

Meeting Date: 8/11/2015

Report Type: Consent

Report ID: 2015-00703

Title: Assignment of 926 J Street Citizen Hotel Parking Agreements

Location: 926 J Street/District 4

Recommendation: Pass a Motion authorizing the City Manager to execute an Assignment and Assumption agreement approving the assignment of City Agreements 2006-1025 and 2009-1106 from Cal West Partners, L.P. to Sacramento Hotel, LLC.

Contact: Matt Eierman, Parking Services Manager (916) 808-5849, Department of Public Works

Presenter: None

Department: Public Works Department

Division: Off-Street Parking Admin

Dept ID: 15001211

Attachments:

1-Description/Analysis

2-Agreement

City Attorney Review

Approved as to Form

Gerald Hicks

8/3/2015 2:23:12 PM

Approvals/Acknowledgements

Department Director or Designee: Jerry Way - 7/27/2015 10:20:31 AM

Description/Analysis

Issue Detail: In September 2006, the City and Rubicon Partners, Inc. entered into Parking Agreement 2006-1025 for 183 monthly permits at City Hall Garage, to be used for valet services supporting the Citizen Hotel. On August 27, 2007 the Parking Agreement was assigned to Cal West Partners, L.P (City Agreement 2007-0943). In December 2009, the Parking Agreement was amended (City Agreement 2009-1106) to modify the compensation of the parking permits from a fixed monthly rate for each permit to a rate based on actual use. Today, Cal West Partners, L.P. has reached agreement to sell the Citizen Hotel to Sacramento Hotel, LLC and is requesting the City's consent to assign the Parking Agreement to the new owner.

Policy Considerations: The recommendation is consistent with the City's strategic plan and goal of the City Council to expand economic development throughout the City.

Economic Impacts: Not applicable

Environmental Considerations:

California Environmental Quality Act (CEQA): This project is exempt from the California Environment Equality Act (CEQA) under Section 15301, "Operation of existing public structures or facilities involving no expansion of use."

Sustainability Considerations: Not applicable

Other: None

Commission/Committee Action: None

Rationale for Recommendation: Parking Agreement 2006-1025, between the City and Rubicon Partners, Inc., allocated 183 monthly parking permits at City Hall Garage for valet services for the Citizen Hotel. It was subsequently assigned to Cal West Partners, L.P. in 2007. Consenting to the assignment of the parking agreement from Cal West Partners, L.P. to the new owner of the Citizen Hotel, Sacramento Hotel, LLC, will ensure valet services will continue to be available for guests of the hotel.

Financial Considerations: Per the assignment and assumption agreement, all terms and conditions of Parking Agreement will remain in effect. The 183 parking permits will continue to be billed on a pay-by-use basis.

Local Business Enterprise Program (LBE): Not applicable

ASSIGNMENT AND ASSUMPTION OF PARKING AGREEMENT
926 J STREET CITIZEN HOTEL
(CITY AGREEMENT NO. 2006-1025 AND 2009-1106)

THIS ASSIGNMENT AND ASSUMPTION OF PARKING AGREEMENT (this "**Parking Agreement Assignment**") is made as of _____, 2015, by and among CITY OF SACRAMENTO, a charter city and a municipal corporation ("**City**"), CAL WEST PARTNERS, L.P., a California limited partnership ("**Assignor**"), and SACRAMENTO HOTEL, LLC, a Delaware limited liability company ("**Assignee**"). This Parking Agreement Assignment is made with respect to the following facts:

RECITALS

A. Assignor and Assignee anticipate that, by no later than December 31, 2015, Assignor will transfer to Assignee all of Assignor's right, title and interest in, and Assignee will become the owner of, that certain real property located at 926 J Street in the City of Sacramento, County of Sacramento, State of California (the "**Property**").

B. City and Assignor are parties to that certain parking agreement captioned "PARKING AGREEMENT 926 J Street Building" dated as of September 19, 2006, City Agreement No. 2006-1025, (the "**Original Parking Agreement**"), between the City and Rubicon Partners, Inc., a California corporation, ("**Rubicon**"), which allowed for allocation of 183 monthly parking permits at the City Hall Garage located at 1000 I Street for valet parking services for the Citizen Hotel located at the Property. The Original Parking Agreement was assigned by Rubicon to Assignor with City's consent on August 27, 2007, City Agreement No. 2007-0943. The Original Parking Agreement was amended by City and Assignor under that certain amendment captioned "AMENDMENT #1 TO CITY AGREEMENT NO. 2006-1025 BETWEEN THE CITY OF SACRAMENTO AND CAL WEST PARTNERS, LP (AS ASSIGNEE OF RUBICON PARTNERS, INCORPORATED)" dated as of December 16, 2009, City Agreement No. 2009-1106 (the "**First Amendment**"). The First Amendment modified the compensation based on actual use of the allocated 183 parking spaces. The First Amendment together with the Original Parking Agreement is referred to herein as the "**Parking Agreement**".

C. Assignor and Assignee have requested that City consent to Assignor's assignment to Assignee of all of Assignor's right, title and interest in, to and under the Parking Agreement because of the transfer of ownership of the Property to Assignee.

D. As a condition to City's consent to Assignor's assignment to Assignee of all of Assignor's right, title and interest in, to and under the Parking Agreement, City has required that Assignee and Assignor execute and deliver to City this Parking Agreement Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignee, Assignor and City hereby confirm and agree as follows:

1. EFFECTIVENESS. The provisions of Section 2 and Section 3 of this Parking Agreement Assignment shall only become effective upon Assignee's acquisition of title to the

Property. If Assignee does not acquire title to the Property on or before December 31, 2015, then this Agreement shall terminate and shall be of no further force or effect.

2. ASSIGNMENT. Effective upon Assignee's acquisition of title to the Property, Assignor hereby sells, assigns, conveys, transfers and grants to Assignee all of Assignor's right, title and interest in, to and under the Parking Agreement. Assignor retains all of the obligations and liabilities of Assignor under the Parking Agreement to the extent such obligations and liabilities arise prior to the date of the conveyance of the Property to Assignee. Concurrently with Assignee's acquisition of title to the Property, Assignor shall (and hereby agrees to) arrange for the payment by Assignor to City, through the escrow for the transfer of title to the Property, of any compensation and fees under the Parking Agreement, to the extent attributable to the period prior to the transfer of title to the Property to Assignee.

3. ASSUMPTION. Assignee hereby assumes and agrees to perform, from and after the date of the conveyance of the Property to Assignee, all of the obligations and liabilities of Assignor in, to and under the Parking Agreement. Assignee shall provide City with written notice of the date of the conveyance of the Property to Assignee to allow City to pro-rate the PBU compensation and the Administrative Fee owed per the terms of the First Amendment between Assignor and City.

4. CONSENT OF CITY. City hereby consents to Assignor's assignment to Assignee of all of Assignor's right, title and interest in, to and under the Parking Agreement and Assignee's assumption, from and after the date of the conveyance of the Property to Assignee, of the obligations and liabilities of Assignor under the Parking Agreement.

5. RELEASE OF ASSIGNOR. City hereby releases Assignor from all liabilities and obligations under the Parking Agreement to the extent such obligations and liabilities arise after the date of the conveyance of the Property to Assignee.

6. INSURANCE. Prior to Assignee's acquisition of title to the Property, Assignee shall provide to City reasonable evidence of Assignee's compliance with the provisions of Section 9 of the Original Parking Agreement.

7. NOTICES. Any notice which a party is required or may desire to give the other shall be given in writing either by personal service, by certified mail, return receipt requested, postage full prepaid or by national overnight delivery service and be addressed as follows (subject to the right of a party to designate a different address for itself):

To City:

City Of Sacramento
300 Richards Boulevard, Suite 213
Sacramento, California 95811
Attention: Matthew W. Eierman

with a copy to:

Office of the City Attorney of the City Of Sacramento
915 I Street, Fourth Floor

Sacramento, California 95814
Attention: Sheryl N. Patterson

To Assignor:

CAL West Partners, L.P.
c/o Rubicon Partners Inc.
3400 Douglas Blvd. Suite 255
Roseville, California 95661
Attention: Peter C. Thompson

with a copy to:

Jeffer Mangels Butler & Mitchell LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067
Attention: David Sudeck, Esq.

To Assignee:

Sacramento Hotel, LLC
360 North Crescent Drive, South Building
Beverly Hills, California 90210
135 Revere Drive
Northbrook, Illinois 60062
Attention: Eva M. Kalawski, Esq.

with a copy to:

Sacramento Hotel, LLC
360 North Crescent Drive, South Building
Beverly Hills, California 90210
135 Revere Drive
Northbrook, Illinois 60062
Attention: Mark Wiesenthal

with a copy to:

Pircher, Nichols & Meeks
1925 Century Park East, 17th Floor
Los Angeles, CA 90067
Attention: Real Estate Notices (WHJ; 5124-79)

8. ENTIRE AGREEMENT. This Parking Agreement Assignment contains the entire agreement between the parties with respect to the matters set forth in this Parking Agreement Assignment and supersedes all prior agreements between the parties with respect to these matters.

9. SUCCESSORS AND ASSIGNS. This Parking Agreement Assignment and the terms and provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties; provided, however, that any assignment of the Parking Agreement by Assignee must comply with the provisions of the Parking Agreement.

10. COUNTERPARTS. This Parking Agreement Assignment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Parking Agreement Assignment as of the date first written above.

ASSIGNEE:

SACRAMENTO HOTEL, LLC,
a Delaware limited liability company

By: [Signature]
Name: David S. Apoeta
Its: Vice President

ASSIGNOR:

CAL WEST PARTNERS, L.P., a California limited partnership

By: CAL WEST MANAGERS, LLC, a Delaware limited liability company, its General Partner

By: CAL WEST DEVCO, LLC, a California limited liability company, its sole Member

By: RUBICON PARTNERS IV, LLC, a California limited liability company, its Manager

By: RUBICON PARTNERS, INC., a California Corporation, its Manager

By: _____
PETER C. THOMPSON, President

By: _____
KIPP L. BLEWETT, CFO & Secretary

[SIGNATURES CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have executed this Parking Agreement Assignment as of the date first written above.

ASSIGNEE:

SACRAMENTO HOTEL, LLC,
a Delaware limited liability company

By: _____
Name: _____
Its: _____

ASSIGNOR:

CAL WEST PARTNERS, L.P., a California limited partnership

By: CAL WEST MANAGERS, LLC, a Delaware limited liability company, its General Partner

By: CAL WEST DEVCO, LLC, a California limited liability company, its sole Member

By: RUBICON PARTNERS IV, LLC, a California limited liability company, its Manager

By: RUBICON PARTNERS, INC., a California Corporation, its Manager

By: 
PETER C. THOMPSON, President

[SIGNATURES CONTINUED ON NEXT PAGE]

CITY:

CITY OF SACRAMENTO

By: _____
Jerry Way, Director of Public Works
For John F. Shirey, City Manager

APPROVED AS TO FORM:

By:  _____
Senior Deputy City Attorney

ATTEST:

By: _____
Assistant City Clerk