



SAN FRANCISCO PLANNING DEPARTMENT

April 24, 2018

Ms. Angela Calvillo, Clerk
Honorable Supervisor Kim
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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**Re: Transmittal of Planning Department Case Number: 2018-001968PCA
Legitimization and Reestablishment of Certain Self-Storage Uses
Board File No. 180086
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Kim,

On April 19, 2018, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend the Planning Code to allow the owner of premises leased to the City and County of San Francisco for a public safety-related use to resume a pre-existing Self-Storage use after the City vacates the property, introduced by Supervisor Kim. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

- 1. Reorganize the legislation to follow a chronological order for permitting and process.**
As currently drafted, the legislation is unclear as to the order of the processes that shall be adhered to. Re-organizing the sections in a chronological format will create a clear and concise process.
- 2. Remove several requirements for legitimizing the existing Self-Storage use in Section 183(c)(4).** Several of the requirements necessary for obtaining a permit to establish the existing Self-Storage use are repetitive, unnecessary, or inaccurate.
 - **Section 183(c)(4)(B)(i):** This provision should be removed as it is repetitive while also being less inclusive than Section 183(c)(4)(B)(iii).
 - **Section 183(c)(4)(B)(ii):** This provision should be removed. Although the building permit filed at the property in 2011 (see "Background" section) stated that the existing and future use were "storage", the Planning Department cannot at this time definitively determine that the use was established before the zoning did not allow Self-Storage uses.
 - **Section 183(c)(4)(B)(iii):** This provision should be edited to remove the condition that the Self-Storage use had been in operation for at least 5 years prior to this legislation. Similarly to the edits to provision (ii) above, the Department cannot, at this time definitively determine that the use was established at least 5 years ago.

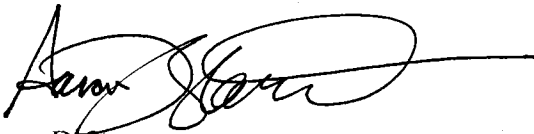
3. **Clarify the fees owed in Section 183(c)(4)(C).** The Transit Impact Development Fee is the only impact fee that applies to the building permit required to establish the property as a legal nonconforming Self-Storage use. The language that refers to the owner's payment of "any and all fees" is unclear. This language should be removed and the rest of the section should be re-organized to clarify which fees are owed.
4. **Add language where applicable to clarify notice and discretionary review of permits.** The legislation as proposed states that the permit required to re-establish the legal nonconforming Self-Storage Use after the City vacates the property will not be subject to notice (such as Section 312), or discretionary review. Language should be added to clarify that the permit to first establish the property as a legal nonconforming Self-Storage use and the permit to establish the Public Use shall also be exempt from notice such as Section 312 and discretionary review. The entirety of this legislation depends on the timely issuance of these permits. This legislation is part of the lease negotiation between the City and the property owner. In order for the City to show good faith, it should ensure that there is an open path for the property owner to obtain the necessary permits and re-establish the Self-Storage use after the termination of the lease.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



Aaron D. Starr
Manager of Legislative Affairs

cc:

Judy Boyajian, Deputy City Attorney
Moses Corrette, Aide to Supervisor Kim
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 20155 HEARING DATE APRIL 19, 2018

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Project Name: **Legitimization and Reestablishment of Certain Self-Storage Uses**
Case Number: **2018-001968PCA [Board File No. 180086]**
Initiated by: Supervisor Kim / Introduced January 23, 2018
Reintroduced April 10, 2018
Staff Contact: Audrey Butkus, Legislative Affairs
audrey.butkus@sfgov.org, (415) 575-9129
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO ALLOW THE OWNER OF PREMISES LEASED TO THE CITY AND COUNTY OF SAN FRANCISCO FOR A PUBLIC SAFETY-RELATED USE TO RESUME A PRE-EXISTING SELF-STORAGE USE AFTER THE CITY VACATES THE PROPERTY WITHOUT REGARD TO WHETHER THAT SELF-STORAGE USE WAS ESTABLISHED WITH BENEFIT OF PERMIT; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND GENERAL WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on April 10, 2018, Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180086, which would amend to allow the owner of premises leased to the City and County of San Francisco for a public safety-related use to resume a pre-existing Self-Storage use after the City vacates the property without regard to whether that Self-Storage use was established with benefit of permit;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on April 19, 2018; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors approve with **modification** the proposed ordinance.

The modifications include the following:

1. **Reorganize the legislation to follow a chronological order for permitting and process.** As currently drafted, the legislation is unclear as to the order of the processes that shall be adhered to. Re-organizing the sections in a chronological format will create a clear and concise process.
2. **Remove several requirements for legitimizing the existing Self-Storage use in Section 183(c)(4).** Several of the requirements necessary for obtaining a permit to establish the existing Self-Storage use are repetitive, unnecessary, or inaccurate.
 - **Section 183(c)(4)(B)(i):** This provision should be removed as it is repetitive while also being less inclusive than Section 183(c)(4)(B)(iii).
 - **Section 183(c)(4)(B)(ii):** This provision should be removed. Although the building permit filed at the property in 2011 (see "Background" section) stated that the existing and future use were "storage", the Planning Department cannot at this time definitively determine that the use was established before the zoning did not allow Self-Storage uses.
 - **Section 183(c)(4)(B)(iii):** This provision should be edited to remove the condition that the Self-Storage use had been in operation for at least 5 years prior to this legislation. Similarly to the edits to provision (ii) above, the Department cannot, at this time definitively determine that the use was established at least 5 years ago.
3. **Clarify the fees owed in Section 183(c)(4)(C).** The Transit Impact Development Fee is the only impact fee that applies to the building permit required to establish the property as a legal nonconforming Self-Storage use. The language that refers to the owner's payment of "any and all fees" is unclear. This language should be removed and the rest of the section should be re-organized to clarify which fees are owed.
4. **Add language where applicable to clarify notice and discretionary review of permits.** The legislation as proposed states that the permit required to re-establish the legal nonconforming Self-Storage Use after the City vacates the property will not be subject to notice (such as Section 312), or discretionary review. Language should be added to clarify that the permit to first establish the property as a legal nonconforming Self-Storage use and the permit to establish the Public Use shall also be exempt from notice such as Section 312 and discretionary review. The entirety of this legislation depends on the timely issuance of these permits. This legislation is being constructed as an aspect of the lease negotiation between the City and the property owner and must be done so in the good faith effort that the City will keep the path open for the property owner to obtain all necessary permits and re-establish their Self-Storage use after the termination of the lease.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that adding LRV's to the Car-Share Program is in line with the City's mission to expand sustainable modes of transportation, adopting the Transit First policy over four decades ago and establishing a goal to have 50% of all trips made through sustainable modes by 2018. Small, emission-free vehicles (as LRV's will be under the amendments requested by Supervisor Breed for LRV's to be zero-emission vehicles) occupy far less space and consume far less energy than private automobiles. They are a sustainable mode whose use San Francisco seeks to encourage.
2. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

GENERAL PLAN PRIORITIES

The General Plan seeks ensure that the qualities that make San Francisco unique are preserved and enhanced while also serving as the embodiment of the community's vision for the future of San Francisco. As a whole, the General Plan's goals are to: create and maintain the economic, social, cultural, and esthetic values that establish the desirable quality and unique character of the city; improve the city as a place for healthful, safe, and satisfying living by providing adequate open spaces, community facilities and affordable housing of a high standard; ensuring commerce and industry are able to thrive; coordinating the varied patterns of land use with circulation routes and facilities that are required for the efficient movement of people and goods; and reflecting the growth and development of the city with the surrounding region.

The proposed Ordinance will assist in creating a safe and healthful working and living environment for the employees and inmates at the Hall of Justice by aiding to the process of relocating people and materials.

COMMUNITY SAFETY ELEMENT

OBJECTIVE 1

REDUCE STRUCTURAL AND NONSTRUCTURAL HAZARDS TO LIFE SAFETY AND MINIMIZE PROPERTY DAMAGE RESULTING FROM FUTURE DISASTERS.

Policy 1.13

Reduce the risks presented by the City's most vulnerable structures, particularly privately owned buildings and provide assistance to reduce those risks.

The City's Hall of Justice, located at 850 Bryant Street, was constructed in 1958, and is seismically deficient. Due to the aging infrastructure, the Hall of Justice also has serious health, safety and working condition problems, requiring significant renovation and capital investment. The City's Justice Facilities Improvement Program calls a full relocation of all City departments from the Hall of Justice into new City facilities by 2024. However, in January of 2017, given the serious concerns about the safety and working conditions in the building, the City Administrator declared the offices and jail located at the Hall of Justice be closed as quickly as possible (ideally by the end of 2019). The proposed legislation would allow the City to

move forward with a much needed lease agreement for the space at 777 Brannan. The transfer of evidence storage files to the facility at 777 Brannan is a vital piece of the urgently needed move of staff and resources out of the Hall of Justice.

COMMUNITY FACILITIES ELEMENT

OBJECTIVE 1

DISTRIBUTE, LOCATE, AND DESIGN POLICE FACILITIES IN A MANNER THAT WILL ENHANCE THE EFFECTIVE, EFFICIENT AND RESPONSIVE PERFORMANCE OF POLICE FUNCTIONS.

Policy 1.4

Distribute, locate, and design police support facilities so as to maximize their effectiveness, use, and accessibility for police personnel.

The proposed Ordinance will enable the Police Department to relocate their evidence storage to a location ideal for continued efficient use due to 777 Brannan's location just one block from the Hall of Justice.

Policy 1.4

Design facilities to allow for flexibility, future expansion, full operation in the event of a seismic emergency.

The proposed Ordinance aids in the implementation of the Hall of Justice move due to the seismic instability of the structure. The Ordinance allows the move of Police Department evidence storage to be removed from the Hall of Justice in order to demolish and reconstruct the building to seismic safety standards.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 7

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL AND REGIONAL CENTER FOR GOVERNMENTAL, HEALTH, AND EDUCATIONAL SERVICES.

Policy 7.1

Promote San Francisco, particularly the civic center, as a location for local, regional, state and federal governmental functions.

In a manner similar to other economic functions such as office uses and institutions, physical proximity of various governmental activities is important to the efficient functioning of daily activities of related agencies. The proposed Ordinance will assist the Police Department in continuing their operations during the Hall of Justice construction. The Ordinance helps strengthen the locational advantages of clustering of governmental services.

WESTERN SOMA AREA PLAN

OBJECTIVE 1.2

ENCOURAGE PRESERVATION OF EXISTING AND VIABLY APPROPRIATE NEW LAND USES IN LOCATIONS THAT PROVIDE THE GREATEST OPPORTUNITIES FOR SUCCESS AND MINIMIZE CONFLICT WITH RESIDENTIAL USES.

Policy 1.2.4

Prohibit housing outside of designated Residential Enclave Districts (RED) south of Harrison Street.

The proposed Ordinance will continue to prohibit housing in Western SOMA, in the area south of Harrison Street.

3. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.


8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

4. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 19, 2018.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Melgar, Fong, Johnson, Koppel, Moore, Richards

NOES: None

ABSENT: None

ADOPTED: April 19, 2018



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: APRIL 19, 2018
EXPIRATION DATE: JULY 9, 2018

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Staff Contact: Audrey Butkus, Legislative Affairs
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Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to allow the owner of premises leased to the City and County of San Francisco for a public safety-related use to resume a pre-existing Self-Storage use after the City vacates the property. This would be allowed without regard to whether that Self-Storage use was established with benefit of permit. The facility will be leased for the purpose of storing Police Department evidence while the Hall of Justice is rebuilt.

The Way It Is Now:

1. The Service/Arts/Light Industrial (SALI) Zoning District does not allow Self-Storage uses. Self-Storage has not been permitted since the establishment of the SALI District in 2013.
2. The property at 777 Brannan Street has been operating as a Self-Storage Use since 2011. "Storage" was a permitted use at the likely time of its establishment, however there is no sufficient evidence that this Self-Storage use was established with proper permitting.

The Way It Would Be:

1. The Service/Arts/Light Industrial (SALI) Zoning District would allow Self-Storage uses to re-establish after having been abandoned under specific conditions including:
 - a. The subject property must be located within 1,000 ft. of the South of Market Special Hall of Justice Legal Services District;
 - b. The purpose of the abandonment of the Self-Storage use is due to entering into a lease with the City for the sole occupancy by the City for a public safety related use;
 - c. Have been operating as a Self-Storage use for at least five years prior to abandonment for the public safety use;

- d. Would have been a permitted use or allowed through a Conditional Use authorization at the time of its establishment as a Self-Storage use;
 - e. Applies for and obtains any necessary permits to re-establish the Self-Storage use within one year of the City vacating the property;
 - f. Resumes operations as a Self-Storage use within two years of the City vacating the property
2. The property at 777 Brannan Street would be eligible to establish itself as a legal non-conforming Self-Storage use contingent on the payment of the Transit Impact Development Fee owed at the time the use was first established, and the property would be allowed to re-establish the legal non-conforming Self-Storage use after the City's vacation of the property.

BACKGROUND

777 Brannan was rezoned in March of 2013 as part of the Western South of Market Area Plan. Previously, the subject parcel had been zoned Service/Light Industrial (SLI). Under the previous zoning, Storage uses were permitted.

The Storage use was likely established at the subject property around August of 2011; however, the only evidence of the use change lies in a building permit wherein the applicant describes the current and proposed use as "storage". The permit itself was to demolish partitions and install an ADA accessible bathroom. The permit was *not* a change of use permit. Google imaging helped staff determine that the Storage use was not established before March of 2011. Before the Storage use was established, the property's recorded use was a poultry processing plant with office space.

The Hall of Justice will be demolished due to its extreme seismic vulnerability and significant plumbing and vermin issues. As such, all current offices and records will need to be moved. The Police Department currently stores their evidence files in the Hall of Justice. On October 31, 2017, the Board of Supervisors authorized the Director of Real Estate to negotiate a lease for the property at 777 Brannan for the full use of the property as an evidence storage facility. The lease is for 10 years from July 1, 2018 through June 30, 2028 with two, five-year options to extend to June 2038. The initial lease also gives the City a first purchase option should the property owner decide to sell.

On January 23, 2018, Supervisor Kim introduced legislation that would allow legal non-conforming Self-Storage uses located in the SALI District to re-establish their Self-Storage use after termination of a City lease for the purposes of use by the City for a public safety related use.

On February 21, 2018, the property owner submitted a request for a Zoning Administrator Letter of Determination. In that letter, the Zoning Administrator determined that the applicants had not presented enough evidence to prove that the Self-Storage use was *legally* established prior to the establishment of the SALI Zoning District.

On April 10, 2018 Supervisor Kim introduced substitute legislation that would clarify that the legislation would apply to Self-Storage Uses whether they were established with or without the benefit of a permit.

ISSUES AND CONSIDERATIONS

The Condition of the Hall of Justice:

The City’s Hall of Justice, located at 850 Bryant Street, was constructed in 1958, and is seismically deficient. Due to the aging infrastructure, the Hall of Justice also has serious health, safety and working condition problems, requiring significant renovation and capital investment. The City’s Justice Facilities Improvement Program calls for a full relocation of all City departments from the Hall of Justice into new City facilities by 2024; however, in January of 2017, given the serious concerns about the safety and working conditions in the building, the City Administrator declared the offices and jail located at the Hall of Justice be closed as quickly as possible (ideally by the end of 2019). The Hall of Justice currently houses the State Superior Court and five City departments: the District Attorney’s Office, Adult Probation, various offices of the Police Department, Office of the Chief Medical Examiner, and the Sheriff’s Department (County Jails #3 and #4).

Conflicts with Mayor Lee’s Five-Point Plan for PDR

While this legislation is inconsistent with Mayor Lee’s Five-Point Plan for PDR, there are other extenuating circumstances that should be considered when evaluating this proposal. Specifically the Mayor’s Five-Point plan speaks of “*Upgrading existing PDR space to encourage job-dense industrial uses in manufacturing and distribution over less intensive uses such as storage.*” This proposal would take a building who’s last know use was a PDR use (chicken processing) and allow it to be occupied by a non-PDR use (self-storage) after the City leaves the premises; however, the property has been identified by the Office of Real-estate to be the *only* viable option for Police Department’s evidence storage due to the physical nature of the building and its proximity to the Hall of Justice. The Office of Real Estate has worked for over a year to negotiate a lease to secure the property at 777 Brannan, and has repeatedly emphasized the importance of securing a lease at 777 Brannan. As the conditions at the Hall of Justice continue to deteriorate, it becomes increasingly important to prevent any unnecessary delays in moving employees and records out of that building.

Implementation:

The Ordinance as amended to include staff’s modifications would not impact our current implementation procedures. The Ordinance as currently written may complicate the Department’s implementation procedures due to the subject property’s lack of a concise zoning history and vague language regarding the fees and process required.

Mechanics of Implementation:

If the subject legislation is approved (with or without the modifications proposed by staff), the process for 777 Brannan would be as follows:

When the Ordinance Becomes Effective: The property owner of 777 Brannan will be required to apply for and obtain a change of use permit to establish the current use as a legal non-conforming Self-Storage use. The property owner would be required to pay the impact fee of approximately \$70,000 (which would have been the impact fee owed if the property owner had legally established this use in 2012).

Before the City’s Use for Public Use: The property would be required to obtain a change of use permit from “legal nonconforming Self-Storage” to “Public Use”.

Once the City vacates the property: The property owner would be required to apply for and obtain a change of use permit to reestablish itself as a legal-nonconforming Self-Storage use within one year of the City vacating the property. The property owner would be required to begin operating as a Self-Storage use within 2 years of the city vacating the property.

None of the above permits would be subject to notice, including Section 312 or discretionary review so long as the scope of work in said permits was limited to the above.

General Plan Priorities:

The proposed Ordinance is consistent with the following objectives and policies of the General Plan:

COMMUNITY SAFETY ELEMENT

OBJECTIVE 1

REDUCE STRUCTURAL AND NONSTRUCTURAL HAZARDS TO LIFE SAFETY AND MINIMIZE PROPERTY DAMAGE RESULTING FROM FUTURE DISASTERS.

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In a manner similar to other economic functions such as office uses and institutions, physical proximity of various governmental activities is important to the efficient functioning of daily activities of related agencies. The proposed Ordinance will assist the Police Department in continuing their operations during the Hall of Justice construction. The Ordinance helps strengthen the locational advantages of clustering of governmental services.

WESTERN SOMA AREA PLAN

OBJECTIVE 1.2

ENCOURAGE PRESERVATION OF EXISTING AND VIABLY APPROPRIATE NEW LAND USES IN LOCATIONS THAT PROVIDE THE GREATEST OPPORTUNITIES FOR SUCCESS AND MINIMIZE CONFLICT WITH RESIDENTIAL USES.

Policy 1.2.4

Prohibit housing outside of designated Residential Enclave Districts (RED) south of Harrison Street.

The proposed Ordinance will continue to prohibit housing in Western SOMA, in the area south of Harrison Street.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

The Planning Department recommends the following modifications, which are further illustrated in Exhibit B as proposed text for additional clarity:

1. **Reorganize the legislation to follow a chronological order for permitting and process.** As currently drafted, the legislation is unclear as to the order of the processes that shall be adhered to. Re-organizing the sections in a chronological format will create a clear and concise process.
2. **Remove several requirements for legitimizing the existing Self-Storage use in Section 183(c)(4).** Several of the requirements necessary for obtaining a permit to establish the existing Self-Storage use are repetitive, unnecessary, or inaccurate.
 - **Section 183(c)(4)(B)(i):** This provision should be removed as it is repetitive while also being less inclusive than Section 183(c)(4)(B)(iii).
 - **Section 183(c)(4)(B)(ii):** This provision should be removed. Although the building permit filed at the property in 2011 (see “Background” section) stated that the existing and future use were “storage”, the Planning Department cannot at this time definitively determine that the use was established before the zoning did not allow Self-Storage uses.
 - **Section 183(c)(4)(B)(iii):** This provision should be edited to remove the condition that the Self-Storage use had been in operation for at least 5 years prior to this legislation. Similarly to the edits to provision (ii) above, the Department cannot, at this time definitively determine that the use was established at least 5 years ago.
3. **Clarify the fees owed in Section 183(c)(4)(C).** The Transit Impact Development Fee is the only impact fee that applies to the building permit required to establish the property as a legal nonconforming Self-Storage use. The language that refers to the owner’s payment of “any and all fees” is unclear. This language should be removed and the rest of the section should be re-organized to clarify which fees are owed.
4. **Add language where applicable to clarify notice and discretionary review of permits.** The legislation as proposed states that the permit required to re-establish the legal nonconforming Self-Storage Use after the City vacates the property will not be subject to notice (such as Section 312), or discretionary review. Language should be added to clarify that the permit to first establish the property as a legal nonconforming Self-Storage use and the permit to establish the Public Use shall also be exempt from notice such as Section 312 and discretionary review. The entirety of this legislation depends on the timely issuance of these permits. This legislation is part of the lease negotiation between the City and the property owner. In order for the City to show good faith, it should ensure that there is an open path for the property owner to obtain the necessary permits and re-establish the Self-Storage use after the termination of the lease.

BASIS FOR RECOMMENDATION

Although the proposed legislation may not align with several City policies under normal circumstances, the proposed legislation does not represent normal circumstances. The proposed legislation, if approved with modifications recommended by staff, would allow the City to move forward with a much needed lease agreement for the space at 777 Brannan. The transfer of evidence storage files to the facility at 777 Brannan is a vital piece of the urgently needed move of staff and resources out of the failing Hall of Justice. Although the approval of this legislation will mean that the space at 777 Brannan retains a right to remain Self-Storage after the City vacates the property, the legislation is narrowly constructed which ensures other nonconforming Self-Storage Uses are not permitted to retain their Self-Storage use after abandonment of the use. The narrow writing of this Ordinance safeguards Mayor Lee’s goal of continued development of creative and neighborhood enhancing PDR uses in the rest of the SALI District.

The proposed legislation is also aligned with many aspects of the General Plan including the Community Facilities policy to locate Police facilities in a manner that will enhance the effective, efficient, and responsive performance of Police functions, and the Community Safety policy to reduce the risks presented by the City’s most vulnerable structures, particularly privately owned buildings and provide assistance to reduce those risks.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

RECOMMENDATION:	Recommendation of Approval with Modifications
------------------------	--

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Legislation with all Planning Department Recommended Modifications
- Exhibit C: Board Packet for File No. 171110
- Exhibit D: Board of Supervisors File No. 180086 (version 2)



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE APRIL 19, 2018

Project Name: **Legitimization and Reestablishment of Certain Self-Storage Uses**
Case Number: **2018-001968PCA [Board File No. 180086]**
Initiated by: **Supervisor Kim / Introduced January 23, 2018**
Reintroduced April 10, 2018
Staff Contact: **Audrey Butkus, Legislative Affairs**
audrey.butkus@sfgov.org, (415) 575-9129
Reviewed by: **Aaron Starr, Manager of Legislative Affairs**
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

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

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415.558.6378

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415.558.6409

Planning
Information:
415.558.6377

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO ALLOW THE OWNER OF PREMISES LEASED TO THE CITY AND COUNTY OF SAN FRANCISCO FOR A PUBLIC SAFETY-RELATED USE TO RESUME A PRE-EXISTING SELF-STORAGE USE AFTER THE CITY VACATES THE PROPERTY WITHOUT REGARD TO WHETHER THAT SELF-STORAGE USE WAS ESTABLISHED WITH BENEFIT OF PERMIT; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1; AND ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND GENERAL WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on April 10, 2018, Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180086, which would amend to allow the owner of premises leased to the City and County of San Francisco for a public safety-related use to resume a pre-existing Self-Storage use after the City vacates the property without regard to whether that Self-Storage use was established with benefit of permit;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on April 19, 2018; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modification** the proposed ordinance.

The modifications include the following:

1. **Reorganize the legislation to follow a chronological order for permitting and process.** As currently drafted, the legislation is unclear as to the order of the processes that shall be adhered to. Re-organizing the sections in a chronological format will create a clear and concise process.
2. **Remove several requirements for legitimizing the existing Self-Storage use in Section 183(c)(4).** Several of the requirements necessary for obtaining a permit to establish the existing Self-Storage use are repetitive, unnecessary, or inaccurate.
 - **Section 183(c)(4)(B)(i):** This provision should be removed as it is repetitive while also being less inclusive than Section 183(c)(4)(B)(iii).
 - **Section 183(c)(4)(B)(ii):** This provision should be removed. Although the building permit filed at the property in 2011 (see “Background” section) stated that the existing and future use were “storage”, the Planning Department cannot at this time definitively determine that the use was established before the zoning did not allow Self-Storage uses.
 - **Section 183(c)(4)(B)(iii):** This provision should be edited to remove the condition that the Self-Storage use had been in operation for at least 5 years prior to this legislation. Similarly to the edits to provision (ii) above, the Department cannot, at this time definitively determine that the use was established at least 5 years ago.
3. **Clarify the fees owed in Section 183(c)(4)(C).** The Transit Impact Development Fee is the only impact fee that applies to the building permit required to establish the property as a legal nonconforming Self-Storage use. The language that refers to the owner’s payment of “any and all fees” is unclear. This language should be removed and the rest of the section should be re-organized to clarify which fees are owed.
4. **Add language where applicable to clarify notice and discretionary review of permits.** The legislation as proposed states that the permit required to re-establish the legal nonconforming Self-Storage Use after the City vacates the property will not be subject to notice (such as Section 312), or discretionary review. Language should be added to clarify that the permit to first establish the property as a legal nonconforming Self-Storage use and the permit to establish the Public Use shall also be exempt from notice such as Section 312 and discretionary review. The entirety of this legislation depends on the timely issuance of these permits. This legislation is being constructed as an aspect of the lease negotiation between the City and the property owner and must be done so in the good faith effort that the City will keep the path open for the property

owner to obtain all necessary permits and re-establish their Self-Storage use after the termination of the lease.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that adding LRV's to the Car-Share Program is in line with the City's mission to expand sustainable modes of transportation, adopting the Transit First policy over four decades ago and establishing a goal to have 50% of all trips made through sustainable modes by 2018. Small, emission-free vehicles (as LRV's will be under the amendments requested by Supervisor Breed for LRV's to be zero-emission vehicles) occupy far less space and consume far less energy than private automobiles. They are a sustainable mode whose use San Francisco seeks to encourage.
2. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

GENERAL PLAN PRIORITIES

The General Plan seeks ensure that the qualities that make San Francisco unique are preserved and enhanced while also serving as the embodiment of the community's vision for the future of San Francisco. As a whole, the General Plan's goals are to: create and maintain the economic, social, cultural, and esthetic values that establish the desirable quality and unique character of the city; improve the city as a place for healthful, safe, and satisfying living by providing adequate open spaces, community facilities and affordable housing of a high standard; ensuring commerce and industry are able to thrive; coordinating the varied patterns of land use with circulation routes and facilities that are required for the efficient movement of people and goods; and reflecting the growth and development of the city with the surrounding region.

The proposed Ordinance will assist in creating a safe and healthful working and living environment for the employees and inmates at the Hall of Justice by aiding to the process of relocating people and materials.

COMMUNITY SAFETY ELEMENT

OBJECTIVE 1

REDUCE STRUCTURAL AND NONSTRUCTURAL HAZARDS TO LIFE SAFETY AND MINIMIZE PROPERTY DAMAGE RESULTING FROM FUTURE DISASTERS.

Policy 1.13

Reduce the risks presented by the City's most vulnerable structures, particularly privately owned buildings and provide assistance to reduce those risks.

The City's Hall of Justice, located at 850 Bryant Street, was constructed in 1958, and is seismically deficient. Due to the aging infrastructure, the Hall of Justice also has serious health, safety and working condition problems, requiring significant renovation and capital investment. The City's Justice Facilities Improvement Program calls a full relocation of all City departments from the Hall of Justice into new City

facilities by 2024. However, in January of 2017, given the serious concerns about the safety and working conditions in the building, the City Administrator declared the offices and jail located at the Hall of Justice be closed as quickly as possible (ideally by the end of 2019). The proposed legislation would allow the City to move forward with a much needed lease agreement for the space at 777 Brannan. The transfer of evidence storage files to the facility at 777 Brannan is a vital piece of the urgently needed move of staff and resources out of the Hall of Justice.

COMMUNITY FACILITIES ELEMENT

OBJECTIVE 1

DISTRIBUTE, LOCATE, AND DESIGN POLICE FACILITIES IN A MANNER THAT WILL ENHANCE THE EFFECTIVE, EFFICIENT AND RESPONSIVE PERFORMANCE OF POLICE FUNCTIONS.

Policy 1.4

Distribute, locate, and design police support facilities so as to maximize their effectiveness, use, and accessibility for police personnel.

The proposed Ordinance will enable the Police Department to relocate their evidence storage to a location ideal for continued efficient use due to 777 Brannan's location just one block from the Hall of Justice.

Policy 1.4

Design facilities to allow for flexibility, future expansion, full operation in the event of a seismic emergency.

The proposed Ordinance aids in the implementation of the Hall of Justice move due to the seismic instability of the structure. The Ordinance allows the move of Police Department evidence storage to be removed from the Hall of Justice in order to demolish and reconstruct the building to seismic safety standards.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 7

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL AND REGIONAL CENTER FOR GOVERNMENTAL, HEALTH, AND EDUCATIONAL SERVICES.

Policy 7.1

Promote San Francisco, particularly the civic center, as a location for local, regional, state and federal governmental functions.

In a manner similar to other economic functions such as office uses and institutions, physical proximity of various governmental activities is important to the efficient functioning of daily activities of related agencies. The proposed Ordinance will assist the Police Department in continuing their operations

during the Hall of Justice construction. The Ordinance helps strengthen the locational advantages of clustering of governmental services.

WESTERN SOMA AREA PLAN

OBJECTIVE 1.2

ENCOURAGE PRESERVATION OF EXISTING AND VIABLY APPROPRIATE NEW LAND USES IN LOCATIONS THAT PROVIDE THE GREATEST OPPORTUNITIES FOR SUCCESS AND MINIMIZE CONFLICT WITH RESIDENTIAL USES.

Policy 1.2.4

Prohibit housing outside of designated Residential Enclave Districts (RED) south of Harrison Street.

The proposed Ordinance will continue to prohibit housing in Western SOMA, in the area south of Harrison Street.

3. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors

from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

4. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 19, 2018.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: April 19, 2018

EXHIBIT B: Legislation with all Planning Department Recommended Modifications

[Planning Code - Legitimization and Reestablishment of Certain Self-Storage Uses]

Ordinance amending the Planning Code to allow the owner of premises leased to the City and County of San Francisco for a public safety-related use to resume a pre-existing Self-Storage use after the City vacates the property without regard to whether that Self-Storage use was established with benefit of permit; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

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

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
3 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
5 ordinance will serve the public necessity, convenience, and general welfare for the reasons
6 stated in Planning Commission Resolution No. _____ and the Board adopts said reasons
7 herein by reference.

8
9 Section 2. The Planning Code is hereby amended by revising Section 183, to read as
10 follows:

11 **SEC. 183. NONCONFORMING USES: DISCONTINUANCE AND ABANDONMENT.**

12 (a) **Discontinuance and Abandonment of a Nonconforming Use, Generally.**

13 Whenever a nonconforming use has been changed to a conforming use, or discontinued for a
14 continuous period of three years, or whenever there is otherwise evident a clear intent on the
15 part of the owner to abandon a nonconforming use, such use shall not after being so
16 changed, discontinued, or abandoned be reestablished, and the use of the property thereafter
17 shall be in conformity with the use limitations of this Code for the district in which the property
18 is located. Where no enclosed building is involved, discontinuance of a nonconforming use for
19 a period of six months shall constitute abandonment. Where a Massage Establishment is
20 nonconforming for the reason that it is within 1,000 feet of another such establishment or
21 because it is no longer permitted within the district, discontinuance for a continuous period of
22 three months or change to a conforming use shall constitute abandonment.

23 * * * *

24 (c) *Discontinuance or Abandonment of Self-Storage Use Due to City and County*
25 *Occupancy. As a result of the Western South of Market Area Plan, certain land uses that were*

1 previously permitted, particularly Self-Storage, are no longer permitted. The purpose of this Section is
2 to establish a time-limited program wherein certain Self-Storage uses that have operated without the
3 benefit of required permits may seek those permits.

4 (1) **Legitimization of Existing Use.** In the case of a Self-Storage use that has
5 operated without the benefit of required permit, such Self-Storage use may seek and be granted such
6 permit which shall not be subject to the notification requirements of Section 312 or other notification
7 requirements of this Code, and no requests for discretionary review of the building permit shall be
8 accepted by the Planning Department or heard by the Planning Commission, notwithstanding the
9 limitations of Section 846.48 of this Code and pursuant to the provisions set forth above in subsection
10 (c)(1) of this Section 183, so long as such permit:

11 (A) is filed for a property located within (i) the Service/Arts/Light Industrial
12 Zoning District and (ii) 1,000 feet of the South Of Market Special Hall Of Justice Legal Services
13 District; and

14 (B) relates to a Self-Storage use which the Zoning Administrator determines
15 (i) has been regularly operating or functioning prior to the effective date of this Subsection; and (ii) is
16 not accessory to any other use; and

17 (C) is issued subsequent to the owner's payment of the Transit Impact
18 Development Fee that would have been due at the time of the original establishment of the existing
19 Self-Storage use; and

20 (D) is issued prior to the earlier of (i) commencement of occupancy by the
21 City for a public-safety related purpose or (ii) issuance of any required building permit to establish the
22 public-safety related use. In the case that the permit required to "legitimize" the Self-Storage use is not
23 issued as set forth in this subsection (c)(1), the existing Self-Storage use shall be deemed irrevocably
24 abandoned.

1 (2) Notice and Discretionary Review of the Building Permit change of use to
2 Public Use. Any building permit required for the purpose of the City's occupancy for a public safety-
3 related purpose classified as a Public Use under Section 890.80 of the Planning Code shall not be
4 subject to the notification requirements of Section 312 or other notification requirements of this Code,
5 and no requests for discretionary review of the building permit shall be accepted by the Planning
6 Department or heard by the Planning Commission.

7 (3) Re-Establishment of Self-Storage Use. An existing nonconforming Self-Storage
8 use or a Self-Storage use that is legitimized pursuant to subsection (c)(1) that is changed to a public
9 safety-related use, due solely to occupancy by the City and County of San Francisco acting through any
10 of its departments, shall not be considered discontinued or abandoned for purposes of subsection (a)
11 above or any other provision of this Code and the property owner may resume use of the premises as a
12 Self-Storage use after the City vacates the property, provided that: (i) the City's occupancy was for a
13 public safety-related purpose classified as a Public Use under Section 890.80 of the Planning Code and
14 (ii) the property owner resumes the Self-Storage use within two years from the later of (I) the date the
15 City vacated the property or (II) the date the City's lease for the property was terminated. The property
16 owner shall apply for and obtain any permits required to resume the Self-Storage use within one year
17 from the date the City vacates the property.

18 (4) Notice and Discretionary Review of the Building Permit. If a building permit is
19 required to resume the pre-existing Self-Storage use after the City vacates the property and the permit
20 application is limited to its reestablishment, the permit shall not be subject to the notification
21 requirements of Section 312 or other notification requirements of this Code, and no requests for
22 discretionary review of the building permit shall be accepted by the Planning Department or heard by
23 the Planning Commission.

1 (5) Extensions of Time.

2 (A) If a permit to resume the pre-existing Self-Storage use is issued but
3 delayed due to an action before the Board of Appeals or other City agency, or a case in any court of
4 competent jurisdiction, the time to resume such pre-existing use shall be extended by the amount of time
5 final action on the permit was delayed.

6 (B) The Zoning Administrator may grant one or more extensions of the time
7 within which the pre-existing Self-Storage use must be resumed if the owner or owners of the property
8 have made a good-faith effort to comply but are unable to do so for reasons that are not within their
9 control.

10 (4) Notice. The Planning Department shall provide written notice to the owner of
11 record of any property that is within the scope of Section 183(c) of any proposed legislation to
12 substantively amend this Section 183(c) prior to a hearing thereon by the Planning Commission,
13 provided that the property owner has sent a written request for said notice to the Zoning Administrator.

14
15 Section 3. Effective Date. This ordinance shall become effective 30 days after
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
18 of Supervisors overrides the Mayor's veto of the ordinance

19
20 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
21 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
22 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
23 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
24 additions, and Board amendment deletions in accordance with the "Note" that appears under
25 the official title of the ordinance.

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

3 By: _____
4 JUDITH A. BOYAJIAN
5 Deputy City Attorney
6 n:\legana\as2018\1800365\01265514.docx

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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TDD/TTY No. 554-5227

MEMORANDUM

BUDGET AND FINANCE COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair
Budget and Finance Committee

FROM: Linda Wong, Assistant Clerk

DATE: October 30, 2017

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, October 31, 2017

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting on Tuesday, October 31, 2017, at 2:00 p.m. This item was acted upon at the Committee Meeting on Thursday, October 26, 2017, at 10:00 a.m., by the votes indicated.

Item No. 25 **File No. 171110**

Resolution authorizing the Director of Property to negotiate a Lease for up to 27,154 square feet consisting of the entire three floors of 777 Brannan Street, for the San Francisco Police Department, with LCL Global - 777 Brannan Street, LLC, a limited liability corporation, for a term of ten years from July 1, 2018, through June 30, 2028, with two five-year options for renewal, at an initial monthly base rent not to exceed \$83,724.83 for a total annual base rent of \$1,004,698 in the initial year with increases as set forth in the schedule of the Letter of Intent; and finding the proposed Lease is in conformance with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

RECOMMENDED AS COMMITTEE REPORT

Vote: Supervisor Malia Cohen - Aye
Supervisor Norman Yee - Aye
Supervisor Katy Tang - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney
Alisa Somera, Legislative Deputy Director

File No. 171110

Committee Item No. 7

Board Item No. 25

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date October 26, 2017

Board of Supervisors Meeting

Date October 31, 2017

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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Completed by: Linda Wong Date October 19, 2017
 Completed by: Linda Wong Date October 31, 2017

1 [Negotiate Real Property Lease - LCL Global - 777 Brannan Street, LLC - 777 Brannan
2 Street- San Francisco Police Department - \$1,004,698 Initial Annual Base Rent]

3 **Resolution authorizing the Director of Property to negotiate a Lease for up to 27,154**
4 **square feet consisting of the entire three floors of 777 Brannan Street, for the San**
5 **Francisco Police Department, with LCL Global - 777 Brannan Street, LLC, a limited**
6 **liability corporation, for a term of ten years from July 1, 2018, through June 30, 2028,**
7 **with two five-year options for renewal, at an initial monthly base rent not to exceed**
8 **\$83,724.83 for a total annual base rent of \$1,004,698 in the initial year with increases as**
9 **set forth in the schedule of the Letter of Intent; and finding the proposed Lease is in**
10 **conformance with the General Plan, and the eight priority policies of Planning Code,**
11 **Section 101.1.**

12
13 WHEREAS, The Hall of Justice at 850 Bryant was constructed in 1958 and is one of
14 the few vertically integrated criminal justice facilities in the nation with a jail located above the
15 prosecutorial staff and operating courtrooms and judges' chambers which for years has been
16 the subject of emergency declarations due to health and human safety hazards posed by
17 interior sewage floods caused by those in the jail facility, as well as due to aging
18 infrastructure; and

19 WHEREAS, The Hall of Justice has an antiquated elevator system requiring millions of
20 dollars in renovation and capital investment, with several out of service on any given day,
21 negatively affecting prisoner transport, employee flow within the building, and patron access
22 to services; and

23 WHEREAS, The Hall of Justice has a seismic rating that suggests very poor
24 performance in the event of a major earthquake, wherein the building would be closed for an
25 indefinite period of time for repairs due to significant damage, requiring an emergency

1 relocation of the these criminal justice system elements elsewhere and causing a serious
2 disruption of the criminal justice system; and

3 WHEREAS, To effect repairs to the Hall of Justice to address these noted deficiencies
4 would require significant capital investment and upon completion still leave the City with a
5 dysfunctional building that does not adequately serve the criminal justice system; and

6 WHEREAS, The long term reorganization plans for Hall of Justice are encapsulated
7 within the Justice Facilities Improvement Program, a part of the adopted ten-year Capital
8 Improvement Program, and the adopted Capital Plan for Fiscal Years 2018-2027 contains an
9 acceleration of previous schedules for relocation of District Attorney, Police Investigations,
10 Evidence Storage and Adult Probation, pursuant to requests by Mayor Lee and City
11 Administrator Kelly; and

12 WHEREAS, A lease of 27,154 square feet of 777 Brannan Street ("Lease") from LCL
13 Global - 777 Brannan Street, LLC ("Landlord") would accommodate the space needs for
14 Evidence Storage by the Police Department in a move-in to commence no earlier than July 1,
15 2018; and

16 WHEREAS, The Planning Department, through General Plan Referral letter dated
17 October 18, 2017, ("Planning Letter"), which is on file with the Clerk of the Board of
18 Supervisors under File No. 171110, has verified that the City's anticipated Lease is consistent
19 with the General Plan, and the eight priority policies under Planning Code, Section 101.1; and

20 WHEREAS, The Real Estate Division and the Landlord have negotiated a ten-year
21 Lease with two five-year renewal options through a Letter of Intent for 27,154 square feet of
22 space; and

23 WHEREAS, The Lease provides the City broom clean shell condition at Landlord's
24 expense; and

1 WHEREAS, The proposed initial annual rent of \$1,004,698 (\$37.00 per square foot),
2 increasing pursuant to the schedule noted in the Letter of Intent, was determined to be at or
3 less than fair market rent by an independent MAI appraisal as required by Administrative
4 Code, Chapter 23; now, therefore, be it

5 RESOLVED, That the Board of Supervisors hereby finds that the anticipated Lease is
6 consistent with the General Plan, and eight priority policies of Planning Code, Section 101.1,
7 and hereby incorporates such findings by reference as though fully set forth in this Resolution;
8 and, be it

9 FURTHER RESOLVED, That the Director of Property is hereby authorized to take all
10 actions, on behalf of the City and County of San Francisco, as tenant, to negotiate a Lease
11 consistent with the fully executed Letter of Intent, a copy of which is on file with the Clerk of
12 the Board of the Board in File No. 171117, (the "Letter of Intent") and other related
13 documents with LCL Global- 777 Brannan Street, LLC, for 27,154 rentable square feet
14 consisting of all three floors of the building commonly known as 777 Brannan Street; and, be it

15 FURTHER RESOLVED, The annual base rent for the period from July 1, 2018 to
16 June 30, 2019, shall be no greater than \$1,004,698 (approximately \$37.00 per square foot per
17 year) and the base rent shall increase annually at a schedule as outlined in the Letter of
18 Intent; and, be it

19 FURTHER RESOLVED, As set forth in the Letter of Intent, the City shall pay for its
20 utilities, janitorial services, security services and all other operating expenses attributable to
21 the space occupied by the City under the Lease in addition to the base rent; and, be it

22 FURTHER RESOLVED, That all actions heretofore taken by the offices of the City with
23 respect to the Letter of Intent are hereby approved, confirmed and ratified; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
25 Property to negotiate the Lease and any amendments or modifications to the Lease (including

1 without limitation, the exhibits) that the Director of Property determines, in consultation with
2 the City Attorney, are in the best interest of the City, do not materially increase the obligations
3 or liabilities of the City beyond those expressed in the Letter of Intent, do not materially
4 decrease the benefits to the City, or are necessary or advisable to effectuate the purposes of
5 the Lease or this Resolution, and are in compliance with all applicable laws, including the
6 City's Charter; and, be it

7 FURTHER RESOLVED, Said Lease shall be subject to a final authorizing Resolution
8 adopted by the Board of Supervisors and Mayor in their sole and separate authority at the
9 soonest date available after execution by City and Landlord; and, be it

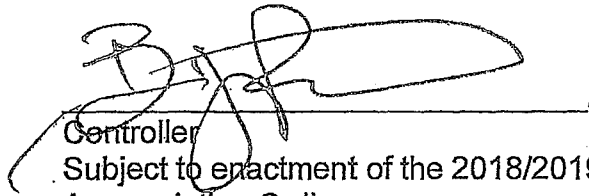
10 FURTHER RESOLVED, Said Lease shall be subject to certification as to funds by the
11 Controller, pursuant to Charter, Section 3.105.

12
13 Signatures on next page

14 ///

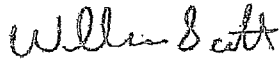
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\$1,004,698.00 Available


Controller

Subject to enactment of the 2018/2019 Annual
Appropriation Ordinance

RECOMMENDED:



William Scott
Chief of Police


John Updike
Director of Real Estate

<p>Item 7 File 17-1110</p>	<p>Departments: Real Estate Division Police Department</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • The proposed resolution would authorize the Director of Property to negotiate a lease between the City as tenant and LCL Global-777 Brannan Street, LLC (LCL Global) as landlord for up to 27,154 square feet consisting of the entire three floors of 777 Brannan Street. The proposed lease would be used for the San Francisco Police Department’s Property Control unit for evidence storage. The lease is for 10 years from July 1, 2018 through June 30, 2028 with two five-year options to extend to June 2038. The initial annual rent is \$37/sf. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • The City’s 10-Year Capital Plan called for the relocation of the Adult Probation Department, District Attorney’s Office, and Police Department units from the Hall of Justice by 2019 due to the worsening conditions in the building. The Director of Real Estate has identified three lease locations to relocate these departments. • The City has not yet entered into a lease with LCL Global; the proposed resolution states that the Director of Property is authorized to negotiate a lease consistent with the terms outlined in a Letter of Intent (LOI). 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • Over the term of the 10-year lease, the City would pay LCL Global rent of \$11,517,737 and estimated operating costs of \$4,358,063. One-time expenses are \$3 million to \$5 million. These costs are not included in the FY 2017-18 budget. According to the Capital Planning Director, the City’s current capital budget includes \$16 million in FY 2017-18 and FY 2018-19 to cover these costs. • The proposed LOI provides for a property management fee of 3 percent of base rent, which is included in the estimated operating costs of \$14 per square foot per year. 	
<p style="text-align: center;">Policy Consideration</p>	
<ul style="list-style-type: none"> • LCL Global has requested a Zoning Text Amendment to preserve self-storage use at the site, which conflicts with the Mayor’s Five-Point Plan to promote and preserve Production-Distribution-Repair (PDR) uses. • According to the LOI, the landlord will consider a right by the City to purchase the property, to be negotiated. 	
<p style="text-align: center;">Recommendations</p>	
<ul style="list-style-type: none"> • Amend the proposed resolution to not include the proposed 3 percent property management fee from the anticipated lease. • Amend the proposed resolution to state that the Director of Real Estate should evaluate and pursue the purchase option if feasible. • Approval of a Zoning Text Amendment to permit long-term grandfathering of self-storage at 777 Brannan Street is a policy matter for the Board of Supervisors. • Approval of the proposed resolution as amended is a policy matter for the Board of Supervisors 	

MANDATE STATEMENT

City Charter Section 9.118(c) requires that any lease for a period of ten or more years, including options to renew, or with anticipated expenditures of \$10,000,000 or more be subject to approval of the Board of Supervisors.

City Administrative Code 23.27 states that any lease with a term of one year or longer or with rent of \$5,000 or more and where the City is the tenant is subject to Board of Supervisors approval.

BACKGROUND

The City's Hall of Justice (HOJ), located at 850 Bryant Street, was constructed in 1958, and is seismically deficient. Due to the aging infrastructure, the HOJ also has serious health, safety and working condition problems, requiring significant renovation and capital investment. The City's Justice Facilities Improvement Program, a part of the 10-Year Capital Plan calls for debt issuance to begin in FY 2020-21 in anticipation of fully relocating all City departments from the HOJ into new City facilities by 2024. However, in January of 2017, given the serious concerns about the safety and working conditions in the building, the City Administrator declared the offices and jail located at the HOJ be closed as quickly as possible (ideally by the end of 2019). As a result, the Capital Plan was updated in 2017 to target an expedited exit in 2019 from the HOJ for all staff and inmates.

The HOJ currently houses the State Superior Court and five City departments: the District Attorney's Office, Adult Probation, various offices of the Police Department, Office of the Chief Medical Examiner (OCME), and the Sheriff's Department (County Jails #3 and #4). OCME is scheduled to begin moving out of the HOJ in November 2017 and into their new City-owned facility at 1 Newhall Street. The Police Department will relocate its Traffic Company and Forensic Services Division into a new City-owned facility at 1955 Evans Avenue, which is anticipated to begin construction in November 2017, and be occupied by the end of 2020.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Director of Property to negotiate a lease between the City as tenant and LCL Global-777 Brannan Street, LLC (LCL Global) as landlord for up to 27,154 square feet consisting of the entire three floors of 777 Brannan Street. The proposed lease would be used for the San Francisco Police Department's Property Control unit for evidence storage. The lease is for 10 years from July 1, 2018 through June 30, 2028 with two five-year options to extend to June 2038. The initial base rent is \$37 per square foot per year.

The City has not yet entered into a lease with LCL Global; the proposed resolution states that the Director of Property is authorized to negotiate a lease consistent with the terms outlined in a Letter of Intent (LOI). The terms of the anticipated lease, as outlined in the LOI, are summarized in Table 1 below.

Table 1: Anticipated Lease Terms

Lease Terms	
Premises	3-story building at 777 Brannan Street
Square Footage	27,154 square feet
Term	10 years from July 2018 through June 2028
Option to Renew	Two five-year renewal options
Tenant Improvements	Landlord will pay for new fire sprinkler service and new exit staircase; City will for all other improvements
Base Rent	\$37 per square foot per year (\$1,004,698 first year)
Rent Increase	3.0 percent per year
Option Rent	Set at 95 percent of market but no less than 103 percent of base rent in year 10
Utilities, Property Taxes, and Operating Costs	City will pay an estimated \$14 per square foot for insurance, utilities, property taxes, repairs and maintenance, property management fees, security, and other operating costs
Parking	Loading dock

The 27,154 square feet of leased space at 777 Brannan Street would accommodate the 30 full-time equivalent (FTE) Police staff in the Property Control unit currently located in approximately 21,000 square feet of space at the HOJ. While the amount of square feet per FTE is high, the anticipated lease for the Property Control unit is for storage of supplies and property.

General Plan Conformance

The proposed resolution would also find that the lease is in conformance with the City's General Plan and the eight priority policies of Planning Code Section 101.1. Mr. John Updike, Director of Real Estate reports that the Planning Department has advised that consistency with the General Plan and Planning Code is anticipated. However, as of the writing of this report, these determinations have not yet been made by the Planning Department

FISCAL IMPACT

Ongoing Lease and Operating Expenses

Table 2 below shows the projected total leasing costs based on initial monthly base rent of \$37 per square foot at 777 Brannan Street by the Police Property Control unit. Over the term of the 10-year lease, the City would pay LCL Global rent of \$11,517,737. According to Mr. Updike, annual operating costs, including a property management fee set at 3 percent of base rent and property taxes, are estimated to be \$14 per square foot, or \$380,156 in the first year. Assuming that operating costs would increase at the same rate as the base rent (3 percent per year), over the term of the 10-year lease, operating costs are estimated to total \$4,358,063.

As noted above, there are two 5-year options to extend the lease, at an initial base rent of 95 percent of then fair market value for comparable buildings in the vicinity, but not less than 103 percent of the base rent paid during the last month of the initial lease term. This report assumes that the base rent would continue to escalate at 3 percent for each year of the two 5-year options.

Table 2: Leasing Costs Payable by the City over 10-Year Lease and Two 5-Year Options

Year	Base Rent (per SF)	Total Rent Payments	Operating Costs (per SF)	Total Operating Costs	Total Leasing Costs
1	\$37.00	\$1,004,698	\$14.00	\$380,156	\$1,384,854
2	38.11	1,034,839	14.42	391,561	1,426,400
3	39.25	1,065,884	14.85	403,308	1,469,192
4	40.43	1,097,861	15.30	415,407	1,513,267
5	41.64	1,130,796	15.76	427,869	1,558,665
6	42.89	1,164,720	16.23	440,705	1,605,425
7	44.18	1,199,662	16.72	453,926	1,653,588
8	45.51	1,235,652	17.22	467,544	1,703,196
9	46.87	1,272,721	17.73	481,570	1,754,292
10	48.28	1,310,903	18.27	496,017	1,806,920
10-Year Subtotal		\$11,517,737		\$4,358,063	\$15,875,799
11	49.72	1,350,230	18.81	510,898	1,861,128
12	51.22	1,390,737	19.38	526,225	1,916,962
13	52.75	1,432,459	19.96	542,012	1,974,471
14	54.34	1,475,433	20.56	558,272	2,033,705
15	55.97	1,519,696	21.18	575,020	2,094,716
16	57.64	1,565,287	21.81	592,271	2,157,557
17	59.37	1,612,245	22.47	610,039	2,222,284
18	61.16	1,660,613	23.14	628,340	2,288,953
19	62.99	1,710,431	23.83	647,190	2,357,621
20	64.88	1,761,744	24.55	666,606	2,428,350
Options Subtotal	--	\$15,478,875	--	\$5,856,872	\$21,335,746
20-Year Total	--	\$26,996,612	--	\$10,214,934	\$37,211,546

One-Time Expenses

In addition to the ongoing lease and operating expenses shown in Table 2 above, Mr. Updike estimates up to \$400,000 (approximately \$15 per square foot) of one-time expenses to move the Property Control unit from the HOJ to 777 Brannan Street. According to Mr. Updike, the City expects to spend \$3 to 5 million on tenant improvements at 777 Brannan Street. The scope of the improvement project has not yet been determined.

Comparison of Leasing Costs to HOJ Operating Costs

The Real Estate Division currently spends approximately \$8.4 million per year to operate the HOJ, including jails, Superior Court and emergency repairs. These costs are charged to the client City departments and the Superior Court based on their share of square footage occupied in the

HOJ. Based on all Police Investigation units and the District Attorney’s space in the HOJ, a comparison of these HOJ costs with the anticipated leases is shown in Table 3 below.

Table 3: Comparison of HOJ Operating Costs and Leasing Costs, FY 2020-21*

	Police Property Control	Police Investigations	District Attorney	Adult Probation	Total
HOJ Operating Cost	\$643,174	\$2,073,472	\$1,118,083	\$432,852	\$4,267,581
Brannan DA Lease			<u>1,000,000</u>		<u>1,000,000</u>
Subtotal HOJ and Brannon			2,118,083		5,267,581
Leasing Cost	1,576,416	3,095,639	5,812,090	3,408,912	13,893,057
Difference	\$933,242	\$1,022,167	\$3,694,007	\$2,976,060	\$8,625,476

* Projected costs in the Hall of Justice for FY 2020-21 based on 3% annually increases are shown because leasing for Police Investigations is expected to begin in FY 2020-21 (Year 3 of the leases).

Under the current proposal the District Attorney and Police Investigations will relocate from the HOJ to leased space at 350 Rhode Island Street (File 17-1101), the Adult Probation Department will relocate from the HOJ leased space at 945 Bryant Street (File 17-1111), and Police Property Control will relocate to leased space at 777 Brannan Street (File 17-1109). The first year cost for these three proposed leases of \$13,893,057, is \$8,625,476 more than the FY 2017-18 operating costs of \$5,267,581 for these three departments in the HOJ.

Source of Funding

According to Ms. Heather Green, Capital Planning Director, the specific funding for these one-time and ongoing lease expenses are not currently included in the department’s budget. However, Ms. Green advises that the City’s current Capital Budget includes \$8,001,545 in FY 2017-18 and \$7,934,308 in FY 2018-19 for the Justice Facilities Improvement Program that could be potentially reallocated for these one-time and ongoing lease expenses.

Fair Market Rent

The proposed first year rent of \$37 per square foot is below the threshold established by the Administrative Code that requires a third party appraisal. According to Mr. Updike, recent comparable lease rates for storage and office space in SoMa in the vicinity of the HOJ range from \$24 to \$68 per square foot per year net of electrical and janitorial costs, so the adjusted base rent of approximately \$51 per square foot is within the range of comparable lease rates.

As noted above, the proposed LOI provides for a property management fee of 3 percent of base rent, which is included in the estimated operating costs of \$14 per square foot per year. Because the City will pay market rate for the leased space and will be responsible for all operating, insurance, utility, tax, and maintenance and repair expenses under the proposed LOI, the Budget and Legislative Analyst recommends amending the proposed resolution to not include the proposed 3 percent property management fee from the anticipated lease.

POLICY CONSIDERATION

Zoning Text Amendment for Self-Storage

777 Brannan Street is zoned for Service Arts and Light Industrial (SALI) use. The current grandfathered use of 777 Brannan Street is self-storage, which is not permitted in SALI zones. According to the Letter of Intent, final acceptance of the anticipated lease by LCL Global depends on the Board of Supervisors and Mayor adopting a Zoning Text Amendment to allow the long-term grandfathering of self-storage use on the property in order to facilitate reversion to self-storage after the City ends its tenancy of the building.

A Zoning Text Amendment to preserve self-storage use would conflict with the Mayor's Five-Point Plan to promote and preserve Production-Distribution-Repair (PDR) uses. When PDR and SALI zones were established in 2008, self-storage use was purposefully excluded as a permitted use because self-storage provides a low density of jobs per square foot of space and is able to out-compete more job-intense PDR uses on price. Therefore, the proposed resolution should be amended to state that final acceptance of the anticipated lease will not include a Zoning Text Amendment to permit long-term grandfathering of self-storage at 777 Brannan Street.

Option to Purchase

According to the LOI, the landlord will consider a right by the City to purchase the property, to be negotiated. The proposed resolution should be amended to state that the Director of Real Estate should evaluate and pursue the purchase option if feasible.

Plan for HOJ

According to Mr. Updike, the City's 20 to 25 year plan for the Hall of Justice is:

1. Administrative exit of OCME, Crime Lab/Traffic Company, District Attorney's Office, Adult Probation, and Police;
2. Internally (1) restack flex space above the Superior Court for Sheriff's Department, District Attorney's Office, and Police, and (2) re-use vacated OCME space for Police ID Bureau and Sheriff's Department Warrant Bureau, which must remain immediately proximate to the Superior Court;
3. Vacate jail space (plan forthcoming, subject to Board of Supervisors approval);
4. Demolish Bryant Street wing (leaving only Superior Court and ancillary City uses above/below Court);
5. Wait for State to rebuild Superior Court on vacated portion of the HOJ property;
6. Demolish former Court wing on Harriet Street; and
7. Rebuild new office building on former Court site for return to site by Adult Probation, some Police functions, and the District Attorney's Office.

This plan is contingent upon the State rebuilding the Superior Court on the site of the demolished administrative wing of the HOJ. The Superior Court will continue to operate in the HOJ until the State develops a new facility and the Superior Court will continue to rely on the City-run building systems and will continue to make reimbursement payments to the City for building operation costs. Under this plan, the City would not begin constructing a new City-owned office building until the Superior Court has constructed and occupied their new facility.

Summary

The Budget and Legislative Analyst considers approval of the proposed resolution to be a policy matter for the Board of Supervisors because the General Plan and Planning Code determinations have not been completed by the Planning Department.

RECOMMENDATIONS

1. Amend the proposed resolution to not include the proposed 3 percent property management fee from the anticipated lease.
2. Amend the proposed resolution to state that the Director of Real Estate should evaluate and pursue the purchase option if feasible.
3. Approval of a Zoning Text Amendment to permit long-term grandfathering of self-storage at 777 Brannan Street is a policy matter for the Board of Supervisors.
4. Approval of the proposed resolution as amended is a policy matter for the Board of Supervisors.

COMMERCIAL REAL ESTATE SERVICES



101 California Street
44th Floor
San Francisco, CA 94111

CBRE, Inc.
Brokerage Services
Broker Lic. 00409987

415 772 0123 Tel
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Landlord Counter Proposal – September 5, 2017

August 4, 2017

Mr. John Updike, LEED AP O+M
Director of Real Estate
City & County of San Francisco
25 Van Ness, Suite 400
San Francisco, CA 94102

Re: 777 Brannan Street / City and County of San Francisco

Dear John,

Thank you for your request for proposal on behalf of the City and County of San Francisco to consider leasing 777 Brannan Street. On behalf of LCL Global-777 Brannan Street, LLC ("Landlord"), we are pleased to present a lease proposal for your consideration.

Landlord would consider entering into lease negotiations with the City and County of San Francisco based upon the following terms and conditions:

BUILDING: 777 Brannan Street, San Francisco, CA 94103

LANDLORD: LCL Global – 777 Brannan Street, LLC

TENANT: City and County of San Francisco

PREMISES: The Premises shall consist of the entire building, comprised of approximately 27,154 rentable square feet ("RSF") on floors 1-3, which shall be measured according to the BOMA 2010 Office Standard for Single-Tenant Buildings.

USE: Any legally permitted uses, subject to all necessary legal approvals.

LEASE COMMENCEMENT DATE: October 1, 2017.

DELIVERY DATE: June 1, 2018.

RENT COMMENCEMENT DATE: Thirty (30) days from the Delivery Date.

TERM Ten (10) full years from the Rent Commencement Date.

BASE RENT: \$37.00 per rentable square foot, NNN. The Base Rental Rate will increase 3.00% on each anniversary of the Commencement Date.

OPERATING EXPENSES AND REAL ESTATE TAXES: In addition to Base Rent, Tenant will be responsible for the Building's operating expenses, insurance, utilities costs, tax expenses, repairs and maintenance including capital items, and property management fees in the amount of three percent (3.0%) of Base Rent (collectively, the "Expenses").

LANDLORD'S BASE BUILDING WORK AND TENANT IMPROVEMENTS: Landlord shall deliver the Premises in "as-is" broom clean condition with the existing storage units in place. Following the Delivery Date, Landlord shall pay for only the cost of new fire sprinkler service and distribution and one new exit staircase (the "Landlord's Base Building Work"). Tenant shall bear the cost of all other modifications to the building (the "Tenant Improvements"). The Landlord's Base Building Work and Tenant Improvements shall collectively be referred to as the "Work". The Work will be outlined in the City's standard form Work Letter as an Exhibit to the Lease (the "Work Letter"). The Work will include a market rate construction management fee payable to an affiliate of Landlord. The portion of such fee attributable to Landlord's Base Building work will be payable by Landlord and the portion of such fee attributable to the Tenant Improvements will be payable by Tenant.

RIGHT TO PURCHASE: Landlord will consider a right to purchase by Tenant, to be negotiated.

CONSTRUCTION PROCEDURES: Landlord shall select and hire the architect and the general contractor for the Work and will be responsible for completing the Work. Plans and specifications, architect, general contractor and subcontractors shall be approved collaboratively by Landlord and the City, as required. All construction shall be completed in accordance with engineered construction documents or through a design/build process and in conformity with all building codes and City ordinances. All construction shall adhere to Landlord's reasonable construction rules and regulations. No construction shall be undertaken that would jeopardize the ongoing grandfathering of the legal, non-conforming self-storage use at the property. Process and repayment schedule by City shall be outlined in the Work Letter.

PREMISES OCCUPANCY: The Premises shall be delivered to Tenant without tenancy of any kind as of the Delivery Date above, at no additional costs nor liabilities to Tenant.

RENEWAL OPTION: Tenant shall have the right to extend the Term for two (2), five (5) year periods, subject to twelve (12) months' prior written notice at an initial Base Rent equal to 95% of the then Fair Market Value for comparable buildings in the area within a 6-block radius of the Premises, taking into consideration all market concessions, however not less than 103% of the Base Rent being paid as of the last month of the initial lease term.

BUILDING ACCESS: As of the Delivery Date, Tenant and the architects, engineers, consultants and contractors will have continuous access to the Building and the Initial Premises for the purpose of planning Tenant's work, including use of the elevators at no charge, subject to the rights of other tenants in occupancy at the time.

BUILDING SECURITY: Tenant, at Tenant's sole expense, will be permitted to install its own security system (which may be a card-key security system in the Premises and in common stairwells in the core of the Building) and/or provide Tenant's own security service, subject to Landlord's reasonable approval of the plans, specifications and vendor(s) for such security system and/or service.

SUBLEASE AND ASSIGNMENT: Tenant shall have the right to sublease or assign the Premises to a third-party subject to Landlord's consent, which consent may not be unreasonably withheld. Notwithstanding the foregoing sentence, Landlord shall have no obligation to consent to any sublease with an entity whose credit is materially inferior to that of the Tenant. Any net sublease profits shall be shared 75/25, to Landlord and Tenant respectively, subject to an agreed upon definition of net profits. The lease shall contain a recapture clause. Under no circumstances shall the Tenant assign the lease to any other entity.

RESTORATION/NON-BUILDING STANDARD IMPROVEMENTS: Tenant shall be required to remove all its furnishings, fixtures and equipment ("FF&E") including all phone and data cabling (to the extent required by Landlord at Lease Expiration Date) upon the expiration of the lease including applicable renewal periods. Tenant shall also be required to remove any specialized/non-building standard improvements as determined and requested by Landlord at the time of Landlord's review, comment and approval of design for said improvements.

PLANS AND REPORTS: Landlord shall deliver to City all material Building information in Landlord's possession, including but not limited to, environmental reports and notices, seismic/structural studies, surveys, property condition assessments and other building reports, for City's review, if requested by City.

LANDLORD REPRESENTATIONS: Landlord shall represent and warrant that (i) it has good and marketable title to the Premises, (iii) Landlord has no knowledge of any hazardous materials or contamination in or about the Premises other than asbestos as disclosed in an asbestos report (including a management plan for such asbestos) that Landlord will provide to City; and (iv) to Landlord's knowledge, as of the commencement date of the Lease, the Building and the building systems will comply with all applicable local, state and federal laws and regulations.

COMMISSIONS: Landlord shall be solely responsible for any and all real estate commissions. Landlord and Tenant agree that no broker, finder, or intermediary other than CBRE has been dealt with in regard to the lease contemplated herein.

CITY LEASE FORM: The Lease Agreement shall be based on the City and County of San Francisco's standard form lease. The final Lease Agreement is subject to negotiations with the City through its Director of Property and approval by the City's Attorney, Board of Supervisors and Mayor, in their respective sole and absolute discretion.

OTHER CITY CLAUSES: Landlord shall comply with the provisions (as applicable) specified in the San Francisco municipal codes including but not limited to: Resource – Efficient City Building (Admin. Code Sections 82.1-82.8), the MacBride Principals (Admin. Code Section 12F.1 et seq.), Prevailing Wages for Construction (SF Charter Section A&.204, and Admin. Code Section 6.33 through 6.45), the Controller's Certification of Funds (SF City Charter Section 3.105), the Tropical Hardwood and Virgin Redwood Ban (Admin. Code Section 121), Bicycle Storage (Planning Code Article 1.5), the Non Discrimination in City Contracts and Benefits Ordinance (Admin. Code Sections 12B, and 12C), Campaign Contribution Limitations (Section 1.126 of City's Campaign and Governmental Conduct Code), and First Source Hiring.

COMPLIANCE: Tenant shall be solely responsible for compliance of the Premises with all legal requirements including, without limitation, the Americans with Disabilities Act.

EXISTING USE: Tenant shall cooperate with Landlord and the City and County of San Francisco to officially preserve the long-term grandfathering of the existing self-storage use within the Building to facilitate reversion to the self-storage use after Tenant's tenancy of the Building. Final acceptance of a lease shall occur once either of the following are completed: 1) The San Francisco Board of Supervisors and Mayor, in their sole and separate discretion, adopt a Zoning Text Amendment in a form satisfactory to Landlord; or 2) City through some other method, codifies the ongoing grandfathering of use in a form satisfactory to Landlord.

SECURITY DEPOSIT: None.

BUILDING MANAGEMENT: The lease shall contain an agreement on the level of building management services to be provided.

HAZARDOUS MATERIALS: Lease to include customary covenants and indemnity from Tenant regarding hazardous materials introduced by tenant parties.

This proposal is intended solely as a preliminary expression of general intentions and is to be used for discussion purposes only. The parties intend that neither shall have any contractual obligations to the other with respect to the matters referred herein unless and until a definitive agreement has been fully executed and delivered by the parties. The parties agree that this letter/proposal is not intended to create any agreement or obligation by either party to negotiate a definitive lease/purchase and sale agreement and imposes no duty whatsoever on either party to continue negotiations, including without limitation any obligation to negotiate in good faith or in any way other than at arm's length. Prior to delivery of a definitive executed agreement, and without any liability to the other party, either party may (1) propose different terms from those summarized herein, (2) enter into negotiations with other parties and/or (3) unilaterally terminate all negotiations with the other party hereto. Only a fully executed lease with authorizing legislation approved by the Board of Supervisors and the Mayor shall bind the parties, which approval shall occur no later than thirty (30) days after the final form lease is approved by the parties. Notwithstanding anything to the contrary herein, Landlord acknowledges and agrees that no officer or employee of City is authorized to obligate City to any conditions herein, unless and until a Resolution of the Board of Supervisors has been duly enacted and approved by the Mayor, authorizing consummation of the transactions contemplated hereby.

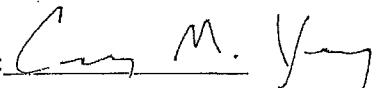
In any real estate transaction, it is recommended that you consult with a professional, such as a civil engineer, industrial hygienist or other person, with the experience in evaluating the condition of the property, including the possible presence of asbestos, hazardous materials and underground storage tanks.

Any agreement reached pursuant to these negotiations shall be subject to all applicable federal, state and local laws, regulations, codes ordinances and administrative orders having jurisdiction over the parties, property or the subject matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment in Realty Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and the Americans with Disabilities Act. Please feel free to contact us should you desire to discuss any element of this proposal in greater detail before preparing your response or acceptance. Any response should be submitted within ten (10) days of the date of this proposal, at which time this Proposal will expire unless otherwise extended in writing.

We appreciate your consideration on this project and we look forward to working with you.

Very truly yours,

TIDEWATER CAPITAL, LLC

By: 

Craig M. Young, Managing Principal

AGREED AND ACCEPTED:

By: 

Name: John Ukrite, Director of Property

Date: 9/6/2017

cc: Ross H.S. Stackhouse
Matthew S. Klimerman
Alexander S. Kaplan
Mark Geisreiter, CBRE
Matt Kroger, CBRE



OFFICE OF THE SHERIFF
CITY AND COUNTY OF SAN FRANCISCO

1 DR. CARLTON B. GOODLETT PLACE
ROOM 456, CITY HALL
SAN FRANCISCO, CALIFORNIA 94102



VICKI L. HENNESSY
SHERIFF

October 16, 2017
Reference: 2017-121

Honorable Members
Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Members;

On Tuesday, October 17, the Board of Supervisors will receive for introduction legislation to approve a plan to begin the process of relocating City departments from the seismically compromised Hall of Justice. If approved, the District Attorney's Office and the Adult Probation Department will move into leased space nearby. Not addressed in the legislation is the fate of County Jail #4, located on the seventh floor. In keeping with Mayor Lee's concern that there be a plan in progress to close County Jail #4, I write to let you know that I am working with the City's Capital Planning team to develop options for creating suitable housing for the prisoners at County Jail #6, in San Bruno; and making improvements at County Jail #2, at 425 7th Street, to accommodate functions for which it is now dependent on the Hall of Justice.

You may recall that in 2015, the Board was presented with a plan for a new detention facility designed to replace the two Hall of Justice jails -- County Jail #3, which is currently closed and County Jail #4, which currently houses approximately 350 prisoners -- to be partially funded by an \$80 million grant from the California Board of State and Community Corrections. The remaining \$270 million was to be funded by certificates of participation.

The Board rejected the plan and the grant in favor of convening Re-Envisioning the Jail Replacement Project, a working group organized "to plan for the permanent closure of County Jails Nos. 3 and 4, and any corresponding investments in mental health facilities and current jail retrofits needed to uphold public safety and better serve at-risk individuals."

Co-chaired by Roma Guy, representing Taxpayers for Public Safety, Health Director Barbara Garcia and me, the working group brought together mental health providers and advocates, former inmates, and city department heads, including the District Attorney, Public Defender, Chief Adult Probation Officer, Chief of Police, Director of Public Works, and the Controller, as well as representatives from the Mayor's Office and the Board of Supervisors.

The final report of the working group, presented to the Board of Supervisors on June 13, 2017, detailed several recommendations, including:

- Implementation of Law Enforcement Assisted Diversion, known as LEAD SF, a collaboration lead by the Director of Public Health, the District Attorney and the Chief of Police which provides a pre-booking diversion program that will refer repeat low-level drug offenders to community-based health and social services. LEAD SF received grant funding from the Board of State and Community Corrections and began working toward implementation in June.
- Provision of more psychiatric respite beds for individuals leaving custody and those at risk of becoming incarcerated. The Department of Public Health has opened a 15-bed facility on the Zuckerberg San Francisco General Hospital campus for post-psychiatric emergency treatment and has funded 34 new medical respite beds for multi-diagnosed individuals.
- Implementation by the District Attorney's Office of weekend and holiday rebooking, currently in progress.
- Bail reform, currently in active consideration by the Superior Court.
- Increased investment in pretrial release of prisoners through San Francisco Pretrial Diversion, a non-profit funded by the Sheriff's Department. First implemented in San Francisco more than 35 years ago to assist the court in making pretrial release decisions, in May 2016 Pretrial Diversion adopted a new risk assessment tool, known as the Public Safety Assessment (PSA), which is designed to reduce implicit bias from the decision to allow individuals own-recognition release. The PSA offers a range of supervision options from "no conditions" to "assertive case management," with the goal of ensuring that the individual remain arrest-free and makes all required court appearances.

It is important to note that San Francisco has long led the nation in the innovation and use of pretrial alternatives to incarceration, an effort that began in the 1980's and has grown steadily since. The individuals granted pretrial release in San Francisco would have to pay bail to secure their release in other jurisdictions. Pretrial release has had a profound impact on the jail population. Today, the jail population averages between 1250 and 1300 prisoners. Another 1100-plus individuals are awaiting trial on pretrial release and more than 50 are serving sentences in jail alternative programs. But for the aggressive use of pretrial release and sentencing alternatives, the San Francisco jail population would be approximately 2400. Those remaining in jail after arraignment, for the most part, are charged with serious and/or violent crimes and have multiple charges. They have been deemed by the court to be ineligible for pretrial release.

It is for these individuals, entrusted to my care, that, as Sheriff, it is my duty and my obligation to ensure safe, secure, and humane housing and treatment.

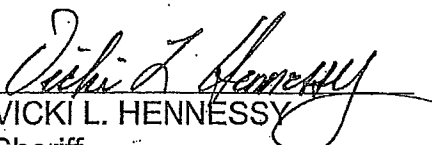
I fully support the work of the Re-Envisioning Project and continue to remain actively involved in bringing the recommendations to fruition. However, while I believe they are necessary and worthy, I do not believe the recommendations will reduce the jail population to the point where we can close County Jail #4 without making provisions for housing the prisoners elsewhere. Recent spikes in violent crime and property crime, and calls by members of the Board of Supervisors and others to address this will lead to more arrests and a higher jail population. I hope that as the impact of the implemented recommendations is felt, the increased population may be reduced, bringing the numbers back down to the current level.

A "next step" identified in the final report of the Re-Envisioning Project is to "begin planning for re-opening of County Jail #6 in San Bruno to expedite closure of County Jail #4 in the event the implemented recommendations do not sufficiently reduce the jail population." Given the time it takes to move a capital project from proposal to completion, it is important that we act expeditiously to comply with the clear direction of the Re-Envisioning work group. Therefore, in the near future I will be seeking your approval for the issuance of certificates of participation to fund improvements to County Jail #2 necessary to sever its dependence on the Hall of Justice, and to renovate County Jail #6 to safely and humanely house prisoners once the Hall of Justice is closed.

In advocating for the renovation of County Jail #6, I am advocating for these prisoners to live in a modern, well-functioning facility that affords them safe housing and access to educational, vocational and treatment programs that maximize their potential for productive life in the community after incarceration.

I welcome your questions and, I encourage you, if you haven't already, to view the conditions at County Jail #4 and to allow me to show you the renovations I am proposing to County Jail #6. Please contact me or my Chief of Staff, Eileen Hirst, to set up a tour.

Sincerely,


VICKI L. HENNESSY
Sheriff



OFFICE OF THE CITY ADMINISTRATOR



Edwin M. Lee, Mayor
Naomi M. Kelly, City Administrator

MEMORANDUM

October 16, 2017

To: Members of the Board of Supervisors

From: Naomi Kelly, City Administrator *N. Kelly*

Copy: Angela Calvillo, Clerk of the Board

Regarding: Plans to vacate staff and prisoners from the seismically and otherwise unsafe, Hall of Justice at 850 Bryant Street and permanently close the Bryant Street wing of the building.

The Hall of Justice (the Hall or HOJ), located at 850 Bryant Street, has well-known seismic and other safety issues. Each day more than 800 staff work in the Hall, and approximately 300-350 prisoners are incarcerated on the 7th floor in County Jail #4. The building's systems are failing at an accelerating rate, and it presents a hazard on multiple fronts for the people who work, appear, visit, and live there. It is imperative that we get San Francisco's staff and prisoners out of the building as quickly as possible.

Exiting the Hall has long been a San Francisco priority, but while plans for relocating staff and prisoners have been refined and adjusted over the years, the building's condition has dramatically worsened. This year most of the public employee unions with staff in the Hall filed grievances, and there has been a complaint to Cal/OSHA as well. In recent months, the Hall has experienced a frequent series of sewage overflows, which originate in the jail on the top floor. In the last year, the sewage overflows reached staff and clients in offices below. These sewage overflows have a major, adverse impact on building-wide operations, compromising security and personal health and safety. Some repairs involve breaking into the asbestos-laden walls, creating an even more toxic situation to be abated. From November 2, 2016, through August 21, 2017, there were 110 flood-related for County Jail #4, 15 in the most recent month alone. Numerous repairs and preventative measures have been made, to no avail. These problems are in addition to the failing elevators, HVAC, and other subsystems, all of which are well beyond their useful life.

The building's seismic risk is just as great as its life/safety risks. The Hall registers as one of the city's most dangerous buildings on the HAZUS analysis. That analysis, run most recently in 2017, shows that a 7.9M earthquake on the San Andreas Fault would bring to the Hall a probability of greater than 100 casualties, economic impact of greater than \$50 million, operational losses of greater than \$5 million, and greater than 70% building damage. In the event of such a disaster, the building will likely be red-tagged—uninhabitable until structural repairs can be made. This result would be a crisis situation, especially for the prisoners who would be unable to flee but also unable to remain.

As you know, the Office of the Chief Medical Examiner is moving into a new facility in November 2017. SFPD Forensic Services Division and Traffic Company are scheduled to move into a new Mission Bay facility by the end of 2020. Recognizing the urgency of the situation, in January 2017, the City Administrator set a target exit date of 2019 for the remaining occupants of the Hall of Justice. It is the shared position of the Mayor, the City Administrator, and the Sheriff that we should not invest more tax dollars into the building and should exit as quickly as possible.

The City Administrator has identified a plan for an expedited administrative exit from the Hall of Justice. The need for expediency does not allow for a capital construction project, and a broad search for a Courts-proximate building or even multiple buildings for purchase identified no appropriate sites. The most expedient and recommended course of action is to lease office space so that the staff of the District Attorney, San Francisco Police Department, and Adult Probation Department can conduct their business elsewhere. The District Attorney and most of the Police staff can be relocated to 350 Rhode Island; Police Storage can be moved to an existing storage facility at 777 Brannan Street; and Adult Probation can be relocated to 945 Bryant Street. The leases have staggered start dates beginning as early as July 1, 2018, and they require immediate action.

Relocating prisoners is the greatest challenge. Several interventions currently underway are intended to reduce the jail count, including expanded retrial diversion and electric monitoring, LEAD, bail reform, police reform, rebooking, conservatorship beds and treatment beds. These efforts may not be effective to lower the jail population enough to close County Jail #4 permanently. Over the summer, the Sheriff and Capital Planning studied options for exiting the jail in the near term.

The Mayor, the City Administrator, and the Sheriff agree that the safety of the prisoners should not be an afterthought in this process; their security and well-being should be front and center in the exit planning process. The time-sensitivity of the lease options does not allow for deferral until the prisoner exit plans are finalized, however. The Sheriff will bring the plan for prisoner exit before the Board soon.

Once all the non-Court related occupants exit the HOJ, the plan is to demolish the Bryant Street side of the Hall, allowing the Courts to remain. Thank you for your attention to this matter of utmost importance for our city.



SAN FRANCISCO PLANNING DEPARTMENT

File # 171110

General Plan Referral

Date: October 18, 2017

Case 2017-012795GPR
777 Brannan Street Building Lease

Block/Lot No.: 3784 / 032 (769 and 777 Brannan Street)
Zoning: SALI
Height: 40/55-X

Project Sponsor: Konstantine Apostolopoulos – (415) 554-9866
konstantine.apostolopoulos@sfgov.org
San Francisco Department of Real Estate
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

Staff Contact: John M. Francis – (415) 575-9147
john.francis@sfgov.org

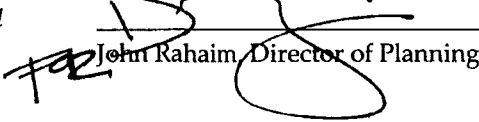
Recommendation: Finding the proposed 777 Brannan Building Lease Project, on balance, **in conformity** with the General Plan.

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Recommended
By:  John Rahaim, Director of Planning

PROJECT DESCRIPTION

The City of San Francisco ("City") will enter into a future lease (as lessee) of approximately 27,154 rentable square feet on three floors of 777 Brannan Street. The lease will consist of the entire building. The lease has a ten (10) year term and the City will have the right to extend the term of the lease for two (2), five (5) year periods subject to twelve (12) months' prior written notice. The space will be used as storage for the various City departments currently housed at the 850 Bryant Street Hall of Justice building during its long-term reaccommodation period. The proposed use is permitted under the zoning district for the property, Service/Arts/Light Industrial (SALI).

ENVIRONMENTAL REVIEW

This project is categorically exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303 (c).

GENERAL PLAN REFERRAL

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

As described below, the proposed lease of 777 Brannan Street is consistent with the Eight Priority Policies of Planning Code Section 101.1 and is, on balance, in conformity with the Objectives and Policies of the General Plan.

Note: General Plan Objectives are shown in **BOLD UPPER CASE** font; Policies are in **Bold** font; staff comments are in *italic* font.

COMMERCE AND INDUSTRY ELEMENT**OBJECTIVE 7:**

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL AND REGIONAL CENTER FOR GOVERNMENTAL, HEALTH, AND EDUCATIONAL SERVICES.

POLICY 7.1

Promote San Francisco, particularly the civic center, as a location for local, regional, state and federal governmental functions.

The proposed project will allow various City departments to continue their functions during the Hall of Justice long-term reaccommodation period.

PROPOSITION M FINDINGS – PLANNING CODE SECTION 101.1

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The Project, the proposed lease of 777 Brannan Street, is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

Eight Priority Policies Findings

The subject project is found to be consistent with the Eight Priority Policies of Planning Code Section 101.1 in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

No neighborhood-serving retail would be affected by the proposal.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhood.

Existing housing and neighborhood character would not be affected by the proposal.

3. That the City's supply of affordable housing be preserved and enhanced.

The City's supply of affordable housing would not be affected by the proposal.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The Project would not impede MUNI transit service or overburden streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for residential employment and ownership in these sectors be enhanced.

The Project would not have any effect on the city's industrial or service sectors and would not reduce future employment or ownership opportunities in the sectors.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project would not have any effect on the City's preparedness to protect against injury and loss of life in an earthquake.

7. That landmarks and historic buildings be preserved.

This Project would not adversely affect any landmarks or buildings of historic significance.

8. That our parks and open space and their access to sunlight and vistas be protected from development.

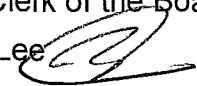
The Project would not adversely affect any parks or open space.

RECOMMENDATION: Finding the Project, on balance, in-conformity with the General Plan.

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *for* Mayor Edwin M. Lee 
RE: Real Property Lease – LCL Global -777 Brannan Street, LLC – 777
Brannan Street- San Francisco Police Department - \$1,004,698 Initial
Annual Base Rent
DATE: October 17, 2017

Attached for introduction to the Board of Supervisors is a resolution authorizing a Lease for up to 27,154 square feet consisting of entire three floors of 777 Brannan Street, for the San Francisco Police Department, with LCL Global – 777 Brannan Street, LLC, a limited liability corporation, for ten years with two five-year options for renewal, for the period of July 1, 2018 to June 30, 2028, at an initial monthly base rent not to exceed \$83,724.83 for a total annual initial base rent of \$1,004,698 in the initial year with increases as set forth in the schedule of the Letter of Intent; and finding the proposed Lease is in conformance with the City's General Plan, and the eight priority policies of Planning Code, Section 101.1.

Should you have any questions, please contact Mawuli Tugbenyoh (415) 554-5168.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
OCT 17 PM 4:20
AK

1 [Planning Code - Legitimization and Reestablishment of Certain Self-Storage Uses]

2
3 **Ordinance amending the Planning Code to allow the owner of premises leased to the**
4 **City and County of San Francisco for a public safety-related use to resume a pre-**
5 **existing Self-Storage use after the City vacates the property without regard to whether**
6 **that Self-Storage use was established with benefit of permit; affirming the Planning**
7 **Department’s determination under the California Environmental Quality Act; making**
8 **findings of consistency with the General Plan, and the eight priority policies of**
9 **Planning Code, Section 101.1; and adopting findings of public necessity, convenience,**
10 **and general welfare under Planning Code, Section 302.**

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

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

19 Section 1. Environmental and Land Use Findings.

20 (a) The Planning Department has determined that the actions contemplated in this
21 ordinance comply with the California Environmental Quality Act (California Public Resources
22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
23 Supervisors in File No. _____ and is incorporated herein by reference. The Board
24 affirms this determination.

25 (b) On _____, the Planning Commission, in Resolution No. _____,
adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
3 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
5 ordinance will serve the public necessity, convenience, and general welfare for the reasons
6 stated in Planning Commission Resolution No. _____ and the Board adopts said reasons
7 herein by reference.

8
9 Section 2. The Planning Code is hereby amended by revising Section 183, to read as
10 follows:

11 **SEC. 183. NONCONFORMING USES: DISCONTINUANCE AND ABANDONMENT.**

12 (a) **Discontinuance and Abandonment of a Nonconforming Use, Generally.**

13 Whenever a nonconforming use has been changed to a conforming use, or discontinued for a
14 continuous period of three years, or whenever there is otherwise evident a clear intent on the
15 part of the owner to abandon a nonconforming use, such use shall not after being so
16 changed, discontinued, or abandoned be reestablished, and the use of the property thereafter
17 shall be in conformity with the use limitations of this Code for the district in which the property
18 is located. Where no enclosed building is involved, discontinuance of a nonconforming use for
19 a period of six months shall constitute abandonment. Where a Massage Establishment is
20 nonconforming for the reason that it is within 1,000 feet of another such establishment or
21 because it is no longer permitted within the district, discontinuance for a continuous period of
22 three months or change to a conforming use shall constitute abandonment.

23 * * * *

24 (c) **Discontinuance or Abandonment of Self-Storage Use Due to City and County**

25 **Occupancy. An existing nonconforming Self-Storage use or a Self-Storage use that is legitimized**

1 pursuant to subsection (c)(4) below, that in either case is changed to a public safety-related use due
2 solely to occupancy by the City and County of San Francisco acting through any of its departments,
3 shall not be considered discontinued or abandoned for purposes of subsection (a) above or any other
4 provision of this Code and the property owner may resume use of the premises as a Self-Storage use
5 after the City vacates the property, provided that: (i) the City's occupancy was for a public safety-
6 related purpose classified as a Public Use under Section 890.80 of the Planning Code and (ii) the
7 property owner resumes the Self-Storage use within two years from the later of (I) the date the City
8 vacated the property or (II) the date the City's lease for the property was terminated. The property
9 owner shall apply for and obtain any permits required to resume the Self-Storage use within one year
10 from the date the City vacates the property.

11 (1) **Notice and Discretionary Review of the Building Permit.** If a building permit is
12 required to resume the pre-existing Self-Storage use and the permit application is limited to its
13 reestablishment, the permit shall not be subject to the notification requirements of Section 312 or other
14 notification requirements of this Code, and no requests for discretionary review of the building permit
15 shall be accepted by the Planning Department or heard by the Planning Commission.

16 (2) **Extensions of Time.**

17 (A) If a permit to resume the pre-existing Self-Storage use is issued but
18 delayed due to an action before the Board of Appeals or other City agency, or a case in any court of
19 competent jurisdiction, the time to resume such pre-existing use shall be extended by the amount of time
20 final action on the permit was delayed.

21 (B) The Zoning Administrator may grant one or more extensions of the time
22 within which the pre-existing Self-Storage use must be resumed if the owner or owners of the property
23 have made a good-faith effort to comply but are unable to do so for reasons that are not within their
24 control.

1 (3) Notice. The Planning Department shall provide written notice to the owner of
2 record of any property that is within the scope of Section 183(c) of any proposed ordinance to
3 substantively amend this Section 183(c) prior to a hearing thereon by the Planning Commission,
4 provided that the property owner has sent a written request for said notice to the Zoning Administrator.

5 (4) Legitimization of Existing Use. In the case of a Self-Storage use that was
6 established and has been operating without the benefit of a required permit, the owner of such Self-
7 Storage use may seek and be granted such permit notwithstanding the limitations of Section 846.48 of
8 this Code and pursuant to the provisions set forth above in subsection (c)(1) of this Section 183, so long
9 as such permit:

10 (A) is filed for a property located within (i) the Service/Arts/Light Industrial
11 Zoning District and (ii) 1,000 feet of the South Of Market Special Hall Of Justice Legal Services
12 District; and

13 (B) relates to a Self-Storage use which the Zoning Administrator determines
14 (i) existed as of the date of the application for the required permit, (ii) would have been principally
15 permitted or permitted with Conditional Use authorization under the provisions of the Planning Code
16 that were effective at the date of the establishment of the Self-Storage use, (iii) has been regularly
17 operating or functioning on a continuous basis for no less than five years prior to the effective date of
18 this subsection (c)(4); and (iv) is not accessory to any other use; and

19 (C) is issued subsequent to the owner's payment of any and all fees that
20 would have been due at the time of the original establishment of the existing Self-Storage use, including
21 but not limited to the Transit Impact Development Fee required by Planning Code Section 411 et seq.;
22 and

23 (D) is issued prior to the earlier of both (i) commencement of occupancy by
24 the City for a public-safety related purpose or (ii) issuance of any required building permit to establish
25 the public-safety related use. In the case that the permit required to "legitimize" the Self-Storage use is

1 not issued as set forth in this subsection (c)(4), the existing Self-Storage use shall be deemed
2 irrevocably abandoned.

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

8
9 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the "Note" that appears under
14 the official title of the ordinance.

15
16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: _____
19 JUDITH A. BOYAJIAN
20 Deputy City Attorney
21 n:\legana\as2018\1800365\01265514.docx