



Office of the City Manager

INFORMATION CALENDAR

December 17, 2013

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: William Rogers, Deputy City Manager

Subject: Telegraph Channing Mall: Follow-up on Tenants Issues and Management

SUMMARY

On September 17, 2013 Council received a report on the City-owned retail space at the Telegraph Channing Mall. Issues raised during public comment and the discussion of the item were: the general condition of the Mall; recent 1st-time billings for possessory interest assessments; comparable retail rents in the area; existing lease rate adjustments based on CPI or a fixed percentage; and the merits of a contract for professional services.

At the conclusion of the September item, Council requested that the City Manager meet with tenants of the Telegraph Channing Mall to “review leases, look at comparable rents in the area, review the rent increase amounts and postpone the execution of a contract with a management company until after staff reports back to Council.”

Since September, the City Manager’s Office and Public Works staff convened a meeting with tenants; conducted further analysis of comparative rates for comparable retail space in the area; compiled estimates for improvements and repairs in the Mall; and received an acceptable proposal in response to the RFP that was issued for management services.

CURRENT SITUATION AND ITS EFFECTS

**Meeting with Telegraph Channing Mall (TCM) Tenants**

City Manager’s Office and Public Works staff met with tenants on October 8, 2013 to identify and discuss concerns held by current lease holders. The following is a summary of the issues and outcomes from the meeting.

- Comparative Rents and Rent Reduction: The data on comparable rates in the Telegraph area indicate that the TCM rates are consistent or below rates in the area. The most relevant rate comparison is between the Sather Gate Shops on the north side of Durant, and the Telegraph Channing Mall on the south side of Durant. Economic Development staff conducted a comparative analysis of rates in these locations, and found that the average rent per square foot of occupied space at the Sather Gate Shops is more than twice the average rate at the Telegraph Channing

Mall. This is likely due, in part, to a different tenant mix; however it remains a substantial spread between commercial rates in such proximity.

Tenants were advised that across the board rent reductions would not be undertaken; however, they were informed that if both parties agree, tenants who wish to renegotiate their leases may request to do so, and were advised to contact Public Works staff to request a meeting for this purpose. The lease that is currently up for exercising an option to extend has been prioritized before other discussions.

- Annual Rate Adjustments: Not all existing leases include a 4% escalator provision. The Deputy City Manager will work with tenants who have a 4% escalator in their lease agreements, to reduce the escalator to CPI or 3%, whichever is less. This mirrors the escalator clause in some existing TCM leases.
- Possessory Interest Assessments: Given the circumstances, the City Manager will allocate General Fund to cover the TCM tenants' possessory interest assessments billed in August 2013 (for Street Lighting, Landscape & Parks, Library, School District (2), Paramedics, Disabled Services, Mello Roos Fire, and Fire Protection Emergency Response) for an estimated total amount of \$11,000. The General Fund will also cover the costs for the current term of each lease, for an estimated total of \$32,000. When tenants exercise an option to extend an existing lease, or any new lease is being negotiated, the possessory interest assessments will be addressed and affirmed as they apply to the lease terms.

### General Conditions and Improvements at Telegraph Channing Mall

Staff obtained estimates (see below) and will commit to aesthetic improvements to the Mall for issues including lighting and signage. Tenants were asked to send an email with their concerns, suggestions, and priorities to Public Works staff. There may be an on-site meeting at the Mall to further discuss and prioritize improvements tenants would like to see made. The ADA lift has been assessed by staff and the elevator repair company under contract with the City. Public Works is considering whether to make repairs to the lift, while obtaining estimates for a long term solution, such as construction of a ramp.

#### Estimates for improvement work in the Mall

ITEM	Preferred Option	Short-Term Option
Repair the lift		\$2,800
Install a ramp (\$8 - 15K)	\$10,000	
Interior spot painting		\$2,000
Full interior painting (\$6 - 8K)	\$7,000	
Power wash outside of Mall	\$1,000	
Upgrade lighting (restrooms & exterior passage ways)	\$6,000	
Replace old faded signage & fix neon light over garage ( <i>cost unknown at this time</i> )	\$TBD	
	<b>\$24,000</b>	\$4,800

### **Interim and Long-Term Management**

At the October meeting with tenants, staff reported on the plan to hire professional management services for TCM. Some tenants were concerned this would put one more layer between themselves and the City, and staff responded that the purpose of the professional management agent was to increase the level of service to tenants. Tenants agreed that the service level has been low for the past few years.

As previously reported to Council, staffing in the City's Real Property Management Office has decreased due to a resignation and a long term leave of absence. City Attorney and City Manager staff have helped ensure continuation of basic oversight for issues in the Mall, however this coverage is transitional and inadequate for the long-term. After looking at many options, staff concluded that a professional agent with real estate and other relevant expertise is needed to effectively manage the Telegraph Channing Mall, retail leases and associated functions.

An RFP was issued in August 2013 to find a leasing and management agent who, under the direction of City staff, will have overall responsibility for the management of the mall. A proposal was received in response to the RFP, and was found to include all required materials and responses. The submitters were informed that staff was asked to suspend further action on their proposal until Council received an update on Mall activities.

The amount of time for management of the Mall does not require additional dedicated full-time career staff, and the recommended contract for these management services is seen as both cost-efficient and an effective use of personnel and consultant resources. Principal responsibilities for management are expected to include marketing vacancies; evaluating prospective tenants and making written recommendations to the City on tenant selection; monitoring and updating leases; collecting rents; paying expenses within an approved agreement; maintaining on-going tenant relations and addressing tenant needs; and handling unpredictable issues that arise; and coordinating routine maintenance with the City's Facilities Management unit. (The Telegraph Channing Garage is managed under a separate contract with LAZ Parking California.)

### **Other Actions**

Staff recently approved an applicant for one of the currently vacant spaces, and a report will be submitted to Council for approval of this lease. The City's website includes a page with information on [City of Berkeley Property Available for Lease or Sale](#).<sup>1</sup>

### **BACKGROUND**

At its July 16, 2013 meeting, Council requested the City Manager to "report back on the possible solutions to rent space in city-owned vacant storefronts at Telegraph Channing Parking Garage." Real Property Management staff have continued to market these spaces in order to secure reliable tenants, and avoid a repeat of defaults that had triggered prolonged and costly eviction proceedings in the past. The overall aesthetics of the Mall have been a serious deterrent to attracting new tenants. While the new

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<sup>1</sup> City of Berkeley Property Available for Lease or Sale:  
[www.cityofberkeley.info/Public\\_Works/Facilities\\_Management/City\\_Property\\_Available\\_for\\_Lease\\_or\\_Sale.aspx](http://www.cityofberkeley.info/Public_Works/Facilities_Management/City_Property_Available_for_Lease_or_Sale.aspx)

contract with LAZ for management of the Telegraph Channing Garage resulted in improvements in the garage itself, LAZ is not responsible for management of the retail spaces.

In a separate action that occurred after the July Council meeting, tenants in the Mall received bills from the City for “possessory interest” assessments. Their leases state their liability for these assessments and payments, however, invoices had not previously been issued to them. Public Works staff convened a routine periodic meeting with the tenants on August 30, 2013 and the agenda included discussion of these invoices, as well as other issues on the condition and management of the Mall. The next discussion of this issue then occurred at the September 17 City Council meeting, at which time Council received additional comments from the tenants, along with updates and responses from the City Manager.

The Telegraph Channing Mall was part of the Sather Gate Garage built in the late 1960s by the City of Berkeley Sather Gate Garage Company, a non-profit corporation. The Mall has almost 16,000 square feet of retail space at street level, with the Garage’s current 436 parking spaces above. Since its construction, the structure underwent seismic improvements that were completed in 1996, and another project in 2004 included installation of a ventilation system, automatic fire sprinklers, fire alarm, and other fire protection improvements. The Garage and Mall were renamed the Telegraph Channing Parking Garage in 2006, which was seen as “more reflective of the shopping district,” and a summary of its history can be found in the Council report from March 21, 2006.<sup>2</sup>

#### POSSIBLE FUTURE ACTION

As indicated, above, staff is prepared to contract with a management agent for overall responsibility for the Mall, including marketing vacancies, evaluating prospective tenants, collecting rents, paying expenses, addressing tenant needs, and routine maintenance.

The City Manager plans to allocate funding to cover the possessory interest assessments for all TCM tenants (Street Lighting, Landscape & Parks, Library, School District (2), Paramedics, Disabled Services, Mello Roos Fire, and Fire Protection Emergency Response). This would extend for the current term of each lease.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Total annual revenue from rents and related payments in FY 2013 was almost \$233,000. Staff has approved an applicant for one of the two currently vacant spaces, and a report will be submitted to Council for approval of the lease. When both of these spaces are leased, staff projects an increase in annual revenue of \$30,000 – \$50,000.

General Fund payment of Special Assessments: The amount of this year’s assessments for all tenants is estimated at about \$11,000 and the allocation would extend for the current term of each lease, for an estimated total of \$32,000. The City would assume liability for these assessments, which would be paid from the General Fund.

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<sup>2</sup> Council adopted Resolution No. 63,246 on March 21, 2006 Renaming Sather Gate Garage “Telegraph Channing Garage”: [www.cityofberkeley.info/citycouncil/2006citycouncil/packet/030706/2006-03-07%20Item%2019%20Rename%20Sather%20Gate%20Garage.pdf](http://www.cityofberkeley.info/citycouncil/2006citycouncil/packet/030706/2006-03-07%20Item%2019%20Rename%20Sather%20Gate%20Garage.pdf)

Management contract expenditures would be paid from tenant rent receipts, and for other services, such as marketing vacancies that result in new leases, as agreed to in the contract. The City Manager will retain approval authority for expenditures to implement improvements and overall maintenance in the Mall. An estimate for many of the identified improvements begins at \$25,000 – \$30,000.

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