

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Sustainable Streets

BRIEF DESCRIPTION:

Approving the Third Amendment to the lease, dated February 18, 2004, with Sprint Spectrum Realty Company, L.P., tenant at the Fifth & Mission/Yerba Buena Garage, to extend the term of the lease and increase the annual minimum rent, and authorizing the Director of Transportation to execute the Third Amendment.

SUMMARY:

- The Fifth & Mission/Yerba Buena Garage is owned by the City and County of San Francisco and managed by the SFMTA. The garage provides approximately 2,585 parking spaces for employees, visitors and businesses in the area. The garage also has approximately 26,000 square feet of rentable retail/commercial space with approximately 21,850 square feet currently leased to various tenants.
- Prior to December 31, 2012, the parking garage was leased by The Downtown Parking Corporation (Corporation). Under the lease, the Corporation managed the day-to-day operation of the garage, including sub-leasing retail space, with oversight and direction from the SFMTA. Effective December 31, 2012, the Corporation terminated its master lease and all rights and obligations. Commencing January 1, 2013, the SFMTA assumed complete responsibility for managing the garage as well as all retail leases and agreements.
- Suite "F" located in the Shops at Yerba Buena, consists of 2,152 square feet and includes a 4' x 4' roof antenna and is currently leased to Sprint Spectrum Realty Company, L.P (Tenant).
- The proposed Third Amendment would extend the initial term by five years, starting June 1, 2014, and includes an option to renew for an additional five years, through May 31, 2024.
- The Tenant currently pays \$10,501.76 monthly (\$126,021.12 annually).
- Under the Third Amendment, the rent will increase by three percent, commencing June 1, 2014, to \$10,815.60 per month (\$129,787.11 annually) with a three percent annual rent increase throughout the renewal and option term. The Third Amendment does not provide for any rent credits or tenant improvement allowances.

ENCLOSURES:

1. SFMTAB Resolution
2. Third Amendment to Lease

APPROVALS:

DATE

DIRECTOR _____ 2/19/14

SECRETARY _____ 2/19/14

ASSIGNED SFMTAB CALENDAR DATE: March 4, 2014

PURPOSE

This report requests that the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors adopt the attached resolution, approving the Third Amendment to the lease, dated February 18, 2004, with Sprint Spectrum Realty Company, L.P., tenant at the Fifth & Mission/Yerba Buena Garage, to extend the term of the lease and increase the annual minimum rent, and authorizing the Director of Transportation to execute the Third Amendment.

GOAL

This action is consistent with the SFMTA FY2013-2018 Strategic Plan.

- Goal 3: Improve the environment and quality of life in San Francisco.
- 3.2 – Increase the transportation system's positive impact to the economy.
 - 3.5 – Reduce operating and capital structural deficit.

DESCRIPTION

The Fifth & Mission/Yerba Buena Garage is located at 833 Mission Street and provides approximately 2,585 parking spaces and, along the bottom floor, offers 13 retail/commercial spaces (26,000 square feet). These retail spaces are primarily located along the Mission Street side of the garage.

Prior to December 31, 2012, the City leased the garage to the San Francisco Downtown Parking Corporation (Corporation) through a master lease agreement (Master Lease), which was subsequently terminated on December 31, 2012. Under the Master Lease, the Corporation managed the day-to-day operation of the garage, including sub-leasing retail space, with oversight and policy direction from the SFMTA. Effective January 1, 2013 the SFMTA assumed complete responsibility for managing the garage as well as all retail leases and agreements. The termination of the Master Lease had no material effect on garage operations or its tenants.

In the latter part of 2013, Sprint Spectrum Realty Company, L.P. approached staff with a request to negotiate a lease renewal. Based on comparable rates within the area, staff negotiated a lease rent increase of three percent from \$10,499 per month to \$10,815 per month commencing June 2014 with a three percent annual increase thereafter. The retail space, more commonly known as Suite "F" located in the Shops at Yerba Buena, consists of 2,152 square feet and includes a 4' x 4' roof antenna.

The Third Amendment provides for a five-year extension to May 31, 2019 plus one five-year renewal option. The lease terms are very competitive with comparable rents for the area.

The extended five-year term will provide additional rent of \$129,787.12 in year one and a total of \$689,049 over the term. Should the five-year option be exercised, it will provide additional rent of \$798,813 over the term.

The City Attorney has reviewed this report.

ALTERNATIVES CONSIDERED

The SFMTA evaluated the pros and cons of the proposed Third Amendment versus initiating a solicitation process to secure a new tenant.

Sprint Spectrum Realty Company, L.P. is a long standing tenant who has been in the space for the last ten years. There is additional vacant space available for lease in the area and a competitive leasing environment does not exist.

FUNDING IMPACT

The approval of the proposed Third Amendment with Sprint Spectrum Realty Company, L.P. will result in anticipated rent of approximately \$1.48 million during the amendment term, including the option.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

Approval by the Board of Supervisors is required under Charter Section 9.118.

RECOMMENDATION

Staff recommends the approval of the Third Amendment between the City and County of San Francisco and Sprint Spectrum Realty Company, L.P.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The City and County of San Francisco (City), a municipal corporation, owns the Fifth & Mission/Yerba Buena Garage, located at 833 Mission Street, San Francisco, California; and,

WHEREAS, Prior to December 31, 2012 the City leased the garage to the San Francisco Downtown Parking Corporation (Corporation) through a master lease agreement (Master Lease), which was subsequently terminated on December 31, 2012. Under the Master Lease, the Corporation managed the day-to-day operation of the garage, including sub-leasing retail space, with oversight and policy direction from the SFMTA; and,

WHEREAS, Effective January 1, 2013 the SFMTA took complete responsibility for managing the garage as well as all retail leases and agreements; and,

WHEREAS, The termination of the Corporation Master Lease had no material effect on garage operations or its tenants; and,

WHEREAS, Sprint Spectrum Realty Company, L.P. approached staff with a request to negotiate an amendment to its lease agreement; and,

WHEREAS, Staff negotiated a base rent increase of three percent commencing June 1, 2014 with a three percent annual increase during the five-year extension and five-year renewal option period; and,

WHEREAS, The extended five-year term will provide additional rent to the SFMTA of \$689,049 and should the five-year option be exercised, it will provide additional rent of \$798,813; and,

WHEREAS, The Amendment does not provide for any rent credits or tenant improvement allowances; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Director of Transportation to execute the Third Amendment to the lease, dated February 18, 2004, with Sprint Spectrum Realty Company, L.P., tenant at the Fifth & Mission/Yerba Buena Garage, to extend the term of the lease for a five years to May 31, 2019, plus one five year option to renew and increase the annual minimum rent for a total of \$689,049 over the five year term; and, be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors requests the Board of Supervisors' approval of the Third Amendment.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of March 4, 2014.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

THIRD AMENDMENT TO LEASE

THIS THIRD AMENDMENT TO LEASE (“Amendment”) by and between City and County of San Francisco, a municipal corporation, (“City”) acting by and through its Municipal Transportation Agency (“SFMTA” or “Landlord”), successor-in-interest to City of San Francisco Downtown Parking Corporation (“Former Landlord”), and Sprint Spectrum Realty Company, L.P., a Delaware limited partnership and successor-in-interest to Sprint Spectrum, LP (“Tenant”).

Recitals

A. The San Francisco Downtown Parking Corporation formerly held possession of that certain parking structure located in the City and County of San Francisco, California, on Mission Street between 4th Street and 5th Street, commonly known as Mission Street Fifth and Mission/Yerba Buena Parking Garage (the “**Parking Garage**”) pursuant to that certain Fifth and Mission Public Parking Garage Lease dated as of April 1, 1992, by and between The City and County of San Francisco, a municipal corporation (“**City**”), as landlord, and The San Francisco Downtown Parking Corporation, as tenant, which was recorded in the Official Records of the City and County of San Francisco as Document No. F296210 on February 18, 1993 (the “**Master Lease**”).

B. In accordance with the Master Lease, Former Landlord and Tenant entered into that certain Shops at Yerba Buena Lease dated February 18, 2004 (the “**Original Lease**”), as amended by the First Amendment to Lease dated September 26, 2007 (the “**First Amendment**”) (collectively, the “Lease”), respecting that certain retail space commonly known as Suite F located in the Shops at Yerba Buena, San Francisco, California and more fully described in the Lease (the “Premises”).

C. The Master Lease was terminated on December 31, 2012 and all rights and obligations held thereunder by the Former Landlord were assumed by the SFMTA on January 1, 2013.

D. Tenant and SFMTA desire to further amend the Lease in order to: (i) extend the Term of the Lease; (ii) increase the Annual Minimum Rent; and (iii) make certain other modifications and clarifications to the Lease as set forth in this Amendment, all on the terms and conditions of this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below as well as other valuable consideration, the receipt and sufficiency of which is acknowledged by both SFMTA and Tenant, the parties agree as follows:

1. Definitions and Recitals. Terms not otherwise defined herein have the meanings set forth in the Lease. The Recitals set forth above are hereby incorporated into this Amendment by this reference.

2. Extended Term. Pursuant to the Lease, the current Term is scheduled to expire on May 31, 2014. SFMTA and Tenant agree and acknowledge that pursuant to this Amendment, the current Term is hereby extended by five (5) years and shall expire on May 31, 2019 (“**Second Renewal Term**”).

3. **Annual Minimum Rent:** The Annual Minimum Rent for the Second Renewal Term will be as follows:

Lease Year	Annual	Monthly
June 1, 2014- May 31, 2015	\$129,787.12 (\$60.31 psf)	\$10,815.59
June 1, 2015- May 31, 2016	\$133,682.24 (\$62.12 psf)	\$11,140.19
June 1, 2016- May 31, 2017	\$137,684.96 (\$63.98 psf)	\$11,473.75
June 1, 2017- May 31, 2018	\$141,816.80 (\$65.90 psf)	\$11,818.06
June 1, 2018- May 31, 2019	\$146,077.76 (\$67.88 psf)	\$12,173.15

4. **Renewal Option.** Tenant is hereby granted the option to extend the Term beyond the Second Renewal Term for one (1) additional five (5) year period ("Third Renewal Term") on the same terms and conditions as set forth herein, upon written notice delivered by Tenant to SFMTA no later than one hundred eighty (180) days prior to the expiration of the Second Renewal Term, provided that Tenant is not then in default hereunder. The Annual Minimum Rent during each year of the Third Renewal Term shall be as follows:

Lease Year	Annual	Monthly
June 1, 2019- May 31, 2020	\$150,460.09 (\$69.92 psf)	\$12,538.34
June 1, 2020- May 31, 2021	\$154,973.88 (\$72.01 psf)	\$12,914.49
June 1, 2021- May 31, 2022	\$159,623.09 (\$74.17 psf)	\$13,301.92
June 1, 2022- May 31, 2023	\$164,411.73 (\$76.40 psf)	\$13,700.98
June 1, 2023- May 31, 2024	\$169,344.11 (\$78.69 psf)	\$14,112.10

5. **Duty to Mitigate Damages.** Article 19 of the Lease shall be amended to include the following: Notwithstanding anything in the Lease to the contrary, Landlord agrees to use reasonable efforts to relet the Premises and mitigate damages.

6. **Quiet Enjoyment.** Notwithstanding anything in the Lease to the contrary, Landlord covenants that, upon Tenant's payment of the Rent required hereunder and its performance of all of the terms and conditions of the Lease, Tenant's peaceful and quiet enjoyment of the Premises shall not be disturbed by Landlord or anyone properly claiming by, through or under Landlord.

7. **Ratification and Affirmation.** Except as hereby amended, the Lease shall remain unmodified and in full force and effect. Tenant affirms and Landlord acknowledges that there exists no default or condition, state of facts or event that, with the passing of time or the giving of notice, or both, would constitute a default by Tenant in the performance of its obligations under the Lease. The Lease, as amended by this Amendment, shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, successors and assigns.

8. **Conflict of Terms.** In the event that there is any conflict or inconsistency between the terms and conditions of the Lease and those of this Amendment, the terms and conditions of this Amendment shall control and govern.

9. **Execution in Counterpart.** This Amendment may be executed in any number of counterparts and by parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

10. **Amendment Date.** The latest date set forth beneath the signatures of all of the parties below is referred to herein as the "**Amendment Date.**"

IN WITNESS WHEREOF, SFMTA and Tenant have executed this Amendment on the corresponding date(s) set forth beneath their respective signatures below effective as of the Amendment Date.

<p><u>LANDLORD</u> SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY</p> <p>Approved:</p> <p>_____</p> <p>Edward D. Reiskin Director of Transportation</p> <p>Date: _____</p>	<p><u>TENANT</u> SPRINT SPECTRUM REALTY COMPANY, L.P., a Delaware limited partnership</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
<p>APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney</p> <p>By: _____</p> <p>Stephanie Stuart Deputy City Attorney</p> <p>Date: _____</p>	
<p>San Francisco Municipal Transportation Agency Board of Directors</p> <p>Resolution No: _____</p> <p>Adopted: _____</p> <p>Attest: _____</p> <p>Secretary, SFMTA Board of Directors</p>	