



AGENDA REPORT

Meeting Date: November 18, 2008
Item Number: F-10
To: Honorable Mayor & City Council
From: Brenda A. Lavender, Real Estate & Property Manager
Subject: Memorandum of Lease and Amendment of Lease for Shahram Saeedian and Bijan Dadfarin dba Beverly Hills Market
Attachments:

1. Memorandum of Lease
2. Amendment of Lease

RECOMMENDATION

Staff recommends approval of the Memorandum of Lease and Amendment of Lease by and between the City of Beverly Hills and Shahram Saeedian and Bijan Dadfarin dba Beverly Hills Market. Beverly Hills has been a long-standing tenant of the City at the 333 N. Crescent Drive.

INTRODUCTION

A Memorandum of Lease and Amendment of Lease with Beverly Hills Market has been prepared for City Council approval. The amendment extends the term of lease by ten (10) years. The Amendment also mandates that Tenant invest approximately \$80,000 in approved tenant improvements in the space within the first year of the term extension.

DISCUSSION

Beverly Market's current lease expired November 11, 2008 and this Amendment will extend the term through January 31, 2018. This amendment retains this local market which has been a long-standing community amenity.

FISCAL IMPACT

The fiscal impact of the extension of this lease is additional annual revenue of \$116,780.52 and \$2,018,436.36 over the life of the extended lease term with no out of pocket expense to the City.


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

Attachment 1

Memorandum of Lease

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN:

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

[Space Above For Recorder's Use Only]

The undersigned Lessor declares that this Memorandum of Lease is exempt from Recording Fees pursuant to California Government Code Section 27383 and is exempt from documentary transfer taxes pursuant to California Revenue and Taxation Code Section 11922.

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this “**Memorandum**”) is made as of November __, 2008 by and among CITY OF BEVERLY HILLS, a California municipal corporation (“**Lessor**”) and SHAHRAM SAEEDIAN and BIJAN DADFARIN (collectively referred to herein as “**Lessee**”).

R E C I T A L S

A. Lessor and Lessee entered into that certain “City of Beverly Hills Lease – Site “A” North 333 North Crescent Drive” dated September 22, 1998 and amended said lease by an Amendment of Lease dated substantially concurrently herewith (the “**Lease**”).

B. Pursuant to the Lease, Lessor agreed to lease and demise to Lessee, and Lessee agreed to lease and accept from Lessor, portions of that certain real property located in the City of Beverly Hills, County of Los Angeles, State of California, commonly known as 333 North Crescent Drive more particularly described in the Lease.

C. Lessor and Lessee have agreed to enter into this Memorandum to provide record notice of the Lease.

AGREEMENT

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

1. Lease. Lessor has leased to Lessee, and Lessee has leased from Lessor, the portion of the Property defined as the “Premises” in the Lease.

2. Term. The term of the Lease expires on November 11, 2018, subject to one (1) remaining option to extend the term of the Lease for a five (5) year period subject to the terms for exercising such extension option set forth in the Lease.

3. Incorporation. Reference should be made to the Lease for the specific terms and conditions thereof.

4. Purpose. This Memorandum is prepared for the purposes of recordation only and in no way modifies the terms and conditions of the Lease. In the event any provision of this Memorandum is inconsistent with any term or condition of the Lease, the term or condition of the Lease shall prevail.

5. Counterparts. This Memorandum 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.

LESSOR:

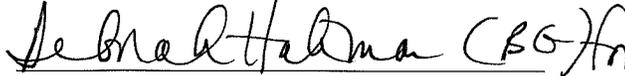
CITY OF BEVERLY HILLS,
a municipal corporation

ATTEST:

By: _____
Barry Brucker, Mayor

Byron Pope, City Clerk

APPROVED AS TO FORM:



Laurence S. Wiener, City Attorney

APPROVED AS TO CONTENT:

Roderick J. Wood, City Manager



Scott G. Miller, CFO/Director of
Administrative Services

LESSEE:



SHAHRAM SAEEDIAN



BIJAN DADFARIN

ACKNOWLEDGMENT

State of California)
)
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

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.

Signature _____ (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
)
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

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.

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WITNESS my hand and official seal.

Signature _____ (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
County of Los Angeles)

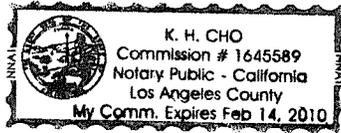
On November 6, 2008, before me, K. H. Cho, Notary Public,
(insert name and title of the officer)

personally appeared Bejan Dadfarin

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.



Signature [Handwritten Signature] (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____

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.

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WITNESS my hand and official seal.

Signature _____ (Seal)
Signature of Notary Public

Attachment 2

Amendment of Lease

AMENDMENT OF LEASE

THIS AMENDMENT OF LEASE (this “**Amendment**”) is dated as of November __, 2008, and is entered into by and among the CITY OF BEVERLY HILLS, a municipal corporation (“**Lessor**”) and SHAHRAM SAEEDIAN and BIJAN DADFARIN (collectively, “**Lessee**”), doing business as “Beverly Hills Market.”

RECITALS

A. Lessor and Lessee executed that certain “City of Beverly Hills Lease – Site “A” North 333 North Crescent Drive” dated as of September 22, 1998 (the “**Lease**”). Capitalized terms used herein but not defined shall have the meanings set forth in the Lease.

B. The Lease affects a portion (the “**Premises**”) of the building located at 333 North Crescent Drive, Beverly Hills, California, consisting of: (i) retail shop space containing approximately 3,738 square feet of rentable area; (ii) storage space; (iii) a license to use Patio space; and (iv) a license to use an area for a vending cart.

C. The Lease expires on November 11, 2008 and although Tenant has an option under Section 3B of the Lease to extend the term for 5 years, Tenant has not exercised that option but has instead requested that Landlord amend the Lease to extend the term to November 11, 2018 with a five (5) year extension option on the grounds that Tenant will invest significant sums for additional improvements to the retail shop space and needs a longer term in order to justify such investment.

D. Landlord has agreed to so extend the term and grant the option upon and subject to the terms hereinafter set forth.

A G R E E M E N T

NOW, THEREFORE, in consideration of the foregoing recitals, the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. Extension of Term. The Initial Term is hereby extended to November 11, 2018.
2. Option to Extend. Section 3.B. of the Lease is hereby deleted as is replaced with the following new Section 3.B:

“3.B. OPTION TO EXTEND INITIAL TERM

Provided Tenant is not in default under this Lease when Tenant exercises the option described herein and Tenant is not in default under this Lease as of the end of the Initial Term (and Tenant has not ever been in default under this Lease beyond the applicable cure period), Tenant shall have one (1) option (the “**Option**”) to extend the Initial Term for 5 years (i.e., from

November 12, 2018 to November 11, 2023). Base Monthly Rent during the option term shall be:

<u>Period</u>	<u>Base Monthly Rent</u>
November 12, 2018 – November 11, 2019	\$11,828.95
November 12, 2019 November 11, 2021	\$12,420.40
November 12, 2021 – November 11, 2023	\$13,041.42

Tenant shall exercise the Option in writing no sooner than November 11, 2017 and no later than May 11, 2018. Tenant shall have no other or further right to extend the term of this Lease.”

3. Modification of Rent. Effective as of November 12, 2008, Sections 4.A, 4.B, 4.C, 4.D and 4.E of the Lease are deleted and are replaced with the following revised Section 4:

“4. BASE MONTHLY RENT

Tenant shall pay Base Monthly Rent to the City for the Premises, without deduction, set off, prior notice or demand, on the first day of each calendar month (prorated for any partial calendar month) as follows:

<u>Period</u>	<u>Base Monthly Rent</u>
November 12, 2008 – November 11, 2011	\$9,731.71
November 12, 2011 – November 11, 2013	\$10,218.30
November 12, 2013 – November 11, 2015	\$10,729.21
November 12 2015 – November 11, 2017	\$11,265.67
November 12, 2017 – November 11, 2018”	\$11,828.95

4. Additional Improvements Required. Tenant shall construct \$80,000 of additional improvements listed on Exhibit “A” in the Shop Space portion of Premises on or before November 12, 2009, provided that such date shall be extended by delays in Tenant’s completion

of the improvements that are beyond the control of Tenant and are not caused by Tenant (and lack of funding and Tenant's financial condition shall be deemed to be within the control of Tenant). Such improvements shall be installed and constructed at Tenant's sole cost and expense, and Tenant shall provide Landlord with copies of the invoices for all such work on or before November 12, 2009, and Tenant's failure to do either shall constitute a material default (without notice or any opportunity to cure by Tenant) under the Lease. All improvements and alterations to the Premises shall be subject to: (i) the City's prior written approval (in its proprietary capacity under the Lease) of the plans and specifications for such alterations and improvements and (ii) Section 7.B of the Lease. Landlord shall also have the right to approve Tenant's general contractor and Tenant's architect for such improvements and alterations. Landlord's approval of the plans and specifications (in Landlord's proprietary capacity as a landlord) shall not relieve Tenant from the obligation to obtain all necessary governmental approvals and permits and otherwise comply with all applicable laws.

5. Winter Shopping Season Hours and Decoration. Tenant acknowledges that the City has a significant interest in promoting retail sales in the 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. Memorandum of Lease. Concurrently herewith, Lessee shall execute, acknowledge and deliver to Lessor a Memorandum of Lease in the form attached hereto as Exhibit "B" for recording in the Official Records of the County of Los Angeles, California.

7. Continuing Effect. Except as specifically modified hereby, the Lease shall remain unaffected and unchanged. The Lease is hereby ratified and affirmed by Lessor and Lessee 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.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Amendment as of the date and year first above written.

LESSOR:

CITY OF BEVERLY HILLS,
a municipal corporation

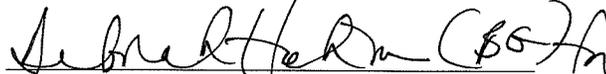
ATTEST:

By: _____

Barry Brucker, Mayor

Byron Pope, City Clerk

APPROVED AS TO FORM:



Laurence S. Wiener, City Attorney

APPROVED AS TO CONTENT:

Roderick J. Wood, City Manager

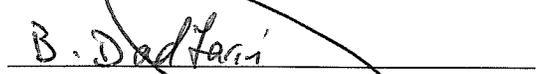


Scott G. Miller, CFO/Director of
Administrative Services

LESSEE:



SHAHRAM SAEEDIAN



BIJAN DADFARIN

EXHIBIT "A"

LIST OF REQUIRED BEVERLY HILLS MARKET IMPROVEMENTS

ITEM	EST. COST
Refrigeration & equipment change & installation	\$ 30,000
Shelving and gondola replacement	17,000
New flooring	12,000
New electrical panel	5,000
Tiling and wood surfacing of the interior	8,000
Awning installation	5,000
Window filming – 2 sides	8,000
Total	<hr/> <u>\$85,000</u> <hr/>

EXHIBIT "B"

FORM OF MEMORANDUM OF LEASE

(Attached.)

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN:

City of Beverly Hills
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Beverly Hills, California 90210
Attention: City Clerk

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LESSOR:

CITY OF BEVERLY HILLS,
a municipal corporation

ATTEST:

By: _____
Barry Brucker, Mayor

Byron Pope, City Clerk

APPROVED AS TO FORM:

Laurence S. Wiener, City Attorney

APPROVED AS TO CONTENT:

Roderick J. Wood, City Manager

Scott G. Miller, CFO/Director of
Administrative Services

LESSEE:

SHAHRAM SAEEDIAN

BIJAN DADFARIN

ACKNOWLEDGMENT

State of California)
)
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

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.

Signature _____ (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
)
County of _____)

On _____ before me, _____
(insert name and title of the officer)

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County of _____)

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ACKNOWLEDGMENT

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)
County of _____)

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(insert name and title of the officer)

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Signature of Notary Public