

RESOLUTION NO. 105-2010

Adopted August 3, 2010

AUTHORIZING A REIMBURSEMENT AGREEMENT WITH WESTFIELD METREON LLC, A DELAWARE LIMITED LIABILITY COMPANY, FC METREON, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND MJM MANAGEMENT GROUP, A CALIFORNIA CORPORATION, TO PERFORM MOLD REMEDIATION WORK IN AN AMOUNT NOT TO EXCEED \$192,925 AT THE AGENCY'S YERBA BUENA GARDENS PROPERTY ADJACENT TO THE METREON SITE AT 101 FOURTH STREET; YERBA BUENA CENTER APPROVED REDEVELOPMENT PROJECT AREA D-1

BASIS FOR RESOLUTION

1. Westfield Metreon LLC, a Delaware limited liability company, and FC Metreon, LLC, a Delaware limited liability company (collectively, the "Company"), each own an undivided 50% tenancy-in-common leasehold interest in the building located at 101 Fourth Street, San Francisco, California, commonly known and referred to as the Metreon (the "Metreon Property").
2. The Redevelopment Agency of the City and County of San Francisco (the "Agency") owns and operates that certain real property adjacent to the Metreon Property and commonly known as Yerba Buena Gardens, located on central block two of the Yerba Buena Center Redevelopment Project Area (the "Agency Property"). The Agency Property is subject to the Yerba Buena Center Redevelopment Plan, as amended, and a Declaration of Restrictions.
3. The Agency and the Company agree that a mold condition exists within the Agency Property and have an interest in the prompt removal of the existing mold condition and remediation of the affected portions of the Agency Property in accordance with applicable laws.
4. The Agency and MJM Management Group, a California corporation (the "Manager", and together with the Agency, the "Agency Parties"), entered into that certain personal services contract dated as of July 1, 2009 (the "Personal Services Contract"). Pursuant to the Personal Services Contract, the Manager provides property management services to the Agency including oversight and coordination of all major capital repairs, such as mold abatement, at the Agency Property.
5. The Agency Parties and the Company have negotiated the terms of a Reimbursement Agreement pursuant to which (i) the Agency Parties will perform mold remediation work on the Agency Property and (ii) the Company will reimburse the Agency Parties for costs and expenses related to the remediation work in an amount not to exceed \$192,925 (the "Reimbursement Agreement").


6. Prior to the Manager's performance of the mold remediation work at the Agency Property, a minor clarifying amendment to the Personal Services Contract is necessary. Therefore, the Agency and the Manager seek to enter into a First Amendment to the Personal Services Contract in order to (i) ensure that the Agency requires the appropriate types and levels of insurance coverage for Manager to perform the remediation work, (ii) clarify that Manager's general indemnification provisions includes hazardous materials indemnification, and (iii) add certain components of the Agency's Equal Opportunity Program that Manager must implement to perform the remediation work (the "First Amendment").
7. Execution of the First Amendment is an Agency administrative activity and as a result is not a Project as defined by California Environmental Quality Act ("CEQA") Guidelines Section 15378(b)(5).
8. Authorization of the proposed Reimbursement Agreement will allow for activities that will not create a significant adverse change in the physical environment and are exempt from CEQA. The activities include the completion of remediation work on the Agency Property, which are exempt pursuant to CEQA Guidelines Section 15301(d).

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco as follows:

- (1) That the Agency approves the Reimbursement Agreement, substantially in the form lodged with the Agency General Counsel; and
- (2) that the Agency authorizes its Executive Director, prior to execution, to make changes and take any and all steps, including, but not limited to, the attachment of exhibits and the making of corrections, as necessary or appropriate to consummate the Reimbursement Agreement; provided, however, that such changes and steps do not materially increase the burdens and responsibilities of the Agency or materially decrease the benefits to the Agency; and
- (3) that the Agency authorizes its Executive Director to take all actions as needed, and enter into any related documents as needed, to the extent permitted under applicable law and the Reimbursement Agreement, to effectuate the Agency's performance under the Reimbursement Agreement, including amending the Personal Services Contract with MJM Management Group to add (i) additional insurance coverages, (ii) indemnification provisions, and (iii) certain components of the Agency's Equal Opportunity Program.

APPROVED AS TO FORM:



for James B. Morales
Agency General Counsel