

# Memorandum

To: CHAIR AND COMMISSIONERS  
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: October 8, 2013

Reference No.: 2.4c.  
Action Item

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Subject: **AIRSPACE LEASE – REQUEST TO DIRECTLY NEGOTIATE WITH GERMAN MOTORS  
INC DBA BMW OF SAN FRANCISCO**

## **RECOMMENDATION:**

The California Department of Transportation (Department) recommends that the California Transportation Commission (Commission) approve a request to directly negotiate a 15-year lease with the German Motors Corporation (SF BMW) for a freeway lease area (FLA) that SF BMW has been leasing on a short term basis from the Department. The lease would include an annual escalation as well as lease rate re-evaluations every five years. The initial lease rate will be at fair market value as determined by an appraisal performed by the Department's District staff.

## **BACKGROUND:**

The FLA, SF-80-08, is a 22,887 square-foot irregularly shaped lot located under State Route 80, an elevated freeway structure in the city of San Francisco (City) adjacent to Harrison Street between Seventh and Eighth Streets, as shown in Exhibit A.

### German Motors Corp (SF BMW)

SF BMW employs 75 people at its dealership body shop, accounting, and administrative offices located across Harrison Street, from the FLA and uses the FLA for employee parking. SF BMW first leased the FLA in 2008, has been the successful bidder at subsequent oral bid public auctions, and continues to currently lease the FLA in good standing.

### SF-80-08 Property Condition

The FLA requires age-related maintenance repairs in excess of \$100,000. The lot is not properly graded, which causes severe pooling of rainwater, thus limiting the parking lot's usability during wet weather conditions. Also, the existing paving is dated, crumbling, and in need of re-paving; the original chain link fencing is overgrown with vegetation and requires repair; and the lot is not safe after dark due to limited visibility and no lighting. SF BMW is prepared, at its own cost, to correct the grading, install area lighting, and perform the necessary deferred maintenance.

### Harrison Street Location

SF BMW occupies the majority of the city block across from the FLA, and is the largest employer in this neighborhood of mixed residential and commercial uses. SF BMW is the largest potential user due to the ready availability of on-street parking to satisfy local demand.

Directly Negotiated Long Term Lease Benefits to the State

- Entering into a directly negotiated long-term lease with a prominent high-end business such as SF BMW is the most beneficial method for the Department to implement necessary but expensive long-term maintenance repairs, ensure quality improvements, and guarantee tenant motivation to maintain the improvements in first class condition. The Department has no budget to maintain or improve its airspace properties.
- Directly negotiating a long-term lease with a tenant that will be using the airspace site for private no fee parking, like SF BMW, decreases the risk that the airspace site will remain vacant for months due to annual permitting related issues. Recent changes in public parking regulations by the City have substantially increased the costs of obtaining annual public parking permits, and require an eight-week processing and formal hearing period during which Department properties must remain vacant. Private no-fee parking uses do not require public parking permits.
- The Department would receive rent based on the properties' highest and best use as employee parking instead of the typical general public parking use. General public parking supports a lower rental rate due to the "middle-man" parking operator profit, the added expense of the City's 25 percent public parking tax, and the new costly permitting requirements.

**SUMMARY:**

The ability to directly negotiate with SF BMW is in the best interest of the Department for the reasons stated above. SF BMW is a prominent downtown City business and has been a reliable and conscientious Department tenant. The FLA requires certain expensive repairs and the Department does not have the budget to make these necessary repairs. SF BMW is prepared to make the required repairs and construct a number of aesthetic improvements that will benefit the Department and the surrounding neighborhood. Such repairs and improvements are not financially feasible without the tenant's ability to amortize the costs over a longer term. A 15-year lease would allow the Department to receive fair market rent for an extended period of time with the ability to increase rent as the market changes, and would allow for the required repairs. A well-respected local business, such as SF BMW, is much more motivated to demand quality improvements and better maintain the improvements over the life of the lease term, than is a generic public parking business that would be the typical tenant for such a site.

Attachments:

Exhibit A: SF-80-08 location maps and photos

Exhibit B: Location photos

**EXHIBIT A**



Looking northeast at Harrison and Chesley Streets. Lot entrance is visible on Chesley St.



**EXHIBIT B**



Harrison St looking north



Harrison St looking south