April 20, 2010

Summary of major provisions of the Downtown Library/School lease as approved by the City Council of San Diego on April 19, 2010

The following is a summary of the major provisions of the 40-year, $20 million pre-paid lease to acquire two consecutive floors (sixth and seventh) of approximately 71,800 rentable square feet in the downtown library with the City of San Diego (the “Lease”) as approved by the city council at its April 19, 2010 meeting. This item will go to the San Diego Unified School District’s Board for approval at its April 27, 2010 meeting.

Initial Term Rent
The District will issue three payments of $5 million dollars each at the beginning of construction followed by 25% and 50% completion dates. The District will pay $3 million at 75% completion and $2 million at the end of construction.

Funding
The District has built in the cash flow for the $7 million of rent from City Centre Development Corporation (CCDC) into the CCDC redevelopment expenditure plan that was presented to the board on March 30, 2010 and are projected is projected to be paid in the 2010/11 fiscal year. The balance of the Lease payments are projected to come from Proposition S in 2011/12 but will be offset by CCDC funds for Proposition S capital projects in 12/13 and 13/14 fiscal years.

Permitted Uses
The two consecutive floors may be used as a public charter middle or high school or other uses, including but not limited to private school, administrative, or general business offices, so long as the use is consistent or compatible with the rest of the building.

Trust Deed as District’s Security
The City shall provide a first trust deed on non-library property with a minimum value of $30 million until the end of the 10th Lease year, with the minimum value of $25 million during the next ten years, and thereafter the minimum value would be 125% of the unearned prepaid rent.

City’s Conditions to Start Construction
The Lease states that the City may not begin construction of the building shell, and the District is not required to pay any rent until all of the following conditions are met: 1) City must set aside sufficient funds; 2) City must enter into a signed contract with a reputable, experienced construction manager at risk; 3) City must retain a general contractor who shall provide payment and performance bonds; 4) the City must purchase title insurance, at its own expense; 5) the Memorandum of Lease must be recorded; and 6) the first deed of trust on non-library City property valued at must be recorded with the values specified in Lease.

Termination Before Construction
If the City, in its sole discretion, decides not to begin construction on the building shell and so notifies the District, the Lease is automatically terminated. While the construction of the shell is
scheduled to occur on August 1, 2010, if the City fails to commence construction on or before August 1, 2011, the District may terminate the Lease with 30-day written notice to the City.

**District’s Default & City’s Remedies**
If the District is in default and fails to cure a material breach (other than nonpayment) within the period proscribed by written notice, the City may terminate lease, take possession of the two consecutive floors, and recover damages. If the City elects to terminate the Lease prior to the initial term of 40 years, the City shall refund the excess, if any, of unearned initial term rent over the rent and damages to which the City is entitled.

**City’s Default & District’s Remedies**
If the City is in default during construction of the building and fails to cure same upon written notice from the District, the District may terminate the Lease. The City shall refund to District all unearned rent as of the date of the Lease’s termination, plus any damages or other sums to which District is entitled, which is secured by the first deed of trust on non-library City property.

If the City’s default occurs after construction of the building and during District’s occupancy, the District may terminate the Lease. Then the District is entitled to all unearned rent as of the date of the Lease’s termination, plus any damages or other sums to which District is entitled secured by the first deed of trust on non-library City property.

**Option to Purchase**
The District may exercise this right to buy the sixth and seventh floors during the 10th, 20th, and 30th year of the Lease.

**Library Commissioners Seat**
The District shall have one official representative during the term of the 40 year lease on the San Diego Board of Library Commissioners.