

City of San Leandro
Civic Center, 835 E. 14th Street
San Leandro, California 94577



Office of the City Manager 510-577-3351
FAX 510-577-3340

January 25, 2005

ORIGINAL

Mr. Eric Hohmann
Vice President, Acquisitions & Development
Madison Marquette
660 Davis Street
San Francisco, CA 94111

**SUBJ: Amendment No. 1-A to that Agreement for Reimbursement of
Certain Costs Related to Appraisal of King Property dated
August 4, 2004**

Dear Eric:

On August 4, 2004, we executed the "Agreement for Reimbursement of Certain Costs Related to Appraisal of King Property" (the "Agreement") relating to reimbursement of expenses incurred by the Redevelopment Agency to investigate the feasibility of acquiring certain property otherwise known as the "King Property" near Bayfair Center off of East 14th Street in San Leandro. As you are aware, the appraisal and legal investigation proved to be more complex than originally anticipated and the Agreement's original term was insufficient to allow for the completion of the appraisal phase.

On October 15, 2004 we proposed Amendment No. 1 to the Agreement to extend the term to December 31, 2004 for a total reimbursable cost not to exceed \$75,000 with the verbal commitment that we would not prepare a second invoice until such time as the appraisal is completed. Amendment No. 1 was not executed by Madison Marquette. However, we continued our investigation of acquiring the King property and completed the appraisal. At our meeting of January 4, 2005, we provided an overview of the appraisal and we agreed that the investigation should continue with the presentation of an offer based on the appraisal.

Given that our original Agreement has expired, and that additional work is necessary to complete the offer and evaluate any response we may receive from the Kings, we now propose that the Agreement be extended to **June 30, 2005**. We further propose that the total reimbursable cost be increased to **\$100,000**.



3/1/05- Orig to City Clerk me

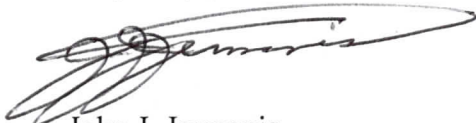
ORIGINAL

Mr. Eric Hohmann
January 24, 2005
Page Two

Please indicate your agreement to these modifications by signing and dating below where indicated and returning one of the originals in the enclosed envelope. The other original is for your records. Our Business Development staff will be forwarding an invoice for expenses through December 31, 2004 under separate cover.

As always, if you have any questions, please feel free to call either Luke Sims, Business Development Manager, (510) 577-3320, or me at (510) 577-3390.

Very truly yours,



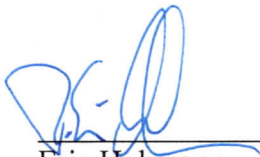
John J. Jermanis
Executive Director
Redevelopment Agency

LS:mmc

G:\DEPT\Office of Business Development\Files RDA\Joint Project Area\Bayfair - 15555 East 14th\King Parcel\Amend #1-A to Reimb Agmt.doc

Read and agreed to this on the 23rd day of February, 2005.

Bayfair Sublessee, LLC



Eric Hohmann
Vice President, Madison Marquette

August 4, 2004

~~July~~, 2004

ORIGINAL

Eric Hohman
Vice President, Acquisitions & Development
MadisonMarquette
660 Davis Street
San Francisco, CA 94111

RE: Agreement for Reimbursement of Certain Costs Related to Appraisal of King Property

Dear Eric,

The Redevelopment Agency of the City of San Leandro ("Agency") has executed an agreement with Roland H. Burchard ("Appraiser") to provide appraisal services related to certain property otherwise known as the "King Property" near Bayfair Mall off of East 14th Street in San Leandro. The APN for the King Property is 80c-500-31,32,33 and consists of approximately 3.2 acres.

Bayfair Sublessee, LLC, a ^{Delaware} ~~California~~ limited liability company ("Developer") agrees to reimburse the Agency for expenses incurred by the Agency to investigate the feasibility of acquiring the Property ("Costs") pursuant to the terms and conditions of this letter agreement ("Agreement"). Costs shall consist of: (1) Agency and City of San Leandro expenses including consultant and attorney's fees necessary to assist Appraiser in completing the appraisal services, and (2) all fees and expenses paid by Agency for Appraiser services. The rates for Agency attorney's fees and the Appraiser are as shown in Exhibit A.

Developer shall pay the Costs within 30 days of receipt of each invoice from the Agency. Each invoice shall contain an itemization of the Costs including the total number of hours of work performed by staff, consultants, and attorneys, and a description of the work performed, as well as copies of all invoices submitted by the Appraiser. Developer shall not be responsible for Costs in excess of \$50,000.

The Parties anticipate that the Appraiser shall complete his services on or before August 31, 2004 and it is the intention of the Parties that the Agency shall not be entitled to reimbursement for services performed after such date unless this Agreement is otherwise amended in writing by the Parties.

Any failure by a party to perform any term or provision of this Agreement, which failure continues uncured for a period of 30 days following written notice of such failure from the party to whom performance is due (unless such period is extended by written mutual consent), shall constitute a default under this Agreement. Upon receipt of any notice of default, the parties to this Agreement shall immediately confer in order to make a good faith effort to allow for any default to be cured prior to the expiration of the cure period. If the alleged failure is cured, then no default shall exist and the noticing party shall take no further action. If the alleged failure is not cured, then a default shall exist under this Agreement and the non-defaulting party may exercise any of the remedies available to it under law or equity, which remedies the

Original to City Clerk MC 3-105

ORIGINAL

parties acknowledge shall include a right to terminate this Agreement. The provision of notice and opportunity to cure shall be a prerequisite to the enforcement or correction of any default.

This Agreement contains the entire understanding and agreement between the parties with respect to the matters covered hereby. No oral understanding or agreement not incorporated herein will be binding on any of the parties hereto. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties to be bound by the alteration or variation. No presumption or rule that ambiguities be construed against the drafting party shall apply to the interpretation of this Agreement.

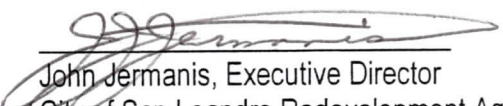
The benefits and burdens of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of Developer, whether as a result of voluntary or involuntary assignment or actions. Each party agrees in good faith to perform as set forth herein. The parties entering into this Agreement do not intend to create any agency, partnership, joint venture, trust, or other relationship with duties or incidents different from those of parties to an arm's-length contract. This Agreement shall be construed in accordance with and governed by the laws of the State of California applicable to contracts entered into and to be performed in California. Any actions brought to enforce any provisions of this Agreement shall be brought in Alameda County.

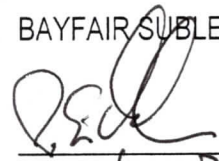
By its execution of this Agreement, the Agency is not committing itself to, or agreeing to undertake, (a) any disposition of land to the Developer, or (b) any other acts or activities requiring the subsequent independent exercise of discretion by the Agency, the City, or any agency or department thereof.

Signed and executed this 4th day of August, 2004

REDEVELOPMENT AGENCY
OF THE CITY OF SAN LEANDRO

BAYFAIR SUBLESSEE, LLC


John Jermanis, Executive Director
City of San Leandro Redevelopment Agency
835 East 14th Street
San Leandro, California 94577


Its acting VP

Approved as to Form:

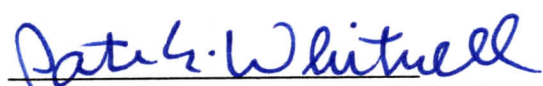

For Jayne Williams, Attorney for the Redevelopment Agency

EXHIBIT A

Rates for Agency Attorney's Fees and Appraiser Services

Meyers Nave Riback Silver & Wilson

Attorney Services: \$195.00/hour

Clerical Services: \$95.00/hour

Burchard & Rinehart Real Estate Appraisers

Roland Burchard: \$225.00/hour

Partner: \$200.00/hour

Associate: \$175.00/hour

UD-1383/1485

ORIGINAL

August 4, 2004

~~July _____, 2004~~

Eric Hohman
Vice President, Acquisitions & Development
MadisonMarquette
660 Davis Street
San Francisco, CA 94111

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03/12/19

parties acknowledge shall include a right to terminate this Agreement. The provision of notice and opportunity to cure shall be a prerequisite to the enforcement or correction of any default.

This Agreement contains the entire understanding and agreement between the parties with respect to the matters covered hereby. No oral understanding or agreement not incorporated herein will be binding on any of the parties hereto. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties to be bound by the alteration or variation. No presumption or rule that ambiguities be construed against the drafting party shall apply to the interpretation of this Agreement.

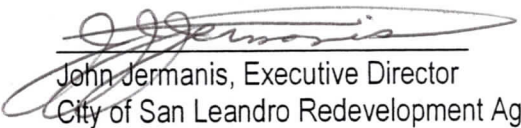
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By its execution of this Agreement, the Agency is not committing itself to, or agreeing to undertake, (a) any disposition of land to the Developer, or (b) any other acts or activities requiring the subsequent independent exercise of discretion by the Agency, the City, or any agency or department thereof.

Signed and executed this 4th day of August, 2004

REDEVELOPMENT AGENCY
OF THE CITY OF SAN LEANDRO

BAYFAIR SUBLESSEE, LLC


John Jermanis, Executive Director
City of San Leandro Redevelopment Agency
835 East 14th Street
San Leandro, California 94577


Its acting VP

Approved as to Form:

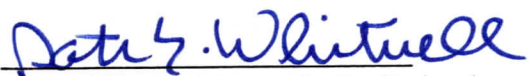

For Jayne Williams, Attorney for the Redevelopment Agency

EXHIBIT A

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Meyers Nave Riback Silver & Wilson

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Burchard & Rinehart Real Estate Appraisers

Roland Burchard: \$225.00/hour

Partner: \$200.00/hour

Associate: \$175.00/hour

CITY OF SAN LEANDRO

CITY OF SAN LEANDRO

MEMORANDUM

AUG 27 2004

DATE: August 26, 2004

CITY CLERK'S OFFICE

TO: Vivian Chiu, City Clerk's Office

FROM: Margaret McCluckie, Office of Business Development

SUBJECT: Bayfair/King Prop. Agmt

(D-1383/1485)

As custodian of Redevelopment Agency records, attached for your file is an executed original of the "Agreement for Reimbursement of Certain Costs Related to Appraisal of King Property" dated August 4, 2004 between the Redevelopment Agency and Bayfair Sublessee, LLC.

I have forwarded an original to Eric Hohmann, Bayfair Sublessee LLC, and a copy to Jayne Williams, Agency Counsel, under cover letter dated August 25, 2004 (copy attached). The third original is in my project file.

The agreement provides for reimbursement of Agency costs incurred to investigate the feasibility of acquiring property known as the "King Property" located adjacent to Bayfair Centre.

This is just the first step in what is anticipated to be a major project for the Agency.

mmc

Attach: As noted

G:\DEPT\Office of Business Development\Files RDA\Joint Project Area\Bayfair - 15555 East 14th\King Parcel\Clerk-Exec. Agmt Copy.doc

City of San Leandro
Civic Center, 835 E. 14th Street
San Leandro, California 94577



Office of the City Manager 510-577-3351
FAX 510-577-3340

(D1383/1485)

August 25, 2004

Mr. Eric Hohmann
Bayfair Sublessee, LLC
660 Davis Street
San Francisco, CA 94111

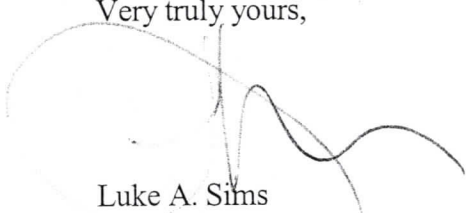
SUBJ: Transmittal of Executed Reimbursement Agreement

Dear Eric:

Enclosed is a fully executed original of the "Agreement for Reimbursement of Certain Costs Related to Appraisal of King Property" for your file. We will be forwarding shortly our first invoice for reimbursement under the terms of the agreement. The invoice will cover legal services for the period December, 2003 through June, 2004 which have already been paid by the Redevelopment Agency.

I look forward to working with you on this project. If you have any questions, please do not hesitate to give me a call at (510) 577-3320.

Very truly yours,



Luke A. Sims
Business Development Manager
Office of Business Development

Encl: As Noted

Cc: Jayne Williams, Agency Counsel w/copy of agreement

G:\DEPT\Office of Business Development\Files RDA\Joint Project Area\Bayfair - 15555 East 14th\King Parcel\Executed Agmt Ltr.doc

Gardner-Loster, Janice

(D1383/1485)

From: McCluckie, Margaret
Sent: Monday, January 24, 2005 2:56 PM
To: Chiu, Vivian; Gardner-Loster, Janice
Subject: Bayfair - King Property

Last we I bought down some material related to the King Property adjacent to Bayfair Center. I told you I would get an address. Here is the address for the King Property: 15693-15739; APN 80C-500-31, 32, 33.

Margaret McCluckie
Senior Administrative Assistant
Business Development Office
City of San Leandro
835 East 14th Street
San Leandro, CA 94577
510.577.3311 - Phone
510.577.3310 - Fax
mmcluckie@ci.san-leandro.ca.us

1/25/2005