

EXHIBIT K

EASEMENT AGREEMENT
(Public Access & Parking)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Sunnyvale Redevelopment City
456 West Olive Avenue
Sunnyvale, California 94086
Attn: Executive Director

No fee for recording pursuant to
Government Code Section 27383

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Agreement") is entered into as of _____, 2007, by and between the Sunnyvale Redevelopment Agency, a public body, corporate and politic (the "Agency") and the City of Sunnyvale, a charter city (the "City") with reference to the following facts:

RECITALS

A. The Agency entered into that certain Amended and Restated Owner Participation and Disposition and Development Agreement to be recorded in the Official Records of Santa Clara County (the "DDA") for the disposition and development of certain real property located in the City of Sunnyvale (the "Property").

B. Under the terms of the DDA, the Agency shall enter into a ground lease (the "Public Parking Ground Lease") with Downtown Sunnyvale Mixed Use, LLC (the "Developer") under which the Agency shall lease to Developer a portion of the Property more particularly described in the attached Exhibit A (the "Parking Parcel").

C. Pursuant to the DDA, the Developer shall construct and operate a public parking facility (the "Improvements") on the Parking Parcel.

D. The Agency and the City desire to enter into this Easement Agreement to provide for easements in favor of the City for access and parking purposes on the Parking Parcel to ensure that the Parking Parcel is available for public parking purposes throughout the term of the Public Parking Ground Lease.

WITH REFERENCE TO THE FACTS RECITED ABOVE, the Agency and the City (the "Parties") agree as follows:

Section 1. Parking Parcels Subject to Easement. The Agency owns in fee the Parking Parcel which shall be subject to this Easement Agreement.

Section 2. Grant of Easements.

(a) For valuable consideration hereby acknowledged, the Agency hereby grants to the City for the use and benefit of the general public, a nonexclusive irrevocable easement with a right of entry to use the Parking Parcel for pedestrian and vehicular travel, ingress and egress, and vehicular parking (the "Easement"). This Easement shall burden the Parking Parcel and the interests of the Agency, its successors and assigns and tenants thereof.

(b) Notwithstanding Section 2 (a), the rights under this Easement shall be subject to such reasonable rules and regulations for use of the facilities established pursuant to the Public Parking Ground Lease, which rules and regulations, by way of example, may include time limits on parking, charges for parking or parking validation systems.

Section 3. Benefit and Burden, Run with the Land. It is the intent of the Agency and the City that the Easement granted by the Agency pursuant to Section 2 above shall burden the Parking Parcel and be binding on the Agency and its successors and assigns, for the benefit of the general public, the City and its successors and assigns.

Section 4. Default and Remedies. In the event of any breach of this Agreement by a party, the nonbreaching party may give the breaching party written notice describing the breach and sixty (60) days in which to cure. Should the breaching party fail to cure such breach within the sixty (60) day cure period, the nonbreaching party may enforce all the remedies available to them at law or in equity.

Section 5. Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

Section 6. Third Party Beneficiary Rights. This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.

Section 7. Entire Agreement. This Agreement contains the entire agreement between the Parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

Section 8. Construction. In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

Section 9. Joint and Several Obligations. In the event any party hereto is composed of more than one person or entity, the obligations of such party shall be joint and several.

Section 10. Recordation. This Agreement shall be recorded in the office of the recorder of the County of Santa Clara.

Section 11. Notices, Demands and Communications. Formal notices, demands, and communications between the parties shall be sufficiently given if, and shall not be deemed given unless, secured personally, or dispatched by certified mail, return receipt requested, or by facsimile transmission or reputable overnight delivery service with a receipt showing date of delivery, to the principal offices of the parties as follows:

Agency: The Sunnyvale Redevelopment Agency
456 West Olive Avenue
Sunnyvale, California 94086
Attn: Executive Director
Telephone: (408) 730-7480
Facsimile: (408) 730-7699

City: City of Sunnyvale
650 West Olive Avenue
P.O. Box 3707
Sunnyvale, CA 94088-3707
Attn: City Manager
Telephone: (408) 730-7480
Facsimile: (408) 730-7699

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this section. Delivery shall be deemed to have occurred at the time indicated on the receipt for delivery or refusal of delivery.

Section 12. No Discrimination. No party shall, either directly or indirectly, forbid or restrict the conveyance, encumbrance, leasing, mortgaging, or occupancy of its property, or a part thereof, to any person on account of race, color, creed, religion, sex, sexual orientation, marital status, ancestry, national origin, familial status, handicap, or disability.

Section 13. Attorneys' Fees. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement, to collect damages as a result of any breach of this Agreement, or arising out of this Agreement or the rights and obligations of the Parties hereunder the Party prevailing in any such action shall be entitled to recover against the Party not prevailing all reasonable attorneys' fees, expenses, and costs incurred in such action (and any subsequent action or proceeding to enforce any judgment entered pursuant to an action on this Agreement).

Section 14. Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

AGENCY:

SUNNYVALE REDEVELOPMENT AGENCY, a
public body corporate and politic

By: _____

Its: _____

CITY:

DOWNTOWN SUNNYVALE MIXED USE, LLC
a Delaware limited liability company

By: RREEF America REIT III Corp. MM
a Maryland corporation, its manager

By: _____

David M. Wilbur

Its: Vice President

STATE OF CALIFORNIA)
)
COUNTY OF SANTA CLARA)

On _____, 200__, before me, the undersigned, _____, a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

STATE OF CALIFORNIA)
)
COUNTY OF SANTA CLARA)

On _____, 2007, before me, the undersigned, _____, a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

EXHIBIT A

Legal Description of Parking Parcel