

File No. 130384

Committee Item No. 10
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Sub-Committee

Date: 05/15/2013

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 checked="" type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form
<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 type="checkbox"/>	<input type="checkbox"/>	Contract/Agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Form 126 – Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
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OTHER (Use back side if additional space is needed)

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Completed by: Victor Young

Date May 10, 2013

Completed by: Victor Young

Date _____

1 [Airspace Lease - State of California - Property along Duboce Street, between Otis Street
2 and Stevenson Street - SoMa West Skatepark - Initial Term of Twenty Years - Initial
3 Monthly Base Rent \$10,000]

4 **Resolution approving the execution of an airspace lease for a portion of property**
5 **commonly known as Lot 071, Block 3513 and located along Duboce Street between**
6 **Otis Street and Stevenson Street, by and between the City and County of San**
7 **Francisco (City), and the State of California, acting by and through its Department of**
8 **Transportation, for an initial term of twenty years and an initial monthly rent of \$10,000;**
9 **adopting environmental findings and other findings that the actions set forth in this**
10 **Resolution are consistent with the City's General Plan and eight priority policies; and**
11 **authorizing other actions in furtherance of this Resolution.**

12
13 WHEREAS, A portion of the former Central Freeway damaged by the 1989 Loma
14 Prieta earthquake was replaced with a ground-level boulevard along Octavia Street from
15 Market to Fell Streets; and

16 WHEREAS, The State of California, acting by and through its Department of
17 Transportation (State) transferred certain real property formerly occupied by the Central
18 Freeway (the "Central Freeway Parcels") to the City pursuant to Section 72.1 of the California
19 Streets and Highways Code and a Cooperative Agreement between the City and the State
20 dated November 29, 2000 ("Cooperative Agreement"), which transfer was authorized by
21 Board Resolution No. 469-00, adopted by the City's Board of Supervisors on May 22, 2000,
22 and signed by the City's Mayor on June 2, 2000. A copy of the Cooperative Agreement and
23 Board Resolution No. 469-00 is on file with the Clerk of Board of Supervisors in File No.
24 130384 and incorporated herein by reference; and
25

1 WHEREAS, Section 72.1 of the California Streets and Highways Code and the
2 Cooperative Agreement require City to use the proceeds from the disposition of the excess
3 Central Freeway parcels for transportation and related purposes authorized under Article XIX
4 of the California Constitution; and

5 WHEREAS, In November of 1999, the voters of the City and County of San Francisco
6 approved Proposition I, which required City to use the proceeds from the sale or disposition of
7 excess Central Freeway Parcels for the Octavia Boulevard Plan, as defined in Proposition I, a
8 copy of which is on file with the Clerk of Board of Supervisors in File No. 130384 and
9 incorporated herein by reference; and

10 WHEREAS, Following completion of the Octavia Boulevard Plan, Proposition I required
11 the City to utilize any remaining proceeds from the sale or disposition of excess Central
12 Freeway Parcels (the "Remaining Proceeds") for transportation improvements to corridors on
13 or ancillary to Octavia Boulevard, and directed the San Francisco Transportation Authority
14 ("SFCTA") to allocate the Remaining Proceeds for such transportation improvements with
15 advice from its Central Freeway Citizens Advisory Committee and its Technical Working
16 Group and based on specified minimum criteria; and

17 WHEREAS, The SFCTA adopted the Central Freeway Replacement Project Ancillary
18 Projects Study on February 28, 2006, a copy of which is on file with the Clerk of Board of
19 Supervisors in File No. 130384 and incorporated herein by reference (the "Ancillary Projects
20 Study"); and

21 WHEREAS, The Ancillary Projects Study identified twelve transportation projects (the
22 "SoMa West Improvement Projects"), estimated to have a total cost of \$5,400,000, to be
23 funded from the Remaining Proceeds, which were estimated to be \$5,750,000 in 2006; and
24
25

1 WHEREAS, One of the SoMa West Improvement Projects called for developing
2 recreational uses under the portion of the Central Freeway structure restored by the State
3 after the 1989 Loma Prieta earthquake; and

4 WHEREAS, Residents of the neighborhood impacted by the restoration of the
5 damaged Central Freeway and the implementation of the Octavia Boulevard Plan, and the
6 City-wide skateboarding community, have long expressed a desire for additional skatepark
7 and open space amenities for recreational use within the neighborhood; and

8 WHEREAS, The City has identified a suitable State property under and adjacent to the
9 Central Freeway and along Duboce Street between Stevenson Street and Otis Street (Lot
10 071, Block 3513) (the "Property"), which is currently used for parking and is capable of
11 accommodating the proposed skatepark; and

12 WHEREAS, The State has agreed to lease the Property to the City, and the City has
13 agreed to lease the Property from Caltrans, pursuant to the form of lease on file with the Clerk
14 of Board of Supervisors in File No. 130384 and incorporated herein by reference (the
15 "Lease"); and

16 WHEREAS, The City has agreed to improve the Property as a skateboard park,
17 designed in concert with the neighborhood and the skateboard community, with the skatepark
18 improvements funded from the Remaining Proceeds; and

19 WHEREAS, Once the skatepark improvements are installed at the Property, the City
20 will maintain the Property through a interdepartmental Memorandum of Understanding ("Park
21 MOU") by and among the Real Estate Division of the General Services Agency ("DRE"),
22 Department of Public Works, Recreation and Parks Department ("RPD"), and the Office of
23 Economic and Workforce Development, a copy of which is on file with the Clerk of Board of
24 Supervisors in File No. 130384 and incorporated herein by reference; and
25

1 WHEREAS, One of the SoMa West Improvement Projects called for developing
2 recreational uses under the portion of the Central Freeway structure restored by the State
3 after the 1989 Loma Prieta earthquake; and

4 WHEREAS, Residents of the neighborhood impacted by the restoration of the
5 damaged Central Freeway and the implementation of the Octavia Boulevard Plan, and the
6 City-wide skateboarding community, have long expressed a desire for additional skatepark
7 and open space amenities for recreational use within the neighborhood; and

8 WHEREAS, The City has identified a suitable State property under and adjacent to the
9 Central Freeway and along Duboce Street between Stevenson Street and Otis Street (Lot
10 071, Block 3513) (the "Property"), which is currently used for parking and is capable of
11 accommodating the proposed skatepark; and

12 WHEREAS, The State has agreed to lease the Property to the City, and the City has
13 agreed to lease the Property from Caltrans, pursuant to the form of lease on file with the Clerk
14 of Board of Supervisors in File No. 130384 and incorporated herein by reference (the
15 "Lease"); and

16 WHEREAS, The City has agreed to improve the Property as a skateboard park,
17 designed in concert with the neighborhood and the skateboard community, with the skatepark
18 improvements funded from the Remaining Proceeds; and

19 WHEREAS, Once the skatepark improvements are installed at the Property, the City
20 will maintain the Property through a interdepartmental Memorandum of Understanding ("Park
21 MOU") by and among the Real Estate Division of the General Services Agency ("DRE"),
22 Department of Public Works, Recreation and Parks Department ("RPD"), and the Office of
23 Economic and Workforce Development, a copy of which is on file with the Clerk of Board of
24 Supervisors in File No. 130384 and incorporated herein by reference; and

1 WHEREAS, To facilitate RPD's maintenance and operation of the skatepark for DRE
2 pursuant to the Park MOU, this Board extended the San Francisco Park Code to the public
3 use of the skatepark at the Property during the term of the Lease pursuant to Ordinance No.
4 _____ (the "Park Ordinance"), a copy of which is on file with the Clerk of Board of
5 Supervisors in File No. _____ and incorporated herein by reference; and

6 WHEREAS, Although the proposed skatepark will provide recreational use of the
7 Property, it will be subject to the term of the Lease and the impacts of being directly below the
8 Central Freeway, and neither this Board's approval of the Lease nor adoption of Park
9 Ordinance are intended to convert the Property into such a significant "park" or "recreational
10 area" as those terms are used in 23 United States Code Section 138 and 49 United States
11 Code Section 303; and

12 WHEREAS, The Lease will have an initial twenty-year term and an initial rent of
13 \$10,000.00 per month, with annual 2% increases in such monthly rent, and State will need to
14 issue an encroachment permit to the City before the installation of skatepark improvements at
15 the Property, as further described in Exhibit B of the Lease; and

16 WHEREAS, The Lease grants the City a ten-year option to extend the term of the
17 Lease at a rate to be negotiated pursuant the Lease; and

18 WHEREAS, The City's Planning Department determined that the Lease is exempt from
19 environmental review under the California Environmental Quality Review Act, as evidenced in
20 a Certificate of Determination issued for Case No. 2011.0645E on October 21, 2011, a copy
21 of which is on file with the Clerk of the Board of Supervisors in File No. 130384 and is
22 incorporated herein by reference; and

23 WHEREAS, In a General Plan Referral dated March 6, 2013, for Case No.
24 2011.0645R, the City's Planning Department found that the proposed project described in this
25

1 Resolution is consistent with the City's General Plan pursuant to Section 4.105 of the Charter
2 and Section 2A.53 of the Administrative Code, with a copy of such General Plan Referral on
3 file with the Clerk of the Board of Supervisors in File No. 130384 and incorporated herein by
4 reference. The Board of Supervisors finds that the project contemplated in this Resolution is
5 consistent with the City's General Plan and with the Charter Section 4.105 and Administrative
6 Code Section 2A.53 for the reason set forth in said letter; now, therefore, be it

7 RESOLVED, That in accordance with the recommendation of the Director of Property,
8 the Director of Property is hereby authorized to enter into the Lease and take all actions on
9 behalf of the City and County of San Francisco necessary to effect the Lease and perform
10 City's obligations under the Lease; and, be it

11 FURTHER RESOLVED, That the Lease shall include a clause with City indemnifying,
12 holding harmless, and defending the State and its officers, employees, and agents from and
13 against any and all claims, suits, actions, injury, damage, and liability incurred as a result of
14 any acts or omissions by City in the performance of its obligations under the Lease or any
15 allegedly dangerous condition of public property based upon the condition of the Property,
16 excluding those incurred as a result of the highway structure above the Property or the use of
17 or activities on the Property by State or its officers, employees, or agents; and be it

18 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
19 Property to enter into any amendments or modifications to the Lease (including, without
20 limitation, the exhibits) that the Director of Property in consultation with the City Attorney,
21 determines are in the best interest of the City, do not materially increase the obligations of the
22 City or materially decrease the benefits of the City, are necessary or advisable to
23 consummate the performance of the purposes and intent of this Resolution, and comply with
24
25

1 all applicable laws, including the City's Charter, including any modifications or amendments to
2 the Lease; and be it

3 FURTHER RESOLVED, That the Lease shall be subject to certification as to funds by
4 the Controller, pursuant to Section 105 of the City Charter.
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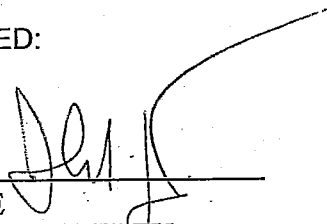
\$1,648,039.00 Available

BUF Index Code: _____

Project Code: _____

CONTROLLER

RECOMMENDED:



JOHN UPDIKE
DIRECTOR OF PROPERTY

Items 9, 10 and 11
Files 13-0226, 13-0384 and 13-0385

Departments:

Real Estate Division (RED)
 Department of Public Works
 Recreation and Park Department (RPD)
 Office of Economic and Workforce Development (OEWD)

EXECUTIVE SUMMARY

Legislative Objective

- File 13-0226: The proposed ordinance would (a) amend the Park Code to designate portions of Assessor Block 3513, Lots 071 and 074 leased by the City from the State for the South of Market West Skatepark and Dog Park as a "park", (b) authorize RPD to patrol this leased property, and (c) make environmental findings and consistency with the City's General Plan.
- File 13-0384: The proposed resolution would (a) approve execution of an airspace lease between the City and the State of California (Caltrans) for a portion of property on Duboce Street between Otis and Stevenson Streets (Assessor Block 3513, Lot 071), for use as a skatepark for an initial 20 years and an initial \$10,000 monthly rent, (b) adopt environmental findings and other findings consistent with the City's General Plan and eight priority policies, and (c) authorize other actions.
- File 13-0385: The proposed resolution would (a) approve execution of an airspace lease between the City and the State of California (Caltrans) for a portion of property on Duboce Street between Valencia and Stevenson Streets (Assessor Block 3513, Lot 074), for an initial 20 years and a total rent of \$2,335,343, (b) adopt environmental findings and other findings consistent with the City's General Plan and eight priority policies, and (c) authorize other actions.

Fiscal Impacts

- Under the proposed initial 20-year lease for the skatepark (File 13-0384), the City would pay Caltrans \$10,000 per month, \$120,000 in FY 2013-14, increasing 2% annually, for a total 20-year cost of \$2,963,596. For the Dog Park (File 13-0385), the City would pay Caltrans a one-time total of \$2,335,343 upfront for the entire 20-year initial term of the lease.
- DPW staff designed the Dog Park and related parking areas and retained a private design firm, for the skatepark at a cost of \$120,000. The cost to construct (a) the skatepark is approximately \$1.7 million and (b) the dog park and related parking area is approximately \$1.1 million, for a total of approximately \$2.8 million.
- All skatepark and dog park costs would be funded from the Octavia Boulevard Special Fund, which has an available balance of approximately \$17 million. Revenues of \$91,080 annually from Dog Park parking would accrue to the Octavia Boulevard Special Fund, to partially offset lease and maintenance costs for both parks. RPD estimates annual maintenance costs of \$85,000 for both parks.

Recommendation

- Approve the two proposed resolutions.

MANDATE STATEMENT / BACKGROUND**Mandate Statement**

Under Administrative Code Section 23.27, leases with a term of more than one year or rent of more than \$5,000 per month, in which the City is the tenant, are subject to the Board of Supervisors approval, by resolution.

Background

In 1989, the Central Freeway, located above Octavia Boulevard, was severely damaged by the Loma Prieta earthquake, resulting in the State of California, through its Department of Transportation (Caltrans) to demolish the Central Freeway north of Market Street. On May 22, 2000, the Board of Supervisors approved a Cooperative Agreement between the City and Caltrans to transfer 22 Caltrans parcels that became available from the demolition of the Central Freeway from the State to the City at no cost to the City (Resolution 469-00), in accordance with Section 72.1 of the California Streets and Highways Code. This Cooperative Agreement also specified that the City's future proceeds from the sale or lease of these excess Central Freeway parcels would be used for transportation and related purposes.

In November of 1999, San Francisco voters approved Proposition I, which required the City to (a) use the proceeds from the sale or lease of these Central Freeway parcels to develop an Octavia Boulevard Plan, (b) use any remaining proceeds from the sale or lease of excess Central Freeway parcels for transportation improvements to corridors on or ancillary to Octavia Boulevard, and (c) directed the San Francisco County Transportation Authority (SFCTA) to allocate such remaining proceeds for transportation improvements with advice from its Central Freeway Citizens Advisory Committee. On February 28, 2006, the SFCTA adopted the Central Freeway Replacement Project Ancillary Project Study, which identified various transportation and related ancillary projects (South of Market (SoMa) West Improvement Projects) at an estimated cost of \$5,400,000, to be funded with an estimated \$5,750,000 of remaining proceeds from the sale or lease of the Central Freeway parcels. One of these SoMa West Improvement Projects specified the development of recreational uses under a portion of the Central Freeway that was restored by the State.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution (File 13-0384) would (a) approve the execution of an airspace lease¹ between the City and County of San Francisco, as lessee and the State of California, acting by and through its Department of Transportation (Caltrans) as lessor, for a portion of property on Duboce Street between Otis and Stevenson Streets (Lot 071, Block 3513), for an initial 20 years, at an initial \$10,000 monthly rent for use as a public skatepark and recreational area, (b) adopt environmental findings and other findings consistent with the City's General Plan and eight priority policies, and (c) authorize other actions.

¹ Although the proposed resolution identifies the subject lease as an airspace lease, the subject lease is actually a lease for occupancy and use of the ground located directly under State Highway.

The proposed resolution (File 13-0385) would (a) approve execution of a second airspace lease² between the City and County of San Francisco as lessee, and the State of California, acting by and through its Department of Transportation (Caltrans) as lessor, for a portion of property on Duboce Street between Valencia and Stevenson Streets (Lot 074, Block 3513), for an initial 20 years for a total rent of \$2,335,343 for use as a public dog park and recreational area, (b) adopt environmental findings and other findings consistent with the City's General Plan and eight priority policies, and (c) authorize other actions.

The proposed ordinance (File 13-0226) would (a) amend the Park Code to designate portions of Assessor Block 3513, Lots 071 and 074 to be leased by the City from the State for the subject Skatepark and Dog Park as a "park", (b) authorize RPD to patrol this leased property, and (c) make environmental findings and consistency with the City's General Plan.

According to Mr. John Updike, the Director of Real Estate, the two proposed leases with Caltrans are similar, except for the specific locations, square footage, proposed uses of the parcels and structured rent payments. The proposed lease (File 13-0384) on Duboce Street between Otis and Stevenson Streets would be used as a skatepark and the proposed lease (File 13-0385) on Duboce Street between Valencia and Stevenson Streets would be used as a dog park, including parking. The two leases are on adjacent parcels directly under U.S. Highway 101. Table 1 below summarizes the major provisions in each of the two proposed leases.

Table 1: Summary of Proposed Lease Terms for Skate Park and Dog Park

Provisions	Skate Park (File 13-0384)	Dogpark and Parking (File 13-0385)
Location	Duboce Street between Otis and Stevenson Streets	Duboce Street between Valencia and Stevenson Streets
Initial Term	20 years (July 1, 2013 - June 30, 2033)	20 years (July 1, 2013 - June 30, 2033)
Options to Extend	One option for ten years Negotiated fair market rate	One option for ten years Negotiated fair market rate
Square feet	16,910 square feet	28,026 square feet
Rent per square foot per month-first year	Approximately \$0.59	Approximately \$0.35
Monthly Rent-first year	\$10,000	NA
Annual rent-first year	\$120,000	NA \$2,335,343 Total
Annual rent escalation	2%	NA
Insurance	\$25 Million self-insurance by City	\$25 Million self-insurance by City

² Although the proposed resolution identifies the subject lease as an airspace lease, the subject lease is actually a lease for occupancy and use of the ground located directly under State Highway.

As shown in Table 1 above, both of the proposed leases require the City to provide \$25 million of insurance to the State, which can be satisfied through the delivery of a certificate of self-insurance, which results in no direct cost to the City. In addition, the proposed leases provide that the City would indemnify, hold harmless and defend the State against any and all claims, actions, damages and liability incurred as a result of any acts or omissions by the City under the subject lease or any allegedly dangerous condition of public property based on the condition of the property, excluding those incurred as a result of the highway structure or activities by the State.

Both of the subject State Caltrans properties to be leased by the City are currently used for surface vehicle parking. Mr. Updike notes that the proposed skatepark site currently has 79 parking spaces, with 41 of these spaces leased by Caltrans, through a parking management company, to the City's Human Services Agency (HSA) for City and employee vehicles, at a monthly cost of \$165 per space, which totals \$6,765 per month, or \$81,180 annually. The proposed dog park site currently has 70 parking spaces, with 50 of these spaces leased by Caltrans, through a parking management company, to HSA for City and employee vehicles, at a monthly cost of \$165 per space, which totals \$8,250 per month, or \$99,000 annually. Mr. Updike advises that all of the parking will be eliminated during construction of the skatepark and dog park, with HSA vehicles relocated to available parking facilities at 246 South Van Ness, and garages at 1660 and 1650 Mission Streets. Construction of the dog park improvements will include parking spaces for 46 vehicles used by HSA employees.

Under the two subject leases with Caltrans, the City is required to obtain encroachment permits from the State, in order to construct and install the proposed skatepark and dog park improvements. According to Mr. Frank Felice, Project Manager with the Department of Public Works (DPW), DPW has applied for the necessary encroachment permits from the State for the proposed construction. Mr. Felice anticipates that the encroachment permits will be approved with the execution of the subject leases with the State.

The two proposed resolutions and leases anticipate that an Interdepartmental Memorandum of Understanding (MOU) would be entered into at the same time as the commencement of the lease on approximately July 1, 2013 among (a) the Real Estate Division of the General Services Agency, (b) the Department of Public Works (DPW), (c) the Recreation and Park Department (RPD) and (d) the Office of Economic and Workforce Development (OEWD) to define the required design, installation, maintenance and operation of the subject Skatepark, Dog Park and Parking Area and the performance of the City overall under the subject leases. This Interdepartmental MOU, which would not be subject to Board of Supervisors approval, would specify that:

- DPW would be responsible for designing and installing the skatepark improvements, Dog Park improvements and Parking Area improvements;
- The Office of Economic and Workforce Development (OEWD) would be responsible for acting as liaison between Caltrans, DPW, RPD, and assisting in project management for the design and construction of the improvements.
- Real Estate would be responsible for legal jurisdiction of the two parcels, including financial accounting, all lease correspondence, and managing the Parking Area in the Dog Park; and

- RPD would be responsible for maintaining the Skatepark and Dog Park, including plantings, shrubs, trees, paths, benches, trash collection, skatepark fixtures, dog play fixtures, light fixtures, security and graffiti abatement.

On October 21, 2011, the Planning Department determined that the subject lease is exempt from environmental review under the California Environmental Quality Act (CEQA). In addition, on March 6, 2013, the Planning Department found that the proposed project is consistent with the City's General Plan.

FISCAL IMPACTS

Mr. Felice advises that DPW designed the Dog Park and related parking areas with existing DPW staff and retained Foothill, a private design firm, to assist in the design of the skatepark features at an estimated cost of \$120,000. Mr. Felice estimates the cost to construct (a) the skatepark is approximately \$1.7 million and (b) the dog park and related parking area is approximately \$1.1 million, for a total of \$2.8 million. According to Mr. Felice, the designs for both parks are now completed and DPW anticipates receiving construction bids for both parks by May 29, 2013, with the construction to extend for approximately seven months from late July 2013 until the Spring of 2014.

Under the proposed lease for the skatepark (File 13-0384), the City would pay Caltrans \$10,000 per month, commencing approximately July 1, 2013, or \$120,000 in FY 2013-14, increasing 2% annually as shown in Table 2 below over the initial 20-year period, for a total cost of \$2,963,596.

Table 2: 20-Year Lease Payments for Skate Park (File 13-0384)

Fiscal Year	Monthly Rent	Annual Rent
July 1, 2013 – June 30, 2014	\$10,000	\$120,000
July 1, 2014 – June 30, 2015	10,404	124,848
July 1, 2015 – June 30, 2016	10,612	127,344
July 1, 2016 – June 30, 2017	10,824	129,888
July 1, 2017 – June 30, 2018	11,041	132,492
July 1, 2018 – June 30, 2019	11,262	135,144
July 1, 2019 – June 30, 2020	11,487	137,844
July 1, 2020 – June 30, 2021	11,717	140,604
July 1, 2021 – June 30, 2022	11,951	143,412
July 1, 2022 – June 30, 2023	12,190	146,280
July 1, 2023 – June 30, 2024	12,434	149,208
July 1, 2024 – June 30, 2025	12,682	152,184
July 1, 2025 – June 30, 2026	12,936	155,232
July 1, 2026 – June 30, 2027	13,195	158,340
July 1, 2027 – June 30, 2028	13,459	161,508
July 1, 2028 – June 30, 2029	13,728	164,736
July 1, 2029 – June 30, 2030	14,002	160,024
July 1, 2030 – June 30, 2031	14,282	171,384
July 1, 2031 – June 30, 2032	14,568	174,816
July 1, 2032 – June 30, 2033	14,859	178,308
Total		\$2,963,596

Both of the proposed leases also contain one 10-year option to extend these leases from 2033 through 2043, subject to negotiation between the City and Caltrans, and subject to future Board of Supervisors approval.

All of the one-time planning, design and construction costs for both the skatepark and dog park as well as the ongoing rent and maintenance costs for the subject leases would be funded with revenues from the Octavia Boulevard Special Fund. In accordance with Section 10.100-369 of the City's Administrative Code, the Octavia Boulevard Special Fund was approved by the Board of Supervisors on December 5, 2003 (Ordinance 271-03) to accrue revenues from the sale or lease of the Central Freeway properties that would then be expended for construction and maintenance of Octavia Boulevard transportation and ancillary projects. In FY 2012-13, the Octavia Boulevard Special Fund had an available balance of approximately \$17 million, which is anticipated to increase to approximately \$31.5 million in FY 2013-14.

As shown in Table 1 above, under the proposed resolution for the Dog Park (File 13-0385), the City would pay Caltrans a one-time total of \$2,335,343 upfront for the entire 20-year initial term of the lease. Mr. Updike notes that, given the current availability of funds in the Octavia Boulevard Special Fund, the City negotiated an upfront payment to Caltrans at a 3.25% discounted rate, after the calculation of a 2% annual escalator, for the Dog Park.

As noted above, under the proposed Interdepartmental MOU, the Real Estate Division will be responsible for financial accounting, all lease correspondence, and operating and maintaining the Parking Area in the Dog Park. Construction of the dog park improvements will include space for parking 46 vehicles. Mr. Updike advises that, similar to current practice, these 46 parking spaces will be leased to HSA at an estimated initial monthly cost of \$165 per space, or a total of \$7,590 per month and \$91,080 annually. These parking revenues would be deposited back into the Octavia Boulevard Special Fund, to be used to fund the subject lease and related maintenance costs for both parks.

As noted above, under the proposed Interdepartmental MOU, RPD would be responsible for complying with all lease conditions and terms and maintaining the Skatepark and Dog Park. Mr. Nicholas Kinsey, Director of Property in the Recreation and Park Department (RPD) advises that RPD estimates that the cost to maintain both the skatepark and dog park will be approximately \$85,000 annually. The Interdepartmental MOU provides funding of \$66,000 per year increased by 2% annually from the Octavia Boulevard Fund for such purposes. The balance of approximately \$19,000 (\$85,000 - \$66,000) annually would be required to come from RPD's annual operating budget, subject to appropriation approval by the Board of Supervisors.

However, under the proposed leases, the City, through RPD, would have the right to (a) sell beverages and food to users of the parks, (b) rent skateboard equipment and (c) charge a fee to use the skatepark or to take skateboarding lessons, if the revenues from such activities are used only to fund the City's payment of rent pursuant to this lease or to offset costs to make approved improvements or to perform its maintenance obligations under these two leases. Mr. Kinsey advises that as of the writing of this report, RPD does not have any specific plans for any additional activities at either park. Mr. Kinsey further advises that the proposed ordinance is being requested because the two subject parcels will not fall under the legal jurisdiction of RPD, as they will remain State property, being leased through the Division of Real Estate, such that the subject Park Code amendment is required.

RECOMMENDATION

Approve the two proposed resolutions and ordinance.

TEXT OF PROPOSED ORDINANCE PROPOSITION I

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

Section 1. Findings.

(a) On November 3, 1998, the voters of San Francisco demonstrated their support for the Octavia Boulevard Plan for replacement of the Central Freeway by passing Proposition E, the Central Freeway Replacement Project Act of 1998, by more than 10,000 votes.

(b) Proposition E called for the City and County of San Francisco to authorize the California Department of Transportation (CalTrans) to replace the Central Freeway with an elevated structure from Mission Street to Market Street and a ground-level boulevard on Octavia Street, from Market Street to Fell Street (collectively, the "Central Freeway Replacement Project").

(c) In March of 1999, the Board of Supervisors of the City and County of San Francisco established a Central Freeway Project Office to prepare design, engineering and environmental review documents necessary to build the Octavia Boulevard portion of the Central Freeway Replacement Project (the "Octavia Boulevard Plan").

(d) In July of 1999, members of the Board of Supervisors, sitting as the San Francisco County Transportation Authority ("Transportation Authority"), voted to accept the conceptual design and preliminary engineering of the Octavia Boulevard Plan.

(e) The replacement of the last four blocks of the Central Freeway with the Octavia Boulevard Plan will provide the City with significant benefits, including the opportunity to build more than 500 units of new housing, improved north-south access for vehicles traveling to and from the Central Freeway, and substantial revenue for transportation improvements on adjacent corridors.

(f) Construction of the Octavia Boulevard Plan will free up approximately three hundred and eighty thousand (380,000) square feet of land formerly occupied by that portion of Route 101 containing the elevated freeway structure north of Market Street and freeway ramps north of Fell Street (collectively, the "Excess Central Freeway Parcels").

(g) The Excess Central Freeway Parcels include prime residential, commercial and mixed use lots that could be used for housing, including much-needed permanently affordable housing. Proposition E specifically recognized that, in planning for the uses of the Excess Central Freeway Parcels, special consideration should be given to the need for affordable housing.

(h) The California Legislature is currently considering Senate Bill 798, which would require that the State transfer to the City

at no cost the Excess Central Freeway Parcels, with the City to use the proceeds from the sale and/or disposition of those parcels for transportation improvements to Octavia Boulevard and along corridors leading to the Central Freeway, including but not limited to the Oak Street/Fell Street corridor to the Sunset and Richmond neighborhoods, South of Market, the Mission corridor, the Upper Market corridor, and the Franklin/Gough corridor to the Marina. Senate Bill 798 is similar to Senate Bill 181, passed by the California Legislature in the wake of the removal of the Embarcadero Freeway, which transferred the unused Embarcadero Freeway right-of-way to the City and County of San Francisco so that the right-of-way, or proceeds from the sale thereof, could be used to create an alternate system of city streets.

(i) The Excess Central Freeway Parcels are estimated to have a market value of approximately thirty-three million dollars (\$33,000,000), which is well in excess of the amount needed to complete the Octavia Boulevard Plan. The sale and/or disposition of these parcels will provide the City with much needed revenue for other transportation improvements.

(j) The San Francisco Department of City Planning has undertaken studies with the San Francisco Redevelopment Agency and the Hayes Valley neighborhood to determine appropriate land uses, housing types, densities and design standards for the Excess Central Freeway Parcels, as summarized in the Hayes Valley Development Guidelines endorsed by the City Planning Commission in 1993. The San Francisco Department of City Planning is currently in the process of implementing a "Strategic Neighborhood Action Plan" pursuant to funding approved by the Board of Supervisors in the City's fiscal year 1999-2000 budget. The Strategic Neighborhood Action Plan will include the development and implementation of a community-based, public planning process to ensure the involvement and participation of the community in land use and transit planning. The proposed Strategic Neighborhood Action Plan would apply to the Upper Market/Hayes Valley Neighborhood, which includes the Excess Central Freeway Parcels.

(k) If a widened freeway structure is approved and the Board of Supervisors' ban on construction of new freeway ramps north of Fell Street is repealed, the City will not receive all of the substantial benefits of the Excess Central Freeway Parcels. A widened structure will preclude any affordable housing development between Market Street and Fell Street; and repealing the ban on construction of new ramps north of Fell Street will hold the parcels

between Fell Street and Turk Street in limbo pending the outcome of years of engineering and environmental review. In either case, the City will not be able to construct much-needed housing in this area or sell the land and use the proceeds for other transportation improvements for the foreseeable future.

Section 2. Title.

This ordinance shall be known as and may be referred to as "The Central Freeway Corridor Housing and Transportation Improvement Act."

Section 3. Transportation Improvements Funded by Proceeds from the Disposition of the Excess Central Freeway Parcels.

(a) Consistent with SB 798 and Article XIX of the California Constitution, the City shall first use any proceeds from the sale and/or disposition of Excess Central Freeway Parcels transferred by CalTrans to the City for design, engineering, construction and maintenance of the Octavia Boulevard Plan as finally adopted by the San Francisco Board of Supervisors, sitting as the Transportation Authority.

(b) The City shall utilize any remaining proceeds from the sale and/or disposition of the Excess Central Freeway Parcels for transportation improvements to corridors on or ancillary to Octavia Boulevard, including but not limited to the Oak Street/Fell Street corridor to the Sunset and Richmond neighborhoods, South of Market, the Mission corridor, the Upper Market corridor, and the Franklin/Gough corridor to the Marina.

(c) The Transportation Authority shall allocate remaining revenue from the sale and/or disposition of Excess Central Freeway Parcels for transportation improvements to corridors on or ancillary to Octavia Boulevard, with advice from its Central Freeway Citizens Advisory Committee and its Technical Working Group, which includes the Municipal Railway, the Department of Parking and Traffic, the Department of Public Works, the City Planning Department, the San Francisco Redevelopment Agency and regional transit operators. Such revenue shall be allocated to transportation projects on a competitive basis, according to the following minimum criteria: (1) conformance with the priorities expressed in the San Francisco Long Range Countywide Transportation Plan (as finally approved by the Transportation Authority in April, 2000); (2) improved transit and traffic flow and pedestrian safety along corridors leading to and from the Central Freeway; (3) cost-effectiveness; and (4) project eligibility under SB 798 and Article XIX of the California Constitution.

(Continue on next page)

LEGAL TEXT OF PROPOSITION I (CONTINUED)

Section 4. Construction of Housing on Excess Central Freeway Parcels and Neighborhood Planning Process.

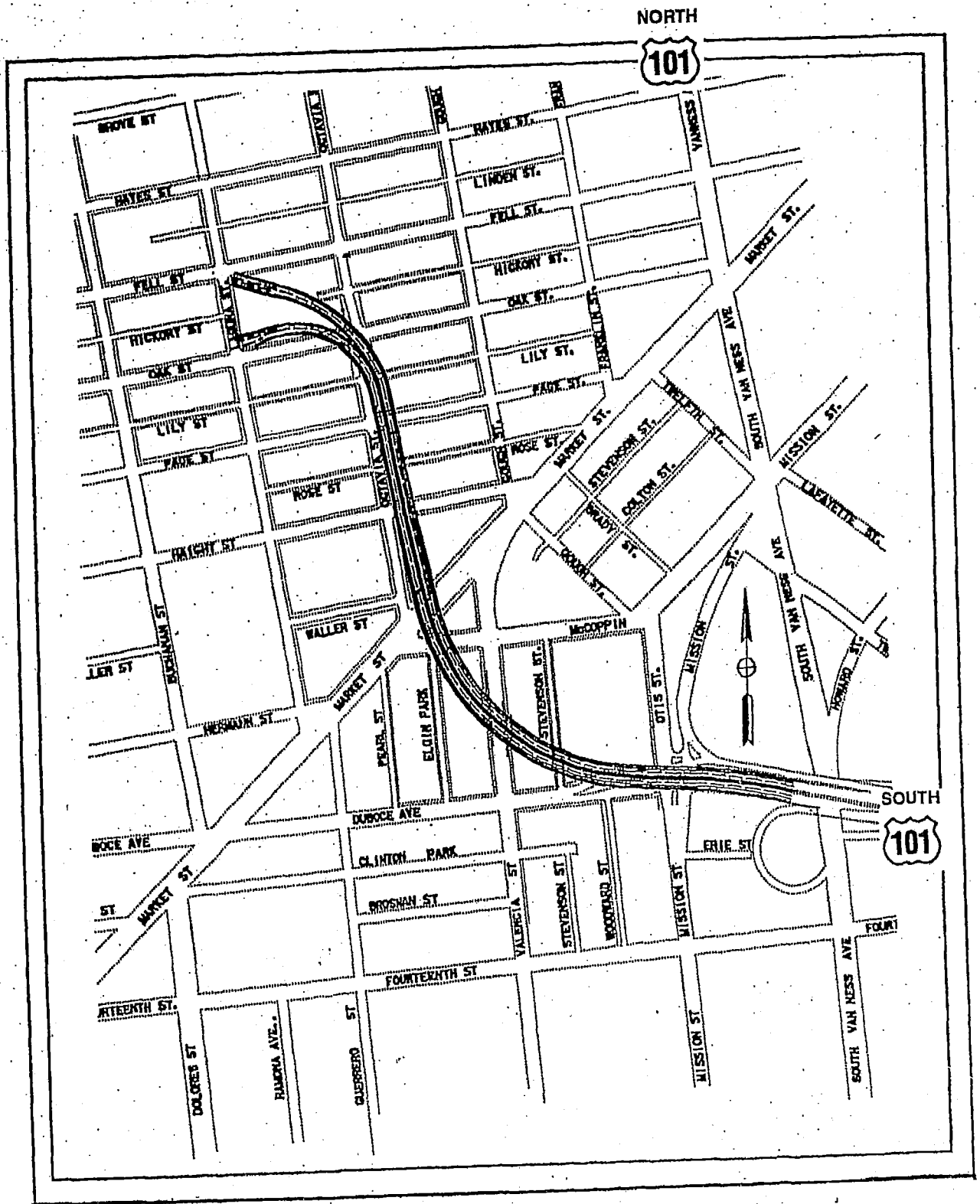
(a) It is the express intent of the voters that housing, mixed use and/or complimentary developments be constructed on the Excess Central Freeway Parcels. To that end, no competing transportation use, such as the widening of the elevated freeway structure between Market Street and Fell Street, shall prevail. Nothing herein shall be construed to prohibit public transit or alternative transportation use consistent with the Hayes Valley Development Guidelines and the Octavia Boulevard Plan.

(b) The City shall utilize a community-based public planning process, involving representatives from the Hayes Valley and Western Addition neighborhoods, the City Planning Department, the Redevelopment Agency, the Mayor's Office of Housing and the Transportation Authority's Technical Working Group, to determine the mix and type of land uses for the Excess Central Freeway Parcels. Such uses shall include the construction of affordable rental and/or ownership housing on such parcels and shall be consistent with the Octavia Boulevard Plan and related transportation improvements.

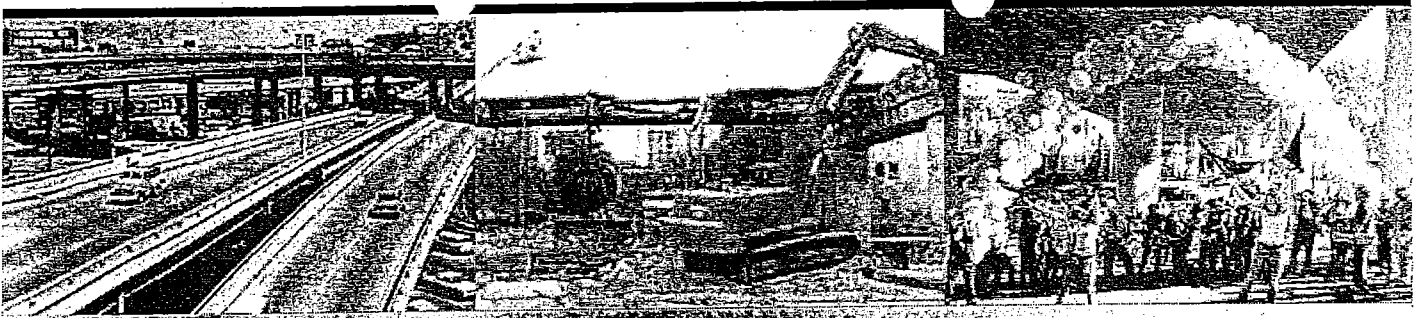
(c) The recommendations from this community-based planning process shall be presented to the City Planning Commission and the Redevelopment Commission (as appropriate) for incorporation into the Hayes Valley Development Guidelines to ensure that the future development of the Excess Central Freeway Parcels will reflect the outcome of the planning process.

Section 5. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application. To this end, the provisions of this ordinance shall be deemed severable.

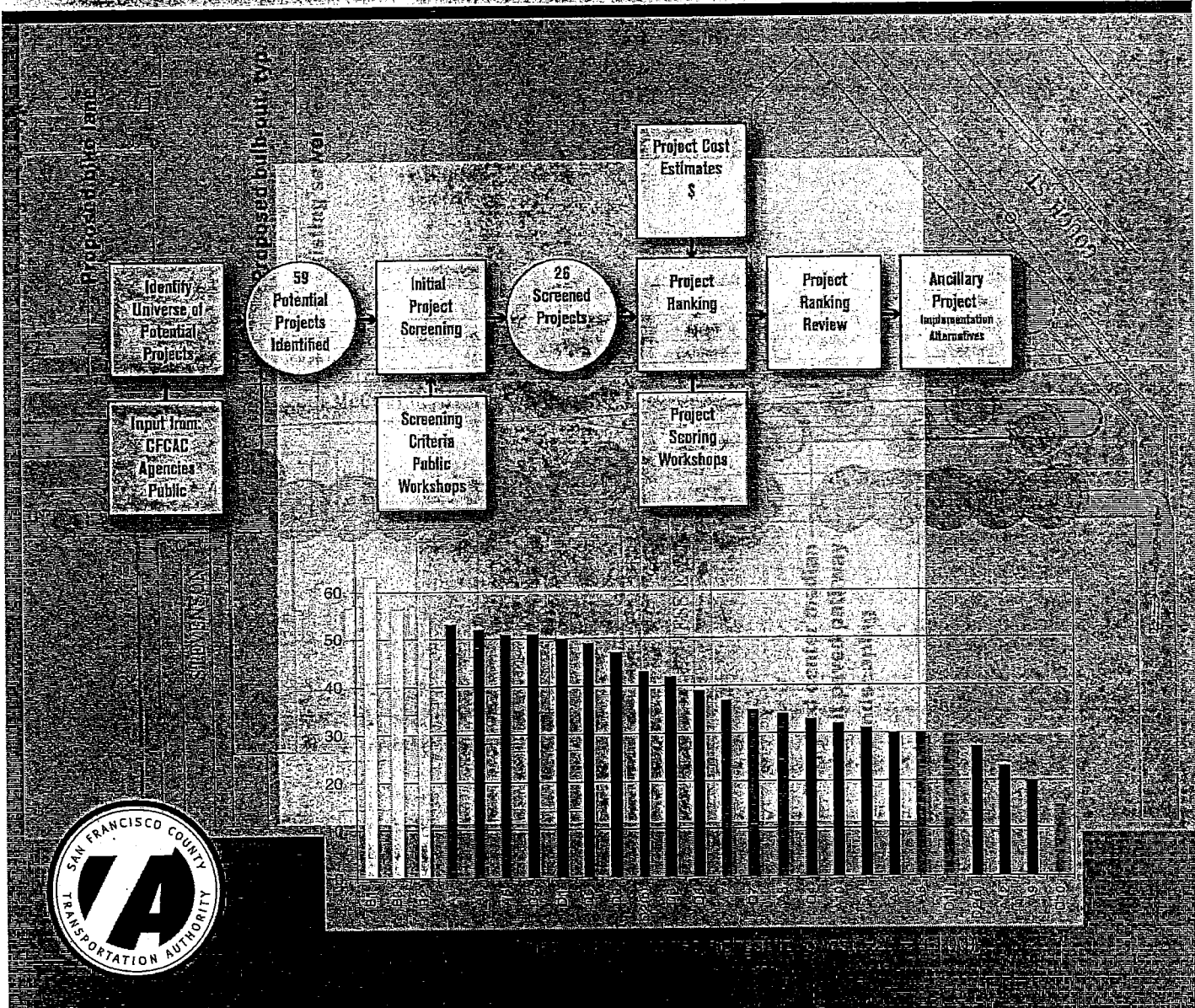


Proposition J – Central Freeway Replacement



CENTRAL FREEWAY REPLACEMENT PROJECT

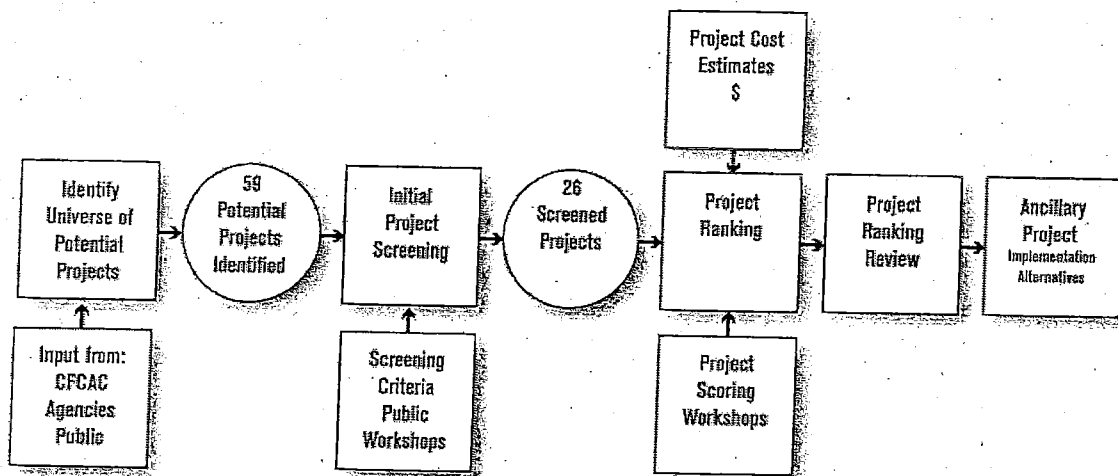
Ancillary Projects Study



CENTRAL FREEWAY REPLACEMENT PROJECT ANCILLARY PROJECTS STUDY

1. INTRODUCTION

This report documents the outcome of the Central Freeway Replacement Project Ancillary Projects Study, initiated by the San Francisco County Transportation Authority (SFCTA). The SFCTA intends to use the proceeds from the sale of parcels made available by the demolition of the Central Freeway to fund Ancillary Projects to enhance the urban fabric, calm traffic through neighborhoods, and improve transportation safety. Because the cost of constructing the universe of potential projects far exceeds the amount of funding that will be available, the SFCTA initiated the Ancillary Projects Study to develop a framework to compare potential projects. This report provides background on the Central Freeway Replacement Project; describes the process of identifying, screening, and ranking potential projects; and presents a suggested "package" of project implementation priorities. The diagram below presents a graphical summary of the overall study process.



Background

Originally, the Central Freeway was part of US 101, connecting the Bay Bridge/I-80 elevated structure to four City streets: an east-west one-way couplet consisting of Fell and Oak Streets, and a north-south one-way couplet consisting of Gough and Franklin Streets. These one-way streets connected the Central Freeway with the Sunset, Richmond, and Marina districts.

In 1989, the Loma Prieta earthquake damaged the Central Freeway, necessitating either its reconstruction or demolition. Since that time, following a vigorous civic debate, a number of ballot propositions, and years of planning, a solution known as the Octavia Boulevard Project was developed that would demolish the Central Freeway north of Market Street and replace it and the adjacent Octavia Street with a four-lane boulevard with one-way frontage roads, known as Octavia Boulevard. Concurrently, the plan



would reconstruct the Central Freeway section from Mission Street to Market Street to touch down at Market Street, directly opposite Octavia Boulevard.

Replacement of the Central Freeway with Octavia Boulevard created a number of vacant land parcels previously occupied by freeway structure. The City and County of San Francisco has dedicated the revenue from sale of these parcels for the implementation of Ancillary Projects in the area. The intent of implementing the Ancillary Projects is to protect nearby neighborhoods and improve the function of Octavia Boulevard.

Purpose

According to the most recent projections, the sale of the vacant parcels will generate an estimated \$5.75 Million in revenue. However, the total cost of constructing all of the Ancillary Projects proposed would far exceed this amount. Therefore, the SFCTA determined the need for a mechanism for prioritizing the projects.

The process of prioritizing all of the potential projects is very complex. First, individual citizens and various organizations representing different and sometimes opposing, economic, geographic, neighborhood, and political interests proposed potential projects. In many cases, the type and scope of the projects proposed were difficult to compare against each other because they would afford different benefits (e.g., beautifications versus safety). The SFCTA developed the Ancillary Projects Study to assist the interest groups in achieving a consensus regarding project prioritization.

2. IDENTIFICATION OF ANCILLARY PROJECTS

The first step in the Ancillary Projects Study was to develop a comprehensive list of potential Ancillary Projects to consider for implementation. A key component to identifying this list was community and public agency involvement, particularly the Central Freeway Citizens Advisory Committee (CFCAC). This body consists of representatives from various business, economic, political, and neighborhood interests and was assembled by the SFCTA at the early stages of planning for the Central Freeway project to provide a diverse range of input. The CFCAC provided valuable input with respect to developing a list of potential Ancillary Projects and to conducting this study, in general. Adopted minutes from all CFCAC meetings conducted during the course of the Ancillary Projects Study are provided in Appendix A.

The ultimate list of potential projects included input from the SFCTA; the CFCAC; a number of City departments, including the Department of Public Works (DPW), the Department of Parking and Traffic (DPT), the Planning Department, and Muni; numerous neighborhood organizations; and members of the public.

Prior to initiating the Ancillary Projects Study, with the assistance of the CFCAC, the SFCTA compiled a list of 10 potential projects. Research into projects recommended as part of previous studies in the area, as well as a disaggregation of some of the original 10 projects, yielded an additional 30 projects, bringing the list of potential projects to 40.

This list was circulated among the Central Freeway Citizens Advisory Committee (CFCAC), various neighborhood organizations, and a number of City departments, including the Department of Public Works (DPW), the Department of Parking and Traffic (DPT), the Planning Department, and Muni, to solicit additional input and to ensure that the list of projects that would be considered in this study was



complete. Nearly every group responded providing valuable input to the preliminary list of potential projects. This process identified an additional 19 projects plus one optional alternative to an already-suggested project, bringing the total number of potential Ancillary Projects to 59. These projects can be classified into the following six groups:

- A. Right-of-Way Improvements:** This classification includes projects related to safety and includes bulb-outs, crosswalks, enhanced lighting, bike lanes, and other amenities that generally enhance safety.
- B. Traffic Calming Projects:** These projects are generally intended to reduce the amount and speed of traffic using neighborhood streets that are not intended to carry large volumes of fast-moving traffic.
- C. Transportation Operational Improvements:** These projects are intended to improve the capacity of transportation facilities through such features as additional traffic lanes, signal priority, and new streets.
- D. Neighborhood Character/Urban Fabric Improvements:** These projects generally aim to improve the character of a neighborhood through such means as providing public gathering places and improving aesthetics.
- E. Studies:** Some of the projects suggested were not discrete projects, but were rather suggestions for larger-scale changes to the transportation and circulation system that would require a significant amount of study before the project's feasibility and details could be assessed. Because of this, for purposes of prioritization as Ancillary Projects, a separate category for studies was created.
- F. Projects Already Part of the Central Freeway/Octavia Boulevard Project:** Some of the Ancillary Projects suggested were already included in the Central Freeway/Octavia Boulevard Project and were already scheduled to be funded and implemented. No additional analysis of these projects was necessary. Therefore, a separate category for these already-funded projects was created so that interested parties could see why some projects suggested as Ancillary Projects were not given further consideration.

Appendix B presents a list and brief description of potential Ancillary Projects along with figures depicting their locations. This final list of projects was presented to members of the public and the CFCAC on February 28, 2005. The CFCAC recommended adoption of this list of potential Ancillary Projects for use in the project prioritization.

3. INITIAL PROJECT SCREENING

The prioritization process occurred in two stages. The first stage was to develop broad screening criteria, through which individual projects must pass before moving to the ranking stage. The second stage was the actual project ranking. This section describes the initial screening criteria, their development process, and the resulting list of screened Ancillary Projects.

The design of the initial project screening aimed to eliminate projects that did not fit within the overall goals of the Ancillary Projects. Only projects that complied with all of the initial screening criteria received further consideration as potential Ancillary Projects. A preliminary list of initial project



screening criteria was presented to the public and the CFCAC in December 2004. Through a series of public meetings and workshops, members of the public and the CFCAC provided input and suggested modifications to the initial project screening criteria. A final list of the initial screening criteria was presented to the public and the CFCAC on January 24, 2005. The CFCAC recommended use of this list to perform an initial screening on the 59 potential Ancillary Projects.

The initial project screening criteria are as follows:

A. Related to Central Freeway/Octavia Boulevard

The project must be related to mitigating impacts caused by the replacement of the Central Freeway Ramp and Octavia Boulevard.

B. Defined as a Project

Ancillary Projects must be defined as discrete projects, not studies or programs.

C. Compatible with Regulations and Plans

The project must be compatible with applicable land use regulations and transportation plans.

D. Conforms with Design Standards

The project must meet appropriate design standards for multi-modal facilities.

E. Environmentally Feasible

The project must not result in negative environmental impacts.

F. No Right-of-Way Acquisition

The project cannot require any land purchases.

G. Constructed within Defined Timeframe

The project must be environmentally cleared (if appropriate), designed, and constructed within a maximum of three years.

The 59 projects were screened through these seven criteria. Thirty-three projects did not pass the initial screening, including all projects in the "Transportation Operational Improvements" and "Study" categories. This screening left 26 potential Ancillary Projects for the next step of prioritization. One of the 26 projects, related to providing street trees on Valencia Street to screen the freeway structure from the street, had two alternative descriptions, so the actual number of projects was 27.

The full list of screening criteria and the results of the project screening is included in Appendix C. This appendix includes all projects, including projects that passed all of the screening criteria and projects that were "screened out." The list describes the failed criteria for projects that did not pass one or more screening criteria. A list of the 26 remaining projects is provided in Table 1. This table shows the project identification number, a letter signifying the project category as described earlier (e.g., "A" for right of way improvements, "B" for traffic calming, etc.), a project description, and a cost estimate, developed by the San Francisco DPW.



Table 1
List of "Screened" Ancillary Projects

Number	Description	Estimate
A1	8 th /Howard & 10 th /Harrison Sidewalk Bulb-outs - The FHWA PedSafe Project identified sidewalk bulb-out improvements for these intersections.	\$1,084,800
A2	Miscellaneous Signal Upgrades - Signal upgrades including construction of mast arms, pedestrian signals, and new signals at up to 23 intersections (Full Signal Upgrade: 13 th /South Van Ness, 14 th /Guerrero, 14 th /South Van Ness, Hayes/Van Ness, Hayes/Webster, Haight/Webster, Market/Gough, Duboce/Guerrero, Gough Page. Pedestrian Signals Only: 7 th /Harrison, 8 th /Bryant, 9 th /Harrison, 10 th /Bryant, 11 th /Harrison, 12 th /Folsom, 13 th /Folsom, 14 th /Folsom, Fell/Van Ness. Pedestrian Signals and Mast Arms: Duboce/Valencia)	\$3,397,000
A3	Area-wide Pedestrian Improvements (Phase I) - Provide widened sidewalks, bulbouts, and other pedestrian improvements at two of four high-priority intersections as identified in the Better Neighborhoods 2002 study (Market/Van Ness and Mission/Van Ness)	\$1,375,000
A4	Area-wide Pedestrian Improvements (Phase II) - Provide widened sidewalks, bulbouts, and other pedestrian improvements at eight of ten moderate-priority intersections as identified in the Better Neighborhoods 2002 study (Market/Buchanan, Market/Laguna, Market/Gough, Market/Franklin, Market/Polk, McCoppin/Otis, Mission/Duboce, and Division/Howard)	\$2,247,100
A5	Area-wide Pedestrian Improvements (Phase III) - Provide widened sidewalks, bulbouts, and other pedestrian improvements at fourteen intersections as identified in the Better Neighborhoods 2002 study and suggested by members of the CAC (Buchanan/Fell, Buchanan/Oak, Laguna/Fell, Laguna/Oak, Gough/Hayes, Gough/Fell, Gough/Oak, Gough/Page, Franklin/Hayes, Franklin/Fell, Franklin/Oak, Van Ness/Fell, Mission/11 th , Mission/10 th).	\$4,245,200
A6	Signal Modifications for Access to Bike Lane Linking SOMA and Octavia Boulevard - Modify intersection of Valencia/McCoppin Streets to provide a protected signal phase for bicyclists to access the bike lane connecting Valencia Street and Octavia Boulevard. The actual bicycle lane will be constructed as part of the Octavia Boulevard project.	\$35,100
A7	Improve Market Street Bike Lanes (8 th to Octavia) - Provide continuous bicycle lanes along Market Street from 8 th Street to Octavia Boulevard.	\$55,600
A8	Bike Lane on Westbound or Eastbound DuBoce Street between Valencia and Market Streets - Reconfigure this stretch of Duboce and provide either eastbound or westbound bike lanes through removal of one traffic lane.	\$64,800
A9	Northbound Valencia Street at Market Street - Provide left-turn from northbound Valencia Street to Market Street. This left-turn would connect all roadway users, but especially bicycle lanes from Valencia Street to Octavia Boulevard.	\$414,700
A10	Repaint Crosswalks and Enhance Intersection Lighting - Repaint crosswalks and provide improved intersection lighting at three intersections in SoMA. (11 th /Folsom, 12 th /Folsom, 11 th /Harrison)	\$173,700
A11	Bulbouts on Gough, Franklin, Oak, and Fell Streets - Construct bulbouts at various locations on Gough, Franklin, Oak, and Fell Streets	(Included with A5)
A12	Red Light Enforcement Cameras at Market/Octavia - Install Red Light Enforcement Camera at Market/Octavia	\$225,400
B1	McCoppin Streetscape Improvements - Reduce the number of vehicular traffic lanes from four to two, and increase the sidewalk width accordingly. Other optional treatments along McCoppin Street include providing angled parking, bulb-outs, and a chicane.	\$1,162,800 (Original)
B2	Pearl/Elgin Park Traffic Calming - Traffic calming measures may include one-way designation, other signage, chicanes, speed humps, or bulb-outs	\$584,000 (Revised)
B3	Stevenson Traffic Calming - Traffic calming measures may include one-way designation, other signage, chicanes, speed humps, or bulb-outs	\$355,300
		\$172,800



Table 1, Continued
List of "Screened" Ancillary Projects

Number	Description	Estimate
D1	McCoppin Community Park/Public Space - Convert the former McCoppin roadway right-of-way into a community public space, possibly as a park or garden consisting of low terraces conforming to the existing slope	\$874,800
D2(a)	Valencia Street Corridor (Option A) - Install a landscaped center median featuring Canary Island Date Palms on Valencia Street between McCoppin Street and Duboce Avenue	\$2,178,700
D2(b)	Valencia Street Corridor (Option B) - Install a total of four landscaped bulbouts on Valencia Street. Two would be located on the east and west sides of Valencia north of the freeway and two would be located on the east and west sides of Valencia south of the freeway and would feature Canary Island Date Palms	\$334,200
D3	Caltrans Right-of-Way - Use the Caltrans parcels beneath the new Central Freeway structure for uses other than parking (unless parking revenue could fund additional maintenance of ancillary projects), such as recreational open space (for example, a dog run) and/or temporary structures housing cultural arts programs	\$2,500,000 (Original) \$1,944,000 (Revised)
D4	Southside 13 th Street Sidewalk ADA Improvements - Columns from the new freeway structure will reduce the sidewalk width between the column and fronting properties to four feet. This project would increase the sidewalk width by reducing the number of traffic lanes. Traffic signal equipment relocation, restriping, construction of the sidewalk are required for this project	\$189,700
D5	Provide Street Trees Along Specific Sidewalks (Phase I) - Provide additional street trees closely planted between pedestrians and vehicles along the higher priority of two sets of streets identified in the Better Neighborhoods 2002 study (Includes: Van Ness, from Mission to Hayes; Market, from Dolores to 9th; Mission, from Octavia to 9th; Valencia, from 14th to Market; and Hayes, from Buchanan to Van Ness)	\$180,100
D6	Provide Street Trees Along Specific Sidewalks (Phase II) - Provide additional street trees closely planted between pedestrians and vehicles along the lesser priority of two sets of streets identified in the Better Neighborhoods 2002 study (Includes: Fell, from Buchanan to Van Ness; Oak, from Buchanan to Van Ness; Duboce, from Dolores to Mission; Mission, from 14th to Market; Gough, from Hayes to McCoppin; Franklin, from Hayes to Market; and Otis Street)	\$298,700
D7	Improve Streetscape Along Market Street between Sanchez and 9 th /Larkin - Improve the visual appearance of Market Street through more consistent tree planting, better tree maintenance, de-cluttering of sidewalks, and new pedestrian amenities	\$206,300
D8	Mark Important Intersections on Market Street with Streetscape Elements - Outfit the intersections of Market Street with Van Ness Avenue, Octavia Boulevard, and Dolores Street with special features including corner plazas, bollards, and decorative screen walls	\$262,200
D9	Pedestrian Scale Lighting Around Freeway Ramp Along Valencia Street - Provide substantial lighting underneath freeway ramps, particularly on Valencia Street, to encourage its role as a pedestrian corridor between Market Street and the Mission District and to improve security	\$376,700
D10	Additional Street Trash Receptacles near Grocery Stores on 13 th Street - Install additional trash receptacles near grocery stores on 13th Street	\$8,100
D11	"Beautification" of Median Underneath Central Freeway Structure from Bryant to Valencia Street - Provide plants and flowers, as feasible, in the median of the roadway underneath the Central Freeway (13th Street) from Bryant to Valencia Street	\$219,800

Total Original Cost of All Projects \$22,638,600



4. PROJECT RANKING CRITERIA

The second stage in the project ranking process involved performing a more detailed analysis on the 26 remaining potential Ancillary Projects. The first step was to develop the ranking criteria and determine the relative weight of each of the criteria. This section describes the process through which the ranking criteria were developed and weighted.

Criteria Development

In several of the initial CFCAC meetings, members of the CFCAC and the public overwhelmingly voiced concern that the objective of the Ancillary Projects Study should be to "repair the urban fabric" that was damaged by the Central Freeway. In addition, a number of the potential Ancillary Projects related specifically to transportation issues. Since the amount of money available for Ancillary Projects would fund implementation of only a fraction of the 26 remaining projects, the CFCAC agreed to three general categories of screening criteria:

- Project Performance Related to Urban Fabric
- Project Performance Related to Transportation
- Project Performance Related to Schedule and Cost/Benefit

Within each of these general categories, with input from City agencies, members of the public, and the CFCAC, additional subcategories were developed. These subcategories were designed to better define the values that the public and CFCAC held in ranking projects.

For "project performance related to urban fabric," the CFCAC identified the following sub-categories:

- Neighborhood Enhancements
- Pedestrian and Bicyclist Safety and Comfort

For "project performance related to transportation," the CFCAC identified the following sub-categories:

- Livability and Traffic
- City-wide Vehicular/Mass Transit Travel

The CFCAC did not identify additional sub-categories for "project performance related to schedule and cost/benefit."

After definition of the main categories and sub-categories, the CFCAC, members of the public, and representatives from City agencies worked together to identify specific performance criteria. These performance criteria would be the standards for ranking potential Ancillary Projects. A draft version of the performance criteria was presented to the CFCAC and members of the public. After much discussion and public comment, a final list of criteria was presented to the CFCAC on February 28, 2005. Ultimately, this list included 14 total ranking criteria, as shown on the next two pages. The CFCAC recommended use of these criteria for purposes of ranking the 26 remaining potential Ancillary Projects.



1. Project Performance Criteria Related to Urban Fabric

A. Neighborhood Enhancements

Ancillary Projects improving the neighborhood's character and community identity help restore its urban fabric.

Improves aesthetic qualities (e.g., reduces potential for blight, beautifies neighborhood)

Promotes healthy activities (e.g., provides inviting and enjoyable atmosphere for walking, bicycling, sitting, meditation)

Encourages sociability among neighbors (e.g., encourages gathering and sense of community)

B. Pedestrian and Bicyclist Safety and Comfort

Ancillary Projects improving safety and comfort for pedestrians, persons with disabilities, and bicyclists are community assets.

Improves sense of personal security and/or comfort (e.g., provides buffers or illumination, increases pedestrian presence, reduces congestion on bike routes)

Removes barriers/improves connections for pedestrians, disabled persons or bicyclists (e.g., widens pathways, fills in pathway gaps, provides safer crossings)

Improves pedestrian and disabled safety (e.g., reduces collision potential, benefits higher volume of pedestrians and disabled persons):

- At a location with a collision rate higher than area average
- At a location with a collision rate lower than the area average
- At a location with substantial pedestrian volumes
- At a location with minor pedestrian volumes

Improves bicycle safety (e.g., reduces collision potential, benefits higher traveled routes):

- Along a designated route
- Not along a designated route

2. Project Performance Criteria Related to Transportation

A. Livability and Traffic

Ancillary Projects calming vehicular travel on streets serving local traffic improves the quality of life for nearby residents.

Reduces excessive "cut-thru" traffic on local streets (e.g., minimizes amount of non-local traffic)

Reduces excessive vehicle travel speeds on local streets (e.g., reduces average travel speeds to 20 – 25 mph)

Reduces frequency and/or severity of auto-related collisions (e.g., decreases potential for collisions through traffic calming)



B. City-Wide Vehicular/Mass Transit Travel

Ancillary Projects enhancing mass transit performance improves access for the community. Ancillary Projects may result in some decrease in transportation system performance; however, substantial increases in traffic congestion, particularly along transit routes, are not acceptable.

Improves mass transit vehicle travel times (e.g., eliminates transit bottleneck or provides enhancements along a transit route):

- At a specific location
- Along a transit route

Does not result in substantial traffic congestion (e.g., causes no impact to traffic system performance, results in minor degradation, causes significant degradation, results in system failure):

- Does not degrade traffic system performance
- Causes minor degradation to traffic system performance
- Causes significant degradation to traffic system performance
- Causes a capacity decrease that could lead to failure of traffic system links or intersections on streets heavily used by transit

3. Project Performance Criteria Related to Benefit-to-Cost and Implementation

Ancillary Projects that provide a high amount of benefit for their cost are preferred. In addition, Ancillary Projects that can be implemented within one year can result in immediate benefits.

Results in high amount of benefit compared to cost (calculated by taking the sum of a project's Urban Fabric and Transportation scores and dividing this sum by the project's estimated cost, which is then compared to the result obtained for all other projects):

- Highest 20%
- Next highest 20%
- Next highest 20%
- Next highest 20%
- Lowest 20%

Can be implemented within one year (e.g., provides ability for immediate construction and benefits)

Criteria Weighting

Because some of the project ranking criteria were more important than others, the CFCAC was asked to weight the different criteria. Each CFCAC member distributed 100 total points among the criteria, indicating their relative importance to each member. One of the criteria, related to projects that cause traffic congestion, is a "disbenefit." For this criterion, CFCAC members assigned any number of negative points from 0 to -50.



The results of each CFCAC member's scoring and the group's average score for each criteria were averaged and displayed to the CFCAC and members of the public. The weighting scores for each criterion were similar for each CFCAC member. This process allowed the CFCAC to establish a consensus regarding criteria weighting and ultimately recommend use of these average weightings in the project scoring process. The recommended project ranking criteria and weightings are included in Appendix D and summarized in Table 2.

Table 2
Ancillary Projects Performance Criteria Weighting

Project Scoring Criteria	Total Points Possible
1. Project Performance Criteria Related to Urban Fabric	
A. Neighborhood Enhancements	13
<i>Improves Aesthetic Qualities</i>	14
<i>Promotes Healthy Activities</i>	8
<i>Encourages Sociability Among Neighbors</i>	
B. Pedestrian and Bicyclist Safety and Comfort	11
<i>Improves Sense of Personal Security and/or Comfort</i>	7
<i>Removes Barriers/Improves Connections for Pedestrians, Disabled Persons, or Bicyclists</i>	6
<i>Improves Pedestrian and Disabled Safety</i>	5
<i>Improves Bicycle Safety</i>	
2. Project Performance Criteria Related to Transportation	
A. Livability and Traffic	9
<i>Reduces Excessive "Cut-Thru" Traffic on Local Streets</i>	9
<i>Reduces Excessive Vehicle Travel Speeds on Local Streets</i>	3
<i>Reduces Frequency and/or Severity of Auto-Related Collisions</i>	
B. Citywide Vehicular/Mass Transit Travel	6
<i>Improves Mass Transit Vehicle Times</i>	-20
<i>Does not Result in Substantial Traffic Congestion</i>	
3. Project Performance Criteria Related to Benefit-to-Cost and Implementation	5
<i>Results in High Amount of Benefit Compared to Cost</i>	4
<i>Can Be Implemented Within One Year</i>	

Ancillary Project Cost Estimates

In order to conduct cost-benefit analysis, estimated construction costs were developed. DPW staff developed construction cost estimates for each of the 26 potential Ancillary Projects. Although project descriptions for many of the potential Ancillary Projects were occasionally vague, DPW developed assumptions for each project and generated cost estimates based on those assumptions. The detailed cost estimates for each potential Ancillary Project are included in Appendix E and the total cost estimated for each project is shown in Table 1. As shown, the total cost of implementing all 26 Ancillary Projects as initially conceived is \$22.6 Million, \$16.9 Million more than the available funding.



5. PROJECT SCORING

With the list of potential Ancillary Projects screened to 26 and the project scoring criteria finalized and weighted, the next task was to score each potential Ancillary Project against each scoring criteria. The SFCTA and CFCAC recognized that this process was somewhat subjective. Therefore, it was important to ensure representation of a wide variety of opinions and interests in the scoring process. To improve the diversity of input to the scoring process, project scoring occurred during two half-day workshops held at the SFCTA and DPT offices. These workshops were open to City agencies, the CFCAC, and the public, all of whom were encouraged to attend.

Ultimately, the process involved over 100 person-hours related to discussing and scoring each project against each scoring criteria. The workshops included strong representation from members of the public, the SFCTA, DPT, DPW, Muni, the San Francisco Planning Department, the CFCAC, and the consultant team. Overall, 20 people participated in the project scoring process.

In order to ensure consistency in the scoring process, those present at the scoring workshop identified some general guidelines for scoring projects within each criteria. The results of the project scoring workshop are included in Appendix F. This appendix includes a matrix showing the individual projects, their score for each criteria, a brief description of why they achieved each score, and the total score for each project.¹

The final project scores were not intended to form the ultimate prioritization. Additional consideration must be given to implementation of specific projects. However, the final results of the project scoring do play an important part of the project implementation process. Figure 1 presents the project scores in bar chart format in order of project numbering. Figure 2 presents the project scores from highest to lowest.

Generally, projects that provided benefits to both transportation and repairing the urban fabric scored highest. Projects that provided benefits to either transportation or repairing the urban fabric, but not both, scored towards the middle. Projects that provided little or no benefit toward repairing the urban fabric or transportation scored the lowest. As a result, the three projects related to traffic calming scored highest because they provide transportation benefits by reducing cut-through traffic volumes and speeds and they help to repair the urban fabric by providing attractive physical improvements to neighborhoods.

¹ During the project scoring workshop, it was determined that Project A11 (Bulb-outs on Gough, Franklin, Oak, and Fell Streets) was already included in Project A5 (Pedestrian Improvements - Phase III). Therefore, Project A11 was not given further consideration as a stand-alone project. This brought the total number of projects to 25.



Figure 1
Total Scores
(-20 to +100)

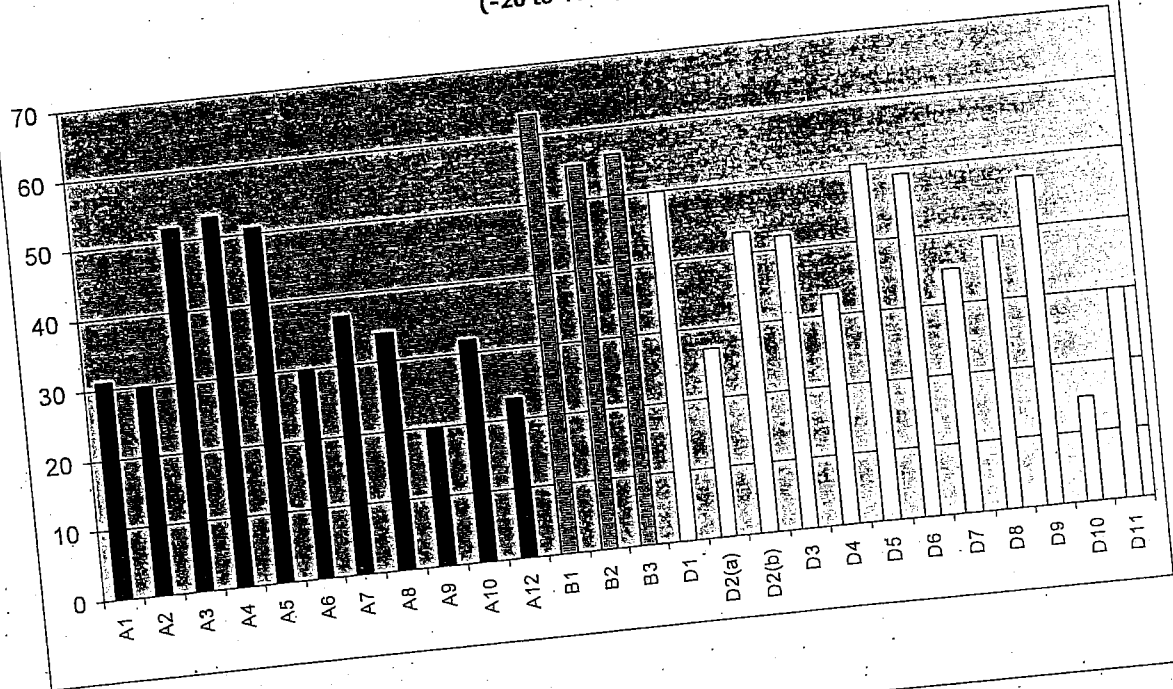
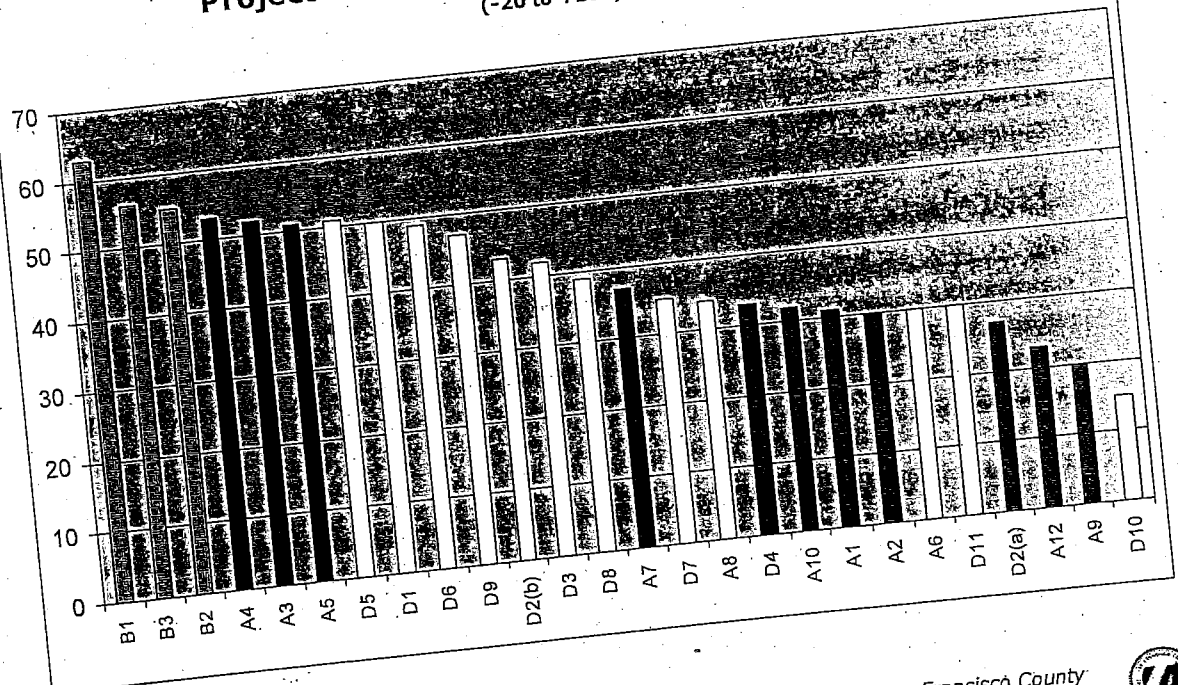


Figure 2
Project Scoring (Sorted Highest to Lowest)
(-20 to +100)



6. PROJECT IMPLEMENTATION ALTERNATIVES

The ultimate goal of the Ancillary Projects Study is to develop a set of recommendations for implementing Ancillary Projects based on community values, public consensus, and project feasibility. Although the project scoring plays an important role in developing a prioritized set of Ancillary Projects, it does not form the sole basis for implementing projects. Rather, the ranking process should assist decision-makers to develop a relative sense of higher- and lower-priority projects, by which to develop implementation strategies.

Appendix G includes a list of the potential Ancillary Projects and their costs, sorted according to their final score in the project scoring process. As shown in the appendix and in Table 1, the total estimated cost to implement all projects as initially conceived is \$22.6 Million. Thus far, only \$5.75 Million is anticipated to be available for constructing Ancillary Projects. If the projects were implemented solely based on their scoring, there would only be adequate funds to implement the first five projects, including:

- McCoppin Streetscape Improvements (Based on original cost estimate of \$1,162,800)
- Stevenson Traffic Calming
- Pearl/Elgin Park Traffic Calming
- Area-wide Pedestrian Improvements (Phase I)
- Area-wide Pedestrian Improvements (Phase II)

Implementation of the pedestrian improvement projects alone would account for \$3.62 Million, or 63 percent of the total Ancillary Projects budget. One of the main reasons that these two pedestrian improvement projects would consume such a large share of the budget is that Phase I includes improvements at two major intersections that would require a great amount of reconstruction and Phase II includes improvements at eight intersections. So, although the two pedestrian improvement projects account for nearly two-thirds of the total Ancillary Project budget, they involve improvements at 10 intersections. Using the entire Ancillary Projects budget to implement only five projects is not desirable for the City, the public, or the CFCAC. Therefore, this section presents a recommended set of improvements based on recommendations provided by the public and CFCAC.

CFCAC-Preferred and "Unbundled" Projects

Many of the potential Ancillary Projects are "packages" of improvements at several locations, bundled into a single Ancillary Project. This creates a high cost for some projects, reducing the overall number of projects that can be implemented. The recommendations below are based on input from the CFCAC regarding project selection and potential "unbundling" of some projects that include improvements at several locations.

A key goal of the Ancillary Projects Study is to identify Ancillary Projects that repair damage to the urban fabric by the Central Freeway Reconstruction. The Central Freeway and Octavia Boulevard may have major effects on redistributing traffic in the area. Because the Central Freeway and Octavia Boulevard opened in September 2005, it is still difficult to predict the effects of this traffic redistribution to a high degree of accuracy. The CFCAC is recommending deferring specific intersection



improvements until a thorough "before and after" evaluation has occurred and the true effects of the traffic redistribution of the Central Freeway and Octavia Boulevard project are known. Because the funds would not be available for at least a year, this decision is not expected to substantially delay implementation of these projects.

The highest ranking project, McCoppin Street (Project B1) received special consideration by the CFCAC. The CFCAC expressed a desire for some measure of streetscape improvements on McCoppin Street, but not to the extent assumed in the original \$1.16 Million project proposed by DPW. In response to this concern, DPW redesigned the project relying on lower cost measures that could achieve similar objectives as the original design. The revised project description was presented by DPW and approved by the CFCAC at the November 14, 2005 meeting. The revised project scope includes median islands with trees and walkways, a westbound bike lane, and parking. The cost for this project scope is estimated at \$584,000.

The CFCAC also spent considerable time discussing the Caltrans Right-of-Way project (Project D3). The Mayor's Office of Economic Development refined a plan for use of the right-of-way that included recreational uses. The cost estimate for the refined plan is \$1,944,000. The CFCAC approved this project at the November 14, 2005 meeting.

The CFCAC has recommended implementation of the following projects:

- McCoppin Streetscape Improvements (\$584,000)
- Stevenson Traffic Calming (\$173,000)
- Pearl/Elgin Park Traffic Calming (\$355,000)
- Street Trees Along Specific Sidewalks (Phase I) (\$180,000)
 - Van Ness Avenue, from Mission Street to Hayes Street
 - Market Street, from Dolores Street to 9th Street
 - Mission Street, from Gough Street to 9th Street
 - Valencia Street, from 14th Street to Market Street
 - Hayes Street, from Buchanan Street to Van Ness Avenue
- McCoppin Community Garden (\$875,000)
- Provide Street Trees Along Specific Sidewalks (Phase II) (\$299,000)
 - Fell Street, from Buchanan Street to Van Ness Avenue
 - Oak Street, from Buchanan Street to Van Ness Avenue
 - Duboce Street, from Dolores Street to Mission Street
 - Mission Street, from 14th to South Van Ness Avenue
 - Gough Street, from Hayes Street to McCoppin Street
 - Franklin Street, from Hayes Street to Market Street
 - Otis Street
- Pedestrian-scale Lighting Underneath and Around Freeway Ramp on Valencia Street (\$377,000)



- Canary Island Date Palms on Valencia Street Sidewalks to Visually Screen Freeway Structure (\$334,000)
- Caltrans' Right-of-Way Improvements (\$1,944,000)
- Bike Lanes on Market Street from 8th Street to Octavia Boulevard (\$56,000)
- Southside 13th Street Sidewalk ADA Improvements (\$190,000)
- "Protected" Northbound Left-Turn Signal Phase at Valencia Street/McCoppin Street for Bicyclists Turning Onto Bicycle Lane Connecting to Octavia Boulevard (\$35,000)

The total cost of implementing these projects is estimated to be \$5.40 Million, just under the total anticipated budget of \$5.75 Million. As described earlier, in this optional implementation package, the project ranking process does not form the ultimate order of project priority. However, it is interesting to observe that the projects listed above, recommended by the CFCAC, generally include the projects ranked the highest by the CFCAC during the ranking process.

The CFCAC recommends that the City aggressively pursue matching funds for as many of the above projects as possible, particularly for the most expensive projects such as the Caltrans' Right-of-Way Improvements. The CFCAC also suggests that any surplus budget be used to address potential pedestrian safety needs at some of the intersections identified in Projects A3, A4 and A5.

7. NEXT STEPS

Following approval of this plan by the Authority Board, the next steps for moving forward with implementation of Ancillary Projects are as follows:

- The Authority and lead agencies will continue to work towards funding Ancillary Projects through the sale of vacant parcels.
- The Authority will seek further input from the CFCAC and public to ultimately identify an implementation strategy, based on the recommendations presented in this report, by which Ancillary Projects will be funded.
- The Authority will seek to leverage other funding sources to maximize the spending power of the Ancillary Projects budget.
- The Authority and lead agencies will continue to further refine Ancillary Projects. The Authority and lead agencies will continue to seek input from key stakeholders (e.g., the CFCAC, neighbors, the public, businesses, bicyclists, pedestrians, etc.) during design refinement of the Ancillary Projects.



ACKNOWLEDGEMENTS

The completion of Ancillary Projects Study for Central Freeway Replacement Project would not be possible without the support and input from the following entities and individuals:

San Francisco County Transportation Authority Board

Jake McGoldrick, Chair
Fiona Ma, Vice Chair
Michela Alito-Pier
Tom Ammiano
Chris Daly
Bevan Duffy
Sean Elsbernd
Sophie Maxwell
Ross Mirkarimi
Aaron Peskin
Gerardo Sandoval
Jose Luis Moscovich, Executive Director

Central Freeway Citizens Advisory Committee

William Boggs
Ana Canillas
Lynne Creighton
Paul Epstein
Ed Evans
Ephraim Hirsch
Meea Kang
Robin Levitt
Jim Meko
Ron Miguel
Luis Pardo
Norm Rolfe
Lynn Valente

San Francisco County Transportation Authority Staff

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David Parisi, Project Manager, Parisi Associates
Jeremy Thornton, Parisi Associates
Chris Mitchell, Fehr and Peers
John Wilson, Wilson Engineering



APPENDICES

All Appendices are included in the attached compact disk:

- A. CFCAC Meeting Minutes
- B. Original Potential Ancillary Projects
- C. Ancillary Projects Screening Criteria and List of Screened Projects
- D. Ancillary Projects Scoring Criteria
- E. Ancillary Projects Cost Estimates (Screened Projects)
- F. Ancillary Projects Scoring Matrix (Screened Projects)
- G. Ancillary Projects List and Cost Estimates, Sorted by Score (Screened Projects)



**STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
AIRSPACE LEASE
MARLER - JOHNSON PARK AGREEMENT
04-SF-101-26**

SUMMARY OF LEASE PROVISIONS

LESSOR: CALIFORNIA DEPARTMENT OF TRANSPORTATION

LESSEE (local agency): CITY AND COUNTY OF SAN FRANCISCO

PREMISES: Lease Area No. SF-101-26, as shown on Exhibit A, located under SF-101 between Otis and Stevenson Streets, in the City of San Francisco, County of San Francisco, State of California (Article 1).

LEASE TERM: 20 years plus one 10-year extension option (Article 2)

MONTHLY LEASE RATE: \$10,000.00 (Article 3)

ADJUSTMENT TO LEASE RATE: 2% annual escalation (Article 3.2)

SECURITY DEPOSIT: \$0.00. (Article 14)

PUBLIC USE: City of San Francisco Maintained Public Skate Park

LIABILITY INSURANCE: \$25,000,000 - Self Insured (Article 8)

ADDRESS FOR NOTICES:

To LESSOR:

Via US Mail:

Department of Transportation
Right of Way Airspace MS 11
P.O. Box 23440
Oakland, CA 94623-0440

In Person:

Department of Transportation
Right of Way Airspace MS 11
111 Grand Avenue
Oakland, CA 94612-3771

To LESSEE:

Director of Property
City & County of San Francisco
25 Van Ness, Suite 400
San Francisco, CA 94102

LESSEE Contact: John Updike Office ph. (415) 554-9850

ARTICLE 1	LEASE; PREMISES
ARTICLE 2	TERM
ARTICLE 3	LEASE RATE
	3.1 Annual Lease Rate
	3.2 Adjustment to Annual Lease Rate
ARTICLE 4	USE
	4.1 Specified Use
	4.2 Condition of Premises
	4.3 Prohibited Uses
	4.4 LESSOR'S Rules and Regulations
	4.5 Water Pollution Control
ARTICLE 5	IMPROVEMENTS
	5.1 Authorized Improvements
	5.2 Required Sign
	5.3 Removal of Improvements
ARTICLE 6	REMOVAL OF PERSONAL PROPERTY
ARTICLE 7	MAINTENANCE AND REPAIRS
	7.1 LESSEE'S Obligations
	7.2 LESSOR'S Rights
ARTICLE 8	INSURANCE
	8.1 Exemption of LESSOR from Liability
	8.2 Liability Insurance
	8.3 Failure to Procure and Maintain Insurance
ARTICLE 9	PAYMENT OF TAXES
ARTICLE 10	RIGHT OF ENTRY
	10.1 Inspection, Maintenance, Construction, and Operation of Freeway Structures
	10.2 Future Transportation Project
	10.3 Retrofitting of Freeway Structures
ARTICLE 11	DEFAULT
	11.1 Default
	11.2 LESSOR'S Remedies
ARTICLE 12	ASSIGNMENTS, SUBLEASES AND ENCUMBRANCES
ARTICLE 13	NONDISCRIMINATION
ARTICLE 14	SECURITY DEPOSIT
ARTICLE 15	ADDITIONAL PROVISIONS
	15.1 Quiet Enjoyment
	15.2 Captions, Attachments, Defined Terms
	15.3 Entire Agreement
	15.4 Severability
	15.5 Time is of the Essence
	15.6 Binding Effect; Choice of Law
	15.7 Waiver
	15.8 Notices
	15.9 No Reservation
	15.10 Force Majeure
	15.11 Termination of Lease
ADDENDUM TO LEASE – CITY OF SAN FRANCISCO ADDITIONAL CLAUSES	
EXHIBIT A – Premises	
EXHIBIT B – Initial Improvements	
EXHIBIT C – 2010 Caltrans Standard Plans – Drain Inlets	

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
AIRSPACE LEASE – MARLER-JOHNSON PARK AGREEMENT

THIS LEASE (the "Lease"), dated April 22, 2013, is by and between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "LESSOR," and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, a bonafide public agency, hereinafter called "LESSEE."

WITNESSETH

It has been determined that the intended and described purpose of this leasehold is a proper use by a bonafide public agency pursuant to Section 14013 of the Government Code of the State of California; and

For and in consideration of the rental and the covenants, conditions, agreements, and stipulations set forth herein, LESSOR and LESSEE agree as follows:

ARTICLE 1. LEASE; PREMISES

Subject to the provisions of this Lease, LESSOR leases to LESSEE and LESSEE leases from LESSOR those certain Premises situated in the City of San Francisco, County of San Francisco, State of California, sometimes designated as lease area number SF-101-26, said demised area shown on the map marked Exhibit A.

EXCEPTING THEREFROM all those portions of the above-described Premises occupied by the supports and foundations of the existing structure.

ALSO EXCEPTING THEREFROM all that portion of said Premises above a horizontal plane 10 feet below the underside of the superstructure of the existing structure, which plane extends to a line 15 feet, measured horizontally, beyond the outermost protrusion of the superstructure of said existing structure.

This Lease is subject to the following (collectively, the "Existing Encumbrances"): (1) all easements, covenants, conditions, restrictions, reservations, rights of way, liens, encumbrances and other matters of record, (2) all matters discoverable by physical inspection of the Premises or that would be discovered by an accurate survey of the Premises and (3) all matters known to LESSEE or of which LESSEE has notice, constructive or otherwise including, without limitations, those shown on attached Exhibit A. LESSOR hereby represents that, except for this Lease, it has not issued any leases, permits, easements or any other agreements that provide any third party with the right to use or occupy any portion of the Premises during the term of this Lease. If LESSEE discovers any Existing Encumbrance that materially prevents LESSEE from using the Premises for the uses permitted under Section 4.1 of this Lease, LESSEE shall have the right to terminate this Lease by delivering written notice of such termination to LESSOR.

ARTICLE 2. TERM

The term of this Lease shall be for twenty years commencing on the later date ("Commencement Date") to occur of (i) the Construction Date (defined as follows) and (ii) the date this Lease has been fully executed and delivered and LESSOR has issued an encroachment permit (the "Encroachment Permit") to LESSEE for the installation of the improvements described in the attached "Exhibit B" (the "Initial Improvements"). The Construction Date shall be the earlier to occur of (a) OCTOBER 1, 2013, and (b) the ninetieth (90th) day immediately following LESSEE's award of a contract for the construction of the Initial Improvements.

The term of this Lease shall expire on the twentieth (20th) anniversary of the Commencement Date ("Expiration Date"), unless earlier terminated by LESSEE or by LESSOR pursuant to the terms of this Lease. At LESSEE'S option, and with LESSOR'S concurrence, this Lease may be renewed for one additional ten-year option by LESSEE delivering written notice of its exercise of such option no less than 180 days prior to the date such option term is to commence. LESSEE shall have the right to terminate its exercise of its option to extend the term of this Lease if it does not agree to the new rent for such extended term determined pursuant to the terms and conditions in Section 3.4.

ARTICLE 3. LEASE RATE

3.1 Minimum Monthly Rent

LESSEE shall pay to LESSOR as minimum monthly rent, without deduction, setoff, prior notice, or demand, the sum of \$ 10,000.00 per month, in advance on the first day of each month, commencing on the Commencement Date and continuing during the term. Minimum monthly rent for the second rent year and beyond shall be adjusted pursuant to section 3.2 below.

Minimum monthly rent for the first month or portion of it shall be paid on the Commencement Date. Minimum monthly rent for any partial month shall be prorated at the rate of 1/30th of the minimum monthly rent per day. All rent checks shall have printed on their face the following tenancy reference number 04-SF-101-26-07 and shall be paid to LESSOR at the following address:

Via Mail:

Department of Transportation
Attn: Cashier
P.O. Box 168019
Sacramento, CA 95816

Via Hand Delivery:

Department of Transportation
Attn: Cashier
1820 Alhambra Blvd., 2nd Floor
Sacramento, CA 95816

OR Department of Transportation
Right of Way Airspace Development
111 Grand Avenue, MS 11
Oakland, CA 95612

3.2 Adjustment to Rent

The minimum monthly rent provided for in Section 3.1 shall be subject to an adjustment on

each anniversary of the Commencement Date, provided, however, that if the Commencement Date does not occur on the first day of a month, such adjustment shall occur on each anniversary of the first day of the month immediately following the Commencement Date. For example, if the Commencement Date occurs on July 1, 2013, rent shall be adjusted for the remainder of the initial term of the Lease as follows:

Table 4.2.1

<u>Time Period</u>	<u>Rent</u>
July 1, 2014 through July 31, 2014	\$10,200.00
July 1, 2015 through July 31, 2015	\$10,404.00
July 1, 2016 through July 31, 2016	\$10,612.00
July 1, 2017 through July 31, 2017	\$10,824.00
July 1, 2018 through July 31, 2018	\$11,041.00
July 1, 2019 through July 31, 2019	\$11,262.00
July 1, 2020 through July 31, 2020	\$11,487.00
July 1, 2021 through July 31, 2021	\$11,717.00
July 1, 2022 through July 31, 2022	\$11,951.00
July 1, 2023 through July 31, 2023	\$12,190.00
July 1, 2024 through July 31, 2024	\$12,434.00
July 1, 2025 through July 31, 2025	\$12,682.00
July 1, 2026 through July 31, 2026	\$12,936.00
July 1, 2027 through July 31, 2027	\$13,195.00
July 1, 2028 through July 31, 2028	\$13,459.00
July 1, 2029 through July 31, 2029	\$13,728.00
July 1, 2030 through July 31, 2030	\$14,002.00
July 1, 2031 through July 31, 2031	\$14,282.00
July 1, 2032 through July 31, 2032	\$14,568.00
July 1, 2033 through July 31, 2033	\$14,859.00

3.3 LESSOR's Compensation upon Assignment, Transfer or Sublease of LESSEE's Leasehold

(a) In the event that LESSOR permits LESSEE to voluntarily assign, transfer or sublease any of LESSEE's rights in the Premises, after recovering its costs incurred in connection with such assignment, transfer or sublease, LESSEE shall pay to LESSOR compensation in connection with the transaction in an amount equal to fifty percent (50%) of any and all consideration, whether in present payments or in future payments, which LESSEE receives from an assignee, transferee or sublessee in excess of the amount of rent LESSEE is obligated to pay to LESSOR under this Lease; provided, however, that LESSEE shall have the right from time to time, upon notice to but without the consent of LESSOR, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission or agency of LESSEE for any or all of the uses permitted under this Lease without payment of any such compensation and without obtaining LESSOR's consent.

(b) Payment by LESSEE of the amount of compensation required under this Section 3.3 is a condition to LESSOR's giving its consent to any assignment, transfer or sublease under Article 16, and LESSOR may withhold its consent to any such assignment, transfer or sublease until this compensation has been paid. In addition, before LESSOR gives its consent to any such transaction, LESSEE shall deliver to the assignee, transferee or sublessee a written summary of all sums due and owing to LESSOR under this section and shall deliver to LESSOR a written acknowledgement by the assignee, transferee or sublessee that said person affirms that the sums are due and owing to LESSOR and that said person accepts responsibility for ensuring that such sums are paid directly to LESSOR.

3.4 Reevaluation of Minimum Monthly Rent For Extended Term

It is the intent of LESSOR and LESSEE to maintain a fair market lease rate during any extended term of this Lease. If LESSEE exercises its option to extend the term of this Lease pursuant to Article 2, at the sole election of LESSOR prior to the commencement of such extended term, a fair market lease rate for the first year of such extended term may be determined in the manner set forth below and shall be established as the minimum monthly rent commencing immediately following such determination as provided for below. The minimum monthly rent established for the first year of an extended term by this section shall be subject to a 2% annual adjustment on each anniversary of the commencement of such extended term.

The term "fair market lease rate" means the most probable rental price a ten (10) year lease for the Premises, excluding the Initial Improvements and any other improvements constructed by LESSEE thereon pursuant to this Lease, should bring in a competitive and open market under all conditions requisite to a fair transaction, with each party acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus, and leasing with full knowledge of the purpose and uses to which the Premises is being put and the restrictions on use contained in this Lease.

The parties intend to establish the fair market lease rate through negotiation. In an effort to encourage productive negotiations, within 30 days after LESSEE notifies LESSOR that it wishes to exercise its right to extend the term of this Lease pursuant to Article 2, LESSOR shall have the right to notify LESSEE of its intent to reevaluate the property and provides LESSEE with its proposed new rate for the extended term. If LESSOR and LESSEE have not mutually agreed upon the fair market lease rate for the Premises for the first year of an extended term at least 30 days immediately prior to the commencement of such extended term, then LESSOR shall unilaterally set the fair market lease rate based on data collected from a rent survey of reasonably comparable Caltrans and non-Caltrans owned properties and shall use the highest per square foot rate paid by a LESSEE for a comparable property with a comparable use and for a period equal to the applicable term within approximately a two mile radius of the subject Premises.

If LESSOR and LESSEE have not mutually agreed upon the fair market lease rate for the Premises for an upcoming extended term at least 30 days immediately prior to the commencement of such extended term, and LESSOR thereafter unilaterally sets the fair market lease rate, LESSEE shall have the option to accept the new lease rate or within 30 days of being notified in writing of the new lease rate, LESSEE may object to the new lease rate and elect to terminate its exercise of its option to extend to term of the Lease with no penalty. Such termination notice must be provided by LESSEE to LESSOR in writing. LESSEE's election to terminate its exercise of its option to extend

to term of the Lease shall place the LESSEE in the same theoretical position as if the entire maximum initial term of this Lease had run its course and expired. LESSEE shall have no further rights other than those expressed within this Lease relevant to termination. In the case that LESSEE does not provide notice of intent to terminate, the new fair market lease rate established by LESSOR shall become effective on the first day of the extended term, and if LESSEE fails to pay the new fair market lease rate, LESSOR shall treat LESSEE's failure to pay the new lease rate during the extended term as a material breach.

3.5 Reevaluation on Change in Use

LESSOR expressly reserves the right to establish a new minimum monthly rent as a condition to LESSOR's approval of any use of the Premises not specifically permitted by Section 4.1 and as a condition to any amendment to or changes in the uses permitted by that section.

3.6 Reevaluation on Transfer

Although Article 16 generally prohibits any assignments, transfers, subleases, and encumbrances, LESSOR expressly reserves the right to establish a new minimum monthly rent as a condition to LESSOR's specific approval of any transfer, or assignment of this Lease or any subletting of all or any portion of the Premises; provided, however, that LESSEE shall have the right from time to time, upon notice to but without the consent of LESSOR, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission or agency of LESSEE for any or all of the uses permitted under this Lease without any such new minimum monthly rent and without obtaining LESSOR's consent.

ARTICLE 4. USE

4.1 Specified Use

The Premises shall be used and occupied by LESSEE only and exclusively for the purpose of a public park or recreational area and, if LESSOR exercises its rights under Article 10 in a manner that makes the remaining LESSEE improvements on the Premises inappropriate for a skatepark, for parking. Unless LESSOR exercises its rights under Article 10 in a manner that makes the remaining LESSEE improvements on the Premises inappropriate for a skatepark, parking shall be off Premises on a portion of freeway lease area SF-101-25 pursuant to a separate Airspace Lease between LESSOR and LESSEE (the "Dog Park Lease") as designated on the approved development plans attached hereto as Exhibit B, which further depicts the proposed use of the Premises as the skatepark portion of the SoMa West Skatepark and Dog Park. The Premises shall be maintained at the sole cost and expense of LESSEE in an orderly, clean, safe and sanitary condition. LESSOR will terminate this Lease immediately if LESSEE uses the Premises for any purpose other than non-revenue generating park or recreational uses (provided that LESSEE shall have the right to sell beverages and food to users of the Premises, rent skateboard equipment, and to charge a fee to use the skatepark or to take skateboarding lessons if the revenues from such activities are used only to fund LESSEE's payment of rent pursuant to this Lease or pursuant to the Dog Park Lease or LESSEE's costs in performing its obligations under this Lease or the Dog Park Lease or making approved improvements to the Premises or the premises described in the Dog Park Lease).

The Premises shall at all times be subject to all uses by the LESSOR as may be deemed necessary by LESSOR for highway facilities without interference by LESSEE, as provided for within Article 10.

4.2 Condition of Premises

LESSEE hereby accepts the Premises "AS-IS." LESSOR makes no representation or warranty with respect to the condition of the Premises or the suitability thereof for the conduct of LESSEE's business, nor has LESSOR agreed to undertake any modification, alteration or improvement to the Premises.

4.3 Prohibited Uses

LESSEE is to use the Premises for a public park and recreational purposes only. The following are specifically prohibited:

- (a) Using the Premises in violation of any law, statute, zoning restriction, ordinance or governmental rule or regulation or requirements.
- (b) Operating or installing a gasoline or petroleum supply station, transporting or storing gasoline or petroleum products under the structures, except those products stored within an operable vehicle for exclusive use by that vehicle.
- (c) Manufacturing or storage or use of flammable materials, explosives or other materials, deemed by LESSOR to be a potential fire or other hazard to the transportation facility located above the Premises.
- (d) Using, creating, storing or allowing any hazardous materials on the Premises, except as otherwise expressly permitted in this Lease; provided that LESSEE may use such materials in such limited amounts as are customarily used for cleaning or maintaining improvements similar to the Initial Improvements or any other LESSEE improvements at the Premises so long as such use is in compliance with all applicable environmental laws. Fuel stored in a motor vehicle for the exclusive use in such vehicle is excepted.
- (e) Depositing or disposing of any hazardous materials on the Premises. LESSOR, or its agents or contractors, shall at all times have the right to go upon and inspect the Premises and the operations thereon to assure compliance with the requirements herein stated. Inspection may include taking samples of substances and materials present for testing, and/or the testing of soils or underground tanks on the Premises; provided that LESSOR shall provide LESSEE with 10 days' prior written notice of any such sampling or testing.

Hazardous materials are those substances listed or described for toxicity, reactivity, corrosivity or flammability criteria in Division 4.5, Chapter 11, Articles 1 through 5 of Title 22 of the California Code of Regulations, as well as any other substance which poses a hazard to health or environment.

- (f) Constructing, erecting, maintaining or permitting any sign, banner or flag upon the

Premises, except as provided for in Section 5.3 or permitted under the Encroachment Permit, without the prior written approval of LESSOR, which shall not be unreasonably withheld, conditioned or delayed; provided, however, that LESSEE shall not need LESSOR's prior written approval to install temporary signs, banners or flags to promote activities at the Premises ("Temporary Signs") as long as the installed Temporary Signs are not attached to any portion of the overhead freeway structure and its support columns. LESSOR's shall make all reasonable efforts to notify LESSEE in writing of LESSOR's approval or disapproval of a proposed sign, banner, or flag on or before the thirtieth (30th) day immediately following LESSEE's delivery of written request for LESSOR's approval. LESSEE shall not place, construct or maintain upon the Premises any advertising media that include moving or rotating parts, searchlights, flashing lights, loudspeakers, phonographs or other similar visual or audio media.

- (g) Parking or storing wrecked or inoperable vehicles of any kind on the Premises. All parked or stored vehicles must be capable of being started and driven off the Premises. Vehicles will not be permitted to remain overnight on the Premises.
- (h) Conducting or permitting the vending or sale of any goods or services upon the Premises except as specifically permitted under Section 4.1.
- (i) Any activity that damages or endangers any highway structure on the Premises, including its supports and foundations, or interferes with the operation of such structure.
- (j) Dumping or disposing of refuse or other unsightly materials on, in, under or about the Premises.
- (k) Conducting any activities on or about the Premises that constitute waste, nuisance or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises or lights) to the public; provided, however, that LESSOR agrees that the operation of a skatepark on the Premises (assuming the public users of the skatepark are not in violation of this list of prohibitions) will not constitute waste, nuisance or unreasonable annoyance.

LESSEE shall take all commercially practicable measures to ensure that its users at the Premises not conduct any activities prohibited under this Section. Repeated uncured incidents of the LESSEE's invitees at the Premises violating this Section shall constitute "nuisance" or an "unreasonable annoyance" per Section 4.3(k) and shall further constitute a material breach and default by LESSEE per Section 11.1(c) regardless whether the prohibited activities were conducted by third party users, as LESSEE's intended use of the Premises is to invite the public to use the Premises in compliance with the rules and regulations established by LESSEE and LESSOR.

4.4 LESSOR'S Rules and Regulations

LESSEE shall faithfully observe and comply with the rules and regulations that LESSOR shall from time to time promulgate for the protection of the transportation facility and the safety of the traveling public and which are required of all LESSOR tenants. LESSOR does not currently have rules and regulations for the Premises and LESSOR reserves the right from time to time to

promulgate reasonable rules and regulations for the protection of the transportation facility and the safety of the traveling public and to make reasonable modifications to said rules and regulations, each of which shall be binding upon LESSEE upon delivery of a copy of them to LESSEE. If such new rules and regulations materially impact LESSEE's use of the Premises, LESSEE shall have the right to terminate this Lease by delivering written notice of such termination to LESSOR within the 90-day period immediately following LESSEE's receipt of such new rules and regulations.

4.5 Water Pollution Control

LESSEE operates a combined sanitary and stormwater sewer system at the Premises and the surrounding areas under its own separate NPDES permit. Best Management Practices (BMPs) are further required per San Francisco Municipal Code.

LESSEE shall comply with all applicable State and Federal water pollution control requirements regarding storm water and non-storm water discharges from the LESSEE's leasehold area and will be responsible for all permits applicable to the Premises, including if applicable to the Premises, but not limited to, the National Pollutant Discharge Elimination System (NPDES) General Permit and Waste Discharge Requirements for Discharges of Stormwater Associated with Industrial Activities (Excluding Construction), the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities, and the Caltrans Municipal Separate Storm Sewer System NPDES Permit, and permits and ordinances issued to and promulgated by municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water and non-storm water to sewer systems, storm drain systems, or any watercourses under the jurisdiction of the above agencies. Copies of the current storm water related NPDES permits are available on the State Water Resources Control Board's website at http://www.swrcb.ca.gov/water_issues/programs/stormwater/.

LESSEE understands the discharge of non-storm water into the storm sewer system at the Premises may be prohibited under the ordinances listed above. In order to prevent the discharge of pollutants to storm water resulting from contact with hazardous material, the storage or stockpile of hazardous material on Premises is strictly prohibited.

LESSEE shall implement and maintain the BMPs required by permits, ordinance, and regulations applicable to the Premises, including those specified in Articles 4.1 and 4.2 of the San Francisco Public Works Code, and, to the extent applicable to LESSEE's use of the Premises, the BMPs set forth in the following manuals:

- (1) Right of Way Property Management and Airspace Storm Water Guidance Manual available for review online at: www.dot.ca.gov/hq/row/rwstormwater, and
- (2) Construction Site Best Management Practices Manual, available for review online at: www.dot.ca.gov/hq/construc/stormwater/manuals.htm.

In the event of conflict between the above-referenced manuals and this Lease, this Lease shall control.

LESSEE shall provide LESSOR with any Standard Industrial Classification (SIC) code applicable to LESSEE'S facilities and activities on the Premises. A list of SIC codes regulated under the General Industrial Permit may be found at the State Water Resources Control Board

website: http://www.waterboards.ca.gov/water_issues/programs/stormwater/gen_indus.shtml.
Other SIC codes may be found at www.osha.gov/pls/imis/sicsearch.html.

LESSOR, or its agents or contractors, shall at all times have the right to enter and inspect the Premises and the operations thereon to assure compliance with all stormwater permits, ordinances, and regulations applicable to the Premises. Inspection may include taking samples of substances and materials present for testing, and/or the testing of storm sewer systems or watercourses on the Premises; provided that LESSOR shall provide LESSEE with 10 days' prior written notice of any such sampling or testing.

Notwithstanding anything to the contrary in this Section, LESSEE shall have the right to perform any maintenance, including regular washing, reasonably necessary to keep the improvements constructed on the Premises by LESSEE in a good and clean operating condition.

4.6 Legal Status of the Skateboard Park.

LESSOR has not received any notice that the Premises is a significant park or recreation area pursuant to the provisions of 23 U.S.C. section 138 and 49 U.S.C. section 303 (collectively, "Section 4(f)"). It is hereby understood and agreed by LESSOR and LESSEE that the skateboard park is not intended to convert the Premises into a significant park or recreation area pursuant to the provisions of Section 4(f), and LESSEE shall not knowingly install, nor permit any of its sublessees to install, any improvements at the Premises that would cause the Premises to be a significant park or recreation area under Section 4(f). In the event that the Premises is declared a significant park or recreation area under Section 4(f) due to the skatepark or any improvements installed at the Premises by LESSEE or its sublessee(s), LESSEE shall assume all burden, monetary or otherwise, in securing any Section 4(f) remedy required to minimize any harm that any of LESSOR's proposed projects would otherwise cause to the skatepark or any such improvements; provided, however, that if any Section 4(f) remedy is so required, LESSEE shall have the right to terminate this Lease to relieve LESSOR of the obligation to perform, and for LESSEE to assume the burden for, such Section 4(f) remedy. LESSEE shall deliver written notice of any such termination of this Lease pursuant to the foregoing sentence to LESSOR on or before the thirtieth (30th) day that a determination is made to require LESSOR to perform a Section 4(f) remedy to minimize any harm to the Premises.

ARTICLE 5. COMMENCEMENT AND COMPLETION OF INITIAL CONSTRUCTION

5.1 Commencement of Construction

No improvements of any kind shall be placed in, on, or, upon the Premises, and no alterations shall be made in, on, or, upon the Premises other than the Initial Improvements. LESSEE shall commence construction of the Initial Improvements within 365 calendar days of the Commencement Date. For the purposes of this Article, construction shall be deemed to have commenced upon the issuance by LESSOR of an Encroachment Permit. In the event construction is not commenced within the time set forth herein, this Lease may be terminated by LESSOR and thereafter be of no further force and effect.

LESSEE shall be solely responsible for maintaining all improvements constructed by LESSEE on the Premises in a good and clean condition as specified in Article 7 below.

LESSEE shall be liable for any and all construction activities, permitted or not, that may occur on the Premises and its improvements during the term of this Lease, and shall indemnify and hold LESSOR harmless from any claims of liability arising solely from LESSOR's ownership of the Premises during the term of this Lease. LESSEE's obligations pursuant to the foregoing sentence shall not apply to any claims of liability arising from any acts at the Premises by LESSOR or its officers, employees, or agents, from any gross negligence or willful misconduct by LESSOR or its officers, employees, or agents, from any liability arising from the operation of any highway structure on the Premises, or arising during any period during which LESSOR has possession of the Premises.

5.2 Subsequent Improvements

If LESSEE desires any additional improvements in, on, or upon the Premises, or any alterations to said Premises, including landscaping, LESSEE shall prepare development plans describing the proposed additional improvements or alterations, and shall submit such development plans to LESSOR, for review by LESSOR and Federal Highway Administration ("FHWA"). LESSEE shall not make any additional improvements or alterations, including landscaping, without the review and approval of the LESSOR and FHWA documented by the issuance of a Caltrans Encroachment Permit.

LESSEE shall begin the construction of any additional improvements on the Premises within 90 days after obtaining an appropriate encroachment permit to construct such additional improvements from the LESSOR. All work shall be completed according to the development plan within 360 days of the issuance of such encroachment permit.

5.3 Required Sign

LESSEE shall post the Premises, at LESSEE's cost, with a 12"x12" sign (or any larger size reasonably acceptable to LESSOR) giving the following notice:

"This park has been developed for your convenience by (name of Lessee) under a lease with the California Department of Transportation. The lease is subject to termination if the property is needed for State highway purposes."

5.4 Removal of Improvements

(a) Removal Upon Termination of Lease; Early Termination to Fund Removal

Upon termination of this Lease for any reason whatsoever, LESSEE agrees to remove the Initial Improvements and all other improvements at the Premises made by LESSEE or on behalf of LESSEE (collectively, the "Lessee Improvements"), at LESSEE'S sole expense, within 90 days of termination, unless LESSOR subsequently agrees in writing that LESSEE may leave such Lessee Improvements at the Premises at the end of the term of this Lease. If LESSEE fails to remove all Lessee Improvements which LESSEE is required to remove, LESSOR may remove such Lessee Improvements at the expense of LESSEE after first providing no less than 30 days prior written notice to LESSEE of the date on which it intends to perform such removal work. If LESSOR performs such removal work after providing such notice, at LESSOR's option, (1) may demand and

collect its costs and expenses as additional rent through this Lease, or (2) may bring an action for recovery of such costs, together with all expenses and attorneys' fees incurred by reason of said action. LESSEE shall tender possession of the Premises to LESSOR in a good paved condition, fully fenced, and suitable for immediate use as a public parking lot; however, LESSEE shall not be obligated to stripe the Premises in anticipation of a future parking use. LESSEE shall have the right to terminate this Lease prior to the Expiration Date if LESSEE elects to use the funds it would have used to pay rent between such early termination date and the Expiration Date to pay for the costs of removing the Lessee Improvements pursuant to this Section.

(b) Removal Upon LESSOR's Temporary Entry

If LESSOR requires temporary possession of a portion of the Premises or the entire Premises to perform any activities pursuant to Article 10 of this Lease, LESSEE acknowledges that the performance of such activities may cause damage to, or require removal of (at LESSEE's sole cost), the Lessee Improvements. LESSOR shall use commercially reasonable efforts to conduct the activities specified in Article 10 in a manner that reasonably minimizes any such damage or removal to the Lessee Improvements so long as those efforts do not increase the cost of performing the required activities. If LESSEE fails to remove all noticed conflicting Lessee Improvements, LESSOR may remove such improvements, and, at LESSOR's option, (1) may demand and collect its costs and expenses as additional rent through this Lease, or (2) may bring an action for recovery of such costs.

(c) Restoration of Improvements

At the conclusion of LESSOR's temporary entry onto and possession of the Premises to perform any of the activities specified in Article 10 of this Lease, LESSOR shall NOT be responsible for restoring any Lessee Improvements damaged or removed by LESSOR in performing such activities. If LESSEE desires to restore such damaged or removed Lessee Improvements it may do so at its expense. If LESSEE elects not to make such restoration, LESSEE shall have the right not to do so and to terminate this Lease by delivering written notice of such termination within ninety (90) days of the date that LESSOR returns possession of the entire Premises to LESSEE, and LESSEE shall remove any remaining Lessee Improvements and restore the Premises pursuant to the provisions of subsection (a) hereinabove.

(d) Drainage Improvements

LESSEE proposes to improve the drainage of the Premises by the installation of additional drainage inlets that will connect to the LESSEE owned stormwater system. At the termination of the Lease for any reason, in addition to removing the Lessee Improvements, as a part of the Premises restoration, LESSEE, at its sole cost, shall ensure the drain inlet fixtures conform to the Caltrans Standard Plans current at the time of the lease termination. The relevant 2010 Caltrans Standard Plans for drainage inlets is attached for reference as Exhibit C.

ARTICLE 6. REMOVAL OF PERSONAL PROPERTY

LESSEE may remove any personal property from time to time within 45 days of the expiration of the term. LESSEE shall repair all damage (structural or otherwise) caused to the Premises or any improvements thereon by any such removal.

Any personal property not removed by LESSEE within 45 days following expiration of the term shall be deemed to be abandoned by LESSEE and shall, without compensation to LESSEE, become the LESSOR'S property, free and clear of all claims to or against them by LESSEE or any other person.

ARTICLE 7. MAINTENANCE AND REPAIRS

7.1 LESSEE'S Obligations

LESSEE, at its own cost and expense, shall maintain the Premises, the improvements and landscaping thereon including the Premises drainage facilities, and including fences heretofore (as may be modified under the Encroachment Permit) or hereafter erected by LESSEE or LESSOR in compliance with this Lease, in good and clean order, repair and condition and in compliance with all requirements of law, subject to ordinary wear and tear that does not reduce the attractiveness and utility of the Premises; provided, however, that LESSEE's obligations under this Section shall not apply to any freeway structure on the Premises other than as expressly set forth below as to LESSOR's structural columns within the Premises. LESSEE shall also, at its own cost and expense, maintain the lighting on the Premises in first class order, repair and condition.

LESSOR and LESSEE recognize that because of the length of the term of this Lease it may be necessary for LESSEE to perform certain substantial maintenance, repair, rehabilitation or reconstruction (hereinafter collectively referred to as "repair" or "repairs") of the improvements in order to ensure that the Premises are kept in first-class order, repair and condition.

LESSEE hereby expressly waives the right to make repairs at the expense of LESSOR and the benefit of the provisions of Sections 1941 and 1942 of the California Civil Code or any successor amendments thereto.

LESSEE shall take all steps necessary to effectively protect the existing columns of the structure on the Premises and any future structure appurtenances installed on the Premises by LESSOR, from damage incident to LESSEE'S use of said Premises and improvements, all without expense to LESSOR. LESSEE shall, at its own cost and expense, repair in accordance with LESSOR'S standards any damage to any property owned by LESSOR, including, but not limited to, the existing columns of the structure on the Premises and any future structure appurtenances on the Premises installed by LESSOR, caused by LESSEE or its invitees incurred as a result of operation of a skatepark at the Premises, but excluding any damage caused by the acts of LESSOR or its agents, contractors, representatives or invitees or occurring during any period that LESSOR has possession of the portion of the Premises where such damage occurred.

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

7.2 LESSOR'S Rights

In the event LESSEE fails to perform LESSEE'S obligations under this Article, LESSOR shall give LESSEE notice to do such acts as are reasonably required to so maintain the Premises. If within thirty (30) days after LESSOR sends written notice to repair or quit, LESSEE fails to do the

work and fails to proceed in good faith to prosecute it to completion, said deficiency shall be deemed a material breach.

ARTICLE 8. INSURANCE

8.1 Indemnification

Neither LESSOR nor any its officers or employees is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by LESSEE pursuant to this Lease, including any work performed by LESSEE at the Premises.

It is understood and agreed LESSEE will fully defend, indemnify, and save harmless LESSOR and all of its officers and employees from all claims, suits, or actions of every kind brought forth under any theory of liability occurring by reason of anything done or omitted to be done by LESSEE under this Lease. LESSEE's obligations to defend, indemnify, and save harmless LESSOR extends to any and all claims, suits, or actions of every kind brought forth under any theory of liability occurring due to the use of the Premises during LESSEE's possession of the Premises as a public park or recreation area, including those arising from the operation of a skate park, the operations of any skate park vendor, the use of the skate park, or the design, construction, and maintenance of a public park, recreation area, or skate park.

LESSEE shall include in any contract it enters with any contractor who designs, constructs, maintains, or operates the skate park a requirement that such contractor will fully defend, indemnify and save harmless LESSOR and its officers and employees from any and all claims, suits or actions of every kind brought forth under any theory of liability occurring due to such contractor's performance of its obligations or rights under such contract. If LESSEE has any additional insured endorsements executed naming LESSOR to comply with this provision, LESSEE shall provide copies of the additional insured endorsements and a Certificate of Insurance to LESSOR.

Furthermore, LESSEE agrees it controls the Premises during LESSEE's possession of the Premises, except to the extent that LESSOR uses the Premises pursuant to its reserved rights under this Lease. As such, LESSEE agrees to defend, indemnify and hold harmless LESSOR, its officers and employees for any and all claims arising out of the allegedly dangerous condition of public property based upon the condition of the Premises during LESSEE's possession of the Premises, except to the extent such claims arise from the freeway structure located above the Premises or LESSOR's activities on or use of the Premises.

LESSOR agrees to defend, indemnify and save harmless LESSEE, its officers, employees, and agents from any and all claims, suits or actions of every kind brought forth under any theory of liability with respect to the freeway structure located above the Premises or the activities of LESSOR or its officers, employees, and agents at the Premises, except to the extent such claims, suits or actions arise by reason of the sole or active negligence of LESSEE, its officers, employees, and agents.

8.2 Self-Insurance

LESSOR acknowledges LESSEE maintains a self-insurance program agrees that LESSEE shall not be required to carry any third party insurance with respect to this Lease at any time that

LESSEE maintains such self-insurance. LESSOR agrees LESSEE's self-insurance is sufficient to meet LESSEE'S insurance obligations under this Lease if the self-insurance provides coverage as broad as a Commercial General Liability insurance policy, as provided on ISO Form CG 0001 or equivalent, for the Premises.

LESSEE's self-insurance shall provide per occurrence and aggregate limits of liability of not less than Twenty-Five Million Dollars (\$25,000,000).

LESSEE is also required to notify LESSOR in writing not less than thirty (30) days prior to the effective date of the termination of its self-insurance coverage. If such notice is given, LESSEE is required to obtain a Commercial General Liability policy providing the coverage required by this Article and an effective date the same as the termination date of the self-insurance to avoid any disruption in coverage. If LESSEE purchases a Commercial General Liability policy to meet the requirements of this Article, LESSEE shall have LESSOR named as an additional insured under the policy and provide a copy of the complete policy to LESSOR.

By executing this Lease, LESSEE expressly acknowledges LESSEE's self-insurance program meets the requirements of this provision. This provision does not apply if LESSEE acquires private insurance in place of self-insurance.

8.3 Completed Operations Coverage

To cover all liability related to any defective design or construction of Lessee Improvements (including the design or construction of a public park as specifically identified within Article 4), LESSEE shall require all third party design professionals or contractors used by City to design or construct the Lessee Improvements to carry, during such design or construction period, professional liability coverage insuring against negligent acts, errors or omissions in connection with such contractor's design or construction work. LESSEE shall also require any third party contractor for the construction of the Lessee Improvements to provide commercial completed operations insurance coverage for such construction for the period required under applicable law.

8.4 Failure to Procure and Maintain Insurance

If LESSEE fails to procure or maintain LESSEE's self-insurance described in Section 8.2 above, or private insurance in place of LESSEE's self insurance, LESSEE shall cease and desist from using the Premises and any improvements to the Premises. LESSEE shall also prevent members of the public from gaining access to the Premises during any period in which such insurance coverage is not in full force and effect.

ARTICLE 9. PAYMENT OF TAXES

LESSEE agrees to pay all taxes and assessments that may be legally assessed on LESSEE'S possessory interest under this Lease or income generated at the Premises by LESSEE or its sublessee(s).

ARTICLE 10. RIGHT OF ENTRY

10.1 Inspection, Maintenance, Construction and Operation of Freeway Structures

LESSOR, 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 LESSEE, its agents or representatives.

LESSOR 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 LESSOR 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 LESSOR, and during said period LESSEE shall be relieved, to the degree of interference, from the performance of conditions or covenants specified herein. LESSOR further reserves the right of entry by any authorized officer, engineer, employee, contractor or agent of the LESSOR for the purpose of performing any maintenance activities upon the property which LESSEE has failed to perform after the expiration of the applicable cure period specified in Section 11.1.

10.2 Future Transportation Projects

At any time following the fifth (5th) anniversary of the Commencement Date, LESSOR may cancel this Lease upon 90 days notice for any future transportation project that requires LESSOR's possession of the Premises if such project would continue through the then remaining term of this Lease. In that event, LESSEE will have no claim upon LESSOR and waives any and all claims for compensation, damages or relocation assistance. If LESSOR's Division of Right of Way Office of Airspace Development ("RW Airspace") learns of a potential future transportation project at the Premises, RW Airspace agrees to notify LESSEE, and to meet and confer with LESSEE, as early as is reasonably feasible during the concept and schematic design phases for such project. If such project may temporarily or permanently affect the use of the Premises by LESSEE, LESSOR agrees to confer with LESSEE and consider in good faith any reasonable modifications to such project or alternative proposals proposed by LESSEE that would avoid or mitigate such impact on the Premises or LESSEE's use of the Premises while still consistent with LESSOR's overall transportation project objectives. If LESSOR believes that employing a modification or alternative proposed by LESSEE will result in additional cost or expense to LESSOR's project, LESSOR shall notify LESSEE of the anticipated cost in writing. If, after receiving such estimate, LESSEE requests in writing that LESSOR proceed with such modification or alternative requested by LESSEE, LESSEE agrees to reimburse LESSOR for its actual incurred additional cost or expense resulting from making such requested modification or alternative. If LESSEE's improvements conflict with LESSOR's project, the conflicting improvements shall be removed by LESSEE, at its sole cost, pursuant to Section 5.4.

In the event LESSOR determines that it needs to obtain possession of all or a portion of the Premises for any future transportation project, but such project will be completed prior to the

expiration of the then remaining term of this Lease, LESSOR shall, at least ninety (90) days prior to the effective date of the commencement of such possession, notify LESSEE in writing describing the extent of the possession and the effective date of the commencement of such possession. Upon the effective date of said notice, LESSEE shall peaceably surrender possession of all or any specified portion of the Premises. The rent stated in Section 3.1 shall be equitably reduced by the same percentage as the portion of the Premises which was surrendered; provided, however, that if LESSEE's is unable to use the remaining portion of the Premises for any of the Permitted Uses without such surrendered portion, the rent stated in Section 3.1 shall be fully abated until the entire Premises is returned to LESSEE. If LESSOR takes possession of a portion of the Premises for any future transportation project that will continue for more than twenty-four (24) months, and the portion of the Premises remaining in possession of LESSEE is rendered unusable due to such project, LESSEE shall have the right to terminate this Lease by delivering no less than thirty (30) days' prior written notice of such termination to LESSOR. This reduction in rent and termination right shall be LESSEE'S sole remedies against LESSOR for LESSEE'S inability to possess or use the entire area of the Premises on account of LESSOR'S exercise of its rights under this Section, and LESSEE expressly waives any right it may have to recover compensation, damages or relocation assistance from LESSOR on account thereof.

LESSOR shall use commercially reasonable efforts to conduct future transportation project work in a manner that reasonably minimizes any such damage or removal to the Lessee Improvements. LESSEE acknowledges that the performance of the future transportation project work may cause damage to the Lessee Improvements. LESSEE expressly agrees to release any claims that it may have against LESSOR for such damage.

10.3 Retrofitting of Freeway Structures

LESSEE acknowledges LESSOR may be required to perform retrofit work on all or a part of the freeway structures that are situated on and above the Premises. LESSOR shall have the right to impose such restrictions on LESSEE'S right to enter, occupy, and use the Premises and to construct improvements thereon as LESSOR deems are necessary to enable it to complete construction of all freeway structural retrofit work without interference from LESSEE.

In the event LESSOR determines that it needs to obtain possession of all or a portion of the Premises, or needs to place restrictions on LESSEE'S use of the Premises, to accommodate such retrofit work, LESSOR shall, at least ninety (90) days prior to the effective date of the commencement of such possession or restrictions notify LESSEE in writing describing the extent of the possession or restrictions and the effective date of their commencement. If such notice is for any possession by Landlord, it shall further describe any other Landlord property in the general vicinity available for lease by Tenant pursuant to the terms and conditions of this Lease. Landlord shall use commercially reasonable efforts to identify such alternative Landlord property. Although Landlord shall identify any available Landlord property within the vicinity of the Premises, Landlord shall not be obligated to provide Tenant with a replacement property in the event all or a portion of the Premises is repossessed by Landlord. Upon the effective date of said notice, LESSEE shall peaceably surrender possession all or any specified portion of the Premises or comply with the restrictions as stated therein, as applicable. The rent stated in Section 3.1 shall be equitably reduced to reflect the portion of the Premises surrender and the portion of the Lease term for which the Premises was surrendered; provided, however, if the portion of Premises to be surrendered by LESSEE will render the remaining portion of the Premises unusable for the Permitted Uses,

LESSEE shall have the right to terminate this Lease by delivering no less than thirty (30) days' prior written notice of such termination to LESSOR. This reduction in rent and right of early termination shall be LESSEE'S sole remedy against LESSOR for LESSEE'S inability to possess or use the entire area of the Premises on account of LESSOR'S exercise of its rights under this Section, and LESSEE expressly waives any right it may have to recover compensation, damages or relocation assistance from LESSOR on account thereof.

LESSEE shall conduct its operations on the Premises in such a manner so as not to interfere with LESSOR'S or its contractor's performance of any structural retrofit work done on or above the Premises. LESSOR shall use commercially reasonable efforts to conduct such structural retrofit work in a manner that reasonably minimizes any such damage or removal to the Lessee Improvements. LESSEE acknowledges that the performance of the structural retrofit work may cause damage to the Lessee Improvements. LESSEE expressly agrees to release any claims it may have against LESSOR from all such damage to the improvements.

ARTICLE 11. DEFAULT

11.1 Default

The occurrence of any of the following shall constitute a material breach and default of this Lease by LESSEE:

- (a) Any failure by LESSEE to pay lease payment or any other monetary sums required to be paid hereunder, where such failure continues for ten (10) business days after written notice thereof has been given by LESSOR to LESSEE.
- (b) The abandonment or vacation of the Premises by LESSEE. Failure to occupy and operate the Premises for sixty (60) consecutive days following the mailing of written notice from LESSOR to LESSEE calling attention to the abandonment shall be deemed an abandonment or vacation.
- (c) A failure by LESSEE to observe and perform any other provision of this Lease to be observed or performed by LESSEE, where such failure continues for thirty (30) days after written notice thereof by LESSOR to LESSEE; provided, however, that if the nature of such default is such that it cannot be reasonably cured within such thirty (30) day period, LESSEE shall not be deemed to be in default if LESSEE shall within such period commence such cure and thereafter diligently prosecute the same to completion.

11.2 LESSOR'S Remedies

In the event of any material default or breach by LESSEE, LESSOR may at any time after expiration of the applicable notice and cure period, without limiting LESSOR in the exercise of any right of remedy at law or in equity that LESSOR may have by reason of such default or breach

- (a) Terminate LESSEE'S right to possession by any lawful means, in which case this Lease shall immediately terminate and LESSEE shall immediately surrender possession of the Premises to LESSOR. In such event LESSOR shall be entitled to

recover from LESSEE all damages incurred by LESSOR by reason of LESSEE'S default including, but not limited to, the following:

- (i) any amount necessary to compensate LESSOR for all the detriment proximately caused by LESSEE'S failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom; plus
- (ii) at LESSOR'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 LESSOR shall have the right to make any reasonable repairs, alterations or modifications to the Premises, which LESSOR in its sole discretion deems reasonable and necessary.

ARTICLE 12. ASSIGNMENTS, SUBLEASES AND ENCUMBRANCES

The LESSEE shall not assign, sublease, or encumber the Premises in any matter whatsoever, nor shall this Lease be recorded.

ARTICLE 13. NONDISCRIMINATION

LESSEE, for itself, its agents, contractors, employees, officers, and personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

- (a) 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,
- (b) 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,
- (c) Such discrimination shall not be practiced against the public in its 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,
- (d) LESSEE shall use the Premises in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21 and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the LESSOR 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 14. SECURITY DEPOSIT

LESSEE shall maintain on deposit with LESSOR the sum of \$ 0.00 to guarantee the faithful performance of the conditions of this agreement. LESSOR shall not be required to keep this Security Deposit separate from its general funds, and LESSEE shall not be entitled to interest on such deposit. If LESSEE shall fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to LESSEE at the expiration of the lease term and after LESSEE has properly vacated the Premises.

ARTICLE 15 ADDITIONAL PROVISIONS

15.1 Quiet Enjoyment

LESSOR covenants and agrees with LESSEE that upon LESSEE paying lease payment and other monetary sums due under the Lease and performing its covenants and conditions, LESSEE shall and may peaceably and quietly have, hold and enjoy the Premises for the term, subject however, to the terms of the Lease.

15.2 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 question of interpretation or construction of any section of this Lease.

Any marginal or clause headings on this lease are not a part of this and shall have no effect upon the construction or interpretation of any part hereof.

15.3 Entire Agreement

This instrument along with any addenda, exhibits and attachments hereto constitutes the entire agreement between LESSOR and LESSEE 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 LESSOR and LESSEE. LESSOR and LESSEE 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.

15.4 Severability

If any terms 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.

15.5 Time is of the Essence

Time is of the essence of each and all of the terms and provisions of this Lease.

15.6 Binding Effect; Choice of Law

The terms and conditions of this lease shall extend and be binding upon and inure to the benefits of the heirs, executors, administrators or to any approved successor of the LESSEE. The terms and conditions of this Lease shall be governed by the laws of the State of California, if any legal action is initiated, the venue shall be in the appropriate court of the State of California in the county in which the Premises are located

15.7 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 LESSOR of any performance by LESSEE after the time the same shall have become due shall not constitute a waiver by LESSOR of the breach or default of any covenant, term or condition. Acceptance by LESSOR of any performance by LESSEE after the time the same shall have become due shall not constitute a waiver by LESSOR of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by LESSOR in writing.

15.8 Notices

All notices or demands of any kind required or desired to be given by LESSOR or LESSEE 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 LESSOR or LESSEE respectively at the addresses set forth in the Summary of Lease Provisions on the first page of this Lease.

15.9 No Reservation

Submission of this instrument for examination or signature by LESSEE 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 LESSOR and LESSEE.

15.10 Force Majeure

If either LESSOR or LESSEE shall be delayed or prevented from the performance of any act required hereunder by reason of acts of nature, governmental restrictions, regulations or controls (except those reasonably foreseeable in connection with the uses contemplated by this Lease) or other cause without fault and beyond the control of the party obligated (except financial inability), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Nothing in this clause shall excuse LESSEE from prompt payment of any rent, taxes, insurance or any other charge required of LESSEE, except as may be expressly provided in this Lease.

15.11 Addendum

The Addendum to Lease attached hereto is made a part hereof for all purposes.

In Witness Whereof, LESSOR and LESSEE have executed this Lease as of the date first written above.

LESSOR
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Dated: _____

By: _____
LINDA EMADZADEH, Chief
R/W Airspace, LPA, and Excess Lands

LESSEE
CITY AND COUNTY OF SAN FRANCISCO,
A MUNICIPAL CORPORATION

Dated: _____

By: _____
JOHN UPDIKE
Director of Property

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

By: _____
Carol Wong, Deputy City Attorney

ADDENDUM TO AIRSPACE LEASE AGREEMENT

This Addendum to Airspace Lease Agreement (this "Addendum") is a part of and modifies that certain Airspace Lease Agreement (the "Base Lease") for Lease Area No.SF-101-26 between the State of California, acting by and through its Department of Transportation ("LESSOR"), and the City and County of San Francisco, a municipal corporation ("LESSEE"), dated as of _____.

All undefined, capitalized terms used in this Addendum shall have the meanings given to them in the Base Lease. All references in the Base Lease and in this Addendum to "the Lease" or "this Lease" shall mean the Base Lease, as modified by this Addendum.

1. Non-Liability of LESSEE Officials, Employees and Agents. Notwithstanding anything to the contrary in this Lease, no elective or appointive board, commission, member, officer, employee or agent of LESSEE shall be personally liable to LESSOR, its successors and assigns, in the event of any default or breach by LESSEE or for any amount which may become due to LESSOR, its successors and assigns, or for any obligation of LESSEE under this Lease.
2. Controller's Certification of Funds. The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the LESSEE's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by LESSEE under this Lease unless the LESSEE's Controller first certifies, pursuant to Section 3.105 of the LESSEE's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of LESSEE after the fiscal year in which the term of this Lease commences, sufficient funds for the payment of Rent and any other payments required under this Lease are not appropriated, then LESSEE may terminate this Lease, without penalty, liability or expense of any kind to LESSEE, except for LESSEE's obligation to remove the constructed improvements and restore the Premises to the prior condition per Articles 5 and 6, as of the last date on which sufficient funds are appropriated. LESSEE shall use its reasonable efforts to give LESSOR reasonable advance notice of such termination.
3. Non Discrimination in LESSEE Contracts and Benefits Ordinance. To the extent LESSOR is subject to San Francisco Administrative Code Section 12B, in the performance of this Lease, LESSOR 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, weight, height, or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or, any LESSEE employee working with, or applicant for employment with, LESSOR in any of LESSOR'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 LESSOR.
4. MacBride Principles - Northern Ireland. LESSEE urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. LESSEE also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. LESSOR acknowledges that it has read and understands the above statement

of LESSEE concerning doing business in Northern Ireland.

5. Tropical Hardwood and Virgin Redwood Ban. LESSEE urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

6. Bicycle Storage Facilities. Article 1.5, Section 155.1, of the San Francisco Planning Code (the "Planning Code") requires the provision of bicycle storage at City-leased buildings at no cost to LESSOR and if funds are available. In the event public and/or private donations, grants or other funds become available, at any time during the term of this Lease including any extension thereof, LESSEE may apply for a Caltrans Encroachment Permit proposing to install compliant bicycle storage at the Premises per Section 5.2 hereinabove.

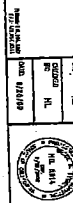
EXHIBIT A

Premises

[see attached]

NO.	DATE	REVISION
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

BUREAU OF STREET USE AND MAPPING
DEPARTMENT OF PUBLIC WORKS
CITY AND COUNTY OF SAN FRANCISCO



SONIA WEST-PHASE 2
BOUNDARY & TOPOGRAPHIC SURVEY
FOR BUREAU OF ENGINEERING, SAN FRANCISCO DPW

PROJECT/DATE	NO. SHEET	SHEET 2 OF 2
AB-3513	44	

EXISTING CONDITION SURVEY R-2
SCALE: N.T.S.

EXHIBIT A - PREMISES

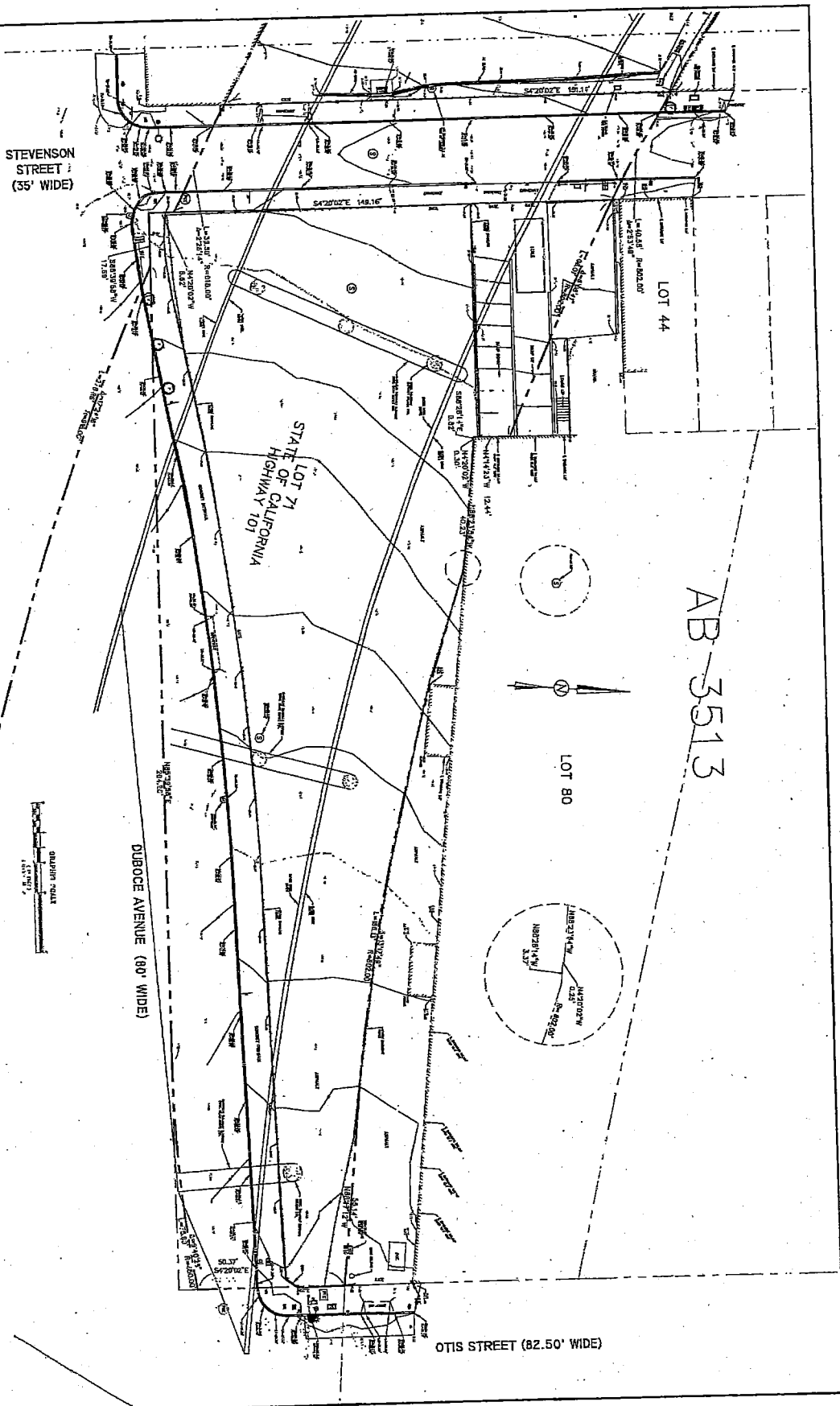


EXHIBIT B

Initial Improvements

[see attached]

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PROJECT	1000
DESCRIPTION	1000
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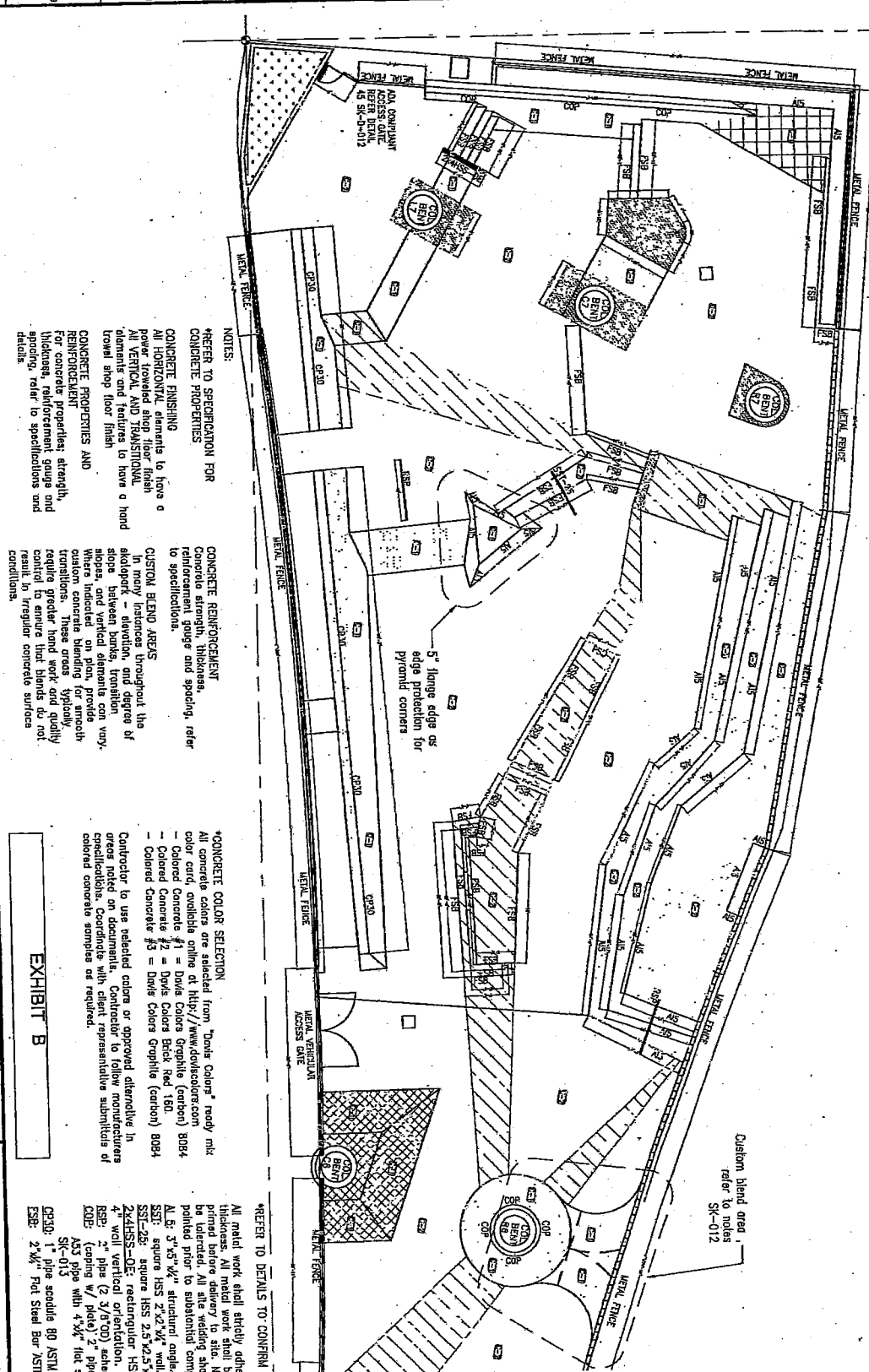
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PROJECT	1000
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TIME	10:00 AM
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PROJECT	1000
DESCRIPTION	1000



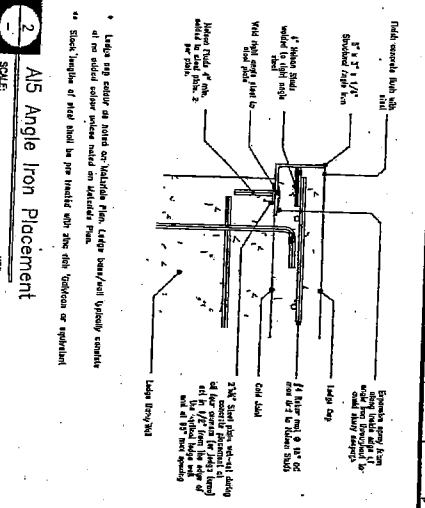
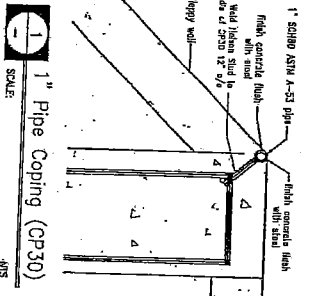
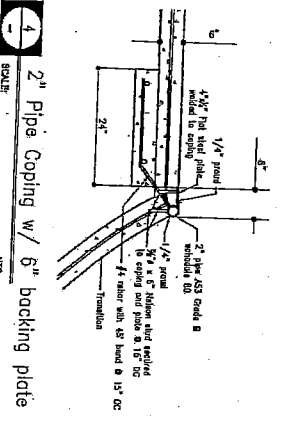
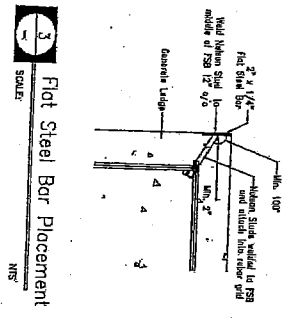
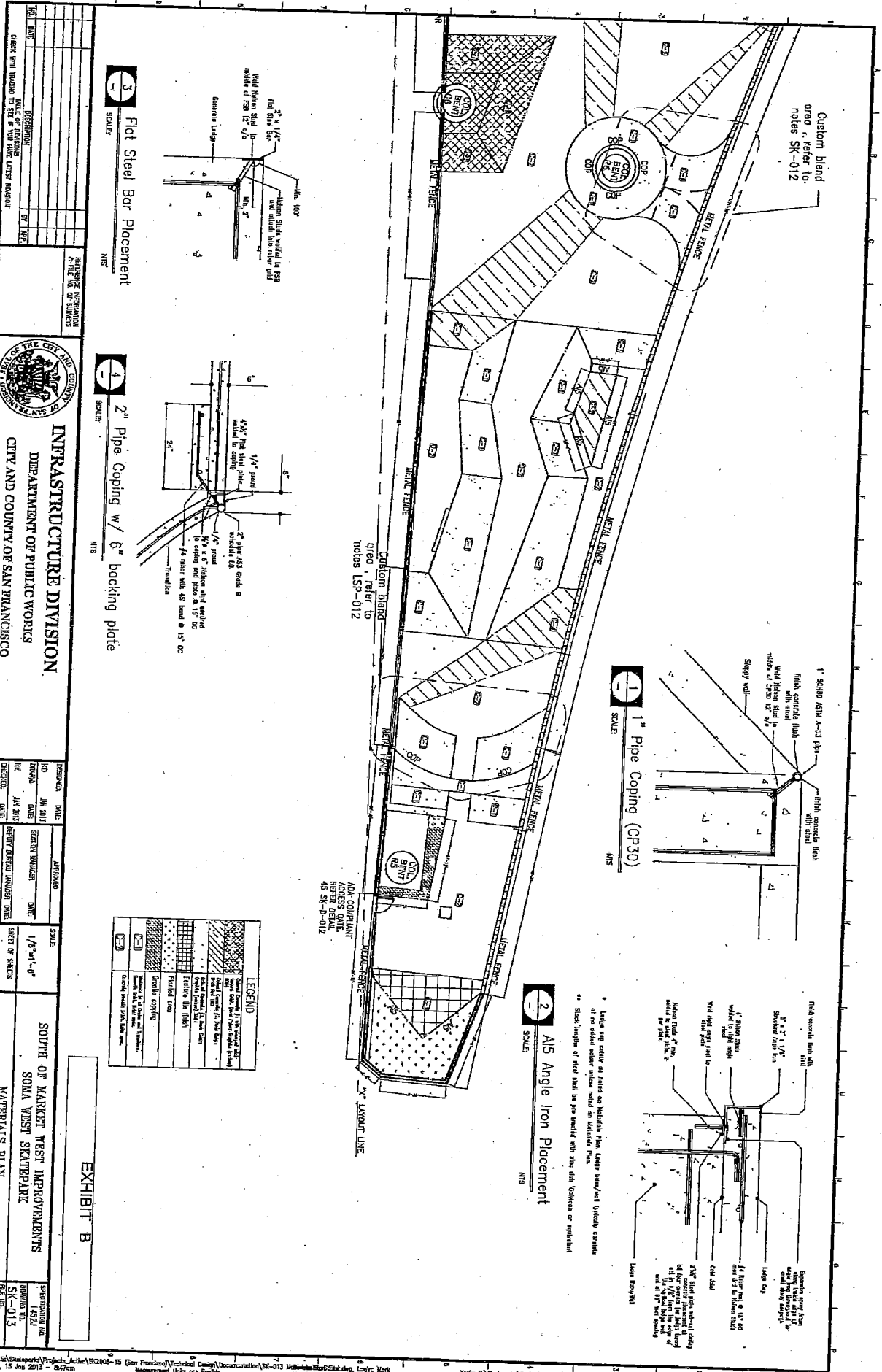
INFRASTRUCTURE DIVISION DEPARTMENT OF PUBLIC WORKS CITY AND COUNTY OF SAN FRANCISCO

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LOCATION	1000
PROJECT	1000
DESCRIPTION	1000



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TIME	10:00 AM
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PROJECT	1000
DESCRIPTION	1000
DATE	10/1/2013
TIME	10:00 AM
LOCATION	1000
PROJECT	1000
DESCRIPTION	1000



LEGEND

	Concrete
	Asphalt
	Gravel
	Sand
	Steel Reinforcement
	Metal Fence
	Custom Blend
	1\"/>
	2\"/>
	AIS Angle Iron

EXHIBIT B	
INFRASTRUCTURE DIVISION DEPARTMENT OF PUBLIC WORKS CITY AND COUNTY OF SAN FRANCISCO	
DRAWING NO. SK-013	SHEET NO. 1
DATE 1/15/15	SCALE 1/8" = 1'-0"
PROJECT NAME SOUTH OF MARKET WEST IMPROVEMENTS SOUTH WEST SKATEPARK	MATERIALS PLAN
DRAWN BY J. B.	CHECKED BY J. B.
DATE 1/15/15	DATE 1/15/15
PROJECT NO. 15-00000	SHEET NO. 1

EXHIBIT C

2010 Caltrans Standard Plans – Drain Inlets

[see attached]

TO ACCOMPANY PLANS DATED _____

PROJECT COUNTY ROUTE	SHEET TOTAL SHEETS
DATE OF PLAN APPROVAL	DATE OF PLAN APPROVAL
REGISTERED CIVIL ENGINEER	REGISTERED CIVIL ENGINEER
October 19, 2012	October 19, 2012
PLANS APPROVAL DATE	PLANS APPROVAL DATE
ONE YEAR FROM DATE OF PLAN APPROVAL	ONE YEAR FROM DATE OF PLAN APPROVAL
THESE PLANS SHALL NOT BE REPRODUCED OR COPIED WITHOUT THE WRITTEN CONSENT OF THE ENGINEER	THESE PLANS SHALL NOT BE REPRODUCED OR COPIED WITHOUT THE WRITTEN CONSENT OF THE ENGINEER

NOTES:

- "H" is the difference in elevation between the outlet pipe flow line and the normal gutter grade line, unexpressed.
- For "H" wall thickness, see Table A.
- Walls exceeding those required when "H" is 6'-0" or less and the unsupported width or length is 7'-0" or less, placed 1/2" clear to inside of box unless otherwise shown.
- Inlet bottom reinforcing not required. See Standard Plan D74C for alternative reinforced bottom and alternative half round bottom.
- Steps shall be required where "H" is less than 2'-6". Where "H" is 2'-6" or more, install steps with lowest steps shall not exceed 1'-0" and shall be uniform throughout the length of the wall. The distance between with stairs industrial safety requirements. See Standard Plan D74C for step details.
- Details shown apply to both metal and concrete pipe.
- Pipe(s) can be placed in any wall.
- Curb section shall match adjacent curb.
- Each floor shall have wood travel finish and a minimum slope of 1/2" from all directions toward outlet pipe.
- Set Inlet so that grate bars are parallel to direction of principal surface flow.
- See Revised Standard Plans D77A and D77B for grate and frame details and weights of miscellaneous iron and steel.
- See Standard Plan D78A for gutter depression details.
- This dimension will vary with different grates, curbs types, box width and wall thickness.
- Bar may be rotated as necessary to clear openings. Where "L" is 6" or less, bar may be omitted.
- Where "L" is 6" or less, wall thickness shall be as shown in Table A.
- Cast-in-place inlets to be formed around all pipes/stubs intersecting the Inlet, and concrete poured in the continuous operation. Precast inlets shall have mortared connections conforming to details for Type GCP Inlet shown on Standard Plan D75B. See Standard Specifications for mortar composition.

TABLE A

TYPE	H=3'-0" TO 8'-0" (T=6")		H=6'-1" TO 20'-0" (T=6")	
	ADDITIONAL PCC PER FOOT (CY)	ADDITIONAL PCC PER FOOT (CY)	ADDITIONAL PCC PER FOOT (CY)	ADDITIONAL PCC PER FOOT (CY)
G-1	0.98	0.220	See Note A	See Note A
G-2	1.31	0.220	See Note A	See Note A
G-3	1.03	0.220	See Note A	See Note A
G-4	1.27	0.255	See Note A	See Note A
G-5	1.30	0.255	See Note A	See Note A
G-6	1.02	0.220	See Note A	See Note A
G-7	1.04	0.220	See Note A	See Note A

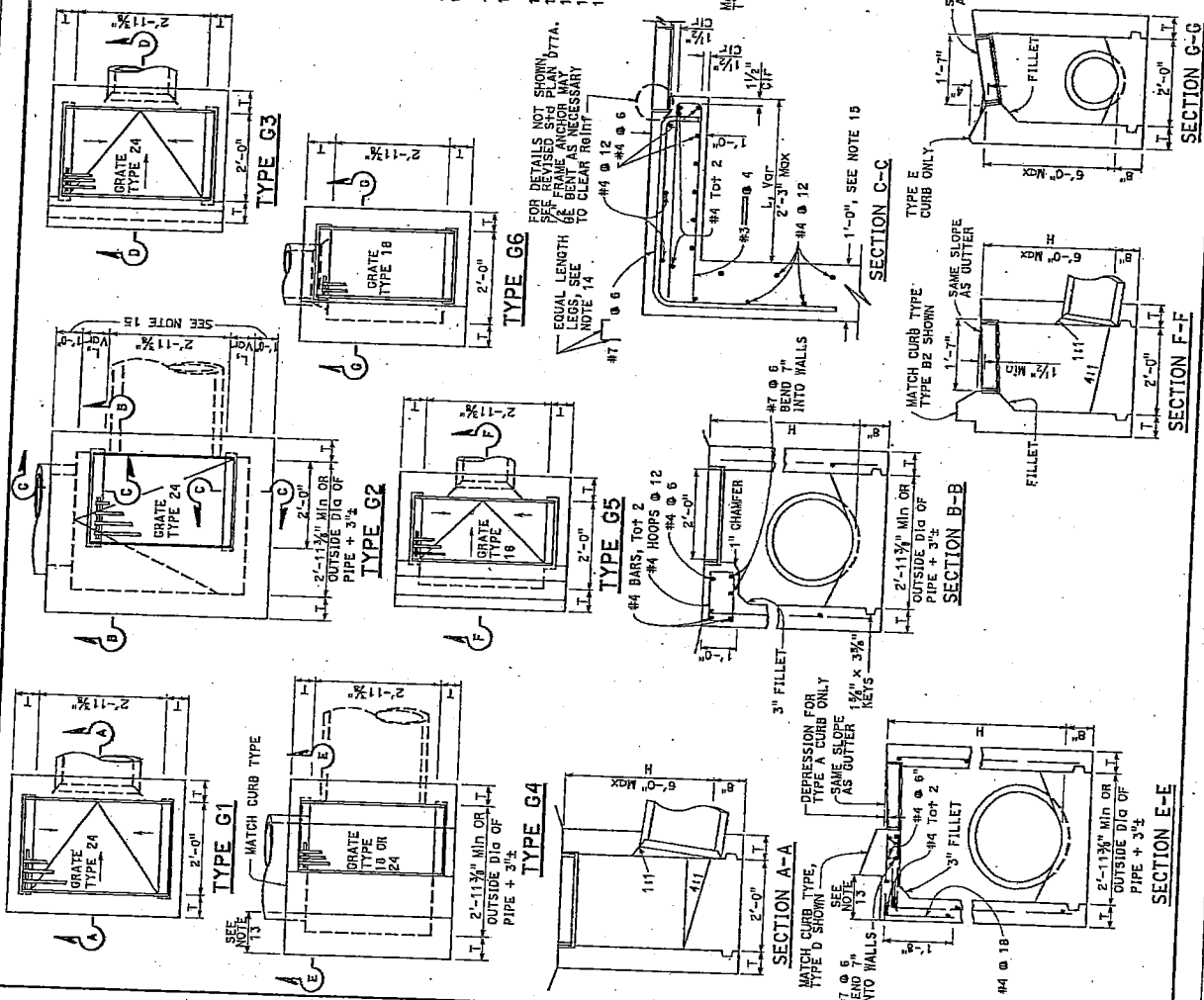
NOTE: A

Maximum allowable height 6'-0".

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
DRAINAGE INLETS
NO SCALE

RSP D73 DATED OCTOBER 19, 2012 SUPERSEDES STANDARD PLAN D73
DATED MAY 20, 2011 - PAGE 156 OF THE STANDARD PLANS BOOK DATED 2010.

REVISED STANDARD PLAN RSP D73



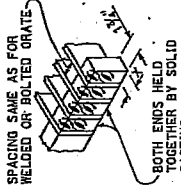
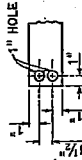
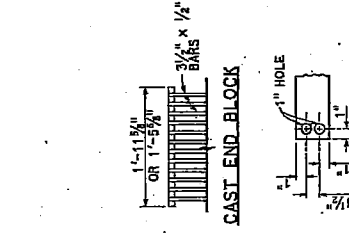
DIST.	COUNTY	ROUTE	PROJECT	SHEET NO.	TOTAL SHEETS

REGISTERED CIVIL ENGINEER
 JULY 20, 2012
 PLANS APPROVAL DATE
 IN THE STATE OF CALIFORNIA OR 13 OFFICES
 OF THE STATE ENGINEER FOR THE REGISTRATION OF
 CIVIL ENGINEERS IN THE STATE OF CALIFORNIA
 REGISTERED CIVIL ENGINEER

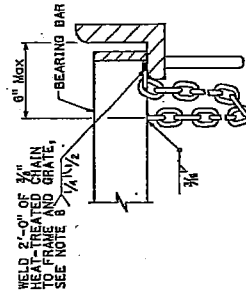
TO ACCOMPANY PLANS DATED _____

NOTES:

- Grate type numbers refer to approximate width of grate in inches and number of bars, respectively.
- Contractor has the option of using cast ductile iron, cast carbon steel, welded, bolted, or cast and block grate.
- Rounded top of bars optional on all grates.
- Pipe inlets with a grate shall be placed on the parallel direction of principle surface flow.
- Complete joint penetration butt welds may be used for all grates.
- Standard square, hexagon, round or other shaped holes may be substituted for the right angle holes on the anchors shown on this plan.
- Grates and frame walchits are based on welded grates (weights of face angles, steps, protection bars, etc. are not included).
- Connect chain to grate and frame only at locations shown on the plans. When chain is required, do not use cast ductile iron grates.



ALTERNATIVE CAST DUCTILE IRON OR CAST CARBON STEEL END BLOCK GRATE



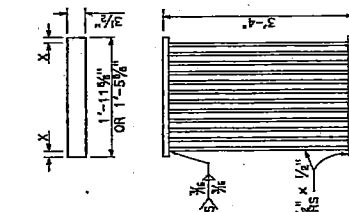
GRATE DETAILS

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION

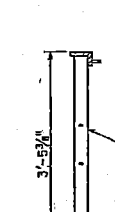
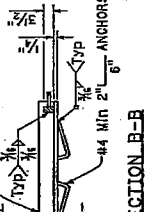
NO SCALE

RSP D77A DATED JULY 20, 2012 SUPERSEDES STANDARD PLAN D77A DATED MAY 20, 2011 - PAGE 164 OF THE STANDARD PLANS BOOK DATED 2010.

REVISED STANDARD PLAN RSP D77A

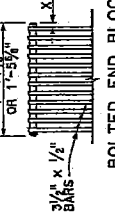


ALTERNATIVE CAST DUCTILE IRON WELDED GRATE



ALTERNATIVE ANCHOR FOR RECTANGULAR FRAME

(For details not shown, see Rectangular Frame Details)



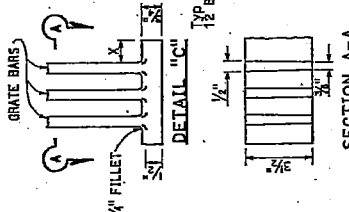
ALTERNATIVE BOLTED GRATE

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION

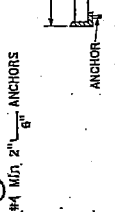
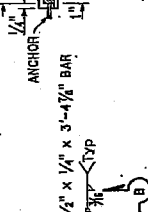
NO SCALE

RSP D77A DATED JULY 20, 2012 SUPERSEDES STANDARD PLAN D77A DATED MAY 20, 2011 - PAGE 164 OF THE STANDARD PLANS BOOK DATED 2010.

REVISED STANDARD PLAN RSP D77A

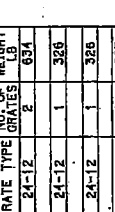


ALTERNATIVE CAST DUCTILE IRON GRATE OR CAST CARBON STEEL GRATE



ALTERNATIVE ANCHOR FOR RECTANGULAR FRAME

(For details not shown, see Rectangular Frame Details)



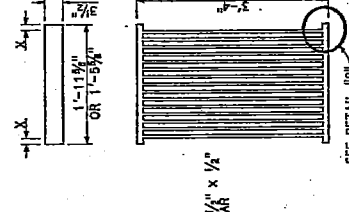
ALTERNATIVE BOLTED GRATE

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION

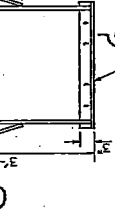
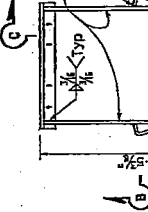
NO SCALE

RSP D77A DATED JULY 20, 2012 SUPERSEDES STANDARD PLAN D77A DATED MAY 20, 2011 - PAGE 164 OF THE STANDARD PLANS BOOK DATED 2010.

REVISED STANDARD PLAN RSP D77A

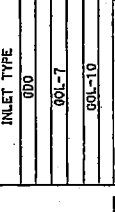


RECTANGULAR GRATE DETAILS



RECTANGULAR FRAME DETAILS

(For all rectangular grates)



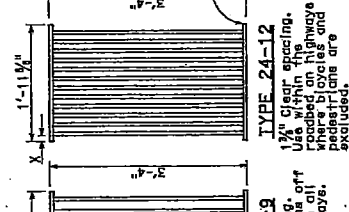
RECTANGULAR FRAME DETAILS

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION

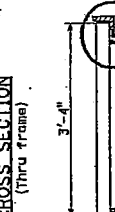
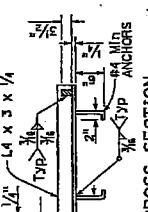
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RSP D77A DATED JULY 20, 2012 SUPERSEDES STANDARD PLAN D77A DATED MAY 20, 2011 - PAGE 164 OF THE STANDARD PLANS BOOK DATED 2010.

REVISED STANDARD PLAN RSP D77A

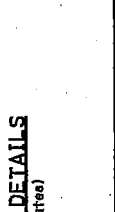


TYPE 24 GRATE



RECTANGULAR FRAME DETAILS

(For all rectangular grates)



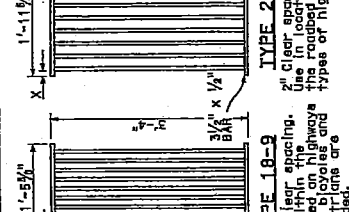
RECTANGULAR FRAME DETAILS

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION

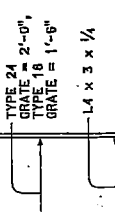
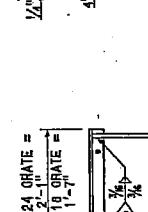
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RSP D77A DATED JULY 20, 2012 SUPERSEDES STANDARD PLAN D77A DATED MAY 20, 2011 - PAGE 164 OF THE STANDARD PLANS BOOK DATED 2010.

REVISED STANDARD PLAN RSP D77A

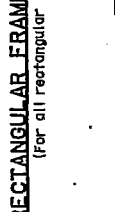


TYPE 24 GRATE



RECTANGULAR FRAME DETAILS

(For all rectangular grates)



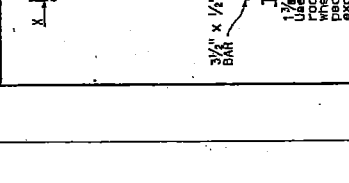
RECTANGULAR FRAME DETAILS

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION

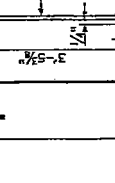
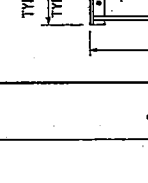
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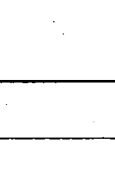


TYPE 24 GRATE



RECTANGULAR FRAME DETAILS

(For all rectangular grates)



RECTANGULAR FRAME DETAILS

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION

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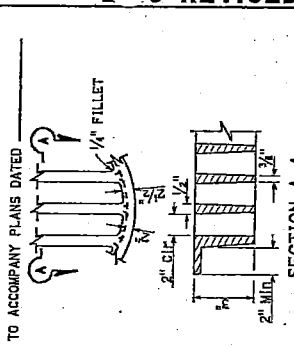
RSP D77A DATED JULY 20, 2012 SUPERSEDES STANDARD PLAN D77A DATED MAY 20, 2011 - PAGE 164 OF THE STANDARD PLANS BOOK DATED 2010.

REVISED STANDARD PLAN RSP D77A

Sheet	COUNTY	ROUTE	POST MILE	SHEET NO.

APPROVED FOR THE STATE OF CALIFORNIA
 JULY 20, 2012
 PLANS APPROVAL DATE
 REGISTERED CIVIL ENGINEER
 RAYMOND Q. JONES
 LICENSE NO. 37132

THE STATE OF CALIFORNIA OR ITS OFFICERS
 ARE NOT RESPONSIBLE FOR THE CONSTRUCTION OF THIS PLAN SHEET.



ALTERNATIVE CAST DUCTILE
 IRON GRATE OR CAST CARBON
 STEEL GRATE TYPE 36R AND 36RX
 BASIS FOR MISC IRON AND STEEL FINAL
 PAY WEIGHTS FOR DRAINAGE INLETS

INLET TYPE	GRATE TYPE	NO. OF WEIGHT LD GRATES
600 (SEE NOTE 4)	24-10C	2
	24-10S	2
60,60L,61,62, 63,64 (TYPE 24)	24-12X	2
	24-13	2
04 (TYPE 18) 05,06	24-10C	1
	24-12X	1
07,072	18-9S	1
	18-10	1
613,614	18-9S	2
	18-10	2
ODI GMP, GCP, GGP, 1	24-10C	2
	24-10S	2
ODI GMP, GCP, GCP, 1	24-10S	2
	24-12X	2
ODI GMP, GCP, GGP, 1	24-13	2
	36RX (Mod)	1
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MEMORANDUM OF UNDERSTANDING
REGARDING MANAGEMENT OF
SoMa West Skatepark and Dog Park, and Adjacent Parking Area

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), dated for reference purposes only as of _____, 2013, is entered into by and between the City and County of San Francisco Recreation and Park Commission ("Rec. & Park"), the Real Estate Division of the General Services Agency ("RED"), the Office of Economic and Workforce Development ("OEWD") and the Department of Public Works ("DPW").

RECITALS

A. The City and County of San Francisco ("City") leases property that comprises the skatepark portion of the SoMa West Skatepark and Dog Park, as further depicted on the attached Exhibit A (the "Skatepark"), from the California Department of Transportation ("Caltrans") pursuant to an Airspace Lease for Caltrans Freeway Lease Area No. 04-SF-101-26 dated as of _____, 2013, a copy of which is attached hereto as Exhibit B (the "Skatepark Lease").

B. City leases the property that comprises the dog play area portion of the SoMa West Skatepark and Dog Park ("Dog Park") and the property commonly known as the Parking Area ("Parking Area"), both as further depicted on the attached Exhibit D, from Caltrans pursuant to an Airspace Lease for Caltrans Freeway Lease Area No. _____ dated as of _____, 2013 (the "Dog Park/Parking Lease").

C. The Skatepark Lease and the Dog Park/Parking Lease (together, the "Leases") each have an initial twenty (20) year term, and City has one option to extend each such term by an additional ten (10) years.

D. On _____, 2013, the City's Board of Supervisors approved Resolution No. _____, Resolution No. _____, and Ordinance No. _____, all attached hereto as Exhibit E (the "Board Legislation"), to authorize the Leases, extend the requirements of the San Francisco Park Code to the Skatepark and the Dog Park, and to authorize the Park Patrol (as defined in Section 2.09 of the San Francisco Park Code) to patrol the Skatepark and the Dog Park.

E. The purpose of this MOU is to define the framework of cooperation between RED, OEWD, DPW and Rec. & Park for the design, installation, maintenance and operation of the Skatepark, the Dog Park and Parking Area, the performance of City's obligations under the Leases, and certain other matters set forth below.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

AGREEMENT

A. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

B. Effective Date; Term. The term of this MOU shall commence as of the date ("Effective Date") that each of the following conditions are met: (i) this MOU has been fully executed, and (ii) the City's Board of Supervisors has adopted the Board Legislation. The term of this MOU shall terminate on the six (6) month anniversary of the termination of the Leases or any earlier date mutually agreed to in writing by RED, OEWD, DPW and Rec. & Park.

March 20, 2013

C. DPW Responsibilities. Activities to be undertaken by DPW with respect to the Skatepark, the Dog Park, and the Parking Area shall include the following:

1. Design and install skatepark improvements in the Skatepark at its sole cost in compliance with the requirements of the Skatepark Lease. Design and develop dog play area improvements in the Dog Park, and design and parking improvements in the Parking Area, at its sole cost and in compliance with the requirements of the Dog Park/Parking Lease. DPW shall provide Rec. & Park, OEWD, and RED with the opportunity to review and comment on DPW's proposed design of and improvements to the Skatepark, the Dog Park and the Parking Area and shall cooperate with RED's efforts to obtain Caltrans's approval of such designs and improvements.
2. Gather all required City approvals, including but not limited to the Director of Public Works and the Board of Supervisors, to authorize the construction of the improvements to the Skatepark, the Dog Park, and the Parking Area approved by Caltrans, Rec. & Park, OEWD, and RED (the "**Approved Improvements**").
3. Provide all materials reasonably requested by RED to obtain an encroachment permit from Caltrans to allow for DPW's construction of the Approved Improvements.
4. Construct the Approved Improvements at its sole cost and in compliance with the applicable provisions of the Leases and the encroachment permits issued by Caltrans for the Approved Improvements. Repair any damage to the existing columns of the freeway structures, or any future freeway structure appurtenances installed by Caltrans, in the Skatepark, Dog Park or Parking Area to the extent such damage was caused by DPW's construction of the Approved Improvements.
5. For the twenty (20) year period (the "**Funding Period**") following the completion of construction of the Approved Improvements (the "**Completion Date**"), fund Rec. & Park with the Funding Amount (defined as follows) as follows:
 - (a) An "**Operating Period**" shall mean the each twelve (12) month period following the Completion Date or the anniversary of the Completion Date.
 - (b) The "**Funding Amount**" shall mean an initial amount equal to \$66,000 per Operating Period, which shall be increased by 2% on each anniversary of the Completion Date, pending availability of funds identified in item 8 below and appropriation of Central Freeway Project Funds sufficient to pay such amount by the Board of Supervisors.
 - (c) The "**Operation Costs**" shall mean the costs incurred by Rec. & Park in performing its obligations under Section F below.
 - (d) Within thirty (30) days following the Completion Date, and on the first through the nineteenth anniversaries of the Completion Date, DPW shall transfer the Funding Amount for the upcoming Operating Period to the Rec. & Park account established to pay for the Operation Costs.
 - (e) If the Funding Amount delivered to Rec. & Park for an Operating Period exceeds the Operation Costs for such Operating Period, such excess amount shall be credited towards the next Funding Amount to be delivered to Rec. & Park.
6. Fund RED with the monthly rental payments, and any other payments, to be made to Caltrans pursuant to the Leases, pending availability of funds identified in item 8 below and appropriation of Central Freeway Project Funds sufficient to pay such amount by the Board of Supervisors. Each such payment shall be delivered to RED no less than ten (10) business days prior to the date it is owed to Caltrans.

7. Fund RED with any amounts required by the City's risk manager to include the Skatepark, the Dog Park and Parking Area in City's pool of self-insured properties, and any amounts required to procure third party insurance policies for the Skatepark, the Dog Park and the Parking Area as required by the City's risk manager or otherwise required by Caltrans, pending availability of funds identified in item 8 below and appropriation of Central Freeway Project Funds sufficient to pay such amount by the Board of Supervisors,
8. The source of funds identified in item 1 through 7 above are from the Octavia Boulevard Special Fund. No other DPW managed funds shall be used to support the Skatepark, the Dog Park, or the Parking Area or pay for any amounts owed to Caltrans under the Leases. Pending availability of funds in the Octavia Boulevard Special Fund, DPW shall submit appropriation requests to the Board of Supervisors for Octavia Boulevard Special Funds in amounts sufficient to provide the Funding Amount and the amounts described in 6 and 7 above. If funds are not available for DPW to make an appropriation request for the Funding Amount to be made in any Operating Period, or if such request is made but the Board does not appropriate the requested funds from the Octavia Boulevard Special Fund needed to deliver the Funding Amount for such Operating Period, Rec. & Park shall have the right to terminate this MOU by delivering written notice of such termination to DPW, OEWD and RED prior to the commencement of such Operating Period.

D. RED Responsibilities. Activities to be undertaken by RED with respect to the Leases and the Skatepark, the Dog Park and Parking Area shall include, but not be limited to, the following:

1. Manage the financial accounting required under the Leases and assist in managing any financial accounting required under Section C.5.
2. Hold jurisdiction to the Leases and cause the Skatepark, the Dog Park and Parking Area to be included in the pool of City's self-insured properties or obtain any third party insurance required for the Skatepark, Dog Park, and Parking Area as required by the City's Risk Manager or Caltrans.
3. Handle all correspondence sent by City or from Caltrans to the City under the Leases, and following the Completion Date, act as liaison between Caltrans and Rec. & Park as needed with respect to all issues related to the Skatepark, Dog Park and Parking Lot.
4. After the Completion Date, maintain the Parking Area (including the Approved Improvements located therein) in compliance with the applicable terms of the Leases. Such obligation shall include the performance of all maintenance and repairs needed for the Approved Improvements, plantings, shrubs, trees, paths, benches, trash collection facilities, light fixtures, and security structures in the Parking Area. Maintenance shall include but is not limited to graffiti abatement. RED's costs for maintaining the Parking Area shall be paid from its budget and shall not be paid for from the Octavia Boulevard Special Fund or the Funding Amount.
5. After the Completion Date, operate the Parking Area in compliance with the applicable terms of the Leases.

E. OEWD Responsibilities. Activities to be undertaken by OEWD with respect to the Leases and the Skatepark, Dog Park and Parking Area shall include, but not be limited to, the following:

1. Act as liaison between Caltrans, DPW and Rec. & Park with respect to all issues related to the Skatepark, Dog Park and Parking Lot until the Completion Date.

March 20, 2013

2. Assist in project management for the design of and improvements to the Skatepark, the Dog Park and the Parking Area, and the construction of the Approved Improvements, in coordination with DPW, RED, Rec. & Park, and Caltrans.
3. All OEWD project responsibilities will cease upon the Completion Date.

F. Rec. & Park Responsibilities. After the Completion Date, Rec. & Park will exercise the following responsibilities with respect to the Skatepark and the Dog Park:

1. Maintain the Skatepark and Dog Park (and the Approved Improvements located therein) in compliance with the applicable terms of the Leases. Such obligation shall include the performance of all maintenance and repairs needed for the Approved Improvements, plantings, shrubs, trees, paths, benches, trash collection facilities, skatepark fixtures, dog play area fixtures, light fixtures, and security structures in the Skatepark and Dog Park. Maintenance shall include but is not limited to graffiti abatement.
2. Perform any repairs or graffiti abatement for the existing columns of the freeway structures, or any future freeway structure appurtenances installed by Caltrans, in the Skatepark, Dog Park or Parking Area to the extent required under the Leases.
3. Operate the Skatepark and Dog Park, including the enforcement of the San Francisco Park Code therein.
4. Perform other tasks requested by both DPW and RED.
5. Comply with all of the conditions, standards, and terms set forth in the Leases when performing its tasks in, and operating, the Skatepark and Dog Park.
6. Use the delivered Funding Amounts only for the Operation Costs. After the termination of the Funding Period, Rec. & Park shall only be required to perform other tasks requested by both DPW and RED if either DPW or RED agrees to fund the costs of performing such tasks or if Rec. & Park agrees to bear the costs of performing such tasks.
7. Work with other City departments, McCoppin Valencia Neighborhood Watch Group and any other relevant stakeholders to address concerns or requested modifications in agreed upon maintenance that are consistent with the Funding Amount applicable at such time.

G. Notices. All notices, demand, consents or approvals which are or may be required to be given by either party to the other under this MOU shall be in writing and shall be deemed to have been fully given when delivered in person to the following designated representatives at the following addresses, or any other address designated by a party through a notice delivered to the other two parties:

If to Rec. & Park: General Manager
San Francisco Recreation and Park Department
501 Stanyan Street, McLaren Lodge
San Francisco, CA 94117

If to RED: Director of Property
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

March 20, 2013

with a copy to: Market/Octavia Project Manager
Office of Economic and Workforce Development
1 Dr. Carlton B. Goodlett Place, Room 448
San Francisco, CA 94102

If to DPW: Director of Public Works
Department of Public Works
1 Dr. Carlton B. Goodlett Place, Room 348
San Francisco, CA 94102

H. Resolution. The resolution adopted by Recreation and Park Commission approving this MOU is attached hereto as Exhibit F.

I. Amendments. Any amendments or modifications to this MOU shall be subject to the mutual written agreement of Parties, and Rec. & Park's agreement may be made upon the sole approval of the General Manager of the Department; provided, however, material amendments or modifications to this MOU which materially increase Rec. & Park's liabilities or financial obligations under this MOU shall additionally require the approval of Rec & Park Commission.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have caused this MOU to be executed as of the date first written above.

AGREED TO AS WRITTEN ABOVE:

SAN FRANCISCO RECREATION AND
PARK DEPARTMENT

By: _____
PHIL GINSBURG
General Manager

Date: _____

Authorized by
Recreation and Park Commission

Resolution No.: _____

Adopted: _____

Attest: _____
Secretary
Recreation and Park Commission

APPROVED AS TO FORM:

DENNIS J. HERRERA, CITY
ATTORNEY

By: _____
Francesca Gesner
Deputy City Attorney

AGREED TO AS WRITTEN ABOVE:

CITY AND COUNTY OF SAN
FRANCISCO REAL ESTATE
DIVISION

By: _____
JOHN UPDIKE
Director

Date: _____

CITY AND COUNTY OF SAN
FRANCISCO, DEPARTMENT OF
PUBLIC WORKS

By: _____
MOHAMMED NURU
Director

Date: _____

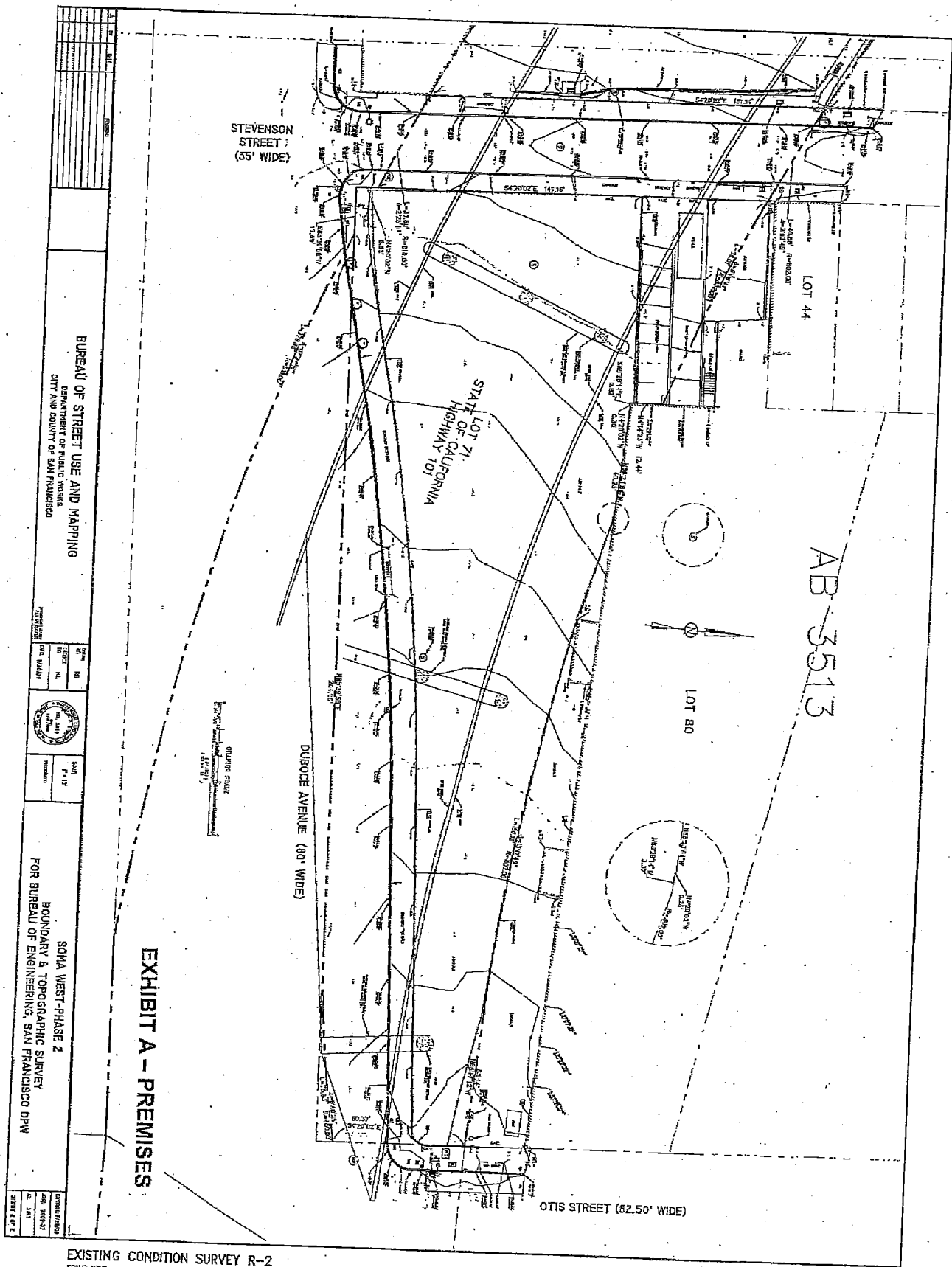
CITY AND COUNTY OF SAN
FRANCISCO, OFFICE OF ECONOMIC
AND WORKFORCE DEVELOPMENT

By: _____
TODD RUFO
Director

Date: _____

March 20, 2013

EXHIBIT A
MAP OF SKATEPARK



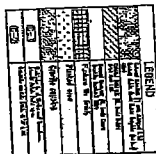


EXHIBIT B

SKATEPARK LEASE

**STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
AIRSPACE LEASE
MARLER - JOHNSON PARK AGREEMENT
04-SF-101-26**

SUMMARY OF LEASE PROVISIONS

LESSOR: CALIFORNIA DEPARTMENT OF TRANSPORTATION

LESSEE (local agency): CITY AND COUNTY OF SAN FRANCISCO

PREMISES: Lease Area No. SF-101-26, as shown on Exhibit A, located under SF-101 between Otis and Stevenson Streets, in the City of San Francisco, County of San Francisco, State of California (Article 1).

LEASE TERM: 20 years plus one 10-year extension option (Article 2)

MONTHLY LEASE RATE: \$10,000.00 (Article 3)

ADJUSTMENT TO LEASE RATE: 2% annual escalation (Article 3.2)

SECURITY DEPOSIT: \$0.00. (Article 14)

PUBLIC USE: City of San Francisco Maintained Public Skate Park

LIABILITY INSURANCE: \$25,000,000 - Self Insured (Article 8)

ADDRESS FOR NOTICES:

To LESSOR:

Via US Mail:

Department of Transportation
Right of Way Airspace MS 11
P.O. Box 23440
Oakland, CA 94623-0440

In Person:

Department of Transportation
Right of Way Airspace MS 11
111 Grand Avenue
Oakland, CA 94612-3771

To LESSEE: Director of Property
City & County of San Francisco
25 Van Ness, Suite 400
San Francisco, CA 94102

LESSEE Contact: John Updike Office ph. (415) 554-9850

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	EXHIBIT A – Premises
	EXHIBIT B – Initial Improvements
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STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
AIRSPACE LEASE – MARLER-JOHNSON PARK AGREEMENT

THIS LEASE (the "Lease"), dated April 22, 2013, is by and between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "LESSOR," and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, a bonafide public agency, hereinafter called "LESSEE."

WITNESSETH

It has been determined that the intended and described purpose of this leasehold is a proper use by a bonafide public agency pursuant to Section 14013 of the Government Code of the State of California; and

For and in consideration of the rental and the covenants, conditions, agreements, and stipulations set forth herein, LESSOR and LESSEE agree as follows:

ARTICLE 1. LEASE; PREMISES

Subject to the provisions of this Lease, LESSOR leases to LESSEE and LESSEE leases from LESSOR those certain Premises situated in the City of San Francisco, County of San Francisco, State of California, sometimes designated as lease area number SF-101-26, said demised area shown on the map marked Exhibit A.

EXCEPTING THEREFROM all those portions of the above-described Premises occupied by the supports and foundations of the existing structure.

ALSO EXCEPTING THEREFROM all that portion of said Premises above a horizontal plane 10 feet below the underside of the superstructure of the existing structure, which plane extends to a line 15 feet, measured horizontally, beyond the outermost protrusion of the superstructure of said existing structure.

This Lease is subject to the following (collectively, the "Existing Encumbrances"): (1) all easements, covenants, conditions, restrictions, reservations, rights of way, liens, encumbrances and other matters of record, (2) all matters discoverable by physical inspection of the Premises or that would be discovered by an accurate survey of the Premises and (3) all matters known to LESSEE or of which LESSEE has notice, constructive or otherwise including, without limitations, those shown on attached Exhibit A. LESSOR hereby represents that, except for this Lease, it has not issued any leases, permits, easements or any other agreements that provide any third party with the right to use or occupy any portion of the Premises during the term of this Lease. If LESSEE discovers any Existing Encumbrance that materially prevents LESSEE from using the Premises for the uses permitted under Section 4.1 of this Lease, LESSEE shall have the right to terminate this Lease by delivering written notice of such termination to LESSOR.

ARTICLE 2. TERM

The term of this Lease shall be for twenty years commencing on the later date ("Commencement Date") to occur of (i) the Construction Date (defined as follows) and (ii) the date this Lease has been fully executed and delivered and LESSOR has issued an encroachment permit (the "Encroachment Permit") to LESSEE for the installation of the improvements described in the attached "Exhibit B" (the "Initial Improvements"). The Construction Date shall be the earlier to occur of (a) OCTOBER 1, 2013, and (b) the ninetieth (90th) day immediately following LESSEE's award of a contract for the construction of the Initial Improvements.

The term of this Lease shall expire on the twentieth (20th) anniversary of the Commencement Date ("Expiration Date"), unless earlier terminated by LESSEE or by LESSOR pursuant to the terms of this Lease. At LESSEE'S option, and with LESSOR'S concurrence, this Lease may be renewed for one additional ten-year option by LESSEE delivering written notice of its exercise of such option no less than 180 days prior to the date such option term is to commence. LESSEE shall have the right to terminate its exercise of its option to extend the term of this Lease if it does not agree to the new rent for such extended term determined pursuant to the terms and conditions in Section 3.4.

ARTICLE 3. LEASE RATE

3.1 Minimum Monthly Rent

LESSEE shall pay to LESSOR as minimum monthly rent, without deduction, setoff, prior notice, or demand, the sum of \$ 10,000.00 per month, in advance on the first day of each month, commencing on the Commencement Date and continuing during the term. Minimum monthly rent for the second rent year and beyond shall be adjusted pursuant to section 3.2 below.

Minimum monthly rent for the first month or portion of it shall be paid on the Commencement Date. Minimum monthly rent for any partial month shall be prorated at the rate of 1/30th of the minimum monthly rent per day. All rent checks shall have printed on their face the following tenancy reference number 04-SF-101-26-07 and shall be paid to LESSOR at the following address:

Via Mail:

Department of Transportation
Attn: Cashier
P.O. Box 168019
Sacramento, CA 95816

Via Hand Delivery:

Department of Transportation
Attn: Cashier
1820 Alhambra Blvd., 2nd Floor
Sacramento, CA 95816

OR

Department of Transportation
Right of Way Airspace Development
111 Grand Avenue, MS 11
Oakland, CA 95612

3.2 Adjustment to Rent

The minimum monthly rent provided for in Section 3.1 shall be subject to an adjustment on

each anniversary of the Commencement Date, provided, however, that if the Commencement Date does not occur on the first day of a month, such adjustment shall occur on each anniversary of the first day of the month immediately following the Commencement Date. For example, if the Commencement Date occurs on July 1, 2013, rent shall be adjusted for the remainder of the initial term of the Lease as follows:

Table 4.2.1

<u>Time Period</u>	<u>Rent</u>
July 1, 2014 through July 31, 2014	\$10,200.00
July 1, 2015 through July 31, 2015	\$10,404.00
July 1, 2016 through July 31, 2016	\$10,612.00
July 1, 2017 through July 31, 2017	\$10,824.00
July 1, 2018 through July 31, 2018	\$11,041.00
July 1, 2019 through July 31, 2019	\$11,262.00
July 1, 2020 through July 31, 2020	\$11,487.00
July 1, 2021 through July 31, 2021	\$11,717.00
July 1, 2022 through July 31, 2022	\$11,951.00
July 1, 2023 through July 31, 2023	\$12,190.00
July 1, 2024 through July 31, 2024	\$12,434.00
July 1, 2025 through July 31, 2025	\$12,682.00
July 1, 2026 through July 31, 2026	\$12,936.00
July 1, 2027 through July 31, 2027	\$13,195.00
July 1, 2028 through July 31, 2028	\$13,459.00
July 1, 2029 through July 31, 2029	\$13,728.00
July 1, 2030 through July 31, 2030	\$14,002.00
July 1, 2031 through July 31, 2031	\$14,282.00
July 1, 2032 through July 31, 2032	\$14,568.00
July 1, 2033 through July 31, 2033	\$14,859.00

3.3 LESSOR's Compensation upon Assignment, Transfer or Sublease of LESSEE's Leasehold

(a) In the event that LESSOR permits LESSEE to voluntarily assign, transfer or sublease any of LESSEE's rights in the Premises, after recovering its costs incurred in connection with such assignment, transfer or sublease, LESSEE shall pay to LESSOR compensation in connection with the transaction in an amount equal to fifty percent (50%) of any and all consideration, whether in present payments or in future payments, which LESSEE receives from an assignee, transferee or sublessee in excess of the amount of rent LESSEE is obligated to pay to LESSOR under this Lease; provided, however, that LESSEE shall have the right from time to time, upon notice to but without the consent of LESSOR, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission or agency of LESSEE for any or all of the uses permitted under this Lease without payment of any such compensation and without obtaining LESSOR's consent.

(b) Payment by LESSEE of the amount of compensation required under this Section 3.3 is a condition to LESSOR's giving its consent to any assignment, transfer or sublease under Article 16, and LESSOR may withhold its consent to any such assignment, transfer or sublease until this compensation has been paid. In addition, before LESSOR gives its consent to any such transaction, LESSEE shall deliver to the assignee, transferee or sublessee a written summary of all sums due and owing to LESSOR under this section and shall deliver to LESSOR a written acknowledgement by the assignee, transferee or sublessee that said person affirms that the sums are due and owing to LESSOR and that said person accepts responsibility for ensuring that such sums are paid directly to LESSOR.

3.4 Reevaluation of Minimum Monthly Rent For Extended Term

It is the intent of LESSOR and LESSEE to maintain a fair market lease rate during any extended term of this Lease. If LESSEE exercises its option to extend the term of this Lease pursuant to Article 2, at the sole election of LESSOR prior to the commencement of such extended term, a fair market lease rate for the first year of such extended term may be determined in the manner set forth below and shall be established as the minimum monthly rent commencing immediately following such determination as provided for below. The minimum monthly rent established for the first year of an extended term by this section shall be subject to a 2% annual adjustment on each anniversary of the commencement of such extended term.

The term "fair market lease rate" means the most probable rental price a ten (10) year lease for the Premises, excluding the Initial Improvements and any other improvements constructed by LESSEE thereon pursuant to this Lease, should bring in a competitive and open market under all conditions requisite to a fair transaction, with each party acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus, and leasing with full knowledge of the purpose and uses to which the Premises is being put and the restrictions on use contained in this Lease.

The parties intend to establish the fair market lease rate through negotiation. In an effort to encourage productive negotiations, within 30 days after LESSEE notifies LESSOR that it wishes to exercise its right to extend the term of this Lease pursuant to Article 2, LESSOR shall have the right to notify LESSEE of its intent to reevaluate the property and provides LESSEE with its proposed new rate for the extended term. If LESSOR and LESSEE have not mutually agreed upon the fair market lease rate for the Premises for the first year of an extended term at least 30 days immediately prior to the commencement of such extended term, then LESSOR shall unilaterally set the fair market lease rate based on data collected from a rent survey of reasonably comparable Caltrans and non-Caltrans owned properties and shall use the highest per square foot rate paid by a LESSEE for a comparable property with a comparable use and for a period equal to the applicable term within approximately a two mile radius of the subject Premises.

If LESSOR and LESSEE have not mutually agreed upon the fair market lease rate for the Premises for an upcoming extended term at least 30 days immediately prior to the commencement of such extended term, and LESSOR thereafter unilaterally sets the fair market lease rate, LESSEE shall have the option to accept the new lease rate or within 30 days of being notified in writing of the new lease rate, LESSEE may object to the new lease rate and elect to terminate its exercise of its option to extend to term of the Lease with no penalty. Such termination notice must be provided by LESSEE to LESSOR in writing. LESSEE's election to terminate its exercise of its option to extend

to term of the Lease shall place the LESSEE in the same theoretical position as if the entire maximum initial term of this Lease had run its course and expired. LESSEE shall have no further rights other than those expressed within this Lease relevant to termination. In the case that LESSEE does not provide notice of intent to terminate, the new fair market lease rate established by LESSOR shall become effective on the first day of the extended term, and if LESSEE fails to pay the new fair market lease rate, LESSOR shall treat LESSEE's failure to pay the new lease rate during the extended term as a material breach.

3.5 Reevaluation on Change in Use

LESSOR expressly reserves the right to establish a new minimum monthly rent as a condition to LESSOR's approval of any use of the Premises not specifically permitted by Section 4.1 and as a condition to any amendment to or changes in the uses permitted by that section.

3.6 Reevaluation on Transfer

Although Article 16 generally prohibits any assignments, transfers, subleases, and encumbrances, LESSOR expressly reserves the right to establish a new minimum monthly rent as a condition to LESSOR's specific approval of any transfer, or assignment of this Lease or any subletting of all or any portion of the Premises; provided, however, that LESSEE shall have the right from time to time, upon notice to but without the consent of LESSOR, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission or agency of LESSEE for any or all of the uses permitted under this Lease without any such new minimum monthly rent and without obtaining LESSOR's consent.

ARTICLE 4. USE

4.1 Specified Use

The Premises shall be used and occupied by LESSEE only and exclusively for the purpose of a public park or recreational area and, if LESSOR exercises its rights under Article 10 in a manner that makes the remaining LESSEE improvements on the Premises inappropriate for a skatepark, for parking. Unless LESSOR exercises its rights under Article 10 in a manner that makes the remaining LESSEE improvements on the Premises inappropriate for a skatepark, parking shall be off Premises on a portion of freeway lease area SF-101-25 pursuant to a separate Airspace Lease between LESSOR and LESSEE (the "Dog Park Lease") as designated on the approved development plans attached hereto as Exhibit B, which further depicts the proposed use of the Premises as the skatepark portion of the SoMa West Skatepark and Dog Park. The Premises shall be maintained at the sole cost and expense of LESSEE in an orderly, clean, safe and sanitary condition. LESSOR will terminate this Lease immediately if LESSEE uses the Premises for any purpose other than non-revenue generating park or recreational uses (provided that LESSEE shall have the right to sell beverages and food to users of the Premises, rent skateboard equipment, and to charge a fee to use the skatepark or to take skateboarding lessons if the revenues from such activities are used only to fund LESSEE's payment of rent pursuant to this Lease or pursuant to the Dog Park Lease or LESSEE's costs in performing its obligations under this Lease or the Dog Park Lease or making approved improvements to the Premises or the premises described in the Dog Park Lease).

The Premises shall at all times be subject to all uses by the LESSOR as may be deemed necessary by LESSOR for highway facilities without interference by LESSEE, as provided for within Article 10.

4.2 Condition of Premises

LESSEE hereby accepts the Premises "AS-IS." LESSOR makes no representation or warranty with respect to the condition of the Premises or the suitability thereof for the conduct of LESSEE's business, nor has LESSOR agreed to undertake any modification, alteration or improvement to the Premises.

4.3 Prohibited Uses

LESSEE is to use the Premises for a public park and recreational purposes only. The following are specifically prohibited:

- (a) Using the Premises in violation of any law, statute, zoning restriction, ordinance or governmental rule or regulation or requirements.
- (b) Operating or installing a gasoline or petroleum supply station, transporting or storing gasoline or petroleum products under the structures, except those products stored within an operable vehicle for exclusive use by that vehicle.
- (c) Manufacturing or storage or use of flammable materials, explosives or other materials, deemed by LESSOR to be a potential fire or other hazard to the transportation facility located above the Premises.
- (d) Using, creating, storing or allowing any hazardous materials on the Premises, except as otherwise expressly permitted in this Lease; provided that LESSEE may use such materials in such limited amounts as are customarily used for cleaning or maintaining improvements similar to the Initial Improvements or any other LESSEE improvements at the Premises so long as such use is in compliance with all applicable environmental laws. Fuel stored in a motor vehicle for the exclusive use in such vehicle is excepted.
- (e) Depositing or disposing of any hazardous materials on the Premises. LESSOR, or its agents or contractors, shall at all times have the right to go upon and inspect the Premises and the operations thereon to assure compliance with the requirements herein stated. Inspection may include taking samples of substances and materials present for testing, and/or the testing of soils or underground tanks on the Premises; provided that LESSOR shall provide LESSEE with 10 days' prior written notice of any such sampling or testing.

Hazardous materials are those substances listed or described for toxicity, reactivity, corrosivity or flammability criteria in Division 4.5, Chapter 11, Articles 1 through 5 of Title 22 of the California Code of Regulations, as well as any other substance which poses a hazard to health or environment.

- (f) Constructing, erecting, maintaining or permitting any sign, banner or flag upon the

Premises, except as provided for in Section 5.3 or permitted under the Encroachment Permit, without the prior written approval of LESSOR, which shall not be unreasonably withheld, conditioned or delayed; provided, however, that LESSEE shall not need LESSOR's prior written approval to install temporary signs, banners or flags to promote activities at the Premises ("Temporary Signs") as long as the installed Temporary Signs are not attached to any portion of the overhead freeway structure and its support columns. LESSOR's shall make all reasonable efforts to notify LESSEE in writing of LESSOR's approval or disapproval of a proposed sign, banner, or flag on or before the thirtieth (30th) day immediately following LESSEE's delivery of written request for LESSOR's approval. LESSEE shall not place, construct or maintain upon the Premises any advertising media that include moving or rotating parts, searchlights, flashing lights, loudspeakers, phonographs or other similar visual or audio media.

- (g) Parking or storing wrecked or inoperable vehicles of any kind on the Premises. All parked or stored vehicles must be capable of being started and driven off the Premises. Vehicles will not be permitted to remain overnight on the Premises.
- (h) Conducting or permitting the vending or sale of any goods or services upon the Premises except as specifically permitted under Section 4.1.
- (i) Any activity that damages or endangers any highway structure on the Premises, including its supports and foundations, or interferes with the operation of such structure.
- (j) Dumping or disposing of refuse or other unsightly materials on, in, under or about the Premises.
- (k) Conducting any activities on or about the Premises that constitute waste, nuisance or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises or lights) to the public; provided, however, that LESSOR agrees that the operation of a skatepark on the Premises (assuming the public users of the skatepark are not in violation of this list of prohibitions) will not constitute waste, nuisance or unreasonable annoyance.

LESSEE shall take all commercially practicable measures to ensure that its users at the Premises not conduct any activities prohibited under this Section. Repeated uncured incidents of the LESSEE's invitees at the Premises violating this Section shall constitute "nuisance" or an "unreasonable annoyance" per Section 4.3(k) and shall further constitute a material breach and default by LESSEE per Section 11.1(c) regardless whether the prohibited activities were conducted by third party users, as LESSEE's intended use of the Premises is to invite the public to use the Premises in compliance with the rules and regulations established by LESSEE and LESSOR.

4.4 LESSOR'S Rules and Regulations

LESSEE shall faithfully observe and comply with the rules and regulations that LESSOR shall from time to time promulgate for the protection of the transportation facility and the safety of the traveling public and which are required of all LESSOR tenants. LESSOR does not currently have rules and regulations for the Premises and LESSOR reserves the right from time to time to

promulgate reasonable rules and regulations for the protection of the transportation facility and the safety of the traveling public and to make reasonable modifications to said rules and regulations, each of which shall be binding upon LESSEE upon delivery of a copy of them to LESSEE. If such new rules and regulations materially impact LESSEE's use of the Premises, LESSEE shall have the right to terminate this Lease by delivering written notice of such termination to LESSOR within the 90-day period immediately following LESSEE's receipt of such new rules and regulations.

4.5 Water Pollution Control

LESSEE operates a combined sanitary and stormwater sewer system at the Premises and the surrounding areas under its own separate NPDES permit. Best Management Practices (BMPs) are further required per San Francisco Municipal Code.

LESSEE shall comply with all applicable State and Federal water pollution control requirements regarding storm water and non-storm water discharges from the LESSEE's leasehold area and will be responsible for all permits applicable to the Premises, including if applicable to the Premises, but not limited to, the National Pollutant Discharge Elimination System (NPDES) General Permit and Waste Discharge Requirements for Discharges of Stormwater Associated with Industrial Activities (Excluding Construction), the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities, and the Caltrans Municipal Separate Storm Sewer System NPDES Permit, and permits and ordinances issued to and promulgated by municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water and non-storm water to sewer systems, storm drain systems, or any watercourses under the jurisdiction of the above agencies. Copies of the current storm water related NPDES permits are available on the State Water Resources Control Board's website at http://www.swrcb.ca.gov/water_issues/programs/stormwater/.

LESSEE understands the discharge of non-storm water into the storm sewer system at the Premises may be prohibited under the ordinances listed above. In order to prevent the discharge of pollutants to storm water resulting from contact with hazardous material, the storage or stockpile of hazardous material on Premises is strictly prohibited.

LESSEE shall implement and maintain the BMPs required by permits, ordinance, and regulations applicable to the Premises, including those specified in Articles 4.1 and 4.2 of the San Francisco Public Works Code, and, to the extent applicable to LESSEE's use of the Premises, the BMPs set forth in the following manuals:

- (1) Right of Way Property Management and Airspace Storm Water Guidance Manual available for review online at: www.dot.ca.gov/hq/row/rwstormwater, and
- (2) Construction Site Best Management Practices Manual, available for review online at: www.dot.ca.gov/hq/construc/stormwater/manuals.htm.

In the event of conflict between the above-referenced manuals and this Lease, this Lease shall control.

LESSEE shall provide LESSOR with any Standard Industrial Classification (SIC) code applicable to LESSEE'S facilities and activities on the Premises. A list of SIC codes regulated under the General Industrial Permit may be found at the State Water Resources Control Board

website: http://www.waterboards.ca.gov/water_issues/programs/stormwater/gen_indus.shtml.
Other SIC codes may be found at www.osha.gov/pls/imis/sicsearch.html.

LESSOR, or its agents or contractors, shall at all times have the right to enter and inspect the Premises and the operations thereon to assure compliance with all stormwater permits, ordinances, and regulations applicable to the Premises. Inspection may include taking samples of substances and materials present for testing, and/or the testing of storm sewer systems or watercourses on the Premises; provided that LESSOR shall provide LESSEE with 10 days' prior written notice of any such sampling or testing.

Notwithstanding anything to the contrary in this Section, LESSEE shall have the right to perform any maintenance, including regular washing, reasonably necessary to keep the improvements constructed on the Premises by LESSEE in a good and clean operating condition.

4.6 Legal Status of the Skateboard Park.

LESSOR has not received any notice that the Premises is a significant park or recreation area pursuant to the provisions of 23 U.S.C. section 138 and 49 U.S.C. section 303 (collectively, "Section 4(f)"). It is hereby understood and agreed by LESSOR and LESSEE that the skateboard park is not intended to convert the Premises into a significant park or recreation area pursuant to the provisions of Section 4(f), and LESSEE shall not knowingly install, nor permit any of its sublessees to install, any improvements at the Premises that would cause the Premises to be a significant park or recreation area under Section 4(f). In the event that the Premises is declared a significant park or recreation area under Section 4(f) due to the skatepark or any improvements installed at the Premises by LESSEE or its sublessee(s), LESSEE shall assume all burden, monetary or otherwise, in securing any Section 4(f) remedy required to minimize any harm that any of LESSOR's proposed projects would otherwise cause to the skatepark or any such improvements; provided, however, that if any Section 4(f) remedy is so required, LESSEE shall have the right to terminate this Lease to relieve LESSOR of the obligation to perform, and for LESSEE to assume the burden for, such Section 4(f) remedy. LESSEE shall deliver written notice of any such termination of this Lease pursuant to the foregoing sentence to LESSOR on or before the thirtieth (30th) day that a determination is made to require LESSOR to perform a Section 4(f) remedy to minimize any harm to the Premises.

ARTICLE 5. COMMENCEMENT AND COMPLETION OF INITIAL CONSTRUCTION

5.1 Commencement of Construction

No improvements of any kind shall be placed in, on, or upon the Premises, and no alterations shall be made in, on, or upon the Premises other than the Initial Improvements. LESSEE shall commence construction of the Initial Improvements within 365 calendar days of the Commencement Date. For the purposes of this Article, construction shall be deemed to have commenced upon the issuance by LESSOR of an Encroachment Permit. In the event construction is not commenced within the time set forth herein, this Lease may be terminated by LESSOR and thereafter be of no further force and effect.

LESSEE shall be solely responsible for maintaining all improvements constructed by LESSEE on the Premises in a good and clean condition as specified in Article 7 below.

LESSEE shall be liable for any and all construction activities, permitted or not, that may occur on the Premises and its improvements during the term of this Lease, and shall indemnify and hold LESSOR harmless from any claims of liability arising solely from LESSOR's ownership of the Premises during the term of this Lease. LESSEE's obligations pursuant to the foregoing sentence shall not apply to any claims of liability arising from any acts at the Premises by LESSOR or its officers, employees, or agents, from any gross negligence or willful misconduct by LESSOR or its officers, employees, or agents, from any liability arising from the operation of any highway structure on the Premises, or arising during any period during which LESSOR has possession of the Premises.

5.2 Subsequent Improvements

If LESSEE desires any additional improvements in, on, or upon the Premises, or any alterations to said Premises, including landscaping, LESSEE shall prepare development plans describing the proposed additional improvements or alterations, and shall submit such development plans to LESSOR, for review by LESSOR and Federal Highway Administration ("FHWA"). LESSEE shall not make any additional improvements or alterations, including landscaping, without the review and approval of the LESSOR and FHWA documented by the issuance of a Caltrans Encroachment Permit.

LESSEE shall begin the construction of any additional improvements on the Premises within 90 days after obtaining an appropriate encroachment permit to construct such additional improvements from the LESSOR. All work shall be completed according to the development plan within 360 days of the issuance of such encroachment permit.

5.3 Required Sign

LESSEE shall post the Premises, at LESSEE's cost, with a 12"x12" sign (or any larger size reasonably acceptable to LESSOR) giving the following notice:

"This park has been developed for your convenience by (name of Lessee) under a lease with the California Department of Transportation. The lease is subject to termination if the property is needed for State highway purposes."

5.4 Removal of Improvements

(a) Removal Upon Termination of Lease; Early Termination to Fund Removal

Upon termination of this Lease for any reason whatsoever, LESSEE agrees to remove the Initial Improvements and all other improvements at the Premises made by LESSEE or on behalf of LESSEE (collectively, the "Lessee Improvements"), at LESSEE'S sole expense, within 90 days of termination, unless LESSOR subsequently agrees in writing that LESSEE may leave such Lessee Improvements at the Premises at the end of the term of this Lease. If LESSEE fails to remove all Lessee Improvements which LESSEE is required to remove, LESSOR may remove such Lessee Improvements at the expense of LESSEE after first providing no less than 30 days prior written notice to LESSEE of the date on which it intends to perform such removal work. If LESSOR performs such removal work after providing such notice, at LESSOR's option, (1) may demand and

collect its costs and expenses as additional rent through this Lease, or (2) may bring an action for recovery of such costs, together with all expenses and attorneys' fees incurred by reason of said action. LESSEE shall tender possession of the Premises to LESSOR in a good paved condition, fully fenced, and suitable for immediate use as a public parking lot; however, LESSEE shall not be obligated to stripe the Premises in anticipation of a future parking use. LESSEE shall have the right to terminate this Lease prior to the Expiration Date if LESSEE elects to use the funds it would have used to pay rent between such early termination date and the Expiration Date to pay for the costs of removing the Lessee Improvements pursuant to this Section.

(b) Removal Upon LESSOR's Temporary Entry

If LESSOR requires temporary possession of a portion of the Premises or the entire Premises to perform any activities pursuant to Article 10 of this Lease, LESSEE acknowledges that the performance of such activities may cause damage to, or require removal of (at LESSEE's sole cost), the Lessee Improvements. LESSOR shall use commercially reasonable efforts to conduct the activities specified in Article 10 in a manner that reasonably minimizes any such damage or removal to the Lessee Improvements so long as those efforts do not increase the cost of performing the required activities. If LESSEE fails to remove all noticed conflicting Lessee Improvements, LESSOR may remove such improvements, and, at LESSOR's option, (1) may demand and collect its costs and expenses as additional rent through this Lease, or (2) may bring an action for recovery of such costs.

(c) Restoration of Improvements

At the conclusion of LESSOR's temporary entry onto and possession of the Premises to perform any of the activities specified in Article 10 of this Lease, LESSOR shall NOT be responsible for restoring any Lessee Improvements damaged or removed by LESSOR in performing such activities. If LESSEE desires to restore such damaged or removed Lessee Improvements it may do so at its expense. If LESSEE elects not to make such restoration, LESSEE shall have the right not to do so and to terminate this Lease by delivering written notice of such termination within ninety (90) days of the date that LESSOR returns possession of the entire Premises to LESSEE, and LESSEE shall remove any remaining Lessee Improvements and restore the Premises pursuant to the provisions of subsection (a) hereinabove.

(d) Drainage Improvements

LESSEE proposes to improve the drainage of the Premises by the installation of additional drainage inlets that will connect to the LESSEE owned stormwater system. At the termination of the Lease for any reason, in addition to removing the Lessee Improvements, as a part of the Premises restoration, LESSEE, at its sole cost, shall ensure the drain inlet fixtures conform to the Caltrans Standard Plans current at the time of the lease termination. The relevant 2010 Caltrans Standard Plans for drainage inlets is attached for reference as Exhibit C.

ARTICLE 6. REMOVAL OF PERSONAL PROPERTY

LESSEE may remove any personal property from time to time within 45 days of the expiration of the term. LESSEE shall repair all damage (structural or otherwise) caused to the Premises or any improvements thereon by any such removal.

Any personal property not removed by LESSEE within 45 days following expiration of the term shall be deemed to be abandoned by LESSEE and shall, without compensation to LESSEE, become the LESSOR'S property, free and clear of all claims to or against them by LESSEE or any other person.

ARTICLE 7. MAINTENANCE AND REPAIRS

7.1 LESSEE'S Obligations

LESSEE, at its own cost and expense, shall maintain the Premises, the improvements and landscaping thereon including the Premises drainage facilities, and including fences heretofore (as may be modified under the Encroachment Permit) or hereafter erected by LESSEE or LESSOR in compliance with this Lease, in good and clean order, repair and condition and in compliance with all requirements of law, subject to ordinary wear and tear that does not reduce the attractiveness and utility of the Premises; provided, however, that LESSEE's obligations under this Section shall not apply to any freeway structure on the Premises other than as expressly set forth below as to LESSOR's structural columns within the Premises. LESSEE shall also, at its own cost and expense, maintain the lighting on the Premises in first class order, repair and condition.

LESSOR and LESSEE recognize that because of the length of the term of this Lease it may be necessary for LESSEE to perform certain substantial maintenance, repair, rehabilitation or reconstruction (hereinafter collectively referred to as "repair" or "repairs") of the improvements in order to ensure that the Premises are kept in first-class order, repair and condition.

LESSEE hereby expressly waives the right to make repairs at the expense of LESSOR and the benefit of the provisions of Sections 1941 and 1942 of the California Civil Code or any successor amendments thereto.

LESSEE shall take all steps necessary to effectively protect the existing columns of the structure on the Premises and any future structure appurtenances installed on the Premises by LESSOR, from damage incident to LESSEE'S use of said Premises and improvements, all without expense to LESSOR. LESSEE shall, at its own cost and expense, repair in accordance with LESSOR'S standards any damage to any property owned by LESSOR, including, but not limited to, the existing columns of the structure on the Premises and any future structure appurtenances on the Premises installed by LESSOR, caused by LESSEE or its invitees incurred as a result of operation of a skatepark at the Premises, but excluding any damage caused by the acts of LESSOR or its agents, contractors, representatives or invitees or occurring during any period that LESSOR has possession of the portion of the Premises where such damage occurred.

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

7.2 LESSOR'S Rights

In the event LESSEE fails to perform LESSEE'S obligations under this Article, LESSOR shall give LESSEE notice to do such acts as are reasonably required to so maintain the Premises. If within thirty (30) days after LESSOR sends written notice to repair or quit, LESSEE fails to do the

work and fails to proceed in good faith to prosecute it to completion, said deficiency shall be deemed a material breach.

ARTICLE 8. INSURANCE

8.1 Indemnification

Neither LESSOR nor any its officers or employees is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by LESSEE pursuant to this Lease, including any work performed by LESSEE at the Premises.

It is understood and agreed LESSEE will fully defend, indemnify, and save harmless LESSOR and all of its officers and employees from all claims, suits, or actions of every kind brought forth under any theory of liability occurring by reason of anything done or omitted to be done by LESSEE under this Lease. LESSEE's obligations to defend, indemnify, and save harmless LESSOR extends to any and all claims, suits, or actions of every kind brought forth under any theory of liability occurring due to the use of the Premises during LESSEE's possession of the Premises as a public park or recreation area, including those arising from the operation of a skate park, the operations of any skate park vendor, the use of the skate park, or the design, construction, and maintenance of a public park, recreation area, or skate park.

LESSEE shall include in any contract it enters with any contractor who designs, constructs, maintains, or operates the skate park a requirement that such contractor will fully defend, indemnify and save harmless LESSOR and its officers and employees from any and all claims, suits or actions of every kind brought forth under any theory of liability occurring due to such contractor's performance of its obligations or rights under such contract. If LESSEE has any additional insured endorsements executed naming LESSOR to comply with this provision, LESSEE shall provide copies of the additional insured endorsements and a Certificate of Insurance to LESSOR.

Furthermore, LESSEE agrees it controls the Premises during LESSEE's possession of the Premises, except to the extent that LESSOR uses the Premises pursuant to its reserved rights under this Lease. As such, LESSEE agrees to defend, indemnify and hold harmless LESSOR, its officers and employees for any and all claims arising out of the allegedly dangerous condition of public property based upon the condition of the Premises during LESSEE's possession of the Premises, except to the extent such claims arise from the freeway structure located above the Premises or LESSOR's activities on or use of the Premises.

LESSOR agrees to defend, indemnify and save harmless LESSEE, its officers, employees, and agents from any and all claims, suits or actions of every kind brought forth under any theory of liability with respect to the freeway structure located above the Premises or the activities of LESSOR or its officers, employees, and agents at the Premises, except to the extent such claims, suits or actions arise by reason of the sole or active negligence of LESSEE, its officers, employees, and agents.

8.2 Self-Insurance

LESSOR acknowledges LESSEE maintains a self-insurance program agrees that LESSEE shall not be required to carry any third party insurance with respect to this Lease at any time that

LESSEE maintains such self-insurance. LESSOR agrees LESSEE's self-insurance is sufficient to meet LESSEE'S insurance obligations under this Lease if the self-insurance provides coverage as broad as a Commercial General Liability insurance policy, as provided on ISO Form CG 0001 or equivalent, for the Premises.

LESSEE's self-insurance shall provide per occurrence and aggregate limits of liability of not less than Twenty-Five Million Dollars (\$25,000,000).

LESSEE is also required to notify LESSOR in writing not less than thirty (30) days prior to the effective date of the termination of its self-insurance coverage. If such notice is given, LESSEE is required to obtain a Commercial General Liability policy providing the coverage required by this Article and an effective date the same as the termination date of the self-insurance to avoid any disruption in coverage. If LESSEE purchases a Commercial General Liability policy to meet the requirements of this Article, LESSEE shall have LESSOR named as an additional insured under the policy and provide a copy of the complete policy to LESSOR.

By executing this Lease, LESSEE expressly acknowledges LESSEE's self-insurance program meets the requirements of this provision. This provision does not apply if LESSEE acquires private insurance in place of self-insurance.

8.3 Completed Operations Coverage

To cover all liability related to any defective design or construction of Lessee Improvements (including the design or construction of a public park as specifically identified within Article 4), LESSEE shall require all third party design professionals or contractors used by City to design or construct the Lessee Improvements to carry, during such design or construction period, professional liability coverage insuring against negligent acts, errors or omissions in connection with such contractor's design or construction work. LESSEE shall also require any third party contractor for the construction of the Lessee Improvements to provide commercial completed operations insurance coverage for such construction for the period required under applicable law.

8.4 Failure to Procure and Maintain Insurance

If LESSEE fails to procure or maintain LESSEE's self-insurance described in Section 8.2 above, or private insurance in place of LESSEE's self insurance, LESSEE shall cease and desist from using the Premises and any improvements to the Premises. LESSEE shall also prevent members of the public from gaining access to the Premises during any period in which such insurance coverage is not in full force and effect.

ARTICLE 9. PAYMENT OF TAXES

LESSEE agrees to pay all taxes and assessments that may be legally assessed on LESSEE'S possessory interest under this Lease or income generated at the Premises by LESSEE or its sublessee(s).

ARTICLE 10. RIGHT OF ENTRY

10.1 Inspection, Maintenance, Construction and Operation of Freeway Structures

LESSOR, 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 LESSEE, its agents or representatives.

LESSOR 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 LESSOR 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 LESSOR, and during said period LESSEE shall be relieved, to the degree of interference, from the performance of conditions or covenants specified herein. LESSOR further reserves the right of entry by any authorized officer, engineer, employee, contractor or agent of the LESSOR for the purpose of performing any maintenance activities upon the property which LESSEE has failed to perform after the expiration of the applicable cure period specified in Section 11.1.

10.2 Future Transportation Projects

At any time following the fifth (5th) anniversary of the Commencement Date, LESSOR may cancel this Lease upon 90 days notice for any future transportation project that requires LESSOR's possession of the Premises if such project would continue through the then remaining term of this Lease. In that event, LESSEE will have no claim upon LESSOR and waives any and all claims for compensation, damages or relocation assistance. If LESSOR's Division of Right of Way Office of Airspace Development ("RW Airspace") learns of a potential future transportation project at the Premises, RW Airspace agrees to notify LESSEE, and to meet and confer with LESSEE, as early as is reasonably feasible during the concept and schematic design phases for such project. If such project may temporarily or permanently affect the use of the Premises by LESSEE, LESSOR agrees to confer with LESSEE and consider in good faith any reasonable modifications to such project or alternative proposals proposed by LESSEE that would avoid or mitigate such impact on the Premises or LESSEE's use of the Premises while still consistent with LESSOR's overall transportation project objectives. If LESSOR believes that employing a modification or alternative proposed by LESSEE will result in additional cost or expense to LESSOR's project, LESSOR shall notify LESSEE of the anticipated cost in writing. If, after receiving such estimate, LESSEE requests in writing that LESSOR proceed with such modification or alternative requested by LESSEE, LESSEE agrees to reimburse LESSOR for its actual incurred additional cost or expense resulting from making such requested modification or alternative. If LESSEE's improvements conflict with LESSOR's project, the conflicting improvements shall be removed by LESSEE, at its sole cost, pursuant to Section 5.4.

In the event LESSOR determines that it needs to obtain possession of all or a portion of the Premises for any future transportation project, but such project will be completed prior to the

expiration of the then remaining term of this Lease, LESSOR shall, at least ninety (90) days prior to the effective date of the commencement of such possession, notify LESSEE in writing describing the extent of the possession and the effective date of the commencement of such possession. Upon the effective date of said notice, LESSEE shall peaceably surrender possession of all or any specified portion of the Premises. The rent stated in Section 3.1 shall be equitably reduced by the same percentage as the portion of the Premises which was surrendered; provided, however, that if LESSEE's is unable to use the remaining portion of the Premises for any of the Permitted Uses without such surrendered portion, the rent stated in Section 3.1 shall be fully abated until the entire Premises is returned to LESSEE. If LESSOR takes possession of a portion of the Premises for any future transportation project that will continue for more than twenty-four (24) months, and the portion of the Premises remaining in possession of LESSEE is rendered unusable due to such project, LESSEE shall have the right to terminate this Lease by delivering no less than thirty (30) days' prior written notice of such termination to LESSOR. This reduction in rent and termination right shall be LESSEE'S sole remedies against LESSOR for LESSEE'S inability to possess or use the entire area of the Premises on account of LESSOR'S exercise of its rights under this Section, and LESSEE expressly waives any right it may have to recover compensation, damages or relocation assistance from LESSOR on account thereof.

LESSOR shall use commercially reasonable efforts to conduct future transportation project work in a manner that reasonably minimizes any such damage or removal to the Lessee Improvements. LESSEE acknowledges that the performance of the future transportation project work may cause damage to the Lessee Improvements. LESSEE expressly agrees to release any claims that it may have against LESSOR for such damage.

10.3 Retrofitting of Freeway Structures

LESSEE acknowledges LESSOR may be required to perform retrofit work on all or a part of the freeway structures that are situated on and above the Premises. LESSOR shall have the right to impose such restrictions on LESSEE'S right to enter, occupy, and use the Premises and to construct improvements thereon as LESSOR deems are necessary to enable it to complete construction of all freeway structural retrofit work without interference from LESSEE.

In the event LESSOR determines that it needs to obtain possession of all or a portion of the Premises, or needs to place restrictions on LESSEE'S use of the Premises, to accommodate such retrofit work, LESSOR shall, at least ninety (90) days prior to the effective date of the commencement of such possession or restrictions notify LESSEE in writing describing the extent of the possession or restrictions and the effective date of their commencement. If such notice is for any possession by Landlord, it shall further describe any other Landlord property in the general vicinity available for lease by Tenant pursuant to the terms and conditions of this Lease. Landlord shall use commercially reasonable efforts to identify such alternative Landlord property. Although Landlord shall identify any available Landlord property within the vicinity of the Premises, Landlord shall not be obligated to provide Tenant with a replacement property in the event all or a portion of the Premises is repossessed by Landlord. Upon the effective date of said notice, LESSEE shall peaceably surrender possession all or any specified portion of the Premises or comply with the restrictions as stated therein, as applicable. The rent stated in Section 3.1 shall be equitably reduced to reflect the portion of the Premises surrender and the portion of the Lease term for which the Premises was surrendered; provided, however, if the portion of Premises to be surrendered by LESSEE will render the remaining portion of the Premises unusable for the Permitted Uses,

LESSEE shall have the right to terminate this Lease by delivering no less than thirty (30) days' prior written notice of such termination to LESSOR. This reduction in rent and right of early termination shall be LESSEE'S sole remedy against LESSOR for LESSEE'S inability to possess or use the entire area of the Premises on account of LESSOR'S exercise of its rights under this Section, and LESSEE expressly waives any right it may have to recover compensation, damages or relocation assistance from LESSOR on account thereof.

LESSEE shall conduct its operations on the Premises in such a manner so as not to interfere with LESSOR'S or its contractor's performance of any structural retrofit work done on or above the Premises. LESSOR shall use commercially reasonable efforts to conduct such structural retrofit work in a manner that reasonably minimizes any such damage or removal to the Lessee Improvements. LESSEE acknowledges that the performance of the structural retrofit work may cause damage to the Lessee Improvements. LESSEE expressly agrees to release any claims it may have against LESSOR from all such damage to the improvements.

ARTICLE 11. DEFAULT

11.1 Default

The occurrence of any of the following shall constitute a material breach and default of this Lease by LESSEE:

- (a) Any failure by LESSEE to pay lease payment or any other monetary sums required to be paid hereunder, where such failure continues for ten (10) business days after written notice thereof has been given by LESSOR to LESSEE.
- (b) The abandonment or vacation of the Premises by LESSEE. Failure to occupy and operate the Premises for sixty (60) consecutive days following the mailing of written notice from LESSOR to LESSEE calling attention to the abandonment shall be deemed an abandonment or vacation.
- (c) A failure by LESSEE to observe and perform any other provision of this Lease to be observed or performed by LESSEE, where such failure continues for thirty (30) days after written notice thereof by LESSOR to LESSEE; provided, however, that if the nature of such default is such that it cannot be reasonably cured within such thirty (30) day period, LESSEE shall not be deemed to be in default if LESSEE shall within such period commence such cure and thereafter diligently prosecute the same to completion.

11.2 LESSOR'S Remedies

In the event of any material default or breach by LESSEE, LESSOR may at any time after expiration of the applicable notice and cure period, without limiting LESSOR in the exercise of any right of remedy at law or in equity that LESSOR may have by reason of such default or breach

- (a) Terminate LESSEE'S right to possession by any lawful means, in which case this Lease shall immediately terminate and LESSEE shall immediately surrender possession of the Premises to LESSOR. In such event LESSOR shall be entitled to

recover from LESSEE all damages incurred by LESSOR by reason of LESSEE'S default including, but not limited to, the following:

- (i) any amount necessary to compensate LESSOR for all the detriment proximately caused by LESSEE'S failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom; plus
- (ii) at LESSOR'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 LESSOR shall have the right to make any reasonable repairs, alterations or modifications to the Premises, which LESSOR in its sole discretion deems reasonable and necessary.

ARTICLE 12. ASSIGNMENTS, SUBLEASES AND ENCUMBRANCES

The LESSEE shall not assign, sublease, or encumber the Premises in any matter whatsoever, nor shall this Lease be recorded.

ARTICLE 13. NONDISCRIMINATION

LESSEE, for itself, its agents, contractors, employees, officers, and personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

- (a) 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,
- (b) 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,
- (c) Such discrimination shall not be practiced against the public in its 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,
- (d) LESSEE shall use the Premises in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21 and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the LESSOR 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 14. SECURITY DEPOSIT

LESSEE shall maintain on deposit with LESSOR the sum of \$ 0.00 to guarantee the faithful performance of the conditions of this agreement. LESSOR shall not be required to keep this Security Deposit separate from its general funds, and LESSEE shall not be entitled to interest on such deposit. If LESSEE shall fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to LESSEE at the expiration of the lease term and after LESSEE has properly vacated the Premises.

ARTICLE 15 ADDITIONAL PROVISIONS

15.1 Quiet Enjoyment

LESSOR covenants and agrees with LESSEE that upon LESSEE paying lease payment and other monetary sums due under the Lease and performing its covenants and conditions, LESSEE shall and may peaceably and quietly have, hold and enjoy the Premises for the term, subject however, to the terms of the Lease.

15.2 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 question of interpretation or construction of any section of this Lease.

Any marginal or clause headings on this lease are not a part of this and shall have no effect upon the construction or interpretation of any part hereof.

15.3 Entire Agreement

This instrument along with any addenda, exhibits and attachments hereto constitutes the entire agreement between LESSOR and LESSEE 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 LESSOR and LESSEE. LESSOR and LESSEE 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.

15.4 Severability

If any terms 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.

15.5 Time is of the Essence

Time is of the essence of each and all of the terms and provisions of this Lease.

15.6 Binding Effect; Choice of Law

The terms and conditions of this lease shall extend and be binding upon and inure to the benefits of the heirs, executors, administrators or to any approved successor of the LESSEE. The terms and conditions of this Lease shall be governed by the laws of the State of California, if any legal action is initiated, the venue shall be in the appropriate court of the State of California in the county in which the Premises are located

15.7 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 LESSOR of any performance by LESSEE after the time the same shall have become due shall not constitute a waiver by LESSOR of the breach or default of any covenant, term or condition. Acceptance by LESSOR of any performance by LESSEE after the time the same shall have become due shall not constitute a waiver by LESSOR of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by LESSOR in writing.

15.8 Notices

All notices or demands of any kind required or desired to be given by LESSOR or LESSEE 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 LESSOR or LESSEE respectively at the addresses set forth in the Summary of Lease Provisions on the first page of this Lease.

15.9 No Reservation

Submission of this instrument for examination or signature by LESSEE 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 LESSOR and LESSEE.

15.10 Force Majeure

If either LESSOR or LESSEE shall be delayed or prevented from the performance of any act required hereunder by reason of acts of nature, governmental restrictions, regulations or controls (except those reasonably foreseeable in connection with the uses contemplated by this Lease) or other cause without fault and beyond the control of the party obligated (except financial inability), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Nothing in this clause shall excuse LESSEE from prompt payment of any rent, taxes, insurance or any other charge required of LESSEE, except as may be expressly provided in this Lease.

15.11 Addendum

The Addendum to Lease attached hereto is made a part hereof for all purposes.

In Witness Whereof, LESSOR and LESSEE have executed this Lease as of the date first written above.

LESSOR
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Dated: _____

By: _____
LINDA EMADZADEH, Chief
R/W Airspace, LPA, and Excess Lands

LESSEE
CITY AND COUNTY OF SAN FRANCISCO,
A MUNICIPAL CORPORATION

Dated: _____

By: _____
JOHN UPDIKE
Director of Property

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

By: _____
Carol Wong, Deputy City Attorney

ADDENDUM TO AIRSPACE LEASE AGREEMENT

This Addendum to Airspace Lease Agreement (this "Addendum") is a part of and modifies that certain Airspace Lease Agreement (the "Base Lease") for Lease Area No.SF-101-26 between the State of California, acting by and through its Department of Transportation ("LESSOR"), and the City and County of San Francisco, a municipal corporation ("LESSEE"), dated as of _____.

All undefined, capitalized terms used in this Addendum shall have the meanings given to them in the Base Lease. All references in the Base Lease and in this Addendum to "the Lease" or "this Lease" shall mean the Base Lease, as modified by this Addendum.

1. Non-Liability of LESSEE Officials, Employees and Agents. Notwithstanding anything to the contrary in this Lease, no elective or appointive board, commission, member, officer, employee or agent of LESSEE shall be personally liable to LESSOR, its successors and assigns, in the event of any default or breach by LESSEE or for any amount which may become due to LESSOR, its successors and assigns, or for any obligation of LESSEE under this Lease.
2. Controller's Certification of Funds. The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the LESSEE's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by LESSEE under this Lease unless the LESSEE's Controller first certifies, pursuant to Section 3.105 of the LESSEE's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of LESSEE after the fiscal year in which the term of this Lease commences, sufficient funds for the payment of Rent and any other payments required under this Lease are not appropriated, then LESSEE may terminate this Lease, without penalty, liability or expense of any kind to LESSEE, except for LESSEE's obligation to remove the constructed improvements and restore the Premises to the prior condition per Articles 5 and 6, as of the last date on which sufficient funds are appropriated. LESSEE shall use its reasonable efforts to give LESSOR reasonable advance notice of such termination.
3. Non Discrimination in LESSEE Contracts and Benefits Ordinance. To the extent LESSOR is subject to San Francisco Administrative Code Section 12B, in the performance of this Lease, LESSOR 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, weight, height, or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or, any LESSEE employee working with, or applicant for employment with, LESSOR in any of LESSOR'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 LESSOR.
4. MacBride Principles - Northern Ireland. LESSEE urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. LESSEE also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. LESSOR acknowledges that it has read and understands the above statement

of LESSEE concerning doing business in Northern Ireland.

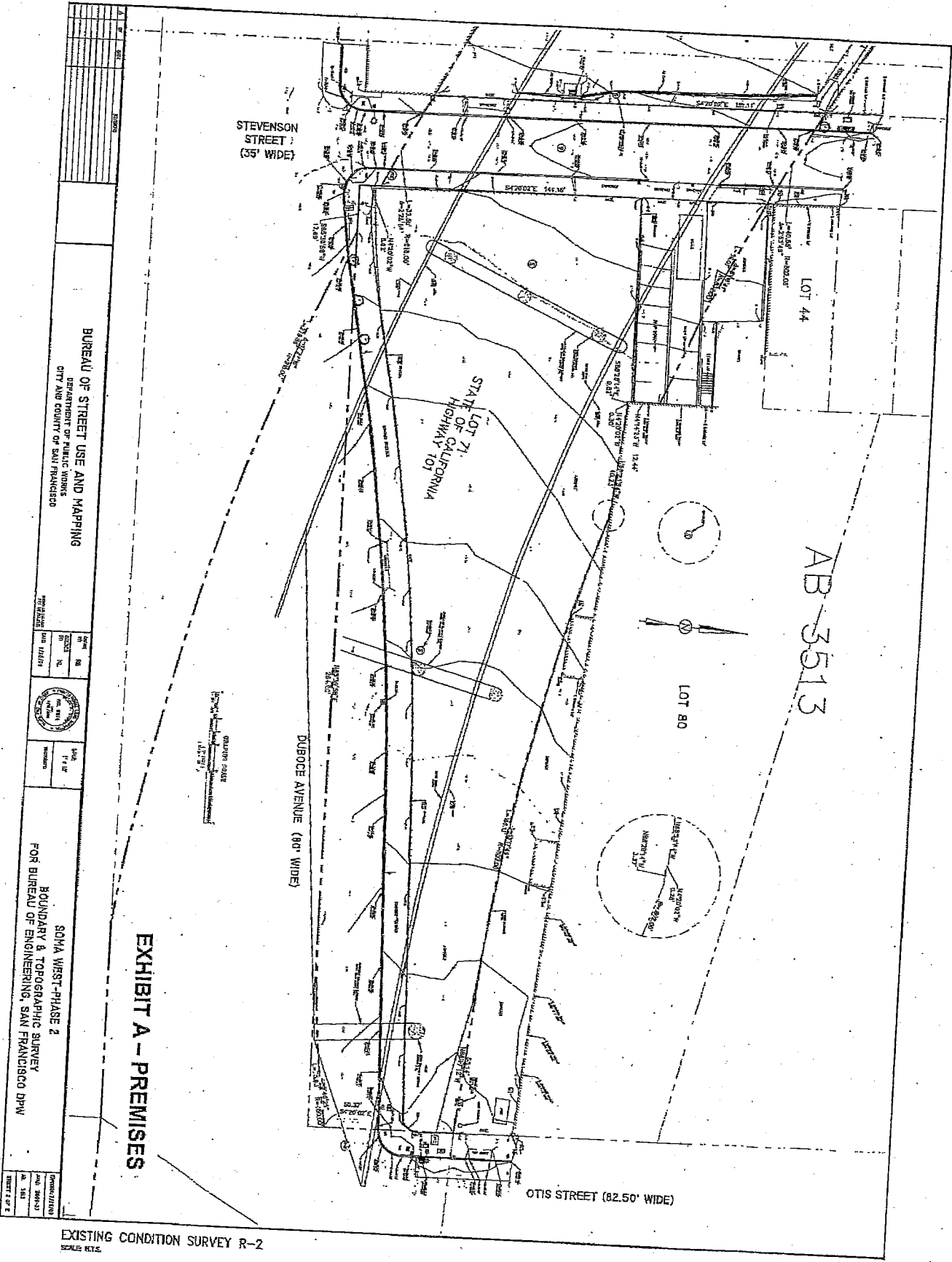
5. Tropical Hardwood and Virgin Redwood Ban. LESSEE urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

6. Bicycle Storage Facilities. Article 1.5, Section 155.1, of the San Francisco Planning Code (the "Planning Code") requires the provision of bicycle storage at City-leased buildings at no cost to LESSOR and if funds are available. In the event public and/or private donations, grants or other funds become available, at any time during the term of this Lease including any extension thereof, LESSEE may apply for a Caltrans Encroachment Permit proposing to install compliant bicycle storage at the Premises per Section 5.2 hereinabove.

EXHIBIT A

Premises

[see attached]



BUREAU OF STREET USE AND MAPPING
 DEPARTMENT OF PUBLIC WORKS
 CITY AND COUNTY OF SAN FRANCISCO

Map No. 12453
 Date 12/2/71



Scale 1" = 40'

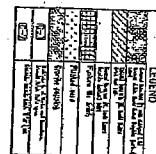
SOMA WEST-PHASE 2
 BOUNDARY & TOPOGRAPHIC SURVEY
 FOR BUREAU OF ENGINEERING, SAN FRANCISCO DPW

Sheet 1 of 2

EXHIBIT B

Initial Improvements

[see attached]



NOTES:

CONCRETE FINISHING
ALL HORIZONTAL elements 14 in.

CONCRETE PROPERTIES AND REINFORCEMENT
For concrete properties; strength, thickness, reinforcement gauge and spacing, refer to specifications and details

to specific conditions.

CUSTOM BLEND AREAS
In many instances throughout the sidewalk — elevation, and degree of slope, between banks, ventilation slopes, and vertical elements can vary. Where indicated on plan, provide custom concrete blending for smooth transitions. These areas typically require greater hand work and quality control to ensure that blends do not result in irregular concrete surface conditions.

color cord, available online at www.pearsoncmg.com

Contractor to use selected colors or approved alternative in areas noted on drawings. Contractor to follow manufacturer's specifications. Coordinate with client representative's submissions of colored concrete samples as required.

Colored Concrete #1 = Davis Color Graphite (carbon)	8064
Colored Concrete #2 = Davis Colors Black Red 155	
Colored Concrete #3 = Davis Colors Graphite (carbon)	8034

All metal work shall strictly adhere to the specified wall chime/lugs. All metal work shall be ground in shop and primed before delivery to site. No mill scale on metal shall be tolerated. All site welding shall be retouched and pointed prior to substantial completion.

CS30: 1" pipe schedule 80 ASTM A53, pipe
CS8: 2 3/4" Pol. Steel Bar ASTM A36.
SD: 2 1/2" x 3/4" Rectangular angle, Angle from ASTM A36.
SD: Square HS 2 1/2" x 1/2" wall, ASTM A500.
SD: Square HS 2.5" x 2 1/2" wall, ASTM A500.
44-HSS-02: rectangular HSS 2 1/4" x 1/4" wall, ASTM A500.
4 wall vertical orientation.
HSS: 2" pipe (2 3/8" OD), schedule 80 ASTM A53, pipe.
COP: 2" pipe (2 3/8" OD), schedule 80 ASTM A53, pipe.
(Cooping in place) 2" pipe (2 3/8" OD) schedule 80 ASTM A53 pipe with 4 1/4" thick steel bar ASTM A36, Rider Detail/013

ESB: 2"x $\frac{1}{4}$ " Pol Steel Bar ASTM-A36

1432	SECRETION NO.
1432	ISSUED NO.
1432	DATE
1432	BY
1432	0

INFRASTRUCTURE DIVISION
DEPARTMENT OF PUBLIC WORKS
CITY AND COUNTY OF SAN FRANCISCO

DEPARTMENT OF PUBLIC WORKS
CITY AND COUNTY OF SAN FRANCISCO

EXHIBIT C

2010 Caltrans Standard Plans – Drain Inlets

[see attached]

TO ACCOMPANY PLANS DATED

1. "H" is the difference in elevation between the outlet pipe flow line and the normal gutter grade. Line Undepressed.
2. For wall thickness, see Table A below. 8'-0" or less and the unapportioned width or length is 7'-0" or less.
3. Wall reinforcing not required. Wall be reinforced with #4 bars at 1'-6" centers
4. Walls existing prior to blade of box, unless otherwise shown.
5. Reinforcing to be added to blade of box, unless otherwise shown.
6. Bottom reinforcing not required. See Standard Plan D74C for alternative reinforced bottom and alternative half round bottom.
7. Steps-Kells required where "H" is less than 2'-6". Where "H" is 2'-6" or more, inlet steps with lowest step shall not exceed 1'-0" and highest rung not more than 1' above top of curb. The distance between steps shall not exceed 1'-0" and stairs may be substituted for the length of the wall. Place steps in the rung without an opening.
8. Step details shall comply with State minimum safety requirements. See Standard Plan D74C for step details.
9. Steps may be both metal and concrete pipes.

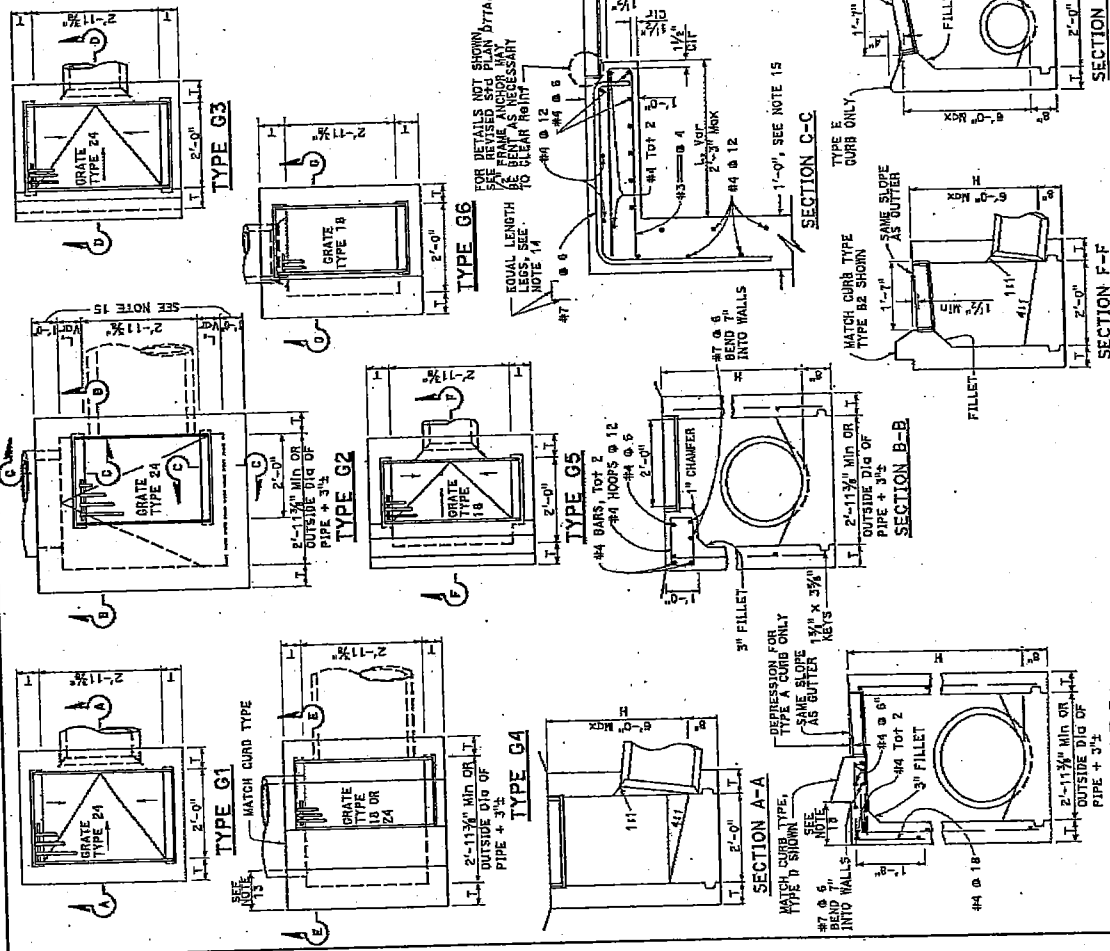
NOTE A:

Maximizing allowable height 5'-0",

NO SCALE

NO CALL
RSP D73 DATED OCTOBER 19, 2012 SUPERSEDES STANDARD PLAN D73
DATED MAY 20, 2011 - PAGE 156 OF THE STANDARD PLANS BOOK DATED 2010.

REVISED STANDARD PLAN RSP D73



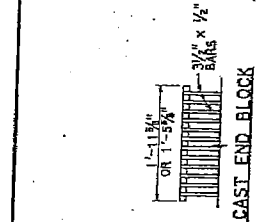
DATE	COUNTY	ROUTE	TOTAL PROJECT	SHEET NO.	SHEET TOTAL
JULY 20, 2012	San Diego	163		1	1

Project: **San Diego State University**
 Location: **San Diego State University**
 Date: **JULY 20, 2012**
 Drawn by: **11133**
 Checked by: **11133**
 Title: **STANDARD PLAN RSP D77A**

TO ACCOMPANY PLANS DATED

NOTES:

1. Grate type numbers refer to approximate width of grate in inches and number of bars, respectively.
2. Contractor has the option of using cast ductile iron, cast carbon steel, welded, bolted, or cast end block grate.
3. Routed top of bars optional on all grates.
4. Pipe inlets with a grate shall be placed so that bars parallel direction of principle surface flow.
5. Complete joint penetration butt welds may be substituted for the filler welds on all anchors.
6. Standard square, hexagon, round or equivalent headed anchors may be substituted for the flat angle hooks on the anchors shown on this plan.
7. Grates and frame weights are based on a 150 lb/cu yd concrete weight. If face angles, steps, protection bars, etc. are included, add weight.
8. Connect chain to grate and frame only, or if required, do not use cast ductile iron grates.



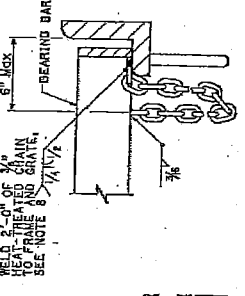
END OF BAR



SPACING SAME AS FOR WELDED OR BOLTED GRATE



ALTERNATIVE CAST DUCTILE IRON OR CAST CARBON STEEL END BLOCK GRATE



WELD 2'-0" OF 3/4" TO FRAME AND GRATE. SEE NOTE 8. 1/4" x 1/2"

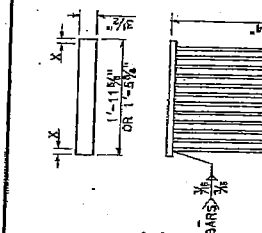
ALTERNATIVE SPACERS

W = 1/4" OR 3/8"

GRATE DETAILS

NO SCALE
 RSP D77A DATED JULY 20, 2012 SUPERSEDES STANDARD PLAN D77A DATED MAY 20, 2011 - PAGE 164 OF THE STANDARD PLANS BOOK DATED 2010.

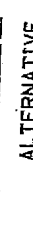
REVISED STANDARD PLAN RSP D77A



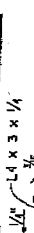
SECTION A-A



SECTION B-B



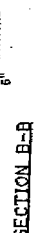
SECTION C-C



SECTION D-D



SECTION E-E



SECTION F-F



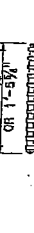
SECTION G-G



SECTION H-H



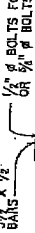
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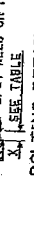
SECTION J-J



SECTION K-K



SECTION L-L



SECTION M-M



SECTION N-N



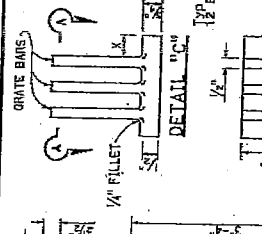
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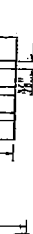
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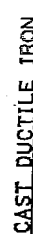
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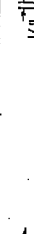
SECTION A-A



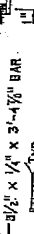
SECTION B-B



SECTION C-C



SECTION D-D



SECTION E-E



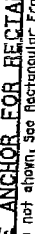
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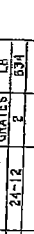
SECTION G-G



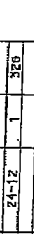
SECTION H-H



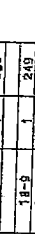
SECTION I-I



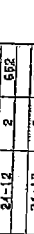
SECTION J-J



SECTION K-K



SECTION L-L



SECTION M-M



SECTION N-N



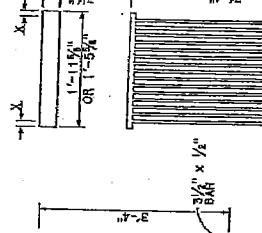
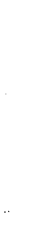
SECTION O-O



SECTION P-P



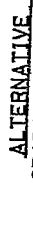
SECTION Q-Q



SECTION A-A



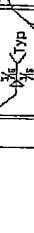
SECTION B-B



SECTION C-C



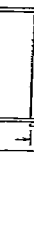
SECTION D-D



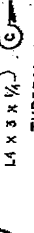
SECTION E-E



SECTION F-F



SECTION G-G



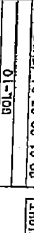
SECTION H-H



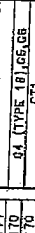
SECTION I-I



SECTION J-J



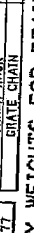
SECTION K-K



SECTION L-L



SECTION M-M



SECTION N-N



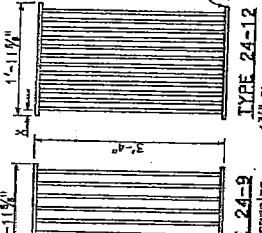
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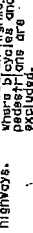
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SECTION Q-Q



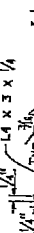
SECTION A-A



SECTION B-B



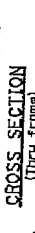
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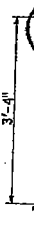
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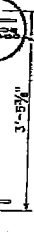
SECTION E-E



SECTION F-F



SECTION G-G



SECTION H-H



SECTION I-I



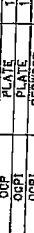
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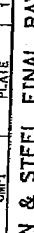
SECTION K-K



SECTION L-L



SECTION M-M



SECTION N-N



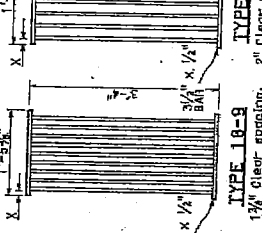
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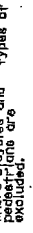
SECTION P-P



SECTION Q-Q



SECTION A-A



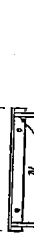
SECTION B-B



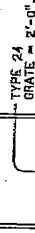
SECTION C-C



SECTION D-D



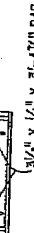
SECTION E-E



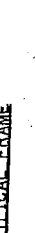
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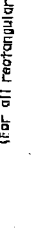
SECTION G-G



SECTION H-H



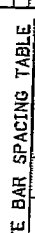
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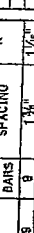
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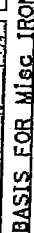
SECTION K-K



SECTION L-L



SECTION M-M



SECTION N-N



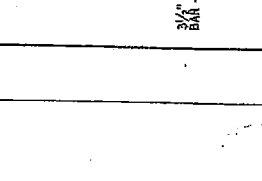
SECTION O-O



SECTION P-P



SECTION Q-Q



SECTION A-A



SECTION B-B



SECTION C-C



SECTION D-D



SECTION E-E



SECTION F-F



SECTION G-G



SECTION H-H



SECTION I-I



SECTION J-J



NO MORE
O, 2012 SUPERSEDES STANDARD PLAN D77B
165 OF THE STANDARD PLANS BOOK DATED 2010.
DARD PLAN RSP D77B

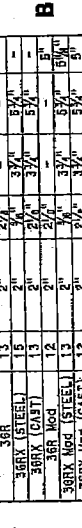
INLET TYPE	GRATE TYPE	LB
24-10C	2	391
24-10C	7	185

GRATE CHAIN	1	3
-------------	---	---

STATE OF CALIFORNIA

DES: STANDARD

DATE	ED	MAI	EV	CUT	F	PAGE	USE	FILE	NAME	NUMBER	STATUS
REVISED STANDARD PLAN RSP D77B											



SS BARS
E 36RX

36RX GRADE FOR COUNCIL

4. See Revised Standard Plan RSP 071A for connecting chain to welded grate. Chain must be cast ductile iron grate, and frame. When chain is required, do not use cast ductile iron grate.

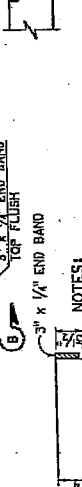
No.	CLEAR BAR	X	4"
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351A HQ (45) 1 14 RSP 077B DATED JU

1'-0 5/8" FOR TYPE 18 BRAYE
1'-0 5/8" FOR TYPE 24



1'-11 1/8" FOR
TYPE 24 GRATE
(Include string)



SECTION B-B
TYPE 18-9S AND 24-10S GRATE













(Welded Steel) Retaining type

(1) West people

EXHIBIT C

MAP OF DOG PARK AND PARKING AREA



	CONCRETE ROAD 10"		10" = 7.1
	GRASS 7.9"		7.9" = 7.7
	DOG BAG DISPENSER 7.9"		7.9" = 7.8
	TRASH RECEPTACLE		7.8" = 7.8
	DRINKING FOUNTAIN		7.7" = 7.7
	CONCRETE PLATFORM		7.1" = 7.1

DETAIL LEGEND

INFRASTRUCTURE DIVISION
DEPARTMENT OF PUBLIC WORKS
CITY AND COUNTY OF SAN FRANCISCO

SOUTH OF MARKET WEST IMPROVEMENTS
SOMA WEST DOG PARK
DETAIL REFERENCE PLAN

[illegible]

EXHIBIT D

DOG PARK/PARKING LEASE

**STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
AIRSPACE LEASE
MARLER - JOHNSON PARK AGREEMENT
04-SF-101-25**

SUMMARY OF LEASE PROVISIONS

LESSOR: CALIFORNIA DEPARTMENT OF TRANSPORTATION

LESSEE (local agency): CITY AND COUNTY OF SAN FRANCISCO

PREMISES: Lease Area No. SF-101-25, as shown on Exhibit A, located under SF-101 between Valencia and Stevenson Streets, in the City of San Francisco, County of San Francisco, State of California (Article 1).

LEASE TERM: 20 years plus one 10-year extension option (Article 2)

INITIAL TERM LEASE AMOUNT: \$2,335,343.00 (Article 3)

SECURITY DEPOSIT: \$0.00 (Article 14)

PUBLIC USE: City of San Francisco Maintained Public Dog Park and Parking Area

LIABILITY INSURANCE: \$25,000,000 - Self Insured (Article 8)

ADDRESS FOR NOTICES:

To LESSOR:

Via US Mail:

Department of Transportation
Right of Way Airspace MS 11
P.O. Box 23440
Oakland, CA 94623-0440

In Person:

Department of Transportation
Right of Way Airspace MS 11
111 Grand Avenue
Oakland, CA 94612-3771

To LESSEE: Director of Property
 City & County of San Francisco
 25 Van Ness, Suite 400
 San Francisco, CA 94102

LESSEE Contact: John Updike Office ph. (415) 554-9850

ARTICLE 1	LEASE; PREMISES
ARTICLE 2	TERM
ARTICLE 3	LEASE RATE
	3.1 Minimum Rent for Initial Term
	3.2 Intentionally deleted
ARTICLE 4	USE
	4.1 Specified Use
	4.2 Condition of Premises
	4.3 Prohibited Uses
	4.4 LESSOR'S Rules and Regulations
	4.5 Water Pollution Control
ARTICLE 5	IMPROVEMENTS
	5.1 Authorized Improvements
	5.2 Required Sign
	5.3 Removal of Improvements
ARTICLE 6	REMOVAL OF PERSONAL PROPERTY
ARTICLE 7	MAINTENANCE AND REPAIRS
	7.1 LESSEE'S Obligations
	7.2 LESSOR'S Rights
ARTICLE 8	INSURANCE
	8.1 Exemption of LESSOR from Liability
	8.2 Liability Insurance
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STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
AIRSPACE LEASE – MARLER-JOHNSON PARK AGREEMENT

THIS LEASE (the "Lease"), dated April 22, 2013, is by and between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, hereinafter called "LESSOR," and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, a bonafide public agency, hereinafter called "LESSEE."

WITNESSETH

It has been determined that the intended and described purpose of this leasehold is a proper use by a bonafide public agency pursuant to Section 14013 of the Government Code of the State of California; and

For and in consideration of the rental and the covenants, conditions, agreements, and stipulations set forth herein, LESSOR and LESSEE agree as follows:

ARTICLE 1. LEASE; PREMISES

Subject to the provisions of this Lease, LESSOR leases to LESSEE and LESSEE leases from LESSOR those certain Premises situated in the City of San Francisco, County of San Francisco, State of California, sometimes designated as lease area number SF-101-25, said demised area shown on the map marked Exhibit A.

EXCEPTING THEREFROM all those portions of the above-described Premises occupied by the supports and foundations of the existing structure.

ALSO EXCEPTING THEREFROM all that portion of said Premises above a horizontal plane 10 feet below the underside of the superstructure of the existing structure, which plane extends to a line 15 feet, measured horizontally, beyond the outermost protrusion of the superstructure of said existing structure.

This Lease is subject to the following (collectively, the "Existing Encumbrances"): (1) all easements, covenants, conditions, restrictions, reservations, rights of way, liens, encumbrances and other matters of record, (2) all matters discoverable by physical inspection of the Premises or that would be discovered by an accurate survey of the Premises and (3) all matters known to LESSEE or of which LESSEE has notice, constructive or otherwise including, without limitations, those shown on attached Exhibit A. LESSOR hereby represents that, except for this Lease, it has not issued any leases, permits, easements or any other agreements that provide any third party with the right to use or occupy any portion of the Premises during the term of this Lease. If LESSEE discovers any Existing Encumbrance that materially prevents LESSEE from using the Premises for the uses permitted under Section 4.1 of this Lease, LESSEE shall have the right to terminate this Lease by delivering written notice of such termination to LESSOR.

ARTICLE 2. TERM

The term of this Lease shall be for twenty years commencing on the later date ("Commencement Date") to occur of (i) the Construction Date (defined as follows) and (ii) the date this Lease has been fully executed and delivered and LESSOR has issued an encroachment permit (the "Encroachment Permit") to LESSEE for the installation of the improvements described in the attached "Exhibit B" (the "Initial Improvements"). The Construction Date shall be the earlier to occur of (a) OCTOBER 1, 2013, and (b) the ninetieth (90th) day immediately following LESSEE's award of a contract for the construction of the Initial Improvements.

The term of this Lease shall expire on the twentieth (20th) anniversary of the Commencement Date ("Expiration Date"), unless earlier terminated by LESSEE or by LESSOR pursuant to the terms of this Lease. At LESSEE'S option, and with LESSOR'S concurrence, this Lease may be renewed for one additional ten-year option by LESSEE delivering written notice of its exercise of such option no less than 180 days prior to the date such option term is to commence. LESSEE shall have the right to terminate its exercise of its option to extend the term of this Lease if it does not agree to the new rent for such extended term determined pursuant to the terms and conditions in Section 3.4.

ARTICLE 3. LEASE RATE

3.1 Minimum Rent for Initial Term

LESSEE shall pay to LESSOR as minimum rent for the period commencing on the Commencement Date and terminating on the Expiration Date (the "Initial Term"), without deduction, setoff, prior notice, or demand, the sum of \$2,335,343.00 (the "Prepayment Amount"), which shall be amortized in equal amounts over the Initial Term. Within ____ days following the Commencement Date, LESSEE shall deliver the Prepayment Amount for LESSEE's advance payment of such rent for Initial Term. If this Lease is terminated prior to the Expiration Date for any reason, within ____ days of such early termination, LESSOR shall return to LESSEE the unamortized portion of the Prepayment Amount, calculated by dividing the Prepayment Amount by the number of months in the Initial Term, and multiplying such resulting amount by the number of months between such early termination date and the Expiration Date. If there are any partial months between the early termination date and the Expiration Date, the unamortized portion of the Prepayment Amount for such month shall be prorated at the rate of 1/30th of the Prepayment Amount applicable to such month.

All rent checks shall have printed on their face the following tenancy reference number 04-SF-101-26-25 and shall be paid to LESSOR at the following address:

Via Mail:

Department of Transportation
Attn: Cashier
P.O. Box 168019
Sacramento, CA 95816

Via Hand Delivery:

Department of Transportation

OR Department of Transportation

Attn: Cashier
1820 Alhambra Blvd., 2nd Floor
Sacramento, CA 95816

Right of Way Airspace Development
111 Grand Avenue, MS 11
Oakland, CA 95612

3.2 [Intentionally deleted]

3.3 LESSOR's Compensation upon Assignment, Transfer or Sublease of LESSEE's Leasehold

(a) In the event that LESSOR permits LESSEE to voluntarily assign, transfer or sublease any of LESSEE's rights in the Premises, after recovering its costs incurred in connection with such assignment, transfer or sublease, LESSEE shall pay to LESSOR compensation in connection with the transaction in an amount equal to fifty percent (50%) of any and all consideration, whether in present payments or in future payments, which LESSEE receives from an assignee, transferee or sublessee in excess of the amortized Prepayment Amount applicable to the months between the effective date of such assignment, transfer or sublease and the Expiration Date; provided, however, that LESSEE shall have the right from time to time, upon notice to but without the consent of LESSOR, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission or agency of LESSEE for any or all of the uses permitted under this Lease without payment of any such compensation and without obtaining LESSOR's consent. Neither LESSEE's use of a third party parking operator to operate the parking area portion of the Premises, nor any public parking at such parking area, shall be deemed to be an assignment, transfer or sublease of LESSEE's rights in the Premises.

(b) Payment by LESSEE of the amount of compensation required under this Section 3.3 is a condition to LESSOR's giving its consent to any assignment, transfer or sublease under Article 16, and LESSOR may withhold its consent to any such assignment, transfer or sublease until this compensation has been paid. In addition, before LESSOR gives its consent to any such transaction, LESSEE shall deliver to the assignee, transferee or sublessee a written summary of all sums due and owing to LESSOR under this section and shall deliver to LESSOR a written acknowledgement by the assignee, transferee or sublessee that said person affirms that the sums are due and owing to LESSOR and that said person accepts responsibility for ensuring that such sums are paid directly to LESSOR.

3.4 Reevaluation of Minimum Monthly Rent For Extended Term

It is the intent of LESSOR and LESSEE to maintain a fair market lease rate during any extended term of this Lease. If LESSEE exercises its option to extend the term of this Lease pursuant to Article 2, at the sole election of LESSOR prior to the commencement of such extended term, a fair market lease rate for the first year of such extended term may be determined in the manner set forth below and shall be established as the minimum monthly rent commencing immediately following such determination as provided for below. The minimum monthly rent established for the first year of an extended term by this section shall be subject to a 2% annual adjustment on each anniversary of the commencement of such extended term.

The term "fair market lease rate" means the most probable rental price a ten (10) year lease for the Premises, excluding the Initial Improvements and any other improvements constructed by LESSEE thereon pursuant to this Lease, should bring in a competitive and open market under all conditions requisite to a fair transaction, with each party acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus, and leasing with full knowledge of the purpose

and uses to which the Premises is being put and the restrictions on use contained in this Lease.

The parties intend to establish the fair market lease rate through negotiation. In an effort to encourage productive negotiations, within 30 days after LESSEE notifies LESSOR that it wishes to exercise its right to extend the term of this Lease pursuant to Article 2, LESSOR shall have the right to notify LESSEE of its intent to reevaluate the property and provides LESSEE with its proposed new rate for the extended term. If LESSOR and LESSEE have not mutually agreed upon the fair market lease rate for the Premises for the first year of an extended term at least 30 days immediately prior to the commencement of such extended term, then LESSOR shall unilaterally set the fair market lease rate based on data collected from a rent survey of reasonably comparable Caltrans and non-Caltrans owned properties and shall use the highest per square foot rate paid by a LESSEE for a comparable property with a comparable use and for a period equal to the applicable term within approximately a two mile radius of the subject Premises.

If LESSOR and LESSEE have not mutually agreed upon the fair market lease rate for the Premises for an upcoming extended term at least 30 days immediately prior to the commencement of such extended term, and LESSOR thereafter unilaterally sets the fair market lease rate, LESSEE shall have the option to accept the new lease rate or within 30 days of being notified in writing of the new lease rate, LESSEE may object to the new lease rate and elect to terminate its exercise of its option to extend to term of the Lease with no penalty. Such termination notice must be provided by LESSEE to LESSOR in writing. LESSEE's election to terminate its exercise of its option to extend to term of the Lease shall place the LESSEE in the same theoretical position as if the entire maximum initial term of this Lease had run its course and expired. LESSEE shall have no further rights other than those expressed within this Lease relevant to termination. In the case that LESSEE does not provide notice of intent to terminate, the new fair market lease rate established by LESSOR shall become effective on the first day of the extended term, and if LESSEE fails to pay the new fair market lease rate, LESSOR shall treat LESSEE's failure to pay the new lease rate during the extended term as a material breach.

3.5 Reevaluation on Change in Use

LESSOR expressly reserves the right to establish a new minimum monthly rent as a condition to LESSOR's approval of any use of the Premises not specifically permitted by Section 4.1 and as a condition to any amendment to or changes in the uses permitted by that section. If a new minimum monthly rent is set pursuant to this section during the Initial Term, the difference between any such new minimum monthly rent and the amortized Prepayment Amount applicable to the months between the date such new minimum monthly rent is established and the Expiration Date shall be paid in advance on or before the first day of each month following the establishment of such new minimum monthly rent. If a new minimum monthly rent is set pursuant to this section during any extended term, the difference between any such new minimum monthly rent and the initial minimum monthly rent for such extended term shall be paid in advance on or before the first day of each month following the establishment of such new minimum monthly rent.

3.6 Reevaluation on Transfer

Although Article 16 generally prohibits any assignments, transfers, subleases, and encumbrances, LESSOR expressly reserves the right to establish a new minimum monthly rent as a condition to LESSOR's specific approval of any transfer, or assignment of this Lease or any

subletting of all or any portion of the Premises; provided, however, that LESSEE shall have the right from time to time, upon notice to but without the consent of LESSOR, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission or agency of LESSEE for any or all of the uses permitted under this Lease without any such new minimum monthly rent and without obtaining LESSOR's consent.

ARTICLE 4. USE

4.1 Specified Use

The Premises shall be used and occupied by LESSEE only and exclusively for the purpose of a public park, recreational area, and/or parking. Unless LESSOR exercises its rights under Article 10 in a manner that makes the remaining LESSEE improvements on the Premises inappropriate for a dog park, parking shall only be on the Premises as designated on the approved development plans attached hereto as Exhibit B further depict the proposed use of the Premises as the dog park portion of the SoMa West Skatepark and Dog Park and as a parking area. The Premises shall be maintained at the sole cost and expense of LESSEE in an orderly, clean, safe and sanitary condition. LESSOR will terminate this Lease immediately if LESSEE uses the Premises for any purpose other than parking or non-revenue generating park or recreational uses (provided that LESSEE shall have the right to sell beverages and food to users of the Premises and to charge a fee to use the Premises if the revenues from such activities are used only to fund LESSEE's payment of rent pursuant to this Lease or pursuant to Airspace Lease (04-SF-101-26) between LESSOR and LESSEE (the "Skatepark Lease") or LESSEE's costs in performing its obligations under this Lease or the Skatepark Lease or making approved improvements to the Premises or the premises described in the Skatepark Lease).

The Premises shall at all times be subject to all uses by the LESSOR as may be deemed necessary by LESSOR for highway facilities without interference by LESSEE, as provided for within Article 10.

4.2 Condition of Premises

LESSEE hereby accepts the Premises "AS-IS." LESSOR makes no representation or warranty with respect to the condition of the Premises or the suitability thereof for the conduct of LESSEE's business, nor has LESSOR agreed to undertake any modification, alteration or improvement to the Premises.

4.3 Prohibited Uses

LESSEE is to use the Premises for a public park and recreational and parking purposes only. The following are specifically prohibited:

- (a) Using the Premises in violation of any law, statute, zoning restriction, ordinance or governmental rule or regulation or requirements.
- (b) Operating or installing a gasoline or petroleum supply station, transporting or storing gasoline or petroleum products under the structures, except those products stored within an operable vehicle for exclusive use by that vehicle.

- (c) Manufacturing or storage or use of flammable materials, explosives or other materials, deemed by LESSOR to be a potential fire or other hazard to the transportation facility located above the Premises.
- (d) Using, creating, storing or allowing any hazardous materials on the Premises, except as otherwise expressly permitted in this Lease; provided that LESSEE may use such materials in such limited amounts as are customarily used for cleaning or maintaining improvements similar to the Initial Improvements or any other LESSEE improvements at the Premises so long as such use is in compliance with all applicable environmental laws. Fuel stored in a motor vehicle for the exclusive use in such vehicle is excepted.
- (e) Depositing or disposing of any hazardous materials on the Premises. LESSOR, or its agents or contractors, shall at all times have the right to go upon and inspect the Premises and the operations thereon to assure compliance with the requirements herein stated. Inspection may include taking samples of substances and materials present for testing, and/or the testing of soils or underground tanks on the Premises; provided that LESSOR shall provide LESSEE with 10 days' prior written notice of any such sampling or testing.

Hazardous materials are those substances listed or described for toxicity, reactivity, corrosivity or flammability criteria in Division 4.5, Chapter 11, Articles 1 through 5 of Title 22 of the California Code of Regulations, as well as any other substance which poses a hazard to health or environment.

- (f) Constructing, erecting, maintaining or permitting any sign, banner or flag upon the Premises, except as provided for in Section 5.3 or permitted under the Encroachment Permit, without the prior written approval of LESSOR, which shall not be unreasonably withheld, conditioned or delayed; provided, however, that LESSEE shall not need LESSOR's prior written approval to install temporary signs, banners or flags to promote activities at the Premises ("Temporary Signs") as long as the installed Temporary Signs are not attached to any portion of the overhead freeway structure and its support columns. LESSOR shall make all reasonable efforts to notify LESSEE in writing of LESSOR's approval or disapproval of a proposed sign, banner, or flag on or before the thirtieth (30th) day immediately following LESSEE's delivery of written request for LESSOR's approval. LESSEE shall not place, construct or maintain upon the Premises any advertising media that include moving or rotating parts, searchlights, flashing lights, loudspeakers, phonographs or other similar visual or audio media.
- (g) Parking or storing wrecked or inoperable vehicles of any kind on the Premises. All parked or stored vehicles must be capable of being started and driven off the Premises. Vehicles will not be permitted to remain overnight on the Premises.
- (h) Conducting or permitting the vending or sale of any goods or services upon the Premises except as specifically permitted under Section 4.1.
- (i) Any activity that damages or endangers any highway structure on the Premises, including its supports and foundations, or interferes with the operation of such

structure.

- (j) Dumping or disposing of refuse or other unsightly materials on, in, under or about the Premises.
- (k) Conducting any activities on or about the Premises that constitute waste, nuisance or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises or lights) to the public; provided, however, that LESSOR agrees that the operation of a dog park and a parking area on the Premises (assuming the public users of the Premises are not in violation of this list of prohibitions) will not constitute waste, nuisance or unreasonable annoyance.

LESSEE shall take all commercially practicable measures to ensure that its users at the Premises not conduct any activities prohibited under this Section. Repeated uncured incidents of the LESSEE's invitees at the Premises violating this Section shall constitute "nuisance" or an "unreasonable annoyance" per Section 4.3(k) and shall further constitute a material breach and default by LESSEE per Section 11.1(c) regardless whether the prohibited activities were conducted by third party users, as LESSEE's intended use of the Premises is to invite the public to use the Premises in compliance with the rules and regulations established by LESSEE and LESSOR.

4.4 LESSOR'S Rules and Regulations

LESSEE shall faithfully observe and comply with the rules and regulations that LESSOR shall from time to time promulgate for the protection of the transportation facility and the safety of the traveling public and which are required of all LESSOR tenants. LESSOR does not currently have rules and regulations for the Premises and LESSOR reserves the right from time to time to promulgate reasonable rules and regulations for the protection of the transportation facility and the safety of the traveling public and to make reasonable modifications to said rules and regulations, each of which shall be binding upon LESSEE upon delivery of a copy of them to LESSEE. If such new rules and regulations materially impact LESSEE's use of the Premises, LESSEE shall have the right to terminate this Lease by delivering written notice of such termination to LESSOR within the 90-day period immediately following LESSEE's receipt of such new rules and regulations.

4.5 Water Pollution Control

LESSEE operates a combined sanitary and stormwater sewer system at the Premises and the surrounding areas under its own separate NPDES permit. Best Management Practices (BMPs) are further required per San Francisco Municipal Code.

LESSEE shall comply with all applicable State and Federal water pollution control requirements regarding storm water and non-storm water discharges from the LESSEE's leasehold area and will be responsible for all permits applicable to the Premises, including if applicable to the Premises, but not limited to, the National Pollutant Discharge Elimination System (NPDES) General Permit and Waste Discharge Requirements for Discharges of Stormwater Associated with Industrial Activities (Excluding Construction), the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities, and the Caltrans Municipal Separate Storm Sewer System NPDES Permit, and permits and ordinances issued to and promulgated by municipalities, counties, drainage districts, and other local agencies regarding

discharges of storm water and non-storm water to sewer systems, storm drain systems, or any watercourses under the jurisdiction of the above agencies. Copies of the current storm water related NPDES permits are available on the State Water Resources Control Board's website at http://www.swrcb.ca.gov/water_issues/programs/stormwater/.

LESSEE understands the discharge of non-storm water into the storm sewer system at the Premises may be prohibited under the ordinances listed above. In order to prevent the discharge of pollutants to storm water resulting from contact with hazardous material, the storage or stockpile of hazardous material on Premises is strictly prohibited.

LESSEE shall implement and maintain the BMPs required by permits, ordinance, and regulations applicable to the Premises, including those specified in Articles 4.1 and 4.2 of the San Francisco Public Works Code, and, to the extent applicable to LESSEE's use of the Premises, the BMPs set forth in the following manuals:

(1) Right of Way Property Management and Airspace Storm Water Guidance Manual available for review online at: www.dot.ca.gov/hq/row/rwstormwater, and

(2) Construction Site Best Management Practices Manual, available for review online at: www.dot.ca.gov/hq/construc/stormwater/manuals.htm.

In the event of conflict between the above-referenced manuals and this Lease, this Lease shall control.

LESSEE shall provide LESSOR with any Standard Industrial Classification (SIC) code applicable to LESSEE'S facilities and activities on the Premises. A list of SIC codes regulated under the General Industrial Permit may be found at the State Water Resources Control Board website: http://www.waterboards.ca.gov/water_issues/programs/stormwater/gen_indus.shtml. Other SIC codes may be found at www.osha.gov/pls/imis/sicsearch.html.

LESSOR, or its agents or contractors, shall at all times have the right to enter and inspect the Premises and the operations thereon to assure compliance with all stormwater permits, ordinances, and regulations applicable to the Premises. Inspection may include taking samples of substances and materials present for testing, and/or the testing of storm sewer systems or watercourses on the Premises; provided that LESSOR shall provide LESSEE with 10 days' prior written notice of any such sampling or testing.

Notwithstanding anything to the contrary in this Section, LESSEE shall have the right to perform any maintenance, including regular washing, reasonably necessary to keep the improvements constructed on the Premises by LESSEE in a good and clean operating condition.

4.6 Legal Status of the Dog Park.

LESSOR has not received any notice that the Premises is a significant park or recreation area pursuant to the provisions of 23 U.S.C. section 138 and 49 U.S.C. section 303 (collectively, "Section 4(f)"). It is hereby understood and agreed by LESSOR and LESSEE that the dog park is not intended to convert the Premises into a significant park or recreation area pursuant to the provisions of Section 4(f), and LESSEE shall not knowingly install, nor permit any of its sublessees to install, any improvements at the Premises that would cause the Premises to be a significant park

or recreation area under Section 4(f). In the event that the Premises is declared a significant park or recreation area under Section 4(f) due to the dog park or any improvements installed at the Premises by LESSEE or its sublessee(s), LESSEE shall assume all burden, monetary or otherwise, in securing any Section 4(f) remedy required to minimize any harm that any of LESSOR's proposed projects would otherwise cause to the dog park or any such improvements; provided, however, that if any Section 4(f) remedy is so required, LESSEE shall have the right to terminate this Lease to relieve LESSOR of the obligation to perform, and for LESSEE to assume the burden for, such Section 4(f) remedy. LESSEE shall deliver written notice of any such termination of this Lease pursuant to the foregoing sentence to LESSOR on or before the thirtieth (30th) day that a determination is made to require LESSOR to perform a Section 4(f) remedy to minimize any harm to the Premises.

ARTICLE 5. COMMENCEMENT AND COMPLETION OF INITIAL CONSTRUCTION

5.1 Commencement of Construction

No improvements of any kind shall be placed in, on, or, upon the Premises, and no alterations shall be made in, on, or, upon the Premises other than the Initial Improvements. LESSEE shall commence construction of the Initial Improvements within 365 calendar days of the Commencement Date. For the purposes of this Article, construction shall be deemed to have commenced upon the issuance by LESSOR of an Encroachment Permit. In the event construction is not commenced within the time set forth herein, this Lease may be terminated by LESSOR and thereafter be of no further force and effect.

LESSEE shall be solely responsible for maintaining all improvements constructed by LESSEE on the Premises in a good and clean condition as specified in Article 7 below.

LESSEE shall be liable for any and all construction activities, permitted or not, that may occur on the Premises and its improvements during the term of this Lease, and shall indemnify and hold LESSOR harmless from any claims of liability arising solely from LESSOR's ownership of the Premises during the term of this Lease. LESSEE's obligations pursuant to the foregoing sentence shall not apply to any claims of liability arising from any acts at the Premises by LESSOR or its officers, employees, or agents, from any gross negligence or willful misconduct by LESSOR or its officers, employees, or agents, from any liability arising from the operation of any highway structure on the Premises, or arising during any period during which LESSOR has possession of the Premises.

5.2 Subsequent Improvements

If LESSEE desires any additional improvements in, on, or upon the Premises, or any alterations to said Premises, including landscaping, LESSEE shall prepare development plans describing the proposed additional improvements or alterations, and shall submit such development plans to LESSOR, for review by LESSOR and Federal Highway Administration ("FHWA"). LESSEE shall not make any additional improvements or alterations, including landscaping, without the review and approval of the LESSOR and FHWA documented by the issuance of a Caltrans Encroachment Permit.

LESSEE shall begin the construction of any additional improvements on the Premises

within 90 days after obtaining an appropriate encroachment permit to construct such additional improvements from the LESSOR. All work shall be completed according to the development plan within 360 days of the issuance of such encroachment permit.

5.3 Required Sign

LESSEE shall post the Premises, at LESSEE's cost, with a 12"x12" sign (or any larger size reasonably acceptable to LESSOR) giving the following notice:

"This park has been developed for your convenience by (name of Lessee) under a lease with the California Department of Transportation. The lease is subject to termination if the property is needed for State highway purposes."

5.4 Removal of Improvements

(a) Removal Upon Termination of Lease; Early Termination to Fund Removal

Upon termination of this Lease for any reason whatsoever, LESSEE agrees to remove the Initial Improvements and all other improvements at the Premises made by LESSEE or on behalf of LESSEE (collectively, the "Lessee Improvements"), at LESSEE'S sole expense, within 90 days of termination, unless LESSOR subsequently agrees in writing that LESSEE may leave such Lessee Improvements at the Premises at the end of the term of this Lease. If LESSEE fails to remove all Lessee Improvements which LESSEE is required to remove, LESSOR may remove such Lessee Improvements at the expense of LESSEE after first providing no less than 30 days prior written notice to LESSEE of the date on which it intends to perform such removal work. If LESSOR performs such removal work after providing such notice, at LESSOR's option, (1) may demand and collect its costs and expenses as additional rent through this Lease, or (2) may bring an action for recovery of such costs, together with all expenses and attorneys' fees incurred by reason of said action. LESSEE shall tender possession of the Premises to LESSOR in a good paved condition, fully fenced, and suitable for immediate use as a public parking lot; however, LESSEE shall not be obligated to stripe the Premises in anticipation of a future parking use. LESSEE shall have the right to terminate this Lease prior to the Expiration Date if LESSEE elects to use the funds it would have used to pay rent between such early termination date and the Expiration Date to pay for the costs of removing the Lessee Improvements pursuant to this Section.

(b) Removal Upon LESSOR's Temporary Entry

If LESSOR requires temporary possession of a portion of the Premises or the entire Premises to perform any activities pursuant to Article 10 of this Lease, LESSEE acknowledges that the performance of such activities may cause damage to, or require removal of (at LESSEE's sole cost), the Lessee Improvements. LESSOR shall use commercially reasonable efforts to conduct the activities specified in Article 10 in a manner that reasonably minimizes any such damage or removal to the Lessee Improvements so long as those efforts do not increase the cost of performing the required activities. If LESSEE fails to remove all noticed conflicting Lessee Improvements, LESSOR may remove such improvements, and, at LESSOR's option, (1) may demand and collect its costs and expenses as additional rent through this Lease, or (2) may bring an action for recovery of such costs.

(c) Restoration of Improvements

At the conclusion of LESSOR's temporary entry onto and possession of the Premises to perform any of the activities specified in Article 10 of this Lease, LESSOR shall NOT be responsible for restoring any Lessee Improvements damaged or removed by LESSOR in performing such activities. If LESSEE desires to restore such damaged or removed Lessee Improvements it may do so at its expense. If LESSEE elects not to make such restoration, LESSEE shall have the right not to do so and to terminate this Lease by delivering written notice of such termination within ninety (90) days of the date that LESSOR returns possession of the entire Premises to LESSEE, and LESSEE shall remove any remaining Lessee Improvements and restore the Premises pursuant to the provisions of subsection (a) hereinabove.

(d) Drainage Improvements

LESSEE proposes to improve the drainage of the Premises by the installation of additional drainage inlets that will connect to the LESSEE owned stormwater system. At the termination of the Lease for any reason, in addition to removing the Lessee Improvements, as a part of the Premises restoration, LESSEE, at its sole cost, shall ensure the drain inlet fixtures conform to the Caltrans Standard Plans current at the time of the lease termination. The relevant 2010 Caltrans Standard Plans for drainage inlets is attached for reference as Exhibit C.

ARTICLE 6. REMOVAL OF PERSONAL PROPERTY

LESSEE may remove any personal property from time to time within 45 days of the expiration of the term. LESSEE shall repair all damage (structural or otherwise) caused to the Premises or any improvements thereon by any such removal.

Any personal property not removed by LESSEE within 45 days following expiration of the term shall be deemed to be abandoned by LESSEE and shall, without compensation to LESSEE, become the LESSOR'S property, free and clear of all claims to or against them by LESSEE or any other person.

ARTICLE 7. MAINTENANCE AND REPAIRS

7.1 LESSEE'S Obligations

LESSEE, at its own cost and expense, shall maintain the Premises, the improvements and landscaping thereon including the Premises drainage facilities; and including fences heretofore (as may be modified under the Encroachment Permit) or hereafter erected by LESSEE or LESSOR in compliance with this Lease, in good and clean order, repair and condition and in compliance with all requirements of law, subject to ordinary wear and tear that does not reduce the attractiveness and utility of the Premises; provided, however, that LESSEE's obligations under this Section shall not apply to any freeway structure on the Premises other than as expressly set forth below as to LESSOR's structural columns within the Premises. LESSEE shall also, at its own cost and expense, maintain the lighting on the Premises in first class order, repair and condition.

LESSOR and LESSEE recognize that because of the length of the term of this Lease it may be necessary for LESSEE to perform certain substantial maintenance, repair, rehabilitation or

reconstruction (hereinafter collectively referred to as "repair" or "repairs") of the improvements in order to ensure that the Premises are kept in first-class order, repair and condition.

LESSEE hereby expressly waives the right to make repairs at the expense of LESSOR and the benefit of the provisions of Sections 1941 and 1942 of the California Civil Code or any successor amendments thereto.

LESSEE shall take all steps necessary to effectively protect the existing columns of the structure on the Premises and any future structure appurtenances installed on the Premises by LESSOR, from damage incident to LESSEE'S use of said Premises and improvements, all without expense to LESSOR. LESSEE shall, at its own cost and expense, repair in accordance with LESSOR'S standards any damage to any property owned by LESSOR, including, but not limited to, the existing columns of the structure on the Premises and any future structure appurtenances on the Premises installed by LESSOR, caused by LESSEE or its invitees incurred as a result of operation of a dog park at the Premises, but excluding any damage caused by the acts of LESSOR or its agents, contractors, representatives or invitees or occurring during any period that LESSOR has possession of the portion of the Premises where such damage occurred.

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

7.2 LESSOR'S Rights

In the event LESSEE fails to perform LESSEE'S obligations under this Article, LESSOR shall give LESSEE notice to do such acts as are reasonably required to so maintain the Premises. If within thirty (30) days after LESSOR sends written notice to repair or quit, LESSEE fails to do the work and fails to proceed in good faith to prosecute it to completion, said deficiency shall be deemed a material breach.

ARTICLE 8. INSURANCE

8.1 Indemnification

Neither LESSOR nor any its officers or employees is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by LESSEE pursuant to this Lease, including any work performed by LESSEE at the Premises.

It is understood and agreed LESSEE will fully defend, indemnify, and save harmless LESSOR and all of its officers and employees from all claims, suits, or actions of every kind brought forth under any theory of liability occurring by reason of anything done or omitted to be done by LESSEE under this Lease. LESSEE's obligations to defend, indemnify, and save harmless LESSOR extends to any and all claims, suits, or actions of every kind brought forth under any theory of liability occurring due to the use of the Premises during LESSEE's possession of the Premises as a public park or recreation area, including those arising from the operation of a skate park, the operations of any skate park vendor, the use of the skate park, or the design, construction, and maintenance of a public park, recreation area, or skate park.

LESSEE shall include in any contract it enters with any contractor who designs, constructs,

maintains, or operates the skate park a requirement that such contractor will fully defend, indemnify and save harmless LESSOR and its officers and employees from any and all claims, suits or actions of every kind brought forth under any theory of liability occurring due to such contractor's performance of its obligations or rights under such contract. If LESSEE has any additional insured endorsements executed naming LESSOR to comply with this provision, LESSEE shall provide copies of the additional insured endorsements and a Certificate of Insurance to LESSOR.

Furthermore, LESSEE agrees it controls the Premises during LESSEE's possession of the Premises, except to the extent that LESSOR uses the Premises pursuant to its reserved rights under this Lease. As such, LESSEE agrees to defend, indemnify and hold harmless LESSOR, its officers and employees for any and all claims arising out of the allegedly dangerous condition of public property based upon the condition of the Premises during LESSEE's possession of the Premises, except to the extent such claims arise from the freeway structure located above the Premises or LESSOR's activities on or use of the Premises.

LESSOR agrees to defend, indemnify and save harmless LESSEE, its officers, employees, and agents from any and all claims, suits or actions of every kind brought forth under any theory of liability with respect to the freeway structure located above the Premises or the activities of LESSOR or its officers, employees, and agents at the Premises, except to the extent such claims, suits or actions arise by reason of the sole or active negligence of LESSEE, its officers, employees, and agents.

8.2 Self-Insurance

LESSOR acknowledges LESSEE maintains a self-insurance program agrees that LESSEE shall not be required to carry any third party insurance with respect to this Lease at any time that LESSEE maintains such self-insurance. LESSOR agrees LESSEE's self-insurance is sufficient to meet LESSEE'S insurance obligations under this Lease if the self-insurance provides coverage as broad as a Commercial General Liability insurance policy, as provided on ISO Form CG 0001 or equivalent, for the Premises.

LESSEE's self-insurance shall provide per occurrence and aggregate limits of liability of not less than Twenty-Five Million Dollars (\$25,000,000).

LESSEE is also required to notify LESSOR in writing not less than thirty (30) days prior to the effective date of the termination of its self-insurance coverage. If such notice is given, LESSEE is required to obtain a Commercial General Liability policy providing the coverage required by this Article and an effective date the same as the termination date of the self-insurance to avoid any disruption in coverage. If LESSEE purchases a Commercial General Liability policy to meet the requirements of this Article, LESSEE shall have LESSOR named as an additional insured under the policy and provide a copy of the complete policy to LESSOR.

By executing this Lease, LESSEE expressly acknowledges LESSEE's self-insurance program meets the requirements of this provision. This provision does not apply if LESSEE acquires private insurance in place of self-insurance.

8.3 Completed Operations Coverage

To cover all liability related to any defective design or construction of Lessee Improvements (including the design or construction of a public park as specifically identified within Article 4), LESSEE shall require all third party design professionals or contractors used by City to design or construct the Lessee Improvements to carry, during such design or construction period, professional liability coverage insuring against negligent acts, errors or omissions in connection with such contractor's design or construction work. LESSEE shall also require any third party contractor for the construction of the Lessee Improvements to provide commercial completed operations insurance coverage for such construction for the period required under applicable law.

8.4 Failure to Procure and Maintain Insurance

If LESSEE fails to procure or maintain LESSEE's self-insurance described in Section 8.2 above, or private insurance in place of LESSEE's self insurance, LESSEE shall cease and desist from using the Premises and any improvements to the Premises. LESSEE shall also prevent members of the public from gaining access to the Premises during any period in which such insurance coverage is not in full force and effect.

ARTICLE 9. PAYMENT OF TAXES

LESSEE agrees to pay all taxes and assessments that may be legally assessed on LESSEE'S possessory interest under this Lease or income generated at the Premises by LESSEE or its sublessee(s).

ARTICLE 10. RIGHT OF ENTRY

10.1 Inspection, Maintenance, Construction and Operation of Freeway Structures

LESSOR, 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 LESSEE, its agents or representatives.

LESSOR 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 LESSOR 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 LESSOR, and during said period LESSEE shall be relieved, to the degree of interference, from the performance of conditions or covenants specified herein. LESSOR further reserves the right of entry by any authorized officer, engineer, employee, contractor or agent of the LESSOR for the purpose of performing any maintenance activities upon the property which LESSEE has failed to perform after the expiration of the applicable cure period specified in Section 11.1.

10.2 Future Transportation Projects

At any time following the fifth (5th) anniversary of the Commencement Date, LESSOR may cancel this Lease upon 90 days notice for any future transportation project that requires LESSOR's possession of the Premises if such project would continue through the then remaining term of this Lease. In that event, LESSEE will have no claim upon LESSOR and waives any and all claims for compensation, damages or relocation assistance. If LESSOR's Division of Right of Way Office of Airspace Development ("RW Airspace") learns of a potential future transportation project at the Premises, RW Airspace agrees to notify LESSEE, and to meet and confer with LESSEE, as early as is reasonably feasible during the concept and schematic design phases for such project. If such project may temporarily or permanently affect the use of the Premises by LESSEE, LESSOR agrees to confer with LESSEE and consider in good faith any reasonable modifications to such project or alternative proposals proposed by LESSEE that would avoid or mitigate such impact on the Premises or LESSEE's use of the Premises while still consistent with LESSOR's overall transportation project objectives. If LESSOR believes that employing a modification or alternative proposed by LESSEE will result in additional cost or expense to LESSOR's project, LESSOR shall notify LESSEE of the anticipated cost in writing. If, after receiving such estimate, LESSEE requests in writing that LESSOR proceed with such modification or alternative requested by LESSEE, LESSEE agrees to reimburse LESSOR for its actual incurred additional cost or expense resulting from making such requested modification or alternative. If LESSEE's improvements conflict with LESSOR's project, the conflicting improvements shall be removed by LESSEE, at its sole cost, pursuant to Section 5.4.

In the event LESSOR determines that it needs to obtain possession of all or a portion of the Premises for any future transportation project, but such project will be completed prior to the expiration of the then remaining term of this Lease, LESSOR shall, at least ninety (90) days prior to the effective date of the commencement of such possession, notify LESSEE in writing describing the extent of the possession and the effective date of the commencement of such possession. Upon the effective date of said notice, LESSEE shall peaceably surrender possession of all or any specified portion of the Premises. The rent stated in Section 3.1 shall be equitably reduced by the same percentage as the portion of the Premises which was surrendered; provided, however, that if LESSEE's is unable to use the remaining portion of the Premises for any of the Permitted Uses without such surrendered portion, the rent stated in Section 3.1 shall be fully abated until the entire Premises is returned to LESSEE. If LESSOR takes possession of a portion of the Premises for any future transportation project that will continue for more than twenty-four (24) months, and the portion of the Premises remaining in possession of LESSEE is rendered unusable due to such project, LESSEE shall have the right to terminate this Lease by delivering no less than thirty (30) days' prior written notice of such termination to LESSOR. This reduction in rent and termination right shall be LESSEE'S sole remedies against LESSOR for LESSEE'S inability to possess or use the entire area of the Premises on account of LESSOR'S exercise of its rights under this Section, and LESSEE expressly waives any right it may have to recover compensation, damages or relocation assistance from LESSOR on account thereof.

LESSOR shall use commercially reasonable efforts to conduct future transportation project work in a manner that reasonably minimizes any such damage or removal to the Lessee Improvements. LESSEE acknowledges that the performance of the future transportation project work may cause damage to the Lessee Improvements. LESSEE expressly agrees to release any claims that it may have against LESSOR for such damage.

10.3 Retrofitting of Freeway Structures

LESSEE acknowledges LESSOR may be required to perform retrofit work on all or a part of the freeway structures that are situated on and above the Premises. LESSOR shall have the right to impose such restrictions on LESSEE'S right to enter, occupy, and use the Premises and to construct improvements thereon as LESSOR deems are necessary to enable it to complete construction of all freeway structural retrofit work without interference from LESSEE.

In the event LESSOR determines that it needs to obtain possession of all or a portion of the Premises, or needs to place restrictions on LESSEE'S use of the Premises, to accommodate such retrofit work, LESSOR shall, at least ninety (90) days prior to the effective date of the commencement of such possession or restrictions notify LESSEE in writing describing the extent of the possession or restrictions and the effective date of their commencement. If such notice is for any possession by Landlord, it shall further describe any other Landlord property in the general vicinity available for lease by Tenant pursuant to the terms and conditions of this Lease. Landlord shall use commercially reasonable efforts to identify such alternative Landlord property. Although Landlord shall identify any available Landlord property within the vicinity of the Premises, Landlord shall not be obligated to provide Tenant with a replacement property in the event all or a portion of the Premises is repossessed by Landlord. Upon the effective date of said notice, LESSEE shall peaceably surrender possession all or any specified portion of the Premises or comply with the restrictions as stated therein, as applicable. The rent stated in Section 3.1 shall be equitably reduced to reflect the portion of the Premises surrendered and the portion of the Lease term for which the Premises was surrendered; provided, however, if the portion of Premises to be surrendered by LESSEE will render the remaining portion of the Premises unusable for the Permitted Uses, LESSEE shall have the right to terminate this Lease by delivering no less than thirty (30) days' prior written notice of such termination to LESSOR. This reduction in rent and right of early termination shall be LESSEE'S sole remedy against LESSOR for LESSEE'S inability to possess or use the entire area of the Premises on account of LESSOR'S exercise of its rights under this Section, and LESSEE expressly waives any right it may have to recover compensation, damages or relocation assistance from LESSOR on account thereof.

LESSEE shall conduct its operations on the Premises in such a manner so as not to interfere with LESSOR'S or its contractor's performance of any structural retrofit work done on or above the Premises. LESSOR shall use commercially reasonable efforts to conduct such structural retrofit work in a manner that reasonably minimizes any such damage or removal to the Lessee Improvements. LESSEE acknowledges that the performance of the structural retrofit work may cause damage to the Lessee Improvements. LESSEE expressly agrees to release any claims it may have against LESSOR from all such damage to the improvements.

ARTICLE 11. DEFAULT

11.1 Default

The occurrence of any of the following shall constitute a material breach and default of this Lease by LESSEE:

- (a) Any failure by LESSEE to pay lease payment or any other monetary sums required to be paid hereunder, where such failure continues for ten (10) business days after written notice thereof has been given by LESSOR to LESSEE.

- (b) The abandonment or vacation of the Premises by LESSEE. Failure to occupy and operate the Premises for sixty (60) consecutive days following the mailing of written notice from LESSOR to LESSEE calling attention to the abandonment shall be deemed an abandonment or vacation.
- (c) A failure by LESSEE to observe and perform any other provision of this Lease to be observed or performed by LESSEE, where such failure continues for thirty (30) days after written notice thereof by LESSOR to LESSEE; provided, however, that if the nature of such default is such that it cannot be reasonably cured within such thirty (30) day period, LESSEE shall not be deemed to be in default if LESSEE shall within such period commence such cure and thereafter diligently prosecute the same to completion.

11.2 LESSOR'S Remedies

In the event of any material default or breach by LESSEE, LESSOR may at any time after expiration of the applicable notice and cure period, without limiting LESSOR in the exercise of any right of remedy at law or in equity that LESSOR may have by reason of such default or breach

- (a) Terminate LESSEE'S right to possession by any lawful means, in which case this Lease shall immediately terminate and LESSEE shall immediately surrender possession of the Premises to LESSOR. In such event LESSOR shall be entitled to recover from LESSEE all damages incurred by LESSOR by reason of LESSEE'S default including, but not limited to, the following:
 - (i) any amount necessary to compensate LESSOR for all the detriment proximately caused by LESSEE'S failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom; plus
 - (ii) at LESSOR'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 LESSOR shall have the right to make any reasonable repairs, alterations or modifications to the Premises, which LESSOR in its sole discretion deems reasonable and necessary.

ARTICLE 12. ASSIGNMENTS, SUBLEASES AND ENCUMBRANCES

The LESSEE shall not assign, sublease, or encumber the Premises in any matter whatsoever, nor shall this Lease be recorded.

ARTICLE 13. NONDISCRIMINATION

LESSEE, for itself, its agents, contractors, employees, officers, and personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

- (a) 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,
- (b) 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,
- (c) Such discrimination shall not be practiced against the public in its 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,
- (d) LESSEE shall use the Premises in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21 and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the LESSOR 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 14. SECURITY DEPOSIT

LESSEE shall maintain on deposit with LESSOR the sum of \$ 0.00 to guarantee the faithful performance of the conditions of this agreement. LESSOR shall not be required to keep this Security Deposit separate from its general funds, and LESSEE shall not be entitled to interest on such deposit. If LESSEE shall fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to LESSEE at the expiration of the lease term and after LESSEE has properly vacated the Premises.

ARTICLE 15 ADDITIONAL PROVISIONS

15.1 Quiet Enjoyment

LESSOR covenants and agrees with LESSEE that upon LESSEE paying lease payment and other monetary sums due under the Lease and performing its covenants and conditions, LESSEE shall and may peaceably and quietly have, hold and enjoy the Premises for the term, subject however, to the terms of the Lease.

15.2 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 question of interpretation or construction of any section of this Lease.

Any marginal or clause headings on this lease are not a part of this and shall have no effect upon the construction or interpretation of any part hereof.

15.3 Entire Agreement

This instrument along with any addenda, exhibits and attachments hereto constitutes the entire agreement between LESSOR and LESSEE 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 LESSOR and LESSEE. LESSOR and LESSEE 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.

15.4 Severability

If any terms 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.

15.5 Time is of the Essence

Time is of the essence of each and all of the terms and provisions of this Lease.

15.6 Binding Effect; Choice of Law

The terms and conditions of this lease shall extend and be binding upon and inure to the benefits of the heirs, executors, administrators or to any approved successor of the LESSEE. The terms and conditions of this Lease shall be governed by the laws of the State of California, if any legal action is initiated, the venue shall be in the appropriate court of the State of California in the county in which the Premises are located

15.7 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 LESSOR of any performance by LESSEE after the time the same shall have become due shall not constitute a waiver by LESSOR of the breach or default of any covenant, term or condition. Acceptance by LESSOR of any performance by LESSEE after the time the same shall have become due shall not constitute a waiver by LESSOR of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by LESSOR in writing.

15.8 Notices

All notices or demands of any kind required or desired to be given by LESSOR or LESSEE 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 LESSOR or LESSEE respectively at the addresses set forth in the Summary of Lease Provisions on the first page of this Lease.

15.9 No Reservation

Submission of this instrument for examination or signature by LESSEE 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 LESSOR and LESSEE.

15.10 Force Majeure

If either LESSOR or LESSEE shall be delayed or prevented from the performance of any act required hereunder by reason of acts of nature, governmental restrictions, regulations or controls (except those reasonably foreseeable in connection with the uses contemplated by this Lease) or other cause without fault and beyond the control of the party obligated (except financial inability), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Nothing in this clause shall excuse LESSEE from prompt payment of any rent, taxes, insurance or any other charge required of LESSEE, except as may be expressly provided in this Lease.

15.11 Addendum

The Addendum to Lease attached hereto is made a part hereof for all purposes.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

In Witness Whereof, LESSOR and LESSEE have executed this Lease as of the date first written above.

LESSOR
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Dated: _____

By: _____
LINDA EMADZADEH, Chief
R/W Airspace, LPA, and Excess Lands

LESSEE
CITY AND COUNTY OF SAN FRANCISCO,
A MUNICIPAL CORPORATION

Dated: _____

By: _____
JOHN UPDIKE
Director of Property

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

By: _____
Carol Wong, Deputy City Attorney

ADDENDUM TO AIRSPACE LEASE AGREEMENT

This Addendum to Airspace Lease Agreement (this "Addendum") is a part of and modifies that certain Airspace Lease Agreement (the "Base Lease") for Lease Area No.SF-101-26 between the State of California, acting by and through its Department of Transportation ("LESSOR"), and the City and County of San Francisco, a municipal corporation ("LESSEE"), dated as of _____.

All undefined, capitalized terms used in this Addendum shall have the meanings given to them in the Base Lease. All references in the Base Lease and in this Addendum to "the Lease" or "this Lease" shall mean the Base Lease, as modified by this Addendum.

1. Non-Liability of LESSEE Officials, Employees and Agents. Notwithstanding anything to the contrary in this Lease, no elective or appointive board, commission, member, officer, employee or agent of LESSEE shall be personally liable to LESSOR, its successors and assigns, in the event of any default or breach by LESSEE or for any amount which may become due to LESSOR, its successors and assigns, or for any obligation of LESSEE under this Lease.
2. Controller's Certification of Funds. The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the LESSEE's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by LESSEE under this Lease unless the LESSEE's Controller first certifies, pursuant to Section 3.105 of the LESSEE's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of LESSEE after the fiscal year in which the term of this Lease commences, sufficient funds for the payment of Rent and any other payments required under this Lease are not appropriated, then LESSEE may terminate this Lease, without penalty, liability or expense of any kind to LESSEE, except for LESSEE's obligation to remove the constructed improvements and restore the Premises to the prior condition per Articles 5 and 6, as of the last date on which sufficient funds are appropriated. LESSEE shall use its reasonable efforts to give LESSOR reasonable advance notice of such termination.
3. Non Discrimination in LESSEE Contracts and Benefits Ordinance. To the extent LESSOR is subject to San Francisco Administrative Code Section 12B, in the performance of this Lease, LESSOR 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, weight, height, or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or, any LESSEE employee working with, or applicant for employment with, LESSOR in any of LESSOR'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 LESSOR.
4. MacBride Principles - Northern Ireland. LESSEE urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. LESSEE also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. LESSOR acknowledges that it has read and understands the above statement

of LESSEE concerning doing business in Northern Ireland.

5. Tropical Hardwood and Virgin Redwood Ban. LESSEE urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

6. Bicycle Storage Facilities. Article 1.5, Section 155.1, of the San Francisco Planning Code (the "Planning Code") requires the provision of bicycle storage at City-leased buildings at no cost to LESSOR and if funds are available. In the event public and/or private donations, grants or other funds become available, at any time during the term of this Lease including any extension thereof, LESSEE may apply for a Caltrans Encroachment Permit proposing to install compliant bicycle storage at the Premises per Section 5.2 hereinabove.

EXHIBIT A

Premises

[see attached]

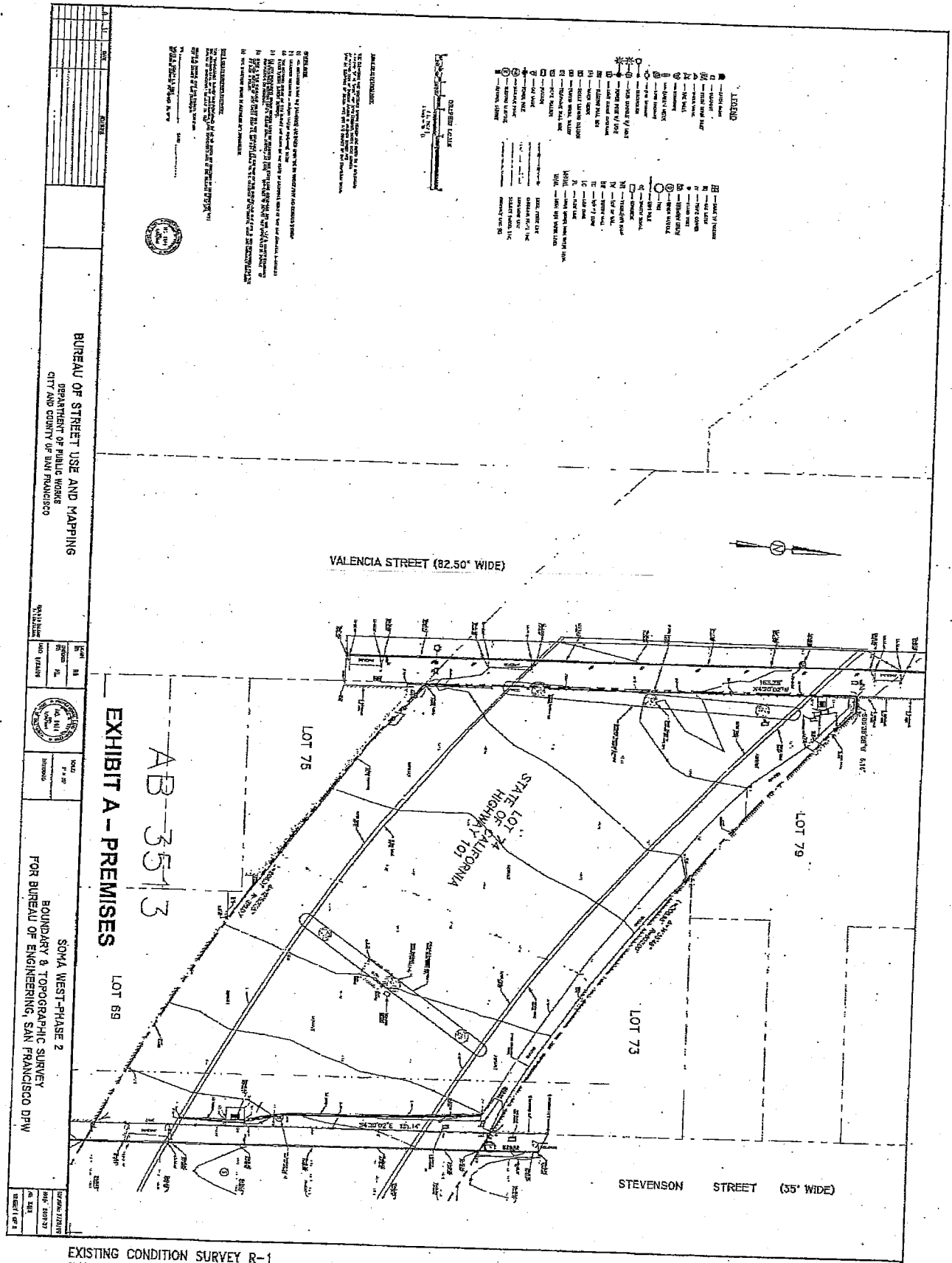


EXHIBIT B

Initial Improvements

[see attached]

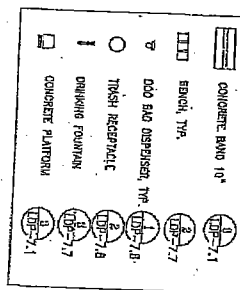


EXHIBIT B

[illegible]

EXHIBIT C

2010 Caltrans Standard Plans – Drain Inlets

[see attached]

PLAN	COUNTY	ROUTE	TOTAL SHEETS	SHEET NO.

TO ACCOMPANY PLANS DATED _____

REGISTERED CIVIL ENGINEER

October 19, 2012

PLANS APPROVAL DATE

PLANS APPROVAL BY

PLANS APPROVAL FOR THE OFFICE OF THE COUNTY ENGINEER

PLANS APPROVAL FOR THE OFFICE OF THE COUNTY ENGINEER

NOTES:

- "H" is the difference in elevation between the outlet pipe flow line and the normal water grade line undrained.
- For 1" wall thickness, see Table A below.
- Wall reinforcing these limits shall be reinforced with at least 1" x 1" clear to inside of box unless otherwise shown.
- Alternative half round bottom.
- Steps-None required where "H" is less than 2'-0". Where "H" is 2'-0" or more, install steps with lowest steps shall not exceed 1'-0" and shall be uniform throughout the length of the wall. Place steps in the wall without an opening. Steps inserts may be substituted for the bar steps. Step inserts shall comply with State Industrial Safety requirements. See Standard Plan D74C for alternative reinforced bottom and alternative half round bottom.
- Reinforcing bars shall be placed in any wall.
- Pipes can be placed in any wall.
- Bar section shall match adjacent curb.
- Bottom floors shall have wood trawl finish and a minimum slope of 12:1 from all directions toward curb pipe.
- Set inlets so that grate bars are parallel to direction of principal surface flow.
- See Revised Standard Plans D71A and D71B for grate and frame details and weights of miscellaneous iron and steel.
- See Standard Plan D78A for gutter depression details.
- This dimension will vary with different grates, curb types, box width and wall thickness.
- Bar may be 1/2" or 3/4" thick, wall thickness shall be as shown in Table A.
- Where "H" is 6" or less, wall thickness shall be as shown in Table A.
- Cast-in-place inlets to be formed around all pipes/tubes intersecting the inlet, and concrete poured in one continuous operation. Precast inlets shall have mortared connections conforming to details for Type GCP Inlet shown on Standard Plan D78B. See Standard Specifications for mortar composition.

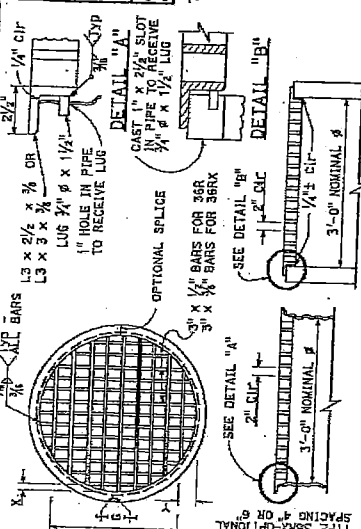
TABLE A

CONCRETE QUANTITIES									
TYPE	H=3'-0" TO 4'-0" (T=6")	H=4'-0" TO 5'-0" (T=8")	H=5'-0" TO 6'-0" (T=10")	H=6'-0" TO 7'-0" (T=12")	H=7'-0" TO 8'-0" (T=14")	H=8'-0" TO 9'-0" (T=16")	H=9'-0" TO 10'-0" (T=18")	H=10'-0" TO 11'-0" (T=20")	H=11'-0" TO 12'-0" (T=22")
C-1	0.95	0.220	See Note A	See Note A	See Note A	See Note A	See Note A	See Note A	See Note A
C-2*	1.31	0.255	3.50	3.50	3.50	3.50	3.50	3.50	3.50
C-3	1.03	0.220	See Note A	See Note A	See Note A	See Note A	See Note A	See Note A	See Note A
C-4	1.27	0.255	3.48	3.48	3.48	3.48	3.48	3.48	3.48
C-4*	1.30	0.255	3.50	3.50	3.50	3.50	3.50	3.50	3.50
C-5	1.02	0.220	See Note A	See Note A	See Note A	See Note A	See Note A	See Note A	See Note A
C-6	1.04	0.220	See Note A	See Note A	See Note A	See Note A	See Note A	See Note A	See Note A

TABLE BASED ON 8" FLOOR SLAB, NO DEDUCTIONS ARE TO BE MADE TO THESE QUANTITIES BECAUSE OF DIFFERENT CURB TYPES, OR DIFFERENT FLOOR ALTERNATIVES OR DIFFERENT CURB TYPES, OR DIFFERENT FLOOR ALTERNATIVES AND G-4 INLETS BASED ON THE MINIMUM INTERIOR DIMENSIONS.

2010 REVISED STANDARD PLAN RSP D77B

COUNTY ROUTE TOTAL SHEETS
 PROJECT SHEET NO. 1
 DATE JULY 20, 2012
 PREPARED BY CIVIL ENGINEER
 APPROVED BY CIVIL ENGINEER
 SEAL OF CIVIL ENGINEER
 STATE OF CALIFORNIA
 EXPIRATION DATE 12/31/2015
 EXPIRATION DATE 12/31/2015



TYPE 36R AND 36RX GRATE DETAILS

SECTION A-A ALTERNATIVE CAST DUCTILE IRON GRATE OR CAST CARBON STEEL GRATE TYPE 36R AND 36RX

BASIS FOR MISO IRON AND STEEL FINAL
PAY WEIGHTS FOR DRAINAGE INLETS

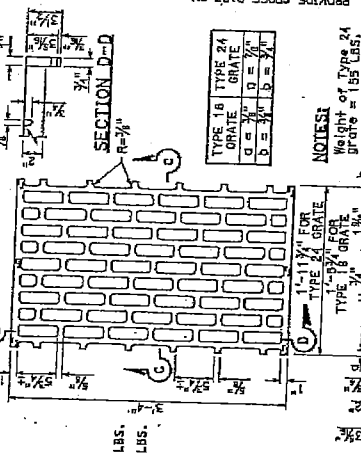
INLET TYPE	GRATE TYPE	NO. OF WEIGHTS
000	24-10C	2
(SEE NOTE 4)	24-10S	2
	24-12X	2
	24-13	2
	24-10C	1
00, 00L, 01, 02, 03, 04	24-10S	1
(TYPE 24)	24-12X	1
	24-13	1
04 (TYPE 16)	18-9S	1
05, 06	18-9X	1
	18-10	1
	18-10S	1
	18-12X	1
	18-13	1
07, 072	24-10C	2
	24-10S	2
	24-12X	2
	24-13	2
073, 074	36RX (Mod)	2
	36RX	2
001	36RX (Mod)	1
002	36RX (Mod)	1
003	36RX (Mod)	1
004	36RX (Mod)	1
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100	36RX (Mod)	1

BICYCLE TRAVERSABLE GRATE DETAILS

NO SCALE

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
REVISED STANDARD PLAN RSP D77B
DATED JULY 20, 2012 SUPERSEDES STANDARD PLAN D77B
DATED MAY 20, 2011 - PAGE 156 OF THE STANDARD PLANS BOOK DATED 2010.

REVISED STANDARD PLAN RSP D77B



TYPE 18-8C AND 24-10C GRATE

SECTION C-C TYPE 18-8C AND 24-10C GRATE

(Cast ductile iron)

1'-11 1/2" FOR TYPE 24 GRATE
1'-5 5/8" FOR TYPE 18 GRATE

1 1/4" FOR TYPE 24 GRATE
1 1/8" FOR TYPE 18 GRATE

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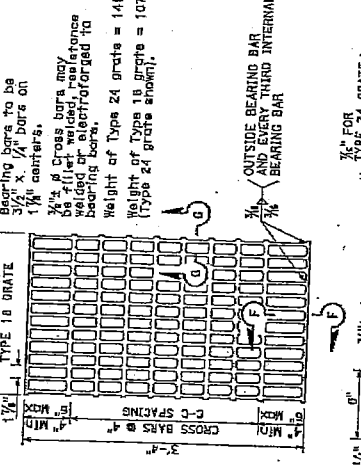
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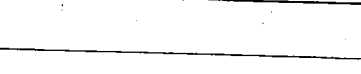
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EXHIBIT E

BOARD OF SUPERVISORS RESOLUTIONS AND ORDINANCE

1 [Park Code - South of Market West Skatepark and Dog Park]

2
3 Ordinance amending the Park Code to designate portions of the property (Assessor's
4 Block No. 3513, Lot Nos. 071 and 074) leased by the City and County of San Francisco
5 from the State of California, immediately under and adjacent to the portions of the
6 Central Freeway located between Otis and Stevenson Streets and between Valencia
7 and Stevenson Streets and partially bounded by Duboce Avenue and referred to as
8 "South of Market (SoMa) West Skatepark and Dog Park," as a "park" within the
9 meaning of the Park Code and to authorize the Recreation and Park Department's Park
10 Patrol to patrol those portions of the leased property; and making environmental
11 findings, and findings of consistency with the General Plan.

12 NOTE: Additions are single-underline italics Times New Roman;
13 deletions are ~~strike-through italics Times New Roman~~.
14 Board amendment additions are double-underlined;
15 Board amendment deletions are ~~strikethrough normal~~.

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

17 Section 1. The Planning Department has determined that the actions contemplated in
18 this ordinance are exempt from the California Environmental Quality Act (California Public
19 Resources Code Section 21000 et seq.) under CEQA Guidelines Section 15303 in Planning
20 Department Case No. 2011.0645E. Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. _____ and is incorporated herein by reference. The Board
22 of Supervisors hereby adopts as its own this exemption determination and finds that the
23 amendments set forth herein are within the scope of the exemption.
24
25

1 Section 2. The Planning Department in a letter dated _____, 2013,
2 found that the actions contemplated in this ordinance are, on balance, consistent with the
3 City's General Plan and with Planning Code Section 101.1(b). The Board finds that the
4 actions described herein are consistent with the City's General Plan and with Planning Code
5 Section 101.1(b) for the reasons set forth in said letter. A copy of said letter is on file with the
6 Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
7 reference.

8
9 Section 3. The Board of Supervisors is considering two proposed resolutions to
10 authorize the City to enter into two leases with the State of California, acting by and through
11 its Department of Transportation, for the development and operation of a skatepark and a dog
12 park referred to in the leases as the "SoMa West Skatepark and Dog Park," and for the
13 operation of a parking area. A copy of the proposed resolutions and the leases are on file
14 with the Clerk of the Board of Supervisors in File No. _____ and File No. _____.

15
16 Section 4. The San Francisco Park Code is hereby amended by amending Section
17 2.01 to read as follows:

18 **SEC. 2.01. "PARK" DEFINED.**

19 (a) When used in this Code, the word "park" shall mean and include all grounds,
20 roadways, avenues, squares, recreation facilities, and other property placed under the control,
21 management and direction of the Recreation and Park Commission by the Charter of the City
22 and County of San Francisco, and the open space on the blocks bounded by Market, Folsom,
23 Third and Fourth Streets which is under the control, management and direction of the
24 Redevelopment Agency of the City and County of San Francisco, otherwise known as the
25

1 "Yerba Buena Gardens," unless such word is otherwise defined within the section in which it
2 appears.

3 (b) When used in Articles 3, 4 and 7 of this Code, the word "park" shall also include the
4 area comprising Fulton Street between Hyde and Market Streets and Leavenworth Street
5 between McAllister and Fulton Streets, which area was closed to vehicular traffic by San
6 Francisco Board of Supervisors Resolution No. 373-73 and is otherwise known as United
7 Nations Plaza, and the area that is bounded by the northwesterly line of Market Street, the
8 southerly line of Eddy Street and the westerly line of Lot 13, Assessor's Block 341, and is
9 otherwise known as Hallidie Plaza. The designation of United Nations Plaza and Hallidie
10 Plaza as parks for purposes of Articles 3, 4 and 7 of this Code does not effect a jurisdictional
11 transfer of these plazas, does not place these plazas under the jurisdiction and control of the
12 Recreation and Park Commission and does not render these plazas "park land" or "park
13 property" as those terms are used in any provision of the San Francisco Charter.

14 (c) When used in this Code, the word "park" also shall include portions of property owned by
15 the State of California immediately under and adjacent to the portions of the Central Freeway located
16 between Otis and Stevenson Streets and between Valencia and Stevenson Streets and partially bounded
17 by Duboce Avenue referred to as "SoMa West Skatepark and Dog Park," to the extent such property is
18 (1) leased by the City under leases with the State of California, acting by and through its Department of
19 Transportation, authorized under San Francisco Board of Supervisors Resolution No. _____ and
20 Resolution No. _____, and (2) depicted in such leases as the "skatepark" and the "dog park."
21 The word "park" shall not include the portion of the leased property depicted in such leases as the
22 "parking area." In designating SoMa West Skatepark and Dog Park as a "park" for purposes of this
23 Code, the Board of Supervisors does not intend to place the leased property under the jurisdiction and
24 control of the Recreation and Park Commission within the meaning of Charter Section 4.113, dedicate
25 any of the leased property as "park land" or "park property" as those terms are used in any provision

1 of the San Francisco Charter, or impose this Code on the State of California or its employees, agents,
2 or contractors while engaging in the course and scope of their employment on the leased property.
3 Rather, the intent is to authorize the Recreation and Park Department to manage the SoMa West
4 Skatepark and Dog Park for the Real Estate Division for recreational use by the public and enforce the
5 provisions of this Code on uses of the SoMa West Skatepark and Dog Park by the public, only while the
6 leases referred to herein remain in effect.

7
8 Section 5. The San Francisco Park Code is hereby amended by amending Section
9 2.09, to read as follows:

10 **SEC. 2.09. "PARK PATROL" DEFINED.**

11 When used in this Code, the words "Park Patrol" refer to persons hired as employees
12 of the Recreation and Park Department to patrol the areas under the jurisdiction of the
13 Commission or any other areas that the Recreation and Park Department is managing for
14 recreational purposes.

15
16 Section 6. Effective Date and Operative Date.

17 (a) This Ordinance shall become effective 30 days from the date of passage.

18 (b) This Ordinance shall become operative only upon approval by the Board of
19 Supervisors of the resolutions referenced in Section 2 of this Ordinance on file with the Clerk
20 of the Board of Supervisors in File No. _____ and File No. _____.

21
22 Section 7. This section is uncoded. In enacting this Ordinance, the Board intends to
23 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
24 punctuation, charts, diagrams, or any other constituent part of the Park Code that are explicitly
25 shown in this legislation as additions, deletions, Board amendment additions, and Board

1 amendment deletions in accordance with the "Note" that appears under the official title of the
2 legislation.

3 APPROVED AS TO FORM:
4 DENNIS J. HERRERA, City Attorney

5 By: FRANCESCA GESSNER
6 Deputy City Attorney
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FILE NO.

RESOLUTION NO.

1 [Lease from State of California for Property under Highway 101 near Duboce Street,
2 between Valencia Street and Stevenson Street, for SoMa West Dog Park for an Initial Term
of Twenty Years and a Total Base Rent of \$2,335,343]

3 Resolution approving the execution of an Airspace Lease for a portion of property
4 commonly known as Lot 074, Block 3513 and located under Highway 101 near Duboce
5 Street, between Valencia Street and Stevenson Street, by and between the City and
6 County of San Francisco ("City"), and the State of California, acting by and through its
7 Department of Transportation ("State"), for an initial term of twenty years and a total
8 base rent of \$2,335,343; adopting environmental findings and other findings that the
9 actions set forth in this Resolution are consistent with the City's General Plan and
10 Eight Priority Policies; and authorizing other actions in furtherance of this Resolution.
11

12 WHEREAS, A portion of the former Central Freeway damaged by the 1989 Loma
13 Prieta earthquake was replaced with a ground-level boulevard along Octavia Street from
14 Market to Fell Streets; and

15 WHEREAS, The State transferred certain real property formerly occupied by the
16 Central Freeway (the "Central Freeway Parcels") to the City pursuant to Section 72.1 of the
17 California Streets and Highways Code and a Cooperative Agreement between the City and
18 the State dated November 29, 2000 ("Cooperative Agreement"), which transfer was
19 authorized by Board Resolution No. 469-00, adopted by the City's Board of Supervisors on
20 May 22, 2000, and signed by the City's Mayor on June 2, 2000. A copy of the Cooperative
21 Agreement and Board Resolution No. 469-00 is on file with the Clerk of Board of Supervisors
22 in File No. _____ and incorporated herein by reference; and

23 WHEREAS, Section 72.1 of the California Streets and Highways Code and the
24 Cooperative Agreement require City to use the proceeds from the disposition of the excess
25

1 Central Freeway parcels for transportation and related purposes authorized under Article XIX
2 of the California Constitution; and

3 WHEREAS, In November of 1999, the voters of the City and County of San Francisco
4 approved Proposition I, which required City to use the proceeds from the sale or disposition of
5 excess Central Freeway Parcels for the Octavia Boulevard Plan, as defined in Proposition I, a
6 copy of which is on file with the Clerk of Board of Supervisors in File No. _____ and
7 incorporated herein by reference; and

8 WHEREAS, Following completion of the Octavia Boulevard Plan, Proposition I required
9 the City to utilize any remaining proceeds from the sale or disposition of excess Central
10 Freeway Parcels (the "Remaining Proceeds") for transportation improvements to corridors on
11 or ancillary to Octavia Boulevard, and directed the San Francisco Transportation Authority
12 ("SFCTA") to allocate the Remaining Proceeds for such transportation improvements with
13 advice from its Central Freeway Citizens Advisory Committee and its Technical Working
14 Group and based on specified minimum criteria; and

15 WHEREAS, The SFCTA adopted the Central Freeway Replacement Project Ancillary
16 Projects Study on February 28, 2006; a copy of which is on file with the Clerk of Board of
17 Supervisors in File No. _____ and incorporated herein by reference (the "Ancillary
18 Projects Study"); and

19 WHEREAS, The Ancillary Projects Study identified twelve transportation projects (the
20 "SoMa West Improvement Projects"), estimated to have a total cost of \$5,400,000, to be
21 funded from the Remaining Proceeds, which were estimated to be \$5,750,000 in 2006; and

22 WHEREAS, One of the SoMa West Improvement Projects called for developing
23 recreational uses under the portion of the Central Freeway structure restored by the State
24 after the 1989 Loma Prieta earthquake; and

25

1 WHEREAS, Residents of the neighborhood impacted by the restoration of the
2 damaged Central Freeway and the implementation of the Octavia Boulevard Plan have long
3 expressed a desire for a dog park and open space amenities for recreational use within the
4 neighborhood; and

5 WHEREAS, The City has identified a suitable State property under the Central
6 Freeway under Highway 101 near Duboce Street, between Valencia Street and Stevenson
7 Street (Lot 074, Block 3513) (the "Property"), which is currently used for parking and is
8 capable of accommodating the proposed dog park; and

9 WHEREAS, The State has agreed to lease the Property to the City, and the City has
10 agreed to lease the Property from Caltrans, pursuant to the form of lease on file with the Clerk
11 of Board of Supervisors in File No. _____ and incorporated herein by reference (the
12 "Lease"); and

13 WHEREAS, The City has agreed to improve the Property with a dog park and a
14 parking area designed in concert with the neighborhood, with the improvements funded from
15 the Remaining Proceeds; and

16 WHEREAS, Once the improvements are installed at the Property, the City will maintain
17 the Property through a interdepartmental Memorandum of Understanding ("Park MOU") by
18 and among the Real Estate Division of the General Services Agency ("DRE"), Department of
19 Public Works, Recreation and Parks Department ("RPD"), and the Office of Economic and
20 Workforce Development, a copy of which is on file with the Clerk of Board of Supervisors in
21 File No. _____ and incorporated herein by reference; and

22 WHEREAS, To facilitate RPD's maintenance and operation of the dog park for DRE
23 pursuant to the Park MOU, this Board extended the San Francisco Park Code to the public
24 use of the dog park at the Property during the term of the Lease pursuant to Ordinance No.
25

1 _____ (the "Park Ordinance"), a copy of which is on file with the Clerk of Board of
2 Supervisors in File No. _____ and incorporated herein by reference; and

3 WHEREAS, Although the proposed dog park will provide recreational use of the
4 Property, it will be subject to the term of the Lease and the impacts of being directly below the
5 Central Freeway, and neither this Board's approval of the Lease nor adoption of Park
6 Ordinance are intended to convert the Property into such a significant "park" or "recreational
7 area" as those terms are used in 23 United States Code Section 138 and 49 United States
8 Code Section 303; and

9 WHEREAS, The Lease will have an initial twenty-year term and a total base rent of
10 \$2,335,343 paid at the commencement of the Lease, and State will need to issue an
11 encroachment permit to the City before the installation of dog park and parking improvements
12 at the Property, as further described in Exhibit B of the Lease; and

13 WHEREAS, The Lease grants the City a ten-year option to extend the term of the
14 Lease at a rate to be negotiated pursuant the Lease; and

15 WHEREAS, The City's Planning Department determined that the Lease is exempt from
16 environmental review under the California Environmental Quality Review Act, as evidenced in
17 a Certificate of Determination issued for Case No. 2011.0645E on October 21, 2011, a copy
18 of which is on file with the Clerk of the Board of Supervisors in File No. _____ and is
19 incorporated herein by reference; and

20 WHEREAS, In a General Plan Referral dated March 6, 2013, for Case No.
21 2011.0645R, the City's Planning Department found that the proposed project described in this
22 Resolution is consistent with the City's General Plan pursuant to Section 4.105 of the Charter
23 and Section 2A.53 of the Administrative Code, with a copy of such General Plan Referral on
24 file with the Clerk of the Board of Supervisors in File No. _____ and incorporated herein
25

1 by reference. The Board of Supervisors finds that the project contemplated in this Resolution
2 is consistent with the City's General Plan and with the Charter Section 4.105 and
3 Administrative Code Section 2A.53 for the reason set forth in said letter; now, therefore, be it

4 RESOLVED, That in accordance with the recommendation of the Director of Property,
5 the Director of Property is hereby authorized to enter into the Lease and take all actions on
6 behalf of the City and County of San Francisco necessary to effect the Lease and perform
7 City's obligations under the Lease; and, be it

8 FURTHER RESOLVED, That the Lease shall include a clause with City indemnifying,
9 holding harmless, and defending the State and its officers, employees, and agents from and
10 against any and all claims, suits, actions, injury, damage, and liability incurred as a result of
11 any acts or omissions by City in the performance of its obligations under the Lease or any
12 allegedly dangerous condition of public property based upon the condition of the Property,
13 excluding those incurred as a result of the highway structure above the Property or the use of
14 or activities on the Property by State or its officers, employees, or agents; and be it

15 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
16 Property to enter into any amendments or modifications to the Lease (including, without
17 limitation, the exhibits) that the Director of Property in consultation with the City Attorney,
18 determines are in the best interest of the City, do not materially increase the obligations of the
19 City or materially decrease the benefits of the City, are necessary or advisable to
20 consummate the performance of the purposes and intent of this Resolution, and comply with
21 all applicable laws, including the City's Charter, including any modifications or amendments to
22 the Lease; and be it

23 FURTHER RESOLVED, That the Lease shall be subject to certification as to funds by
24 the Controller, pursuant to Section 105 of the City Charter.

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\$2,335,343.00 Available
BUF Index Code: _____
Project Code: _____

CONTROLLER

RECOMMENDED:

JOHN UPDIKE
DIRECTOR OF PROPERTY

FILE NO.

RESOLUTION NO.

1 [Lease from State of California for Property along Duboce Street, between Otis Street and
2 Stevenson Street, for SoMa West Skatepark for an Initial Term of Twenty Years and an
Initial Monthly Base Rent of \$10,000]

3 **Resolution approving the execution of an Airspace Lease for a portion of property**
4 **commonly known as Lot 071, Block 3513 and located along Duboce Street between**
5 **Otis Street and Stevenson Street, by and between the City and County of San**
6 **Francisco ("City"), and the State of California, acting by and through its Department of**
7 **Transportation ("State"), for an initial term of twenty years and an initial monthly rent of**
8 **\$10,000; adopting environmental findings and other findings that the actions set forth**
9 **in this Resolution are consistent with the City's General Plan and Eight Priority**
10 **Policies; and authorizing other actions in furtherance of this Resolution.**
11

12 WHEREAS, A portion of the former Central Freeway damaged by the 1989 Loma
13 Prieta earthquake was replaced with a ground-level boulevard along Octavia Street from
14 Market to Fell Streets; and

15 WHEREAS, The State transferred certain real property formerly occupied by the
16 Central Freeway (the "Central Freeway Parcels") to the City pursuant to Section 72.1 of the
17 California Streets and Highways Code and a Cooperative Agreement between the City and
18 the State dated November 29, 2000 ("Cooperative Agreement"), which transfer was
19 authorized by Board Resolution No. 469-00, adopted by the City's Board of Supervisors on
20 May 22, 2000, and signed by the City's Mayor on June 2, 2000. A copy of the Cooperative
21 Agreement and Board Resolution No. 469-00 is on file with the Clerk of Board of Supervisors
22 in File No. _____ and incorporated herein by reference; and

23 WHEREAS, Section 72.1 of the California Streets and Highways Code and the
24 Cooperative Agreement require City to use the proceeds from the disposition of the excess
25

1 Central Freeway parcels for transportation and related purposes authorized under Article XIX
2 of the California Constitution; and

3 WHEREAS, In November of 1999, the voters of the City and County of San Francisco
4 approved Proposition I, which required City to use the proceeds from the sale or disposition of
5 excess Central Freeway Parcels for the Octavia Boulevard Plan, as defined in Proposition I, a
6 copy of which is on file with the Clerk of Board of Supervisors in File No. _____ and
7 incorporated herein by reference; and

8 WHEREAS, Following completion of the Octavia Boulevard Plan, Proposition I required
9 the City to utilize any remaining proceeds from the sale or disposition of excess Central
10 Freeway Parcels (the "Remaining Proceeds") for transportation improvements to corridors on
11 or ancillary to Octavia Boulevard, and directed the San Francisco Transportation Authority
12 ("SFCTA") to allocate the Remaining Proceeds for such transportation improvements with
13 advice from its Central Freeway Citizens Advisory Committee and its Technical Working
14 Group and based on specified minimum criteria; and

15 WHEREAS, The SFCTA adopted the Central Freeway Replacement Project Ancillary
16 Projects Study on February 28, 2006, a copy of which is on file with the Clerk of Board of
17 Supervisors in File No. _____ and incorporated herein by reference (the "Ancillary
18 Projects Study"); and

19 WHEREAS, The Ancillary Projects Study identified twelve transportation projects (the
20 "SoMa West Improvement Projects"), estimated to have a total cost of \$5,400,000, to be
21 funded from the Remaining Proceeds, which were estimated to be \$5,750,000 in 2006; and

22 WHEREAS, One of the SoMa West Improvement Projects called for developing
23 recreational uses under the portion of the Central Freeway structure restored by the State
24 after the 1989 Loma Prieta earthquake; and

1 WHEREAS, Residents of the neighborhood impacted by the restoration of the
2 damaged Central Freeway and the implementation of the Octavia Boulevard Plan, and the
3 City-wide skateboarding community, have long expressed a desire for additional skatepark
4 and open space amenities for recreational use within the neighborhood; and

5 WHEREAS, The City has identified a suitable State property under and adjacent to the
6 Central Freeway and along Duboce Street between Stevenson Street and Otis Street (Lot
7 071, Block 3513) (the "Property"), which is currently used for parking and is capable of
8 accommodating the proposed skatepark; and

9 WHEREAS, The State has agreed to lease the Property to the City, and the City has
10 agreed to lease the Property from Caltrans, pursuant to the form of lease on file with the Clerk
11 of Board of Supervisors in File No. _____ and incorporated herein by reference (the
12 "Lease"); and

13 WHEREAS, The City has agreed to improve the Property as a skateboard park,
14 designed in concert with the neighborhood and the skateboard community, with the skatepark
15 improvements funded from the Remaining Proceeds; and

16 WHEREAS, Once the skatepark improvements are installed at the Property, the City
17 will maintain the Property through a interdepartmental Memorandum of Understanding ("Park
18 MOU") by and among the Real Estate Division of the General Services Agency ("DRE"),
19 Department of Public Works, Recreation and Parks Department ("RPD"), and the Office of
20 Economic and Workforce Development, a copy of which is on file with the Clerk of Board of
21 Supervisors in File No. _____ and incorporated herein by reference; and

22 WHEREAS, To facilitate RPD's maintenance and operation of the skatepark for DRE
23 pursuant to the Park MOU, this Board extended the San Francisco Park Code to the public
24 use of the skatepark at the Property during the term of the Lease pursuant to Ordinance No.
25

1 _____ (the "Park Ordinance"), a copy of which is on file with the Clerk of Board of
2 Supervisors in File No. _____ and incorporated herein by reference; and

3 WHEREAS, Although the proposed skatepark will provide recreational use of the
4 Property, it will be subject to the term of the Lease and the impacts of being directly below the
5 Central Freeway, and neither this Board's approval of the Lease nor adoption of Park
6 Ordinance are intended to convert the Property into such a significant "park" or "recreational
7 area" as those terms are used in 23 United States Code Section 138 and 49 United States
8 Code Section 303; and

9 WHEREAS, The Lease will have an initial twenty-year term and an initial rent of
10 \$10,000.00 per month, with annual 2% increases in such monthly rent, and State will need to
11 issue an encroachment permit to the City before the installation of skatepark improvements at
12 the Property, as further described in Exhibit B of the Lease; and

13 WHEREAS, The Lease grants the City a ten-year option to extend the term of the
14 Lease at a rate to be negotiated pursuant the Lease; and

15 WHEREAS, The City's Planning Department determined that the Lease is exempt from
16 environmental review under the California Environmental Quality Review Act, as evidenced in
17 a Certificate of Determination issued for Case No. 2011.0645E on October 21, 2011, a copy
18 of which is on file with the Clerk of the Board of Supervisors in File No. _____ and is
19 incorporated herein by reference; and

20 WHEREAS, In a General Plan Referral dated March 6, 2013, for Case No.
21 2011.0645R, the City's Planning Department found that the proposed project described in this
22 Resolution is consistent with the City's General Plan pursuant to Section 4.105 of the Charter
23 and Section 2A.53 of the Administrative Code, with a copy of such General Plan Referral on
24 file with the Clerk of the Board of Supervisors in File No. _____ and incorporated herein
25

1 by reference. The Board of Supervisors finds that the project contemplated in this Resolution
2 is consistent with the City's General Plan and with the Charter Section 4.105 and
3 Administrative Code Section 2A.53 for the reason set forth in said letter; now, therefore, be it

4 RESOLVED, That in accordance with the recommendation of the Director of Property,
5 the Director of Property is hereby authorized to enter into the Lease and take all actions on
6 behalf of the City and County of San Francisco necessary to effect the Lease and perform
7 City's obligations under the Lease; and, be it

8 FURTHER RESOLVED, That the Lease shall include a clause with City indemnifying,
9 holding harmless, and defending the State and its officers, employees, and agents from and
10 against any and all claims, suits, actions, injury, damage, and liability incurred as a result of
11 any acts or omissions by City in the performance of its obligations under the Lease or any
12 allegedly dangerous condition of public property based upon the condition of the Property,
13 excluding those incurred as a result of the highway structure above the Property or the use of
14 or activities on the Property by State or its officers, employees, or agents; and be it

15 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
16 Property to enter into any amendments or modifications to the Lease (including, without
17 limitation, the exhibits) that the Director of Property in consultation with the City Attorney,
18 determines are in the best interest of the City, do not materially increase the obligations of the
19 City or materially decrease the benefits of the City, are necessary or advisable to
20 consummate the performance of the purposes and intent of this Resolution, and comply with
21 all applicable laws, including the City's Charter, including any modifications or amendments to
22 the Lease; and be it

23 FURTHER RESOLVED, That the Lease shall be subject to certification as to funds by
24 the Controller, pursuant to Section 105 of the City Charter.

\$1,648,039.00 Available
BUF Index Code: _____
Project Code: _____

CONTROLLER

RECOMMENDED:

JOHN UPDIKE
DIRECTOR OF PROPERTY

EXHIBIT F

RECREATION AND PARK COMMISSION RESOLUTION

RECREATION AND PARK COMMISSION
City and County of San Francisco
Resolution No. 1303-009

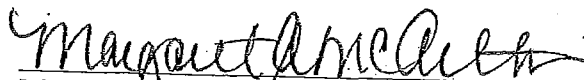
WEST SOMA SKATEPARK AND DOGPARK

RESOLVED, That this Commission does 1) approve a Memorandum of Understanding with the Department of Public Works, the Office of Economic and Workforce Development and the Real Estate Division for the design, construction and maintenance of the SoMa West Skatepark and Dog Park to be located under and adjacent to portions of the Central Freeway, as amended at this Commission meeting and 2) recommend that the Board of Supervisors adopt an ordinance to extend the requirements of the Park Code to the SoMa West Skatepark and Dog Park and authorize the Park Patrol to patrol the property.

Adopted by the following vote:

Ayes	7
Noes	0
Absent	0

I hereby certify that the foregoing resolution
was adopted at the Special Meeting of the
Recreation and Park Commission held on
March 21, 2013.


Margaret A. McArthur, Commission Liaison

1 [Park Code - South of Market West Skatepark and Dog Park]

2
3 Ordinance amending the Park Code to designate portions of the property (Assessor's
4 Block No. 3513, Lot Nos. 071 and 074) leased by the City and County of San Francisco
5 from the State of California, immediately under and adjacent to the portions of the
6 Central Freeway located between Otis and Stevenson Streets and between Valencia
7 and Stevenson Streets and partially bounded by Duboce Avenue and referred to as
8 "South of Market (SoMa) West Skatepark and Dog Park," as a "park" within the
9 meaning of the Park Code and to authorize the Recreation and Park Department's Park
10 Patrol to patrol those portions of the leased property; and making environmental
11 findings, and findings of consistency with the General Plan.

12 NOTE:

13 Additions are single-underline italics Times New Roman;
14 deletions are ~~strike through italics Times New Roman~~.
15 Board amendment additions are double-underlined;
16 Board amendment deletions are ~~striketrough normal~~.

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

18 Section 1. The Planning Department has determined that the actions contemplated in
19 this ordinance are exempt from the California Environmental Quality Act (California Public
20 Resources Code Section 21000 et seq.) under CEQA Guidelines Section 15303 in Planning
21 Department Case No. 2011.0645E. Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. _____ and is incorporated herein by reference. The Board
23 of Supervisors hereby adopts as its own this exemption determination and finds that the
24 amendments set forth herein are within the scope of the exemption.
25

1 Section 2. The Planning Department in a letter dated _____, 2013,
2 found that the actions contemplated in this ordinance are, on balance, consistent with the
3 City's General Plan and with Planning Code Section 101.1(b). The Board finds that the
4 actions described herein are consistent with the City's General Plan and with Planning Code
5 Section 101.1(b) for the reasons set forth in said letter. A copy of said letter is on file with the
6 Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
7 reference.
8

9 Section 3. The Board of Supervisors is considering two proposed resolutions to
10 authorize the City to enter into two leases with the State of California, acting by and through
11 its Department of Transportation, for the development and operation of a skatepark and a dog
12 park referred to in the leases as the "SoMa West Skatepark and Dog Park," and for the
13 operation of a parking area. A copy of the proposed resolutions and the leases are on file
14 with the Clerk of the Board of Supervisors in File No. _____ and File No. _____.
15

16 Section 4. The San Francisco Park Code is hereby amended by amending Section
17 2.01 to read as follows:

18 **SEC. 2.01. "PARK" DEFINED.**

19 (a) When used in this Code, the word "park" shall mean and include all grounds,
20 roadways, avenues, squares, recreation facilities, and other property placed under the control,
21 management and direction of the Recreation and Park Commission by the Charter of the City
22 and County of San Francisco, and the open space on the blocks bounded by Market, Folsom,
23 Third and Fourth Streets which is under the control, management and direction of the
24 Redevelopment Agency of the City and County of San Francisco, otherwise known as the
25

1 "Yerba Buena Gardens," unless such word is otherwise defined within the section in which it
2 appears.

3 (b) When used in Articles 3, 4 and 7 of this Code, the word "park" shall also include the
4 area comprising Fulton Street between Hyde and Market Streets and Leavenworth Street
5 between McAllister and Fulton Streets, which area was closed to vehicular traffic by San
6 Francisco Board of Supervisors Resolution No. 373-73 and is otherwise known as United
7 Nations Plaza, and the area that is bounded by the northwesterly line of Market Street, the
8 southerly line of Eddy Street and the westerly line of Lot 13, Assessor's Block 341, and is
9 otherwise known as Hallidie Plaza. The designation of United Nations Plaza and Hallidie
10 Plaza as parks for purposes of Articles 3, 4 and 7 of this Code does not effect a jurisdictional
11 transfer of these plazas, does not place these plazas under the jurisdiction and control of the
12 Recreation and Park Commission and does not render these plazas "park land" or "park
13 property" as those terms are used in any provision of the San Francisco Charter.

14 (c) When used in this Code, the word "park" also shall include portions of property owned by
15 the State of California immediately under and adjacent to the portions of the Central Freeway located
16 between Otis and Stevenson Streets and between Valencia and Stevenson Streets and partially bounded
17 by Duboce Avenue referred to as "SoMa West Skatepark and Dog Park," to the extent such property is
18 (1) leased by the City under leases with the State of California, acting by and through its Department of
19 Transportation, authorized under San Francisco Board of Supervisors Resolution No. _____ and
20 Resolution No. _____, and (2) depicted in such leases as the "skatepark" and the "dog park."
21 The word "park" shall not include the portion of the leased property depicted in such leases as the
22 "parking area." In designating SoMa West Skatepark and Dog Park as a "park" for purposes of this
23 Code, the Board of Supervisors does not intend to place the leased property under the jurisdiction and
24 control of the Recreation and Park Commission within the meaning of Charter Section 4.113, dedicate
25 any of the leased property as "park land" or "park property" as those terms are used in any provision

1 of the San Francisco Charter, or impose this Code on the State of California or its employees, agents,
2 or contractors while engaging in the course and scope of their employment on the leased property.
3 Rather, the intent is to authorize the Recreation and Park Department to manage the SoMa West
4 Skatepark and Dog Park for the Real Estate Division for recreational use by the public and enforce the
5 provisions of this Code on uses of the SoMa West Skatepark and Dog Park by the public, only while the
6 leases referred to herein remain in effect.
7

8 Section 5. The San Francisco Park Code is hereby amended by amending Section
9 2.09, to read as follows:

10 **SEC. 2.09. "PARK PATROL" DEFINED.**

11 When used in this Code, the words "Park Patrol" refer to persons hired as employees
12 of the Recreation and Park Department to patrol the areas under the jurisdiction of the
13 Commission or any other areas that the Recreation and Park Department is managing for
14 recreational purposes.
15

16 Section 6. Effective Date and Operative Date.

17 (a) This Ordinance shall become effective 30 days from the date of passage.

18 (b) This Ordinance shall become operative only upon approval by the Board of
19 Supervisors of the resolutions referenced in Section 2 of this Ordinance on file with the Clerk
20 of the Board of Supervisors in File No. _____ and File No. _____.
21

22 Section 7. This section is uncodified. In enacting this Ordinance, the Board intends to
23 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
24 punctuation, charts, diagrams, or any other constituent part of the Park Code that are explicitly
25 shown in this legislation as additions, deletions, Board amendment additions, and Board

1 amendment deletions in accordance with the "Note" that appears under the official title of the
2 legislation.

3 APPROVED AS TO FORM:
4 DENNIS J. HERRERA, City Attorney

5 By: FRANCESCA GESSNER
6 Deputy City Attorney
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SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.: 2011.0645E
Project Title: Central Freeway Skate Park & Mini Park
Zoning: N/A (Caltrans Right-of-Way under Central Freeway)
Block/Lot: N/A
Lot Size: 73,000 square feet
Project Sponsor: Frank Filice, Department of Public Works (DPW)
Staff Contact: (415) 558-4011
Kristina Zaccardelli - (415) 575-9036, Kristina.Zaccardelli@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION:

The proposed project would construct a new Skate Park and Mini-Park located within the Caltrans right-of-way under the Central Freeway, north of Duboce Avenue between Valencia and Stevenson Streets on an existing paved parking lot. The project proposes to construct a Skate Park and Mini-Park that includes basketball courts, play areas, a dog run, lighting, planting, and a pedestrian walkway. Skate Park construction activities would include: pavement demolition and removal; sewer manhole and catch basin relocation; new drainage connections; new concrete Skate Park paving, steps, walls, and ramps; a pier-supported concrete masonry unit wall; new column-mounted lighting; perimeter decorative fencing; and sidewalk repair and reconstruction.

(Continued on next page)

EXEMPT STATUS:

Categorical Exemption, Class 3 [State CEQA Guidelines Section 15303]

REMARKS:

See attached pages.

DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

Bill Wycko
BILL WYCKO

Environmental Review Officer

10/21/2011
Date

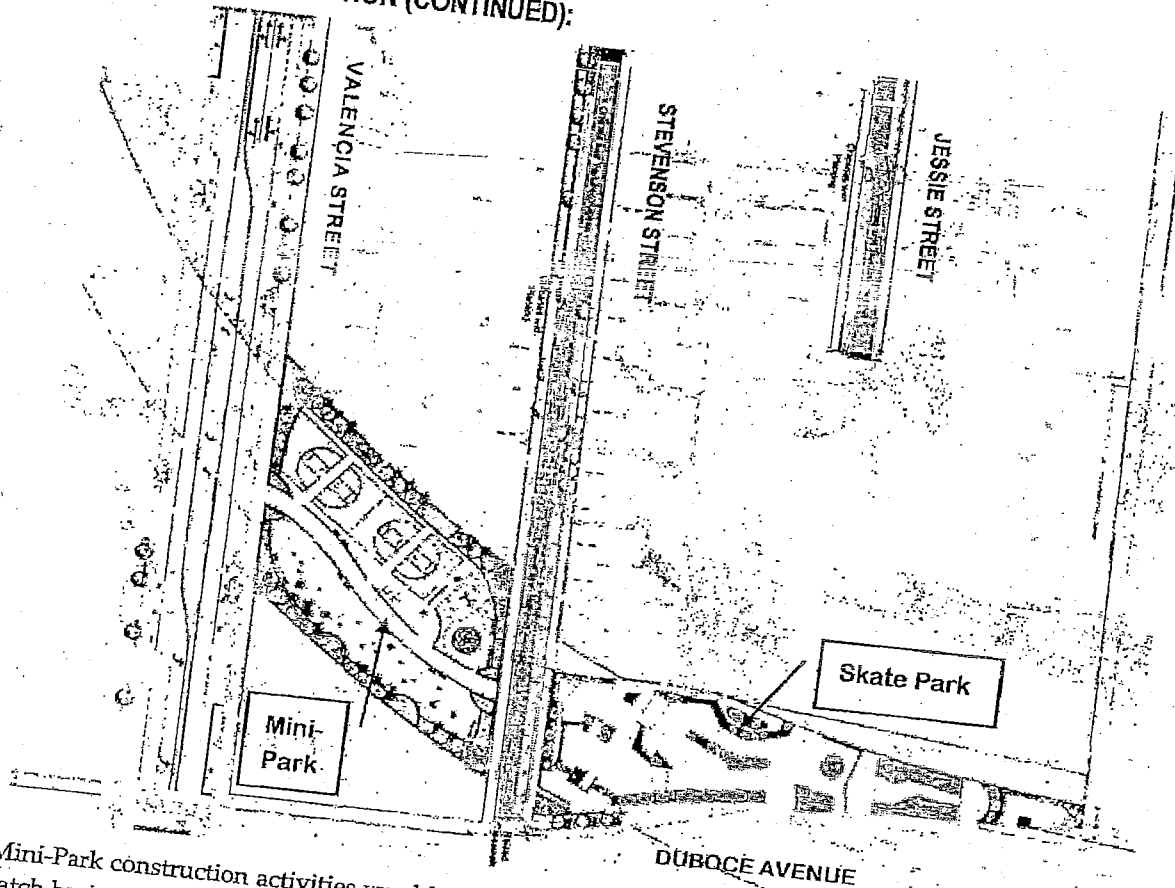
cc:

Frank Filice, Project Sponsor
V. Byrd, M.D.F.
Bulletin Board

Exemption from Environmental Review

CASE NO. 2011.0645E
Central Freeway Skate Park & Mini-Park

PROJECT DESCRIPTION (CONTINUED):



Mini-Park construction activities would include: pavement demolition and removal; sewer manhole and catch basin relocation; new drainage connections; poured-in-place concrete seatwalls; installation of play equipment; basketball court paving and standards; new decorative post lighting; site furnishings; a fenced dog run with landscape boulders; landscape planting and irrigation; and sidewalk repair and construction. The proposed project replaces 73,000 square feet of parking with an approximately 15,000 square foot skate park and 57,000 square foot park. The above figure shows the location of the skatepark and mini-park.

REMARKS:

Land Use

The 1.67 acre (73,000 square feet) project site is located within a fully developed area of San Francisco. The surrounding uses consist of commercial, industrial, and residential buildings. The project site is within a fully developed urban area that is completely covered with paved surfaces, and does not provide habitat for any rare or endangered plant or animal species.

Transportation

Most of the proposed project elements would improve site conditions and accessibility throughout the park. The new skate park and additional mini-park would result in additional trips to the park. Based on a traffic impact study for a 10,000 square foot skate park project at an existing recreational area in Los

Los Angeles County, it was found that many users of skatepark facilities walk or skate to the skatepark, while others were picked up or dropped off. The traffic impact study for that project concluded the project would be expected to increase vehicular transportation by 13 trips during the weekday PM peak hours.¹ Because the area is well-served by nearby Muni routes and greater density in the surrounding area than that for the skate park in LA County, the skatepark and mini-park would likely result in fewer than 13 trips during the weekday PM peak hour. The 14, 14L, and 49 lines run along the nearby segment of Mission Street and the F Market is nearby. However, the project would not generate any new transit trips. Therefore, given the minor amount of additional vehicular trips expected and the pedestrian improvements, the project would not result in any significant adverse transportation impacts.

Parking

The proposed project would replace an existing surface parking lot (73,000 square foot lot) with a new skatepark and mini-park. While the parking spaces would be removed and not replaced, the resulting parking deficit is considered to be a less-than-significant impact, regardless of the availability of on-street and off-street parking under existing conditions.

The Planning Code does not require on-street parking for the proposed project and the project does not include on-street parking. The project would not create any new parking demands. San Francisco does not consider parking supply as part of the permanent physical environment and therefore, does not consider changes in parking conditions to be environmental impacts as defined by CEQA.

Parking conditions are not static, as parking supply and demand varies from day to day, from day to night, from month to month, etc. Hence, the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel.

Parking deficits are considered to be social effects, rather than impacts on the physical environment as defined by CEQA. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. Environmental documents should, however, address the secondary physical impacts that could be triggered by a social impact (CEQA Guidelines § 15131(a).) The social inconvenience of parking deficits, such as having to hunt for scarce parking spaces, is not an environmental impact, but there may be secondary physical environmental impacts, such as increased traffic congestion at intersections, air quality impacts, safety impacts, or noise impacts caused by congestion. In the experience of San Francisco transportation planners, however, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, induces many drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service in particular, would be in keeping with the City's "Transit First" policy. The City's Transit First Policy, established in the City's Charter Section 16.102 provides that "parking policies for areas well served by public transit shall be designed to encourage travel by public transportation and alternative transportation." The project area is well-served by local public transit which provide alternatives to auto travel.

¹ U.S. Army Corps of Engineers, Los Angeles District and City of Los Angeles, Department of Recreation and Parks, Hansen Dam Skate Park, Joint Environmental Assessment, Initial Study/Mitigated Negative Declaration, Los Angeles County, January 2011.

The transportation analysis accounts for potential secondary effects, such as cars circling and looking for a parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is unavailable. Moreover, the secondary effects of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area. Hence, any secondary environmental impacts which may result from a shortfall in parking in the vicinity of the proposed project would be minor, and the traffic assignments used in the transportation analysis, as well as in the associated air quality, noise and pedestrian safety analyses, reasonably addresses potential secondary effects.

Pedestrian and Bicycle Conditions

The proposed project would not generate new p.m. peak-hour pedestrian or bicycle trips. Pedestrian activity would likely increase as a result of the project but not to a degree that could not be accommodated on local sidewalks or would result in safety concerns. Currently, cars entering and exiting the lot from Valencia cross bike lanes. The construction of the skate park would improve bicycle safety conditions since no cars would be crossing over the bike lanes.

The proposed project would not result in a significant increase in the number vehicles in the project vicinity and would not substantially affect bicycle travel in the area. The project would not adversely impact pedestrian and bicycle conditions.

Additionally, the project would not impede traffic or cause unsafe conditions, and would not result in a significant impact related to access. The project would not generate loading demands. Off-street loading spaces are not required for the proposed project. In summary, the project would not result in a significant impact with regard to transportation.

Water Quality

The proposed project would not generate wastewater or result in discharges that would have the potential to degrade water quality or contaminate a public water supply. No expansion is being proposed and no further review is required. Project-related wastewater and storm water would flow to the City's combined sewer system and would be treated to standards contained in the City's National Pollutant Discharge Elimination System (NPDES) Permit for the Southeast Water Pollution Control Plant prior to discharge. Therefore, the proposed project would not result in significant water quality impacts.

Air Quality

Air quality impacts generally fall into two categories: impacts from project operations and impacts from project construction. The proposed project would include the construction of a mini-park as well as a skatepark. Therefore, the project would not include significant pollutant emission sources when completed. Thus, its operational emissions would be minimal and no further air quality analysis with respect to project operations is required.

Construction-related air quality impacts from the proposed project were analyzed based on the Bay Area Air Quality Management District's (BAAQMD's) 2011 CEQA Air Quality Guidelines and thresholds of significance.² Construction of a mini park as well as a skate park would generate criteria air pollutants,

² BAAQMD, *California Environmental Quality Act Air Quality Guidelines*, updated May 2011. Available at <http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES.aspx>.

PM2.5,³ and other toxic air contaminants resulting from the project's construction vehicles and equipment. A screening-level analysis was performed to determine whether the proposed project would require additional air quality analysis.⁴ With respect to criteria air pollutant emissions, the proposed project would be well below the BAAQMD screening levels, and therefore quantitative analysis of criteria air pollutants is not required and the proposed project would not exceed the BAAQMD's criteria air pollutant thresholds of significance.⁵

The screening-level analysis identified the need for further analysis of the project's construction activities that emit PM2.5 emissions and other toxic air contaminants that may affect nearby sensitive receptors. Emissions from project-related construction activities were quantified in an air quality technical report in which both project construction and cumulative impacts were evaluated.⁶ This memorandum found that construction-related activities would result in PM2.5 emissions and health risks well below BAAQMD CEQA significance threshold, as shown in Table 1.

Table 1 – Construction-related PM2.5 and Health Risk Emissions

	Excess Cancer Risk per One Million	Non-Cancer Chronic Hazard Index	PM2.5 concentration Mg/m3
Project Construction	2.6	0.006	0.03
BAAQMD Project Significance Thresholds	10	1.0	0.8

Cumulative air quality impacts were also analyzed taking into account other construction projects, stationary sources, and major roadways within the zone of influence defined by the BAAQMD CEQA guidance for analysis of air quality impacts. The estimated cumulative cancer risk (73 in one million), chronic noncancer Hazard Index (0.07), and PM2.5 concentration (0.66 mg/m3) are below the BAAQMD CEQA threshold of 100 in one million increased cancer risk, 10, and 0.8 mg/m3, respectively.⁷ The proposed project would not result in a significant cumulative effect with respect to construction-related health risk.

Noise

Ambient noise levels in the vicinity of the project site are typical of noise levels in neighborhoods in San Francisco, which are dominated by vehicular traffic, including trucks, cars, Muni buses, emergency vehicles, and land use activities, such as commercial businesses and periodic temporary construction-related noise from nearby development, or street maintenance. Noises generated by future park uses are common and within the range of that which is generally accepted in urban areas and thus would not be

³ PM2.5 = particles less than 2.5 micrometers in diameter.

⁴ San Francisco Planning Department, *Air Quality Screening Analysis*, May 12, 2011. This report is available for review as part of Case No. 2011.0645E.

⁵ BAAQMD, *CEQA Air Quality Guidelines*, updated May 2011. Table 3-1.

⁶ Environ, *Project and Cumulative Health Risk Assessment, Skatepark/Mini-Park under the Central Freeway, San Francisco, California*, September 13, 2011. This report is available for review as part of Case No. 2011.0645E.

⁷ Environ, *Project and Cumulative Health Risk Assessment, Skatepark/Mini-Park under the Central Freeway, San Francisco, California*, September 13, 2011. This report is available for review as part of Case No. 2011.0645E.

considered a significant impact of the proposed project. An approximate doubling of traffic volumes in the area would be necessary to produce an increase in ambient noise levels noticeable to most people. The project would not cause a doubling in traffic volumes and therefore would not cause a noticeable increase in the ambient noise level in the project vicinity. The nearest residential use is approximately five feet away from the project site. The proposed construction could generate noise that may be considered an annoyance by occupants of nearby properties. Construction noise is regulated under Article 29 of the City's Police Code, and would be temporary and intermittent in nature. Considering the above discussion, the proposed project would not result in a significant impact with regard to noise.

The Environmental Protection Element of the San Francisco General Plan contains Land Use Compatibility for Noise.⁸ These guidelines, which are similar to but differ somewhat from state guidelines promulgated by the Governor's Office of Planning and Research, indicate maximum acceptable noise levels for various newly developed land uses. The guidelines indicate that for playgrounds and parks should be discouraged at noise level ranges from 68-77 dBA (Ldn). For sports areas and outdoor spectator sports, the guidelines discourage construction if the noise level ranges from 77 dBA (Ldn) and above.

Ambient traffic noise levels on Duboce (along the proposed Skate Park) are 75dBA or above. Despite having ambient traffic noise levels on adjacent streets within the range to discourage such uses, this impact would not have a significant impact as the open space would not attract visitors for extended periods of time or have overnight accommodations, and it would be reasonable from a health perspective to allow short-term park usage. Because the project would not be substantially affected by existing noise levels, the effect of this land use inconsistency with the General Plan would be considered less-than-significant.

Exempt Status

CEQA State Guidelines Section 15303, or Class 3, provides an exemption from environmental review for the construction and location of limited numbers of new, small facilities or structures and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The proposed project includes the conversion of an existing empty lot to a skatepark and mini-park where only minor modifications are being made. Therefore, the proposed project would be exempt under Class 3.

Conclusion

CEQA State Guidelines Section 15300.2 states that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. There are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect. The proposed project would have no significant environmental effects. Under the above-cited classifications, the proposed project is appropriately exempt from environmental review.

⁸ City and County of San Francisco, Planning Department, San Francisco General Plan, Environmental Protection Element, Policy 11.1

DEPARTMENT OF TRANSPORTATION

P O BOX 23660
OAKLAND, CA 94623-0660
(510) 286-4444
TDD (510) 286-4454



December 8, 2000

Ms. Maria Ayerdi
Transportation Policy Advisor
Office of the Mayor
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102-4681

Re: Central Freeway Replacement Project Cooperative Agreement

Dear Ms. Ayerdi:

Enclosed for the City's files is a fully executed copy of Cooperative Agreement No. 4-1828-C (Document No. SF-38-014905), between the State and the City and County of San Francisco for the Central Freeway Replacement Project.

Sincerely,

HARRY Y. YAHATA
District Director

By

A handwritten signature in dark ink, appearing to read "Duat", written over a horizontal line.

DUAT NGUYEN
District Branch Chief

Enclosure

14905

4-SF-101 R5.0/5.3

4-245-291001

Central Freeway Replacement

Agreement No. 41828-C

Document No.

SF-38-014905

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (this "Agreement") is entered into effective NOV. 29, 2000, by and between the State of California, acting by and through its Department of Transportation, referred to herein as "State", and the City and County of San Francisco, a body politic and a municipal corporation of the State of California, referred to herein as "City".

RECITALS

WHEREAS, Section 72.1 of the Streets and Highways Code requires State to transfer to City that portion of State Highway Route 101 ("Route 101" or "the Central Freeway") between Market Street and Turk Street within the City (the "Property") and specifies that the State shall retain jurisdiction over the remaining portion of Route 101, including that portion between Mission Street and Market Street; and

WHEREAS, said Section 72.1 also requires that City use any proceeds from the disposition or use of the Property for the purpose of designing, constructing, developing, and maintaining the improvement of Octavia Street from Market Street north as a ground level boulevard (the "Octavia Street Project") until City's share of the cost of the Octavia Street Project is paid in full or funded from other sources, whereupon the City shall utilize any remaining proceeds from the sale of the Property solely for transportation and related purposes authorized under Article XIX of the California Constitution;

WHEREAS, under Section 72.1, the Legislature found and declared, among other things, that (i) the Central Freeway Replacement Project was selected by the State and City as an alternative transportation system to the Central Freeway which was damaged by the 1989 Loma Prieta Earthquake and (ii) the Central Freeway Replacement Project includes the State's Freeway Project (consisting of the State's demolition of the existing Central Freeway, construction of a

DUPLICATE ORIGINAL

new freeway between Mission Street and Market Street, and construction of ramps to, and from, the new freeway) and the City's Octavia Street Project; and

WHEREAS, the parties wish to set forth the respective obligations of the parties with respect to the transfer of the Property and the development, construction and maintenance of the Central Freeway Replacement Project.

IT IS NOW MUTUALLY AGREED AS FOLLOWS:

1. Transfer of Property:

A. Pursuant to Section 72.1 of the Streets and Highways Code, State shall transfer to City all of State's right, title and interest in and to the Property located in the City and County of San Francisco designated as Parcels A through V, as more particularly described in Exhibits A and B, attached hereto and made a part hereof, together with any and all rights, privileges, and easements incidental or appurtenant thereto, within thirty (30) days following approval of the transfer by the California Transportation Commission (CTC) and execution of a Director's quitclaim deed (Deed) by the Director of Transportation of the State of California. State shall continue to own all highway improvements on Parcels M through V and shall retain a limited temporary easement over Parcels M through V, together with all necessary rights of access, for the purpose of maintaining, repairing, and operating said highway improvements located on such parcels until such time as said portion of the Route 101 freeway is closed to traffic and, subsequent to such closing, for the purpose of demolishing said portion of freeway and restoring the surface of the parcels to a reasonably usable condition, at which time the easement shall terminate. Said easement shall be in a form reasonably acceptable to City.

B. State's reservation of a temporary easement over Parcels M through V, designated as Area 'A' in Exhibit B, includes retention of all airspace, surface and subsurface rights, including, without limitation, the improvements and structures upon such parcels and the right to continue to lease Parcels M through V until State has demolished the portion of Route 101 on Parcels M through V, at which time the easement shall terminate. Under said easement, State shall continue to act as the landlord under any leases existing on

Parcels M through V, and shall have all the rights and obligations of the landlord under such leases, including the obligation to evict any tenants in default of their lease at State's sole cost prior to State's demolition of the freeway.

- C. State shall transfer the Property by recording the Deed, in substantially the form attached hereto as Exhibit C, which is made a part hereof, in the Official Records of the City and County of San Francisco as soon as said Deed can be completed and a draft approved by City following approval of the transfer by the CTC.

2. Assignment of Leases:

- A. On the date of recordation of the Deed, State shall transfer all of its right, title and interest in and to existing leases on Parcels A through L of the Property only (Fell Street to Turk Street) while retaining the temporary easement and leases for Parcels M through V (Market Street to Fell Street) pursuant to the limited temporary easement described above in Section 1.
- B. Exhibit D, which is attached hereto and made a part hereof, ("Summary of Leases"), describes each of the leases. State will transfer these leases by executing two separate Assignments of Leases in the form attached hereto as Exhibit E (the "Assignment of Leases"), which is made a part hereof, and City shall accept such leases, pursuant to the Assignment of Leases. State shall execute the first Assignment of Leases for Parcels A through L on the date of recordation of the Deed and shall execute the second Assignment of Leases for Parcels M through V upon termination of the State's limited temporary easement.
- C. City hereby acknowledges that State has previously delivered to City copies of all Leases identified in Exhibit D.

3. As Is Condition. By entering into this Agreement, City agrees to accept the Property in its "as is" condition and State shall in no event be responsible for any protected cultural items, human remains, or hazardous materials (the "Hazardous Materials" as defined in federal, state and local laws, ordinances, rules and regulations in any way regulating issues focused on human health or safety and industrial hygiene and pertaining to the

protection of the environment or the pollution or contamination of the air, soil, surface water or groundwater) discovered on said Property unless directly caused by State after transfer of the Property to City.

4. Right of Entry. State hereby agrees to provide City and its agents reasonable access to the Property prior to recordation of the Deed for the purposes of satisfying City with respect to the condition of the Property including, without limitation, the drilling of test wells and the taking of soil borings and the City's performance of any necessary remediation of Hazardous Materials required of City as a consequence thereof (as between City and State, any ordered remediation shall be at City's sole cost regardless of how said Hazardous Materials were deposited or generated). Permission for such access prior to recordation of the Deed shall not be unreasonably withheld, subject to the existing lease agreements described in Exhibit D and an encroachment permit issued by State wherein City acknowledges its responsibility for any hazardous material discovered in the course of said testing.
5. No Waiver of Section 72.1 of Streets and Highways Code. State does not, by this Agreement, waive any claims to damages it has, or would have, by reason of City commencing but failing to complete City's obligations and liabilities incurred pursuant to Section 72.1 of the Streets and Highways Code. Nothing in this Agreement shall be deemed to be a waiver by City of City's rights to finally acquire the remaining identified portions of Route 101 right-of-way to be transferred pursuant to Section 72.1 of the Streets and Highways Code (Parcels M through V).
6. Indemnities (City): City will indemnify, defend and hold State harmless from any and all claims, losses, damages, suits, penalties, costs, expenses or liabilities (hereafter "Loss" or "Losses"), including, but not limited to, reasonable investigation costs, remediation costs, witness fees, and attorney's fees, which arise out of or are connected with the actions of City or its agents during any entry to or possession of the Property, including those parcels M through V for which State retains its limited operational and demolition

easements and leasehold rights, pursuant to the terms of this Agreement, or which losses arise from City's possession of the transferred Property.

7. Indemnities (State): Except to the extent Losses are attributable to City's actions or ownership, State will indemnify and hold City harmless from any and all Losses, including claims of injury or death or damage to property, which are claimed or filed against City by virtue of State's ownership of the Property and which result from any event (excluding Hazardous Materials spilled, generated or discharged unless directly caused by State after transfer of the Property to City) occurring before recordation of the Deed and any and all Losses arising out of or connected with any actions of State during State's operation of State Route 101 and any entry to or possession of Parcels M through V by State during State's continued easement and leasehold operations.
8. Amendments. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
9. Maintenance of the Property. Between the date of execution of this Agreement and the date the Deed is recorded, State shall maintain the Property in good order, condition and repair, reasonable wear and tear excepted and, except as otherwise provided herein, shall perform all work reasonably required to be done by the landlord under the terms of any Lease and shall make all repairs, maintenance and replacements and otherwise operate the Property in the same manner as if State were retaining said Property for operating purposes as State Route 101 until demolition of these improvements are scheduled and undertaken. After the date of recordation of the Deed, State will continue to maintain, clean, repair and otherwise operate, in the same manner as if State were retaining title to that portion of the Central Freeway located on Parcels M through V of the Property that remains open to public traffic until State demolishes the remaining Central Freeway structure. All of State's maintenance obligation set forth herein shall be at no cost to City.

10. City's consent to New Contracts Affecting the Property. Prior to entering into any lease or contract affecting the Property (excepting the Freeway Replacement Project demolition and construction contracts to be awarded by State), or any amendment thereof, or permitting any tenant of the Property to enter into any sublease, assignment or agreement pertaining to the Property, or waiving any rights of State under any lease or contract, State shall give City written notice thereof. In any event, any new leases shall be limited to parking lot uses by responsible operators as determined by State and shall be on State's standard form lease, including a ninety- (90-) day termination right by landlord, waiver of relocation benefits by tenant and a notice of the possible levy of a possessory interest tax in accordance with applicable state law.

11. Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, against receipt; (ii) one day after being deposited with a reliable overnight courier service, or (iii) five (5) days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

City:

Real Estate Division
Administrative Services Department
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Anthony J. DeLucchi
Director of Property

State:

California Department of Transportation
111 Grand Avenue
Oakland, CA 94621-3371

Mail to: P.O. Box 23440
Oakland, CA 94623-0440
Attn: R. A. Macpherson
District Division Chief
Right of Way

or to such other address as either party may from time to time specify in writing to the other upon five (5) days prior written notice in the manner provided above.

12. Approval by City's Board of Supervisors and Mayor: Notwithstanding anything to the contrary contained in this Agreement, this Agreement and any obligations or liabilities of City hereunder are contingent upon approval of this Agreement and the transactions contemplated hereby by City's Board of Supervisors and Mayor, which they may give or withhold in their sole discretion. All of State's obligations hereunder are contingent upon the approval of the California Transportation Commission, and all of State's obligations other than the obligation to transfer the Property to the City are also subject to the passage of annual State Budget Acts funding this process and budget capacity to expend funds allocated to State.
13. Project Schedule: State and City agree to follow the Project Schedule set forth in Exhibit F, Central Freeway Replacement Project Schedule, attached hereto and made a part hereof. Both parties will take all reasonable actions to expedite completion of the Central Freeway Replacement Project.
14. Responsibility and Funding for Project.
 - A. Pursuant to Section 72.1(f)(2) of the Streets and Highways Code, the parties shall divide responsibilities and costs for the Central Freeway Replacement Project as set forth herein.
 - B. State shall be solely responsible, at State's sole cost, for the Freeway Project, including
 - (i) demolition of the existing Central Freeway structure; (ii) construction of a new freeway between Mission and Market Streets in the City, and (iii) the construction of new ramps to and from that new freeway.

C. City shall be solely responsible, at City's sole cost, for (i) preparation and operation of the interim traffic management plan required under Section 72.1(f)(2); (ii) the Octavia Street Project, including the improvement of Octavia Street as a ground level boulevard north from Market Street; and (iii) bringing portions of three City streets, Mission Street, South Van Ness Avenue and Van Ness Avenue which are to be adopted as a traversable portion of State Route 101, up to a State of Good Repair reasonably acceptable to State. The term "State of Good Repair" means that the City shall undertake restoration and rehabilitation of those portions of Mission Street, South Van Ness Avenue and Van Ness Avenue that will be adopted as a part of State Route 101 which work will include, but is not limited to, the following:

- Pavement Rehabilitation including grinding the roadway, digging out and repairing failed sections (4" depth), and overlaying the road (2" depth).
- New pavement delineation as necessary.
- Repair or upgrade of curb and gutter as necessary to meet Americans With Disabilities Act requirements.
- Repair/installation of traffic signals, pedestrian signals, cabinets and street lighting as necessary.
- Repair/replacement of signs and related hardware as necessary.
- Repair/replacement of manhole covers, grates and any drainage related items as necessary.

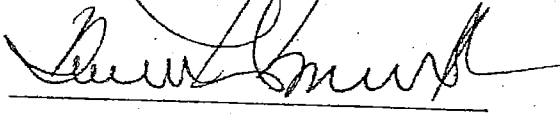
D. Exhibit G, Central Freeway Replacement Project Costs and Funds, attached hereto and made a part hereof, estimates the funding breakdown for the Project and segregates the estimated funding of the parties for the entire Central Freeway Replacement Project.

15. State agrees to enter into a Memorandum Of Understanding (MOU) with City setting forth procedures, reasonably acceptable to both State and City, coordinating the means by which City may obtain special permits for temporary closures of State Route 101 along Mission Street, South Van Ness Avenue and Van Ness Avenue due to special events or encroachment permits for City initiated capital improvement work within the limits of State Route 101 following the adoption of such streets by State as parts of State Route 101.

14905

CITY AND COUNTY OF SAN FRANCISCO,

A Municipal Corporation



Mayor

STATE OF CALIFORNIA

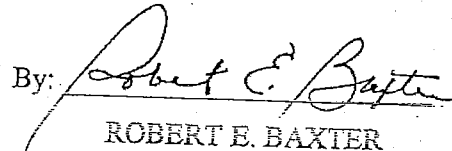
Department of Transportation

JEFF MORALES

Director of Transportation

Clerk of the Board of Supervisors

By:

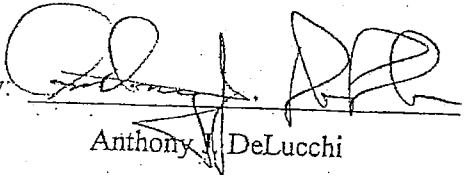


ROBERT E. BAXTER

District Division Chief - Design West

RECOMMENDED:

By:

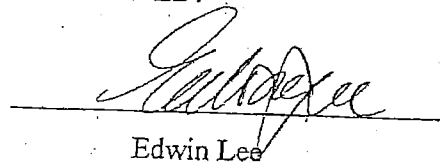


Anthony J. DeLucchi

Director of Property

RECOMMENDED:

By:



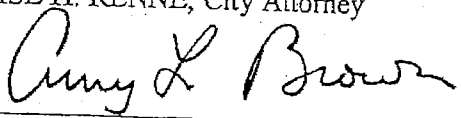
Edwin Lee

Director of Public Works

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

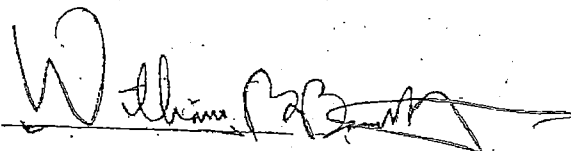
By:



Deputy City Attorney

APPROVED AS TO FORM:

By:



William Bassett

Department Counsel

Agreement No. 4-1828-C

14905

Certified as to Budgeting of Funds:^{*}
includes support costs

for Cynthia Stratton
District Budget Manager

Certified as to Financial Terms and Conditions:

for Greg Bonham
Accounting Administrator

EXHIBIT 'A'
CENTRAL FREEWAY PROJECT
Parcels to be Received from Caltrans

No.	Blk/Lot	Location	Project Area (s.f.) *	Net of R/W **
A	761/27	SE cor. Turk & Gough Streets to Elm Street	18,310	18,310
B	761/23ptn	Elm Street to Golden Gate Avenue	13,802	13,802
C	768/13	SW Franklin & Golden Gate to Redwood St.	16,500	16,500
D	768/73	N. side of McAllister to Redwood Street	10,937	10,937
E	785/30ptn	South side of McAllister Street	22,384	22,384
E-st	785/33	Portion of Ash Street east of Gough Street	6,010	6,010
F	785/29ptn	N. Side of Fulton, NE cor. At Gough	18,439	18,439
G	792/28ptn	NE cor. Gough & Fulton Streets	13,790	13,790
H	793/36ptn	NW cor. Gough & Grove Streets	11,269	11,269
I	808/36	West side of Gough bet. Grove & Ivy Streets	16,240	16,240
J	808/39	E. side of Octavia bet. Ivy & Hayes Streets	17,398	17,398
K	817/30	E. side of Octavia bet. Hayes & Linden Streets	20,569	12,499
L	817/33	E. side of Octavia bet. Linden & Fell Streets	12,649	4,579
		Total	198,297	182,157

* Total Project Area to be received from Caltrans. Above square footages approximate.

**Net land area.

EXHIBIT 'B'
CENTRAL FREEWAY PROJECT
Area "A" Parcels to be Received from Caltrans*

No.	Blk/Lot	Location	Project Area (s.f.)**	Net of R/W***
M	832/26	E. side of Octavia bet. Fell & Hickory Streets	9,900	-
N	832/25	E. side of Octavia bet. Hickory & Oak Streets	9,900	-
O	831/24	W. side of Octavia bet. Fell & Hickory Streets	37,427	37,427
P	831/23	W. side of Octavia bet. Hickory & Oak Streets	49,500	49,500
Q	839/29	NW corner of Oak & Octavia Streets	4,650	4,650
R	838/35	E. side of Octavia bet. Oak & Lily Streets	10,500	2,790
S	838/34	E. side of Octavia bet. Lily & Page Streets	10,680	2,970
T	853/22	E. side of Octavia bet. Page & Rose Streets	13,212	5,502
U	853/21	E. side of Octavia bet. Rose & Haight Streets	13,200	5,490
V	855/11	E. side of Octavia, Haight St. to Market Street	30,336	12,244
		Total	189,305	120,573

* 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.

** Total Project Area to be received from Caltrans. Above square footages approximate.

***Net land area.

Space above this line for Recorder's Use

DIRECTOR'S DEED
(Quitclaim)

District	County	Route	Post Mile	Number
4	SF	101	R5.3/5.3	DK-015431-XX-XX

The STATE OF CALIFORNIA, acting by and through its Director of Transportation, does hereby release and quitclaim to _____

all right, title and interest in and to all that real property in the _____ City and _____
County of San Francisco, State of California, described as:

Please see ATTACHMENT "A" attached.

MAIL TAX
STATEMENTS TO:

ATTACHMENT "A"

A portion of each of the parcels of land described in the deeds to the State of California recorded as follows:

<u>State Deed No.</u>	<u>Recording Date</u>	<u>Book</u>	<u>Page</u>
15431	March 16, 1955	6570	423
15744	June 1, 1956	6854	579
15746	January 26, 1956	6776	344
15747	September 30, 1955	6706	583
15748	November 30, 1955	6745	96
15749	May 12, 1955	6612	229
15750	September 29, 1955	6705	229
15752	June 15, 1955	6635	556
15755	December 17, 1956	6974	319
15756	March 6, 1956	6800	371
15757	August 18, 1955	6679	309
15758	July 10, 1956	6883	315
15761	March 22, 1956	6810	518
15762	December 13, 1955	6752	332
15764	November 2, 1955	6727	377
15766	July 19, 1955	6657	579
15768	July 6, 1955	6649	252
15773	April 17, 1957	7053	402
15778	September 20, 1955	6698	218
15780	July 1, 1955	6648	216
15781	September 8, 1955	6692	172
15790	July 17, 1953	6882	327
15797	November 14, 1956	6954	209

and all those parcels of land described in the deeds to the State of California recorded as follows:

15675	February 10, 1956	6786	189
15676	May 16, 1956	6845	293
15677	January 28, 1955	6536	551
15678	January 31, 1955	6537	482
15679	February 3, 1955	6540	291
15680	February 4, 1955	6542	21
15681	May 28, 1956	6852	559
15682	October 26, 1956	6943	257

15683	March 2, 1955	6559	596
15684	February 8, 1955	6544	96
15685	July 20, 1955	6658	545
15686	February 4, 1955	6542	18
15687	June 16, 1955	6636	446
15688	March 8, 1955	6564	487
15689	February 3, 1955	6540	281
15690	December 12, 1955	6751	617
15691	July 1, 1955	6648	200
15692	February 8, 1955	6544	93
15693	January 10, 1956	6766	529
15694(15695)	June 13, 1956	6861	81
15696	October 11, 1955	6713	118
15697	July 6, 1956	6876	497
15698	February 21, 1955	6553	40
15699	April 13, 1955	6591	392
15700	March 9, 1955	6565	223
15701	June 25, 1956	6869	219
15702	February 21, 1955	6553	37
15703	April 28, 1955	6602	83
15704	February 14, 1955	6548	34
15705	April 12, 1955	6590	155
15706	January 18, 1955	6529	434
15707	January 31, 1955	6537	485
15708	January 31, 1955	6537	492
15709	February 14, 1955	6548	46
15710	September 29, 1956	6705	433
15713	June 1, 1955	6624	524
15714	June 9, 1955	6631	188
15715	June 29, 1955	6645	351
15716	June 10, 1955	6630	438
15717	July 28, 1955	6665	137
15718	July 5, 1956	6875	282
15719	July 18, 1956	6883	318
15720	May 31, 1955	6624	360
15721	May 3, 1955	6605	180
15722	April 27, 1955	6601	223
15723	May 2, 1955	6604	347
15724	June 16, 1956	6864	502
15725	June 9, 1955	6631	507
15726	April 14, 1955	6591	569

15727	June 29, 1956	6873	223
15728	July 15, 1955	6656	428
15729	May 23, 1955	6619	544
15730	July 1, 1955	6648	239
15731	March 27, 1957	7038	231
15732	January 18, 1956	6771	303
15733	July 17, 1956	6882	248
15734	December 12, 1955	6751	398
15735	July 27, 1956	6889	95
15736	December 21, 1956	6977	552
15737	May 29, 1957	7081	528
15738	October 4, 1956	6929	233
15740	January 3, 1956	6762	575
15742	July 15, 1955	6656	421
15743	June 3, 1955	6627	15
15745	March 26, 1957	7037	268
15751	October 28, 1955	6725	311
15753	June 28, 1956	6872	151
15754	June 15, 1956	6863	502
15759	January 30, 1956	6777	394
15760	May 31, 1955	6624	366
15765	February 27, 1956	6795	197
15767	December 19, 1956	6975	408
15769	August 23, 1955	6682	58
15770	September 30, 1955	6705	555
15771	August 29, 1956	6907	122
15775	December 21, 1956	6757	604
15776	June 15, 1956	6863	519
15777	December 9, 1955	6750	593
15782	January 4, 1957	6984	76
15783	October 10, 1956	6933	27
15784	September 16, 1955	6696	193
15785	February 18, 1957	7013	20
15786	April 17, 1957	7053	408
15788	December 13, 1955	6752	347
15789	October 3, 1956	6928	404
15791	January 5, 1956	6764	216
15796	August 30, 1956	6908	24
17003	August 3, 1954	6424	241

and a portion of each of the parcels of land described in the deeds to the State of California by Final Order of Condemnation recorded as follows:

Agreement No. 4-1828-C
 Number
 DK-015431-XX-XX

<u>Instrument</u>	<u>Recording Date</u>	<u>Book</u>	<u>Page</u>
Final Order of Condemnation Number 453103, Parcel 15739 and Parcel 15741	September 12, 1957	7146	342
Final Order of Condemnation Number 453518, Parcel 15763	October 30, 1957	7175	400
Final Order of Condemnation Number 458017, Parcel 16 (first and second)	May 1, 1957	7063	34
Final Order of Condemnation Number 456770, Parcel 9	February 6, 1957	7005	364

and all those parcels of land described in the deeds to the State of California by Final Order of Condemnation recorded as follows:

<u>Instrument</u>	<u>Recording Date</u>	<u>Book</u>	<u>Page</u>
Judgment in Condemnation Number 453518, Parcel 1 and Parcel 2	August 22, 1957	7134	477
Final Order of Condemnation Number 458017, Parcel 15	May 17, 1957	7074	77

All of Official Records of the City and County of San Francisco, being described, as a whole, as follows:

COMMENCING at the northerly corner of that parcel of land described in State Deed No. 15674 recorded December 20, 1956 in Volume 6976, Page 384, Official Records of the City and County of San Francisco; thence along the southeasterly line of Market Street, S. 45°11'18" W., 123.51 feet; thence from a tangent that bears N. 19°54'46" W., along a curve to the right with a radius of 1078.00 feet, through an angle of 4°06'25", an arc length of 77.27 feet; thence N. 15°48'21" W., 102.39 feet to the southwesterly corner of the parcel of land described in

said State Deed No. 15675; thence along the easterly line of Octavia Street, N. 9°05'00" W., 275.18 feet to the northwesterly corner of the parcel of land described in said State Deed No. 15681; thence N. 8°52'29" W., 68.55 feet to the southwesterly corner of the parcel of land described in said State Deed No. 15685; thence along last said easterly line of Octavia Street, N. 9°05'00" W., 120.29 feet to the northwesterly corner of last said parcel of land; thence N. 9°14'05" W., 34.91 feet to the southwesterly corner of the parcel of land described in said State Deed No. 15687; thence along last said easterly line of Octavia Street, N. 9°05'00" W., 56.56 feet; thence from a tangent that bears N. 16°10'25" W., along a curve to the left with a radius of 3472.00 feet, through an angle of 4°20'50", an arc length of 263.43 feet to a point of compound curvature; thence along a tangent curve to the left with a radius of 272.00 feet, through an angle of 16°23'35", an arc length of 77.82 feet to the westerly line of Octavia Street; thence along last said line, N. 9°05'00" W., 14.38 feet to the southeasterly corner of the parcel of land described in said State Deed No. 15788; thence along the southerly line of last said parcel of land, S. 80°55'00" W., 77.50 feet to the westerly line of last said parcel of land; thence along last said line and the westerly line of the parcel of land described in said State Deed No. 15789, N. 9°05'00" W., 59.99 feet to the southerly line of Oak Street; thence along last said line, N. 80°55'00" E., 19.83 feet; thence from a tangent that bears N. 56°50'17" W., along a curve to the left with a radius of 272.00 feet, through an angle of 35°09'29", an arc length of 166.90 feet to the northerly line of Oak Street; thence along last said line, S. 80°55'00" W., 205.71 feet to the easterly line of Laguna Street; thence along last said line, N. 9°05'00" W., 120.10 feet to the northwesterly corner of the parcel of land described in said State Deed No. 15702; thence N. 8°55'11" W., 34.78 feet to the southwesterly corner of the parcel of land described in said State Deed No. 15711; thence along last said easterly line of Laguna Street, N. 9°05'00" W., 120.19 feet to the southerly line of Fell Street; thence along last said line, N. 80°55'00" E., 302.40 feet to the easterly line of the parcel of land described in said State Deed No. 15719; thence along last said line, S. 9°05'00" E., 79.12 feet to the northerly line of the parcel of land described in said State Deed No. 15720, thence along last said line, N. 80°55'00" E., 27.49 feet to the easterly line of last said parcel of land; thence along last said line and the southerly prolongation thereof, S. 9°05'00" E., 52.45 feet; thence from a tangent that bears S. 58°44'19" E., along a curve to the right with a radius of 556.00 feet, through an angle of 3°35'36", an arc length of 34.87 feet to the southerly line of Hickory Street; thence along last said line, N. 80°55'00" E., 56.76 feet to said westerly line of Octavia Street; thence along last said line, S. 9°05'00" E., 63.80 feet; thence from a tangent that bears S. 46°20'06" E., along a curve to the right with a radius of 556.00 feet, through an angle of 14°02'13", an arc length of 136.21 feet to the southerly prolongation of said easterly line of Octavia Street; thence along last said prolongation and line, N. 9°05'00" W., 181.05 feet to the southerly line of Hickory Street; thence N. 8°34'58" W., 34.83 feet to the southwesterly corner of the parcel of land described in said State Deed No. 15727; thence along said easterly line of Octavia Street, N. 9°05'00" W., 120.12 feet to the northwesterly corner of last said parcel of land; thence N. 9°10'38" W., 68.49 feet to the southwesterly corner of the parcel of land described in said State Deed No. 15729; thence along last said easterly line

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of Octavia Street, N. 9°05'00" W., 120.17 feet to the northwesterly corner of the parcel of land described in said State Deed No. 15730, thence N. 9°17'59" W., 35.03 feet to the southwesterly corner of the parcel of land described in said State Deed No. 15732; thence along last said easterly line of Octavia Street, N. 9°05'00" W., 120.00 feet to the southerly line of Hayes Street; thence along last said line, N. 80°55'00" E., 56.46 feet to the southwesterly prolongation of the westerly line of the parcel of land described in said State Deed No. 15737; thence along last said prolongation and line, N. 21°14'39" E., 153.60 feet to the northerly line of last said parcel of land; thence along last said line, N. 80°55'00" E., 3.45 feet to the westerly line of the parcel of land described in said State Deed No. 15738; thence along last said line, N. 9°05'00" W., 56.11 feet to the southerly line of Ivy Street; thence along last said line, N. 80°55'00" E., 29.38 feet to the southerly prolongation of the easterly lines of PARCEL 1 and PARCEL 2, as said parcels are described in Director's Deed No. 15431-DD recorded October 24, 1956 in Volume 6941, Page 106, Official Records of the City and County of San Francisco; thence along last said prolongation and lines and their northerly prolongation, N. 21°14'39" E., 258.89 feet to the northerly line of Grove Street; thence along last said line, N. 80°55'00" E., 2.52 feet to the westerly line of the parcel of land described in said State Deed No. 15749; thence along last said line, N. 9°05'00" W., 4.31 feet to the easterly line of that parcel of land described in Director's Deed No. 15749-DD, recorded January 30, 1957, in Volume 7000, Page 246, Official Records of the City and County of San Francisco; thence along last said line and the westerly line of the parcel of land described in said State Deed No. 15753, N. 21°14'39" E., 212.52 feet to the northerly line of last said parcel of land; thence along last said line and the easterly prolongation thereof, N. 80°55'00" E., 5.43 feet; thence N. 9°05'00" W., 9.28 feet to the southerly prolongation of the easterly line of Excess Parcel 17, as said parcel is described in that Agreement (15746-T) for Transfer of Control and Possession of Land Owned by the State filed August 17, 1966, under Document No. 62-643 in the California State Archives, Sacramento, California, thence along last said prolongation and line, and the northerly prolongation thereof, N. 21°14'39" E., 349.40 feet; thence N. 80°55'00" E., 1.94 feet to the southerly prolongation of the general westerly line of the parcel of land described in said State Deed No. 15767; thence along last said prolongation and line, N. 9°05'00" W., 3.32 feet and along the easterly line of that parcel of land described in Director's Deed No. 15766-DD, recorded April 26, 1957, in Volume 7060, Page 113, Official Records of the City and County of San Francisco, and the northerly prolongation thereof, and along the westerly line of the parcel of land described in said State Deed No. 15772, N. 21°14'39" E., 327.24 feet to the westerly line of the parcel of land described in said State Deed No. 15774; thence along last said line and the northerly prolongation thereof, and the westerly line of the parcel of land described in said State Deed No. 15710, N. 9°05'00" W., 178.40 feet to the southerly line of Golden Gate Avenue, thence along last said line, S. 80°55'00" W., 11.06 feet to the southeasterly continuation of the general northeasterly line of PARCEL 1 described in that Agreement (15778-T) for Transfer of Control and Possession of Land Owned by the State Division of Highways in San Francisco, recorded September 7, 1961 in Book A313, Page 468, Official Records of the City and County of

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San Francisco; thence along last said continuation and line, from a tangent that bears N. 27°06'32" W., along a curve to the left with a radius of 297.00 feet, through an angle of 29°49'04", an arc length of 154.56 feet; thence continuing along last said line, the southwesterly line of the parcel of land described in said State Deed No. 15777, the southwesterly line of the parcel of land described in said State Deed No. 15776 and its northwesterly prolongation, N. 56°55'36" W., 142.36 feet to the northerly line of Elm Street; thence along last said line, S. 80°55'00" W., 75.54 feet to the easterly line of Gough Street; thence along last said line, N. 9°05'00" W., 120.02 feet to the southerly line of Turk Street; thence along last said line, N. 80°55'00" E., 137.47 feet to the easterly line of the parcel of land described in said State Deed No. 15785; thence along last said line, S. 9°05'00" E., 62.78 feet to the northeasterly line of the parcel of land described in said State Deed No. 15786; thence along last said line and the southeasterly prolongation thereof, S. 56°55'36" E., 134.87 feet to the northwesterly continuation of the southwesterly line of PARCEL 2 of said Agreement (15778-T); thence along last said continuation and line, the northeasterly line of the parcel of land described in said State Deed Nos. 15782 and 15791, and the southeasterly continuation of last said northeasterly line, along a tangent curve to the right with a radius of 381.00 feet, through an angle of 33°53'06", an arc length of 225.33 feet to the southerly line of Golden Gate Avenue; thence along last said line, N. 80°55'00" E., 61.23 feet to the westerly line of Franklin Street; thence along last said line, S. 9°05'00" E., 175.50 feet to the northerly line of that parcel of land described in Director's Deed No. DD-015773-01-01 recorded September 15, 1977, in Volume C437, Page 262, Official Records of the City and County of San Francisco; thence along last said line and the northerly line of that parcel of land described in Director's Deed No. DD-015773-01-02, recorded January 8, 1985, under Recorder's Serial No. D595187, S. 81°30'06" W., 56.10 feet to the westerly line of last said parcel of land; thence along last said line and the general westerly line of that parcel of land described in said Director's Deed No. DD-015773-01-01, S. 21°14'39" W., 84.97 feet, and S. 9°05'00" W., 26.80 feet; thence along the southerly prolongation of last said course, S. 9°05'00" E., 68.58 feet to the southerly line of McAllister Street; thence along last said line, N. 80°55'00" E., 16.24 feet to the northeasterly corner of the parcel of land described in said State Deed No. 15796; thence along the easterly line of last said parcel of land, S. 9°05'00" E., 120.07 feet to the northerly line of Ash Street; thence along last said line, S. 80°55'00" W., 48.52 feet to the westerly line of that parcel of land described in Director's (Quitclaim) Deed No. DK-45725-1, recorded January 15, 1976, in Volume C114, Page 398, Official Records of the City and County of San Francisco, thence along last said line, the southeasterly line of the parcel of land described in said State Deed No. 15765, the westerly line of the Excess Parcel 16 of said Agreement (15746-T) and the southerly prolongation thereof, and along the westerly line of Excess Parcel 15 of said Agreement (15746-T), S. 24°30'04" W., 320.61 feet; thence continuing along last said line, the easterly line of the parcel of land described in State Deed No. 15754 and

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the southerly continuation thereof, and the westerly line of Excess Parcel 14 of last said Agreement (15746-T), along a tangent curve to the left with a radius of 6946.00 feet, through an angle of $3^{\circ}15'25''$, an arc length of 394.84 feet; thence continuing along last said westerly line and the southerly prolongation thereof, the easterly line of the parcel of land described in said State Deed No. 15745, the westerly line of that parcel of land described in Director's Deed No. 15741-DD, recorded February 2, 1962, in Volume A385, Page 158, Official Records of the City and County of San Francisco, and the southerly prolongation of last said line, S. $21^{\circ}14'39''$ W., 339.84 feet to the northerly continuation of the easterly line of the parcel of land described in said State Deed No. 15736; thence along last said continuation and line, and the easterly line of the parcel of land described in said State Deed No. 15735, along a tangent curve to the left with a radius of 958.00 feet, through an angle of $5^{\circ}26'40''$, an arc length of 91.03 feet to the easterly line of the parcel of land described in said State Deed No. 15734; thence along last said line, S. $9^{\circ}05'00''$ E., 55.22 feet to the northerly line of Linden Street; thence along last said line, S. $80^{\circ}55'00''$ W., 23.54 feet to the northerly continuation of the easterly line of the parcel of land described in said State Deed No. 15731; thence along last said continuation and line, from a tangent that bears S. $12^{\circ}12'32''$ W., along a curve to the left with a radius of 958.00 feet, through an angle of $5^{\circ}21'32''$, an arc length of 89.60 feet to the southerly line of last said parcel; thence along last said line, S. $80^{\circ}55'00''$ W., 0.32 feet to the easterly line of the parcel of land described in said State Deed No. 15730; thence along last said line and the easterly line of the parcel of land described in said State Deed No. 15729, S. $9^{\circ}05'00''$ E., 70.31 feet to the southerly line of last said parcel; thence along last said line, S. $80^{\circ}55'00''$ W., 16.91 feet; thence S. $0^{\circ}21'29''$ E., 69.29 feet to the northeasterly corner of the parcel of land described in said State Deed No. 15728; thence along the easterly line of last said parcel and the easterly line of the parcel of land described in said State Deed No. 15726, S. $9^{\circ}05'00''$ E., 120.12 feet to the northerly line of Hickory Street; thence S. $8^{\circ}43'00''$ E., 34.83 feet to the northeasterly corner of the parcel of land described in said State Deed No. 15724; thence along the easterly line of last said parcel, S. $9^{\circ}05'00''$ E., 120.24 feet to the northerly line of Oak Street; thence S. $13^{\circ}37'39''$ E., 68.38 feet to the northeasterly corner of the parcel of land described in said State Deed No. 15696; thence along the easterly line of last said parcel of land and the easterly line of the parcel of land described in said State Deed No. 15694, S. $9^{\circ}05'00''$ E., 120.53 feet to the southerly line of last said parcel of land; thence S. $11^{\circ}17'43''$ E., 34.70 feet to the northeasterly corner of the parcel of land described in said State Deed No. 15692; thence along the easterly line of last said parcel of land, S. $9^{\circ}05'00''$ E., 120.09 feet to the northerly line of Page Street; thence S. $26^{\circ}07'14''$ E., 71.82 feet to the northeasterly corner of the parcel of land described in said State Deed No. 15691; thence along the easterly line of last said parcel of land, S. $9^{\circ}05'00''$ E., 120.07 feet to the southerly line of last said parcel of land; thence S. $8^{\circ}58'57''$ E., 34.91 feet to the northeasterly corner of the parcel of land described in said State Deed No. 15683; thence along the easterly line of last said parcel of land, S. $9^{\circ}05'00''$ E., 120.29 feet to the northerly line of Haight Street;

thence S. 11°06'24" E., 68.60 feet to the northeasterly corner of the parcel of land described in said State Deed No. 15682; thence along the general easterly line of last said parcel, S. 9°05'00" E., 60.82 feet; S. 72°12'52" E., 3.38 feet and S. 45°56'59" W., 6.83 feet to the easterly line of the parcel of land described in said State Deed No. 15676; thence along last said line and the southerly prolongation thereof, S. 11°16'02" E., 259.78 feet; thence along a tangent curve to the left with a radius of 802.00 feet, through an angle of 3°57'25", an arc length of 55.39 feet to the point of commencement.

CONTAINING 12.856 Acres, more or less.

RESERVING unto the State of California a temporary easement over the Parcels located within the area from Market Street through Fell Street which includes retention of all airspace, surface and subsurface rights, including, without limitation, the improvements and structures upon such parcels and the right to continue to lease said parcels until the State has demolished that portion of State Route 101 over those parcels located within the area from Market Street through Fell Street, at which time the easement shall terminate.

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
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.

EXHIBIT 'E'

Assignment of Leases

THIS ASSIGNMENT is made and entered into effective as of this _____ day of _____, 2000 (Effective Date), 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 dates (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 or [M through V] (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), originating 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.

7. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

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

Approved as to form:

By _____
ANTONIO R. ANZIANO
Attorney, Caltrans

ASSIGNOR
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By _____
MARTA A. BAYOL
Chief, Real Property Services

Approved as to form:
LOUISE H. RENNE, City Attorney

By _____
Deputy City Attorney

ASSIGNEE
CITY AND COUNTY OF CALIFORNIA
A Municipal Corporation

By _____
ANTHONY J. DELUCCHI
Director of Property

EXHIBIT 'F' **CENTRAL FREEWAY REPLACEMENT PROJECT SCHEDULE**

November 2000	-	EA re-evaluation complete - FONSI issued
November 2000	-	Cooperative agreement signed
December 2000	-	Property transferred to City
April 2002	-	TSM improvements start construction (CITY)
January 2003	-	Demolition specifications out to bid (CALTRANS)
June 2003	-	TMP in place (CITY)
June 2003	-	Demolition begins (CALTRANS)
October 2003	-	New structure specifications out to bid (CALTRANS)
March 2004	-	Construction of new structure begins (CALTRANS)
March 2004	-	Construction of Octavia Blvd. Begins (CITY)
March 2005	-	Octavia Blvd. Construction complete (CITY)
April 2006	-	New structure complete (CALTRANS)

EXHIBIT 'G' **CENTRAL FREEWAY REPLACEMENT PROJECT** **COSTS and FUNDS**

- A. The Central Freeway Replacement Project consists of two parts. The first requires the State to complete its defined Freeway Replacement Project which includes, but is not limited to, demolishing the elevated structure between South Van Ness Avenue and Fell Street and constructing a new structure with ramps that touch down at Market Street. The second part requires that the City complete the Octavia Boulevard Project extending to Fell Street, which involves certain TSM measures to address comparable service and TMP measures to address traffic impacts during construction. Portions of Mission Street, South Van Ness Avenue and Van Ness Avenue that will be adopted into the State highway system as part of Route 101 need to be brought to a State of Good Repair by City.
- B. As provided in Streets and Highways Code Section 72.1 (SB 798), proceeds from the disposition of State owned right of way are to be used first for the design and construction of the Octavia Boulevard project in San Francisco. These right of way proceeds may be used to fund TSM/TMP costs and the cost of bringing portions of Mission Street, South Van Ness Avenue and Van Ness Avenue into a State of Good Repair for acceptance by State as part of Route 101. To the extent that proceeds from the sale or use of the transferred property exceeds the cost of City work, those additional unexpended receipts are to be expended by City pursuant to said Street and Highway Code section 72.1.
- C. The estimated costs associated with the Central Freeway Replacement Project are segregated as follows:

	<u>CITY</u>	<u>STATE</u>
Demolition	-	\$14,430,000
Octavia Boulevard	\$12,610,000	-
New Structure	-	\$35,100,000
TSM/TMP cost*	\$ 6,500,000	-
Mission St./South		
Van Ness Ave. Work*	\$ 2,000,000	-
Subtotal	<u>\$21,110,000</u>	<u>\$49,530,000</u>

Total Project Cost **\$70,640,000**

*All costs are estimated, are not verified in any way and are subject to change.

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D. Funding of the entire project, with a current estimated cost of \$70,640,000, is planned to be accomplished using the following sources:

City Funds	\$21,110,000
Available Federal ER	\$10,987,000
<u>STATE Funds</u>	<u>\$38,543,000</u>
Total Project Cost	\$70,640,000

FILE NO. 000667

RESOLUTION NO. 469-00

1 [Real Property Acquisition]

2 APPROVING AND AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT
3 WITH THE STATE OF CALIFORNIA FOR THE ACQUISITION OF RIGHT OF WAYS TO
4 CERTAIN PORTIONS OF ROUTE 101 (THE FORMER CENTRAL FREEWAY),
5 LOCATED GENERALLY BETWEEN MARKET STREET AND TURK STREET
6 PURSUANT TO AND CONSISTENT WITH THE INTENT OF SB798; ADOPTING
7 FINDINGS THAT SUCH ACQUISITION IS CONSISTENT WITH THE CITY'S GENERAL
8 PLAN AND EIGHT PRIORITY POLICIES OF THE CITY PLANNING CODE SECTION
9 101.1; AND PLACING THE PROPERTY UNDER THE DEPARTMENT OF PUBLIC
10 WORKS' JURISDICTION.
11

12
13 WHEREAS, Senate Bill No. 798 added Section 72.1 to the California Streets and Highway
14 Code and requires the State of California, acting by and through its Department of Transportation
15 ("Caltrans") to relinquish to the City and County of San Francisco ("City"), those portions of Route
16 101 no longer required for right-of-way purposes; and,
17

18 WHEREAS, Section 72.1 declares that those portions of the Route 101 right-of-way
19 (commonly known as the Central Freeway) between Market and Turk Streets are no longer a state
20 highway; and,
21

22 WHEREAS, Caltrans has not completed the demolition and removal of the old Central
23 Freeway structure from those portions of Route 101 to be relinquished and is agreeable to
24 relinquishing the right of ways in two separate phases; and,
25

(Real Estate)

Supervisor Leno

1 WHEREAS, City and Caltrans have discussed entering an Agreement which would require
2 Caltrans to relinquish those portions of the Central Freeway where demolition has been completed
3 within 30 days following approval of the transfer by the California Transportation Commission and
4 the remainder of the Central Freeway upon completion of demolition; and,

5 WHEREAS, By letter dated March 28, 2000, a copy of which is on file with the Clerk of the
6 Board of Supervisors in File No. 000667, the Department of City Planning reported its findings that
7 the proposed acquisition of the Caltrans Property and any other portions of Route 101 from the State
8 of California is consistent with the City's General Plan and with the Eight Priority Policies of City
9 Planning Code Section 101.1; now, therefore, be it

10 RESOLVED, That the Board of Supervisors adopts as its own and incorporates by reference
11 herein as though fully set forth, the findings in the Department of City Planning's letter dated March
12 28, 2000 that the acquisition of the Caltrans Property and any other portions of Route 101 from the
13 State of California are (i) in conformity with General Plan, (ii) categorically exempt from
14 Environmental Review under the California Environmental Quality Act (CEQA) because such an
15 action does not constitute a "project" under CEQA Guidelines Section 15379 and would not result in
16 physical environmental impacts, and (iii) consistent with the Eight Priority Policies of City Planning
17 Code Section 101.1; and, be it

18 FURTHER RESOLVED, That in accordance with the recommendation of the Director of
19 Public Works and the Director of Property, the Board of Supervisors hereby authorizes the Mayor to
20 enter into an Agreement with the State of California for the acquisition of right of ways for certain
21 portions of Route 101 (including any waivers and indemnities of the State that are determined to be
22
23
24
25

1 appropriate by the Real Estate Division in consultation with the City Attorney's Office in a form
2 approved by the City Attorney's Office); and, be it

3 FURTHER RESOLVED, That all actions heretofore taken by offices of the City with respect
4 to the acquisition of the Caltrans Property are hereby approved, confirmed and ratified by this Board
5 of Supervisors; and, be it

6
7 FURTHER RESOLVED, That upon approval of the Agreement by the California
8 Transportation Commission, the Director of Property is hereby authorized and urged in the name and
9 on behalf of the City to accept and have recorded by the County Clerk one or more relinquishment
10 maps for the relinquishment of portions of the Central Freeway to the City in accordance with the
11 terms and conditions of the Agreement, and to take any and all steps (including, but not limited to,
12 the execution and delivery of Assignments of Leases and any and all other certificates, notices,
13 consents, instructions and documents) as the Director of Property deems necessary or appropriate in
14 order to consummate the relinquishment of such portions of the Central Freeway to the City pursuant
15 to SB798; and, be it

16
17 FURTHER RESOLVED, That City shall use any proceeds from the disposition of such
18 portions of the Central Freeway first for designing, constructing, developing, and maintaining the
19 Octavia Street Project and thereafter for transportation and related purposes, all as set forth in Section
20 72.1 (f)(1) of the California Streets and Highways Code.

21 RECOMMENDED:

22 (See File)

23 Director of Public Works

24 (See File)

25 Director of Property



City and County of San Francisco

Tails

Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4680

File Number: 000667

Date Passed:

Resolution approving and authorizing the Mayor to enter into an agreement with the State of California for the acquisition of right of ways to certain portions of Route 101 (the former Central Freeway), located generally between Market Street and Turk Street pursuant to and consistent with the intent of SB798; adopting findings that such acquisition is consistent with the City's General Plan and Eight Priority Policies of the Planning Code Section 101.1; and placing the property under the Department of Public Works' jurisdiction.

May 3, 2000 Board of Supervisors — SUBSTITUTED

May 22, 2000 Board of Supervisors — ADOPTED

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Teng,
Yaki, Yee

Absent: 1 - Newsom

File No. _____

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

City Elective Officer Information (Please print clearly.)	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information (Please print clearly.)	
Name of contractor: State of California, by and through its Department of Transportation	
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. Governor Edmund G. Brown, Jr. Debra Bowen, Secretary of State	
Contractor address: Department of Transportation Right of Way Airspace MS 11 P.O. Box 23440 Oakland, CA 94623-0440	
Date that contract was approved: (By the SF Board of Supervisors)	Amount of contract: \$10,000 initially per month for a 20 year term
Describe the nature of the contract that was approved: Lease agreement	
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 (Please print clearly.)	
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



SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.: 2011.0645E
Project Title: Central Freeway Skate Park & Mini Park
Zoning: N/A (Caltrans Right-of-Way under Central Freeway)
Block/Lot: N/A
Lot Size: 73,000 square feet
Project Sponsor: Frank Filice, Department of Public Works (DPW)
(415) 558-4011
Staff Contact: Kristina Zaccardelli - (415) 575-9036, Kristina.Zaccardelli@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION:

The proposed project would construct a new Skate Park and Mini-Park located within the Caltrans right-of-way under the Central Freeway, north of Duboce Avenue between Valencia and Stevenson Streets on an existing paved parking lot. The project proposes to construct a Skate Park and Mini-Park that includes basketball courts, play areas, a dog run, lighting, planting, and a pedestrian walkway. Skate Park construction activities would include: pavement demolition and removal; sewer manhole and catch basin relocation; new drainage connections; new concrete Skate Park paving, steps, walls, and ramps; a pier-supported concrete masonry unit wall; new column-mounted lighting; perimeter decorative fencing; and sidewalk repair and reconstruction.

(Continued on next page)

EXEMPT STATUS:

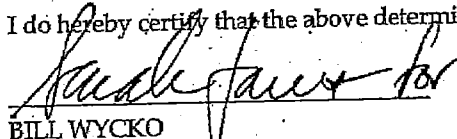
Categorical Exemption, Class 3 [State CEQA Guidelines Section 15303]

REMARKS:

See attached pages.

DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

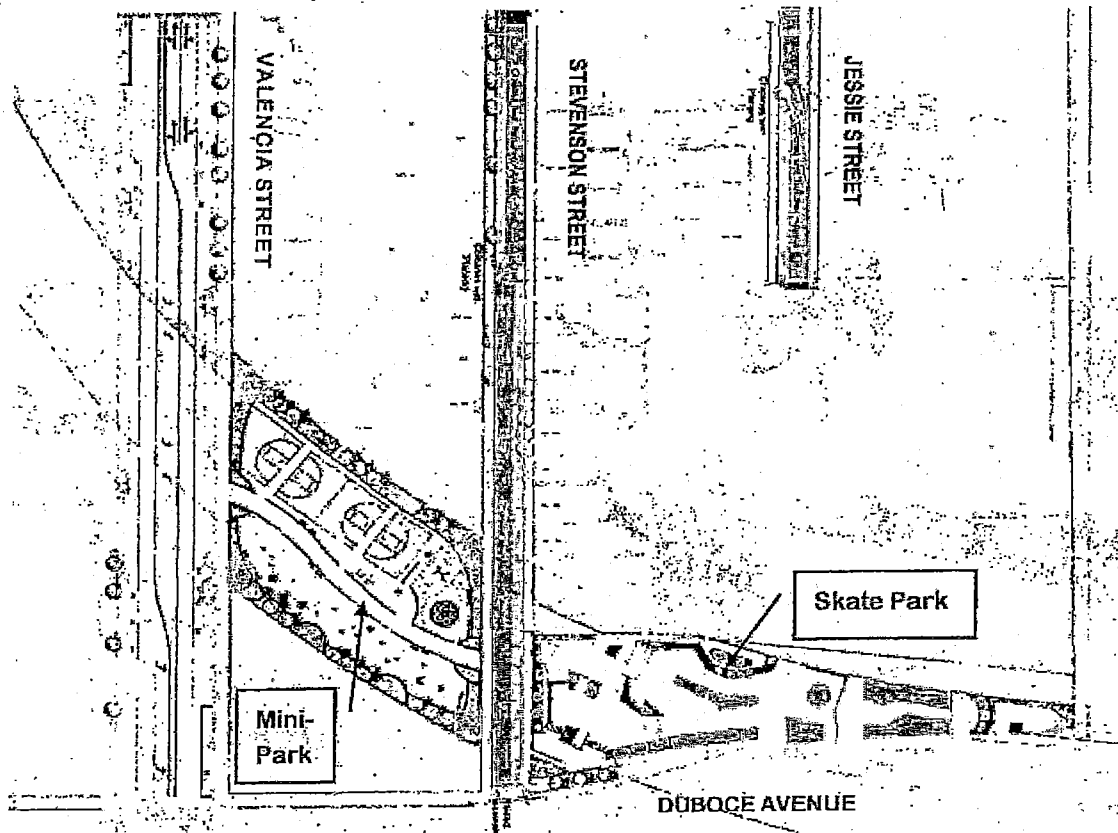

BILL WYCKO

Environmental Review Officer

10/21/2011
Date

cc: Frank Filice, Project Sponsor
V. Byrd, M.D.F.
Bulletin Board

PROJECT DESCRIPTION (CONTINUED):



Mini-Park construction activities would include: pavement demolition and removal; sewer manhole and catch basin relocation; new drainage connections; poured-in-place concrete seatwalls; installation of play equipment; basketball court paving and standards; new decorative post lighting; site furnishings; a fenced dog run with landscape boulders; landscape planting and irrigation; and sidewalk repair and construction. The proposed project replaces 73,000 square feet of parking with an approximately 15,000 square foot skate park and 57,000 square foot park. The above figure shows the location of the skatepark and mini-park.

REMARKS:

Land Use

The 1.67 acre (73,000 square feet) project site is located within a fully developed area of San Francisco. The surrounding uses consist of commercial, industrial, and residential buildings. The project site is within a fully developed urban area that is completely covered with paved surfaces, and does not provide habitat for any rare or endangered plant or animal species.

Transportation

Most of the proposed project elements would improve site conditions and accessibility throughout the park. The new skate park and additional mini-park would result in additional trips to the park. Based on a traffic impact study for a 10,000 square foot skate park project at an existing recreational area in Los

Angeles County, it was found that many users of skatepark facilities walk or skate to the skatepark, while others were picked up or dropped off. The traffic impact study for that project concluded the project would be expected to increase vehicular transportation by 13 trips during the weekday PM peak hours.¹ Because the area is well-served by nearby Muni routes and greater density in the surrounding area than that for the skate park in LA County, the skatepark and mini-park would likely result in fewer than 13 trips during the weekday PM peak hour. The 14, 14L, and 49 lines run along the nearby segment of Mission Street and the F Market is nearby. However, the project would not generate any new transit trips. Therefore, given the minor amount of additional vehicular trips expected and the pedestrian improvements, the project would not result in any significant adverse transportation impacts.

Parking

The proposed project would replace an existing surface parking lot (73,000 square foot lot) with a new skatepark and mini-park. While the parking spaces would be removed and not replaced, the resulting parking deficit is considered to be a less-than-significant impact, regardless of the availability of on-street and off-street parking under existing conditions.

The Planning Code does not require on-street parking for the proposed project and the project does not include on-street parking. The project would not create any new parking demands. San Francisco does not consider parking supply as part of the permanent physical environment and therefore, does not consider changes in parking conditions to be environmental impacts as defined by CEQA.

Parking conditions are not static, as parking supply and demand varies from day to day, from day to night, from month to month, etc. Hence, the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel.

Parking deficits are considered to be social effects, rather than impacts on the physical environment as defined by CEQA. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. Environmental documents should, however, address the secondary physical impacts that could be triggered by a social impact (CEQA-Guidelines § 15131(a).) The social inconvenience of parking deficits, such as having to hunt for scarce parking spaces, is not an environmental impact, but there may be secondary physical environmental impacts, such as increased traffic congestion at intersections, air quality impacts, safety impacts, or noise impacts caused by congestion. In the experience of San Francisco transportation planners, however, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, induces many drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service in particular, would be in keeping with the City's "Transit First" policy. The City's Transit First Policy, established in the City's Charter Section 16.102 provides that "parking policies for areas well served by public transit shall be designed to encourage travel by public transportation and alternative transportation." The project area is well-served by local public transit which provide alternatives to auto travel.

¹ U.S. Army Corps of Engineers, Los Angeles District and City of Los Angeles, Department of Recreation and Parks, *Hansen Dam Skate Park, Joint Environmental Assessment, Initial Study/Mitigated Negative Declaration*, Los Angeles County, January 2011.

The transportation analysis accounts for potential secondary effects, such as cars circling and looking for a parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is unavailable. Moreover, the secondary effects of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area. Hence, any secondary environmental impacts which may result from a shortfall in parking in the vicinity of the proposed project would be minor, and the traffic assignments used in the transportation analysis, as well as in the associated air quality, noise and pedestrian safety analyses, reasonably addresses potential secondary effects.

Pedestrian and Bicycle Conditions

The proposed project would not generate new p.m. peak-hour pedestrian or bicycle trips. Pedestrian activity would likely increase as a result of the project but not to a degree that could not be accommodated on local sidewalks or would result in safety concerns. Currently, cars entering and exiting the lot from Valencia cross bike lanes. The construction of the skate park would improve bicycle safety conditions since no cars would be crossing over the bike lanes.

The proposed project would not result in a significant increase in the number vehicles in the project vicinity and would not substantially affect bicycle travel in the area. The project would not adversely impact pedestrian and bicycle conditions.

Additionally, the project would not impede traffic or cause unsafe conditions, and would not result in a significant impact related to access. The project would not generate loading demands. Off-street loading spaces are not required for the proposed project. In summary, the project would not result in a significant impact with regard to transportation.

Water Quality

The proposed project would not generate wastewater or result in discharges that would have the potential to degrade water quality or contaminate a public water supply. No expansion is being proposed and no further review is required. Project-related wastewater and storm water would flow to the City's combined sewer system and would be treated to standards contained in the City's National Pollutant Discharge Elimination System (NPDES) Permit for the Southeast Water Pollution Control Plant prior to discharge. Therefore, the proposed project would not result in significant water quality impacts.

Air Quality

Air quality impacts generally fall into two categories: impacts from project operations and impacts from project construction. The proposed project would include the construction of a mini-park as well as a skatepark. Therefore, the project would not include significant pollutant emission sources when completed. Thus, its operational emissions would be minimal and no further air quality analysis with respect to project operations is required.

Construction-related air quality impacts from the proposed project were analyzed based on the Bay Area Air Quality Management District's (BAAQMD's) 2011 CEQA Air Quality Guidelines and thresholds of significance.² Construction of a mini park as well as a skate park would generate criteria air pollutants,

² BAAQMD, *California Environmental Quality Act Air Quality Guidelines*, updated May 2011. Available at <http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES.aspx>.

PM2.5,³ and other toxic air contaminants resulting from the project's construction vehicles and equipment. A screening-level analysis was performed to determine whether the proposed project would require additional air quality analysis.⁴ With respect to criteria air pollutant emissions, the proposed project would be well below the BAAQMD screening levels, and therefore quantitative analysis of criteria air pollutants is not required and the proposed project would not exceed the BAAQMD's criteria air pollutant thresholds of significance.⁵

The screening-level analysis identified the need for further analysis of the project's construction activities that emit PM2.5 emissions and other toxic air contaminants that may affect nearby sensitive receptors. Emissions from project-related construction activities were quantified in an air quality technical report in which both project construction and cumulative impacts were evaluated.⁶ This memorandum found that construction-related activities would result in PM2.5 emissions and health risks well below BAAQMD CEQA significance threshold, as shown in Table 1.

Table 1 – Construction-related PM2.5 and Health Risk Emissions

	Excess Cancer Risk per One Million	Non-Cancer Chronic Hazard Index	PM2.5 concentration Mg/m3
Project Construction	2.6	0.006	0.03
BAAQMD Project Significance Thresholds	10	1.0	0.8

Cumulative air quality impacts were also analyzed taking into account other construction projects, stationary sources, and major roadways within the zone of influence defined by the BAAQMD CEQA guidance for analysis of air quality impacts. The estimated cumulative cancer risk (73 in one million), chronic noncancer Hazard Index (0.07), and PM2.5 concentration (0.66 mg/m3) are below the BAAQMD CEQA threshold of 100 in one million increased cancer risk, 10, and 0.8 mg/m3, respectively.⁷ The proposed project would not result in a significant cumulative effect with respect to construction-related health risk.

Noise

Ambient noise levels in the vicinity of the project site are typical of noise levels in neighborhoods in San Francisco, which are dominated by vehicular traffic, including trucks, cars, Muni buses, emergency vehicles, and land use activities, such as commercial businesses and periodic temporary construction-related noise from nearby development, or street maintenance. Noises generated by future park uses are common and within the range of that which is generally accepted in urban areas and thus would not be

³ PM2.5 = particles less than 2.5 micrometers in diameter.

⁴ San Francisco Planning Department, *Air Quality Screening Analysis*, May 12, 2011. This report is available for review as part of Case No. 2011.0645E.

⁵ BAAQMD, *CEQA Air Quality Guidelines*, updated May 2011. Table 3-1.

⁶ Environ, *Project and Cumulative Health Risk Assessment, Skatepark/Mini-Park under the Central Freeway, San Francisco, California*, September 13, 2011. This report is available for review as part of Case No. 2011.0645E.

⁷ Environ, *Project and Cumulative Health Risk Assessment, Skatepark/Mini-Park under the Central Freeway, San Francisco, California*, September 13, 2011. This report is available for review as part of Case No. 2011.0645E.

considered a significant impact of the proposed project. An approximate doubling of traffic volumes in the area would be necessary to produce an increase in ambient noise levels noticeable to most people. The project would not cause a doubling in traffic volumes and therefore would not cause a noticeable increase in the ambient noise level in the project vicinity. The nearest residential use is approximately five feet away from the project site. The proposed construction could generate noise that may be considered an annoyance by occupants of nearby properties. Construction noise is regulated under Article 29 of the City's Police Code, and would be temporary and intermittent in nature. Considering the above discussion, the proposed project would not result in a significant impact with regard to noise.

The Environmental Protection Element of the San Francisco General Plan contains Land Use Compatibility for Noise.⁸ These guidelines, which are similar to but differ somewhat from state guidelines promulgated by the Governor's Office of Planning and Research, indicate maximum acceptable noise levels for various newly developed land uses. The guidelines indicate that for playgrounds and parks should be discouraged at noise level ranges from 68-77 dBA (Ldn). For sports areas and outdoor spectator sports, the guidelines discourage construction if the noise level ranges from 77 dBA (Ldn) and above.

Ambient traffic noise levels on Duboce (along the proposed Skate Park) are 75dBA or above. Despite having ambient traffic noise levels on adjacent streets within the range to discourage such uses, this impact would not have a significant impact as the open space would not attract visitors for extended periods of time or have overnight accommodations, and it would be reasonable from a health perspective to allow short-term park usage. Because the project would not be substantially affected by existing noise levels, the effect of this land use inconsistency with the General Plan would be considered less-than-significant.

Exempt Status

CEQA State Guidelines Section 15303, or Class 3, provides an exemption from environmental review for the construction and location of limited numbers of new, small facilities or structures and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The proposed project includes the conversion of an existing empty lot to a skatepark and mini-park where only minor modifications are being made. Therefore, the proposed project would be exempt under Class 3.

Conclusion

CEQA State Guidelines Section 15300.2 states that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. There are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect. The proposed project would have no significant environmental effects. Under the above-cited classifications, the proposed project is appropriately exempt from environmental review.

⁸ City and County of San Francisco, Planning Department, San Francisco General Plan, Environmental Protection Element, Policy 11.1



SAN FRANCISCO PLANNING DEPARTMENT

General Plan Referral

Date: March 6, 2013
Case No. Case No. 2011.0645R
Phase II South of Market Ancillary Projects:
Central Freeways Parks.

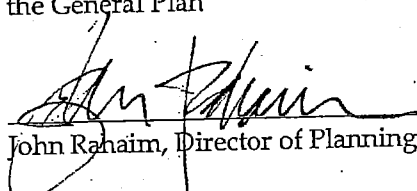
Block/Lot No.: 3513/071, 3513/074
Project Sponsor: Frank Filice
SFDPW
875 Stevenson Street
San Francisco, CA 94103

Applicant: Same as Above

Staff Contact: Amnon Ben-Pazi – (415) 575-9077
Amnon.Ben-Pazi@sfgov.org

Recommendation: Finding the project, on balance, is in conformity with
the General Plan

Recommended
By:


John Rahaim, Director of Planning

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The project is a lease and conversion of two lots owned by Caltrans into recreation facilities; a Mini-Park with basketball courts, play areas, a dog run, lighting and planting, and a Skate Park with skateboarding facilities; lighting and landscaping.

The submittal is for a General Plan Referral to recommend whether the Project is in conformity with the General Plan, pursuant to Section 4.105 of the Charter, and Section 2A.52 and 2A.53 of the Administrative Code.

SITE DESCRIPTION AND PRESENT USE

The project site consists of two separate lots located on either side of Stevenson Street, between McCoppin, Duboce, Mission and Valencia Streets, under the elevated Central Freeway. The lots are owned by Caltrans and currently used for automobile parking.

ENVIRONMENTAL REVIEW

On October 21, 2011, the Environmental Planning Section of the Planning Department determined that the proposed project is Categorically Exempt from Environmental Review under CEQA Class 3.

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

The project is, on balance, in conformity with the following Objectives and Policies of the General Plan:

MARKET AND OCTAVIA AREA PLAN

Objective 7.2: ESTABLISH A FUNCTIONAL, ATTRACTIVE AND WELL-INTEGRATED SYSTEM OF PUBLIC STREETS AND OPEN SPACES IN THE SOMA WEST AREA TO IMPROVE THE PUBLIC REALM.

The project site is within the SoMa West area, which is bounded by Market, 12th, Duboce and Valencia Streets. The proposed recreational facilities are well integrated with the adjacent streets, and their designs appear to be both functional and attractive. Sidewalks immediately adjacent to the project site under the elevated freeway structure often appear depopulated and forbidding. The mini-park and skatepark would provide recreational opportunities that are now unavailable in the immediate area, and are thus expected to generate additional foot-traffic and add visible activity and eyes-on-the-street, improving pedestrian comfort and perceived safety.

RECREATION AND OPEN SPACE ELEMENT

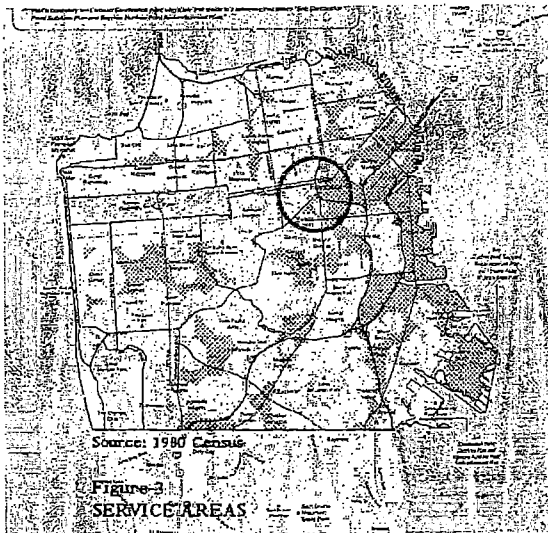
Objective 4: PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

Policy 4.4: Acquire and develop new public open space in existing residential neighborhoods, giving priority to areas which are most deficient in open space.

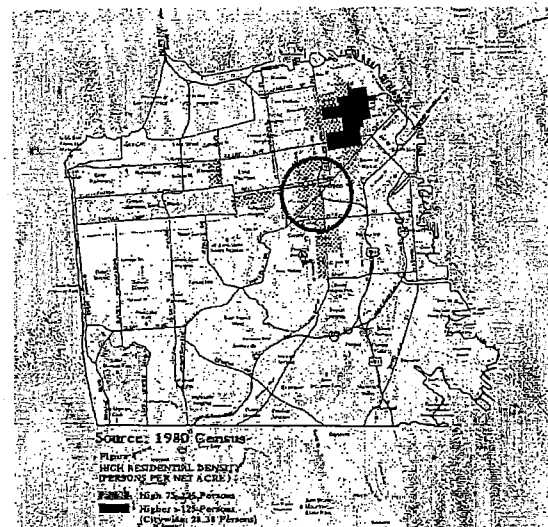
Figures 3 and 4 of Policy 4.4 show that the project site is in an under-served area with high residential density. Since the adoption of this policy the area surrounding the project site has been rezoned to allow increased residential density, but no new open space has been added in the immediate vicinity. The proposed recreational facilities would begin to address the deficiency in open space in the neighborhood.

Policy 4.4 Graphics

Figure 3 Needs Overlay



Residential Density Overlay



Policy 4.7: Provide open space to serve neighborhood commercial districts.

The project site is within an NCT-3 (moderate scale neighborhood commercial transit) district, centered on the Valencia and Mission Streets commercial corridors. The Mini-park is well integrated with the Valencia Street sidewalk and would provide a welcome link between businesses north and south of the elevated freeway. The Skatepark would provide activity and eyes-on-the-street along Duboce Street, and important pedestrian link between the Mission and Valencia commercial corridors.

RECOMMENDATION:

Finding the Project, on balance, in-conformity with the General Plan

