




## MEMORANDUM

August 9, 2024

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Gail Gilman, Vice President  
Hon. Willie Adams  
Hon. Stephen Engblom  
Hon. Steven Lee

**FROM:** Elaine Forbes  
Executive Director 

**SUBJECT:** Request for approval of an extension of the Lease Disposition and Development Agreement with TZK Broadway, LLC, a California limited liability company ("TZK") for the proposed development of a hotel with approximately 192 rooms, a dinner-theater, a 14,000-square-foot public open space, and ancillary uses (the "Development" or "Project") at Seawall Lots 323/324 and portions of unimproved Vallejo and Davis Street right-of-ways on the west side of The Embarcadero at Vallejo by an additional twelve months.

**DIRECTOR'S RECOMMENDATION:** Approved the Attached Resolution No. 24-35

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### EXECUTIVE SUMMARY

TZK is a party to a Lease Disposition and Development Agreement ("LDDA") with the Port for the Project at Seawall Lots 323/324 and portions of unimproved Vallejo and Davis Street right-of-ways on the west side of The Embarcadero at Vallejo (collectively, the "Site," shown on the attached Exhibit "A," **Site Map**). The Site is currently used for surface parking and will continue to be used for parking until development. The LDDA commenced on September 18, 2020 and has previously been extended and amended such that it is currently set to expire on September 17, 2024.

Early this year, TZK informed Port that prospective lenders have indicated that the existing Project terms, set prior to COVID-19, need to be revised to reflect current capital market

**THIS PRINT COVERS CALENDAR ITEM NO. 10B**

conditions and that San Francisco hotel occupancy and revenue levels have not yet recovered from the pandemic.

Currently, Port and TZK are negotiating the potential revisions to the Project terms but cannot complete such negotiations before the LDDA expires on September 17, 2024. The Port, as part of the negotiations, is looking for further indications of project financing commitments and viability.

Port staff has negotiated a proposed second amendment to the LDDA that is now before the Port Commission for its consideration and approval. The proposed Second Amendment includes the following terms:

- a. Extend the LDDA term by 12 months with an option to extend it by an additional 12 months subject to consent of the Port Commission.
- b. Defer all current fees and payments due to the Port, and all fees and costs that may accrue during the extension period to the earlier of close of escrow or the expiration or termination of the LDDA. The outstanding amount is \$370,995.00 as of June 2024. New fees and additional costs incurred by the Port past June 2024 will be added to the amount deferred and owed to the Port and include a new \$100,000 extension fee.
- c. TZK is to provide a promissory note to pay Port at least \$470,995 and TZK may make payments to reduce the amount to pay at the earliest of the close of escrow or the expiration or termination of the LDDA. This promissory note will carry a 5% simple annual interest rate on the balance of the deferred amount from the effective date of the Second Amendment. New fees and additional costs incurred by the Port past June 2024 will be added to the amount deferred to be paid by TZK by the close of escrow. TZK is required to pay \$100,000 towards the deferred amount as a precondition for the proposed Second Amendment to become effective.
- d. Update the LDDA schedule of Performance accordingly.

Port Staff recommends approval of the proposed Second Amendment to the LDDA to provide more time to complete ongoing negotiations and allow TZK to continue the pursuit of capital to fund the project.

## **STRATEGIC PLAN ALIGNMENT**

The Development is expected to contribute in a substantial way to support three of the Port's Strategic Plan goals:

### Equity:

The Development will provide business opportunities for local businesses and develop a new live theater space for Teatro ZinZanni's operation.

### Sustainability:

The Development is expected to incorporate a variety of sustainable practices and

leverage c-pace financing to fund significant investments in such.

Engagement:

The hotel and Theatre, when complete, will provide a new node of interest and cultural/arts activity, for both visitors and locals and replace a static surface parking lot.

Stability:

Adding revenues from hotel and dinner-theater operations diversifies the Port's asset portfolio and supports the durability of the Port's lease revenue.

## **BACKGROUND**

The original LDDA approval in 2019 anticipated escrow closing by 2021. The project was subsequently designed, fully approved, and permitted to move forward. COVID-19 caused lockdowns which, among other things, curbed air travel, and prevented tourists, business travelers, and local visitors from renting hotel rooms, which resulted in low hotel occupancy and significantly reduced hotel revenues and cash flow. Hotel investment and financing, particularly for construction, all but stopped, and the project was not able to move forward. Since then, TZK has been diligently managing the project and looking for ways to move the project ahead.

The October 7, 2022 Staff report to the Port Commission provides more details about this Project.<sup>1</sup>

## **CURRENT PROJECT STATUS**

TZK remains compliant with the LDDA. Currently, Port and TZK are negotiating proposed revisions to existing Project deal terms to address concerns raised by potential lenders. There is not enough time to complete such negotiations and obtain necessary approvals from the Port Commission and the Board of Supervisors before September 17, 2024 when the LDDA is set to expire.

The key features of the Development remain unchanged and include:

- A 40-foot tall, four-story building to house the hotel and dinner-theater venue
- A boutique hotel with 192 rooms
- A state-of-the-art venue to house Teatro ZinZanni dinner-theater operation
- A new privately funded approximately 14,000 square feet public park

Port staff want to review lenders' expressions of commitment to the Project in finalizing negotiations. TZK reiterated its challenges, including cost inflation, high interest rates, and current market perceptions. It concluded that more time is needed to get lenders willing to provide meaningful commitment by September 2024 given the state of hotel financing in San Francisco. Port staff are supportive of a time extension for the purposes stated.

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<sup>1</sup> [ritem 12a swl 324 tzk info final.pdf \(sfport.com\)](#)

## KEY TERMS OF THE PROPOSED SECOND AMENDMENT

The following are the proposed terms and conditions to include in the amendment:

- a. **Extend the LDDA term by 12 months and provide for a 12-month extension option subject to the consent of the Port Commission.** During the extension period, Port staff and TZK aim to conclude the negotiation and then seek approval of the revisions from the Port Commission and the Board of Supervisors. Ten months into the new extension period, Port staff will seek the consent of the Port Commission for the new 12-month extension if warranted based on the likelihood of the parties' completing negotiations during the initial 12-month period.
- b. **Defer all current fees and payments due to the Port, and all fees and payments that may accrue during the extension period, including extension fees, to earlier of close of escrow or the expiration or termination of the LDDA.** The amount currently due is \$370,995.00 as of June 2024. New fees and additional costs incurred by the Port past June 2024 will be added to the amount deferred to be paid by TZK by the earlier of the close of escrow or the expiration or termination of the LDDA. Additionally, this extension in question will be subject to a deferred fee of \$100,000.
- c. **TZK to provide a promissory note for all the deferred fees due to the Port.** The note amount is estimated at \$470,995 and it will carry a 5% simple annual interest rate on its outstanding balance as TZK may make payments toward paying off the note and to pay any balance remaining at the earlier of close of escrow or expiration or termination of the LDDA. Interest will accrue from the effective date of the Second Amendment.
- d. **Update the LDDA Schedule of Performance to reflect the new LDDA expiration date of September 17, 2025.** The schedule will include benchmarks for tracking the necessary performance benchmarks to track progress, such as monthly project update meetings with Staff and a quarterly written summary of progress.

## STAFF ANALYSIS

Given the current state of the San Francisco hotel market where some hotels have defaulted on loans because of low occupancy and inability to refinance given high interest rates, low revenues, and lower market values—some hotels have been given back to lenders, Port and TZK anticipate it will be difficult to find meaningful lenders' commitment with the existing deal terms within the two months remaining before the LDDA expires without a time extension.

Likewise, more time is needed for Port staff to assess further the market, work with consultants and TZK, get potential lenders' input, and negotiate revisions to the existing deal terms that better reflect current market conditions. The time extension is also needed to seek approvals from the Port Commission and the Board of Supervisors. The following factors are supportive of the time extension:

1. It will enable TZK to continue to seek meaningful lenders' commitment giving the state of hotel financing, particularly for San Francisco.
2. Allow market conditions to further improve. The market is expected to improve over the next 24 months as tourism, business, and convention travel improves and hotel underwriting, including interest rate, moderates.
3. TZK indicated that it has spent about \$8 million advancing the project to date, including about \$1 million in reimbursement payments that have already been paid to Port for transaction costs, including negotiation and extension fees. TZK has a real skin in the game and motivation to stay the course and deliver.
4. Port still owns and manages the Site and will continue to earn parking revenues (\$656,242 for FY 2024) until TZK is able to close escrow to start construction. The opportunity cost to Port for allowing TZK to continue to pursue is \$0.
5. In recognition of the delay caused by the pandemic, the City Planning Commission recently granted TZK another 3 years (2024 to 2027) to seek issuance of its building permit. Accordingly, the proposed LDDA extension is supported by City Planning's outlook on the state of the hotel market recovery.
6. Teatro ZinZanni recently reiterated its commitment to this Development. The Teatro Theater is a great benefit and is used along the Northern Waterfront.

## **TIMELINE/NEXT STEPS**

Port Commission approval of the proposed Second Amendment will allow TZK to continue to seek input from its potential investors and lenders and allow Port to seek input from consultants on potential revisions to the existing deal terms. This negotiation is anticipated to be completed before September 2025. Port staff will bring the final negotiated deal to the Port Commission for its consideration and approval. If negotiations aren't completed by then and Port staff and TZK believe another extension is warranted, Port staff will seek Port Commission approval for another 12-month extension of the LDDA term.

## **RECOMMENDATION**

Port staff recommends that the Port Commission approve the attached Resolution approving the proposed Second Amendment to the LDDA on such terms and conditions described in this staff report.

Prepared by: Ricky Tijani, Development Project Manager  
Real Estate and Development

For: Scott Landsittel, Deputy Director  
Real Estate and Development

Attachment: Exhibit A - Site Map

**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 24-35**

WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate, and control the lands within Port jurisdiction; and

WHEREAS, On September 10, 2019, by Resolution No. 19-36, the Port Commission, among other things, authorized and directed the Executive Director to (i) enter into a Lease Disposition and Development Agreement (“LDDA”) and other transaction documents with TZK Broadway, LLC, a California limited liability company (the “Developer” or “TZK”) for the lease and development of a mixed-use project that includes a hotel, dinner-theater venue and open space (the “Project”) at Seawall Lots 323 and 324 and certain additional lands (collectively, the “Site”) and (ii) seek approval of the form of Lease from the Board of Supervisors; and

WHEREAS, On January 14, 2020, the Board of Supervisors approved Resolution No. 05-20 approving, among other things, the form of the lease; and

WHEREAS, On September 18, 2020, Port and the Developer executed the LDDA and subsequently extended the term of the LDDA through force majeure extensions and a first amendment to the LDDA, which first amendment extended the LDDA term until September 17, 2024; and

WHEREAS, Due to the ongoing impacts of the pandemic on the San Francisco hotel market and other market factors, TZK has had difficulty obtaining firm commitments from lenders to finance the Project at the Site with the existing deal terms and TZK has proposed a number of changes to the deal terms; and

WHEREAS, Port and TZK are currently negotiating potential revisions to the existing deal terms, but will be unable to complete negotiations and obtain necessary approvals from the Port Commission before the current expiration date of September 17, 2024 under the LDDA; and

WHEREAS, The Port and TZK have negotiated the terms and conditions of the proposed Second Amendment to the LDDA (“Second Amendment”) to, among other things, extend the term of the LDDA, as described in the Staff report accompanying this resolution and a copy of which is on file with the Secretary to the Port Commission; and

WHEREAS, The terms of the Second Amendment include, among other things: (1) a 12-month extension of the LDDA terms to September 17, 2025, with the

option to extend for another 12 months subject to the consent of the Port Commission, (2) deferring to earlier of close of escrow or expiration or termination of the LDDA of all current and future fees and payments due to the Port; (3) securing payment of all of the deferred fees with a promissory note executed by the TZK, which note is to carry a 5% simple annual interest rate on its outstanding balance with TZK to make payments toward paying off the note and to pay any balance remaining at the earlier of close of escrow or expiration or termination of the LDDA, interest to accrue from the effective date of the Second Amendment and TZK to pay \$100,000 towards the deferred amount as precondition for the Second Amendment to take effect; and (4) revising the LDDA Schedule of Performance to reflect the extended expiration date of September 17, 2025 and changes to applicable performance benchmarks based on such extension; now, therefore, be it

RESOLVED, That the San Francisco Port Commission hereby (1) approves the proposed Second Amendment between the Port and TZK on terms substantially consistent with those described in this Resolution, the Staff report accompanying this Resolution, and in the Second Amendment on file the Secretary of the Port Commission and (2) authorizes the Executive Director, or her designee, to execute such Second Amendment; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director or her designee to enter into any additions, amendments, or other modifications to the Second Amendment and any other agreement necessary to effectuate the purpose of the Second Amendment and this Resolution that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligations or liabilities of the Port or materially reduce the benefits to the Port, and are necessary or advisable to complete the transaction which the Second Amendment contemplates and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director or her designee of any such documents.

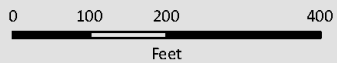
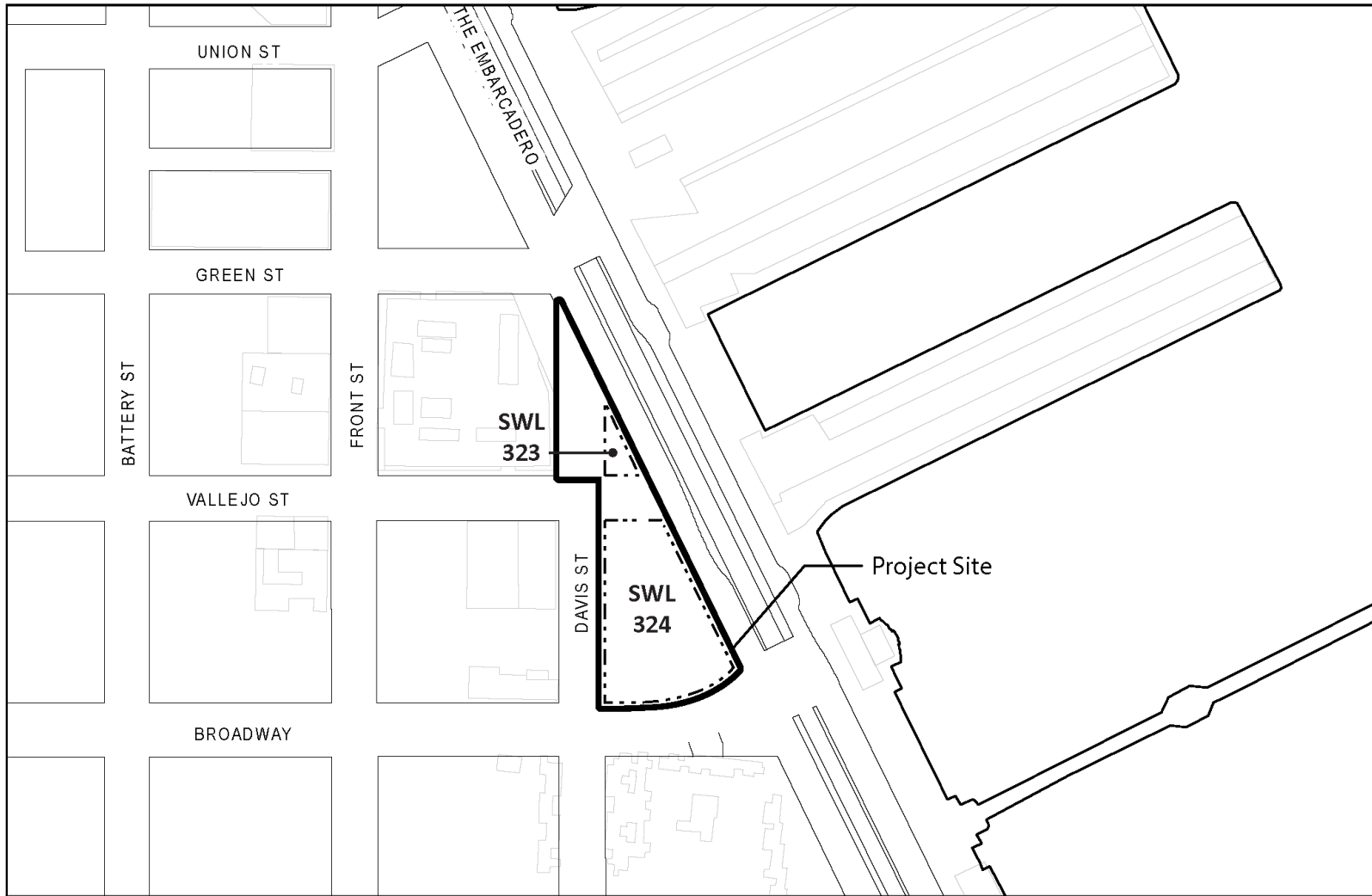
***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 13, 2024.***

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Secretary



# EXHIBIT A Site Map



TEATRO ZINZANNI & TZK BROADWAY, LLC  
PROPOSED PROJECT SITE  
PORT OF SAN FRANCISCO

