

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: May 21-22, 2003

Reference No.: 2.4c.(2)
Action Item

From: ROBERT L. GARCIA
Chief Financial Officer

Prepared by: Brice Paris
Division Chief
Division of Right of Way

Ref: AIRSPACE LEASE DIRECT NEGOTIATION

RECOMMENDATION:

The Department of Transportation recommends that the California Transportation Commission (Commission) authorize execution of a Lease between the State of California, Department of Transportation and the proposed Lessee, JEROME AND KATHRYN BELLACH, personally, and as authorized agents of The 9th Street Design Center, LP. It is in the best interest of the State to lease by direct negotiations and not bid this parcel publicly to optimize lease income by leasing to adjacent owners. Due to its size, the parcel lacks potential to generate sufficient revenue as an independent commercial parking lot. Consequently, this parcel has enjoyed no bid competition over the entire public auction history of the parcel.

The subject property is a paved parcel adjacent to Dore Street, west of Bryant Street under the SF-101 overhead structure, and totals 8,285 square feet. Due to slope irregularities and height restrictions imposed by the overhead structure, the parcel contains only 4,500 net useable square feet.

In the 1950's the State first acquired the subject parcel in order to construct the overhead SF-101 freeway. At the time, the parcel was improved with a commercial building. To accommodate the new freeway, the western portion of the building was demolished. The remaining building was re-faced with several loading docks located on the new west wall with access to the loading docks provided through the subject airspace parcel.

In 1998 the adjoining building owner and then State tenant was "540 9th Street Associates, LLC aka FOB Trading Corporation (FOB). FOB was attempting to refinance its debt for the adjoining property and the prospective lenders would not tender new loans if FOB did not have a long term lease for the State airspace parcel to guarantee access to the building loading docks. During the same year the State was to begin a construction project on the overhead SF-101 structure to reinforce and seismically

retrofit the structure bents. The project would require the temporary closure of the parcel and acquisition of additional temporary right of way to allow for construction on the structure bents. In March 1998, approval was obtained from the Airspace Advisory Committee (AAC) to directly negotiate with the adjoining property owner for a long-term lease. As part of the Right of Way acquisition agreement, the State memorialized this approval by agreeing that it would offer to lease the airspace parcel to FOB for a minimum term of 20 years at fair market rent.

After AAC approval was obtained the parties negotiated and agreed to terms, but the then tenant (FOB) soon encountered financial problems and attempted over the next several years to sell the adjoining property. In September 2002, FOB found a new buyer, Jerome and Kathryn Bellach. By January 2003 the sale was completed and the Bellachs now desire a long term lease based on the same terms and conditions as originally endorsed in March 1998 by the AAC. The Bellachs have financed the purchase partially through the use of a SBA loan that requires a long-term lease for the State parcel to secure access to the building loading docks.

The proposed lessees are the principal owners of the Bellach's Leather Furniture business with six retail locations within the San Francisco Bay Area. The Bellachs will be opening both a traditional leather furniture retail outlet and a new concept modern furniture retail store in the adjoining building and require access to the building loading docks via the subject State airspace parcel.

The significant terms and conditions for the proposed lease follows:

Lease Term: 20 year initial term with two 5-year options

Use: Access and Parking for adjacent commercial building

Current Appraised Fair Market Rate for this parcel: \$945/mo. (0.21/s.f./mo. X 4,500 s.f.)

Negotiated Lease Rate: \$1,265/mo. (\$0.2811/s.f./mo. x 4,500 s.f.)

Adjustments to Rent: 1. Annual CPI increases
2. Fair market reevaluations at option of Lessor every 5th year of the initial term and at the beginning of each option period.

It is in the State's best interest to lease this parcel to the proposed lessees to achieve the highest and best use and the greatest return to the State.

CHAIR AND COMMISSIONERS

Reference No.: 2.4c.(2)

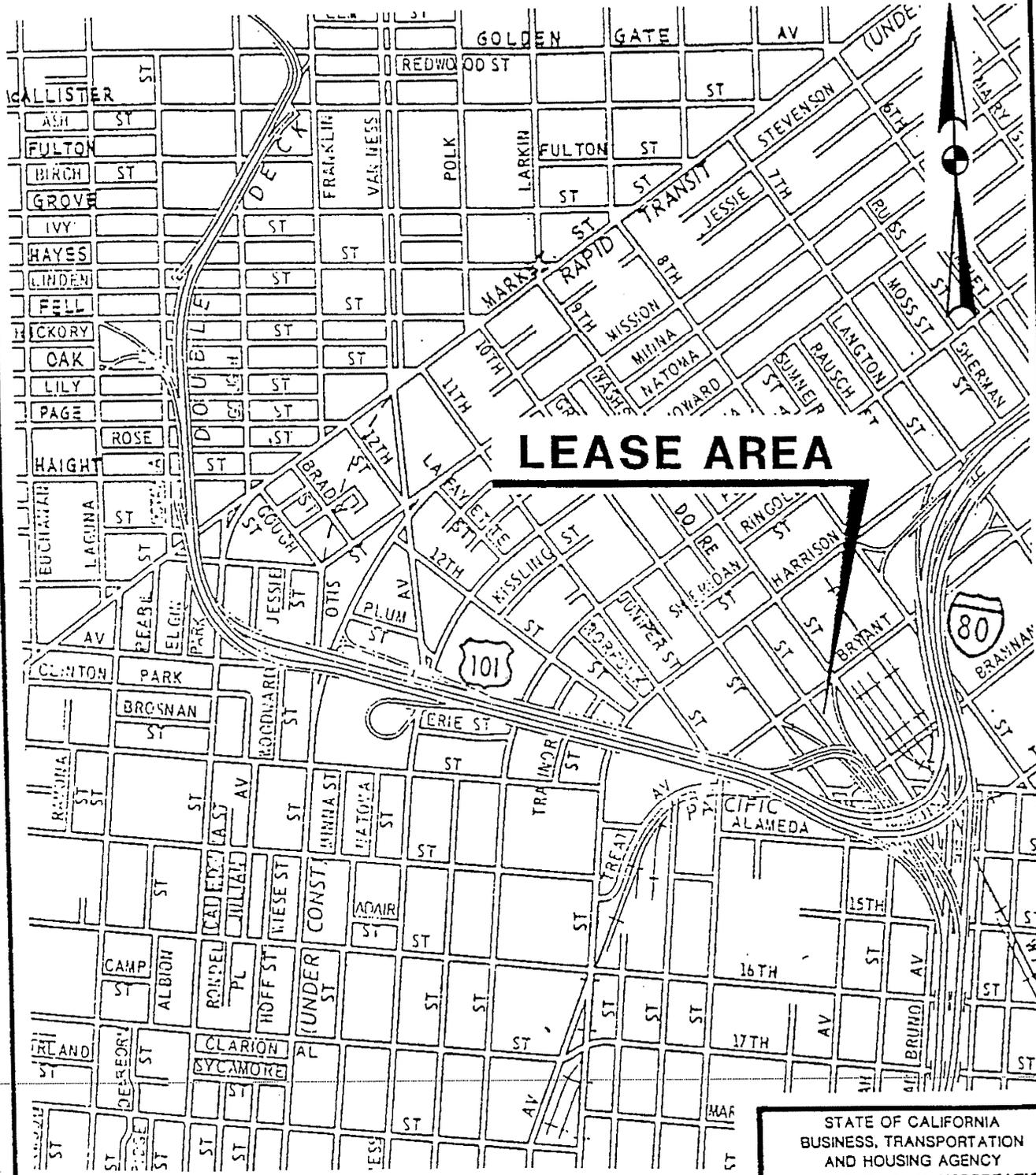
May 21-22, 2003

Page 3

The Commission's Airspace Advisory Committee at their April 10, 2003 meeting reviewed this Lease and recommends approval of the proposed terms and conditions.

Enclosures

CITY OF SAN FRANCISCO



LEASE AREA

NO SCALE

STATE OF CALIFORNIA
 BUSINESS, TRANSPORTATION
 AND HOUSING AGENCY
 DEPARTMENT OF TRANSPORTATION
 DISTRICT 04

FLA

04-SF-101-33

DR. BY JN DATE 12-98

CKD. BY SCALE As Shwn.

CO. RTE. P.M. DR. NO.

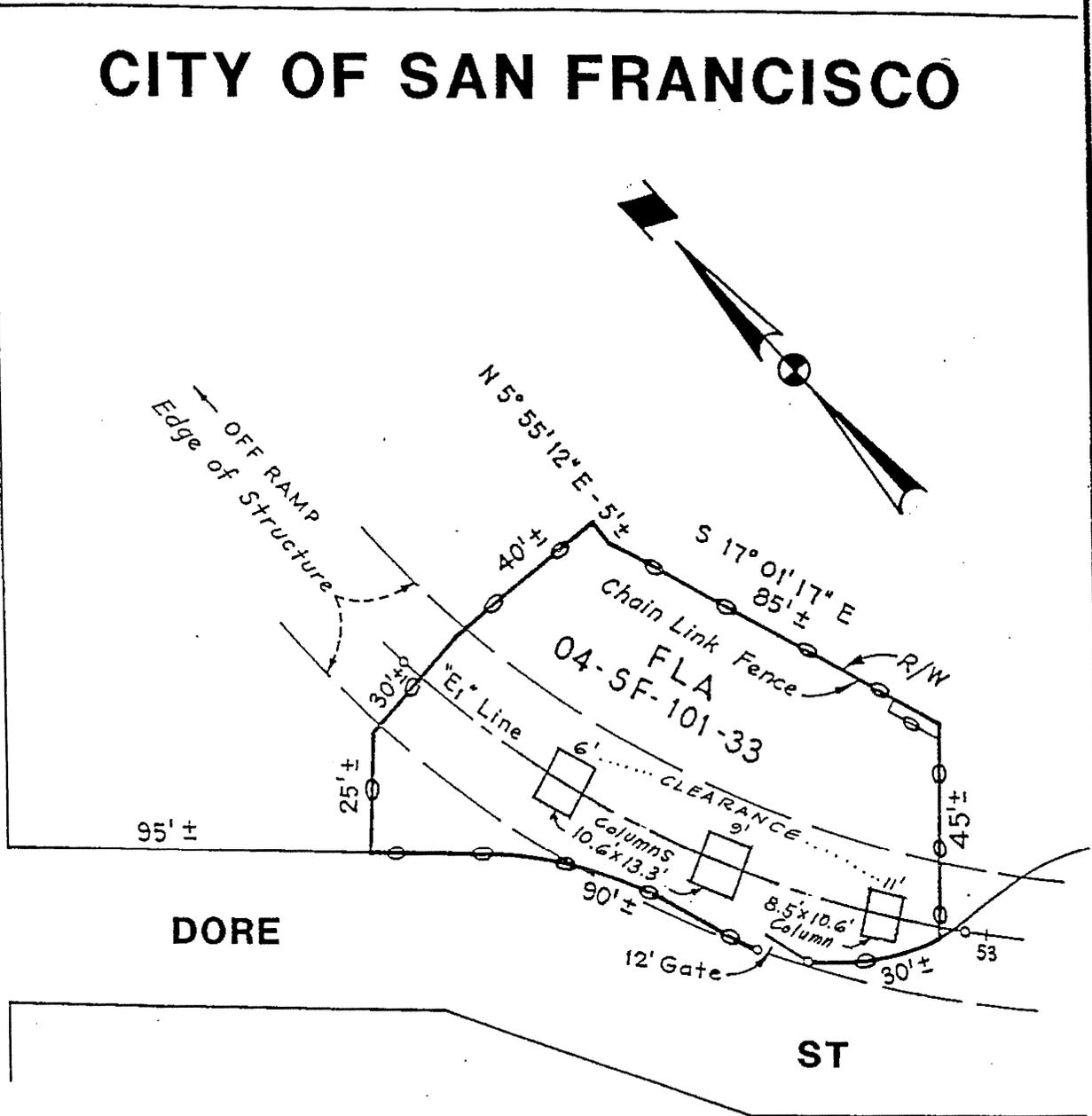
SF 101 4.3 1 OF 2

Dimensions and clearances shown are approximate. Where greater accuracy is required an engineering field survey is suggested.

NINTH ST

CITY OF SAN FRANCISCO

BRYANT ST



Gross Area 8,657 ± Sq. Ft.
 Area of Columns 372 ± Sq. Ft.
 Net Area 8,285 ± Sq. Ft.
 Area Under Structure . . . 4,000 ± Sq. Ft.

STATE OF CALIFORNIA
 BUSINESS, TRANSPORTATION
 AND HOUSING AGENCY
 DEPARTMENT OF TRANSPORTATION
 DISTRICT 04

FLA
04-SF-101-33

DR. BY JN		DATE 12-98	
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CO.	RTE.	P. M.	DR. NO.
SF	101	4.3	2 OF 2

R-30.24

