



AGENDA REPORT

Meeting Date: December 2, 2008
Item Number: F-8
To: Honorable Mayor & City Council
From: Brenda A. Lavender, Real Estate & Property Manager
Subject: Lease Modification Agreement between Margaret Kevorkian dba Beverly Cleaners and the City of Beverly Hills
Attachments: 1. Lease Modification Agreement

RECOMMENDATION

Staff recommends approval of the Lease Modification Amendment by and between the City of Beverly Hills and Margaret Kevorkian dba Beverly Cleaners. Beverly Cleaners has been a long-standing tenant of the City at the 309 N. Crescent Drive.

INTRODUCTION

A Lease Modification Amendment with Beverly Cleaners has been prepared for City Council approval. The amendment extends the term of lease by five (5) years.

DISCUSSION

Beverly Cleaners' current lease expires December 30, 2008 and this Lease Modification will extend the term through December 31, 2013. This lease modification retains this local cleaners which has been a long-standing community amenity.

FISCAL IMPACT

The fiscal impact of the extension of this lease is additional annual revenue of \$39,900 for the first year and then increased annually thereafter by CPI. The City will make some structural repairs totaling \$7,525.00.

Scott G. Miller, Director of
Administrative Services, CFO

Approved By

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

(space above line for recorder's use)

The undersigned declare that this Lease Modification Agreement 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).

LEASE MODIFICATION AGREEMENT

THIS LEASE MODIFICATION AGREEMENT (this "**Agreement**") is dated as of December 2, 2008 (the "**Effective Date**"), and is entered into by and between MARGARET KEVORKIAN (dba "Beverly Cleaners") ("**Lessee**"), and the CITY OF BEVERLY HILLS, a California municipal corporation ("**City**").

RECITALS

- A. City and Iraj Aziz-Lavi, as lessee, entered into that certain Lease dated November 1, 1983 (the "**Original Lease**"), for a portion of the building located at 309 North Crescent Drive, Beverly Hills, California (the "**Premises**").
- B. The Original Lease was subsequently modified by that certain Amendment dated June 5, 1984, executed by City and Iraj Aziz-Lavi (the "**First Amendment**").
- C. The lessee's interest in the Original Lease (as modified by the First Amendment) was subsequently assigned pursuant to that certain Modification, Extension, Assignment, Assumption and Consent Agreement dated as of December 13, 1988, executed by City, Iraj Aziz-Lavi and Beverly Cleaners, Inc., as assignee (the "**Second Amendment**").
- D. The Original Lease (as modified by the First Amendment and the Second Amendment) was subsequently modified by that certain Modification and Extension Agreement dated as of December 7, 1993, executed by City and Beverly Cleaners, Inc. (the "**Third Amendment**").
- E. The Original Lease, as amended by the First Amendment, Second Amendment and Third Amendment was then assigned to Lessee and modified by that certain Assignment, Assumption Consent and Modification Agreement dated March 18, 2004 recorded in the Official Record of Los Angeles County as Document No. 041278642 (the "**Fourth Amendment**"). The Premises are described on Exhibit "A" to the Fourth Amendment.

F. The Original Lease, as modified and assigned pursuant to the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment, is hereinafter referred to as the "**Lease.**"

G. The lessee's obligations under the Lease are guaranteed pursuant to (1) that certain undated Guaranty of Lease executed by Iraj Aziz-Lavi in favor of City; (2) that certain Guaranty of Lease dated December 7, 1988, executed by Lessee in favor of City; and (3) that certain Guaranty of Lease dated November 12, 1993, executed by Assignee and George Kevorkian in favor of City (collectively, the "**Guaranty**").

H. City and Lessee desire to extend the term of the Lease and modify certain other provisions of the Lease, all as more particularly provided herein.

A G R E E M E N T

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

1. Extension of Lease Term. The term of the Lease is hereby extended to December 31, 2013.
2. Monthly Rent. The monthly rent payable under the Lease from January 1, 2009 through December 31, 2010 shall be Three Thousand Three Hundred Twenty-Five Dollars (\$3,325) per month. The monthly rent shall be increased on January 1, 2011, January 1, 2012 and January 1, 2013 (each, on "Adjustment Date") as provided in Section 4.B. of the Lease (i.e., as such section in the Original Lease was amended and restated in its entirety pursuant to the Third Amendment, but using the aforesaid dates as the Adjustment Dates).
3. Landlord Work. Landlord shall contract with KRB Construction to perform the following: (i) replacement of damaged portions of restroom ceiling and toilet; and (ii) repairs to concrete parking deck above the Premises and to the six inch vent pipes and water lines.
4. Winter Shopping Season Hours and Decoration. Lessee 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"), Lessee 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 Lessee's cost. Failure to comply with the foregoing shall constitute a default under the Lease.
5. Estoppel. Lessee hereby represents and warrants the following to City as of the Effective Date:

Entire Agreement. The Original Lease has not been modified, supplemented or amended except as provided in the First Amendment, the Second Amendment and the Third Amendment and the Fourth Amendment.

Security Deposit. City is holding Five Thousand Three Hundred Four Dollars (\$5,304) as a security deposit in accordance with Section 5 of the Second Amendment.

Default. Lessee has not given written notice to City of any dispute or default under the Lease and no event has occurred that, with the giving of notice, the passage of time or both, would constitute a default under Sections 22 and/or 24 of the Original Lease.

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 Agreement, the terms and conditions of this Agreement shall prevail and control.

7. Continuing Effect. Except as specifically modified hereby, the Lease shall remain unaffected and unchanged by reason of this Agreement. The Lease is ratified and affirmed by Lessee and remains in full force and effect as modified hereby.

8. Authority. Each party hereto represents and warrants to the other parties hereto that it has all requisite power and authority to execute and deliver, and to perform all of its obligations under, this Agreement, and that nothing prohibits or restricts its right or ability to close the transactions contemplated hereunder and carry out the terms hereof.

9. Attorneys' Fees. In the event of any litigation between the parties hereto arising out of this Agreement, the losing party shall pay the prevailing party's costs and expenses of such litigation, including, without limitation, reasonable attorneys' fees.

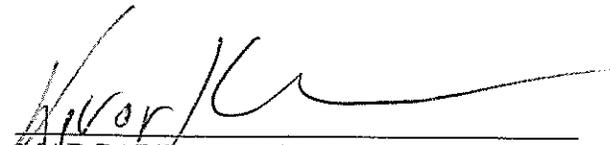
10. Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the parties hereto and their successors and assigns.

11. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.

12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

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

LESSEE:


MARGARET KEVORKIAN

CITY:

CITY OF BEVERLY HILLS,
a California municipal corporation

By: _____
Barry Brucker, Mayor

ATTEST:

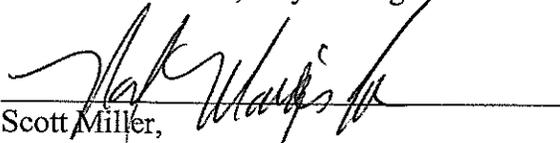
Byron Pope, City Clerk

APPROVED AS TO FORM:


Laurence S. Wiener, City Attorney

APPROVED AS TO CONTENT:

Roderick J. Wood, City Manager


Scott Miller,
Chief Financial Officer

ACKNOWLEDGMENT

State of California)
)
County of Los Angeles)

On November 13, 2008 before me, Donna Strull, Notary Public
(insert name and title of the officer)

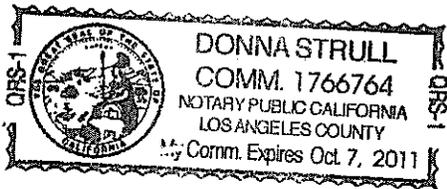
personally appeared Margaret Kevorkian,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) 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 *Donna Strull*
Signature of Notary Public

(Seal)



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
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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 _____
Signature of Notary Public

(Seal)