature) copies to the SFMTA of all subcontracts, subleases, and recorded notices in effect as of the Early Termination Date.
 - d. The Corporation shall cooperate with the SFMTA in obtaining said executed assignment agreements from the Corporation contractors, vendors and subtenants listed in Sections 4 and 5 of this Agreement.
 - e. The determination of whether to accept assignment of a vendor contract shall rest solely within the discretion of the SFMTA based on considerations of the best interests of the City.
 - f. The assignment to the City of any Corporation contract or sublease may be conditioned upon the addition of contract requirements required by City laws and existing SFMTA policies to said contract or sublease.
6. Indemnification. Except as specifically provided in Section 3 of this Agreement, the Corporation shall not be relieved of any of its obligations under the Lease that accrue prior to the Early Termination Date. The errors and omissions insurance for the Board shall be maintained by the City for its current policy term through June 30, 2018. The

Corporation's indemnification obligations under the Lease shall survive the termination of the Lease with regard to events occurring prior to the later of (A) the Early Termination Date, or (B) the date on which the Corporation vacates and surrenders the Premises and transfers title and control of all accounts and monies, as provided in Sections 2, 3, and 9 of this Agreement.

7. Surrender Premises. On or before the Early Termination Date, the Corporation shall surrender the Premises and transfer title, ownership, possession and control of all equipment used in the operation of the Premises and accounts, revenues and monies held by the Corporation to the SFMTA.
8. Hold Harmless and Release. Upon the City's acknowledgment in writing from the Director of Transportation or his designee that all conditions and requirements of this Agreement have been met, that all assets, deposits, and accounts held by the Corporation under the Lease have been transferred to the City, and confirmation that the audit and accounting reports submitted by the Corporation are correct (all as set out in Section 3), the following hold harmless release shall take effect:

As sole shareholder of the Corporation and Landlord of the Premises, the City and County of San Francisco hereby releases and holds harmless the members and each of them of the Board of the Directors of the Corporation from any and all personal liability arising from or related to the performance of their duties as Directors of the Corporation, including claims by any third party based on actions within the course and scope of their duties as a Board member.

9. Corporation Employees.
 - a. Except as specifically provided in this Agreement, the City shall have no liability or obligation to any employee of the Corporation. The City's obligation to reimburse the Corporation its costs and expenses, except as provided in this Section, including but not limited to employee wages, salaries, and benefits shall terminate on the Early Termination Date.
 - b. The Corporation's two direct employees, Corporate Manger Anson Lee and Corporate Accountant Roel Payumo, will provide vital service during the transition period of the garage, given their long tenures with the Corporation. As such, the City shall enter into agreements with these employees to act as consultants to the SFMTA through March 31, 2018, and on hourly basis thereafter, as warranted to assist with ongoing transition activities, such as performing administrative services necessary to effect this Agreement, including but not limited to correcting audit and accounting reports (described in Section 3) and transferring accounts, books and records from the Corporation to the City (as described in Section 3). The City will continue to engage Mr. Lee and/or Mr. Payumo for any required efforts until the Corporation corrects and the City accepts the aforesaid audit and accounting reports and the City issues a hold harmless notice to the members of the

Corporation's Board of Directors, which time shall not exceed 90 calendar days from the Early Termination Date.

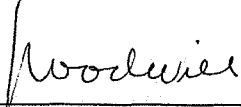
10. Legal Representation. The Corporation shall continue to retain or shall engage competent legal counsel to represent it as to the Corporation's legal obligations, including but not limited to issues concerning this Agreement, dissolution of the Corporation through the California Secretary of State and issues concerning the termination and/or assignment of subleases service, maintenance, vendor and employment contracts. The Corporation shall submit an annual budget for such legal services and shall seek prior written authorization for any service and reimbursement for such expenses as provided in the Lease until the dissolution of the Corporation is finally approved and effected.
11. Status of Corporation. This Agreement does not dissolve the Corporation, which if effected, shall be accomplished by separate agreement with the City.
12. Maintenance of Insurance. For a period of not less than 60 calendar Days following the Early Termination Date or until the City has accepted the accounting and audit report submitted by the Corporation as provided in Section 3, whichever date is later, the Corporation shall maintain in full force and effect the Director's Liability Insurance in the amount provided in the Lease. The City shall maintain the current errors and omissions insurance coverage for the Board for the existing policy term through June 30, 2018.
13. Recording. The City shall record this Agreement. The Corporation and the SFMTA shall each cooperate with the other and shall take any action and execute and document necessary to effect the provisions and purposes of this Agreement.
14. No Third Party Beneficiaries. This Agreement shall inure to the benefit of only the Corporation and members of its Board of Directors, and to the City and the City's officers, officials, employees, agents, and successors, but to no other person or entity. There are no intended third party beneficiaries to this Agreement
15. Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Wherever applicable, this Agreement shall be subject to the Charter of the City and all local codes and ordinances. Venue for any action concerning this Agreement or the Lease shall lie in San Francisco, California.
16. Interpretation of Agreement.
 - a. This document contains the entire agreement of the parties as to the matters addressed herein, and this Agreement supersedes all prior agreements and understandings of the parties as to the matters addressed herein.

- b. If any provision of this Agreement or its application to any person or circumstance is held invalid by a court of competent jurisdiction, then the offending provision shall be severed and the remainder of this Agreement, or the application of such provisions to other persons or circumstances, shall not be affected thereby, but shall be construed to give maximum effect to the intent of the parties.
 - c. Section titles and headings in this Agreement are for reference and convenience only, and shall not be used to interpret this Agreement.
 - d. This Agreement is the product of negotiations between the City and the Corporation, and no law or rule of contract construction that would require any provision of this Agreement to be construed against the drafter shall apply to the interpretation of this Agreement.
17. Included Appendices. A copy of the Lease is appended hereto as Appendix A to this Agreement. The documents appended to this Agreement and listed in this Section of the Agreement are incorporated by reference into the Agreement as if fully set out herein. In case of any conflict of terms, conditions, or requirements between this Agreement and any document incorporated by reference, the terms of this Agreement shall govern.
18. Execution by Counterparts. This Agreement may be executed in counterparts and each of such counterparts shall for all purposes be deemed to be an original, all such counterparts shall together constitute but one and same instrument. Executed counterparts may be delivered by facsimile or PDF via e-mail, and such shall be given the same force and effect as an inked-signed document.
19. Authorized Signatories. This Agreement may be approved by the Director of Transportation under the authority granted by the City Charter. The Board of Directors for the Corporation approved this Agreement and authorized Sidney Goodwill, as President of the Corporation to sign this Agreement on behalf of the Corporation at its meeting of November 1, 2017.

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Signed this 1st day of December 2017 at San Francisco, California.

Edward D. Reiskin
Director of Transportation
SFMTA



Sidney Goodwill
President
City of San Francisco Uptown Parking Corporation

Approved as to Form:

Dennis J. Herrera
City Attorney

San Francisco Municipal Transportation Agency
Board of Directors

Resolution No. _____

Adopted: _____

by: _____
Robert K. Stone
Deputy City Attorney

Attest: _____
Secretary, SFMTA Board of Directors