



AGENDA REPORT

Meeting Date: October 7, 2008
Item Number: F-7
To: Honorable Mayor & City Council
From: Cindy Aller-Sterling, Training & Organizational Development Manager
Subject: APPROVAL OF A MEMORANDUM OF LEASE AND AMENDMENT OF LEASE BETWEEN THE CITY OF BEVERLY HILLS AND 323 NO. CRESCENT DRIVE, INC. (DBA "BAILEY'S BAKERY")

Attachments: 1. Memorandum of Lease

RECOMMENDATION

It is recommended that the Council approve the Memorandum of Lease and Amendment of Lease with Bailey's Bakery, for the purpose of extending the existing lease term ten years.

INTRODUCTION

Bailey's Bakery is a city tenant in the North Crescent Drive Parking Structure. Due to their lease termination date of August 28, 2008, the tenant requested that their lease be extended ten additional years. Additionally, the tenant will receive two months of free rent in lieu of tenant improvement work to the lease space. Rent will be adjusted every 30 months by the Consumer Price Index.

DISCUSSION

Bailey's Bakery leases 1,190 square feet from the City. The tenant has requested that their lease be extended by ten years and that they are allowed two months free rent so that they can make some improvements to their lease space.

Meeting Date: October 7, 2008

FISCAL IMPACT

Rent for the first year of the lease will be approximately \$33,209 which anticipates the two months of free rent.



Scott Miller
Finance Approval



Scott G. Miller, Director of
Administrative Services/CFO
Approved By

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Beverly Hills
455 North Rexford Drive
Beverly Hills, California 90210
Attention: City Clerk

[Space Above For Recorder's Use Only]

The undersigned declare that this Memorandum of Lease and Amendment of Lease is exempt from Recording Fees pursuant to California Government Code Section 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code Section 11911 (transfer for no consideration or value).

MEMORANDUM OF LEASE AND AMENDMENT OF LEASE

THIS MEMORANDUM OF LEASE AND AMENDMENT OF LEASE (this "**Amendment**") is made as of _____, 2008, by and between the CITY OF BEVERLY HILLS, a California municipal corporation ("**Landlord**"), and 323 NO. CRESCENT DRIVE, INC., a California corporation (dba "**Bailey's Bakery**") ("**Tenant**").

RECITALS

A. Tenant and Landlord entered into that certain "City of Beverly Hills Lease – Site "A" North 333 North Crescent Drive" dated as of February 24, 1998, for initial premises that were relocated to space (the "**Premises**") in the parking structure on that certain land located in the City of Beverly Hills, County of Los Angeles, State of California, commonly known as 327 N. Crescent Drive, Beverly Hills, CA 90210 depicted on Exhibit "A" to the Lease.

B. Capitalized terms used but not defined herein shall have the meaning set forth in the Lease.

C. Tenant and Landlord desire to amend the Lease as hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Tenant and Landlord agree as follows:

1. Extension of Lease Term. Landlord and Tenant acknowledge and agree that the existing term of the Lease expires on August 28, 2008. The term of the Lease is hereby extended to August 31, 2018.

2. Required Improvements. Tenant shall replace the existing HVAC unit, and shall make improvements to the Premises, on or before December 31, 2008. All such improvements and alterations shall be subject to Section 7.B of the Lease and Landlord's approval.

3. Monthly Rent. From August 29, 2008 through October 31, 2008, the monthly rent shall be abated. From November 1, 2008 through August 31, 2010, the monthly rent shall be \$3,320.90. From September 1, 2010 to February 28, 2013, the monthly rent shall be the sum of \$3,320.90 increased by the percentage increase in the Index from September 1, 2008 through August 31, 2010 (i.e., \$3,320.90 multiplied by a fraction, the denominator of which is the Index most recently published prior to September 1, 2008, and the numerator is the Index most recently published prior to August 31, 2010), as calculated by Landlord. On March 1, 2013, September 1, 2015 and March 1, 2018 (each an "Adjustment Date"), the monthly rent previously in effect shall be similarly increased by the percentage increase in the Index over the preceding thirty (30) month period. In no event shall the monthly rent decrease.

4. Parking. The term "Parking Structure" as used in Section 35 of the Lease shall mean the Parking Structure located at 333 Crescent Drive in which the Premises are located.

5. Winter Shopping Season Hours and Decoration. Tenant acknowledges that the Landlord has a significant interest in promoting retail sales in the City of Beverly Hills ("City") in order to maximize sales tax revenues and otherwise benefit both the City and the retail businesses in the City. During the winter shopping/holiday season ("Winter Shopping Season") established or identified by the Beverly Hills Chamber of Commerce (the "Chamber"), Tenant shall: (i) remain open during any extended hours recommended, established or identified for the Winter Shopping Season by the Chamber; and (ii) reasonably decorate the Premises for the Winter Shopping Season at Tenant's cost.

6. Conflict. In the event of a conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall prevail and control.

7. Continuing Effect. Except as specifically modified hereby, the Lease shall remain unaffected and unchanged, and all of the terms of the Lease shall apply to the extended Term. The Lease is hereby ratified and affirmed by Landlord and Tenant and remains in full force and effect as modified hereby.

8. Counterparts. This Amendment may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first written above.

LANDLORD:

CITY OF BEVERLY HILLS,
a California municipal corporation

ATTEST:

By: _____
BARRY BRUCKER
Mayor of the City of Beverly Hills

BYRON POPE
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Laurence S. Wiener (CBG)
LAURENCE S. WIENER
City Attorney

RODERICK J. WOOD
City Manager
Scott G. Miller
SCOTT G. MILLER
CFO/Director of Administrative Services

TENANT:

323 NO. CRESCENT DRIVE, INC.,
a California corporation

By: _____
Herbert Senger
Title: President

By: _____
Jutta Senger
Title: Treasurer

SEE ATTACHED
NOTARY ACKNOWLEDGMENT.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of LOS ANGELES



On SEPT 18, 2008 before me, Mangala T.B. Tennakoon, Notary Public

Date

Here Insert Name and Title of the Officer

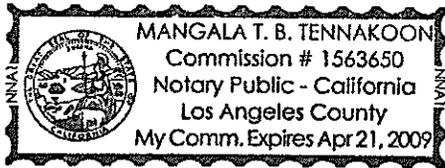
personally appeared HERBERT SENGER AND JUTTA SENGER

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature *[Handwritten Signature]*
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: MEMO OF LEASE

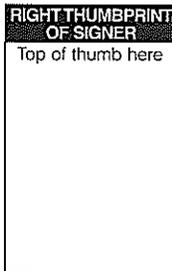
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

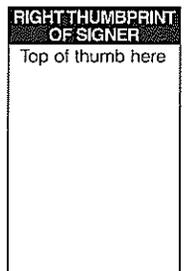
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____