



AGENDA REPORT

Meeting Date: May 17, 2011
Item Number: F-8
To: Honorable Mayor & City Council
From: Brenda A. Lavender, Real Estate & Property Manager
Subject: CONSENT TO ASSIGNMENT BY AND BETWEEN THE CITY OF BEVERLY HILLS AND JAE IN LEE DBA CALIFORNIA COFFEE SELETTO
Attachments: 1. Consent to Assignment

RECOMMENDATION

It is recommended that the City Council approve the Consent to Assignment by and between the City of Beverly Hills and Jae In Lee dba California Coffee Seletto. A copy of the lease is on file with the City Clerk. California Coffee Seletto is located at 434 N. Camden Drive. The current lease term expires March 31, 2014 and there is one option to extend the lease through March 31, 2019.

INTRODUCTION

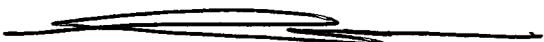
This assignment of the lease is between Jae In Lee as Assignor and Chum Nam Lee and Hana Lee as Assignees for the operation of the coffee shop. Chum Nam and Hana Lee purchased the business from Jae In Lee and will operate the location in accordance with the lease agreement.

DISCUSSION

California Coffee Seletto is 1,607 square foot coffee shop serving both breakfast and lunch. As a part of the City's consent to the assignment, the new operators were required to increase the security deposit from \$7,092 to \$15,000.

FISCAL IMPACT

There is no change in rental revenue for this agreement, although additional security deposit has been received.


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

Attachment 1

CONSENT TO ASSIGNMENT

The CITY OF BEVERLY HILLS, a municipal corporation (“Landlord”), as landlord under that certain City of Beverly Hills Lease – Camden Drive Parking Structure 434 North Camden Drive dated May 27, 2009, as amended by a First Amendment of Lease dated July 8, 2010 (the “Lease”) entered into by between Landlord and JAE IN LEE, an individual (“Tenant”), as tenant, **subject to and specifically conditioned upon the following terms and conditions hereinafter set forth**, grants its consent to that certain “Assignment of Lease” dated March 22, 2011 entered into by and between the Tenant, as assignor, and CHUN NAM LEE and HANA LEE (collectively, “Assignee”), as assignee, a copy of which is attached hereto as Exhibit “A” (the “Assignment”), covering certain premises (the “Premises”) more particularly described therein that are located in the building at 434 North Camden Drive, Beverly Hills, California.

The capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Lease. This Consent to Assignment may be executed in counterparts, each of which shall be considered an original but shall constitute one and the same document.

As conditions to the consent of Landlord to the Assignment, it is understood and agreed as follows:

1. **Direct Payments from Assignee to Landlord.** Tenant and Assignee hereby acknowledge and agree that Assignee may make directly to Landlord payments of parking fees and costs, rent and other charges that are payable by Tenant to Landlord under the Lease, but such direct-pay arrangement: (i) shall not release Tenant from any obligations under the Lease; (ii) a failure by Assignee to make any such payment shall constitute a default under the Lease; (iii) Landlord shall be under no obligation to provide Assignee with notice of any default under the Lease or Assignment, but shall only be required to send any applicable notice of default contemplated by the Lease to Tenant; and (iv) Assignee may deal directly with Landlord in connection with Assignee’s use of parking granted to Tenant under the Lease, including with respect to execution of any parking agreement(s) that Landlord may require.
2. **Security Deposit.** Landlord’s consent to the Assignment is conditioned upon Assignee depositing the sum of \$15,000.00 with Landlord (and upon receipt of said deposit, Landlord shall release all rights it may have to the \$7,092 security deposit under the Lease from Tenant). Said \$15,000 shall be held by Landlord as security for the faithful performance by Assignee of all the terms, covenants, and conditions of the Lease to be kept and performed by Assignee during the term hereof. If Assignee defaults with respect to any provision of the Lease, including, but not limited to the provisions relating to the payment of rent, Landlord may (but shall not be required to) use, apply or retain all or any part of this security deposit for the payment of any rent or any other sum in default, or for the payment of any amount which Landlord may spend or become obligated to spend by reason of Assignee’s default, or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Assignee’s default. If any portion of the security deposit is so used or applied Assignee shall, within five days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the security deposit to its original amount and Assignee’s failure to do so shall be a default

under the Lease. Landlord shall not be required to keep the security deposit separate from its general funds, and Assignee shall not be entitled to interest on the security deposit. If Assignee shall fully and faithfully perform every provision of the Lease to be performed by Assignee. If Assignee shall fully and faithfully perform every provision of the Lease to be performed by it, the balance of the security deposit shall be returned to Assignee within 30 days following expiration of the Lease term. If Landlord transfers its interest in this Lease, Landlord shall deliver the unapplied portion of security deposit to Landlord's successor in interest. Assignee waives any rights it may have under Section 1950.7 of the California Civil Code with respect to the security deposit.

3. **No Release.** This Consent to Assignment shall in no way release the Tenant or any person or entity claiming by, through or under Tenant, including Assignee, from any of its covenants, agreements, liabilities and duties under the Lease (including, without limitation, all duties to cause and keep Landlord and others named or referred to in the Lease fully insured and indemnified with respect to any acts or omissions of Assignee or its agents, employees or invitees or other matters arising by reason of the Assignment or Assignee's use or occupancy of the Premises), as the same may be amended from time to time, without respect to any provision to the contrary in the Assignment.
4. **Specific Provisions of Lease and Assignment.** This Consent to Assignment consenting to a sublease to Assignee does not constitute approval by Landlord of any of the provisions of the Assignment document; nor shall the same be construed to amend the Lease in any respect, any purported modifications being solely for the purpose of setting forth the rights and obligations as between Tenant and Assignee, but not binding Landlord.
5. **Amendment of Assignment.** Tenant and Assignee shall not amend in any respect the Assignment without the prior written approval of Landlord. In no event shall any such amendment affect or modify or be deemed to affect or modify the Lease in any respect.
6. **Limited Consent.** This Consent to Assignment does not and shall not be construed or implied to be a consent to any other matter for which Landlord's consent is required under the Lease, including, without limitation, any alterations for which Landlord's consent is required.
7. **Tenant's Continuing Liability.** Tenant shall be liable to Landlord for any default under the Lease, whether such default is caused by Tenant or Assignee or anyone claiming by or through either Tenant or Assignee, but the foregoing shall not be deemed to restrict or diminish any right which Landlord may have against Assignee pursuant to the Lease, in law or in equity for violation of the Lease or otherwise, including, without limitation, the right to enjoin or otherwise restrain any violation of the Lease by Assignee.
8. **Subordination.** In the case of any conflict between the provisions of this Consent to Assignment or the Lease, on the one hand, and the provisions of the Assignment, the provisions of this Consent to Assignment or the Lease, as the case may be, shall prevail over the terms of the Assignment. Sublessor hereby represents and warrants that it has reviewed the Lease and is familiar with the terms thereof.

9. **Costs.** Tenant specifically agrees to pay to Landlord, upon written demand from Landlord, up to \$1,000 of Landlord's reasonable attorneys' fees and processing costs incurred in connection with the Assignment and this Consent to Assignment, and the failure to pay the same within ten (10) days after each written demand shall be a default under the Lease.
10. **Services.** Tenant hereby agrees that Landlord may furnish to the Premises services requested by Assignee other than or in addition to those to be provided under the Lease, and bill the Assignee directly for such services for the convenience of and without notice to Tenant. Assignee hereby agrees to pay Landlord all amounts which may become due for such services on the due dates therefor. If Assignee shall fail to do so, however, Tenant agrees to pay such amounts to Landlord upon demand as additional rent under the Lease, and the failure to pay the same upon demand shall be a payment default under the Lease.
11. **No Waiver; No Privity.** Nothing herein contained shall be deemed a waiver of any of the Landlord's rights under the Lease. In no event, however, shall Landlord be deemed to be in privity of contract with Assignee or owe any obligation or duty to Assignee under the Lease or otherwise, any duties of Landlord under the Lease being in favor of, for the benefit of and enforceable solely by Tenant.
12. **Notices.** Assignee agrees to promptly deliver a copy to Landlord of all notices of default and all other notices sent to Assignee by Tenant, and Tenant agrees to promptly deliver a copy to Landlord of all such notices sent by Tenant to Assignee. All copies of any such notices shall be addressed and delivered to Landlord in accordance with the terms of the Lease.
13. **Reservation of Rights.** This Consent to Assignment shall be deemed limited solely to the Assignment, and Landlord reserves the right to consent or to withhold consent and all other rights under the Lease with respect to any other matters including, without limitation, any proposed alterations and any further or additional subleases, assignments or transfers of the Lease or any interest therein, or a sub-sublease or any assignment of the Assignment.
14. **Jurisdiction; Venue.** Assignee hereby consents to the jurisdiction and venue of California State courts in the County of Los Angeles, and agrees that service of process may be made upon Assignee at the Premises.

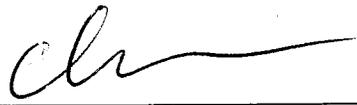
Dated: 04-28, 2011

TENANT:

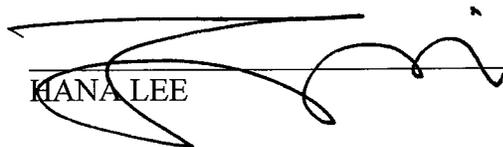


JAE IN LEE

ASSIGNEE:



CHUN NAM LEE



HANA LEE

LANDLORD:

CITY OF BEVERLY HILLS,
a municipal corporation

By: _____
Barry Brucker, Mayor

ATTEST:

(SEAL)

Byron Pope, City Clerk

ASSIGNMENT OF LEASE

Assignment made this date March 22, 2011.

By Jae In Lee, as Assignor, To Chun Nam Lee and Hana Lee, as Assignee.

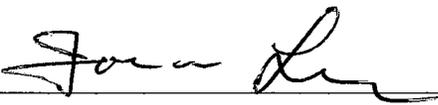
For value received, Assignor assigns and transfers to Assignee that Lease, Dated May 27, 2009, and as amended by the First Amendment to Lease dated July 8, 2010 (the Lease). Executed by Assignor as Lessee and by the City of Beverly Hills, as Lessor, of the following described premises: 434 N. Camden Drive, Beverly Hills, CA 90210, together with all the rights, title, and interest in and to the lease and premises, subject to all the conditions and terms contained in the lease, to have and to hold from May 1, 2011, until the present term of the lease expires on March 31, 2014 and as may be extended by the "Option To Extend Term" through March 31, 2019.

A copy of the lease is attached hereto and made a part hereof by reference. Assignor covenants that Assignor is the lawful and sole owner of the interest assigned hereunder; that this interest is free from all encumbrances; and that Assignor has performed all duties and obligations and made all payments required under the terms and conditions of the Lease.

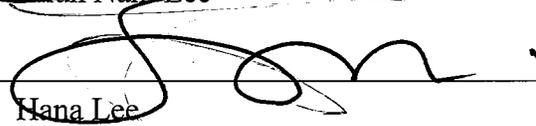
ASSIGNEE agrees to pay all rent due after the effective date of this assignment, and to assume and perform all duties and obligations required by the terms of the Lease.

ASSIGNEE agrees to deposit a sum of \$15,000 with Landlord. Said \$15,000 shall be held by Landlord as security for the faithful performance by Assignee of all the terms, covenants, and conditions of the Lease to be kept and performed by Assignee during the term hereof.

ASSIGNEE agrees to pay all charges for utilities connected with premises which are to be paid by the Assignor under the Lease for the term of the lease.

Dated: 04/28/11 Assignor: 
Jae In Lee

Dated: 04/28/11 Assignee: 
~~Chun Nam Lee~~

Dated: 04/28/11 Assignee: 
Hana Lee