

File No. 101431

Committee Item No. 9

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: February 9, 2011

Board of Supervisors Meeting

Date _____

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Resolution
<input type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Analyst Report
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ethics Form 126
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form (for hearings)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contract/Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER

(Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Victor Young

Date: February 4, 2011

Completed by: Victor Young

Date: _____

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

1 [Lease - Portsmouth Plaza Parking Corporation -Portsmouth Square Garage Operation]

2 **Resolution authorizing the Recreation and Park Department General Manager to enter**
3 **into a lease with Portsmouth Plaza Parking Corporation for the Operation of the**
4 **Portsmouth Square Garage.**

5
6 WHEREAS, The City owns the land and improvements commonly known as
7 Portsmouth Square, including the Portsmouth Square Garage ("Garage") located beneath the
8 Square; and

9 WHEREAS, In 1960, the City entered into a lease agreement with Portsmouth Plaza
10 Parking Corporation ("Corporation") for the construction, financing and operation of the
11 Garage; and

12 WHEREAS, Since that time, the Corporation, a non-profit organization established for
13 the sole purpose of building and operating the Garage, has dutifully discharged its duties
14 pursuant to the 1960 lease; and

15 WHEREAS, The City desires to contract with the Corporation for the lease and
16 operation of the Garage and the Corporation desires to lease the premises from the City; and

17 WHEREAS, On November 18, 2010, by Resolution No. 1011-13, on file with
18 the Clerk of the Board of Supervisors in File No. 101431, the Recreation and Park
19 Commission recommended that the Board of Supervisors approve the Lease, on file with the
20 Clerk of the Board of Supervisors in File No. 101431, between the City and
21 the Portsmouth Plaza Parking Corporation for the lease and operation of the Portsmouth
22 Square Garage, from January 1, 2011, through December 31, 2051, which has an anticipated
23 revenue of more than one million dollars, and potential term of over ten years; and
24
25

1 WHEREAS, Pursuant to San Francisco Charter, Article IX, Section 9.118, Subsections
2 (a) and (b), the Board of Supervisors must approve the Lease by resolution; now, therefore,
3 be it

4 RESOLVED, That the Board of Supervisors hereby approves the lease dated January
5 1, 2011, for the lease and operation of the Portsmouth Square Garage, commencing on
6 January 1, 2011, and expiring on December 31, 2051; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors authorizes the General
8 Manager to enter into additions, amendments, or other modifications to the Lease (including,
9 without limitation, preparation and attachment of, or charges to, any or all of the exhibits) that
10 the General Manager, in consultation with the City Attorney, determines are in the best
11 interest of the City, do not materially decrease the benefits of the Lease to the City, do not
12 materially increase the obligations or liabilities of the City, do not authorize the performance of
13 any activities without pursuing all required regulatory and environmental review and
14 approvals, and are necessary or advisable to complete the transactions which the Lease
15 contemplates and effectuate the purpose and interest of this resolution, such determination to
16 be conclusively evidenced by the executions and delivery by the General Manager of the
17 Lease and any such additions, amendments, or other modifications that that document; and,
18 be it

19 FURTHER RESOLVED, That the Board of Supervisors approves, confirms, and ratifies
20 all prior actions taken by the officials, employees, and agents of the City with respect to the
21 Lease.
22
23
24
25

RECREATION AND PARK COMMISSION
City and County of San Francisco
Resolution No. 1011-013

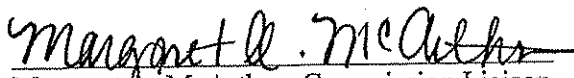
PORTSMOUTH SQUARE GARAGE LEASE

RESOLVED, That this Commission does recommend that the Board of Supervisors approve a Lease with the Portsmouth Plaza Parking Corporation for the operation of the Portsmouth Square Parking Garage.

Adopted by the following vote:

Ayes	6
Noes	0
Absent	0

I hereby certify that the foregoing resolution was adopted at the Special Meeting of the November 18, 2010.


Margaret A. McArthur, Commission Liaison

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2010 DEC 21 PM 4:40

BY MS



Mayor Gavin Newsom
Philip A. Ginsburg, General Manager

LEASE

between

**CITY AND COUNTY OF SAN FRANCISCO, Landlord
Acting by and Through its
Recreation and Park Commission**

and

Portsmouth Plaza Parking Corporation, Lessee

For the Operation of the

Portsmouth Square Parking Garage

January 1, 2011

**CITY AND COUNTY OF SAN FRANCISCO
Gavin Newsom, Mayor**

SAN FRANCISCO RECREATION and PARK COMMISSION

Mark Buell, President

Tom Harrison, Vice President

Gloria Bonilla, Commissioner

David E. Lee, Commissioner

Meagan Levitan, Commissioner

Lawrence Martin, Commissioner

Philip A. Ginsburg, General Manager



**RECREATION AND PARK DEPARTMENT
LEASE
Table of Contents**

Section	Page
1. BASIC LEASE INFORMATION	4
2. DEFINITIONS	6
3. PREMISES	11
4. TERM	13
5. RENT	14
6. TAXES, ASSESSMENTS AND OTHER EXPENSES	16
7. USE, COVENANTS TO PROTECT PREMISES AND DEPARTMENT FACILITIES	17
8. IMPROVEMENTS	21
9. REPAIRS AND MAINTENANCE	24
10. LIENS	25
11. COMPLIANCE WITH LAWS	25
12. OPERATION AND CONDITION OF PREMISES	26
13. PUBLIC USE OF PARKING FACILITY AND PARK	28
14. RATES, CHARGES, REGULATIONS	28
15. FINANCING; ENCUMBRANCES; SUBORDINATION	28
16. DAMAGE OR DESTRUCTION	30
17. EMINENT DOMAIN	31
18. ASSIGNMENT AND SUBLETTING	32
19. DEFAULT; REMEDIES	33
20. WAIVER OF CLAIMS; INDEMNIFICATION	35
21. INSURANCE	37
22. ACCESS BY CITY	40
23. ESTOPPEL CERTIFICATES	41
24. SURRENDER	41
25. HAZARDOUS MATERIALS	42
26. SECURITY DEPOSIT	43
27. GENERAL PROVISIONS	43
28. SUPPLEMENTAL SERVICES	55
29. COMPLIANCE WITH ALL CITY PARKING POLICIES	55
30. MANAGEMENT OF THE PREMISES	55
31. REVENUE CONTROL EQUIPMENT AND PROCEDURES	56
32. APPROVAL OF OPERATING BUDGET	56
33. COMMUNITY PARTICIPATION FUND	56
34. AMENDMENTS	57

EXHIBITS

Exhibit A – Description of Premises

Exhibit A-1 – Depiction of Premises

Exhibit B – Rules and Regulations

Exhibit C- Community Participation Fund Guidelines

RECREATION AND PARK DEPARTMENT

LEASE

THIS LEASE (this "Lease") dated for reference purposes only as of January 1, 2011 is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Landlord"), acting by and through its Recreation and Park Commission (the "Commission") and PORTSMOUTH PLAZA PARKING CORPORATION ("Lessee").

City and Lessee hereby agree as follows:

1. BASIC LEASE INFORMATION

The following is a summary of basic lease information (the "Basic Lease Information"). Each item below shall be deemed to incorporate all of the terms set forth in this Lease pertaining to such item. In the event of any conflict between the information in this Article and any more specific provision of this Lease, the more specific provision shall control.

Lease Reference Date: January 1, 2011

Landlord: CITY AND COUNTY OF SAN FRANCISCO

Lessee: Portsmouth Plaza Parking Corporation

Premises (Section 3.1): That certain real property described on **Exhibit A** and generally depicted on **Exhibit A-1** (the "Site"), including all buildings and improvements now or hereafter thereon (the "Improvements"), including the elevator and the structure surrounding the elevator on the roof of the parking garage structure, but otherwise excluding the Portsmouth Square Plaza on the roof of the parking garage and the Park Facilities (the Improvements and the Site, together, the "Premises").

Term
(Section 4): The term of the lease shall be 40 years, commencing January 1, 2011 and expiring December 31, 2051, subject to City's right to terminate this Lease early if certain conditions are not satisfied, as provided in **Section 8.7** and **Section 8.8**.

Percentage Rent
(Section 5.2)

Type of Sale

Percentage

Parking Revenue

Eighty-Five Percent (85%) of Net Revenues; provided that following the completion of the Necessary Capital Improvements, Lessee shall pay

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

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Portsmouth Plaza Parking Corporations	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i> See Attached.	
Contractor address: 733 Kearney St., San Francisco, CA 94108	
Date that contract was approved: <i>(By the SF Board of Supervisors)</i>	Amount of contract: 85% of Net Revenues with conditions. (40 year lease)
Describe the nature of the contract that was approved: Lease and Management of Portsmouth Square Parking Garage.	
Comments:	

This contract was approved by (check applicable):

☐ the City elective officer(s) identified on this form

☒ a board on which the City elective officer(s) serves: San Francisco Board of Supervisors
Print Name of Board

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

Print Name of Board

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

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

Attachment to FORM SFEC-126

The fiscal year 2010-2011 Board of Directors of the Portsmouth Plaza Corporation are as follows:

Frank Han, May Louie, Nellie Young, Herbert Gee, Hazel Louie, Jerry Lee, Raymond Lam, Catherine Yee, Nancy Lim Yee, Samuel Kwong and Richard Wong.

Officers

Chairperson of the Board – Frank Han

President: Samuel Kwong

Vice President: Jerry Lee

Vice President: Nancy Lim-Yee

Treasurer – Jerry Lee

Secretary: Catherine Yee

Assistant Secretary: Nancy Lim-Yee

None of the Board of Directors has any ownership of the Corporation.

There are no subcontractors for the Contract.

There are no political committee sponsored or controlled by the Corporation.