

BILL NO. 20 -2013

AN ORDINANCE

AUTHORIZING THE MAYOR OF THE CITY OF READING, PA TO EXECUTE ANY AND ALL DOCUMENTS TO EFFECTUATE THE CONSENT TO THE TRANSFER OF CERTAIN REAL ESTATE AND THE RELATED ASSUMPTION OF THE ASSOCIATED LOAN OBLIGATION BETWEEN GOGGLE WORKS VENTURES, L.P., AND GOGGLE WORKS, LLC.

WHEREAS, PURSUANT TO LOAN AGREEMENT DATED DECEMBER 28, 2005, THE CITY PROVIDED HUD SECTION 108 FINANCING TO GOGGLE WORKS VENTURES, L.P. IN THE AMOUNT OF \$4.3 MILLION IN CONNECTION WITH THE GOGGLE WORKS ART CENTER

WHEREAS, THE AFORESAID LOAN HAS BEEN REDUCED BY PAYMENTS ON ACCOUNT SUCH THAT THE CURRENT PRINCIPAL BALANCE IS \$1.8 MILLION

WHEREAS, GOGGLE WORKS VENTURES, L.P. AND GOGGLE WORKS LLC HAVE ENTERED INTO AN AGREEMENT TO TRANSFER TO GOGGLE WORKS LLC BOTH THE REAL ESTATE AND THE OBLIGATION TO REPAY THE REMAINING BALANCE OF THE HUD SECTION 108 LOAN

NOW, THEREFORE THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The Mayor is authorized to enter into an agreement providing for (a) the consent to the conveyance of real estate from Goggle Works Ventures, L.P to Goggle Works L.L.C. subject to the Mortgage and (b) the substitution of Goggle Works LLC as the Borrower under the loan documents associated with the HUD Section 108 Loan.

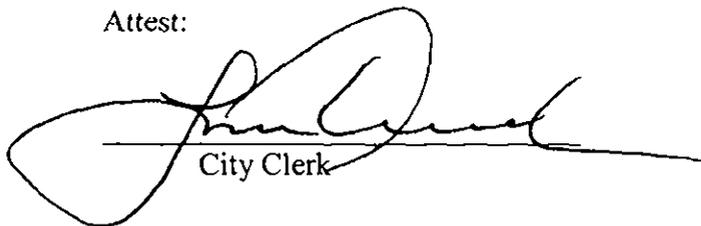
SECTION 2. This Ordinance shall be effective ten (10) days after passage.

Enacted March 25, 2013

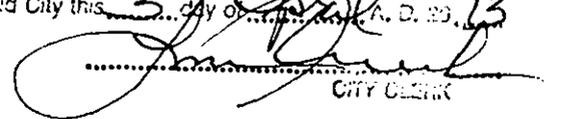


President of Council

Attest:



City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 25 day of March A. D. 2013. Witness my hand and seal of the said City this 3 day of April A. D. 2013


CITY CLERK

Submitted to Mayor: _____

Date: 3/20/13

Received by the Mayor's Office: _____

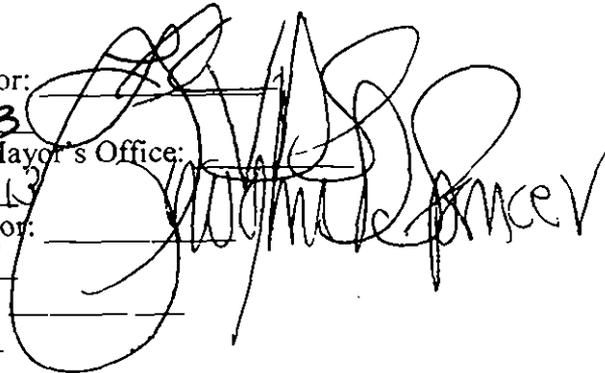
Date: 3/26/13

Approved by Mayor: _____

Date: 4/2/13

Vetocd by Mayor: _____

Date: _____

A large, handwritten signature in black ink, appearing to read "William E. Price", is written over the signature lines. The signature is highly stylized and overlaps with the lines for "Submitted to Mayor", "Received by the Mayor's Office", and "Approved by Mayor".

**CONSENT TO REAL PROPERTY TRANSFER
AND ASSUMPTION OF LOAN**

This **Consent, Assumption and Release Agreement** (this "Agreement") is made this ___ day of January 2013, by and among **Goggle Works Ventures, L.P.**, a Pennsylvania limited partnership (the "Original Borrower"); the **City of Reading, Pennsylvania** (the "City"); and **Goggle Works, LLC**, a Pennsylvania limited liability company (the "New Borrower")

BACKGROUND:

Pursuant to Loan Agreement dated December 28, 2005 (the "Loan Agreement"), by and between the City and the Original Borrower, the City provided financial accommodations to Original Borrower in the principal amount of \$4,300,000 (the "Loan") to refinance construction debt of the Original Borrower utilized for the rehabilitation and redevelopment of certain real property into a multipurpose art center known as the Goggle Works Art Center.

The financial accommodations provided by the City are subject to the terms and conditions of the "HUD Section 108 Contract" and the "HUD Section 108 Note" (both as defined in the Loan Agreement). Capitalized terms not defined in this Agreement shall have the meanings ascribed to such terms in the Loan Agreement.

Pursuant to the Loan Agreement, the Original Borrower executed and delivered, *inter alia*, the Note, the Mortgage, the Assignment of Leases and Rents and the Collateral Assignment. In addition, Our City-Reading, Inc. and Albert Boscov each delivered a Guaranty Agreement.

Pursuant to the Mortgage, the Original Borrower granted a mortgage to the City on the Real Estate and pursuant to the Assignment of Leases, the Original Borrower assigned all leases and subleases of the Real Estate, including specifically the Master Lease, to the City.

The Loan has been reduced by payments on account such that, as of the date hereof, the principal balance is \$1,800,000.

Original Borrower is also indebted to Goggle Works, LLC in connection with a loan in the original principal amount of \$8,000,000. Such indebtedness is evidenced by a Promissory Note dated September 14, 2005 (the "Second Lien Note"), which Second Lien Note is secured by an Open-End Mortgage and Security Agreement dated September 14, 2005 and recorded on September 23, 2005 in the Office of the Recorder of Deeds of Berks County, Pennsylvania at Record Book 4672, Page 60 (the "Second Mortgage") on the Real Estate, which Second Mortgage was subordinated to the Mortgage pursuant to the Subordination of Mortgage.

By reason of default under the Second Lien Note and the Second Mortgage, Original Borrower and New Borrower have agreed that Original Borrower will convey the Real Estate to New Borrower pursuant to a Deed in Lieu of Foreclosure in satisfaction of the

outstanding debt of Original Borrower to New Borrower, subject to the lien of the Mortgage, subject to the consent of the City as required pursuant to the Loan Agreement and the Mortgage.

Original Borrower and Goggle Works Tenant, L.P. (the "Master Lease Tenant") intend to terminate the Master Lease and all subleases thereunder, including specifically the so-called "Master Sublease" between Master Lease Tenant and New Borrower, subject to the consent of the City as required pursuant to the Loan Agreement, the Mortgage and the Assignment of Lease and Rents.

By execution of this Agreement, the City will (a) consent to the transfer of the Real Estate to New Borrower, (b) accept the New Borrower as Borrower for all purposes of the Loan Agreement and the other Loan Documents, (c) consent to the termination of the Master Lease and any subleases thereunder, and (d) release Original Borrower from any and all liability under the Loan Documents.

By execution of this Agreement, the New Borrower assumes and agrees to perform all of the obligations of Original Borrower under the Loan Agreement, the Note, the Mortgage, the Assignment of Leases and Rents and the Collateral Assignment.

By execution of this Agreement, the Original Borrower agrees to execute and deliver to New Borrower a Deed in Lieu of Foreclosure to the New Borrower and to terminate the Master Lease and cause the termination of any sublease thereunder.

NOW THEREFORE, the parties hereto, in consideration of the mutual covenants herein contained and intending to be legally bound hereby, covenant and agree as follows:

1. Consent to Conveyance. The City hereby consents to the conveyance of the Real Estate to New Borrower, subject to the Mortgage, and agrees to the substitution of New Borrower for Original Borrower as Borrower under the Loan Agreement and the other Loan Documents.
2. Consent to Lease Termination. The City hereby consents to the termination of the Master Lease and any subleases thereunder
3. Execution and Delivery of Documents. Contemporaneously with the execution of this Agreement:
 - (a) New Borrower shall execute and deliver to the City, the Loan Documents Assumption Agreement attached hereto and made a part hereof as Exhibit A (the "Assumption Agreement").
 - (b) Original Borrower shall execute and deliver the Deed in Lieu Of Foreclosure attached hereto and made a party hereof as Exhibit B (the "Deed in Lieu") to New Borrower, together with such transfer tax affidavits as shall be required in order to record said deed and such title affidavits as shall be required by New Borrower's title insurance company in the event New Borrower purchases title insurance with respect to its fee interest in the real estate.

(c) Original Borrower, and Master Lease Tenant and New Borrower shall execute and deliver the Termination of Leases document attached hereto and made a part hereof as Exhibit C (the "Lease Termination").

4. Miscellaneous.

(a) Severability. If any provisions of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

(b) Modifications. No change or modification of this Agreement shall be valid unless the same is in writing and signed by all parties hereto.

(c) Complete Agreement. This Agreement, the Exhibits hereto and the Loan Documents represent the complete agreement among the parties with regard to the items set forth herein, and there are no representations, covenants, warranties, agreements or conditions, oral or written, between the parties not set forth in this Agreement, the Exhibits hereto and the Loan Documents.

(d) Headings. Section, paragraph or other headings contained in this Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Agreement.

(e) Counterparts. This Agreement may be executed in any number of counterparts, each of which when taken together shall be deemed an original constituting one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed this Consent to real Property Transfer, Assumption of Loan and Release of Guarantors Agreement under seal as of the day and year first above written.

ORIGINAL BORROWER:

GOGGLE WORKS VENTURES, LP,
a Pennsylvania limited partnership

By: GWV, LLC,
a Pennsylvania limited liability company,
its general partner

By: _____
Albert Boscov, Manager

CITY:

CITY OF READING, PENNSYLVANIA,

By: _____
Vaughn D. Spencer, Mayor

NEW BORROWER:

GOGGLE WORKS, LLC,
a Pennsylvania limited liability company

By: _____
Albert Boscov, President

CONSENT OF LIMITED PARTNERS

To the extent that the Amended and Restated Limited Partnership Agreement for Goggle Works Venture LP dated September 14, 2005, requires or could be construed to require the consent of the limited partners of said limited partnership to the conveyance of the property of Goggle Works pursuant to deed-in-lieu of foreclosure as described in the within agreement, or to any other actions of the general partner in connection therewith, said limited partners do hereby grant such consent.

GWV Owners, LP, a Pennsylvania limited partnership

BY: GWV, I.L.C., a Pennsylvania limited liability company, general partner

By: _____
Albert Boscov, Manager

Goggle Works Tenant, LP, a Pennsylvania limited partnership

BY: GWT, Inc., a Pennsylvania corporation, general partner

By: _____
Albert Boscov, President

EXHIBIT A

Assumption Agreement

EXHIBIT B

Deed in Lieu of Foreclosure

EXHIBIT C

Lease Termination