9:15am #13
12/9/10

CITY OF FRESNO
City Clerk's Office (Original)

PARKING LICENSE AGREEMENT
REGARDING
[SBA PROJECT]

(City Owned "Promenade" Parking Lot: Inyo/R Streets)

This Parking License Agreement (the "Agreement") dated as of 9 day of 12, 2010, by and between City of Fresno, a California municipal corporation, ("City"), and Baltara Enterprises LP ("Licensee"), and together with City, the "Parties".

RECITALS

WHEREAS, the City owns in fee all rights, title and interest in and to 667 parking spaces on an improved surface parking lot located at [Inyo/R Streets, Fresno CA] ("Parking Lot") more specifically described/depicted in the attached Exhibit "A", incorporated herein; and

WHEREAS, Licensee is renovating a warehouse located at [801 R Street, Fresno, CA], for [general office/commercial] use, and desires to obtain non-exclusive parking license privileges for a maximum of 110 parking spaces identified by specified parking signs ("Parking Spaces") in a portion of the adjacent City owned Parking Lot described/depicted in Exhibit "A" hereto/incorporated herein; and

WHEREAS, this Agreement has been environmentally assessed and determined to be within the Categorical Exemption set forth in CEQA Guidelines, Sections 15301 (Existing Facilities), which Section exempts existing facilities used for existing purposes with no or negligible expansion of use, where none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply; and

WHEREAS, the Parties acknowledge and agree that the Parking Lot is encumbered by certain Fresno Joint Powers Financing Authority Series 2004 Lease Revenue Bonds and Indenture (Various Capital Projects) and covenants/conditions therein and that this Agreement is expressly subordinate to said Bonds and Indenture and that a condition precedent to the effectiveness of this Agreement is the consent of City's bond counsel and that this Agreement shall be deemed modified to any extent required, in the opinion of City's bond counsel for compliance with the Bonds and Indenture.

NOW THEREFORE, for and in consideration of the mutual promises, covenants and agreements contained herein and for good and valuable consideration, the City and Licensee do hereby agree as follows:

1 Effective Date of Agreement. For purposes of this Agreement, "Effective Date", shall mean the date that City signs this Agreement following City Council approval thereof and City's bond counsel consents thereto, which shall be after Permittee signs it.

2. Commencement Date. This Agreement shall commence on the later of January 1, 2011 and the Effective Date ("Commencement Date") and end on December 31, 2020, ("Initial Term") subject to earlier termination in accordance with this Agreement. The Initial Term may

be extended by mutual agreement of the Parties, in writing, for no more than two (2) additional five (5) year periods, on the same terms and conditions as set forth in this Agreement except as to monthly rates. The Party seeking to extend this Agreement under the terms and conditions contained herein shall provide written notice to the other Party a minimum of sixty (60) days prior to expiration of the then current term of this Agreement. Before any extension is approved by the Parties, monthly rates shall be subject to renegotiation, to reflect increases in public facility parking fees.

3. Purpose of Agreement. The purpose of this Agreement is to allow the Licensee reasonably necessary ingress and egress and non-exclusive licensed use the Parking Spaces solely for the specific public purpose described in section 4 of this Agreement, and for no other purpose whatsoever, subject to the terms, conditions, and restrictions set forth in this Agreement.

4. Premises: Definition and Terms of Use.

Parking Spaces. For purposes of this Agreement, "Premises" shall mean non-exclusive licensed use of a maximum of 110 (reserved) parking spaces for employee parking ("Parking Spaces"), "as is", located in the Parking Lot described/depicted in Exhibit A.[1]

Hours of Use. During the hours of 6 a.m. to 6, Monday through Friday, City will permit Licensee to utilize the Parking Spaces for employee parking. During Holidays, weekends, and evenings the parking lot is available for parking for anyone's use.

Parking Pass. Entry and parking shall be pursuant to parking passes issued by City and displayed in/on the vehicles.

Compliance. Licensee and its employees shall use the parking spaces for parking of vehicles in accordance with all applicable laws, ordinances, rules and regulations applicable to the Parking Lot, enacted or promulgated by any public or governmental authority or agency having jurisdiction over the Parking Lot, as amended from time to time, incorporated herein, provided to Licensee. Any change in the above rules or regulations shall be provided to Licensee in writing.

"Holidays" defined. For purposes of this Agreement, "Holidays" shall mean any holiday observed by the City of Fresno.

5. Licensee Improvements. Licensee shall not make any alterations, additions or improvements in or to the Parking Lot, without the prior express written approval of the City

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[1] Note: Any interest in real property which exists as a result of possession, exclusive use, or a right to possession or exclusive use of any real property (land and/or improvements located therein or thereon) which is owned by the City of Fresno (City) is a taxable possessory interest unless the possessor of interest in such property is exempt from taxation. With regard to any possessory interest to be acquired by Licensee under this Agreement, Licensee, by its signature hereunto affixed, warrants, stipulates, confirms, acknowledges and agrees that, prior to its executing this Agreement, Licensee either took a copy of this Agreement to the office of the Fresno County tax assessors or by some other appropriate means independent of City or any employee, agent, or representative of City determined that Licensee will not be taxed on its possessory interest hereunder.

noticed in the manner hereunder. Any City approved work by Licensee with respect to any addition, alteration or improvement shall be done in a good and workmanlike manner by properly qualified and licensed personnel and such work shall be diligently completed. All improvements shall be at Licensee's sole cost and expense and must be done in accordance with all applicable laws, including, but not limited to, any work or improvements under the ADA and applicable provisions of Title 42 of the United States Code which are required incident to, as a condition of, or as a result of any alterations, improvements, or additions installed or constructed by Licensee, regardless whether such work must be conducted within or outside of the Parking Lot. Licensee acknowledges that City has made no representation or warranty regarding the ability of Licensee to obtain permits or approval to install any additions or improvements in the Parking Lot, nor has City made any representation or warranty regarding the anticipated cost of any addition or improvement, all of which Licensee agrees shall be the responsibility of Licensee to fully investigate at Licensee's sole cost and expense. Licensee shall keep the Parking Lot free and clear of any liens or encumbrances of any kind not existing on the effective date hereof. Licensee shall indemnify, defend against and keep the City free and harmless from all liability, loss damage, costs, attorneys' fees and any other expenses incurred on account of claims by any person performing work or furnishing materials or supplies for Licensee, City or any person claiming under either party, in pursuit of this Agreement except for any claims caused by the negligence or willful misconduct of either party.

6. Termination. Either party may terminate this Agreement where the other party substantially fails to observe, fulfill or perform any obligation, term or condition of this Agreement. This failure shall constitute a material breach. The breaching party shall receive written notice of breach, and shall be given sixty (60) calendar days to cure the breach from date notice is received. If breaching party does not correct the failure within thirty (60) calendar days, then the non-breaching party may terminate the Agreement upon written notice. Either Party may exercise any right, remedy (in law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law, or proceed by appropriate court action to enforce the terms of the Agreement, or to recover direct, indirect, consequential or incidental damages for the breach of the Agreement. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

Notwithstanding the foregoing, the City may terminate this Agreement, at any time after commencement, in the public interest, by giving prior written notice to the Licensee.

7. Invoicing and Payment. Licensee agrees to pay City for the use of the parking spaces as follows: During the Initial Term, Licensee agrees to pay City a monthly rate per space of thirty dollars ($30.00) per space ("Monthly Rate Per Space"), payable in arrears, beginning on the last day of the first full month following the Commencement Date (prorated for portions of a month) and then on the last day of each month thereafter. Invoices are to be sent to the address for the Licensee, set forth in Section 12, below. Commencing on the first anniversary of the Commencement Date and on each successive anniversary thereafter, ("Adjustment Date") the Monthly Rate Per Space shall be adjusted by the lesser of (i) the amount calculated by multiplying the current Monthly Rate Per Space by the percentage difference which the CPI (defined below) increased or decreased over the preceding contract year (or portion thereof if

partial year); or (ii) the amount calculated by multiplying the current Monthly Rate Per Space by three percent (3%). CITY will calculate the rental adjustment and provide Licensee written notice of the adjusted Monthly Rate Per Space at least thirty (30) days prior to when the adjusted Monthly Rate Per Space is due, and Licensee shall not be obligated to pay the adjusted Monthly Rate Per Space until Licensee receives written notice from CITY of the adjusted Monthly Rate Per Space.

The CPI utilized hereunder shall be the Consumer Price Index (Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose Metropolitan Area (1982-1984 = 100 Urban Consumers, U.S. Cities Average) as published by the United States Department of Labor, Bureau of Labor Statistics, or the successor of such index ("CPI"). If the CPI or the successor index is changed so that the base year differs from that in effect on the Commencement Date, the CPI or successor index shall be converted in accordance with the conversion factor published by the United Stated Department of Labor, Bureau of Labor Statistics. In the event that compilation and/or publication of the CPI shall be transferred to any other governmental department or agency or shall be discontinued, then the index most similar to the CPI shall be used for purposes of adjusting the Rent.

All payments shall be made to City of Fresno, Public Works Accounting Division, 2600 Fresno Street, 4th Floor, Fresno, CA 93721, or as City may otherwise designate from time to time in writing.

Licensee shall make all payments in full. Payment or receipt of a payment of less than the amount stated in the Agreement shall be deemed to be nothing more than a partial payment. Under no circumstances shall City's acceptance of a partial payment constitute accord and satisfaction, nor will City's acceptance of a partial payment forfeit City's right to collect the balance due on the account. City may accept any partial payment check with any conditional or restrictive endorsement or memorandum without prejudice to his/her right to recover the balance remaining due or to pursue any other remedy available under this Agreement.

Licensee hereby acknowledges that any late payment to City of sums due hereunder will cause City to incur costs not contemplated by this Agreement, the exact amount of which is difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed upon City by terms of any mortgage or trust deed or financing arrangement covering the Parking Lot. Accordingly, if any installment of rent or other sum due from Licensee shall not be received in full by City or City's designee on the date said amount is due, then Licensee shall pay to City a late charge equal to interest accrued on such payment at the rate of seven (7%) percent per annum, based upon the full amount of said payment, any partial payment notwithstanding. The parties agree that such late charges represent a fair and reasonable estimate of the cost that City will incur with respect to such overdue amount, and that receipt of such charges do not prevent City from exercising any of the other rights and remedies granted hereunder. Any payments of any kind returned for insufficient funds will be subject to an additional handling charge of $25.00, and thereafter, City may require Licensee to pay all future payments of rent or other sums due by money order or cashier's check.

8. Assignment. Licensee shall not assign, subcontract or otherwise transfer its rights or obligations under this Agreement without the prior written consent of City. Any assignment, subletting, occupation or use without the consent of City shall be void and, at the option of City, shall terminate this Agreement. No interest of Licensee in this Agreement shall be assignable by involuntary assignment through operation of law. Each of the following acts shall be considered an involuntary assignment: (i) if Licensee is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes proceedings under the Bankruptcy Act in which Licensee is the bankrupt; or (ii) if a writ of attachment or execution is levied on this Agreement; or (iii) if in any proceeding or action to which Licensee is a party, a receiver is appointed with authority to take possession of the Parking Spaces. An involuntary assignment shall constitute a default by Licensee and City shall have the right to elect to terminate this Agreement, in which case this Agreement shall not be treated as an asset of Licensee.

City may assign this Agreement, and/or sell the Parking Lot, in whole or in part, to any other party, without providing Licensee with prior written notice. Licensee agrees to attorn to any assignee/purchaser.

9. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

10. Indemnification. Licensee shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by Licensor, Licensee or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. Licensee's obligations under the preceding sentence shall apply regardless of whether Licensor or any of its officers, officials, employees, agents or volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of Licensor or any of its officers, officials, employees, agents or volunteers.

This section shall survive termination or expiration of this Agreement.

11. Covenant Regarding Hazardous Materials. Licensee shall not allow any Hazardous Materials to be brought onto, or stored on the Parking Lot without complying with all Environmental Laws and applicable federal, state, and local laws, ordinances, rules, regulations, or policies relating to the release, storage, use, disposal, transportation or clean-up of Hazardous Materials, including, but not limited to, the obtaining of proper permits; provided that (i) the amount of such Hazardous Material does not exceed the normal and customary quantities necessary for the operation and maintenance of the Property in the ordinary course of Tenant's business and (ii) the use, storage and disposal of such Hazardous Material otherwise strictly complies with all applicable laws, ordinances, rules, regulations and policies. Tenant shall

immediately notify Landlord of any release or any inquiry, test, investigation, or enforcement proceeding by or against Tenant or the Premises concerning a Hazardous Material.

Licensee shall not discharge, emit or permit to be discharged or emitted, any Hazardous Materials into the atmosphere, the ground or any body of water which is over, under or contiguous to the Property. Upon any Licensee release, storage, use, disposal or transportation of any Hazardous Material in, on or adjacent to the Parking Lot, or the soil or surface or groundwater in or about the Parking Lot, Licensee shall clean-up all such contamination at its expense.

Subject to the uses permitted and prohibited to Licensee under this Agreement, Licensee shall store all Hazardous Materials in appropriate leak proof containers.

Indemnification of City: Licensee shall indemnify, defend and hold City harmless from and against any loss, liability, claims, suits, causes of action, costs, fees, including reasonable attorneys' fees and costs, arising, out of or in connection with any such contamination, loss or damage to persons or property, clean-up work, inquiry or enforcement proceeding and any Hazardous Materials released, stored, used, disposed of, or transported by Licensee or its officers, officials, employees, agents, volunteers, or invitees. Licensee's obligations under this paragraph shall survive the termination of this Agreement. Said indemnification shall extend to any fines, liens, injunctions, loss, liability, damage, expense or claim (including reasonable attorneys' fees) resulting from: (a) Licensee's breach of the foregoing representation; or from (b) any such Hazardous Substances that were brought, or permitted to be brought, onto the Parking Lot by Licensee or its officers, officials, employees, agents, volunteers, or invitees. Licensee shall also defend, indemnify and hold City harmless from any loss, claim, liability or expense, including reasonable attorneys' fees, expert's fees, and costs, arising out of or in connection with its failure to observe or comply with the provisions of this Section. Licensee's obligations under the preceding sentence shall apply regardless of whether Licensor or any of its officers, officials, employees, agents or volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of Licensor or any of its officers, officials, employees, agents or volunteers. This paragraph shall survive the termination or expiration of this Agreement.

For purposes of this Section, the term Hazardous Materials means:

"Hazardous Materials" shall mean any substance or material which is capable of posing a risk of injury to health, safety or property, including all of those materials and substances designated as hazardous or toxic by any federal, state or local law, ordinance, rule, regulation or policy. Without limiting the generality of the foregoing, the term "Hazardous Materials" includes without limitation, any material or substance, which is: (a) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117, or 25112.7, or listed pursuant to Section 25140 of the California Health and Safety Code, (b) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, (c) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, (d) defined as a "hazardous substance" under

Section 25281 of the California Health and Safety Code, (e) petroleum, (f) friable asbestos, (g) polychlorinized byphenyls, (h) listed under Article 9 or defined as "hazardous" or "extremely hazardous" under Article 11 of Title 22, California Administrative Code, (i) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (j) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), or (k) defined as "Hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601, et seq.)

12. Notices. Any notices required or permitted to be given under the terms of this Agreement must be in writing and may be: (a) personally delivered; (b) mailed by depositing such notice in the United States mail, first class postage prepaid; or (c) sent by reputable overnight delivery service, addressed as follows or to such other place as each Party hereto may designate by subsequent written notice to the other Party:

If to the Licensee:

Baltara Enterprises LP
2025 N. Gateway # 101, Fresno, CA 93727
Phone: (559) 288-3925
FAX: (559) 226-3925

If to the City:

City of Fresno
Public Works Department
Parking Manager
2600 Fresno Street
Fresno, CA 93721-3623
Phone: 559-621-7275
Fax: 559-498-1439

13. Governing Laws and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

14. Condemnation. If the Parking Spaces or any portion thereof are taken under the power of eminent domain, or sold to a public authority under the threat of the exercise of said power (all of which is herein referred to as "Condemnation"), this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. All awards for the taking any payment made under the threat of the exercise of condemnation shall be payable to the City, and Licensee shall not claim any portion of such award by virtue of any interests created by this Agreement or otherwise.

15. Certification of Authority to Execute this Agreement. City and the Licensee each certifies that the individual(s) signing this Agreement on its behalf has authority to execute this Agreement on its behalf and may legally bind it to the terms and conditions of this Agreement.

16. Counterparts. This Agreement may be executed in multiple counterparts (each of which will be deemed an original for all purposes).

17. Severability. If any term, provision, covenant, or restriction in this Agreement is determined to be invalid, void, unenforceable, or otherwise inconsistent with applicable law, the remainder of the terms, provisions, covenants and restrictions of this Agreement will remain in full force and effect and will in no way be affected, impaired, or invalidated. It is hereby stipulated and declared to be the intention of City and the Licensee that they would have executed the remaining terms, provisions, covenants, and restrictions set forth in this Agreement without including any of such terms, provisions, covenants, or restrictions that may be hereafter declared invalid, void, or unenforceable.

18. Signage, Maintenance and Security. City will provide signage at Parking Lot directing Licensee's permitted uses to appropriate parking spaces/parking area(s). City is responsible for any and all maintenance, repairs and replacement to the Parking Lot including but not limited to the following: general maintenance, cleaning, sweeping, lighting, striping, resurfacing, etc. City will provide a reasonable level of security for the Parking Lot. The level of security needed for security to be "reasonable" will be determined by the City in its discretion, upon consultation with Licensee.

19. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

20. Interpretation. Should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall be resolved by construing the terms of this Agreement in accordance with their generally accepted meaning.

21. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both City and Licensee.

22. Binding. Once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.

23. Compliance with Law. Licensee shall at all times comply with all applicable laws of the United States, the State of California and City, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

24. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

25. No Third Party Beneficiaries. The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

26. Bond and Indenture Requirements and Subordination. Notwithstanding any other terms or provisions of this Agreement, the parties acknowledge and agree that the Parking Lot is encumbered by certain Fresno Joint Powers Financing Authority Series 2004 Lease Revenue Bonds and Indenture (Various Capital Projects) and covenants/conditions therein, and that a condition precedent to the effectiveness of this Agreement is the consent of City's bond counsel and that this Agreement shall be deemed modified to any extent required, in the opinion of City's bond counsel for compliance with the Bonds and Indenture. Without limiting the foregoing, the parties acknowledge and agree that, the terms, covenants, provisions and conditions herein are and shall be subject and subordinate to the Bond and Indenture and any and all City bond and other financings and refinancings of the Parking Lot. Licensee agrees to provide a written subordination upon City's reasonable request.

CITY OF FRESNO,
a municipal corporation
By:
[ ]
City Manager

ATTEST:
Rebecca E. Klisch, City Clerk
By: Sherri L. Badertscher
Deputy 2/16/11

REVIEWED & RECOMMENDED FOR APPROVAL:
By:
Del Estabrooke
Public Works Parking Manager

APPROVED AS TO FORM:
James C. Sanchez, City Attorney
By: R 12-01-10
Deputy

LICENSEE, Baltara Enterprises LP
By:
Name: William Dhk
Title: President
Date 11/29/10

By:
Name:
Title:
Date

Exhibits:	Exhibit A:	Description/Depiction of Parking Lot
	Exhibit B:	INTENTIONALLY OMITTED
	Exhbit C:	INTENTIONALLY OMITTED

EXHIBITS

(Attach)

City of FRESNO **REPORT TO THE CITY COUNCIL**

AGENDA ITEM NO. 9:15am #1 B
COUNCIL MEETING 12/9/10
APPROVED BY
DEPARTMENT DIRECTOR
CITY MANAGER

DATE: December 9, 2010

FROM: PATRICK WIEMILLER, Director
Public Works Department

BY: DEL ESTABROOKE, Public Works Manager
Public Works/Parking Services Division

SUBJECT:

1. ADOPT FINDING OF CATEGORICAL EXEMPTION PER STAFF DETERMINATION, PURSUANT TO SECTION 15301 (EXISTING FACILITIES) OF THE CEQA GUIDELINES FOR THE PROMENADE PARKING LOT LICENSE AGREEMENT.

2. AUTHORIZE A TEN (10) YEAR PARKING LICENSE AGREEMENT BETWEEN THE CITY OF FRESNO AND BALTARA ENTERPRISES LP TO PROVIDE 110 EMPLOYEE PARKING STALLS FOR THE SMALL BUSINESS ADMINISTRATION IN THE CITY OF FRESNO PROMENADE PARKING LOT AT A BASE RATE OF $30.00 PER MONTH PER STALL.

RECOMMENDATION

1. Adopt Finding of Categorical Exemption per staff determination, pursuant to Sections 15301 (Existing Facilities) of the CEQA Guidelines, for the Promenade Parking Lot License Agreement.

2. Authorize a ten (10) year parking agreement in substantially the form attached, with Baltara Enterprises to provide 110 employee parking stalls in the City of Fresno Promenade Lot at a base rate of $30 per month per stall, for the Small Business Administration who will be moving into renovated office space in a former warehouse on R Street in downtown Fresno, subject to bond counsel consent and City Attorney's approval to form.

EXECUTIVE SUMMARY

The Small Business Administration (SBA) has entered into a lease agreement with Baltara Enterprises for office space in a renovated warehouse on R Street in downtown Fresno. The warehouse is located just outside of the City of Fresno Promenade Lot. The developer needs approximately 110 parking stalls in the lot for the employees of the SBA. The City will provide the parking stalls in the lot at $30 per month per stall for the first year. For the next nine years the price will increase annually based on the conditions of the agreement. The base term of the Agreement is 10 years and may be extended by the parties for 2 additional terms of 5 years each. The Agreement is subject to bond counsel consent, subordination to bond covenants and restrictions, and City Attorney's approval to form.

Presented to City Council
Date 12/9/10
Disposition Rec. approved

BACKGROUND

In 2004 the City of Fresno built the Promenade Parking Lot at R Street and Tulare Street in hopes of providing parking for future development along the R Street Warehouse Row. The SBA is planning to move into a newly renovated office space located in the warehouse just north of the R Street and Inyo Street Intersection. The employees of the SBA will park their vehicles inside of our Promenade Parking lot. It is estimated that the maximum parking stalls the SBA will need for their employees is one hundred and ten (110) parking stalls. Currently on any given work day less than half of the 667 parking stalls are utilized. Once the SBA becomes operational additional daily customers could use the parking lot to conduct business.

The City will provide the parking stalls in the lot at $30 per month per stall for the first year. For the next nine years the price will increase annually based on the conditions of the Agreement. The base term of the Agreement is 10 years and may be extended by the parties for 2 additional terms of 5 years each. The Agreement authorized is subject to bond counsel consent, subordination to bond covenants and restrictions, and City Attorney's approval to form.

Staff has performed a preliminary environmental assessment of this project and has determined that it falls within the Categorical Exemption set forth in CEQA Guidelines, Section 15301 (Existing Facilities), which Section exempts existing facilities used for existing purposes with no or negligible expansion of use; Furthermore, staff has determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

FISCAL IMPACT

This agreement can increase parking revenues by approximately $39,600 in annual parking fees for the Parking Division.