

THIS PRINT COVERS CALENDAR ITEM NO.: 10.7

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance and Information Technology

BRIEF DESCRIPTION

Authorizing the Director of Transportation to execute a new Industrial Lease (Lease) between Yosemite Investment, LLC, and DLAI Investment, LLC (Landlord), as landlord, and the San Francisco Municipal Transportation Agency (SFMTA), as tenant, for a portion of a building designated as 1528-1538 Yosemite Avenue and 1509-1577 Wallace Avenue (Premises) in San Francisco, on Block 4830, Lot 016, for the SFMTA Paint Shop's operations, and Sustainable Streets vehicles, equipment, materials, and staff, at an initial annual rent of \$774,536 with three percent annual increases and initial annual operating expenses estimated at \$59,916, for a five-year term with a four-year extension option and an option to purchase the Premises and a right of first offer to lease or purchase the remainder of the building.

SUMMARY



- The SFMTA currently leases 1528-1538 Yosemite for the SFMTA Paint Shop's operations, and Sustainable Streets vehicles, equipment, materials, and staff, that is scheduled to terminate on December 15, 2020.
- The initial annual rent for the Lease will be \$774,536 with three percent annual increases, for a total of \$7,868,593 over nine years. The SFMTA will also pay its share of annual building operating expenses, including property taxes and insurance, estimated to cost the SFMTA \$59,916 for the first lease year and \$655,723 over nine years.
- The Lease rent is within the fair market value rental rate range for comparable nearby properties. If the SFMTA exercises its lease extension option, it will also have an option to purchase the Premises at an appraised fair market value. The Lease also gives the SFMTA the right of first offer to lease or purchase the remainder of the building.

ENCLOSURES:

1. SFMTAB Resolution
2. Industrial Lease Agreement

APPROVALS:

DATE

DIRECTOR		July 9, 2019
SECRETARY		July 9, 2019

ASSIGNED SFMTAB CALENDAR DATE: July 16, 2019

PURPOSE

Authorizing the Director of Transportation to execute a new Industrial Lease (Lease) between Yosemite Investment, LLC, and DLAI Investment, LLC (Landlord), as landlord, and the San Francisco Municipal Transportation Agency (SFMTA), as tenant, for a portion of a building designated as 1528-1538 Yosemite Avenue and 1509-1577 Wallace Avenue (Premises) in San Francisco, on Block 4830, Lot 016, for the SFMTA Paint Shop's operations, and Sustainable Streets vehicles, equipment, materials, and staff, at an initial annual rent of \$774,536 with three percent annual increases and initial annual operating expenses estimated at \$59,916, for a five-year term with a four-year extension option and an option to purchase the Premises and a right of first offer to lease or purchase the remainder of the building.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

This action supports the following SFMTA Strategic Plan Goals and Objectives:

Goal 3: Improve the quality of life and environment in San Francisco and the region.

Objective 3.5: Achieve financial stability for the agency.

Goal 4: Create a workplace that delivers outstanding service

Objective 4.2: Improve the safety, security, and functionality of SFMTA work environments.

This action supports the following Transit First Policy principle:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.

DESCRIPTION

The SFMTA has four industrial shops under the Sustainable Streets Division: Paint, Sign, Meter and Signal (Shops). The Shops annually maintain, repair and/or replace more than 270,000 street signs, 24,000 metered spaces, 1,150 traffic signals, and 900 miles of striping, and paint more than ten miles of colored curbs and bicycle paths annually, while responding to over 2,000 requests for curb and other painting per year. These vital functions are critical to keep transit and traffic moving efficiently and safely, protect and encourage pedestrians and bicyclists, collect parking revenues, and enhance the overall quality of life in San Francisco. The Shops' operational headquarters are located at 1508 Bancroft, 2650 Bayshore Avenue and the subject site, 1528-1538 Yosemite Avenue and 1509-1577 Wallace Avenue (Premises).

The existing lease for the Premises commenced on June 15, 2011 and is scheduled to terminate on December 15, 2020. If this proposed Lease is executed, the 2011 lease will terminate immediately before the commencement date of this new Lease. If the SFMTA exercises its option to extend the term of this Lease, the SFMTA will also have the option to purchase the Premises at the appraised fair market value as long as the SFMTA Board of Directors and City's Board of Supervisors approve of that purchase by the eighth anniversary of the Lease

commencement date. The Lease also gives the SFMTA the right of first offer to lease or purchase the remainder of the building. With this new Lease, the SFMTA Paint Shop will continue to function for up to nine years from a location that provides synergistic operational benefits with the other three Shops, as well as ensure for long term occupancy at the Premises in an existing facility that has been operational since 2011. Most of the Shops are located within two blocks of one another and there are no City owned facilities currently available at this time to adequately accommodate SFMTA's Paint Shop and Sustainable Streets' vehicles.

The SFMTA Paint Shop has very specific facility needs because of the nature of its operations. Street striping with thermoplastic applications generates unpleasant odors when melted. To isolate this unpleasant odor, a dedicated space is required, which makes consolidation with the other three Shops infeasible. The Premises allows paint trucks, equipment, materials, supplies, and staff to be located in an independently enclosed facility with adequate ventilation and fresh air circulation. Minimal to zero operational disruption is anticipated if the SFMTA Board of Directors approves of this Lease, as the current location provides a safe and secure indoor space for parking vehicles, storing equipment and adequately housing staff.

Industrial Lease Terms

The proposed Lease has an initial term of five years plus one four-year extension option. The Lease is expected to commence on August 1, 2019, with an initial base rental rate of \$1.65 per square foot for 39,118 square foot of the total 92,440 square foot building. The annual base rent will be \$774,536, with annual increases of three percent, for a total of \$7,868,593 over nine years. The SFMTA will also pay for its share of annual building operating expenses, including property taxes and insurance, estimated to cost the SFMTA \$59,916 for the initial lease year and \$655,723 over nine years. Staff researched comparable leased property within a two-mile radius of the Premises and determined that the new Lease rent falls within reasonable range of market value.

If the SFMTA enters into the Lease and exercises its extension option, then the SFMTA will have the right to purchase the Premises at an appraised fair market value as long as the SFMTA Board of Directors and City's Board of Supervisors approve of that purchase by the eighth anniversary of the Lease commencement date. In addition, the Lease further grants the SFMTA a right of first offer to lease and purchase the remainder of the building, subject to the approval of the SFMTA Board of Directors and the San Francisco Board of Supervisors.

STAKEHOLDER ENGAGEMENT

No stakeholder engagement was conducted outside the SFMTA for the Lease because it's for an existing facility that is utilized by the SFMTA Paint Shop and Sustainable Streets vehicles. The Landlord and SFMTA staff have agreed to the new Lease terms and conditions, most importantly, the ability to purchase the Premises for permanency and ownership. The SFMTA will continue to engage all applicable parties and relevant stakeholders during the term of this Lease.

ALTERNATIVES CONSIDERED

The SFMTA has evaluated other locations owned or leased by the SFMTA and elsewhere for the Paint Shop and Sustainable Streets Shops' vehicles. In each instance, none were adequate to efficiently and effectively accommodate the operation and administration of the Paint Shop vehicles, equipment, processes, supplies and staff. The existing Premises is the best fit for this function.

FUNDING IMPACT

The initial annual rent for the Lease will be \$774,536 with three percent annual increases, for a total of \$7,868,593 over nine years. The SFMTA will also pay its share of annual building operating expenses, including property taxes and insurance, estimated to cost the SFMTA \$59,916 for the first lease year and \$655,723 over nine years. The estimated total for rent and operating expenses is \$8,524,316. The operating funds required for this Lease are budgeted in the Sustainable Street Division's budget.

ENVIRONMENTAL REVIEW

On May 28, 2019, the SFMTA, under authority delegated by the Planning Department, determined that the proposed Lease is not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Section 15060(c) and 15378(b).

A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and may be found in the records of the Planning Department at 1650 Mission Street in San Francisco and is incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

None at this time but exercising the purchase option for the Premises and right of first offer to lease or purchase the remainder of the building would require the approval of the SFMTA Board and Board of Supervisors.

The City Attorney has reviewed this report.

RECOMMENDATION

The recommendation is to the Director of Transportation to execute a new Industrial Lease (Lease) between Yosemite Investment, LLC, and DLAI Investment, LLC (Landlord), as landlord, and the San Francisco Municipal Transportation Agency (SFMTA), as tenant, for a portion of a building designated as 1528-1538 Yosemite Avenue and 1509-1577 Wallace Avenue (Premises) in San Francisco, on Block 4830, Lot 016, for the SFMTA Paint Shop's operations, and Sustainable Streets vehicles, equipment, materials, and staff, at an initial annual rent of \$774,536 with three percent annual increases and initial annual operating expenses estimated at \$59,916, for a five-year term with a four-year extension option and an option to purchase the Premises and a right of first offer to lease or purchase the remainder of the building.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) entered into a lease dated June 15, 2011, with Yosemite Investment, LLC, and DLAI Investment, LLC (Landlord) for an approximately 39,118 square foot portion of a building designated as 1528-1538 Yosemite Avenue and 1509-1577 Wallace Avenue (Premises) in San Francisco, on Block 4830, Lot 016, which provides the necessary building and facilities to efficiently accommodate the SFMTA Paint Shop and Sustainable Streets vehicles, and is scheduled to terminate on December 15, 2020; and,

WHEREAS, A new lease (Lease) for the Premises has been negotiated with the Landlord to assure for long term occupancy and potential future ownership at an initial annual base rent of \$774,536, with annual operating expenses estimated to cost the SFMTA \$59,916 for the initial year, a five-year term with one four-year extension option, an option to purchase the Premises, and a right of first offer to lease and purchase the remainder of the building; and,

WHEREAS, The Lease base rent would increase annually by three percent and is considered fair market value based on current market conditions and comparable properties; and,

WHEREAS, If the SFMTA exercises its option to extend the term of the Lease, it can exercise an option to purchase the Premises at the appraised fair market value as long as the SFMTA Board of Directors and City's Board of Supervisors approve that purchase by the eighth anniversary of the Lease commencement date; and,

WHEREAS, The Lease will secure a long term, safe, and secure space for the SFMTA Paint Shop operations, and parking Sustainable Streets vehicles, storing equipment, and adequately housing staff with minimal disruption; and,

WHEREAS, On May 28, 2019, the SFMTA, under authority delegated by the Planning Department, determined that the proposed Lease is not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Section 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; and now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to execute a new Industrial Lease (Lease) between Yosemite Investment, LLC, and DLAI Investment, LLC (Landlord), as landlord, and the San Francisco Municipal Transportation Agency (SFMTA), as tenant, for a portion of a building designated as 1528-1538 Yosemite Avenue and 1509-1577 Wallace Avenue (Premises) in San Francisco, on Block 4830, Lot 016, for the SFMTA Paint Shop's operations, and Sustainable Streets vehicles, equipment,

PAGE 6.

materials, and staff, at an initial annual rent of \$774,536 with three percent annual increases and initial annual operating expenses estimated at \$59,916, for a five-year term with a four-year extension option and an option to purchase the Premises and a right of first offer to lease or purchase the remainder of the building.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of July 16, 2019.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

INDUSTRIAL LEASE

between

YOSEMITE INVESTMENT, LLC and DLAI INVESTMENT, LLC,
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,
as Tenant

For the lease of the Premises
1509, 1511, 1533, 1553, 1555, 1569, 1571, and 1577 Wallace Avenue
1528 and 1538 Yosemite Avenue
San Francisco, California

_____, 2019

TABLE OF CONTENTS

	<u>Page</u>
<u>1.</u> <u>BASIC LEASE INFORMATION</u>	1
<u>2.</u> <u>PREMISES</u>	3
<u>3.</u> <u>TERM</u>	3
<u>3.1</u> <u>Term of Lease</u>	3
<u>3.2</u> <u>Commencement Date and Expiration Date</u>	4
<u>3.3</u> <u>Delay in Delivery of Possession</u>	4
<u>3.4</u> <u>Extension Options</u>	4
<u>4.</u> <u>RENT</u>	4
<u>4.1</u> <u>Base Rent</u>	4
<u>4.2</u> <u>Adjustments in Base Rent</u>	5
<u>5.</u> <u>USE</u>	8
<u>5.1</u> <u>Permitted Use</u>	8
<u>5.2</u> <u>Interference with Access or Use</u>	8
<u>6.</u> <u>PREPARATION OF PREMISES</u>	8
<u>6.1</u> <u>Landlord's Obligation to Construct Improvements</u>	8
<u>6.2</u> <u>Installation of Telecommunications and Other Equipment</u>	8
<u>6.3</u> <u>Construction of Improvements that Disturb or Remove Exterior Paint</u>	8
<u>7.</u> <u>ALTERATIONS</u>	8
<u>7.1</u> <u>Alterations by City</u>	8
<u>7.2</u> <u>Title to Improvements</u>	9
<u>7.3</u> <u>City's Personal Property</u>	9
<u>7.4</u> <u>Alteration by Landlord</u>	9
<u>8.</u> <u>REPAIRS AND MAINTENANCE</u>	9
<u>8.1</u> <u>Landlord's Repairs</u>	9
<u>8.2</u> <u>City's Repairs</u>	9
<u>8.3</u> <u>Standards for Landlord's Performance; City's Remedies</u>	10
<u>8.4</u> <u>Liens</u>	11
<u>9.</u> <u>UTILITIES AND SERVICES</u>	11
<u>9.1</u> <u>Utilities</u>	9
<u>9.2</u> <u>Services</u>	9
<u>9.3</u> <u>Disruption in Essential Utilities or Services</u>	10
<u>10.</u> <u>COMPLIANCE WITH LAWS; PREMISES CONDITION</u>	11
<u>10.1</u> <u>Premises Condition and Landlord's Compliance with Laws; Indemnity</u>	11
<u>10.2</u> <u>City's Compliance with Laws; Indemnity</u>	12
<u>10.3</u> <u>City's Compliance with Insurance Requirements</u>	12
<u>11.</u> <u>SUBORDINATION</u>	12
<u>12.</u> <u>DAMAGE AND DESTRUCTION</u>	13
<u>13.</u> <u>EMINENT DOMAIN</u>	14
<u>13.1</u> <u>Definitions</u>	14
<u>13.2</u> <u>General</u>	14
<u>13.3</u> <u>Total Taking; Automatic Termination</u>	14
<u>13.4</u> <u>Partial Taking; Election to Terminate</u>	14
<u>13.5</u> <u>Rent; Award</u>	15
<u>13.6</u> <u>Partial Taking; Continuation of Lease</u>	15
<u>13.7</u> <u>Temporary Taking</u>	15
<u>14.</u> <u>ASSIGNMENT AND SUBLETTING</u>	15

15.	DEFAULT; REMEDIES	16
15.1	Events of Default by City	16
15.2	Landlord’s Remedies	16
15.3	Landlord’s Default	16
16.	INDEMNITIES	17
16.1	City’s Indemnity	17
16.2	Landlord’s Indemnity	17
17.	INSURANCE	17
17.1	City’s Self-Insurance	17
17.2	Landlord’s Insurance	17
17.3	Waiver of Subrogation	18
18.	ACCESS BY LANDLORD	18
19.	ESTOPPEL CERTIFICATES	18
20.	SURRENDER OF PREMISES	19
21.	HAZARDOUS MATERIALS	19
21.1	Definitions	19
21.2	Landlord’s Representations and Covenants	19
21.3	Landlord’s Environmental Indemnity	20
21.4	City’s Covenants	20
21.5	City’s Environmental Indemnity	20
22.	SPECIAL PROVISIONS	20
22.1	Exercise; Purchase Price	20
22.2	Approval of Option Exercise; Execution of Purchase Agreement	22
22.3	Expiration of Option Exercise or Purchase Option	22
22.4	Due Diligence Deliveries	22
22.5	Inspections and Inquiries	22
22.6	Representations and Warranties	23
22.7	Purchase Option Personal	23
23.	EXPANSION OPTION	23
24.	GENERAL PROVISIONS	23
24.1	Notices	23
24.2	No Implied Waiver	24
24.3	Amendments	24
24.4	Authority	24
24.5	Parties and Their Agents; Approvals	24
24.6	Interpretation of Lease	25
24.7	Successors and Assigns	25
24.8	Brokers	25
24.9	Severability	25
24.10	Governing Law	25
24.11	Entire Agreement	26
24.12	Attorneys’ Fees	26
24.13	Holding Over	26
24.14	Cumulative Remedies	26
24.15	Time of Essence	26
24.16	Survival of Indemnities	27
24.17	Signs	27
24.18	Quiet Enjoyment and Title	27

24.19	Bankruptcy	27
24.20	Transfer of Landlord’s Interest	27
24.21	Non-Liability of City Officials, Employees and Agents	28
24.22	MacBride Principles - Northern Ireland	28
24.23	Controller’s Certification of Funds	28
24.24	Prevailing Wages for Construction Work	28
24.25	Non Discrimination in City Contracts and Benefits Ordinance	28
24.26	Tropical Hardwood and Virgin Redwood Ban	29
24.27	Bicycle Storage Facilities	30
24.28	Resource-Efficient City Buildings and Pilot Projects	30
24.29	Counterparts	30
24.30	Effective Date	30
24.31	Certification by Landlord	30
24.32	Memorandum of Lease	31
24.33	Sunshine Ordinance	31
24.34	Conflicts of Interest	31
24.35	Notification of Limitations on Contributions	31
24.36	Preservative-Treated Wood Containing Arsenic	32
24.37	Cooperative Drafting	32

LIST OF EXHIBITS AND SCHEDULE

- EXHIBIT A – Legal Description of Real Property
- EXHIBIT B – Depiction of Premises and Building
- EXHIBIT C – Form of Subordination, Nondisturbance and Attornment Agreement
- EXHIBIT D – Hazardous Materials List
- EXHIBIT E – Fair Market Purchase Price
- EXHIBIT F – Form of Purchase Agreement for Premises
- EXHIBIT G – Purchase Agreement Modifications for Remaining Portion
- EXHIBIT H – Form of Memorandum of Lease

INDUSTRIAL LEASE

THIS INDUSTRIAL LEASE (this "**Lease**"), dated for reference purposes only as of _____, 2019, is by and between YOSEMITE INVESTMENT, LLC, a California limited liability company, and DLAI INVESTMENT, LLC, a California limited liability company (together, "**Landlord**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Tenant"), acting by and through the San Francisco Municipal Transportation Agency ("**SFMTA**").

Landlord and City hereby agree as follows:

1. BASIC LEASE INFORMATION

The following is a summary of basic lease information (the "**Basic Lease Information**"). Each item below shall be deemed to incorporate all of the terms in this Lease pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision shall control.

Lease Reference Date: _____, 2019

Landlord: YOSEMITE INVESTMENT, LLC and DLAI INVESTMENT, LLC

Tenant: CITY AND COUNTY OF SAN FRANCISCO

Building; Property (Section 2.1): The building ("**Building**") located on the real property ("**Real Property**") designated as Block 4830, Lot 016, and more particularly described on Exhibit A. The Real Property does not include the adjacent real property designated as Block 4380, Lots 17-22.

Premises (Section 2): 1509, 1511, 1533, 1553, 1555, 1569, 1571, and 1577 Wallace Avenue and 1528 and 1538 Yosemite Avenue, as further depicted on Exhibit B.

Rentable Area of Premises (Section 2): Approximately 39,118 rentable square feet in the Building

Initial Term (Section 3): Commencement Date: _____, 2019

Expiration Date:
The fifth (5th) anniversary of the Commencement Date, subject to the Extension Option (as defined in Section 3.3)

Extension Option (Section 3.3): One additional term of four (4) years (the "**Extension Option**")

Base Rent (Section 4.1): Initial annual Base Rent: \$_____ (comprised of \$1.65 per square foot for _____ square feet of space within the Building)

Initial monthly payments: \$_____

Adjustment Dates (Section 4.2): The first day of the thirteenth (13th) full calendar month of the Term and each annual anniversary of such date.

Additional Charges (Section 4.3): City to pay the Garbage Costs and City's Percentage Share of Insurance Costs and Real Estate Taxes.

City's Percentage Share (Section 4.4): 42.15%

Use (Section 5.1): Warehouse uses, vehicle parking (including within the Premises), and light industrial uses such as a sign shop, paint shop, meter shop and similar uses.

Utilities (Section 9.1): City to arrange for provision of utilities to the Premises at its sole cost, provided that Landlord shall provide the utility connections described in Section 9.1(b) at Landlord's sole cost.

Services (Section 9.2): City to arrange for any janitorial services it requires for the Premises at its sole cost.

Notice Address of Landlord (Section 24.1): Yosemite Investment, LLC
DLAI Investment, LLC
220 South Linden Ave.
South San Francisco CA 94080

Key Contact for Landlord: David Lai

Landlord Contact Telephone No.: (650) 588-8800 or (650) 333-1288

Notice Address for Tenant (Section 24.1): San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 8th Floor
San Francisco, CA 94103
Attn: Strategic Real Estate, Facilities and Real Property Management
Fax No.: (415) 701-4341

with a copy to: Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attn: Real Estate/Finance Team
Fax No.: (415) 554-4757

Key Contact for Tenant: SFMTA
Manager of Strategic Real Estate, Facilities and Real Property Management
1 South Van Ness, 8th Floor
San Francisco, CA 94103

Tenant Contact Telephone No.: (415) 646-2449

Alternate Contact for Tenant:	William Zhao, Strategic Real Estate
Alternate Contact Telephone No.:	(410) 701-4514
Brokers (<u>Section 24.8</u>):	Landlord: None
	Tenant: None
Premises Purchase Option (<u>Section 22</u>):	City shall have the option to purchase the Premises on the terms and conditions set forth in <u>Section 22</u>
Right of First Offer to Lease and Purchase (<u>Section 23</u>):	City shall have the first right to offer to lease and purchase any other portion of the Property (as defined in <u>Section 2</u>).

2. PREMISES; DISABILITY ACCESS

Landlord leases to City and City leases from Landlord, subject to the provisions of this Lease, the premises identified in the Basic Lease Information and depicted on Exhibit B (the "**Premises**"). The Building, Real Property and all other improvements on or appurtenances to the Real Property are referred to collectively as the "**Property**."

California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("**CASp**") to determine whether the property meets all applicable construction-related accessibility requirements. City is hereby advised that the Premises have not been inspected by a CASp. The law does not require landlords to have the inspections performed, but the Landlord may not prohibit City from obtaining a CASp inspection of the Premises for its occupancy or potential occupancy if requested by City. If City elects to obtain such inspection, City and Landlord shall mutually agree on the arrangements for the time and manner of such CASp inspection, the payment of the CASp inspection fee, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

3. TERM

4. Term of Lease

The Premises are leased for an initial term (the "**Initial Term**") commencing on the date specified in the Basic Lease Information as the commencement date (the "**Commencement Date**"). The Initial Term shall end on the expiration date specified in the Basic Lease Information or such earlier date on which this Lease terminates pursuant to the provisions of this Lease; provided that City shall have the right to extend the Initial Term pursuant to Section 3.4. The word "**Term**" as used herein shall refer to the Initial Term and the Extended Term if City exercises the Extension Option as provided below.

5. Extension Option

City shall have the right to extend the Initial Term (the "**Extension Option**") for the additional term specified in the Basic Lease Information (the "**Extended Term**"). The Extended Term shall be on all of the terms and conditions contained in this Lease. City may exercise the Extension Option, if at all, by giving written notice to Landlord no later than ninety (90) days prior to expiration of the Initial Term; provided, however, if City is in material default under this Lease on the date of giving such notice and fails to cure such default as provided in this Lease, Landlord may reject such exercise by delivering written notice thereof to City promptly after such failure to cure.

6. Termination of 2011 Lease

Immediately prior to the Commencement Date, City leased the Premises from Landlord under an Industrial Lease dated as of June 11, 2011, as amended by a First Amendment to Industrial Lease dated as of January 16, 2014 (as amended, the "**2011 Lease**"). City and Landlord agree that the 2011 Lease shall terminate as of 11:59 pm on the day immediately preceding the Commencement Date.

7. RENT

8. Base Rent

Beginning on the Commencement Date, City shall pay to Landlord during the Term the annual Base Rent specified in the Basic Lease Information (the "**Base Rent**"). The Base Rent shall be payable in equal consecutive monthly payments on or before the first day of each month, in advance, at the address specified for Landlord in the Basic Lease Information, or such other place as Landlord may designate in writing upon not less than thirty (30) days' advance notice. City shall pay the Base Rent without any prior demand and without any deductions or setoff except as otherwise provided in this Lease. If the Commencement Date occurs on a day other than the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for such fractional month shall be prorated based on a thirty (30)-day month.

9. Adjustments in Base Rent

On each date specified in the Basic Lease Information for the adjustment of Base Rent (each, an "**Adjustment Date**"), the Base Rent payable under Section 4.1 shall be adjusted to equal one hundred three percent (103%) of the Base Rent for the twelve (12) month period immediately preceding such Adjustment Date.

10. Additional Charges

City shall pay to Landlord any charges or other amounts required under this Lease as additional rent ("**Additional Charges**"), including the charges for Garbage Costs and City's Percentage Share of Real Estate Taxes and Insurance Costs as described below. All Additional Charges shall be payable to Landlord at the place where the Base Rent is payable. Landlord shall have the same remedies for a default in the payment of any Additional Charges as for a default in the payment of Base Rent. The Base Rent and Additional Charges are sometimes collectively referred to below as "**Rent**."

11. Definitions

(a) "**City's Percentage Share**" means the percentage specified in the Basic Lease Information.

(b) "**Expense Year**" means each calendar year commencing January 1st of each year during the Term, including any partial year in which this Lease commences; provided that Landlord, upon advance written notice to City, may change the Expense Year to any other twelve (12) consecutive month period and, in the event of any such change, City's Percentage Share of Insurance Costs shall be equitably adjusted for the Expense Years involved in any such change.

(c) "**Insurance Costs**" means the cost incurred by Landlord for all insurance required to be carried on the Building under this Lease. If the Building is less than ninety-five percent (95%) occupied in any Expense Year, the Insurance Costs shall be appropriately adjusted to

reflect a ninety-five percent (95%) occupancy level. In no event shall Landlord recapture more than one hundred percent (100%) of the Insurance Costs in any Expense Year.

(d) "**Garbage Costs**" means the cost incurred by Landlord in providing the garbage removal services to the Premises requested by City.

(e) "**Real Estate Taxes**" means all taxes, assessments and charges levied upon or with respect to the portion of the Building owned by Landlord, or Landlord's interest in the Building. Real Estate Taxes shall include, without limitation, all general real property taxes and general and special assessments, charges, fees, or assessments for transit, housing, police, fire, or other governmental services thereof, service payments in lieu of taxes that are now or hereafter levied or assessed against Landlord by the United States of America, the State of California or any political subdivision thereof, public corporation, district, or any other political or public entity, and shall also include any other tax, fee or other excise, however described, that may be levied or assessed as a substitute for, or as an addition to, in whole or in part, any other Real Estate Taxes.

Notwithstanding the foregoing, Real Estate Taxes shall exclude (1) franchise, transfer, inheritance, gross receipts, or capital stock taxes or income taxes of Landlord from all sources unless, due to a change in the method of taxation, any of such taxes is levied or assessed against Landlord as a substitute for, or as an addition to, in whole or in part, any other tax that would otherwise constitute a Real Estate Tax, (2) any penalties, fines, interest or charges attributable to the late payment of any taxes, except to the extent attributable to City's failure to pay its portion of Real Estate Taxes hereunder, (3) any personal property taxes payable by City hereunder or by any other tenant or occupant of the Building, or (4) any increase in Real Estate Taxes due to any reassessment upon a transfer of any of Landlord's interest in the Building or the Real Property.

(f) "**Tax Year**" means each calendar year during the Term, including any partial year during which this Lease may commence; provided that Landlord, upon notice to City, may change the Tax Year from time to time to any other twelve (12) consecutive month period and, in the event of any such change, City's Percentage Share of Real Estate Taxes shall be equitably adjusted for the Tax Year involved in any such change.

12. Payment of Garbage Costs

During the period between the Commencement Date and December 31, 2019 (the "**Initial Service Period**"), and each Expense Year thereafter, City shall pay to Landlord each month, as Additional Charges, the Garbage Costs for the Initial Service Period or that Expense Year, as applicable. City shall make such payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City. On receiving a notice of garbage removal cost increases from the garage removal provider for the Premises, Landlord may revise such Garbage Costs estimates and City shall thereafter make payments on the basis of such revised estimate. With reasonable promptness not to exceed sixty (60) days after the expiration of the Initial Service Period and each Expense Year, Landlord shall furnish City with a statement ("**Landlord's Garbage Costs Statement**") setting forth in reasonable detail the Garbage Costs for the Initial Service Period or that Expense Year, as applicable. If the actual Garbage Costs for the Initial Service Period or that Expense Year exceed the estimated Garbage Costs paid by City for the Initial Service Period or an Expense Year, City shall pay to Landlord (whether or not this Lease has terminated) the difference between the amount of estimated Garbage Costs paid by City and the actual Garbage Costs within thirty (30) days after the receipt of Landlord's Garbage Costs Statement. If the total amount paid by City for any such Garbage Costs exceeds the actual Garbage Costs for the Initial Service Period or an Expense Year (an "**Excess Garbage Payment**"), such Excess Garbage Payment shall be credited against the next installments of Garbage Costs due from City to Landlord hereunder; provided, however, that any Excess Garbage Payment for the Expense Year in which this Lease expires or terminates shall be refunded to City.

13. Payment of Percentage Share of Insurance Costs

During each Expense Year, City shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of City's Percentage Share of the Insurance Costs for that Expense Year. City shall make such payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City. Landlord may revise such estimates of Insurance Costs from time to time and City shall thereafter make payments on the basis of such revised estimates, provided that no such revisions shall be retroactive and Landlord may not make any such revisions more than twice in any given Expense Year and no such revision may be made any earlier than four (4) months subsequent to the prior estimate for such Expense Year. With reasonable promptness not to exceed sixty (60) days after the expiration of each Expense Year, Landlord shall furnish City with a statement ("**Landlord's Expense Statement**") setting forth in reasonable detail the Insurance Costs for such Expense Year and City's Percentage Share thereof. If City's Percentage Share of the actual Insurance Costs for such Expense Year exceeds the estimated Insurance Costs paid by City for such Expense Year, City shall pay to Landlord (whether or not this Lease has terminated) the difference between the amount of estimated Insurance Costs paid by City and City's Percentage Share of the actual Insurance Costs within thirty (30) days after the receipt of Landlord's Expense Statement. If the total amount paid by City for any such Percentage Share of Insurance Costs exceeds City's Insurance Costs Share of the actual Insurance Costs for such Expense Year (an "**Excess Insurance Payment**"), such Excess Insurance Payment shall be credited against the next installments of Insurance Costs due from City to Landlord hereunder; provided that any Excess Insurance Payment for the Expense Year in which this Lease expires or terminates shall be refunded to City.

14. Payment of Percentage Share of Real Estate Taxes

During each Tax Year, City shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of City's Percentage Share of the Real Estate Taxes for that Tax Year. City shall make such payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City. With reasonable promptness not to exceed thirty (30) days after Landlord has received the tax bills for any Tax Year, Landlord shall furnish City with a statement ("**Landlord's Tax Statement**") setting forth the amount of Real Property Taxes for such Tax Year and City's Percentage Share thereof. If City's Percentage Share of the actual Real Estate Taxes for such Tax Year exceeds the estimated Real Estate Taxes paid by City for such Tax Year, City shall pay to Landlord (whether or not this Lease has terminated) City's Percentage Share of the actual Real Estate Taxes within thirty (30) days after the receipt of Landlord's Tax Statement. If the total amount of estimated Real Estate Taxes paid by City for such Tax Year exceeds City's Percentage Share of the actual Real Estate Taxes for such Tax Year (an "**Excess Tax Payment**"), such Excess Tax Payment shall be credited against the next installments of Real Estate Taxes due from City hereunder; provided that any Excess Tax Payment for the Expense Year in which this Lease expires or terminates shall be refunded to City.

15. Proration

If the Commencement Date or Expiration Date do not occur on the first or last day of a Tax Year or Expense Year, City's Percentage Share of Real Estate Taxes or Insurance Costs for the Tax Year or Expense Year in which the Commencement Date or Expiration Date occurs shall be prorated based on a three hundred sixty-five (365)-day year. If the Expiration Date does not occur on the last day of the Initial Period or an Expense Year, the Garbage Costs shall be prorated based on a three hundred sixty-five (365)-day year.

16. Audits

City shall have the right, upon not less than five (5) business days' notice to Landlord, to audit the books and records of the Building related to Garbage Costs, Insurance Costs and Real Estate Taxes. If such audit discloses any discrepancies that would result in a reduction of the Garbage Costs for the Initial Service Period or any Expense Year, or City's Percentage Share of Insurance Costs or Real Estate Taxes for any Expense Year, Landlord shall immediately refund to City the amount of any overpayment by City. City shall pay the cost of such audit, provided that if such audit discloses any discrepancies which result in a reduction of the Garbage Costs or City's Percentage Share of Insurance Costs or Real Estate Taxes of three percent (3%) or more for any Expense Year, then Landlord shall pay the costs of such audit.

17. Records

Landlord shall maintain at its offices in South San Francisco in a safe, complete and organized manner all of its records pertaining to this Lease and the Garbage Costs, Real Estate Taxes, Insurance Costs and any other charges paid by City pursuant hereto, for a period of not less than three (3) years following expiration of the Term. Landlord shall maintain such records on a current basis and in sufficient detail to facilitate adequate audit and review thereof. All such books and records shall be available for inspection, copying and audit by City and its representatives, at City's expense, subject to the provisions of Section 4.9.

4.11 Compliance with San Francisco Business and Tax Regulations Code

Landlord acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to Landlord under this Lease is withheld, then City will not be in breach or default under this Lease, and the Treasurer and Tax Collector will authorize release of any payments withheld under this Section to Landlord, without interest, late fees, penalties, or other charges, once Landlord returns to compliance with its San Francisco Business and Tax Regulations Code obligations.

18. USE

19. Permitted Use

City may use the Premises for general warehouse uses, vehicle parking (including in the Building), and light industrial uses such as a sign shop, paint shop, meter shop and similar uses and for no other use without the prior written consent of Landlord, which shall not be unreasonably withheld or delayed.

20. Interference with Access or Use

Landlord shall not restrict access to the Premises; provided, however, that Landlord may, after consultation with the Manager of SFMTA's Strategic Real Estate Facilities and Property Management, interrupt City's access to the Premises in the event of an immediate threat of the Premises or any portion of the Building being rendered unsafe for human occupancy. If City's use of any of the Premises or access thereto is interrupted as a result of the Premises being rendered unsafe for human occupancy due to Landlord's failure to comply with its obligations under this Lease or for any reason other than damage caused by fire or other casualty event (which shall be governed by Section 12) or City's default hereunder, then Landlord shall immediately undertake all necessary steps to correct such condition. If such condition continues for two (2) business days and impairs City's ability to carry on its business in the Premises, the Rent payable hereunder shall be abated based on the extent to which such default interferes with City's ability to carry on its business at the Premises. If any such default by Landlord shall

continue for thirty (30) days or more after City's use is interrupted and impairs City's ability to carry on its business in the Premises, then City shall have the right, without limiting any of its other rights under this Lease to terminate this Lease, unless Landlord supplies City with evidence reasonably satisfactory to City that City's normal and safe use will be restored within sixty (60) days of the date City's use was interrupted, and such use is actually restored within such 60-day period. Nothing in this Section shall limit City's rights with respect to any disruption due to casualty pursuant to Section 12 (Damage and Destruction) hereof.

21. [Intentionally deleted]

22. ALTERATIONS

23. Alterations by City

City shall not make or permit any alterations, installations, additions or improvements (each, an "**Alteration**") to the Premises without first obtaining Landlord's written consent, which Landlord shall not unreasonably withhold or delay. However, the installation of furnishings, fixtures, equipment or decorative improvements, none of which affect the Building Systems (as defined in Section 8.1) or structural integrity of the Building, and the repainting and recarpeting of the Premises, shall not constitute Alterations requiring Landlord's consent. Any Alterations permitted hereunder shall be made at City's cost in compliance with applicable Laws (as defined in Section 10.1). Landlord shall, without cost to itself, cooperate with City in securing building and other permits and authorizations needed in connection with any permitted Alterations. Landlord shall not be entitled to any construction or other administrative fee in connection with any Alteration. Any written consent granted by Landlord for a proposed Alteration shall state whether such proposed Alteration can remain at the Premises after the expiration or sooner termination of this Lease (each, a "**Remaining Alteration**"). Landlord may require City to remove any Alteration that is not a Remaining Alteration before the expiration or sooner termination of this Lease by delivering written notice of such removal requirement to City no earlier than 90 days and no later than 30 days prior to such expiration or termination.

24. Title to Improvements

Except for City's Personal Property (as defined in Section 7.3), all appurtenances, fixtures, improvements, equipment, additions and other property permanently installed in the Premises as of the Commencement Date shall be and remain Landlord's property, and all appurtenances, fixtures, improvements, equipment, additions and other property permanently installed in the Premises during the Term shall be City's property until the end of the Term or such earlier date designated by Landlord in written notice to Tenant. City may not remove such property unless Landlord consents thereto.

25. City's Personal Property

All furniture, furnishings, equipment, trade fixtures and articles of movable personal property installed in the Premises by or for the account of City and that can be removed without structural damage to the Premises (collectively, "**City's Personal Property**") shall be and remain City's property. At any time during the Term or at the expiration thereof, City may remove any of City's Personal Property, provided City shall repair any damage to the Premises resulting therefrom. Upon the expiration or earlier termination of this Lease, City shall remove City's Personal Property from the Premises in accordance with Section 20. Landlord acknowledges that some of City's Personal Property may be financed by an equipment lease financing otherwise subjected to a security interest, or owned by an equipment company and leased to City. Landlord, upon City's reasonable request, shall execute and deliver any document required by any supplier, lessor, or lender in connection with the installation in the Premises of any items of City's Personal Property, pursuant to which Landlord waives any rights it may have or acquire with respect to City's Personal Property, so long as the supplier, equipment lessor or lender agrees that it (i) will remove the City's Personal Property from the Premises within thirty (30)

days after the Expiration Date (but if it does not remove City's Personal Property within such time it shall have waived any rights it may have had to City's Personal Property), and (ii) will repair any damage caused by the removal of City's Personal Property. Landlord shall recognize the rights of any supplier, lessor or lender who has an interest in any items of City's Personal Property to enter the Premises and remove such property at any time during the Term or within thirty (30) days after the Expiration Date.

26. Alteration by Landlord

Landlord shall use its best efforts to minimize interference with or disruption to City's use and occupancy of the Premises during any alterations, installations, additions or improvements to the Building. Landlord shall promptly remedy any such interference or disruption upon receiving City's notice thereof.

27. REPAIRS AND MAINTENANCE

28. Landlord's Repairs

Landlord shall repair and maintain, at its sole cost and in the same condition as of the Commencement Date, ordinary wear and tear excepted, the exterior and structural portions of the Building, including, without limitation, the roof, foundation, bearing and exterior walls and subflooring, and the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security and other mechanical, electrical and communications systems of the Building (collectively, the "**Building Systems**") and the Property's paved areas, except to the extent that any such item is damaged solely by City's negligence or intentional wrongful misconduct, and provided that Landlord shall repair the roof leak existing as of the Commencement Date and repair and maintain the roof in its condition as of the Commencement Date as modified by such repair. Without limiting the foregoing, Landlord shall maintain the Building in a clean, safe and attractive manner, shall comply with all applicable Laws regarding the removal of exterior graffiti, and shall not permit any other tenants of the Building to disturb or interfere with City's use of the Premises pursuant to this Lease or permit to be done in or about the Building anything that is illegal, is dangerous to persons or property or constitutes a nuisance. City acknowledges the security provided by Landlord for the Premises is limited to security cameras.

Notwithstanding anything to the contrary in the foregoing paragraph, Landlord shall have no obligation to repair or maintain any fiber optic cable installed at the Premises by City except to the extent damaged by the actions of Landlord or any of its contractors or subcontractors.

29. City's Repairs

Subject to Landlord's warranty under Section 10.1, any construction warranties or guaranties received in connection with Landlord's completion of leasehold improvements at the Premises under the 2011 Lease, and Landlord's repair and maintenance obligations hereunder, City shall repair and maintain the interior portions of the Building and shall keep the Premises in good working order and in a safe and sanitary condition, except for ordinary wear and tear and damage by casualty. City shall perform any such required repairs, maintenance and replacements that are City's responsibility hereunder (i) at City's cost, (ii) by contractors or mechanics selected by City and reasonably approved by Landlord, (iii) so that same shall be at least substantially equal in quality, value and utility to the original work or installation prior to damage thereof, (iv) in a manner and using equipment and materials that will not materially interfere with or impair the operations, use or occupation of the Building or the Building Systems, and (v) in compliance with all applicable Laws, including, without limitation, any applicable contracting requirements under City's Charter and Administrative Code. At all times during the Term of this Lease, Landlord shall, upon reasonable notice by City, afford City and its Agents with access to those portions of the Building which are necessary to maintain or repair the telecommunications and data and computer cabling facilities and equipment installed by City.

30. Standards for Landlord's Performance; City's Remedies

In performing its obligations hereunder, Landlord shall undertake commercially reasonable measures in accordance with good construction practices to minimize damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected by such work. Dust, noise, fumes, odors and other effects of such work shall be controlled using commercially reasonable methods customarily used to control deleterious effects associated with similar projects in occupied buildings (i.e., after-hours core drilling). On written or telephonic notice from City that any repair or replacement is required which is Landlord's obligation hereunder, or otherwise becoming aware of the necessity of such repair, Landlord shall proceed with reasonable diligence to perform such repair or replacement as promptly as possible and shall keep City apprised of its efforts. Without limiting the foregoing, Landlord shall in all events provide City with a written acknowledgement to a written repair or replacement request within five (5) business days of receipt thereof. During any period when City's use of the Premises is impaired by the necessity for or performance of repairs or replacements which are Landlord's obligation hereunder, Rent shall abate in proportion to the extent to which the unrepaired condition or work disrupts City's conduct of its business at the Premises. The prior sentence is inapplicable to repairs to the Premises that are necessitated due to damage caused by fire or other casualty, which shall be governed by Section 12.

31. Liens

City shall keep the Premises free from liens arising out of any work performed, material furnished or obligations incurred by City during the Term. Landlord shall have the right to post on the Premises any notices permitted or required by law or that are needed for the protection of Landlord, the Premises, or the Building, from mechanics' and material suppliers' liens. City shall give Landlord at least thirty (30) days' prior written notice of commencement of any repair or construction by City on the Premises.

32. UTILITIES AND SERVICES

9.1 Utilities

Landlord shall, at its sole cost, furnish the following utilities and services to the Premises: (a) heating, air conditioning and ventilation in amounts required for City's comfortable use and occupancy of the Premises, during the period from 8:00 a.m. to 6:00 p.m., Monday through Friday, except holidays generally recognized in San Francisco; (b) electric current and natural gas pressure in amounts required for normal lighting and for the operation of personal computers and other machines and equipment used as part of the uses specified in Section 5.1 on a twenty-four (24) hours-a-day, three hundred sixty-five (365) days-a-year basis ("**Daily Basis**"); and (c) water for lavatory and drinking purposes on a Daily Basis. Notwithstanding anything to the contrary to the foregoing, Tenant shall separately arrange for the provision of electricity to the Premises and directly pay the provider of such electrical services.

9.2 Services

City, at its sole cost, shall arrange for any janitorial services it requires for the Premises.

9.3 Disruption in Essential Utilities or Services

Landlord shall not be liable for any failure or interruption of any utilities or services furnished to the Premises, and no such failure or interruption shall entitle City to any abatement in Rent or to terminate this Lease, unless such interruption is due to the negligence or willful misconduct of Landlord. Notwithstanding the foregoing, if any interruption in services or utilities is (i) within Landlord's reasonable control and continues for three (3) or more consecutive business days, or (ii) outside Landlord's reasonable control and continues for sixty (60) or more consecutive days, and Tenant use of the Premises is materially and negatively

impacted, then Tenant shall be entitled to an abatement of rent hereunder, which abatement shall be based on the extent of Tenant's inability to use the Premises.

33. COMPLIANCE WITH LAWS; PREMISES CONDITION

34. Premises Condition and Landlord's Compliance with Laws; Indemnity

To the best of Landlord's actual knowledge and without any independent investigation, Landlord represents and warrants to City, and covenants with City, that it has not received any notice that would make any of the following statements incorrect: (a) the physical structure, fixtures and permanent improvements of the Premises and all portions of the Property and the Building along the path of travel to the Premises (including, but not limited to, the Building entrances, restrooms, and lobbies) are now, and as of the Commencement Date will be, in compliance with the requirements of the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable federal, state, local and administrative laws, rules, regulations, orders and requirements intended to provide equal accessibility for persons with disabilities (collectively, "**Disabilities Laws**"); (b) the Building is not an unreinforced masonry building, and is now, and as of the Commencement Date will be, in compliance with all applicable federal, state, local and administrative laws, rules, regulations, orders and requirements relating to seismic safety (collectively, "**Seismic Safety Laws**"); (c) the Building and Building Systems serving the Premises are now, and as of the Commencement Date will be, in full compliance with all applicable federal, state, local and administrative laws, rules, regulations, orders and requirements relating to fire and life safety (including, without limitation, the San Francisco High-Rise Sprinkler Ordinance) (collectively, "**Life Safety Laws**"); (d) the Building and Building Systems serving the Premises are now, and as of the Commencement Date will be, in compliance with all other applicable federal, state, local and administrative laws, rules, regulations, orders and requirements; and (e) there are not now, and as of the Commencement Date will not be, any material physical or mechanical defects in the Premises, Building or the Building Systems that would materially adversely affect City's intended use of the Premises. Landlord shall at all times during the Term maintain, at its cost, the Property, Building, and the Building Systems serving the Premises in compliance with applicable present or future federal, state, local and administrative laws, rules, regulations, orders and requirements (collectively, "**Laws**"), including, without limitation, Disabilities Laws, Seismic Safety Laws, and Life Safety Laws. If any Law is enacted after the Commencement Date and requires the construction of an addition to or an alteration of the Building, the remediation of any Hazardous Substance, or the reinforcement or any other physical modification of the Building (a "**Capital Expenditure**"), and such Capital Expenditure is not required due to City's specific and unique use of the Premises pursuant to this Lease as compared with uses by other Building tenants or any Alterations made by City to the Premises, Landlord shall be obligated for making such Capital Expenditure at its sole cost. Without limiting Section 16.2, Landlord shall Indemnify (as defined in Section 16.1) City against any and all Claims (as defined in Section 16.1) arising out of any misrepresentation by Landlord under this Section. City acknowledges the Premises were previously part of a soda manufacturing plant that may have affected the condition of the Premises and the remainder of the Property, and that there is an existing roof leak, provided such acknowledgement does not waive Landlord's obligation to repair the roof leak pursuant to Section 8.1.

35. City's Compliance with Laws; Indemnity

City shall use the Premises during the Term in compliance with applicable Laws, except that City shall not be required to make any structural alterations, additions or other modifications in order to comply therewith unless such modifications are necessary solely because of any Alterations to the Premises made by City pursuant to Section 7 and such modifications are not otherwise Landlord's responsibility under this Lease. City shall be responsible for complying with any requirement of the Disabilities Laws relating to the placement of City's furniture or other City Personal Property and the operation of any programs in the Premises, other than any requirement relating to the physical structure, fixtures and permanent improvements of the

Premises or portions of the Property or Building along the path of travel to the Premises, which are Landlord's obligation as provided in Section 10.1. If any Capital Expenditure is required due to City's specific and unique use of the Premises pursuant to this Lease as compared with uses by other Building tenants or any Alterations made by City to the Premises, City shall be obligated for making such Capital Expenditure at its sole cost; provided, however, that if the cost of such Capital Expenditure would exceed six (6) months of Base Rent (at the rate then payable under this Lease), City shall have the right to terminate this Lease by delivering no less than thirty (30) days written notice of such termination unless Landlord notifies City in writing, within ten (10) days of receiving such termination notice, that Landlord has elected to pay the amount by which the cost of such Capital Expenditure exceeds six (6) months of Base Rent. Without limiting Section 16.1, City shall Indemnify Landlord against any and all Claims arising out of City's failure to comply with all applicable Laws as provided in this Section.

36. City's Compliance with Insurance Requirements

City shall not conduct any use in or about the Premises that would: (a) invalidate or be in conflict with any fire or other casualty insurance policies covering the Building or any property located therein, (b) result in a refusal by fire insurance companies of good standing to insure the Building or any such property in amounts reasonably satisfactory to Landlord or the holder of any mortgage or deed of trust encumbering the Building, (c) cause an increase in the fire insurance premium for the Building unless City agrees to pay such increase, or (d) subject Landlord to any liability or responsibility for injury to any person or property by reason solely of any business operation being conducted by City in the Premises; provided, however, Landlord shall provide City with reasonable prior written notice of any applicable insurance requirements and no such insurance requirements shall materially and adversely interfere with City's normal business in the Premises.

37. SUBORDINATION

38. Without the necessity of any additional document being executed by City for the purpose of effecting a subordination, and subject in all events to the immediately following subsection (b), this Lease shall be subject and subordinate at all times to the following (each an "**Encumbrance**"): (i) any reciprocal easement agreements, ground leases or other underlying leases that may hereafter be executed affecting Landlord's interest in the Property, or any portion thereof, and (ii) the lien of any mortgages or deeds of trust and renewals, modifications, consolidations, replacements and extensions of any of the foregoing that may hereafter be executed by Landlord in any amount for which any part of the Property, any ground lease or underlying lease, or Landlord's interest or estate therein is subject. Notwithstanding the foregoing, if the ground lessor, mortgagee, trustee, or holder of any such mortgage or deed of trust elects to have City's interest in this Lease be superior to any such instrument, then upon notice thereof to City, this Lease shall be deemed superior, whether this Lease was executed before or after the date of said instrument or the recording thereof. At City's request, the holder of the Encumbrance shall enter into a subordination and nondisturbance agreement with City in a form reasonably acceptable to City evidencing such subordination or superiority of this Lease. Landlord warrants that as of the date of this Lease the only existing Encumbrance is held by Cathay Bank ("**Lender**"). Concurrently with the execution of this Lease, Landlord shall provide City with a written subordination and nondisturbance agreement in the form attached hereto as Exhibit C, duly executed and acknowledged by Landlord and Lender.

39. If any mortgage or deed of trust to which this Lease is subordinate is foreclosed or a deed in lieu of foreclosure is given to the mortgagee or beneficiary, or in the event any ground lease or underlying lease to which this Lease is subordinate is terminated, this Lease shall not be barred, terminated, cut off, or foreclosed nor shall the rights and possession of City hereunder be disturbed if City shall not then be in default in the payment of rental or other sums due hereunder or otherwise be in default under the terms of this Lease beyond any applicable notice and cure period. City shall attorn to and become the tenant of the successor-in-interest to Landlord,

provided that City has received proper written notice of such succession and the name and address of the successor landlord. City's covenant under the immediately preceding subsection (a) to subordinate this Lease to any Encumbrance or other hypothecation hereafter executed is conditioned upon each such senior instrument containing the commitments specified in this subsection (b). The provisions of this Section shall be self-operative and no further instrument shall be required other than as provided in this Section. City agrees, however, to execute upon request by Landlord and in a form reasonably acceptable to City, any additional documents evidencing the priority or subordination of this Lease with respect to any such Encumbrance as provided herein.

40. DAMAGE AND DESTRUCTION

If the Premises, the Building or any Building Systems are damaged by fire or other casualty, Landlord shall repair the same without delay, provided that such repairs can be made under applicable laws before the date (the "**Repair Date**") that is ninety (90) days after (i) the date of such damage or (ii) the date of receiving any approvals needed from the City's Planning Department to make such repairs. If such repairs require the prior approval of City's Planning Department, Landlord shall apply for such approval within thirty (30) days after the date of such damage. In such event, Landlord shall diligently pursue any City Planning Department approvals for such repairs and shall diligently commence and pursue such repairs to completion. In such event, this Lease shall remain in full force and effect, except that City shall be entitled to an abatement of Rent while such repairs are being made. Such abatement in Rent shall be based upon the extent to which such damage and the making of such repairs interfere with City's business in the Premises. Landlord's repairs shall not include, and the Rent shall not be abated as a result of, any damage by fire or other cause to City's property or any damage caused by the negligence or willful misconduct of City or its Agents.

Within twenty (20) days after the date of such damage, Landlord shall notify City whether or not, in Landlord's reasonable judgment made in good faith, such repairs can be made within the Repair Period. If such repairs cannot be made within the Repair Period, then either party hereto may, by written notice to the other given within thirty (30) days after the date of such damage, terminate this Lease as of the date specified in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after notice is given by Landlord. In case of termination, the Rent shall be reduced by a proportionate amount based upon the extent to which such damage interferes with the conduct of City's business in the Premises, and City shall pay such reduced Rent up to the date of termination. Landlord shall refund to City any Rent previously paid for any period of time subsequent to such date of termination.

Notwithstanding the foregoing, in the event the Premises are damaged or destroyed by reason of flood or earthquake, and the cost of repairing the damage or destruction which is not covered by insurance proceeds payable under the insurance policies Landlord is required to carry hereunder (excluding any deductible, for which Landlord shall be responsible), as reasonably estimated by Landlord's contractor, exceeds the insurance proceeds available for the repair by ten percent (10%) of the cost of replacing the Building in its entirety, Landlord may terminate this Lease by written notice to City within thirty (30) days of the date Landlord receives written notice that such damage is not fully covered by insurance. Such notice from Landlord shall include adequate written evidence of the denial of insurance coverage. If Landlord does not elect to terminate this Lease as provided above, this Lease shall remain in full force and effect, and Landlord shall repair and restore the Premises as provided above.

If at any time during the last six (6) months of the Term of this Lease there is substantial damage that Landlord would be required to repair hereunder, Landlord or City may, at the respective option of each, terminate this Lease as of the date such damage occurred by giving written notice to the other party of its election to do so within thirty (30) days after the date of such damage; provided, however, Landlord may terminate this Lease only if it would take more than thirty (30) days to repair such damage and City has not timely delivered a notice exercising its Extension Option during such six (6) month period.

Landlord and City intend that the provisions of this Section govern fully their rights and obligations in the event of damage or destruction, and they each hereby waive and release any right to terminate this Lease in whole or in part under Section 1932, subdivision 2, Section 1933, subdivision 4, and Sections 1941 and 1942 of the Civil Code of California or under any similar law, statute or ordinance now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

41. EMINENT DOMAIN

42. Definitions

43. "Taking" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under law. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

44. "Date of Taking" means the earlier of **(i)** the date upon which title to the portion of the Property taken passes to and vests in the condemnor or **(ii)** the date on which Tenant is dispossessed.

45. "Award" means all compensation, sums or anything of value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

46. General

If during the Term or during the period between the execution of this Lease and the Commencement Date, there is any Taking of all or any part of the Premises or any interest in this Lease, the rights and obligations of Landlord and City shall be determined pursuant to this Section. City and Landlord intend that the provisions hereof govern fully in the event of a Taking and accordingly, Landlord and City each hereby waive any right to terminate this Lease in whole or in part under Sections 1265.110, 1265.120, 1265.130 and 1265.140 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

47. Total Taking; Automatic Termination

If there is a total Taking of the Premises, then this Lease shall terminate as of the Date of Taking.

48. Partial Taking; Election to Terminate

49. If there is a Taking of any portion (but less than all) of the Premises, then this Lease shall terminate in its entirety if all of the following exist: **(i)** the partial Taking, in City's reasonable judgment, renders the remaining portion of the Premises untenable or unsuitable for continued use by City for its intended purposes or otherwise materially adversely affects City's normal operations in the Premises, **(ii)** the condition rendering the Premises untenable or unsuitable either is not curable or is curable but Landlord is unwilling or unable to cure such condition, and **(iii)** City elects to terminate.

50. In the case of a partial taking of a substantial portion of the Building, and if Section 13.4(a) does not apply, City and Landlord shall each have the right to terminate this Lease by written notice to the other within thirty (30) days after the Date of Taking, provided that, as a condition to City's right to terminate, the portion of the Building taken shall, in City's reasonable judgment, render the Premises unsuitable for continued use by City for its intended purposes or otherwise materially adversely affect City's normal operations in the Premises.

51. Either party electing to terminate under the provisions of this Section 13.4 shall do so by giving written notice to the other party before or within thirty (30) days after the Date of Taking, and thereafter this Lease shall terminate upon the later of the thirtieth (30th) day after such written notice is given or the Date of Taking.

52. Rent; Award

On termination of this Lease pursuant to an election under Section 13.4, then: (a) City's obligation to pay Rent shall continue up until the date of termination, and thereafter shall cease, except that Rent shall be reduced as provided in Section 13.6 for any period during which this Lease continues in effect after the Date of Taking, and (b) Landlord shall be entitled to the entire Award in connection therewith, except that City shall receive any Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

53. Partial Taking; Continuation of Lease

If there is a partial Taking of the Premises under circumstances where this Lease is not terminated in its entirety under Section 13.4, then this Lease shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of Landlord and City shall be as follows: (a) Rent shall be reduced by an amount that is in the same ratio to the Rent as the area of the Premises taken bears to the area of the Premises prior to the Date of Taking, and (b) Landlord shall be entitled to the entire Award in connection therewith, provided that City shall receive any Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

54. Temporary Taking

Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to the Premises for a limited period of time not in excess of sixty (60) consecutive days, this Lease shall remain unaffected thereby, and City shall continue to pay Rent and to perform all of the terms, conditions and covenants of this Lease. In the event of such temporary Taking, City shall be entitled to receive that portion of any Award representing compensation for the use or occupancy of the Premises during the Term up to the total Rent owing by City for the period of the Taking.

55. ASSIGNMENT AND SUBLETTING

City shall not directly or indirectly sell, assign, encumber, pledge or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Premises or its leasehold estate hereunder or permit all or any portion of the Premises to be occupied by anyone other than itself or sublet all or any portion of the Premises without Landlord's prior written consent in each instance, which shall not be unreasonably withheld or delayed (subject to Landlord's rights under Section 22.7), but may be withheld if City is then in default of this Lease beyond any applicable notice and cure periods. If Landlord consents to City's sublease of any portion of the Premises or City's assignment of this Lease to another party, Landlord shall be entitled to fifty percent (50%) of any rent or other consideration received by City under such sublease or assignment in excess of the Base Rent and Additional Charges (or the amount proportionate to the portion of the Premises subject to such a sublease) will be paid to Landlord, after City has recovered any reasonable brokers' commissions and the reasonable cost of any leasehold improvements that City incurs in connection with the sublease or assignment. No assignment or sublease shall relieve City from any liability under the Lease.

City shall have the right from time to time, upon notice to but without the consent of Landlord, to transfer this Lease or use and occupancy of all or any of the Premises to any

department, commission or agency of the City and County of San Francisco for uses permitted under this Lease.

56. DEFAULT; REMEDIES

57. Events of Default by City

Any of the following shall constitute an event of default by City hereunder:

58. City's failure to make any timely payment of Rent and to cure such nonpayment within five (5) business days after receipt of written notice thereof from Landlord, provided that for the first two (2) monthly payments of Rent at the beginning of the Term, City shall have twenty (20) days to cure any such nonpayment after written notice thereof from Landlord;

59. City's abandonment of the Premises (within the meaning of California Civil Code Section 1951.3); or

60. City's failure to perform any other covenant or obligation of City hereunder (not involving the payment of money) and to cure such non-performance within twenty (20) days of the date of receipt of notice thereof from Landlord, provided that if more than twenty (20) days are reasonably required for such cure, no event of default shall occur if City commences such cure within such period and diligently prosecutes such cure to completion.

61. Landlord's Remedies

Upon the occurrence of any event of default by City that is not cured within the applicable grace period as provided above, Landlord shall have all rights and remedies available pursuant to law or granted hereunder, including the following:

62. The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate City's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that City proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2.

63. The rights and remedies provided by California Civil Code Section 1951.4 (continuation of lease after breach and abandonment), which allows Landlord to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover Rent as it becomes due, for so long as Landlord does not terminate City's right to possession, if City has the right to sublet or assign, subject only to reasonable limitations.

64. Landlord's Default

If Landlord fails to perform any of its obligations under this Lease, then (without limiting any of City's other cure rights under this Lease) City may, at its sole option, cure such default at Landlord's expense if such default continues after twenty (20) days from the date City gives notice to Landlord of City's intention to perform such cure. However, in the case of a default which for causes beyond Landlord's control (excluding any financial inability to perform) cannot with due diligence be cured within such twenty (20)-day period, such twenty (20)-day period shall be extended if Landlord, promptly upon receipt of City's notice, advises City of Landlord's intention to take all steps required to cure such default, and Landlord promptly commences such cure and diligently prosecutes the same to completion. Subject to the other provisions of this Lease relating to abatement of Rent, if Landlord fails to cure any default within the cure period provided above, then, whether or not City elects to cure Landlord's default as provided herein, the Base Rent and any other charges hereunder shall be abated based on the extent to which such default interferes with City's ability to carry on its business at the Premises. Notwithstanding the foregoing, if any such default by Landlord continues for sixty (60) days and impairs City's

ability to carry on its business in the Premises, then City shall have the right to terminate this Lease upon written notice to Landlord within thirty (30) days after the expiration of such sixty (60)-day period. City's rights under this Section, Section 5.3, and Section 9.4 shall not limit in any way any of its other rights and remedies hereunder or at law or in equity.

65. INDEMNITIES

66. City's Indemnity

City shall indemnify, defend and hold harmless ("**Indemnify**") Landlord and its Agents from and against any and all claims, costs and expenses, including, without limitation, reasonable attorneys' fees (collectively, "**Claims**"), incurred as a result of (a) City's use of the Premises, (b) any default by City in the performance of any of its material obligations under this Lease, or (c) any negligent acts or omissions of City or its Agents in, on or about the Premises or the Property; provided, however, City shall not be obligated to Indemnify Landlord or its Agents to the extent any Claim arises out of the negligence or willful misconduct of Landlord or its Agents. In any action or proceeding brought against Landlord or its Agents by reason of any Claim Indemnified by City hereunder, City may, at its sole option, elect to defend such Claim by attorneys in City's Office of the City Attorney, by other attorneys selected by City, or both. City shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that Landlord shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. City's obligations under this Section shall survive the termination of the Lease.

67. Landlord's Indemnity

Landlord shall Indemnify City and its Agents against any and all Claims incurred as a result of (a) any default by Landlord in the performance of any of its obligations under this Lease or any breach of any representations or warranties made by Landlord under this Lease, or (b) any negligent acts or omissions of Landlord or its Agents in, on or about the Premises or the Property; provided, however, Landlord shall not be obligated to Indemnify City or its Agents to the extent any Claim arises out of the negligence or willful misconduct of City or its Agents. In any action or proceeding brought against City or its Agents by reason of any Claim Indemnified by Landlord hereunder, Landlord may, at its sole option, elect to defend such Claim by attorneys selected by Landlord. Landlord shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that City shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. Landlord's obligations under this Section shall survive the termination of this Lease.

68. INSURANCE

69. City's Self-Insurance

Landlord acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any insurance with respect to this Lease. City assumes the risk of damage to any of City's Personal Property and any Alterations constructed by City resulting from those causes for which Landlord is not required to indemnify City hereunder.

70. Landlord's Insurance

At all times during the Term, Landlord shall keep the Building (excluding the land upon which it is located) insured against damage and destruction by fire, vandalism, malicious mischief, sprinkler damage and other perils customarily covered under a cause of loss-special form property insurance policy in an amount equal to one hundred percent (100%) of the full insurance replacement value (replacement cost new, including, debris removal and demolition) thereof. Landlord shall, upon request by City, provide to City a certificate of insurance issued by the insurance carrier, evidencing the insurance required above. The certificate shall expressly provide that the policy is not cancelable or subject to, reduction of coverage or otherwise subject

to modification except after thirty (30) days prior written notice to City. Landlord hereby waives any rights against City for loss or damage to the Premises or any other part of the Property, to the extent covered by Landlord's property insurance.

In addition, Landlord, at no cost to City, shall procure and keep in effect at all times during the Term insurance as follows: (a) Commercial general liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, independent contractors, broad-form property damage, fire damage legal liability (of not less than Fifty Thousand Dollars (\$50,000)), personal injury, products and completed operations, and explosion, collapse and underground (XCU), and (b) Worker's Compensation Insurance with Employer's Liability Limits not less than One Million Dollars (\$1,000,000) each accident. All insurance policies required to be maintained by Landlord hereunder shall be endorsed to provide for thirty (30) days' prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to Landlord.

71. Waiver of Subrogation

Notwithstanding anything to the contrary in this Lease, Landlord hereby waives any right of recovery against City for any loss or damage sustained by Landlord with respect to the Building or the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of City, to the extent such loss or damage is covered by insurance that Landlord is required to purchase under this Lease or is otherwise actually recovered from valid and collectible insurance covering Landlord. Landlord agrees to obtain a waiver of subrogation endorsement from each insurance carrier issuing policies relative to the Building or the Premises; provided, Landlord's failure to do so shall not affect the above waiver.

Notwithstanding anything to the contrary contained herein, City hereby waives any right of recovery against Landlord for any loss or damage sustained by City with respect to City's Personal Property or Alterations, to the extent such loss or damage is covered by insurance purchased by City or would have been covered by insurance which would have been considered to be commercially available to City, had City not elected to self-insure.

72. ACCESS BY LANDLORD

Landlord reserves for itself and any designated Agent the right to enter the Premises at all reasonable times and, except in cases of emergency (in which event Landlord shall give any reasonable notice), after giving City at least twenty four (24) hours' advance written or oral notice, for the purpose of (a) inspecting the Premises, (b) supplying any service to be provided by Landlord hereunder, (c) showing the Premises to any prospective purchasers, mortgagees or, during the last six (6) months of the Term of this Lease, tenants, (d) posting notices of non-responsibility, and (e) altering, improving or repairing the Premises and any portion of the Building, and Landlord may for that purpose erect, use and maintain necessary structures in and through the Premises where reasonably required by the character of the work to be performed, provided that the entrance to the Premises shall not be blocked thereby, and further provided that City's use shall not be interfered with.

73. ESTOPPEL CERTIFICATES

Either party, from time to time during the Term upon not less than ten (10) days' prior written notice from the other party, may reasonably request the other party to execute, acknowledge and deliver to such persons or entities designated by such other party a certificate stating: (a) the Commencement Date and Expiration Date of this Lease, (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, this the Lease is in full force and effect as modified and stating the modifications), (c) that there are no defaults under this Lease (or if so, specifying the same), and (d) the date to which Rent has been paid.

74. SURRENDER OF PREMISES

Upon the expiration or sooner termination of this Lease, City shall surrender the Premises to Landlord in good order and condition, reasonable use and wear and damage by fire or other casualty excepted, and remove all of City's Personal Property and any Alterations City is required to remove pursuant to Section 7.1. City shall repair or pay the cost of repairing any damage to the Premises or the Building resulting from such removal. City's obligations under this Section shall survive the expiration or earlier termination of this Lease.

75. HAZARDOUS MATERIALS

76. Definitions

As used in this Lease, the following terms shall have the meanings hereinafter set forth:

77. "Environmental Laws" shall mean any federal, state, local or administrative law, rule, regulation, order or requirement relating to industrial hygiene, environmental conditions or Hazardous Material, whether now in effect or hereafter adopted.

78. "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended (42 U.S.C. Section 9601 *et seq.*), or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Building or are naturally occurring substances on or about the Property; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

79. "Release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Building, or in, on, under or about the Property.

80. Landlord's Representations and Covenants

Landlord represents and warrants to City that, to the best of Landlord's actual knowledge, without any independent investigation, the following statements are true and correct and will be true and correct as of the Commencement Date: **(a)** the Property is not in violation of any Environmental Laws except to the extent disclosed in the Phase I Environmental Assessment Report prepared by eScreenLogic for Project 19B01-07282 and dated March 6, 2019 (the "**2019 Phase I**"), a copy of which was provided to City by Landlord; **(b)** the Property is not now, nor has it been, used for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material, except for the use of such substances in such limited quantities as are customarily used in offices, which limited use has been and is in compliance with Environmental Laws, and except to the extent such Hazardous Material was used in the operation of a soda manufacturing plant on the Property before Landlord's ownership of the Property; **(c)** the Property does not consist of any landfill or contain any underground storage tanks; **(d)** the Building does not consist of any asbestos-containing materials or building materials that contain any other Hazardous Material, nor do the Premises contain any lead-based paints; **(e)** there has been and is no Release of any Hazardous Material in the Building or in, on, under or about the Property; and **(f)** the Property is not subject to any claim by any governmental regulatory agency or third party related to the Release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic

Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in the Building or in, on, under or about the Property, or the migration of Hazardous Material from or to other real property. Subject to City's obligations under this Section below, Landlord shall maintain the Property throughout the Term in compliance with all Environmental Laws that could affect the health, safety and welfare of City's employees or City's use, occupancy or enjoyment of the Premises for their intended purposes.

81. Landlord's Environmental Indemnity

Without limiting Landlord's Indemnity in Section 16.2, Landlord shall Indemnify City and its Agents against any and all Claims arising during or after the Term of this Lease **(a)** as a result of any breach of any of Landlord's representations, warranties or covenants in Section 21.2, or **(b)** in connection with any presence or Release of Hazardous Material in the Building or on, under or about the Property, unless City or its Agents caused such Release.

82. City's Covenants

Neither City nor its Agents shall cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or the Property, or transported to or from the Premises or the Property, in violation of any Environmental Laws. Without limiting the uses which are permitted under the terms of this Lease, Landlord acknowledges that City may use the Premises for office purposes, to store vehicles and to operate a sign shop, meter repair shop and paint shop, and connection with such uses may use substances such as cleaning fluids, gasoline, diesel and other vehicle fluids, paints and solvents, including the materials listed on the attached Exhibit D, so long as such use is in compliance with all applicable Environmental Laws.

83. City's Environmental Indemnity

If City breaches its obligations contained in Section 21.4, or if City or its Agents cause the Release of Hazardous Material from, in, on or about the Premises or the Property, then City shall Indemnify Landlord against any and all Claims arising during or after the Term of this Lease as a result of such Release, except to the extent Landlord or its Agents is responsible for the Release. The foregoing Indemnity shall not include any Claims resulting from the non-negligent aggravation by City, its Agents or Invitees of physical conditions of the Premises, or other parts of the Property, existing prior to City's occupancy.

84. PREMISES PURCHASE OPTION

85. Exercise; Purchase Price

On February 7, 2014, Landlord caused Final Map No. 6352 to be recorded in the Official Records of San Francisco County as Document No. 2014-J835268 in an effort to cause the Building to be comprised of thirty-four (34) commercial condominiums. Landlord further intends to record a declaration that complies with the requirements of California Civil Code Section 4250 *et seq* (the "**Declaration**") and a condominium plan that complies with the requirements of California Civil Code Section 4285 *et seq* (the "**Plan**") with respect to creating such commercial condominiums, and file the articles of incorporation for the association that will manage such condominiums with the California Secretary of State (the "**Articles of Incorporation**"). The Declaration, Plan, and Articles of Corporation shall be commercially reasonable and comply with all applicable Laws, and the Plan and Declaration shall depict and describe commercial condominiums in conformity with Final Map No. 6352, with the Premises comprised of ten (10) of those condominiums. Landlord shall deliver to SFMTA a copy of a Declaration and Plan recorded in the Official Records of San Francisco County and the Articles of Incorporation filed with the California Secretary of State on the earlier to occur of (i) three (3) business days following such recordation, and (ii) the six (6) month anniversary of City's delivery of a Premises Option Notice (as defined below). If Landlord delivers the Declaration and Plan to City after City delivers a Premises Option Notice and City does not approve of any

matter in the Declaration or Plan, City shall have the right to withdraw its Premises Option Notice by delivering written notice of such withdrawal to Landlord within sixty (60) days of City's receipt of the Declaration and Plan.

If City exercises its Extension Option, then commencing on the sixth (6th) anniversary of the Commencement Date through the expiration or earlier termination of this Lease (the "**Option Period**"), City shall have the right (the "**Premises Purchase Option**") to purchase the Premises for the Fair Market Purchase Price (as defined in Exhibit E) pursuant to the terms and conditions set forth in this Section and the Purchase and Sale Agreement attached as Exhibit F, as may be mutually modified by Landlord and City (the "**Purchase Agreement**"). City shall exercise the Premises Purchase Option, if at all, by delivering to Landlord written notice of such exercise (the "**Premises Option Notice**") to Landlord before the expiration of the Option Period. Promptly following the City's delivery of the Premises Option Notice, Landlord and City shall commence to determine the Fair Market Purchase Price in accordance with the provisions of the attached Exhibit E.

22.2 Approval of Option Exercise; Execution of Purchase Agreement

If City timely delivers the Premises Option Notice and Landlord and City timely determine the Fair Market Purchase Price in response to such Premises Option Notice, then SFMTA shall (i) request approval of the Proposed Purchase (defined as follows) from the SFMTA Board of Directors within six (6) months of the Fair Market Purchase Price determination (the "**FMV Determination**"), and, to the extent required, request approval of the Proposed Purchase from the City's Board of Supervisors and Mayor within six (6) months of the SFMTA Board of Directors approval of the Proposed Purchase, or (ii) timely provide Landlord with written notice that SFMTA is withdrawing the Premises Option Notice because the Manager of SFMTA's Strategic Real Estate Facilities and Property Management does not believe the SFMTA Board of Directors will approve of the Fair Market Purchase Price or, if the proposed purchase of the Premises would require the approval of the City's Board of Supervisors and Mayor, the City's Director of Property does not believe the City's Board of Supervisors or the Mayor will approve of the Fair Market Purchase Price. The "**Proposed Purchase**" shall mean the proposed purchase of the Premises by SFMTA pursuant to the Purchase Agreement for the Fair Market Purchase Price. Landlord acknowledges and agrees that approval of a Proposed Purchase is subject to the sole and absolute discretion of the SFMTA Board of Directors and, if the Proposed Purchase would require approval from the City's Board of Supervisors and Mayor, of the City's Board of Supervisors and Mayor. Landlord further acknowledges and agrees that, within five (5) days following the determination of the Fair Market Purchase Price, Landlord shall deliver a duly executed, original copy of the Purchase Agreement (the "**Landlord Approval Copy**") to include in the approval package for the Proposed Purchase submitted by SFMTA to the SFMTA Board (and, to the extent applicable, the City's Board of Supervisors and Mayor).

If SFMTA receives approval of the Proposed Purchase from the SFMTA's Board of Directors and, to the extent required, from the City's Board of Supervisors, then within ten (10) business days following the effective date of such final approval, City shall execute and deliver one original copy of the Purchase Agreement (the "**Final Agreement**") to Landlord, duly executed by City, and Landlord shall duly execute and deliver three (3) original copies of the Final Agreement to SFMTA to replace the Landlord Approval Copy. If the SFMTA Board of Directors or, to the extent required, the City's Board of Supervisors, fail to approve the Proposed Purchase on or before the on or before the eighth (8th) anniversary of the Commencement Date (the "**Outside Approval Date**"), the Premises Option Notice shall automatically be void and SFMTA shall return the Landlord Approval Copy to Landlord. The Outside Approval Date may be extended only by written agreement of Landlord.

22.3 Expiration of Option Exercise or Premises Purchase Option

City's exercise of the Premises Purchase Option shall be void and of no further force and effect if (i) City withdraws the Premises Option Notice as provided in Section 22.2 or (iii) the Board of Directors of SFMTA or, to the extent required, the City's Board of Supervisors, fails to approve the applicable Proposed Purchase by the Outside Approval Date.

If a Premises Option Notice is voided as provided above, City shall have no further right to purchase, and Landlord shall have no further obligation to sell to City, the Premises under this Section. City's rights under this Section shall also be voided and of no force of effect if City fails to deliver the Premises Option Notice to Landlord prior to the expiration of the Option Period. If a Premises Option Notice is so voided, then upon 20 days' written demand by Landlord, City shall sign a modification to the Memorandum of Lease (as defined in Section 24.32) that memorializes the termination of the Premises Purchase Option, which Landlord may record at its option.

22.4 Due Diligence Deliveries

Within fifteen (15) days following City's delivery of a Premises Option Notice, Seller covenants to deliver to City all of the Documents (as defined below) pertaining to the condition and operation of the Premises, to the extent such documents exist and are in the possession or control of Landlord, its property manager or its asset manager and have not been previously delivered to City prior to the Commencement Date. Landlord further agrees to promptly deliver to City any such Documents thereafter discovered, created or received by Landlord, its property manager or its asset manager (each, a "**Newly Discovered Document**") during the Term. City shall have the right to withdraw a Premises Option Notice any time before the full execution of a Final Agreement if City determines a Newly Discovered Document reveals a condition that could negatively affect the value of the Premises or City's use of the Premises. If City does not purchase the Premises pursuant to a Final Agreement, City shall promptly return to Landlord any originals of the Documents previously delivered to City by or on behalf of Landlord on or before the expiration of the Term or before the tenth (10th) business day immediately following any earlier termination of the Term.

"**Documents**" shall mean the following documents, all to the extent such documents exist and are in the possession or control of any of Landlord, any member of Landlord, Landlord's property manager or its asset manager:

- (i) structural calculations for the Building;
- (ii) site plans, digital copies of the as-built plans and specifications for the Building and measurement of the Building, recent inspection reports by Landlord;
- (iii) existing service contracts, utility contracts, maintenance contract, employment contracts, management contracts, brokerage and leasing commission agreements with respect to the Premises, the obligations of which may continue following the closing contemplated by a Final Agreement (hereafter, the "**Closing**");
- (iv) presently effective warranties or guaranties received by Landlord or Landlord's predecessors in interest from any contractors, subcontractors, suppliers or materialmen in connection with any construction, repair or alteration of the Premises;
- (v) current certificates of insurance for carriers insuring the Premises, as well as any information or reports relative to the claims history of the Premises;
- (vi) any environmental reports, studies, surveys, tests and assessments of the Property;

(vii) any soils and geotechnical reports, including without limitation, any reports relating to the presence of asbestos or asbestos containing materials located at the Property; and

(viii) any other contracts or documents necessary for the operation of the Premises or which will be binding on the Premises after the Closing.

22.5 Inspections and Inquiries

From and after the City's delivery of the Premises Option Notice and continuing through the date City and Landlord execute and deliver a Final Agreement (the "**Due Diligence Period**"), City shall be permitted to make such examinations, tests, analyses, investigations, surveys, inquiries and other inspections in connection with City's examination of the Premises as City deems necessary or desirable. Notwithstanding the forgoing, City shall not perform any borings, samplings, soils tests, groundwater tests or other intrusive physical environmental audit procedures on the Premises without first providing Landlord a detailed work plan describing with specificity the nature, scope, location and purpose of all of such activities to be performed on the Premises and thereafter obtaining Landlord's prior written consent to such activities, which Landlord may withhold in Landlord's sole discretion. City, at its sole expense, shall repair any and all damage resulting from any of the tests, studies, inspections and investigations performed by or on behalf of City that are permitted under this Section. Landlord hereby irrevocably authorizes City and its agents to make all inquiries with and applications to any regulatory authority with jurisdiction over the Premises as City may reasonably require to complete its due diligence investigations on the Premises; provided, however, that no such inquiry or application shall be made prior to the Commencement Date and no such application shall impact Landlord's ownership of or title to the Premises if the Closing fails to occur.

22.6 Representations and Warranties

To the best of Landlord's knowledge, Landlord represents and warrants as follows: (i) Landlord has not received any written notice of pending or threatened litigation that would have a material and adverse effect on the use, operation or value of the Premises or the ability of Landlord, as seller, to perform its obligations under the Purchase Agreement, (ii) Landlord has not granted any option or right of first refusal or first opportunity to any third party to acquire any fee interest in any of the Premises which right or option is either superior to the rights granted to City in this Lease or would be in effect or enforceable following the transfer of the Premises to City at Closing, (iii) Landlord has not received any written notice from any governmental authority having jurisdiction that the Premises are in violation of any applicable law, ordinance or regulation, including, without limitation, any Environmental Laws, which remains uncured and which could reasonably have a material adverse effect on the operation of the Premises following the Closing; (iv) during the ownership of the Premises by Landlord, the Premises has not been used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material; (v) during the ownership of the Premises by Landlord there has been no Release of any Hazardous Material in, on, or under the Premises except to the extent City's use resulted in release of Hazardous Material and except to the extent disclosed in the 2019 Phase I Report; and (vi) the reports, studies, assessments, investigations and other materials to be made available to City for its review pursuant to Section 22.5, constitute all written materials in the possession, custody or control of Landlord or its property manager relating to the presence of Hazardous Materials at, on or under the Premises, and the compliance of the Premises with Environmental Laws; provided that, without limiting any other provision hereof, Landlord makes no representation or warranty as to whether City is entitled to rely on any such reports, studies, assessments, investigations or other materials, and if City desires to rely on the same, City shall be responsible for obtaining, at its sole cost and expense, written permission from the preparer of any such item.

22.7 Premises Purchase Option Personal

The Premises Purchase Option is personal to City, and shall not be assignable to any other person under any circumstances, unless Landlord consents to the assignment of the Premises Purchase Option in writing, which consent may be granted or withheld in Landlord's sole and absolute discretion.

86. RIGHT OF FIRST OFFER TO LEASE AND PURCHASE REMAINING PORTION

87. Right of First Offer to Lease

During the Term (including the Extended Term), Landlord shall not lease any space in the Building (in each occurrence, a "**First Offer Space**") that is or becomes available for lease without first offering the same for lease to City (the "**Right of First Lease Offer**") on the terms and conditions set forth in this Section. For purposes hereof, space shall be deemed "available" if it is not under lease to any third-party tenant, including any tenant whose term has expired and which has no option to renew in its original lease.

At any and each time during the Term that a First Offer Space is or becomes available and provided City is not then in default under this Lease, Landlord shall notify City in writing (the "**First Offer Notice**") of the annual rent, improvement work and other terms and conditions upon which Landlord intends to offer to lease the First Offer Space to the real estate market. If City, within thirty (30) days of receiving a First Offer Notice, indicates in writing its agreement to lease such First Offer Space on the terms stated in the First Offer Notice, and City timely obtains any needed approvals for such lease, then such First Offer Space shall be included in the Premises and leased to City on the same terms and conditions contained in this Lease, provided that the Base Rent payable under this Lease shall be increased by the amount of rent for the First Offer Space described in the First Offer Notice and the First Offer Space shall be delivered in the condition described in the First Offer Notice. On the delivery of possession of any First Offer Space to City pursuant to this Section, Landlord and City shall promptly execute an amendment to this Lease stating the terms and conditions of the addition of such First Offer Space to the Premises. Notwithstanding the foregoing, unless City's exercise of its Right of First Lease Offer with respect to a First Offer Space is within the delegated authority level of SFMTA's Director of Transportation or other authorized SFMTA officer, such exercise shall be subject to approval thereof by the SFMTA Board of Directors and, if applicable, the City's Board of Supervisors and the City's Mayor, each acting in their respective sole discretion, within three (3) months after such exercise.

If City does not deliver written notice of its agreement to lease a First Offer Space within thirty (30) days after City's receipt of a First Offer Notice, or if City timely delivers such written notice but does not timely obtain any needed approvals of the SFMTA Board of Directors or the City's Board of Supervisors and the City's Mayor to its lease of that First Offer Space, if either such approval is required, then Landlord thereafter shall have the right to lease such First Offer Space to any third party at the same or higher rent and on the other terms more favorable to Landlord than stated in the applicable First Offer Notice. If Landlord leases a First Offer Space to a third party and such space subsequently becomes available during the Term, the provisions of this Section shall apply to any determination by Landlord to release such space. Landlord shall not grant a right of first refusal to any party for any of the First Offer Space.

88. Right of First Offer to Purchase

(a) Grant of Right of First Offer. In addition to City's option to purchase the Premises under Section 22, Landlord shall not sell the remaining portion of the Property (the

"**Remaining Portion**") during the Term (including the Extended Term) without first offering to sell it to City on the terms and conditions set forth in this Section 23.2.

(b) Notice and Due Diligence Materials. If Landlord wishes to sell the Remaining Portion at any time during the Term, Landlord shall first offer to sell it to City in a written notice ("**Sale Notice**") from Landlord to City, which shall include the purchase price at which Landlord will offer the Remaining Portion to the real estate market (the "**Marketing Price**") and be delivered together with a copy of the following materials (collectively, the "**Due Diligence Materials**") to the extent they exist, are in the possession or control of any of Landlord, any member of Landlord, Landlord's property manager or its asset manager, and have not been previously delivered to City:

- (i) structural calculations for the Building;
- (ii) site plans, digital copies of the as-built plans and specifications for the Building and measurement of the Building, recent inspection reports by Landlord;
- (iii) existing service contracts, utility contracts, maintenance contract, employment contracts, management contracts, brokerage and leasing commission agreements with respect to the Remaining Portion, the obligations of which may continue following the sale of the Remaining Portion to City (hereafter, the "**Transfer Date**");
- (iv) presently effective warranties or guaranties received by Landlord or Landlord's predecessors in interest from any contractors, subcontractors, suppliers or materialmen in connection with any construction, repair or alteration of the Remaining Portion;
- (v) current certificates of insurance for carriers insuring the Remaining Portion, as well as any information or reports relative to the claims history of the Remaining Portion;
- (vi) any environmental reports, studies, surveys, tests and assessments for the Property;
- (vii) any soils and geotechnical reports, including without limitation, any reports relating to the presence of asbestos or asbestos containing materials located at the Property;
- (viii) any other contracts or documents necessary for the operation of the Remaining Portion or which will be binding on the Remaining Portion after the Transfer Date;
- (ix) an appraisal of the fair market value of the Remaining Portion;
- (x) A preliminary title report, with supporting documents, issued within the six (6) month period preceding such delivery; and
- (xi) all leases and other occupancy agreements for the Remaining Portion existing and pending at the time of such Landlord delivery ("**Third Party Leases**"), all tenant correspondence files kept by or for Landlord for the Third Party Leases, and a then-current rent roll for the Remaining Portion, prepared by Landlord and listing for each tenant the name, location of leased premises, rent, obligation for reimbursement of expenses, amount of security deposit and rent paid more than thirty (30) days in advance, lease commencement date, lease termination date, lease expansion or extension options, option rent, and cost of living or other rent escalation clauses, any free rent, operating expense abatements or other unexpired concessions, and a description of any uncured defaults.

(c) Due Diligence Review. During the ninety (90) day period following City's receipt of the Sale Notice and all the Due Diligence Materials ("**Offer Period**"), City shall be permitted to make such examinations, tests, analyses, investigations, surveys, inquiries and other inspections in connection with City's examination of the Remaining Portion as City deems necessary or desirable. Notwithstanding the forgoing, City shall not perform any borings, samplings, soils tests, groundwater tests or other intrusive physical environmental audit procedures on the Remaining Portion without first providing Landlord a detailed work plan describing with specificity the nature, scope, location and purpose of all of such activities to be performed on the Remaining Portion and thereafter obtaining Landlord's prior written consent to such activities, which Landlord may withhold in Landlord's sole discretion. City, at its sole expense, shall repair any and all damage resulting from any of the tests, studies, inspections and investigations performed by or on behalf of City that are permitted under this Section. Landlord hereby irrevocably authorizes City and its agents to make all inquiries with and applications to any regulatory authority with jurisdiction over the Remaining Portion as City may reasonably require to complete its due diligence investigations on Remaining Portion Premises; provided, however, that no such inquiry or application shall be made prior to the Commencement Date and no such application shall impact Landlord's ownership of or title to the Premises if the Closing fails to occur.

(d) Offer. City shall have the right (the "**Right of First Purchase**") to purchase the Remaining Portion for the Marketing Price pursuant to the terms and conditions set forth in this Section and the Purchase and Sale Agreement attached as Exhibit F, as modified by the provisions described in Exhibit G and as may as may be further mutually modified by Landlord and City (the "**PSA**"). City shall exercise the Right of First Purchase by submitting to Landlord, prior to the expiration of the Offer Period, a conditional offer to purchase the Remaining Portion for the Marketing Price (the "**Offer**"), subject to final approval from the SFMTA Board of Directors and, if applicable, the City's Board of Supervisors and Mayor.

(e) Approval of Option Exercise; Execution of PSA. If City timely delivers an Offer, then SFMTA shall (i) timely request approval of the Proposed Acquisition (defined as follows) from the SFMTA Board of Directors and, to the extent required, the City's Board of Supervisors and Mayor, or (ii) timely provide Landlord with written notice that SFMTA is withdrawing the Offer because the Proposed Acquisition would require the approval of the City's Board of Supervisors and Mayor and the City's Director of Property does not believe the City's Board of Supervisors or the Mayor will approve of the Marketing Price. The "**Proposed Acquisition**" shall mean the proposed purchase of the Remaining Portion by SFMTA pursuant to the PSA for the Marketing Price. Landlord acknowledges and agrees that approval of a Proposed Acquisition is subject to the sole and absolute discretion of the SFMTA Board of Directors and, if the Proposed Acquisition would require approval from the City's Board of Supervisors and Mayor, of the City's Board of Supervisors and Mayor. Landlord further acknowledges and agrees that, within five (5) business days of receiving an Offer from the SFMTA, Landlord shall deliver a duly executed, original copy of the PSA (the "**Landlord PSA Copy**") to include in the approval package for the Proposed Acquisition submitted by SFMTA to the SFMTA Board (and, to the extent applicable, the City's Board of Supervisors and Mayor).

If SFMTA receives approval of the Proposed Acquisition from the SFMTA's Board of Directors and, to the extent required, from the City's Board of Supervisors, then within ten (10) business days following the effective date of such final approval, City shall execute and deliver one original copy of the PSA (the "**Final PSA**") to Landlord, duly executed by City, and Landlord shall duly execute and deliver three (3) original copies of the Final PSA to SFMTA to replace the Landlord PSA Copy. If the SFMTA Board of Directors or, to the extent required, the City's Board of Supervisors, fail to approve the Proposed Acquisition within eight (8) months of City's delivery of the Offer (the "**Approval Period**"), the Offer shall automatically be void and SFMTA shall return the Landlord PSA Copy to Landlord. The Approval Period may be extended only by written agreement of Landlord.

(f) Expiration of Right of First Purchase; Revised Sale Notices. City's Offer and Right of First Purchase shall be void and of no further force and effect if (i) City withdraws the Offer as provided in Section 23.2(e) or (iii) the Board of Directors of SFMTA or, to the extent required, the City's Board of Supervisors, fails to approve the applicable Proposed Acquisition before the expiration of the Approval Period. If City's Offer is voided as provided in the immediately foregoing sentence, or if City fails to timely deliver an Offer after its receipt of a Sale Notice and the Due Diligence Materials, City shall have no further right to purchase, and Landlord shall have no further obligation to sell to City, the Remaining Portion for the Marketing Price under this Section.

If, after delivering a Sale Notice or a Revised Sale Notice (defined as follows) to SFMTA, Landlord wishes to sell the Remaining Portion for less than the Marketing Price given in such Sale Notice or such Revised Sale Notice, Landlord shall offer to sell it to City in a written notice ("**Revised Sale Notice**") from Landlord to City, which shall include the reduced price at which Landlord will offer the Remaining Portion to the real estate market (the "**Reduced Price**"), and the process described above for City's right to purchase the Remaining Portion at the Reduced Price shall apply with respect to such Revised Sale Notice.

89. GENERAL PROVISIONS

90. Notices

Except as otherwise specifically provided in this Lease, any notice given under this Lease shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: (a) City at Tenant's address set forth in the Basic Lease Information; or (b) Landlord at Landlord's address set forth in the Basic Lease Information; or (c) such other address as either Landlord or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice hereunder shall be deemed to have been given and received two (2) days after the date when it is mailed if sent by first-class, certified mail, one day after the date when it is mailed if sent by Express Mail, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given by telefacsimile to the telefacsimile number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile.

91. No Implied Waiver

No failure by either party to insist upon the strict performance of any obligation of the other party under this Lease or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant or condition. No acceptance of full or partial Rent by Landlord while City is in default hereunder shall constitute a waiver of such default by Landlord. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of Landlord or City given in one instance under the terms of this Lease shall not relieve the other party of any obligation to secure the consent to any other or future instance under the terms of the Lease.

92. Amendments

Neither this Lease nor any terms or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent

breach thereof. Whenever this Lease requires or permits the giving by City of its consent or approval, SFMTA's Director of Transportation, or his or her designee, shall be authorized to provide such approval, except as otherwise provided by applicable law, including the Charter of the City and County of San Francisco. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the exhibits to this Lease, shall be subject to the mutual written agreement of City and Landlord, and City's agreement may be made upon the sole approval of SFMTA's Director of Transportation, or his or her designee; provided, however, material amendments or modifications to this Lease (a) changing the legal description of the Premises, (b) increasing the Term, (c) increasing the Rent, (d) changing the general use of the Premises from the use authorized under Section 5.1, or (e) materially increasing City's liabilities or financial obligations or materially decreasing City's rights under this Lease shall additionally require the approval of the Board of Directors of SFMTA and may be subject to the approval of the City's Board of Supervisors and Mayor.

93. Authority

Landlord represents and warrants to City that it is the sole owner of the Property and the execution and delivery of this Lease by Landlord has been duly authorized and does not violate any provision of any agreement, law or regulation to which Landlord or the Property is subject. Each person executing this Lease on behalf of Landlord does hereby covenant and warrant that Landlord is comprised of two (2) duly authorized and existing California limited liability companies, that Landlord has and is qualified to do business in California, that Landlord has the full right and authority to enter into this Lease, and that each person signing on behalf of Landlord is authorized to do so. On City's request, Landlord shall provide City with evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

94. Parties and Their Agents; Approvals

If applicable, the word "Landlord" as used in this Lease shall include the plural as well as the singular. As used in this Lease, the term "Agents" when used with respect to either party shall include the agents, employees, officers and contractors of such party, and the term "Invitees" when used with respect to City shall include the clients, customers, invitees, guests, licensees, assignees or subtenants of City. All approvals, consents or other determinations permitted or required by City under this Lease, including but not limited to the exercise of any option granted to City, shall be made by or through SFMTA's Director of Transportation unless otherwise provided in this Lease, subject to any applicable limitations in the City's Charter. If there is more than one entity that comprises Landlord, the obligations and liabilities under this Lease imposed on Landlord shall be joint and several.

95. Interpretation of Lease

The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intent and purposes of Landlord and City, without any presumption against the party responsible for drafting any part of this Lease. Except as otherwise specifically provided herein, wherever in this Lease Landlord or City is required or requested to give its consent or approval to any matter or action by the other, such consent or approval shall not be unreasonably withheld or delayed and the reasons for disapproval of consent shall be stated in reasonable detail in writing. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this

Lease, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

96. Successors and Assigns

Subject to the provisions of Section 14 relating to assignment and subletting, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Landlord and City and, except as otherwise provided herein, their personal representatives and successors and assigns. There are no third-party beneficiaries to this Lease.

97. Brokers

Neither party has had any contact, dealings, or communication regarding the leasing of the Premises through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the transactions contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his or her claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Claims incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Lease.

98. Severability

If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the full extent permitted by law.

99. Governing Law

This Lease shall be construed and enforced in accordance with the laws of the State of California and the City's Charter.

100. Entire Agreement

Landlord and City intend that this Lease (including all of the attached exhibits, which are made a part of this Lease by this reference) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. Landlord and City further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Lease.

101. Attorneys' Fees

If either Landlord or City fails to perform any of its obligations under this Lease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the non-prevailing party in such dispute, as the case may be, shall pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For purposes of this Lease, reasonable attorneys' fees of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" shall also include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not

any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to Landlord and City, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

102. Holding Over

Should City hold over in possession of the Premises after the expiration of the Term with Landlord's consent, such holding over shall not be deemed to extend the Term or renew this Lease, but such tenancy thereafter shall continue as a month-to-month tenancy. Such tenancy shall be on all the terms and conditions set forth in this Lease and at one hundred ten percent (110%) of the monthly Base Rent in effect during the last month of the Term of this Lease or such other rental as Landlord and City may mutually agree in writing as a condition to Landlord's consent to such holding over, and City shall continue as a month-to-month tenant until the tenancy shall be terminated by Landlord giving City or City giving Landlord at least thirty (30) days' prior written notice of termination. Should City hold over without Landlord's consent, the rent payable by City during the period of such holding over shall be one hundred twenty-five percent (125%) of the monthly Base Rent in effect during the last month of the Term of this Lease, and such tenancy shall otherwise be on the terms and conditions contained herein.

103. Cumulative Remedies

All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

104. Time of Essence

Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

105. Survival of Indemnities

Termination of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, nor shall it affect any provision of this Lease that expressly states it shall survive termination hereof. Each party hereto specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the indemnitor by the indemnitee and continues at all times thereafter.

106. Signs

City may erect or post signs on or about the Premises subject to Landlord's prior approval. Landlord reserves the right to review the placement, design, and plan for any such sign prior to its erection or posting and agrees that the approval thereof shall not be unreasonably withheld or delayed.

107. Quiet Enjoyment and Title

Landlord covenants and represents that it has full right, power and authority to grant the leasehold estate hereunder, and covenants that City, upon paying the Rent hereunder and performing the covenants hereof, shall peaceably and quietly have, hold and enjoy the Premises and all appurtenances during the full Term of this Lease as against all persons or entities claiming by and through Landlord or on account of any action, inaction or agreement of Landlord or its Agents. Without limiting the provisions of Section 16.2, Landlord agrees to

Indemnify City and its Agents against Claims arising out of any assertion that would interfere with City's right to quiet enjoyment as provided in this Section.

108. Bankruptcy

Landlord represents and warrants to City that Landlord has neither filed nor been the subject of any filing of a petition under the federal bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors, and, to the best of Landlord's knowledge, no such filing is threatened. Landlord and City agree that City's leasehold estate created hereby includes, without limitation, all rights to receive and enjoy all services, facilities and amenities of the Premises and the Building as provided herein, and that if any of such services, facilities or amenities are terminated, or materially limited or restricted on account of any such case or proceeding, or for any other reason, City shall have the right to (a) contract directly with any third-party provider of such services, facilities or amenities to obtain the same, and (b) offset against the Base Rent or other charges payable hereunder any and all reasonable costs and expenses incurred by City in obtaining such services, facilities or amenities.

109. Transfer of Landlord's Interest

Landlord shall have the right to transfer its interest in the Property, the Building or this Lease to any other financially responsible person or entity. In the event of any such transfer, Landlord shall be relieved, upon notice to City of the name and address of Landlord's successor, of any obligations accruing hereunder from and after the date of such transfer and upon delivering to City an express assumption by the transferee of all of Landlord's obligations hereunder.

110. Non-Liability of City Officials, Employees and Agents

Notwithstanding anything to the contrary in this Lease, no elective or appointive board, commission, member, officer, employee or agent of City shall be personally liable to Landlord, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Landlord, its successors and assigns, or for any obligation of City under this Lease.

111. MacBride Principles – Northern Ireland

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 *et seq.* The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Landlord acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

112. Controller's Certification of Funds

The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the City's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by City under this Lease unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of City after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of Rent and any other payments required under this Lease are not appropriated, then City may terminate this Lease, without penalty, liability or expense of any kind to City, as of the last date on which sufficient

funds are appropriated. City shall use its reasonable efforts to give Landlord reasonable advance notice of such termination.

113. Prevailing Wages and Working Conditions

Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. Landlord agrees to require its Contractors and Subcontractors performing (i) labor in the construction of a “public work” as defined in California Labor Code Section 1720 *et seq.* (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling if paid for in whole or part out of public funds), or (ii) Covered Construction at the Premises to (1) pay workers performing such work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "**Prevailing Wage Requirements**"). Landlord agrees to cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

Landlord shall include, and require its Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract shall name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Landlord’s failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A Contractor’s or Subcontractor’s failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party.

114. Non Discrimination in City Contracts and Benefits Ordinance

115. Covenant Not to Discriminate

In the performance of this Lease, Landlord agrees not to discriminate against any employee of, any City employee working with Landlord, or applicant for employment with Landlord, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person’s race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

116. Subcontracts

Landlord shall include in all subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of Section 23.25(a). In addition, Landlord shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Landlord’s failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

117. Non-Discrimination in Benefits

Landlord does not as of the date of this Lease and will not during the term of this Lease, in any of its operations in San Francisco, on real property owned by City, or where the

work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

118. CMD Form

As a condition to this Lease, Landlord shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division (the "CMD"). Landlord hereby represents that prior to execution of the Lease: (a) Landlord executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and (b) the CMD approved such form.

119. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of property to City are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Landlord shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Landlord understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Landlord and/or deducted from any payments due Landlord.

120. Tropical Hardwood and Virgin Redwood Ban

121. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, neither Landlord nor any of its contractors shall provide any items to City in the construction of any leasehold improvements or otherwise in the performance of this Lease which are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

122. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

123. If Landlord fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Landlord shall be liable for liquidated damages for each violation in an amount equal to Landlord's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Landlord acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County of San Francisco upon demand and may be set off against any monies due to Landlord from any contract with the City and County of San Francisco.

124. Bicycle Parking Facilities

Article 1.5, Section 155.3 of the San Francisco Planning Code (the "**Planning Code**") requires the provision of bicycle parking at City-leased buildings at no cost to Landlord. City shall have the right to install such bicycle parking in the Premises; provided, however, that if any

such parking will be an Alteration, City shall obtain Landlord's prior written consent to such installation.

125. Resource-Efficient City Buildings

Landlord acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction and operation of City buildings. Landlord hereby agrees that it shall comply with all applicable provisions of such code sections.

126. Counterparts

This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

127. Effective Date

The date on which this Lease shall become effective (the "**Effective Date**") is the date upon which (a) SFMTA's Board of Directors, in its sole and absolute discretion, adopts a resolution approving this Lease in accordance with all applicable laws, and (b) this Lease is duly executed by Landlord and City.

128. Certification by Landlord

By executing this Lease, Landlord certifies that neither Landlord nor any of its officers or members have been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. In the event Landlord or any of its officers or members have been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension, disbarment, discipline or prohibition may result in the termination or suspension of this Lease. Landlord acknowledges that this certification is a material term of this Lease.

129. Memorandum of Lease

On the Effective Date, Landlord and City shall execute the memorandum of lease in the form attached hereto as Exhibit H (the "**Memorandum of Lease**"), and City may cause the Memorandum of Lease to be recorded in the Official Records of the City and County of San Francisco. Upon termination of this Lease, City shall execute in recordable form such documents as reasonably requested by Landlord to remove the Memorandum of Lease from record title within twenty (20) days of Landlord's written demand.

130. Sunshine Ordinance

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

131. Conflicts of Interest

Through its execution of this Lease, Landlord acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 *et seq.* and Section 1090 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of

said provisions, and agrees that if Landlord becomes aware of any such fact during the Term, Landlord shall immediately notify City.

132. Notification of Limitations on Contributions

For the purposes of this Section, a “City Contractor” is a party that contracts with, or seeks to contract with, the City for the sale or leasing of any land or building to or from the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves. Through its execution of this Lease, Landlord acknowledges it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits a City Contractor from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for that contract or twelve (12) months after the date that contract is approved. Landlord acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Landlord further acknowledges that (a) the prohibition on contributions applies to (i) a City Contractor, each member of its board of directors, its chief executive officer, chief financial officer and chief operating officer, any person with an ownership interest of more than ten percent (10%) in the City Contractor, any subcontractor listed in the contract, and any committee that is sponsored or controlled by the City Contractor, and (b) within thirty (30) days of the submission of a proposal for the contract with a City Contractor, the City department seeking to enter into the contract must notify the Ethics Commission of the parties and any subcontractor to the contract. Additionally, Landlord certifies it has informed each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 by the time it submitted a proposal for the contract to the City, and has provided the names of the persons required to be informed to the City department seeking to enter into that contract within thirty (30) days of submitting its contract proposal to the City department receiving that submittal, and acknowledges the City department receiving that submittal was required to notify the Ethics Commission of those persons.

133. Preservative-Treated Wood Containing Arsenic

Landlord may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code, Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Landlord may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Landlord from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

134. Cooperative Drafting

This Lease has been drafted through a cooperative effort of both Landlord and City, and both parties have had an opportunity to have the Lease reviewed and revised by legal counsel. No party shall be considered the drafter of this Lease, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Lease.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL THE BOARD OF DIRECTORS OF CITY'S SFMTA SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID UNLESS THE BOARD OF DIRECTORS OF CITY'S SFMTA APPROVES THIS LEASE, IN ITS SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Landlord and City have executed this Lease as of the date first written above.

LANDLORD: YOSEMITE INVESTMENT LLC,
a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

DLAI INVESTMENT LLC, a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

CITY: CITY AND COUNTY OF SAN FRANCISCO, a
municipal corporation, acting by and through its Municipal
Transportation Agency

By: _____
Edward D. Reiskin
Director of Transportation

San Francisco Municipal Transportation Agency
Board of Directors

Resolution No: _____

Adopted: _____

Attest:
Secretary, SFMTA Board of Directors

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong, Deputy City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

That certain real property situation in the City and County of San Francisco, State of California, described as follows:

PARCEL ONE:

Beginning at the intersection of the southwesterly line of Wallace Avenue with the southeasterly line of Keith Street; thence from said point of beginning, southeasterly along said line of Wallace Avenue, 525 feet; thence at right angles, southwesterly 200 feet to the northeasterly line of Yosemite Avenue; thence at right angles, northwesterly along the last-mentioned line, 75 feet; thence at right angles, northeasterly 100 feet; thence at right angles, northwesterly 225 feet; thence at right angles, southwesterly 100 feet to the aforementioned line of Yosemite Avenue; thence at right angles, northwesterly along the last-mentioned line, 225 feet to the southeasterly line of Keith Street; thence at right angles, northeasterly along the last-mentioned line, 200 feet to the point of beginning.

Being a portion of Block 456, South San Francisco Homestead and Railroad Association, and portion of Lot 456, Bay View Homestead Association.

PARCEL TWO:

Commencing at a point on the northeasterly line of Yosemite Avenue, distant thereon 150 feet northwesterly from the northwesterly line of Jennings Street; running thence northwesterly and along said line of Yosemite Avenue, 225 feet; thence at a right angle, northeasterly 100 feet; thence at a right angle, southeasterly 225 feet; thence at a right angle, southwesterly 100 feet to the point of commencement.

Being Lots 5, 6 and 7 in Block No. 456, Bay View Homestead Association.

PARCEL THREE:

Beginning at the point of intersection of the northwesterly line of Jennings Street and the northeasterly line of Yosemite Avenue; running thence northwesterly along said line of Yosemite Avenue, 75 feet; thence at a right angle, northeasterly 200 feet to the southwesterly line of Wallace Avenue; thence at a right angle, southeasterly along said line of Wallace Avenue, 75 feet on the northwesterly line of Jennings Street; thence at a right angle, southwesterly along said line of Jennings Street, 200 feet to the point of beginning.

Being Lots 1 and 9, in Block No. 456, Bay View Homestead Association.

APN: Lot 16, Block 4830

Commonly known as 1590 Yosemite Avenue, San Francisco, California 94124.

EXHIBIT B

DEPICTION OF PREMISES AND BUILDING





Depiction of Building with Parking Lot (Parking Lot not included with purchase option)

EXHIBIT C

**FORM OF SUBORDINATION, NONDISTURBANCE AND ATTORNMENT
AGREEMENT**

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

City and County of San Francisco
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property

SUBORDINATION, NON-DISTURBANCE,
ATTORNMENT AND ESTOPPEL AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE, ATTORNMENT AND ESTOPPEL AGREEMENT (this "Agreement") is entered into as of _____, 2019, by and between CITY AND COUNTY OF SAN FRANCISCO ("City" or "Lessee"), _____ ("Bank"), and YOSEMITE INVESTMENT, LLC and DLAI INVESTMENT, LLC (referred to together herein as "Borrower" and "Lessor"), as follows.

RECITALS

A. Bank extended credit to Borrower secured, in whole or in part, by a deed of trust, dated _____ and recorded in the Official Records of San Francisco County as Instrument No. _____ on _____ (the "Deed of Trust"), which encumbers that certain real property commonly known as 1590 Yosemite Avenue, San Francisco, California, and further described on the attached Exhibit A (the "Property").

B. Lessor and Lessee are entering into a lease dated on or about the date hereof for premises ("Premises") comprised of ten (10) units at the Property (1509, 1511, 1533, 1553, 1555, 1569, 1571, and 1577 Wallace and 1528 and 1538 Yosemite) for an initial five (5) year term, with a four (4) year extension option, and an option to purchase (the "Lease").

C. Bank has approved the form of the Lease, and a memorandum of the Lease will be recorded in the Official Records of San Francisco County contemporaneously with the recordation of this Agreement.

D. It is a condition precedent to Lessee's entering into the Lease that Bank agree not to disturb Lessee's possessory rights and rights to purchase the Premises pursuant to the Lease if Bank exercises its rights under the Deed of Trust.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **SUBORDINATION.**

(a) **Subordination of Lease.** Subject to the terms of this Agreement, the Deed of Trust and any and all extensions, renewals, modifications or replacements thereof shall be and at

all times remain a lien or charge on the Property prior and superior to the Lease. Subject to the terms of this Agreement, Lessee intentionally and unconditionally waives, relinquishes and subordinates the priority and superiority of the Lease and Lessee's right and interest to the Property thereunder to the lien or charge of the Deed of Trust, and any and all extensions, renewals, modifications or replacements thereof.

(b) Reliance. Bank acknowledges that Lessee is entering into the Lease in material reliance on this Agreement.

(c) Entire Subordination Agreement. This Agreement constitutes the whole and only agreement between the parties hereto with regard to the subordination of the Lease to the lien or charge of the Deed of Trust; there are no agreements (written or oral) outside or separate from this Agreement other than the Lease with respect to the subject matter hereof; and all prior negotiations with respect thereto, if any, are merged into this Agreement. This Agreement shall supersede and cancel, but only insofar as would affect the priority between the Deed of Trust and the Lease, any prior agreements as to such subordination, including without limitation those provisions, if any, contained in the Lease which provide for the subordination thereof to the lien of a deed of trust or mortgage affecting all or any portion of the Property.

2. PURCHASE AND LEASE OPTIONS. Bank understands and agrees that the Lease includes a purchase option for the Premises and purchase and lease options for the remainder of the Property for the benefit of Lessee. If Bank (or any successor) acquires title to the Property through foreclosure under the Deed of Trust or otherwise prior to Lessee's exercise of the purchase options or Lessor's conveyance of the Premises or Building to Lessee following such exercise, then Bank shall recognize the Lease, including Lessee's purchase and lease options, and shall comply with Lessor's obligations to convey the Premises or convey or lease the remainder of the Property, as applicable, to Lessee upon Lessee's exercise of the applicable option and, if such exercise is for a purchase option, Lessee's completion of its obligations under the purchase agreement for the Premises or the remainder of the Property, as applicable.

3. ATTORNNMENT. If Bank or any other transferee acquires Lessor's right, title and interest in and to the Property pursuant to a judicial or non-judicial foreclosure of the Deed of Trust or a deed in lieu thereof or in any other manner whereby Bank or such transferee succeeds to the interest of Lessor under the Lease, Lessee agrees as follows for the benefit of Bank or such transferee:

(a) Payment of Rent. Lessee shall pay to Bank or such transferee all rental payments required to be made by Lessee pursuant to the terms of the Lease for the remaining term thereof.

(b) Continuation of Performance. Lessee shall be bound to Bank or such transferee for the remaining term thereof in accordance with all of the terms of the Lease, and Lessee hereby attorns to Bank or such transferee as its landlord, such attornment to be effective and self-operative without the execution of any further instrument immediately upon Bank or such transferee succeeding to Lessor's interest in the Lease and giving written notice thereof to Lessee.

(c) Limit on Offset. Neither Bank nor such transferee shall be subject to any offsets or defenses which Lessee may have by reason of any act or omission of Lessor as the prior lessor under the Lease (except to the extent that (A) such offset or defense is expressly provided for in the Lease, (B) Bank has been notified in writing of the situation giving rise to such offset or defense, and (C) Bank has failed to remedy such default of conditions within the same period of time given Lessor under the Lease), nor for the return of any sums which Lessee may have paid to Lessor as the prior lessor under the Lease as security deposits, advance rentals paid more than one month in advance, or otherwise, except to the extent that such sums are actually delivered by

Lessor to Bank or such transferee. Under no circumstance shall Bank or its transferee have liability to Lessee exceeding any offset to the payment of rent by reason of any act of omission of Lessor as the prior lessor under the Lease. The foregoing shall not relieve Bank or such transferee of the obligation to cure any conditions of the Property the existence of which constitute a lessor default under the Lease and which continue at the time of succession or acquisition by Bank or such transferee, or deprive Lessee of the right to terminate the Lease for a breach of a lessor covenant which is not cured as provided for herein or in the Lease and as a result of which there is a material interference with Lessee's permitted use and occupation of the Premises.

(d) Subsequent Transfer. If Bank or such transferee, by succeeding to Lessor's interest under the Lease, becomes obligated to perform the covenants of a lessor thereunder, then, upon any further transfer by Bank or such transferee of its interest as a lessor under the Lease, all of such obligations shall terminate as to Bank or such transferee, provided that further transferee assumes all such obligations.

4. NON-DISTURBANCE. In the event of a foreclosure of the Deed of Trust, or a transfer of the Property in lieu thereof or in any other manner whereby Bank or such transferee succeeds to the interest of Lessor under the Lease, so long as there shall then exist no breach, default or event of default by Lessee under the Lease beyond any applicable notice, grace and cure period, (a) the leasehold interest of Lessee shall not be extinguished or terminated by reason of such foreclosure, (b) the Lease shall continue in full force and effect, and (c) Bank and its successors-in-interest shall recognize and accept Lessee as the tenant under the Lease, subject to the terms and conditions of the Lease as modified by this Agreement.

5. ESTOPPEL. From time to time during the term of the lien of the Deed of Trust, within thirty (30) days after written request from Bank, City shall execute and deliver to Bank a certificate stating: (a) the commencement date and expiration date of the Lease, (b) that the Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (c) that to its knowledge, there are no defaults under the Lease (or if so, specifying the same), (d) the date to which rent has been paid, and (e) any other information that may be reasonably required. From time to time during the term of the lien of the Deed of Trust, within thirty (30) days after written request from City, Bank shall execute and deliver to City a certificate stating that to its knowledge there are no defaults under the Deed of Trust or the loan documents secured thereby.

6. INSURANCE AND CONDEMNATION PROCEEDS. Anything in this Agreement or the Deed of Trust to the contrary notwithstanding, Bank agrees that it shall permit any insurance or condemnation proceeds to be used for the purpose of reconstructing the improvements located on the Property, unless Bank, under a standard of good faith and fair dealing, believes its security is impaired by the casualty or condemnation giving rise to such proceeds and, in the case of an insurance award, the insurance proceeds (together with a commercially reasonable deductible) are insufficient to reconstruct the improvements and building to at least the same condition prior to the casualty resulting in the claim for which the insurance proceeds are paid.

7. MISCELLANEOUS.

(a) Remedies Cumulative. All remedies provided herein are cumulative, not exclusive, and shall be in addition to any and all other rights and remedies provided by law and by other agreements between Bank and Borrower, Lessor or any other person or entity.

(b) Costs, Expenses and Attorneys' Fees. If any party hereto institutes any judicial or administrative action or proceeding to enforce any rights or obligations under this Agreement, or seeking damages or any other judicial or administrative remedy, the prevailing party shall be

entitled to recover from the other party all costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of the prevailing party's in-house counsel), whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Bank or any other person) relating to Borrower, Lessee or any other person or entity. For purposes of this Agreement, fees allocated for attorneys of the City's Office of the City Attorney or in-house attorneys of the Bank shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the attorney's services were rendered who practice law in the City of San Francisco in law firms with approximately the same number of attorneys as employed by, respectively, the Office of the City Attorney or the Bank's in-house legal department.

(c) Notices. All notices, requests and demands which any party is required or may desire to give to any other party under any provision of this Agreement must be in writing delivered to each party at the address set forth below its signature, or to such other address as any party may designate by written notice to all other parties. Each such notice, request and demand shall be deemed given or made as follows: (i) if sent by hand delivery, upon delivery; (ii) if sent by mail, upon the earlier of the date of receipt or three (3) days after deposit in the U.S. mail, first class and postage prepaid. For the convenience of the parties, copies of notices may also be given by telefacsimile to the telefacsimile number, if any, provided from time to time; however, no party may give official or binding notice by telefacsimile.

Notices to Lessee shall be delivered to:

San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 8th Floor
San Francisco, CA 94103
Attn: Strategic Real Estate
Facilities and Real Property Management
Re: 1590 Yosemite

with a copy to: City and County of San Francisco
Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property

and a copy to: Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102
Attn: Real Estate/Finance Team

Notices to the Bank shall be delivered to:

(d) Further Assurances. At the request of any party hereto, each other party shall execute, acknowledge and deliver such other documents and/or instruments as may be reasonably required by the requesting party in order to carry out the purpose of this Agreement,

provided that no such document or instrument shall modify the rights and obligations of the parties set forth herein, and provided further that any document to be signed by the City must be approved as to form by the San Francisco City Attorney and must not violate the City's Charter or Administrative Code.

(e) Borrower; Lessor. If Borrower and Lessor are the same, each reference in this Agreement to Borrower or Lessor shall be deemed a reference to said person or entity in its respective capacity.

(f) Successors, Assigns; Governing Law. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, legal representatives, successors, assigns and other transferees of the parties hereto, and shall be governed by and construed in accordance with the laws of the State of California.

(g) Conflicts. In the event of any inconsistency between the terms of this Agreement and the Lease, the terms of this Agreement shall control.

(h) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute and be construed as one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

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

BANK: _____

BORROWER/LESSOR: YOSEMITE INVESTMENT LLC, a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

DLAI INVESTMENT LLC, a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

LESSEE: CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its Municipal Transportation Agency

By: _____
Edward D. Reiskin
Director of Transportation

San Francisco Municipal Transportation Agency
Board of Directors

Resolution No: _____

Adopted: _____

Attest:
Secretary, SFMTA Board of Directors

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong, Deputy City Attorney

Exhibit A

Description of Property

That certain real property situation in the City and County of San Francisco, State of California, described as follows:

PARCEL ONE:

Beginning at the intersection of the southwesterly line of Wallace Avenue with the southeasterly line of Keith Street; thence from said point of beginning, southeasterly along said line of Wallace Avenue, 525 feet; thence at right angles, southwesterly 200 feet to the northeasterly line of Yosemite Avenue; thence at right angles, northwesterly along the last-mentioned line, 75 feet; thence at right angles, northeasterly 100 feet; thence at right angles, northwesterly 225 feet; thence at right angles, southwesterly 100 feet to the aforementioned line of Yosemite Avenue; thence at right angles, northwesterly along the last-mentioned line, 225 feet to the southeasterly line of Keith Street; thence at right angles, northeasterly along the last-mentioned line, 200 feet to the point of beginning.

Being a portion of Block 456, South San Francisco Homestead and Railroad Association, and portion of Lot 456, Bay View Homestead Association.

PARCEL TWO:

Commencing at a point on the northeasterly line of Yosemite Avenue, distant thereon 150 feet northwesterly from the northwesterly line of Jennings Street; running thence northwesterly and along said line of Yosemite Avenue, 225 feet; thence at a right angle, northeasterly 100 feet; thence at a right angle, southeasterly 225 feet; thence at a right angle, southwesterly 100 feet to the point of commencement.

Being Lots 5, 6 and 7 in Block No. 456, Bay View Homestead Association.

PARCEL THREE:

Beginning at the point of intersection of the northwesterly line of Jennings Street and the northeasterly line of Yosemite Avenue; running thence northwesterly along said line of Yosemite Avenue, 75 feet; thence at a right angle, northeasterly 200 feet to the southwesterly line of Wallace Avenue; thence at a right angle, southeasterly along said line of Wallace Avenue, 75 feet on the northwesterly line of Jennings Street; thence at a right angle, southwesterly along said line of Jennings Street, 200 feet to the point of beginning.

Being Lots 1 and 9, in Block No. 456, Bay View Homestead Association.

APN: Lot 16, Block 4830

Commonly known as 1508-98 Yosemite Avenue, San Francisco, California 94124.

EXHIBIT D

HAZARDOUS MATERIALS LIST

Paint Shop Materials

1. Used oils: motor oil, heating oil for thermoplastic kettles, used paint thinners
2. Used spray paint aerosol cans (empty are put in 55 gallon drums)
3. Block form Thermoplastic used for striping i.e. lane lines, crosswalks, etc.
4. Methacrylate
5. Two part epoxy for stencil work
6. Latex and oil base paints that are used for curb and bus zone painting
7. Propane
8. Paint Thinners
9. Gasoline

EXHIBIT E

FAIR MARKET PURCHASE PRICE

All initially-capitalized, undefined terms used in this Exhibit shall have the meanings given to them in the Lease to which this Exhibit is attached, and all appraisals prepared under the process described in this Exhibit shall conform to the then applicable Uniform Standards of Professional Appraisal Practice ("**USPAP**") and, if the Premises are comprised of legal commercial condominiums, shall determine the value of each such condominium.

1. Initial Appraisal. SFMTA may obtain an appraisal of the fair market value of the Premises (an "**Initial Appraisal**") at any time. SFMTA shall bear the fees, costs and expenses of the appraiser and of any experts and consultants used by the appraiser. The fair market value of the Premises as established by the Initial Appraisal shall not be binding on Landlord.

2. Joint Appraisal. To determine the Fair Market Value for the Purchase Price, as provided in Section 22 of the Lease, SFMTA shall select an appraiser (the "**Proposed Appraiser**") meeting the qualifications set forth in Section 6 below. SFMTA shall send Landlord written notice (the "**Proposed Appraiser Notice**") of SFMTA's selection of the Proposed Appraiser, together with proposed joint appraisal instructions for the Proposed Appraiser and a copy of the Proposed Appraiser's resume. If Landlord agrees to the Proposed Appraiser and the parties agree to the joint appraisal instructions for the Proposed Appraiser within 15 days following Landlord's receipt of the Proposed Appraiser Notice, the appraisal prepared by the Proposed Appraiser pursuant to such joint appraisal instructions shall be referred to as the "**Joint Appraisal**," and the current fair market value determination in the Joint Appraisal shall be the "**Fair Market Purchase Price**" as long as an Appraisal Review (as defined in San Francisco Administrative Code Section 23.2 or any replacement Code section) recommends the Joint Appraisal for approval. If the Appraisal Review does not recommend the Joint Appraisal for approval, the Proposed Appraiser shall modify the initial Joint Appraisal to address the reasons and findings in the Appraisal Review for not recommending the initial Joint Appraisal, and the current fair market value determination in such modified Joint Appraisal shall be the Fair Market Purchase Price.

3. Separate Appraisals. If Landlord does not agree to the Proposed Appraiser or the parties do not timely agree on the joint appraisal instructions for the Proposed Appraiser within 15 days following Landlord's receipt of the Proposed Appraiser Notice, Landlord shall have the right to select an alternate appraiser ("**Landlord's Appraiser**") meeting the qualifications set forth in Section 6 below. Landlord shall provide SFMTA with written notice of Landlord's selection of Landlord's Appraiser ("**Landlord's Appraiser Selection Notice**"), together with a copy of Landlord's Appraiser's resume, within 30 days following Landlord's receipt of the Proposed Appraiser Notice. If Landlord does not provide Landlord's Appraiser Selection Notice within such 30 day period, the Proposed Appraiser shall be the sole appraiser and shall prepare an appraisal of the fair market value of the Premises, which shall be the "**Fair Market Purchase Price**" as long as an Appraisal Review recommends such appraisal for approval. If the Appraisal Review does not recommend such appraisal for approval, the Proposed Appraiser shall modify the initial appraisal to address the reasons and findings in the Appraisal Review for not recommending the initial appraisal, and the current fair market value determination in such modified appraisal shall be the Fair Market Purchase Price.

If Landlord timely delivers the Landlord's Appraiser's Selection Notice, the Proposed Appraiser and Landlord's Appraiser shall each make an independent determination of fair market value of the Premises. The appraisers may share and have access to objective information in preparing their appraisals, but will independently determine the appropriate assumptions to make based on the provisions of Section 22 of the Lease, this Section and each appraiser's own assessment of the market. Neither of the appraisers shall have access to the appraisal of the other

(except for the sharing of objective information contained in such appraisals) until both of the appraisals are submitted in accordance with the provisions of this Section. Neither party shall communicate with the appraiser appointed by the other party regarding the instructions contained in this Section before the appraisers complete their appraisals. If either appraiser has questions regarding the instructions in this Section or the interpretation of this Lease, such appraiser shall use his or her own professional judgment and shall make clear all assumptions upon which his or her professional conclusions are based, including any supplemental instructions or interpretive guidance received from the party appointing such appraiser. There shall not be any arbitration or adjudication of the instructions to the appraisers contained in this Section. Each appraiser shall complete, sign and submit its written appraisal setting forth the fair market value of the Premises to the Parties within 75 days after the appointment of the last of such appraisers and such appraisals shall be used to determine the fair market value of the Premises; provided, however, that if an Appraisal Review of the initial appraisal prepared for City does not recommend the initial appraisal for approval, such initial appraisal shall be modified to address the reasons and findings in the Appraisal Review for not recommending the initial appraisal for approval and such modified appraisal shall be used, together with the appraisal prepared for Landlord, to determine the purchase price for the Premises. If the higher appraised fair market value is not more than one hundred ten percent (110%) of the lower appraised fair market value, then the "**Fair Market Purchase Price**" shall be an average of such two (2) appraised values.

4. Third Appraiser. If the fair market value specified in the two appraisals differ by more than ten percent (10%) of the higher of the two, then first two (2) appraisers shall attempt to appoint a disinterested and independent third appraiser meeting the qualifications stated in Section 6 below within 10 days after the first two (2) appraisals have been submitted to the parties. Such appraiser shall consider the appraisals submitted by the parties as well as any other relevant written evidence which the parties may choose to submit. If a party chooses to submit any such evidence, it shall deliver a complete and accurate copy thereof to the other party at the same time it submits the same to the appraiser. Neither party shall conduct ex parte communications with the third appraiser regarding the subject matter of the appraisal.

If the first two (2) appraisers are unable to agree on the third appraiser, either appraiser, by giving ten (10) days' notice to the other appraiser, may file a petition with the American Arbitration Association ("**AAA**") solely for the purpose of selecting a third appraiser who meets the qualifications stated in this Section. If an appraiser suggests the name of a third appraiser to the AAA, the appraiser shall also submit a declaration by the proposed third appraiser ("**Declaration**") disclosing any work performed by such appraiser for either party, any entity related to either party, or their attorneys, principals, or officers, and any relationship between the third appraiser and either party that could reasonably be construed as a conflict of interest. The parties hereby waive any right to challenge the selection of the third appraiser, whether by the agreement of the first two arbitrators, or by the AAA, for any reason other than fraud, corruption or undue influence, and expressly waives any right to challenge the third appraiser based upon a conflict of interest by reason of work the third appraiser has performed for either party, any entity related to either party, or their respective attorneys, principals, or officers, and any relationship between the third appraiser and either party that could be reasonably construed as a conflict of interest unless the third appraiser fails to disclose such work to both parties in the Declaration. Each party shall bear one-half (1/2) of the cost of any fee charged by the AAA for appointing the third appraiser.

Within thirty (30) days after his or her appointment, the third appraiser shall conduct a hearing at which City and Landlord may each make supplemental oral and/or written presentations, with an opportunity for testimony by the first two (2) appraisers and questioning by the parties and the third appraiser. Within 10 days following the hearing, the third appraiser shall select the appraised fair market value determined by one or the other of the first two (2) appraisers that is the closer, in the opinion of the third appraiser, to the actual fair market value of the Premises. The determination of the third appraiser shall be limited solely to the issue of

deciding which of the appraisals of the two (2) appraisers is closest to the actual fair market value of the Premises. The third appraiser shall have no right to propose a middle ground or to modify either of the two (2) appraisals, or any provision of the Lease or the Purchase Agreement. The fair market value so determined shall be the "**Fair Market Purchase Price.**"

5. Fees and Expenses. SFMTA shall bear the fees, costs and expenses of the Proposed Appraiser, any experts and consultants used by such Proposed Appraiser, and any Appraisal Review. Landlord shall bear the fees, costs and expenses of Landlord's Appraiser and of any experts and consultants used by such Landlord's Appraiser. Landlord shall pay the cost of the third appraiser, if any, and City shall reimburse Landlord for one half the actual and reasonable cost of such third appraiser.

6. Qualifications. All appraisers specified above shall be competent, licensed, qualified by training and experience in the City of San Francisco, with at least 5 years of recent experience valuing similar commercial real estate development sites in the City of San Francisco. All appraisers preparing an appraisal for City under this Exhibit shall be a member in good standing of the Appraisal Institute (MAI), or, if the Appraisal Institute no longer exists, shall hold the senior professional designation awarded by the most prominent organization of appraisal professionals then awarding professional designations.

EXHIBIT F

FORM OF PURCHASE AGREEMENT FOR PREMISES

PURCHASE AND SALE AGREEMENT

by and between

YOSEMITE INVESTMENT, LLC and DLAI INVESTMENT, LLC
together as Seller

and

CITY AND COUNTY OF SAN FRANCISCO,
as Buyer

For the purchase and sale of

San Francisco, California

[DATE]

TABLE OF CONTENTS [to be updated]

	<u>Page</u>
<u>1. PURCHASE AND SALE</u>	1
<u>2. PURCHASE PRICE</u>	1
<u>2.1 Purchase Price</u>	1
<u>2.2 Payment</u>	2
<u>2.3 Funds</u>	2
<u>3. TITLE TO THE PROPERTY</u>	2
<u>3.1 Conveyance of Title to the Property</u>	2
<u>3.2 Title Insurance</u>	2
<u>3.3 Bill of Sale</u>	Error! Bookmark not defined.
<u>3.4 Assignment of Intangibles</u>	2
<u>4. CITY'S DUE DILIGENCE INVESTIGATIONS</u>	3
<u>5. ENTRY</u>	Error! Bookmark not defined.
<u>5.1 City's Conditions to Closing</u>	3
<u>5.2 Cooperation with City</u>	5
<u>6. ESCROW AND CLOSING</u>	5
<u>6.1 Opening of Escrow</u>	5
<u>6.2 Closing Date</u>	5
<u>6.3 Seller's Delivery of Documents</u>	6
<u>6.4 City's Delivery of Documents and Funds</u>	6
<u>6.5 Other Documents</u>	7
<u>7. EXPENSES AND TAXES</u>	7
<u>7.1 Apportionments</u>	7
<u>7.2 Closing Costs</u>	7
<u>7.3 Real Estate Taxes and Special Assessments</u>	7
<u>7.4 Post-Closing Reconciliation</u>	8
<u>7.5 Survival</u>	8
<u>8. REPRESENTATIONS AND WARRANTIES</u>	8
<u>8.1 Representations and Warranties of Seller</u>	8
<u>8.2 Indemnity</u>	10
<u>9. RISK OF LOSS AND POSSESSION</u>	11
<u>9.1 Risk of Loss</u>	11
<u>9.2 Insurance</u>	12

9.3	<u>Possession</u>	12
10.	<u>MAINTENANCE; CONSENT TO NEW CONTRACTS</u>	12
10.1	<u>Maintenance of the Property by Seller</u>	12
10.2	<u>City's Consent to New Contracts Affecting the Property; Termination of Existing Contracts</u>	13
11.	<u>GENERAL PROVISIONS</u>	13
11.1	<u>Notices</u>	13
11.2	<u>Brokers and Finders</u>	14
11.3	<u>Successors and Assigns</u>	14
11.4	<u>Amendments</u>	14
11.5	<u>Continuation and Survival of Representations and Warranties</u>	14
11.6	<u>Governing Law</u>	14
11.7	<u>Merger of Prior Agreements</u>	14
11.8	<u>Parties and Their Agents; Approvals</u>	15
11.9	<u>Interpretation of Agreement</u>	15
11.10	<u>Attorneys' Fees</u>	15
11.11	<u>Sunshine Ordinance</u>	15
11.12	<u>Conflicts of Interest</u>	16
11.13	<u>Notification of Limitations on Contributions</u>	16
11.14	<u>Non-Liability of City Officials, Employees and Agents</u>	16
11.15	<u>Counterparts</u>	16
11.16	<u>Effective Date</u>	17
11.17	<u>Severability</u>	17
11.18	<u>Cooperative Drafting</u>	17

LIST OF EXHIBITS

- EXHIBIT A – Real Property Description
- EXHIBIT B – Grant Deed
- EXHIBIT C – Assignment of Warranties and Guaranties and Other Intangible Property
- EXHIBIT D – Certificate of Transferor Other Than An Individual (FIRPTA Affidavit)

PURCHASE AND SALE AGREEMENT
(_____, San Francisco)

THIS AGREEMENT OF PURCHASE AND SALE AGREEMENT FOR REAL ESTATE (this "Agreement") dated for reference purposes only as of _____, 20__ is by and between YOSEMITE INVESTMENT, LLC, a California limited liability company, and DLAI INVESTMENT, LLC, a California limited liability company (together, "Seller"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), acting by and through the San Francisco Municipal Transportation Agency ("SFMTA").

IN CONSIDERATION of the respective agreements contained hereinbelow, and City's rights under that certain Industrial Lease between Seller and City dated as of _____, 2019, as may be amended (the "SFMTA Lease"), Seller and City agree as follows:

PURCHASE AND SALE

Seller agrees to sell and convey to City, and City agrees to purchase from Seller, subject to the terms, covenants and conditions hereinafter set forth, the following (collectively, the "Property"):

the real property consisting of _____ commercial condominiums in the City and County of San Francisco, commonly known as _____ and more particularly described in Exhibit A attached hereto (the "Units");

all improvements and fixtures located on or comprising the Units including, without limitation, (i) all buildings and structures, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Units and its improvements (including, but not limited to, heating and air conditioning systems and facilities used to provide any utility, refrigeration, ventilation, garbage disposal or other services), (collectively, the "Improvements");

any and all rights, privileges, and easements incidental or appurtenant to the Units or Improvements, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Units, as well as any and all development rights, air rights, water, water rights, riparian rights and water stock relating to the Units, and any and all easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Units or Improvements, and any and all of Seller's right, title and interest in and to all roads and alleys adjoining or servicing the Units or Improvements, and all rights to the building in, and land on, which the Units are located arising from ownership of the Units (collectively, the "Appurtenances"); and

any intangible personal property now or hereafter owned by Seller and used in the ownership, use or operation of the Units or Improvements, any contract rights or other agreements or rights relating to the ownership, use and operation of the Units, Improvements or any of the foregoing (collectively, the "Intangible Property").

PURCHASE PRICE

Purchase Price

The total purchase price for the Property is _____ Dollars (\$_____) (the "Purchase Price").

Payment

On the Closing Date (as defined in Section 6.2 [Closing Date]), City shall pay the Purchase Price, adjusted pursuant to the provisions of Article 7 [Expenses and Taxes], and reduced by any credits due City hereunder.

Seller acknowledges and agrees that if Seller fails at Closing to deliver to City the documents required under Sections 6.3(d) and 6.3(e) [Seller's Delivery of Documents], City may be required to withhold a portion of the Purchase Price pursuant to Section 1445 of the United States Internal Revenue Code of 1986, as amended (the "Federal Tax Code"), or Section 18662 of the California Revenue and Taxation Code (the "State Tax Code"). Any amount properly so withheld by City shall be deemed to have been paid by City as part of the Purchase Price, and Seller's obligation to consummate the transaction contemplated herein shall not be excused or otherwise affected thereby.

1.1 Funds

All payments made by any party hereto shall be in legal tender of the United States of America, paid by Controller's warrant or in cash or by wire transfer of immediately available funds to Title Company (as defined in Section 3.2), as escrow agent.

TITLE TO THE PROPERTY

Conveyance of Title to the Property

At the Closing Seller shall convey to City marketable and insurable fee simple title to the Units, the Improvements and the Appurtenances, by duly executed and acknowledged grant deed in the form attached hereto as Exhibit B (the "Deed"), subject to the Accepted Conditions of Title (as defined in Section 5.1(a)).

Title Insurance

Delivery of title in accordance with the preceding Section shall be evidenced by the commitment of _____ Title Insurance Company (the "Title Company") to issue to City an ALTA extended coverage owner's policy of title insurance (Form ALTA 2006) (the "Title Policy") in the amount of the Purchase Price insuring fee simple title to the Units, the Appurtenances and the Improvements in City, free of the liens of any and all deeds of trust, mortgages, assignments of rents, financing statements, rights of tenants or other occupants, and all other exceptions, liens and encumbrances except solely for the Accepted Conditions of Title. The Title Policy shall provide full coverage against mechanics' and materialmen's liens arising out of the construction, repair or alteration of any of the Property (unless arising from actions taken by the SFMTA pursuant to the SFMTA Lease), and shall contain an affirmative endorsement that there are no violations of restrictive covenants, if any, affecting the Property and such special endorsements as City may reasonably request. The Title Policy shall also provide for reinsurance with direct access with such companies and in such amounts as City may reasonably request.

Assignment of Intangibles

At the Closing Seller shall transfer title to the Intangible Property by such instruments as City may reasonably determine necessary, including, without limitation, an assignment of Intangible Property in the form attached hereto as Exhibit C (the "Assignment of Intangible Property").

CITY'S DUE DILIGENCE INVESTIGATIONS

City was given a full opportunity to investigate the Property, either independently or through agents of City's own choosing, pursuant to the SFMTA Lease. City defends, indemnifies and holds harmless Seller, and its employees, officers, members, agents, assigns and successors, against any loss, damage or liability (including without limitation, reasonable attorney's fees and costs and any mechanics' or materialmen's liens) arising out of or caused by an entry onto the Property by City, its agents, employees or contractors in the course of performing such investigations. City's obligations hereunder shall expressly survive the termination of this Agreement or Closing thereof.

CITY CLOSING CONDITIONS

City's Conditions to Closing

The following are conditions precedent to City's obligation to purchase the Property (collectively, "Conditions Precedent"):

City shall have reviewed and approved title to the Property, as follows:

Seller shall have timely delivered to City the preliminary report on the Real Property as described in the SFMTA Lease, issued by Title Company, and copies of any existing or proposed easements, covenants, restrictions, agreements or other documents that affect the Property, and are not disclosed by the Preliminary Report; and

City shall advise Seller, prior to the end of the Due Diligence Period (as defined in the SFMTA Lease), what exceptions to title, if any, City is willing to accept (the "Accepted Conditions of Title"). City's failure to so advise Seller within such period shall be deemed disapproval of title. Seller shall have ten (10) days after receipt of City's notice of any objections to title to give City: (A) evidence satisfactory to City of the removal of all objectionable exceptions from title or that such exceptions will be removed or cured on or before the Closing; or (B) notice that Seller elects not to cause such exceptions to be removed. If Seller gives notice under clause (B) above, City shall have ten (10) business days to elect to proceed with the purchase or terminate this Agreement. If City shall fail to give Seller notice of its election within such ten (10) days, City shall be deemed to have elected to terminate this Agreement. If Seller gives notice pursuant to the clause (A) above and fails to remove any such objectionable exceptions from title prior to the Closing Date, and City is unwilling to take title subject thereto, Seller shall be in default hereunder and City shall have the rights and remedies provided herein or at law or in equity.

City's review and approval, within the Due Diligence Period, of the physical and environmental conditions of the Property, including, without limitation, structural, mechanical, electrical and other physical conditions of the Property. Such review may include an examination for the presence or absence of any Hazardous Material (as defined in Section 8.1(l)), except that no drilling, borings or invasive testing shall be conducted on the Property. If any of City's investigations reveal any contamination of the Property with any Hazardous Material, then City may, at its sole election, by written notice to Seller on or before the end of the Due Diligence Period: (i) request that Seller, at Seller's sole cost, complete before the Closing through duly licensed contractors approved by City, which consent shall not be unreasonably withheld, conditioned or delayed, such activities as are necessary to cleanup, remove, contain, treat, stabilize, monitor or otherwise control Hazardous Material located on or under the Property in compliance with all governmental laws, rules, regulations and requirements and in accordance with a written remediation plan approved by City in its sole discretion and by all regulatory agencies with jurisdiction; or (ii) terminate this Agreement. If City notifies Seller of its election to request that Seller remediate the contamination as provided in clause (i) above, Seller shall have fifteen (15) days after receipt of City's notice, to elect, at Seller's sole option, to provide

City with: (iii) Seller's election to remediate the contamination before the Closing pursuant to clause (i) above; or (iv) Seller's election to terminate this Agreement. Seller's failure to provide notice to City within such fifteen (15)-day period shall be deemed notice of termination under clause (iv) above. If Seller chooses to remediate the contamination as provided in clause (iii) above the Closing may be extended for a reasonable time to enable Seller to complete such remediation, provided any such extension shall be subject to City's prior written approval, which City may give or withhold in its sole discretion. Seller shall indemnify City for any claims relating to the remediation of such Hazardous Material pursuant to a separate written agreement in form and substance reasonably satisfactory to City.

City's review and approval, within the Due Diligence Period, of the compliance of the Property with all applicable laws, regulations, permits and approvals.

City's review and approval, within the Due Diligence Period, of the documents delivered to the SFMTA pursuant to the SFMTA Lease and the following documents, all to the extent such documents exist and are either in the possession or control of Seller or any affiliate of Seller: recent inspection reports prepared by or for Seller; certificates of occupancy; presently effective warranties or guaranties received by Seller from any contractors, subcontractors, suppliers or materialmen in connection with any construction, repair or alteration of the Improvements; and any other contracts or documents of material significance to the Property (collectively, the "Documents").

Seller shall not be in default in the performance of any covenant or agreement to be performed by Seller under this Agreement, and all of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date. At the Closing Seller shall deliver to City a certificate certifying that each of Seller's representations and warranties contained in Section 8.1 [Representations and Warranties of Seller] below are true and correct as of the Closing Date.

The physical condition of the Property shall be substantially the same on the Closing Date as on the date of City's execution of this Agreement, reasonable wear and tear and loss by casualty or changes resulting from the SFMTA's activities at the Property pursuant to the SFMTA Lease excepted (subject to the provisions of Section 9.1 [Risk of Loss]), and, as of the Closing Date, there shall be no litigation or administrative agency or other governmental proceeding, pending or threatened, which after the Closing would materially adversely affect the value of the Property or the ability of City to operate the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the change, redesignation or other modification of the zoning classification of, or of any building or environmental code requirements applicable to, any of the Property.

Title Company shall be committed at the Closing to issue the Title Policy to City as provided in Section 3.2 [Title Insurance].

The transactions contemplated herein shall have been approved by the SFMTA's Board of Directors, acting in its sole discretion, on or before _____.

The City's Mayor and the Board of Supervisors, in the respective sole discretion of each, shall have enacted legislation approving, adopting and authorizing this Agreement and the transactions on or before _____.

Seller shall have delivered the items described in Section 6.3 below [Seller's Delivery of Documents] on or before the Closing.

Title Company shall have agreed to be the real estate reporting person for the Closing in compliance with the Reporting Requirements (as defined in Section 6.6 below).

The Conditions Precedent contained in the foregoing subsections (a) through (j) are solely for the benefit of City. If any Condition Precedent is not satisfied, City shall have the right in its sole discretion either to waive in writing the Condition Precedent in question and proceed with the purchase or, in the alternative, terminate this Agreement, provided that the Conditions Precedent described in items (h) and (i) above may not be waived. The waiver of any Condition Precedent shall not relieve Seller of any liability or obligation with respect to any representation, warranty, covenant or agreement of Seller, except as otherwise expressly provided in Section 8.3. If City shall not have approved or waived in writing all of the Conditions Precedent in items (a)-(g) and (j) by the end of the Due Diligence Period, then this Agreement shall automatically terminate. In addition, the Closing Date may be extended, upon the mutual agreement of Seller and City, for a reasonable period of time required by City to allow such Conditions Precedent to be satisfied, subject to City's further right to terminate this Agreement upon the expiration of the period of any such extension if all such Conditions Precedent have not been satisfied.

If the sale of the Property is not consummated because of a default under this Agreement on the part of Seller or a Condition Precedent cannot be fulfilled because Seller frustrated such fulfillment by some affirmative act or negligent omission, City may, at its sole election, either (1) terminate this Agreement by delivery of notice of termination to Seller, whereupon Seller shall pay to City any title, escrow, legal and inspection fees incurred by City and any other reasonable expenses incurred by City in connection with the performance of its due diligence review of the Property up to \$50,000.00, on the condition that City provides reasonable documents to support City's payment of such expenses including without limitation, invoices or bills within five days (5) of notice of termination, and neither party shall have any further rights or obligations hereunder, or (2) continue this Agreement pending City's action for specific performance and/or damages hereunder, including, without limitation, City's costs and expenses incurred hereunder.

Cooperation with City

At no expense to Seller, Seller shall cooperate with City and do all acts as may be reasonably requested by City with regard to the fulfillment of any Conditions Precedent including, without limitation, execution of any documents, applications or permits, but Seller's representations and warranties to City shall not be affected or released by City's waiver or fulfillment of any Condition Precedent. Seller hereby irrevocably authorizes City and its Agents to make all inquiries with and applications to any person or entity, including, without limitation, any regulatory authority with jurisdiction as City may reasonably require to complete its due diligence investigations.

ESCROW AND CLOSING

Opening of Escrow

On or before the Effective Date (as defined in Article 11 [General Provisions]), the parties shall open escrow by depositing an executed counterpart of this Agreement with Title Company, and this Agreement shall serve as instructions to Title Company as the escrow holder for consummation of the purchase and sale contemplated hereby. Seller and City agree to execute such additional or supplementary instructions as may be appropriate to enable the escrow holder to comply with the terms of this Agreement and close the transaction; provided, however, that in the event of any conflict between the provisions of this Agreement and any additional supplementary instructions, the terms of this Agreement shall control.

Closing Date

The consummation of the purchase and sale contemplated hereby (the "Closing") shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall

be made at the offices of Title Company located at _____, San Francisco, California _____, on or before the ninetieth (90th) day immediately following the effective date of legislation adopted by the City's Board of Supervisors approving City's execution of this Agreement or on such earlier date as City and Seller may mutually agree (the "Closing Date"), subject to the provisions of Article 5 [Conditions Precedent]. The Closing Date may not be extended without the prior written approval of both Seller and City, except as otherwise expressly provided in this Agreement. If the Closing does not occur on or before the Closing Date, Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the depositor thereof items which may have been deposited hereunder. Any such return shall not, however, limit the provisions hereof or otherwise relieve either party hereto of any liability it may have for its wrongful failure to close.

Seller's Delivery of Documents

At or before the Closing, Seller shall deliver to City, through escrow, the following:

a duly executed and acknowledged Deed;

four (4) duly executed counterparts of the Assignment of Intangible Property;

originals of the Documents not previously delivered to City;

a properly executed affidavit pursuant to Section 1445(b)(2) of the Federal Tax Code in the form attached hereto as Exhibit D, and on which City is entitled to rely, that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code;

a properly executed California Franchise Tax Board Form 590 certifying that Seller is a California resident if Seller is an individual or Seller has a permanent place of business in California or is qualified to do business in California if Seller is a corporation or other evidence satisfactory to City that Seller is exempt from the withholding requirements of Section 18662 of the State Tax Code;

such resolutions, authorizations, or other company documents or agreements relating to Seller and its members as City or the Title Company may reasonably require to demonstrate the authority of Seller to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individuals executing any documents or other instruments on behalf of Seller to act for and bind Seller;

closing statement in form and content satisfactory to City and Seller; and

the duly executed certificate regarding the continued accuracy of Seller's representations and warranties as required by Section 5.1(e) hereof.

City's Delivery of Documents and Funds

At or before the Closing, City shall deliver to Seller through escrow the following:

an acceptance of the Deed executed by City's Director of Property and the SFMTA's Director of Transportation;

four (4) duly executed counterparts of the Assignment of Intangible Property;

a closing statement in form and content satisfactory to City and Seller; and

the Purchase Price, as provided in Article 2 hereof.

Other Documents

Seller and City shall each timely deposit such other instruments as are reasonably required by Title Company as escrow holder or otherwise required to close the escrow and consummate the purchase of the Property in accordance with the terms hereof.

Title Company as Real Estate Reporting Person

Section 6045(e) of the United States Internal Revenue Code of 1986 and the regulations promulgated thereunder (collectively, the "Reporting Requirements") require that certain information be made to the United States Internal Revenue Service, and a statement to be furnished to Seller, in connection with the Closing. Seller and City agree that if the Closing occurs, Title Company will be the party responsible for closing the transaction contemplated in this Agreement and is hereby designated as the real estate reporting person (as defined in the Reporting Requirements) for such transaction. Title Company shall perform all duties required of the real estate reporting person for the Closing under the Reporting Requirements, and Seller and City shall each timely furnish Title Company with any information reasonably requested by Title Company and necessary for the performance of its duties under the Reporting Requirements with respect to the Closing.

EXPENSES AND TAXES

Apportionments

Seller will be responsible for the cost of all utilities used prior to the Closing Date, except to the extent that the SFMTA is responsible for the payment of any such utilities pursuant to the SFMTA Lease. All utility deposits paid by Seller shall remain the property of Seller and City shall reasonably cooperate to cause such deposits to be returned to Seller to the extent Seller is entitled thereto.

Amounts payable under any contracts assumed pursuant hereto, annual or periodic permit or inspection fees (calculated on the basis of the period covered), and liability for other normal Property operation and maintenance expenses and other recurring costs shall be apportioned as of the Closing Date.

Closing Costs

City shall pay the cost of the Survey, if any, the premium for the Title Policy and the cost of the endorsements thereto, and escrow and recording fees. Seller shall be responsible for all costs incurred in connection with the prepayment or satisfaction of any loan, bond or other indebtedness secured by the Property including, without limitation, any prepayment fees, penalties or charges. Any other costs and charges of the escrow for the sale not otherwise provided for in this Section or elsewhere in this Agreement shall be allocated in accordance with the closing customs for San Francisco County, as determined by Title Company.

Real Estate Taxes and Special Assessments

General real estate taxes payable for the tax year prior to year of Closing and all prior years shall be paid by Seller at or before the Closing. General real estate taxes payable for the tax year of the Closing shall be prorated through escrow by Seller and City as of the Closing Date. At or before the Closing, Seller shall pay the full amount of any special assessments against the Property, including, without limitation, interest payable thereon, applicable to the period prior the Closing Date.

Post-Closing Reconciliation

If any of the foregoing prorations cannot be calculated accurately on the Closing Date, then they shall be calculated as soon after the Closing Date as feasible. Either party owing the other party a sum of money based on such subsequent prorations shall promptly pay such sum to the other party.

Survival

The provisions of this Section shall survive the Closing.

REPRESENTATIONS AND WARRANTIES

Representations and Warranties of Seller

Seller represents and warrants to and covenants with City as follows:

To the best of Seller's knowledge, Seller has not received any written notice i) that there are any material physical or mechanical defects of the Property, or ii) of any violations of any laws, rules or regulations applicable to the Property, including, without limitation, any earthquake, life safety and handicap laws (including, but not limited to, the Americans with Disabilities Act).

To the best of Seller's knowledge, Seller has not received any written notice of a violation of any Applicable Law with respect to the Property that has not been cured or dismissed, and to the best of Seller's knowledge, the Property is in compliance with Applicable Laws. "Applicable Laws" means all statutes, laws, common law, rules, regulations, ordinances, codes or other legal requirements of any governmental authority and similar quasi-governmental agencies or entities, and any judgment, injunction, order, directive, decree or other judicial or regulatory requirement of any court or governmental authority of competent jurisdiction affecting or relating to the Seller or Property.

To the best of Seller's knowledge and without any independent investigation, the Documents furnished to City are and at the time of Closing will be true and complete copies of such documents.

To the best of Seller's knowledge and without any independent investigation, Seller is not aware of any document or instrument furnished or to be furnished by the Seller to the City in connection with this Agreement contains any untrue statement of material fact or omits a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

Seller does not have knowledge of any condemnation, either instituted or planned to be instituted by any governmental or quasi-governmental agency other than City, which could detrimentally affect the use, operation or value of the Property.

To Seller's knowledge, all water, sewer, gas, electric, telephone, and drainage facilities and all other utilities required by law or by the normal use and operation of the Property are and at the time of Closing will be installed to the property lines of the Property and are and at the time of Closing will be adequate to service the Property.

To the best of Seller's knowledge, there are (i) no easements or rights of way which have been acquired by prescription or which are otherwise not of record with respect to the Property, (ii) no easements, rights of way, permits, licenses or other forms of agreement which afford third parties the right to traverse any portion of the Property to gain access to other real property which are not of record, and (iii) no disputes with regard to the location of any

fence or other monument of the Property's boundary nor any claims or actions involving the location of any fence or boundary.

There is no litigation pending or, to the best of Seller's knowledge, threatened, against Seller on any basis therefor that arises out of the ownership of the Property or that might detrimentally affect the use or operation of the Property for its intended purpose or the value of the Property or the ability of Seller to perform its obligations under this Agreement.

Seller is the legal and equitable owner of the Property, with full right to convey the same, and without limiting the generality of the foregoing, Seller has not granted any option or right of first refusal or first opportunity to any third party to acquire any interest in any of the Property.

Seller is comprised of two (2) limited liability companies, each duly organized, validly existing, and in good standing under the laws of the State of California; this Agreement and all documents executed by Seller which are to be delivered to City at the Closing are, or at the Closing will be, duly authorized, executed and delivered by Seller, are, or at the Closing will be, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, are, and at the Closing will be, sufficient to convey good and marketable title (if they purport to do so), and do not, and at the Closing will not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

Seller represents and warrants to City that it has not been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. If Seller has been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension, debarment, discipline or prohibition may result in the termination or suspension of this Agreement.

To the best of Seller's knowledge and without any independent investigation, Seller knows of no facts that would prevent City from using and operating the Property after Closing in the normal manner in which it is intended.

Seller hereby represents and warrants to and covenants with City that it has not received any notice that any of the following statements is not true and correct or will not be true and correct as of the Closing Date: (i) the Property is not in violation of any Environmental Laws; (ii) the Property is not now, nor to the best of Seller's knowledge has it ever been, used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material except as disclosed in any inspection reports, if applicable; (iii) there has been no release and there is no threatened release of any Hazardous Material in, on, under or about the Property; (iv) there have not been and there are not now any underground storage tanks, septic tanks or wells or any aboveground storage tanks at any time used to store Hazardous Material located in, on or under the Property, or if there have been or are any such tanks or wells located on the Property, their location, type, age and content has been specifically identified in Seller's Environmental Disclosure, they have been properly registered with all appropriate authorities, they are in full compliance with all applicable statutes, ordinances and regulations, and they have not resulted in the release or threatened release of any Hazardous Material into the environment; (v) the Property does not consist of any landfill or of any building materials that contain Hazardous Material; and (vi) the Property is not subject to any claim by any governmental regulatory agency or third party related to the release or threatened release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in, on, under or about the

Property, or the migration of Hazardous Material from or to other property. As used herein, the following terms shall have the meanings below:

"Environmental Laws" shall mean any present or future federal, state or local laws, ordinances, regulations or policies relating to Hazardous Material (including, without limitation, their use, handling, transportation, production, disposal, discharge or storage) or to health and safety, industrial hygiene or environmental conditions in, on, under or about the Property, including, without limitation, soil, air and groundwater conditions.

"Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Improvements or are naturally occurring substances on or about the Property; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids; and "source," "special nuclear" and "by-product" material as defined in the Atomic Energy Act of 1985, 42 U.S.C. Section 3011 et seq.

"Release" or "threatened release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any of the improvements, or in, on, under or about the Property. Release shall include, without limitation, "release" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601).

Except for the SFMTA Lease, there are now, and at the time of Closing will be, no leases or other occupancy agreements affecting any of the Property. At the time of Closing there will be no outstanding written or oral contracts made by Seller for any of the Improvements that have not been fully paid for and Seller shall cause to be discharged all mechanics' or materialmen's liens arising from any labor or materials furnished to the Property prior to the time of Closing. To the best of Seller's knowledge, there are no Property obligations entered into by Seller prior to Closing which will be binding upon City after Closing.

Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code.

Indemnity

Seller, on behalf of itself and its successors and assigns, hereby agrees to indemnify, defend and hold harmless City, its Agents and their respective successors and assigns, from and against any and all liabilities, claims, demands, damages, liens, costs, penalties, losses and expenses, including, without limitation, reasonable attorneys' and consultants' fees, resulting from any misrepresentation or breach of warranty or breach of covenant made by Seller in this Agreement or in any document, certificate, or exhibit given or delivered to City pursuant to or in connection with this Agreement. The foregoing indemnity includes, without limitation, costs incurred in connection with the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, cleanup, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material. up to \$50,000.00 with documentation reasonably acceptable to Seller detailing such expenditures incurred by the City. The indemnification provisions of this Section shall survive beyond the Closing, or, if title is not transferred pursuant to this Agreement, beyond any termination of this Agreement.

Limitation On Seller's Representations And Warranties

City acknowledges and agrees that it has been in possession of the Property since June 15, 2011, pursuant to the SFMTA Lease, and except as otherwise expressly set forth in the SFMTA Lease, this Agreement, and any document delivered by Seller to escrow pursuant to Section 6.3 (each, a "Closing Document"), (i) the purchase of the Property shall be on an "AS IS", "WHERE IS", "WITH ALL FAULTS BASIS", subject to reasonable wear and tear from the Effective Date until Closing, except for Seller's breach of any representation and/or warranty or fraud, and (ii) neither Seller nor any of its agents or representatives have made any representation, or warranty whatsoever with respect to the Property or any portion thereof. City acknowledges and agrees that it is not relying on any statement made or information provided to it by Seller or any of its agents or representatives, except for the representations and warranties expressly made by Seller in the SFMTA Lease, this Agreement, or in any Closing Document. Seller's representations and warranties set forth in Section 8.1(a)-(h) and (j)-(o) shall survive until nine (9) months after the Closing Date. City shall provide written notification to Seller of any breach prior to the expiration of such nine (9) month period, and no claim based upon a breach or alleged breach of any of these representations or warranties shall be commenced later than the first anniversary of the Closing Date. For purposes of this Agreement and each of the documents executed in connection herewith, "**Seller's Knowledge**" shall specifically mean and be limited to the actual knowledge, as distinguished from implied, imputed or constructive knowledge.

Effect of City's Knowledge

If City has knowledge prior to Closing of a breach of any representation or warranty made by Seller in this Agreement and City nevertheless purchases the Property pursuant to this Agreement, such representation or warranty by Seller with respect to such matter shall be deemed to be modified to reflect such City's knowledge. "Knowledge" means, with respect to City, (i) the actual knowledge of _____ (the "**Senior Manager**") [*add name of SFMTA senior real estate manager at the time this agreement is signed*], (ii) any matter disclosed in any documents or materials provided by Seller to the SFMTA prior to Closing, and (iii) any matter disclosed by Property investigations or inspections conducted by City pursuant to this Agreement during the Due Diligence Period.

RISK OF LOSS AND POSSESSION

Risk of Loss

If any of the Property is damaged or destroyed prior to the Closing Date, or if condemnation proceedings are commenced against any of the Property, then the rights and obligations of Seller and City hereunder shall be as follows:

If such damage or destruction is fully covered by Seller's insurance except for the deductible amount thereunder, and the insurer agrees to timely pay for the entire cost of such repair, and such damage or destruction would cost less than Seven Hundred Fifty Dollars (\$750,000) (the "Threshold Damage Amount") to repair or restore, then this Agreement shall remain in full force and effect and City shall acquire the Property upon the terms and conditions set forth herein. In such event, City shall receive a credit against the Purchase Price equal to such deductible amount, and Seller shall assign to City at Closing all of Seller's right, title and interest in and to all proceeds of insurance on account of such damage or destruction pursuant to an instrument satisfactory to City.

If such damage or destruction is not fully covered by Seller's insurance, other than the deductible amount, and would cost less than the Threshold Damage Amount to repair or restore, then the transaction contemplated by this Agreement shall be consummated with City receiving a credit against the Purchase Price at the Closing in an amount reasonably determined

by Seller and City (after consultation with unaffiliated experts) to be the cost of repairing such damage or destruction.

If the cost of such damage or destruction would equal or exceed the Threshold Damage Amount, or if condemnation proceedings are commenced against any of the Property, then, City shall have the right, at its election, either to terminate this Agreement in its entirety, or only as to that portion of the Property damaged or destroyed or subject to condemnation proceedings (in which case there shall be an equitable adjustment to the Purchase Price), or to not terminate this Agreement and purchase the Property (or the portion not damaged or affected by condemnation, as the case may be). City shall have thirty (30) days after Seller notifies City that an event described in this Subsection (c) has occurred to make such election by delivery to Seller of an election notice. City's failure to deliver such notice within such thirty (30)-day period shall be deemed City's election to terminate this Agreement in its entirety. If this Agreement is terminated in its entirety or in part pursuant to this Subsection (c) by City's delivery of notice of termination to Seller, then City and Seller shall each be released from all obligations hereunder pertaining to that portion of the Property affected by such termination. If City elects not to terminate this Agreement, Seller shall notify City of Seller's intention to repair such damage or destruction, in which case this Agreement shall remain in full force and effect, or notify City of Seller's intention to give City a credit against the Purchase Price at the Closing in the amount reasonably determined by City and Seller (after consultation with unaffiliated experts) to be the cost of repairing such damage or destruction and, in the event of a result of such condemnation proceeding, the value of any Property taken as a result of such proceeding, in which case this Agreement shall otherwise remain in full force and effect, and Seller shall be entitled to any proceeds of insurance or condemnation awards. Any repairs elected to be made by Seller pursuant to this Subsection shall be made within one hundred eighty (180) days following such damage or destruction and the Closing shall be extended until the repairs are substantially completed. As used in this Section, the cost to repair or restore shall include the cost of lost rental revenue, including additional rent and base rent.

Insurance

Through the Closing Date, Seller shall maintain or cause to be maintained, at Seller's sole cost and expense, a policy or policies of property insurance in amounts equal to the full replacement value of the Improvements, insuring against all insurable risks, including, without limitation, fire, vandalism, malicious mischief, lightning, windstorm, water, and other perils customarily covered by casualty insurance and the costs of demolition and debris removal, and with a deductible that is no more than Ten Thousand Dollars (\$10,000). Seller shall furnish City with evidence of such insurance upon request by City.

Possession

Possession of the Property shall be delivered to City on the Closing Date.

MAINTENANCE; CONSENT TO NEW CONTRACTS

Maintenance of the Property by Seller

Between the date of Seller's execution of this Agreement and the Closing, Seller shall maintain the Property in good order, condition and repair, reasonable wear and tear excepted, and shall make all repairs, maintenance and replacements of the Improvements and otherwise operate the Property in the same manner as before the making of this Agreement, as if Seller were retaining the Property.

City's Consent to New Contracts Affecting the Property; Termination of Existing Contracts

After the Effective Date, except for the SFMTA Lease, Seller shall not enter into any lease or contract, or any amendment thereof, without in each instance obtaining City's prior written consent thereto, except for leases or contracts that can be terminated with thirty (30) days' written notice. City agrees that it shall not unreasonably withhold, condition or delay any such consent. Seller shall terminate prior to the Closing, at no cost or expense to City, any and all management agreements affecting the Property.

GENERAL PROVISIONS

Notices

Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, against receipt, (ii) one (1) day after being deposited with a reliable overnight courier service, or (iii) two (2) days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

If to City:

San Francisco Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: _____, Director of Property
Facsimile No.: (415) 552-9216

SFMTA Real Estate Section
1 South Van Ness Avenue, 8th Floor
San Francisco, California 94103
Attn: _____, Senior Manager – Strategic
Real Estate
Facsimile No.: (415) _____

with copy to:

Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attn: Carol Wong
Facsimile No.: (415) 554-4755

If to Seller:

David Lai
220 South Linden Avenue
South San Francisco, CA 94080
Facsimile No.: (650) 588-3388

with copy to:

Irene Y. Fujii
Finkelstein Bender & Fujii LLP
1528 S. El Camino Real, Ste. 306
San Mateo, CA 94402
Facsimile No.: (650) 312-1803

or to such other address as either party may from time to time specify in writing to the other upon five (5) days prior written notice in the manner provided above. For convenience of the parties, copies of notices may also be given by telefacsimile, to the telephone number listed above, or such other numbers as may be provided from time to time. However, neither party

may give official or binding notice by facsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile copy of the notice.

Brokers and Finders

Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the purchase and sale contemplated herein. If any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his or her claim shall be responsible for such commission or fee and shall indemnify and hold harmless the other party from all claims, costs, and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the indemnified party in defending against the same. The provisions of this Section shall survive the Closing.

Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

Amendments

Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by City and Seller.

Continuation and Survival of Representations and Warranties

All representations and warranties by the respective parties contained herein or made in writing pursuant to this Agreement are intended to be, and shall remain, true and correct as of the Closing, shall be deemed to be material, and, together with all conditions, covenants and indemnities made by the respective parties contained herein or made in writing pursuant to this Agreement (except as otherwise expressly limited or expanded by the terms of this Agreement), shall survive the execution and delivery of this Agreement and the Closing, or, to the extent the context requires, beyond any termination of this Agreement. All statements contained in any certificate or other instrument delivered at any time by or on behalf of Seller in conjunction with the transaction contemplated hereby shall constitute representations and warranties hereunder.

Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Merger of Prior Agreements

The parties intend that this Agreement (including all of the attached exhibits and schedules, which are incorporated into this Agreement by reference) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. The parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

Parties and Their Agents; Approvals

The term "Seller" as used herein shall include the plural as well as the singular. If there is more than one (1) Seller, then the obligations under this Agreement imposed on Seller shall be joint and several. As used herein, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors and representatives of such party. All approvals, consents or other determinations permitted or required by City hereunder shall be made by or through City's Director of Property unless otherwise provided herein, subject to applicable law.

Interpretation of Agreement

The article, section and other headings of this Agreement and the table of contents are for convenience of reference only and shall not affect the meaning or interpretation of any provision contained herein. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa, and each gender reference shall be deemed to include the other and the neuter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

Attorneys' Fees

If either party hereto fails to perform any of its obligations under this Agreement or a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the non-prevailing party in such dispute, as the case may be, shall pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder. For purposes of this Agreement, reasonable attorneys' fees of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" shall also include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

Sunshine Ordinance

Seller understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov. Code Section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City hereunder public records subject to public disclosure. Seller hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

Conflicts of Interest

Through its execution of this Agreement, Seller acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provision, and agrees that if Seller becomes aware of any such fact during the term of this Agreement, Seller shall immediately notify the City.

Notification of Limitations on Contributions

For the purposes of this Section, a "**City Contractor**" is a party that contracts with, or seeks to contract with, the City for the sale or leasing of any land or building to or from the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves. Through its execution of this Lease, Seller acknowledges it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits a City Contractor from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for that contract or twelve (12) months after the date that contract is approved. Seller acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Seller further acknowledges that (a) the prohibition on contributions applies to (i) a City Contractor, each member of its board of directors, its chief executive officer, chief financial officer and chief operating officer, any person with an ownership interest of more than ten percent (10%) in the City Contractor, any subcontractor listed in the contract, and any committee that is sponsored or controlled by the City Contractor, and (b) within thirty (30) days of the submission of a proposal for the contract with a City Contractor, the City department seeking to enter into the contract must notify the Ethics Commission of the parties and any subcontractor to the contract. Additionally, Seller certifies it has informed each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 by the time it submitted a proposal for the contract to the City, and has provided the names of the persons required to be informed to the City department seeking to enter into that contract within thirty (30) days of submitting its contract proposal to the City department receiving that submittal, and acknowledges the City department receiving that submittal was required to notify the Ethics Commission of those persons.

Non-Liability of City Officials, Employees and Agents

Notwithstanding anything to the contrary in this Agreement, no elective or appointive board, commission, member, officer, employee or agent of City shall be personally liable to Seller, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Seller, its successors and assigns, or for any obligation of City under this Agreement.

Counterparts

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

Effective Date

As used herein, the term "Effective Date" shall mean the date on which the City's Board of Supervisors and Mayor enact legislation approving and authorizing this Agreement and the transactions contemplated hereby, and the execution of this Agreement by both parties.

Severability

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law, except to the extent that enforcement of this Agreement without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Agreement.

Cooperative Drafting

This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, SELLER ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL APPROPRIATE LEGISLATION OF CITY'S BOARD OF SUPERVISORS SHALL HAVE BEEN DULY ENACTED APPROVING THIS AGREEMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH LEGISLATION, AND THIS AGREEMENT SHALL BE NULL AND VOID IF CITY'S BOARD OF SUPERVISORS AND MAYOR DO NOT APPROVE THIS AGREEMENT, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH LEGISLATION WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

[SIGNATURES ON FOLLOWING PAGE]

The parties have duly executed this Agreement as of the respective dates written below.

SELLER:

YOSEMITE INVESTMENT, LLC, a California limited liability company

By: _____
David Lai, Manager

Date: _____

DLAI INVESTMENT, LLC, a California limited liability company

By: _____
David Lai, Manager

Date: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through the
San Francisco Municipal Transportation Agency

By: _____
[]
Director of Transportation

Date: _____

San Francisco Municipal Transportation
Agency
Board of Directors

Resolution No: _____

Adopted: _____

Attest:
Secretary, SFMTA Board of Director

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong
Deputy City Attorney

EXHIBIT A

REAL PROPERTY DESCRIPTION

All that certain real property located in the County of San Francisco, State of California, described as follows:

EXHIBIT B

GRANT DEED

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

San Francisco Municipal Transportation Agency
Real Estate Section
1 South Van Ness Avenue, 8th Floor
San Francisco, California 94103
Attn: Senior Manager – Strategic Real Estate

with a copy to:

Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

The undersigned hereby declares this instrument to be
exempt from Recording Fees (CA Govt. Code §27383)
and Documentary Transfer Tax (CA Rev. & Tax Code
§11922 and S.F. Bus. & Tax Reg. Code §1105)

(Space above this line reserved for Recorder's use only)

GRANT DEED

(Assessor's Parcel No. _____)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, YOSEMITE INVESTMENT, LLC, a California limited liability company, and DLAI INVESTMENT, LLC, a California limited liability company (together, "Grantor"), hereby grant to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the real property located in the City and County of San Francisco, State of California, described on Exhibit A attached hereto and made a part hereof (the "Property").

TOGETHER WITH any and all rights, privileges and easements incidental or appurtenant to the Property, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Property, as well as any and all development rights, air rights, water, water rights, riparian rights and water stock relating to the Property, and any and all easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Property and all of Grantor's right, title and interest in and to any and all roads and alleys adjoining or servicing the Property.

[SIGNATURES ON FOLLOWING PAGE]

GRANTOR:

YOSEMITE INVESTMENT, LLC, a California
limited liability company

By: _____
David Lai, Manager

Date: _____

DLAI INVESTMENT, LLC, a California limited
liability company

By: _____
David Lai, Manager

Date: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of San Francisco)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Grant Deed to the City and County of San Francisco, a municipal corporation, is hereby accepted pursuant to Board of Supervisors' _____ No. _____, approved _____, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

By: _____
[_____]
Director of Transportation, SFMTA

Dated: _____

By: _____
[_____]
Director of Property

EXHIBIT C

**ASSIGNMENT OF
WARRANTIES AND GUARANTIES
AND OTHER INTANGIBLE PROPERTY**

THIS ASSIGNMENT is made and entered into as of this ____ day of _____, 20____, by and between _____, a _____ ("Assignor"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Assignee").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, effective as of the Effective Date (as defined below), Assignor hereby assigns and transfers to Assignee all of Assignor's right, title, claim and interest in and under:

A. all warranties and guaranties made by or received from any third party with respect to any building, building component, structure, system, fixture, machinery, equipment, or material situated on, contained in any building or other improvement situated on, or comprising a part of any building or other improvement situated on, any part of that certain real property described in Exhibit A attached hereto including, without limitation, those warranties and guaranties listed in Schedule 1 attached hereto (collectively, "Warranties");

B. any other Intangible Property (as defined in that certain Agreement of Purchase and Sale of Real Estate dated as of _____, 20____, between Assignor and Assignee (or Assignee's predecessor in interest) (the "Purchase Agreement").

ASSIGNOR AND ASSIGNEE FURTHER HEREBY AGREE AND COVENANT AS FOLLOWS:

1. Assignor hereby agrees to indemnify Assignee against and hold Assignee harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees), originating prior to the Effective Date (as defined below) and arising out of the owner's obligations under the Service Contracts.

2. Except as otherwise set forth in the Purchase Agreement, effective as of the Effective Date (as defined below), Assignee hereby assumes all of the owner's obligations under the Service Contracts and agrees to indemnify Assignor against and hold Assignor harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees), originating on or subsequent to the Effective Date (as defined below) and arising out of the owner's obligations under the Service Contracts.

3. In the event of any litigation between Assignor and Assignee arising out of this Assignment, the prevailing party shall be entitled to recover reasonable costs and expenses of such litigation, including, without limitation, attorneys' fees.

4. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

5. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

6. For purposes of this Assignment, the "Effective Date" shall be the date of the Closing (as defined in the Purchase Agreement).

7. This Assignment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first written above.

ASSIGNOR:

YOSEMITE INVESTMENT, LLC, a California limited liability company

By: _____
David Lai, Manager

Date: _____

DLAI INVESTMENT, LLC, a California limited liability company

By: _____
David Lai, Manager

ASSIGNEE:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
[_____] Director of Property

By: _____
[_____] Director of Transportation, SFMTA

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
[DEPUTY'S NAME]
Deputy City Attorney

EXHIBIT D

**CERTIFICATE OF TRANSFEROR
OTHER THAN AN INDIVIDUAL
(FIRPTA Affidavit)**

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the transferee of certain real property located in the City and County of San Francisco, California, that withholding of tax is not required upon the disposition of such U.S. real property interest by _____

_____, a _____
("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. Transferor's U.S. employer identification number is _____; and

3. Transferor's office address is _____
_____.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated: _____, 20____.

On behalf of:

_____,
[NAME]

a _____

By: _____
[NAME]

Its: _____

EXHIBIT G

PURCHASE AGREEMENT MODIFICATIONS FOR REMAINING PORTION

Landlord and Tenant agree to modify the form of purchase agreement for any purchase of the Remaining Portion as follows:

1. All references to the “Due Diligence Period” shall be modified to be the “Offer Period”

EXHIBIT H

FORM OF MEMORANDUM OF LEASE

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

City and County of San Francisco
San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 8th Floor
San Francisco, California 94103
Attn: Manager, Strategic Real Estate Facilities
and Real Property Management

Exempt from recording fees pursuant to Government Code
Section 27383.

Documentary Transfer Tax: NONE – Exempt pursuant to
San Francisco Business and Tax Regulations Code Section
1105

[Address]

(Space above this line reserved for Recorder's use only)

Block [], Lot []

MEMORANDUM OF LEASE

This Memorandum of Lease ("Memorandum"), dated for reference purposes as of _____, 2019, is by and among YOSEMITE INVESTMENT, LLC, a California limited liability company, and DLAI INVESTMENT, LLC, a California limited liability company (together, "Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through its Municipal Transportation Agency ("City").

Recitals

A. Concurrently herewith, Landlord and City have entered into that certain Lease, dated _____, 2019 (the "Lease"), pursuant to which Landlord leased to City and City leased from Landlord a portion of real property more particularly described in the attached Exhibit A (the "Property"), which is incorporated by this reference.

B. The Lease provides City an option to purchase the Property (the "Purchase Option") on the terms specified in Section 22 of the Lease and the right of first offer to lease ("Right of First Lease Offer") and right of first offer to purchase ("Right of First Purchase Offer") other portions of the Property on the terms specified in Section 23 of the Lease.

C. Landlord and City desire to execute this Memorandum to provide constructive notice of the Lease, the Purchase Option, Right of First Lease Offer, and the Right of First Purchase Offer to all third parties, and all of the terms and conditions of the Lease are incorporated herein by reference as if they were fully set forth herein and reference is made to the Lease itself for a complete and definitive statement of the rights and obligations of Landlord and City thereunder.

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows.

1. Term. Pursuant to the terms of the Lease, Landlord leased the Property to City for a term commencing on _____, 2019. The Term of the Lease shall expire on _____, 2024, subject to an option to extend the Term by an additional four (4) years (subject to the terms and conditions of the Lease), unless earlier terminated in accordance with the terms of the Lease. Lease Terms. The lease of the Property to City is made pursuant to the Lease, which is incorporated in this Memorandum by reference. This Memorandum shall not be deemed to modify, alter or amend in any way the provisions of the Lease. If any conflict exists between the terms of the Lease and this Memorandum, the terms of the Lease shall govern. Except as otherwise defined in this Memorandum, capitalized terms shall have the meanings given them in the Lease.

3. Termination of 2011 Memorandum of Lease. As of the Commencement Date of the Lease, the Memorandum of Lease dated as of _____ and recorded in the Official Records of San Francisco County as Document No. _____ on _____, 2011, shall terminate in its entirety.

4. Successors and Assigns. This Memorandum and the Lease shall bind and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject, however, to the provisions of the Lease.

IN WITNESS WHEREOF, Landlord and City have executed this Memorandum of Lease as of the day and year first above written.

LANDLORD:

YOSEMITE INVESTMENT LLC,
a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

DLAI INVESTMENT LLC,
a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

[CITY'S SIGNATURE ON FOLLOWING PAGE]

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through its
Municipal Transportation Agency

By: _____
Edward D. Reiskin
Director of Transportation

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong
Deputy City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of _____)

On _____ before me, _____,
personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of _____)

On _____ before me, _____,
personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A
to
Memorandum of Lease
Legal Description of Property

That certain real property situation in the City and County of San Francisco, State of California, described as follows:

PARCEL ONE:

Beginning at the intersection of the southwesterly line of Wallace Avenue with the southeasterly line of Keith Street; thence from said point of beginning, southeasterly along said line of Wallace Avenue, 525 feet; thence at right angles, southwesterly 200 feet to the northeasterly line of Yosemite Avenue; thence at right angles, northwesterly along the last-mentioned line, 75 feet; thence at right angles, northeasterly 100 feet; thence at right angles, northwesterly 225 feet; thence at right angles, southwesterly 100 feet to the aforementioned line of Yosemite Avenue; thence at right angles, northwesterly along the last-mentioned line, 225 feet to the southeasterly line of Keith Street; thence at right angles, northeasterly along the last-mentioned line, 200 feet to the point of beginning.

Being a portion of Block 456, South San Francisco Homestead and Railroad Association, and portion of Lot 456, Bay View Homestead Association.

PARCEL TWO:

Commencing at a point on the northeasterly line of Yosemite Avenue, distant thereon 150 feet northwesterly from the northwesterly line of Jennings Street; running thence northwesterly and along said line of Yosemite Avenue, 225 feet; thence at a right angle, northeasterly 100 feet; thence at a right angle, southeasterly 225 feet; thence at a right angle, southwesterly 100 feet to the point of commencement.

Being Lots 5, 6 and 7 in Block No. 456, Bay View Homestead Association.

PARCEL THREE:

Beginning at the point of intersection of the northwesterly line of Jennings Street and the northeasterly line of Yosemite Avenue; running thence northwesterly along said line of Yosemite Avenue, 75 feet; thence at a right angle, northeasterly 200 feet to the southwesterly line of Wallace Avenue; thence at a right angle, southeasterly along said line of Wallace Avenue, 75 feet on the northwesterly line of Jennings Street; thence at a right angle, southwesterly along said line of Jennings Street, 200 feet to the point of beginning.

Being Lots 1 and 9, in Block No. 456, Bay View Homestead Association.

APN: Lot 16, Block 4830

Commonly known as 1508-98 Yosemite Avenue, San Francisco, California 94124.

