

NOTICE OF A PUBLIC HEARING BY THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO REGARDING THE PROPOSED LEASE OF PROPERTY IN THE COLUMBIA SUB AREA OF THE CENTRE CITY REDEVELOPMENT PROJECT TO BROADWAY DAY CARE, LLC.

NOTICE IS HEREBY GIVEN that the Redevelopment Agency of the City of San Diego (the "Agency") has scheduled a Public Hearing on Tuesday, October 13, 2009, at the hour of 2:00 p.m. or as soon thereafter as the matter can be heard, in the City Council Chambers, 12th Floor, City Administration Building, 202 C Street, San Diego, California, pursuant to Section 33431 of the California Health and Safety Code, for the purpose of considering a proposed First Amendment to the Ground Lease Agreement by and between the Agency and Broadway Day Care LLC (the "Lessee") and recordable memorandum of said lease amendment. Under the proposed lease amendment documents, the Agency proposes to lease certain real property in the Columbia Redevelopment Project Area to the Lessee for the period beginning November 11, 2008 through February 11, 2012.

The property proposed to be leased to the Lessee consists of the Broadway Day Care Center property located at 475 West Broadway ("Leased Premises") in the Columbia Sub area of the City of San Diego. The property is owned by the Agency and was initially ground leased to Highland Partnership, LLC, the predecessor-in-interest to the Lessee, and is currently a two-story child care facility containing approximately 9,500 net square feet, two playgrounds and eight surface parking spaces. Under the terms of the proposed lease amendment, the Leased Premises and improvements now or hereafter located on the Leased Premises are to be maintained by the Lessee, at Lessee's sole cost and expense, through February 11, 2012.

The public hearing will be held to consider:

1. The First Amendment to Ground Lease dated as of November 11, 2008 between the Agency and Lessee, and
2. The Memorandum of First Amendment to Ground Lease between the Agency and Lessee.

The aforesaid two documents are available for public inspection and copying during regular office hours (8:00 a.m. to 5:00 p.m., Monday through Friday) at the Office of the City Clerk, 202 C Street, City Administration Building, Second Floor, San Diego, California 92101 and at the office of the Centre City Development Corporation, 401 B Street, Suite 400, San Diego, California, 92101.

At any time before the date and time set forth above for the Public Hearing by the Agency, written comments on or objections to the proposed lease amendment and corresponding documents may be filed with the City Clerk. Comments may also be submitted during the public comment period for this matter on the hearing date. All persons wishing to question, comment, object to, or be heard on such matters at the public hearing will be given an opportunity to appear and be so heard. The decision of the

Agency is final. If you later desire to challenge actions of the Agency in connection with these transactions, you could be limited to raising issues you or someone else raised at the Public Hearing, or in written correspondence to the Agency at or prior to the Public Hearing.

A prior notice was published on September 8, 2009 in the Daily Transcript setting the public hearing for September 22, 2009. That notice was later corrected by a notice of correction published September 15, 2009 taking the September 22, 2009 public hearing off the Agency calendar. The instant published notice is set to be published in the Daily Transcript on September 29, 2009 and October 6, 2009 showing said public hearing is to take place on October 13, 2009.

The documents referred to in this Notice are available in alternative format upon request. To order information in an alternative format, or to arrange for a sign language or oral interpreter for the meeting, please call the Clerk's office at least five (5) working days prior to the meeting at (619) 533-4000 (voice) or (619) 236-7012 (TTY).

Jeanette Santos
Deputy Secretary
Redevelopment Agency of the City of San Diego

Publish: September 29, 2009
October 6, 2009

[Add Map]

Centre City
Development
Corporation

DATE ISSUED: September 17, 2009 REPORT NO.: CCDC-09-29

ATTENTION: Chair and Members of the Redevelopment Agency
Docket of October 13, 2009

ORIGINATING DEPT.: Centre City Development Corporation

SUBJECT: Broadway Day Care Center (475 West Broadway) – First
Amendment to Ground Lease with Broadway Day Care LLC –
Columbia Sub Area of the Centre City Redevelopment Project –
Public Hearing

COUNCIL DISTRICT: Two

REFERENCE: None

STAFF CONTACT: David N. Allsbrook, Vice President – Acquisitions, Public Works
and Property Management, (619) 533-7112

REQUESTED ACTION:

That the Redevelopment Agency of the City of San Diego (“Agency”) approve a proposed First Amendment to the Ground Lease (“Amendment to Ground Lease”) between the Agency and Broadway Day Care LLC for a child day care center located at 475 West Broadway in the Columbia Sub Area of the Centre City Redevelopment Project.

STAFF RECOMMENDATION:

That the Agency approve the Amendment to Ground Lease between the Agency and Broadway Day Care LLC, to extend the lease term for three years and three months, beginning from November 11, 2008 to February 11, 2012, which keeps the monthly lease payment the Agency receives in the amount of \$21,229.17, for a child day care center located at 475 West Broadway in the Columbia Sub Area of the Centre City Redevelopment Project.

SUMMARY:

On August 1, 1995, the Agency approved a Disposition and Development Agreement (DDA) with Highland Partnership LLC (“Highland”), to allow Highland to finance and construct a two-story childcare facility containing approximately 9,500 net square feet (11,500 gross square feet), two outdoor play areas and eight surface parking spaces. In turn, the General Services Administration (GSA) leased from Highland the completed child day care center on a full-service gross basis. The term of the initial lease was eight years with a four-year renewal option. All 12 lease years were exercised and both the Agency’s ground lease and Highland/GSA’s lease expired on November 11, 2008. During the initial lease period, Highland assigned the ground lease to Broadway Day Care LLC.

The site is irregular in shape and forms an L – shape along West Broadway on the north and the Columbia pathway (vacated Columbia Street on the west) (Attachment A – Site Map). The L – shape parcel wraps around the existing Columbia Tower Complex, which includes a surface parking lot, senior-apartment high-rise and a swimming pool.

FISCAL CONSIDERATIONS:

The Amendment to Ground Lease will provide for monthly basic rent to the Agency in the amount of \$21,229.17 for a three-year and three-month term. Over the term of the Amendment to Ground Lease, Broadway Day LLC would pay the Agency \$827,937.63.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION: On July 22, 2009, the Corporation Board voted unanimously to recommend approval of the Amendment to Ground Lease with Broadway Day Care LLC along with a recorded memorandum reflecting the entry of the Amendment to Ground Lease in the office of the San Diego County Recorder.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH: With respect to the Amendment to Ground Lease and according to California Health and Safety Code Section 33431, a notice of time and place of the Agency public hearing will be published in the *San Diego Daily Transcript*, a newspaper of general circulation in San Diego County, for a period of not less than once a week for two weeks prior to the Agency's public hearing. Also, the Amendment to Ground Lease and memorandum of the Amendment to Ground Lease will be available for public review and copying at the offices of the Corporation and the Agency at the time of first publication of the notice of the public hearing. Lastly, information about the matter will be available on the Corporation's Web site at www.ccdc.com. Images of this staff report with the attached documents are also located on the City's Website through the City Clerk portal which may be accessed under the Agency Agenda, Minutes and Reports hyperlink below: <http://www.sandiego.gov/redevelopment-agency/meetcont.shtml#Redevelopment%20Agency>.

BACKGROUND

The Amendment to Ground Lease advances the Visions and Goals of the Downtown Community Plan and the Objectives of the Centre City Redevelopment Project by:

- Eliminating and preventing the onset and return of blight through continued utilization of redevelopment vacant or underutilized property;
- Providing a child day care center that improves the quality of life for downtown workers and residents; and
- Encouraging a diversity of community facilities in the downtown neighborhoods, including religious facilities, recreation centers, daycare, and youth centers.

In October 2007, Corporation staff brought to the Real Estate Committee ("Committee") a report informing the Committee that the ground lease between the Agency and Broadway Day Care LLC and the lease between Broadway Day Care LLC and GSA were set to expire on

November 11, 2008. Staff was seeking direction from the Committee on continued use of the site as a child day care center or other development options for the site and presented the following three options:

1. Negotiate a new ground lease with the current lessee of the site for continued use as a child day care center, for a five-year period;
2. Issue a Request for Qualifications/Proposals (RFQ/P) for operators of the child day care center facility under a new ground lease; or
3. Allow the ground lease between GSA and Broadway Day Care LLC to expire (November 11, 2008) and issue a RFQ/P for alternate development of the site.

At that time, the Corporation Board expressed they did not have enough information about future Site development options and referred the matter back to staff with a request to return to the Committee with a description of the development options and a recommendation on the future use of the Site, either as a child day care center or other development opportunities.

On February 13, 2008, staff brought the matter back to the Committee with the requested information and a discussion of the development options. Under the Downtown Community Plan and the Centre City Planned District Ordinance (PDO), the Site is located in the Core Land Use District with an Employment Required Overlay. These designations permit a wide variety of land uses but at least 50 percent of the gross-floor area of the buildings must contain employment uses, which are defined as those non residential uses that provide employment opportunities and are specifically listed in the PDO, including office, commercial service, retail, cultural and hotel uses.

This area is envisioned as a high-intensity office and employment center with active street-level uses. It exhibits fewer restrictions on building and tower bulk than other districts to provide larger floor plates for office uses. The base maximum floor area ratio (FAR) for the site is 9.0, with a minimum FAR of 5.5. The FAR may be increased through the Transfer of Development Rights or FAR Bonus programs, up to a maximum of 14.0.

Several office towers are proposed in the general vicinity, including one from the Irvine Company and the Navy Broadway Complex, which would compete for any proposed new site use (Attachment B – Proposed Development Map). Given the current office market and general economic conditions, staff did not recommend issuance of an RFQ/P and instead recommended a lease extension for up to a three-year period.

Discussions with staff from GSA focused on a three-year lease extension. Likewise, representatives from Broadway Day Care LLC indicated they would also be agreeable to a three-year lease extension. Therefore, the Committee directed staff to negotiate a three-year lease extension with Broadway Day Care LLC and return the matter to the Committee for consideration.

The proposed Amendment will extend the lease period for an additional three years and three months, beginning November 11, 2008 and ending February 11, 2012. To permit the GSA and Broadway Day Care LLC sufficient time to arrive at terms for a lease extension for said three-year period, all parties agreed to enter into a letter agreement permitting a holdover of the initial ground-lease term while the parties reach an agreement and internally seek approvals within their respective organizations. That letter agreement, dated November 4, 2008, provided for a three-month holdover period from November 11, 2008 until February 11, 2009 and a subsequent month-to-month estate. The Amendment to Ground Lease essentially seeks authority to continue the ground lease dated February 26, 1996 between the Agency and Broadway Day Care LLC from its expiration date of November 11, 2008 through February 11, 2012—the date that the GSA and Broadway Day Care LLC lease extension is set to expire.

Besides the extension of the lease term for a three-year, three-month term, the proposed Amendment keeps the monthly lease payment that the Agency receives from Broadway Day Care LLC the same for the term of the Amendment to Ground Lease. The following two tables provide a comparison of the current and proposed lease payments between Broadway Day Care and GSA (Table No.1), and compare the current and proposed rent paid by Broadway Day Care LLC to the Agency (Table No. 2); together, these tables show the rent structure for both transactions:

TABLE NO. 1

<i>Lease Between Broadway Day Care LLC and GSA</i>		
Term	Current	Proposed (02/12/09 – 02/11/12)
Annually	\$ 599,587.00	\$ 510,219.00
Annually/s.f.	\$ 63.43	\$ 53.98

TABLE NO. 2

<i>Ground Lease Between Agency and Broadway Day Care LLC</i>		
Term	Current	Proposed (02/12/09 – 02/11/12)
Annually	\$ 254,750.00	\$ 254,750.00
Annually/s.f.	\$ 26.95	\$ 26.95

The other point of discussion with GSA was its continued involvement with the facility after the proposed extension period expires on February 11, 2012. Because of the development potential of the site, it was agreed by both parties, subject to approval by the Corporation and the Agency, that there will be no further holdover opportunities after the three-year, three-month extension period. This provides continued day care center opportunities until February 2012 while allowing the Agency to make decisions about the future use of the facility or issue a Request for Qualifications/Proposals for development.

The Amendment to Ground Lease also contains a condition precedent concerning the expiration and termination of occupancy of the day care facility on February 11, 2012. Before the Agency is required to enter into the Amendment to Ground Lease, Broadway Day Care is required to

provide written notice to the Agency acknowledging that GSA has acknowledged that the operator of the day care facility, Bright Horizons or subsequent child day care provider provides and has posted a notice to families that child day care is set to close on February 11, 2012. Attached is a sample of the notice, subject to reasonable revision among Broadway Day Care, the General Services Administration and Bright Horizons or subsequent child care center provider (Attachment C).

In addition to the Amendment to Ground Lease and the notice to families, at the time the Amendment to Ground Lease is signed, the Agency and Broadway Day Care are to enter into a Memorandum of First Amendment (Attachment D) that is to be recorded with the San Diego County Recorder. This memorandum is to confirm the ground lease was extended through February 11, 2012 and no further options, extensions or holding over is permitted after that date.

In conformance with part R concerning Lease Extensions & Renewals of policy CP 700-10 as applicable to the Agency under Agency policy 300-1, the Amendment to Ground Lease promotes redevelopment of Agency owned property by continued use and utilization of land and the prevention of the onset of blighting influences in the Centre City Redevelopment Project. Furthermore, Broadway Day Care LLC has agreed to not reduce any rent due the Agency despite the severe economic climate; such agreement means there is no reduction in rent to the Agency which is rare in the present economic climate. Lastly, staff has visited the site and reviewed the history, maintenance, and compliance of Broadway Day Care LLC and recommends the proposed action herein as in conformance with said lease extension and renewal policy and the goals of redevelopment and blight elimination in the Centre City Redevelopment Project.

The Agency is required to conduct a public hearing to approve the Amendment to Ground Lease pursuant to sections 33430 and 33431 of the California Health and Safety Code Section 33430 provides that an Agency may, within the survey area or for purposes of redevelopment, sell, lease, for a period not to exceed 99 years, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed of trust, or otherwise dispose of any real or personal property or any interest in property.

California Health and Safety Code Section 33431 provides that any lease or sale subject to Section 33430 may be made without public bidding but only after a public hearing, notice of which shall be given by publication for not less than once a week for two weeks in a newspaper of general circulation published in the county in which the land lies. Because the parcel subject to the Broadway Day Care LLC ground lease is not leased for development, the ground lease does not require a California Health and Safety Code Section 33433 Report and, as a result, does not require a public hearing by the City Council.

DEVELOPMENT TEAM

ROLE	FIRM/CONTACT
General Partner	Broadway Day Care LLC (Designated Manager)/ Tom Sullivan Ian Gill Dave Gardner Mike Peckman

DISCUSSION

Project Description – The two-story child-care facility contains two outdoor play areas and eight surface-parking spaces.

Project Financing – The Amendment to Ground Lease will provide for monthly basic rent to the Agency, through the three-year, three-month term of the Amendment to Ground Lease, in the amount of \$21,229.17.

Project Benefits – The extension of the lease term will insure the continued use of the facility as a day care center for an additional three-year, three-month period.

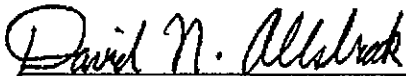
Environmental Impact – This activity is covered under the Final Master Environmental Impact Report for the Centre City Redevelopment Project and addressing the Centre City Community Plan and Related Documents certified by the Agency and City Council of the City of San Diego on April 28, 1992 by Resolution No. R-2081 and No. R-279875, respectively (MEIR), and the Secondary Study for the Development of a Federal GSA Child Care Center Pursuant to the DDA, dated and certified July 7, 1995 (Secondary Study), in accordance with and pursuant to the California Environmental Quality Act of 1970 (CEQA) and state and local guidelines adopted pursuant thereto. The effects of the proposed activity were adequately addressed in the previous environmental document and Secondary Study and the proposed activity is within the scope of the project described herein. There are no project changes, changes in circumstances, or new information of substantial importance within the meaning of CEQA Guidelines section 15162 that would warrant any additional environmental review, in connection with approval of the Amendment to the Lease agreement; therefore no further environmental documentation is required pursuant to California Public Resources Code section 21166, and CEQA Guidelines section 15168.

CONCLUSION

The Amendment to Ground Lease would extend the lease period for three years and three months, at the same monthly rent, and provide the Agency the option after the extended lease period to look at other potential uses of the facility or make the site available for development. Therefore, staff recommends approval of the Amendment to Ground Lease with Broadway Day Care LLC and the corresponding recordable memorandum.

Respectfully submitted,

Concurred by:



David N. Allsbrook
Vice President—Acquisitions, Public Works
& Property Management



Frank J. Alessi
Executive Vice President &
Chief Financial Officer

- Attachments:
- A – Site Map
 - B – Proposed Development Map
 - C – Notice to Families regarding proposed closure
 - D – Memorandum of First Amendment to Ground Lease
 - E – First Amendment to Ground Lease