



AGENDA REPORT

Meeting Date: July 19, 2016

Item Number: D-1

To: Board of Directors, Parking Authority of the City of Beverly Hills

From: Chad Lynn, Assistant Director of Public Works Services
Aaron Ledet, Senior Management Analyst

Subject: AGREEMENT WITH NEWMARK OF SOUTHERN CALIFORNIA, INC.
FOR BROKERAGE SERVICES RELATED TO THE LEASE OF
PARKING AUTHORITY-OWNED PROPERTY AT 430 N. CAMDEN
DRIVE

Attachments: 1. Broker Agreement with Newmark of Southern California, Inc.

RECOMMENDATION

Staff recommends that the Board of Directors (the "Board") approve the Broker agreement between Newmark of Southern California, Inc. ("Newmark") and the Parking Authority of the City of Beverly Hills (the "Authority") for professional brokerage services related to the marketing of Authority-owned property as well as lease negotiations with prospective tenants

INTRODUCTION

The Board has directed staff to investigate opportunities for the lease-up of its commercial restaurant space located at 430 N. Camden Drive. The site is located in the highly desirable Triangle Commercial district and it is anticipated that the enlistment of broker services specializing in retail and restaurant leasing will further strengthen the Authority's position in the market to attract the most qualified tenants.

DISCUSSION

The site, located one block east of Rodeo Drive and one block South of South Santa Monica Blvd., is at the center of the block and situated between several commercial retail and service uses. The property features approximately 9,300 square feet of building space, an outdoor patio, and is conveniently accessible to vehicular traffic patrons through adjacent parking. The Authority is currently marketing the site as a Triple-Net-Lease opportunity for a term of up to 10 years; however the Authority is open to negotiations.

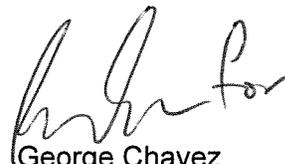
The site has been marketed as an available commercial restaurant opportunity since the lease of the last tenant, House of Music and Entertainment, was terminated in April 2016. To-date, the Authority has received only a few informal inquiries of interest in the site from the retail development community but has not received any formal proposals to lease the site.

FISCAL IMPACT

As currently drafted, the agreement specifies the following payment structure for the broker in exchange for the successful lease of the site:

<u>Payment Structure</u>	<u>Newmark Commission</u>
Years 1-5	3% of Base Rent
Years 6-10	1.5% of Base Rent
Years 11-15	0% of Base Rent

The agreement further stipulates that the commission is paid only after the Authority's execution of a lease with a prospective tenant. Such payments would be distributed in equal monthly payments over the lease period providing the tenant continues to pay its rent. In the event that the lease is terminated for any reason (other than a default of the Authority) the Authority would not be obligated to continue to pay any commission fees. As the Authority has directly received unsolicited inquiries from businesses regarding the site (including Cabaret Tehran Fine Dining & Entertainment, House of An (Crustacean) and Anakando Media Group), the agreement will exclude the broker from collecting a commission from any lease negotiated and approved between the Authority and the aforementioned businesses (including their subsidiaries, partners or affiliates).



George Chavez

Approved By

Attachment 1

BROKER AGREEMENT

THIS BROKER AGREEMENT (the "Agreement") is dated as of July 19, 2016 and is entered into by and between NEWMARK OF SOUTHERN CALIFORNIA, INC., a California corporation ("Broker") and THE PARKING AUTHORITY OF THE CITY OF BEVERLY HILLS, a California municipal corporation ("Authority").

RECITAL

Authority desires to engage Broker on an exclusive basis, with three exceptions, for the limited purpose of finding a reputable, creditworthy tenant for, and negotiating the terms of the Authority's leasing of, the property ("Property") at 430 North Camden, Beverly Hills, California (the "Brokerage Services").

AGREEMENT

1. Broker's License. Broker represents and warrants to Authority that: (i) Broker holds a valid real estate broker's license from the State of California which is in good standing and not suspended, and the license number for said license is 01355491; and (ii) Jay Luchs of Broker holds a valid real estate salesperson's license from the State of California which is in good standing and not suspended, and the license number for said license is 01260345.

2. Services and Term; Exclusions. Broker (primarily through Jay Luchs) shall diligently perform the Brokerage Services from the date hereof until the earlier of: (i) the approval and execution by the Authority (in its sole and absolute discretion) and the tenant of a lease for the Property; or (ii) the date that is six (6) calendar months after the date hereof. Broker shall have no authority to bind the Authority and shall expressly disclose that in writing to the owner of the Property, with a copy to the Executive Director of the Authority. Broker shall comply with the directions from the Executive Director in good faith as to the terms to be negotiated.

Notwithstanding anything to the contrary in this Agreement, express or implied, in no event shall Broker be entitled to any commission or compensation whatsoever, under Section 4 below or otherwise, in the event Authority enters into a lease with any of the following entities or any affiliate of any of such entities (and any such lease shall not be included in the capitalized term "Lease" as used herein):

- (i) Cabaret Tehran Fine Dining & Entertainment;
- (ii) House of An (Crustacean);
- (iii) Anakando Media Group.

3. Approval of Lease by Authority. The Authority is under no obligation, express or implied, to accept the negotiated terms or any proposed Lease.

4. Payment of Commission/Compensation. If a Lease is approved and executed by Authority and the tenant during the term of this Agreement, or within three months thereafter

based on negotiations occurring during the term of this Agreement, then Authority shall pay to Broker a leasing commission of:

- 3% of the base rent for years 1 – 5
- 1.5% of the base rent for years 6 – 10

Such commission shall be paid in equal monthly payments (without interest) over the period under the lease during which the tenant is obligated to pay rent and actually pays rent, such payments to be made within ten (10) days after Authority's receipt of the applicable monthly rental payment from the tenant, it being understood that monthly commission payments shall not continue if the lease is terminated for any reason other than a default of the Authority.

5. Time of Essence. Time is of the essence of every provision hereof in which time is a factor.

6. Complete Agreement. This Agreement constitutes the complete agreement of the parties as to the subject matter hereof.

7. Notices/Payments to Broker. Notices and payments to Broker may be sent by overnight messenger or certified mail to Broker at 1875 Century Park East, Suite 1380, Los Angeles, CA 90067, Attn: Jay Luchs.

8. Authority. The person executing this Agreement on behalf of Broker represents and warrants to Authority that this Agreement has been duly authorized and approved by Broker and that such person has the authority to execute this Agreement on behalf of Broker.

AUTHORITY:

THE PARKING AUTHORITY OF THE CITY OF BEVERLY HILLS

JOHN A. MIRISCH
Chairman

ATTEST:

_____(SEAL)
BYRON POPE
Parking Authority Secretary

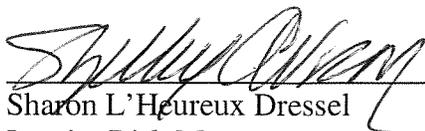
APPROVED AS TO FORM



LAURENCE S. WIENER
Parking Authority Counsel

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Executive Director

per 

Sharon L'Heureux Dressel
Interim Risk Manager

BROKER:

NEWMARK OF SOUTHERN CALIFORNIA,
INC., a California corporation

By: 

Steven Kolsky, Managing Director,
Executive Vice President