



AGENDA REPORT

Meeting Date: April 7, 2015
Item Number: D-5
To: Honorable Parking Authority
From: Brenda A. Lavender, Real Estate & Property Manager
Subject: APPROVAL OF FOURTH AMENDMENT TO LEASE BY AND BETWEEN THE PARKING AUTHORITY OF THE CITY OF BEVERLY HILLS AND THRIFTY PAYLESS, INC. AT 463 N BEDFORD DRIVE

Attachments: 1. Fourth Amendment to Lease

RECOMMENDATION

It is recommended that the Parking Authority approve the Fourth Amendment to Lease with Thrifty Payless, Inc. dba Rite Aid at 463 N. Bedford Drive. This Fourth Amendment adds two (2) five (5) year options to the end of the current term. A copy of the amendment is on file with the City Clerk.

INTRODUCTION

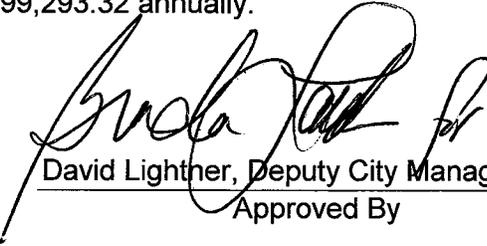
Thrifty Payless, Inc. dba Rite Aid is a long-standing tenant at this location since 1990. This amendment extends the term of the lease by ten (10) years under two (2) five (5) year options. The rent during both option periods will increase to the then Fair Market Rent. Rite Aid's current lease expires on March 31, 2023.

DISCUSSION

This amendment requires Rite Aid to complete substantial tenant improvements as outlined in the agreement by April 30, 2015

FISCAL IMPACT

The fiscal impact of this deal is continued revenue beyond March 31, 2023. The amount cannot be determined at this time because it is based on Fair Market Rent at the time of the extension. Rite Aid currently pays \$599,293.32 annually.


David Lightner, Deputy City Manager
Approved By

Attachment 1

<p>RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:</p> <p>The Parking Authority of the City of 455 North Rexford Drive Beverly Hills, California 90210 Attn: City Clerk</p>	
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SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned Landlord declares that this Fourth Amendment to Lease is exempt from Recording Fees pursuant to California Government Code Section 27383.

FOURTH AMENDMENT TO LEASE

THIS FOURTH AMENDMENT TO LEASE (the "Amendment"), is dated as of April 7, 2015, and is entered into by and between THE PARKING AUTHORITY OF THE CITY OF BEVERLY HILLS ("Landlord"), as successor-in-interest to the City of Beverly Hills, and THRIFTY PAYLESS, INC., a California corporation ("Tenant"), successor to, for certain premises located at 463 North Bedford Drive, Beverly Hills, California (the "Premises").

RECITALS:

A. Landlord's predecessor-in-interest (the City of Beverly Hills) and Tenant's predecessor in interest, Pay Less Drug Stores Northwest, Inc., entered into that certain Lease dated for reference as of July 5, 1989 as amended by a First Amendment to Lease dated July 16, 1991, and a Memorandum of Lease and Second Amendment to Lease dated as of November 17, 2009, and a Third Amendment to Lease dated as of November 13, 2012 (the "Premises"). The Lease, as amended, is hereinafter referred to as the "Lease".

B. The Memorandum of Lease and Second Amendment to Lease dated November 17, 2009 which was recorded on December 21, 2009 in the Official Records of Los Angeles County, California as Document No. 20091944422.

C. The City of Beverly Hills has conveyed the Premises to Landlord subject to the Lease.

D. The term of the Lease expires on March 31, 2023. Landlord and Tenant wish to provide for two (2) options in favor of Tenant to extend the term of the Lease for five (5) years per option at the then-fair market rental rate in exchange for Tenant's agreement to complete certain additional improvements to the Premises by a specified date.

E. All capitalized terms used but not defined in this Amendment shall have the same meaning as in the Lease.

AGREEMENT:

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

1. Extension Options. Tenant shall have the option to extend the term of the Lease for two (2) additional five (5) year periods (each an "Option Period") by giving written notice of the extension no earlier than nine (9) calendar months prior to the expiration of the then-current term of the Lease. If Tenant exercises an option, Tenant shall pay rent at the Fair Market Rental Rate during the applicable Option Period as determined under Section 2 below.

2. Extension Term Rent. Within thirty (30) days after Tenant's exercise of an extension option, Landlord shall in good faith (utilizing commercially reasonable and documented factors) determine the "Fair Market Rental Rate" of the Premises (meaning the fair market base or minimum rent for retail use of the Premises, which may include annual increases) as of the commencement of the applicable Option Period and Landlord shall notify Tenant in writing, of Landlord's determination of the Fair Market Rental Rate. If Tenant disagrees with Landlord's determination, then Tenant shall, within thirty (30) days after Landlord's notice, notify Landlord in writing that Tenant disagrees with Landlord's determination of the Fair Market Rental Rate and such notice shall explain all of the reasons for Tenant's disagreement and Tenant's proposed Fair Market Rental Rate, whereupon Landlord and Tenant shall promptly meet and endeavor in good faith to agree upon the Fair Market Rental Rate for the applicable Option Period. If Landlord and Tenant fail to reach agreement within thirty (30) days after Tenant's notice of disagreement, then, within thirty (30) days thereafter, each party, at its own cost and by giving notice to the other party, shall appoint a licensed commercial real estate agent with at least seven (7) years full-time experience as a real estate agent active in the leasing of comparable retail space in the area of the Premises to determine the Fair Market Rental Rate for the applicable Option Period (and shall cause such agent to agree in writing to the terms of this Section). Until the Fair Market Rental Rate determination is completed, Tenant shall continue to pay rent to Landlord at the rate immediately preceding the commencement of the applicable Option Period. After such Fair Market Rental Rate determination is completed and the Fair Market Rental Rate for the applicable Option Period is established, Tenant shall promptly make payment to Landlord for any underpayment of rent owing for prior months. If a party does not appoint an agent within the aforementioned thirty (30) day period, the single agent appointed shall be the sole agent and shall set the Fair Market Rental Rate for the applicable Option Period. If two (2) agents are appointed by the parties as stated above (which agents shall be respectively referred to as "Landlord's Agent" and "Tenant's Agent"), the agents shall meet within ten (10) days after the second agent has been appointed and attempt to agree upon the Fair Market Rental Rate for the applicable Option Period. If Landlord's Agent and Tenant's Agent are unable to agree on such Fair Market Rental Rate within ten (10) business days after the second agent has been appointed, they shall, within ten (10) business days after the last day the two (2) agents were to have set such Fair Market Rental Rate: (i) notify all of the parties in writing as to their respective Fair Market Rental Rate determinations, and (ii) select a third agent (the "Third Agent") who shall be a licensed commercial real estate agent meeting the qualifications stated above. If Landlord's Agent and Tenant's Agent are unable to agree on the Third Agent within such ten (10) business day period, or the third agent does not agree in writing to the terms of this

Section, then either Landlord or Tenant may request the President of the BOMA Chapter including the area in which the Premises are located to select a Third Agent meeting the qualifications stated in this subsection. Each of the parties shall bear the costs of its own agent and one-half (1/2) of the cost of appointing the Third Agent and of paying the Third Agent's fee.

No agent shall be employed by, or otherwise be engaged in business with, or affiliated with, Landlord or Tenant.

Within ten (10) days after the selection of the Third Agent, the Third Agent shall notify all of the parties in writing as to the Third Agent's determination of the Fair Market Rental Rate for the applicable Option Period. The final Fair Market Rental Rate determination shall be the average of the two determinations that are closest in amount.

Each agent shall hear, receive and consider such information as Landlord and Tenant each care to present regarding the determination of Fair Market Rental Rate for the applicable Option Period and each agent shall have access to the information used by each other agent. Upon determination of the Fair Market Rental Rate for the applicable Option Period, the agents shall immediately notify the parties hereto in writing of such determination.

3. Additional Improvements. Tenant hereby agrees to complete the improvements to the Premises that are described on Exhibit "A" hereto on or before the completion date set forth on Exhibit "A", subject to delays beyond the control of Tenant, and Tenant's failure to do so shall constitute a non-monetary default under the Lease.

4. Counterparts. This Amendment may be executed in one or more counterparts, each of which, when taken together, shall constitute one agreement.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the day and year first written above.

TENANT:

THRIFTY PAYLESS, INC.,
a California corporation

By: 
Joseph J. Notarianni Jr., Vice President

LANDLORD:

THE PARKING AUTHORITY OF THE CITY
OF BEVERLY HILLS

By: _____
Julian A. Gold, M.D.
Chairman of the Parking Authority of the
City of Beverly Hills, California

ATTEST:

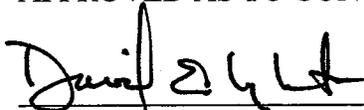
APPROVED AS TO FORM:

Byron Pope, Secretary

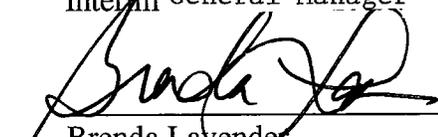

Laurence S. Wiener, General Counsel

APPROVED AS TO CONTENT:

APPROVED AS TO CONTENT:


David Lightner
Deputy City Manager

Mahdi Aluzri
Interim General Manager


Brenda Lavender,
Real Estate & Property Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

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

Notary Public, 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)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

Commonwealth of Pennsylvania)
County of Cumberland)

On February 9, 2015, before me, Michael L. Brajkovich,
(insert name and title of the officer)

Notary Public, personally appeared Joseph J. Notarianni, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Michael L. Brajkovich (Seal)

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
MICHAEL L. BRAJKOVICH, Notary Public
East Pennsborough Twp., Cumberland County
My Commission Expires October 23, 2016

EXHIBIT "A"

DESCRIPTION OF ADDITIONAL IMPROVEMENTS (AND COMPLETION DATE)

Completion Date: April 30, 2015

Additional Improvements: see the attached description

1) Exterior:

- a) New exterior signs and sign band
- b) Clean up exterior storefront.
- c) New façade tile and entry tile imported from Italy
- d) Install new Besam frameless auto sliding doors

2) Interior Ceiling:

- a) Install new ceiling
- b) Install new hard lid above new Café department
- c) Install new Cree led recessed can lights.
- d) Add GWB ceiling décor features including clouds and rings.
- e) All new HVAC and ducting
- f) All new sprinklers with concealed heads

3) Interior Floor:

- a) Remove existing VCT flooring.
- b) Prep floor as needed and install new BBT field tile with new wood LVT pathway.
- c) Install new LVT wood floor at new cafe area.
- d) All new carpet at the pharmacy and pharmacy waiting area.
- e) New flooring in restrooms and office area.
- f) Complete full strip and wax at completion.

4) Interior Paint/Decor

- a) Prep and repaint interior sales floor, pharmacy, restrooms, office, and other areas of store in GWB colors.
- b) Install new led lighted cosmetic fabric ribbon hanging from ceiling

5) Sales Floor:

- a) All new wall finishes as needed.
- b) Install new marlite wall panels on sales floor.
- c) Upgrade interior graphics to GWB remodel design.

6) Fresh Day Cafe:

- a) Construct all new Café serving yogurt located in a beautiful curved glass wall, and Cesar Stone counter tops with world famous Thrifty Ice and Coffee Bean Coffee and pastries

7) Fixtures and Equipment:

- a) Replace perimeter valance material to GWB finishes.
- b) Remove existing checkstands and install new GWB design bench checkstand.
- c) Install new Prestige Island Cosmetic fixtures featuring brands like Eddie Funk house and Pop Beauty

- d) Install new Fitness cooler, Grab N Go cooler, and queuing cooler.
- e) Remove existing and install new Zero Zone Crystal Cases remote coolers/freezers.
- f) Relocate the existing sales floor emergency exit on the back wall of the sales floor.
- g) Install new sales floor shelving as needed for new layout. Refurbish and relocate existing steel as needed.
- h) Install new specialty trade fixtures.
- i) Install new camera kiosk fixtures.
- j) Install new vendor racks and displays.
- k) Reset merchandise throughout store.
- l) Install new security EAS equipment at the front entry doors.
- m) Install new ADA handicap lift at front store entrance.

8) Pharmacy:

- a) Construct new consultation room per fixture plan.
- b) Construct new waiting area per fixture plan.
- c) Construct new pharmacy finishes, floor and ceiling.
- d) Install new cabinets, counters, pill bays, and check stands.

9) Backroom:

- a) Construct new office with finishes.
- b) Construct new restrooms as needed.
- c) Construct employee lounge. Include new cabinets, fixtures, and equipment as needed.