MEMORANDUM

TO: Commission on Community Investment and Infrastructure

FROM: Tiffany Bohee
Executive Director

SUBJECT: Authorizing the Executive Director to consent to amendment of the lease between Third and Mission Associates LLC, a California limited liability company, and The California Historical Society, a California nonprofit public benefit corporation, consistent with the terms of a 1990 Agreement for Disposition of Land for Private Development for property at 680 Mission Street; Former Yerba Buena Center Redevelopment Project Area D-1

EXECUTIVE SUMMARY

In 1990, the former San Francisco Redevelopment Agency (the "SFRA") entered into an Agreement for Disposition of Land for Private Development, or LDA, with Third and Mission Associates LLC (the "Developer") for the preservation of the circa-1912, four-story Jessie Hotel and the development of a new 492,000-square-foot office building at 680 Mission Street, located on the corner of Third and Mission Streets (the "Site") in the Yerba Buena Center Approved Redevelopment Project Area D-1. Between 1990 and 2008, the LDA was amended eleven times, primarily to reflect changes in the development and to extend the performance schedule. Completed in 2002, the project – known as “The Paramount” – consists of a 43-story, mixed-use residential tower with 495 rental units.

The Site was originally purchased by the SFRA with federal urban renewal funds. When the SFRA sold the Site to the Developer under the LDA, the purchase price was discounted by $1.0 million in exchange for the inclusion of long-term non-profit space in the project. In 2003, the Developer entered into a 99-year lease with The California Historical Society (“CHS”) for about 15,000 usable square feet of space in the project, which fulfilled the LDA requirement. To protect this public benefit in the project, the SFRA required CHS and the Developer to obtain the SFRA’s Consent to any change in CHS’s tenancy or to any lease termination (the “Consent”). The SFRA’s Consent is an attachment to CHS’s 99-year lease at The Paramount.

CHS no longer wants to lease 15,000 square feet at the Paramount, and would like to relinquish 10,000 square feet (or two-thirds) of its leased premises to the Developer. Once relinquished, the Developer will be able to lease the 10,000 square feet at market rates to other users. CHS and the Developer have executed an Amended and Restated Agreement for Amendment of Lease and Reduction of Leased Premises (the “Lease Amendment”) which reduces CHS’s leased premises by 10,000 square feet and allows the Developer to lease the 10,000 square feet at market rates to other users, in exchange for a lease buy-out price of $2.25 million, which will be paid to CHS and the Office of Community Investment and Infrastructure (“OCII” or the “Successor Agency”) in installments over time. The Lease Amendment is attached to this memorandum as Exhibit A. OCII will receive a portion of the $2.25 million because the Successor Agency is obligated to recover the pro-rata share of the discounted land price given to the Developer in 1999 for
reserving the full 15,000 square feet of space in The Paramount for CHS, since that public benefit will no longer exist. The Successor Agency’s portion equals $947,000, which represents about two-thirds of the Developer’s land discount in today’s dollars. ¹ Once received, the Successor Agency will transfer this money to the City and County of San Francisco (the “City”) as Community Development Block Grant (“CDBG”) program income, since the SFRA purchased the Site with federal urban renewal funds.

CHS and the Developer are now jointly seeking the Successor Agency’s Consent to the Lease Amendment, which reflects the terms described above. Staff has reviewed the Lease Amendment and recommends consenting to its terms.

Staff recommends authorizing the Executive Director to consent to the terms of the Lease Amendment.

BACKGROUND

The SFRA originally acquired the Site (Parcel 3707-A) with urban renewal funds provided through a federal Contract for Loan and Capital Grant dated December 2, 1966 and approved by the U.S. Department of Housing and Urban Renewal (the "HUD Contract"). Under the HUD Contract, the SFRA was required to use the federal funds to carry out redevelopment activities in accordance with the Yerba Buena Center Redevelopment Plan (which expired on January 1, 2011) and the federal standards for urban renewal under Title I of the Housing Act of 1949.

In 1983, the SFRA and the City executed, with HUD concurrence, the Yerba Buena Center Redevelopment Project Area Closeout Agreement (the "YBC Closeout Agreement") whereby the SFRA agreed to retain the Site (and other parcels identified as "Project Property" in Exhibit A to the YBC Closeout Agreement) for disposition, subject to applicable federal law and subject further to restrictions on the use of any proceeds received from the sale or lease of the Site. The YBC Closeout Agreement is attached to this memorandum as Exhibit B.

In 1990, the SFRA and the Developer entered into the LDA for the sale and development of the Site. The LDA provided for the development of a new 28-story, 492,000-square-foot office building and either the demolition, or if feasible, the rehabilitation of the Jessie Hotel. The LDA also required the Developer to provide space in the Jessie Hotel to various nonprofit users and space in the new building to CHS, at a nominal cost of $1.00 per year for 99 years, for expansion of its adjacent 678 Mission Street facilities.

Between 1990 and 2008, the LDA was amended eleven times. Under the terms of the seventh amendment to the LDA, the Developer was given a discount of $1.0 million off the land purchase price in exchange for including long-term non-profit space in the project for CHS.

The final project, known as “The Paramount,” was completed in 2002 and consists of: (1) a 43-story, mixed-use residential tower with 495 rental units and related facilities; (2) approximately

¹ Two-thirds of $1.0 million (the discount to the land price given to the Developer in 1999) equals $667,000. Escalating that figure by the change in the Consumer Price Index since 1999 yields a current fair market value of approximately $947,000.
42,000 square feet of retail space; (3) about 300 off-street parking spaces; (4) 15,000 square feet of space in The Paramount for expansion of CHS's office, gallery, and storage space; and (5) the preservation of the four-story Jessie Hotel façade and the creation of about 7,000 square feet in a new Jessie Hotel building.

DISCUSSION

In January 2003, CHS and the Developer entered into a 99-year lease for approximately 15,000 square feet of space spread across multiple floors at The Paramount. Subsequently, CHS acquired and renovated an adjacent building -- 678 Mission Street -- as its headquarters and planned to expand into its space in The Paramount. CHS made several improvements to its Paramount space, including installing an elevator to connect its adjacent headquarters building to The Paramount. However, after years of study, CHS was ultimately unable to use the space for its programmatic needs and it has remained vacant.

Proposed Lease Amendment Requiring Agency Consent

As a result, CHS no longer wants to lease 15,000 square feet at the Paramount, and would like to relinquish 10,000 square feet (or two-thirds) of its leased premises to the Developer. CHS and the Developer have executed the Lease Amendment to effectuate this reduction in CHS’s premises in The Paramount, and are seeking the Successor Agency’s Consent to its terms. To read the full text of the Lease Amendment, see Exhibit A attached to this memorandum. The key terms of the Lease Amendment include:

- **Reduced square footage for CHS.** The proposed Lease Amendment would reduce CHS’s leased premises in The Paramount by 10,000 square feet, from 15,000 square feet to about 5,000 usable square feet. The 10,000 square feet CHS would be giving up is located on the third floor of The Paramount, and the 5,000 square feet CHS would be keeping is located in the basement of The Paramount.

- **No restrictions on the relinquished square footage.** The Developer will be allowed to lease the relinquished 10,000 square feet at market rates to other users, in exchange for a lease buy-out price of $2.25 million, which will be paid to CHS and the Successor Agency in installments over time, as described below.

- **Distribution of the $2.25 million lease-buyout price.** Under the terms of the proposed Lease Amendment, the $2.25 million would be paid to CHS and OCII in installments over seven years. First, the Developer would make an up-front payment of $500,000 to CHS. Then, the Developer would pay the balance of $1.75 million in seven equal annual payments of $250,000 plus 1% interest per annum. The entirety of the first three annual payments, and a portion of the fourth annual payment up to $947,000, would be paid directly to OCII, evidenced by a separate promissory note for that amount; the balance would be paid directly to CHS.

Because the Site was originally purchased by the SFRA with federal urban renewal funds, the $947,000 that OCII will receive from this transaction is program income under the CDBG
program, and will be transferred to the Mayor’s Office of Housing and Community Development (“MOHCD”), which administers the CDBG program for the City.

CHS intends to use the approximately $1.3 million it will receive from this transaction to provide general support for its capital needs and operations.

In addition, MOHCD staff is considering the development of a history-outreach program for school children in the Yerba Buena, Mid-Market, and Mission neighborhoods of San Francisco, to be funded with a portion, up to $280,000, of the CDBG program income being generated by the transaction.

**Compliance with Redevelopment Dissolution Law**

Under Redevelopment Dissolution Law, with approval from a successor agency’s oversight board and the State of California’s Department of Finance, a successor agency may continue to implement “enforceable obligations” which were in place prior to the suspension of redevelopment agencies’ activities on June 28, 2011. Redevelopment Dissolution Law defines “enforceable obligations” to include bonds, loans, judgments or settlements, and any “legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy,” (Cal. Health & Safety Code Section 34171(d)(1)(E)) as well as certain other obligations. The LDA meets the definition of “enforceable obligations” under Redevelopment Dissolution Law, and is identified on OCII’s Recognized Obligation Payment Schedule. The annual transfer of funds to MOHCD will be conditioned on subsequent approvals from the Oversight Board and the California Department of Finance of the ROPS.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”)**

The Successor Agency’s Consent to the Lease Amendment would not directly cause any change in the physical environment and is therefore exempt from environmental review under the California Environmental Quality Act (Section 15061 (b)(3), State CEQA Guidelines).

**STAFF RECOMMENDATION**

Staff recommends authorizing the Executive Director to consent to the terms of the Lease Amendment.

*(Originated by Christine Maher, Development Specialist)*

Exhibit A: Amended and Restated Agreement for Amendment of Lease and Reduction of Leased Premises

Exhibit B: YBC Closeout Agreement
AMENDED AND RESTATED AGREEMENT FOR AMENDMENT OF LEASE
AND REDUCTION OF LEASED PREMISES

This AMENDED AND RESTATED AGREEMENT FOR AMENDMENT OF LEASE AND REDUCTION OF LEASED PREMISES (this “Agreement”) dated effective the ___ day of __________, 2014, is entered into by and between THIRD AND MISSION ASSOCIATES LLC, a California limited liability company (“Owner”), address at 680 Mission Street, San Francisco, CA 94105 and THE CALIFORNIA HISTORICAL SOCIETY, a California nonprofit public benefit corporation (“CHS”), with its principal place of business at 678 Mission Street, San Francisco, California 94105.

RECITALS

A. Owner, as landlord and the owner of that certain building located at 680 Mission Street, San Francisco, California (“Building”), and CHS, as tenant, entered into a lease dated as of January 1, 2003 (the “Lease”) for certain premises in the building described more particularly as follows in the Basic Lease Information and shown on Exhibits A-1, A-2 and A-3 to the Lease: Portions of CHS Level LL1 (Basement)(7313 square feet), CHS Level L1 (First Floor)(445 square feet), CHS Level 5 (Third Floor)(9180 square feet) and elevator space on CHS Level 4 (Second Floor)(82 square feet).

B. For purposes of this Agreement, the portion of the leased premises located in the Basement shall be referred to as the “Remaining Premises.” The Remaining Premises are shown in Exhibit A attached hereto. The portions of the leased premises located on the First Floor and the Third Floor and the elevator space on the Second Floor will be referred to as the “Reduction Premises”. The Reduction Premises are shown in Exhibit B attached hereto.

C. Owner acquired the property on which the Building is located (“Land”) from the Redevelopment Agency of the City and County of San Francisco (the “RDA”) pursuant to that certain Agreement for the Disposition of Land dated as of May 16, 1990, as thereafter amended (collectively, the “LDA”). The Land was originally purchased by the RDA with federal urban renewal funds. Pursuant to the LDA, Owner received a reduction to the purchase price paid to the RDA for the Land (the “Land Discount”) in consideration of Owner’s agreement to provide long-term non-profit space in the Building, which presently constitutes the premises subject to the Lease. The Lease requires the RDA to consent to changes to the Lease.

D. CHS has agreed to surrender its leasehold interest in the Reduction Premises to Owner on the terms and conditions set forth in this Agreement. In consideration of the surrender, Owner shall pay a surrender price (“Reduction Price”) of $2,250,000, a portion of which will be paid to CHS partially in cash and partially in the form of a promissory note (the “CHS Note”). CHS has requested and Owner has agreed to provide security for the CHS Note, to be implemented by Owner granting to CHS a right of reversion to the Reduction Premises, which shall terminate upon payment in full of the CHS Note.
E. A portion of the Reduction Price also will be paid to the Office of Community Investment and Infrastructure, as the successor agency to the RDA (“OCII” or the “Successor Agency”), solely for the purpose of repaying a pro-rata share of the Land Discount, and will be evidenced by a separate promissory note (the “Agency Note”). The CHS Note and the Agency Note together are referred to in this Agreement as the “Note.” Given that the RDA acquired the Land with urban renewal funds, the repayment amount is considered Community Development Block Grant (“CDBG”) program income and will be transferred by the Successor Agency, subject to approvals by the Successor Agency Commission, its Oversight Board, and the Department of Finance, to the Mayor’s Office of Housing and Community Development, which administers the CDBG program for the City and County of San Francisco.

F. CHS and Owner previously entered into an Agreement for Amendment of Lease and Reduction of Premises dated as of February 7, 2014 (“Original Agreement”) and are executing this Agreement to amend and restate the terms of the Original Agreement. This Agreement is to set forth in further detail the agreements of the parties to implement the surrender by CHS of its leasehold interest in the Reduction Premises.

NOW THEREFORE for good and valuable consideration and the mutual agreements of the parties set forth below, the parties agree as follows:

1. **Surrender of the Reduction Premises; Payment of Reduction Price.**

   1.1 Effective as of the Closing Date (as defined below), CHS and Owner will enter into a First Amendment of Lease in the form attached hereto as Exhibit C in which CHS will surrender its leasehold interest in the Reduction Premises.

   1.2 In consideration of CHS entering into the First Amendment to Lease and surrendering its rights to the Reduction Premises, Owner shall pay the sum of $2,250,000 (the “Reduction Price”) as set forth below. Owner and CHS acknowledge that the principal amount of the Reduction Price to be paid to Successor Agency is $946,949 and the balance of the Reduction Price in the principal amount of $1,303,051 shall be paid to and belong to CHS.

      (a) First, Five Hundred Thousand Dollars ($500,000) shall be paid in cash to CHS (the “Initial Payment”), payable on the later to occur of (1) April 1, 2014 and (2) two (2) Business Days following the Closing Date.

      (b) Second, Owner shall deliver promissory notes in the aggregate amount of $1,750,000 in the form of Exhibit D-1 (the “CHS Note”) and Exhibit D-2 (the “Agency Note”) attached hereto (jointly, the “Note”).

      (c) The following terms, as applicable, shall be included in the Note:

          (i) The Note shall be payable in seven equal annual installments, with the first installment due on January 1, 2015; and the remaining six installments due on each successive January 1. Interest on the Note shall accrue at the rate of 1% per annum and each payment made by Owner shall include interest accrued to the date of such payment.
(ii) Commencing with the first annual installment payment, due January 1, 2015 under the Note and continuing with the second, third and fourth installments of principal paid thereafter, Owner shall pay directly to Successor Agency the installments of principal owing under the Note until Owner has paid a total of Nine Hundred Forty Six Thousand Dollars ($946,949) in principal together with interest accrued on the unpaid amount of $946,949 (each payment of principal and interest, individually, a “Successor Agency Payment” and collectively, the “Successor Agency Payments”). Successor Agency Payments shall be made in the manner directed by Successor Agency to Payor in writing.

(iii) Commencing with the fourth installment, Owner shall pay directly to CHS the remaining principal balance of the Note in the amount of Eight Hundred Three Thousand Fifty One Dollars ($803,051). In addition, with each installment payment paid under the Note, whether such installment is paid to Successor Agency or to CHS, Owner shall pay to CHS the interest accrued on the unpaid amount of $803,051. All amounts payable to CHS shall be the “CHS Payments.”

(iv) The Note may be prepaid in full or in part at any time.

(v) Upon payment in full of the Note, the Right of Reversion (as defined and described in Section 3 below) shall terminate. As a condition of Owner making the final payment on the Note, CHS shall provide to Owner an Amendment to Memorandum of Lease in the form of Exhibit B attached to the First Amendment to Lease, executed by CHS and in recordable form evidencing that CHS no longer has any interest whatsoever in the Reduction Premises.

2. **Space Subleases.**

   2.1 Upon the effective date of the First Amendment to Lease ("Reduction Effective Date"), the Reduction Premises will no longer be subject to the CHS Lease and Owner shall have the right to enter into leases of the Reduction Premises ("Space Subleases") to tenants ("Space Tenants").

3. **Right of Reversion.**

   3.1 The First Amendment to Lease includes a right of reversion for the Reduction Premises ("Right of Reversion") that provides as follows:

   (a) If Owner defaults in making a payment under the Note, then after notice and an opportunity to cure, CHS may exercise the right of reversion by giving not less than thirty (30) days’ prior written notice to Owner.

   (b) If CHS exercises its Right of Reversion to revest its leasehold interest in the Reduction Premises and to make the Reduction Premises part of the Premises under the Lease, such right to revest the Reduction Premises in CHS shall be subject to and
limited by and shall not defeat, render invalid or limit, any rights or interest of any Space Tenant under its Space Lease (as such terms are defined below) in the Reduction Premises and CHS will recognize the rights of Space Tenants under any Space Leases entered into by Owner for the Reduction Premises; provided that the Space Subleases, at the time entered into by Owner, in Owner’s reasonable determination, were at fair market rent and the other terms and conditions were at market; and provided further, that following such time as the Reduction Premises are revested in CHS, such Space Tenant makes the payments and performs the obligations due under its Space Lease for the benefit of CHS as though CHS were landlord of that portion of the Reduction Premises leased to the Space Tenant.

(c) The right of CHS to enforce the Right of Reversion shall terminate upon payment in full of the Note.

4. **Changes to Tenant’s Share and Taxes**

4.1 The First Amendment to Lease shall include the following:

(a) Following the Closing Date, Tenant’s Share of Expenses attributable to the Remaining Premises shall be deemed to be the amount of Six Hundred Dollars ($600) per month beginning the first full month following the Closing Date, increased by three percent (3%) per annum for each subsequent calendar year of the Lease.

(b) CHS has obtained an exemption for the Real Property Taxes attributable to the Premises initially under the CHS Lease due to its non-profit status. Following the Closing Date, the exemption will no longer be available as CHS will not be occupying the Reduction Premises. Accordingly, following the Closing Date, CHS will alert the proper authorities that it is no longer occupying the Reduction Premises and cooperate with Owner to take the steps necessary to terminate or cause a non-renewal of the exemption as to the Reduction Premises and Owner shall reasonably cooperate in such efforts. Upon execution of the First Amendment, CHS shall have no responsibility for the payment of Real Property Taxes attributable to the Reduction Premises, unless and until CHS exercises the Right of Reversion.

5. **Other First Amendment to Lease Terms**

5.1 **CHS to Reserve Access to Emergency Exit.** CHS will reserve its rights under Section 1.3 of the Lease to use the Emergency Access Easement Area as designated on Exhibits B-1 and B-2 attached to the CHS Lease to the extent that the Remaining Premises require such access under applicable code requirements.

6. **Closing**

6.1 The Closing Date shall mean the date on which all of the following conditions have been satisfied:

(a) The parties shall have fully executed and delivered this Agreement.
The parties shall have fully executed and delivered the First Amendment to Lease.

Owner shall have executed and delivered the Note to CHS.

Agency shall have executed and delivered the Agency Consent (as defined below in Section 7.1) in form and substance reasonably satisfactory to Owner and CHS.

CHS shall have vacated the Reduction Premises and removed all property of CHS, personal or otherwise, from the Reduction Premises and shall have delivered possession of the Reduction Premises to Owner at Closing in good and tenantable condition.

The scheduled Closing Date shall be no later than five (5) Business Days following receipt of the Agency Consent (as defined below in Section 7.1) to this Agreement.

7. **Successor Agency Rights under this Agreement.**

7.1 **Approval Rights.** Both parties acknowledge that under the terms of the CHS Lease, the Successor Agency must consent in writing to any transfers of any interest in the CHS Lease by CHS (the “Agency Consent”), a form of which is attached to this Agreement as Exhibit E; accordingly, the transactions contemplated by this Agreement are subject to the written approval of the Successor Agency. This Agreement shall not become effective until CHS and Owner have each received the Agency Consent, which shall consent to this Agreement and the transactions contemplated by this Agreement, including the exhibits attached hereto (“Reduction Documents”). The parties agree to work together to obtain the Agency Consent.

7.2 **Third-Party Beneficiary Rights.** Both parties agree that with respect to certain provisions and remedies in this Agreement, the Successor Agency is an express third-party beneficiary with rights of enforcement as provided for in this Section 7.2 hereto. The Successor Agency shall be an express third-party beneficiary of Sections 1.2, 7.1, and Exhibit D-2 of this Agreement, and none of these Sections shall be modified or amended without the prior written consent of the Successor Agency, which may be granted or withheld in the Successor Agency’s sole and absolute discretion. The Successor Agency shall have the right, but not the obligation, as an express third-party beneficiary, to enforce the provisions of these Sections.

8. **Representations and Warranties of CHS.**

8.1 In connection with Owner’s agreement to acquire the leasehold interest of CHS in the Reduction Premises, CHS represents and warrants to the Owner as follows:

(a) CHS is a California nonprofit public benefit corporation, and is duly organized, validly subsisting and in good standing under the laws of such state, and duly qualified and with full power and authority generally to do business in California, with all legal power and authority to undertake, observe and perform all of CHS’s agreements and obligations hereunder and under the Reduction Documents.
(b) Entry by CHS into this Agreement, and the observance and performance of its agreements and obligations hereunder, have been duly approved by all necessary action of the Board of Trustees of CHS. This Agreement constitutes and the Reduction Documents will, when executed and delivered, constitute the valid and binding obligations of CHS, enforceable in accordance with their terms. The person signing the Reduction Documents on behalf of CHS has the authority to execute and deliver the same on behalf of CHS.

(c) CHS is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

(d) Other than CHS, no persons have any legal or equitable interest in CHS leasehold interest in the Reduction Premises, and there are no persons whose joinder in any Reduction Documents would be necessary to convey to Owner good and marketable title to the leasehold interest of CHS in the Reduction Premises.

(e) CHS’s execution and delivery of this Agreement and the Reduction Documents and CHS’s compliance with the provisions thereof will not conflict with or constitute a breach of, or a default under, any of the provisions of any applicable law, rule, regulation or order of any court, administrative agency, bureau, board, commission, office, authority, department or other governmental entity, applicable to CHS.

(f) CHS is not a party to or bound by any agreement or obligation or subject to any restriction or to any applicable law, rule, regulation or order of any court, administrative agency, bureau, board, commission, office, authority, department or other governmental entity, which might result in a material impairment of the rights or abilities of CHS to perform its obligations hereunder or under the Reduction Documents.

(g) There are no judgments, orders, suits, actions, garnishments, attachments or proceedings of any nature by or before any court, commission, board or other governmental body pending, or to the knowledge of CHS threatened, which involve or affect, or could involve or affect: (1) the CHS Lease, the Reduction Premises, or any part thereof., (ii) the validity or enforceability of this Agreement or the Reduction Documents, (c) any risk of any judgment or liability being imposed upon CHS which could materially adversely affect the financial condition of CHS or CHS’s ability to observe or perform fully its agreements hereunder or under the Reduction Documents.

(h) CHS has not received any notices or information from any Person relating to the presence of Hazardous Substances (as defined in the CHS Lease) on the Reduction Premises.

(i) CHS has not received any complaint, order, summons, citation, notice of violation, directive, letter or other communication from any governmental authority with regard to air emissions, water discharges, noise emissions or Hazardous Substances, or any other environmental, health or safety matters affecting the Reduction Premises, or any portion thereof. CHS has complied with all federal, state or local environmental laws
affecting the Reduction Premises, including notification requirements relating to the release of Hazardous Substances.

(j) Except for very immaterial amounts of toxic materials incidental to its operations (e.g. copier toner, photographic chemicals), which CHS has used only in compliance with all applicable laws, CHS has not used, stored or disposed of any Hazardous Substances in, on, under or about the Reduction Premises or the Building.

(k) No work has been or will be performed at, and no materials have been or will be furnished to, the Reduction Premises, or any part thereof, which might give rise to any mechanics’, materialmen’s or other lien against the Reduction Premises or the Building. If any lien for such work is filed, CHS shall discharge the same promptly and in any event prior to the Closing Date.

(l) CHS has not directly entered into any management, service, equipment, supply, maintenance or other agreement of any kind or nature with respect to or affecting the Reduction Premises.

(m) CHS has not received any notice of violation under zoning, building, health, or fire codes, or other laws applicable to the Reduction Premises.

8.2 Survival Date. Each of the representations and warranties of CHS contained in this Agreement is made as of the date hereof and shall be deemed remade as of the Closing Date, and shall survive the Closing for a period of two (2) years.


9.1 Subject to the provisions of Section 9.3 below, Owner hereby makes the following representations and warranties:

(a) Owner is a limited liability company duly organized and validly existing and in good standing under the laws of the State of California.

(b) This Agreement and all documents executed by Owner that are to be delivered to CHS at Closing, including but not limited to the Note and the Sublease (a) are, or at the time of Closing will be, duly authorized, executed and delivered by Owner, (b) do not, and at the time of Closing will not, violate any provision of any agreement or judicial order to which Owner is a party, and (c) constitute (or in the case of Reduction Documents will constitute) a valid and legally binding obligations of Owner, enforceable in accordance with their terms. The person signing the Reduction Documents on behalf of Owner has the authority to execute and deliver the same on behalf of Owner.

(c) Owner has full and complete power and authority to enter into this Agreement and to perform its obligations hereunder.

9.2 Survival. Each of the representations and warranties of Owner contained in this Section is made as of the date hereof and shall be deemed remade as of the Closing Date, and shall survive the Closing for a period of two (2) years.
9.3 **Conditional Execution by Owner.** Owner’s execution of this Agreement and performance of its obligations hereunder are conditioned upon the unconditional approval of this Agreement and the transactions contemplated by this Agreement by OTR, the non-managing member of Owner.

10. **Indemnities.**

10.1 **CHS Indemnities.** Provided Closing takes place, CHS shall indemnify, defend and hold harmless Owner against all Claims arising in connection with any (a) breach or inaccuracy of any representation or warranty of CHS contained herein, (b) failure by CHS to observe or perform when due any agreement or obligation contained herein or in any Reduction Document, (d) obligation under any contracts not disclosed to Owner, and (e) any obligation of CHS under the Lease in connection the Reduction Premises which accrues or occurs prior to the Closing Date (including any claim made as a result of such act, event, or omission after the Closing Date as long as the act, event or omission occurred prior to the Closing Date).

10.2 **Owner’s Indemnities.** Provided Closing takes place, Owner shall indemnify, defend and hold harmless CHS against all Claims suffered or incurred by CHS, in connection with any (a) breach or inaccuracy of any representation or warranty of Owner contained herein (b) failure by Owner to observe or perform when due any agreement or obligation contained herein, and (c) act, event or omission of Owner in connection with its ownership and operation of the Reduction Premises which occurs on or after the Closing Date, unless and until such time as CHS exercises its right to revest the Reduction Premises under the CHS Lease.

10.3 **Claims.** “Claims” shall mean any and all loss, liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonably attorney fees.)

11. **Brokers.** Owner and CHS acknowledge that there are no brokers involved with this transaction. CHS and Owner do each indemnify and hold harmless the other with respect to any claims made on behalf of third parties by and through either CHS or Owner for fees or commissions which may be owed in connection with the transaction contemplated herein.

12. **Exhibits.**

12.1 The following Exhibits referred to in this Agreement and attached hereto are incorporated herein by reference:

| Exhibit A | Remaining Premises |
| Exhibit B | Reduction Premises |
| Exhibit C | Form of First Amendment to Lease |
| Exhibit A | Remaining Premises |
| Exhibit B | Form of Amendment to Memorandum of Lease |
| Exhibit A | To Form of First Amendment to Memorandum of Lease - Legal Description |
| Exhibit D-1 | Form of CHS Note |
| Exhibit D-2 | Form of Agency Note |
| Exhibit E | Form of Consent of Successor Agency |
13. **Notices.**

13.1 Except as otherwise expressly provided in this Agreement, any notices, demands, requests or other communications given or required to be given under this Agreement shall be effective only if given in accordance with Article 28 of the CHS Lease.

13.2 Any notices to Successor Agency shall be sent as follows:

Office of Community Investment and Infrastructure  
One South Van Ness Avenue, Fifth Floor  
San Francisco, CA 94103  
Attention: Executive Director

14. **General Provisions**

14.1 **Successors and Assigns.** The terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective legal and personal representatives, successors and assigns, subject to Section 13.2 below.

14.2 **Rights of Mortgagees.** This Agreement and the Reduction Documents shall be subject to the lien of any Mortgage (as defined in the CHS Lease); provided that any Mortgagee (as defined in the CHS Lease), shall have the right, but not the obligation, at its sole option, to recognize this Agreement, the Reduction Documents, and the rights of CHS under this Agreement and the Reduction Documents, and in such event CHS shall attorn to and perform its obligations under this Agreement and the Reduction Documents for the benefit of such Mortgagee. If a Mortgagee does not elect to recognize this Agreement and the Reduction Documents, then CHS may exercise the Right of Reversion. In no event, however, shall a Mortgagee become personally liable for any obligations under this Agreement or the Reduction Documents, including any payments on the Note.

14.3 **Amendments.** This Lease may not be altered, changed or amended, except by an instrument in writing signed by both parties.

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

14.5 **Integration and Interpretation.** This Agreement embodies and constitutes the entire understanding between the parties with respect to the transactions contemplated hereunder and all prior agreements, understandings, representations and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument. No waiver by either party hereto of any failure or refusal by the other party to comply with its obligations hereunder shall be deemed a waiver of any other or subsequent failure or refusal to so comply.
14.6 **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the law of the State in which the Real Property is located.

14.7 **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

14.8 **Captions.** The captions of the various Sections of this Lease are for convenience only and do not necessarily define, limit, describe, or construe the contents of such Sections. Whenever required by the context, the singular shall include the plural, and vice versa, and the masculine gender shall include the feminine and neuter genders, or vice versa.

14.9 **Further Assurances.** Subject to the terms and conditions herein provided, each of the parties hereto shall execute and deliver such documents as the other party shall reasonably request in order to consummate and make effective the transactions contemplated hereunder; provided, however, the execution and delivery of such documents shall not result in any additional liability or cost to the executing party.

14.10 **Construction.** The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement, any amendment or modification hereof or any of the Reduction Documents.

14.11 **Owner’s Liability.** Any liability of Owner under this Agreement shall be limited to its interest in the Reduction Premises.

14.12 **Time of Essence.** Time is of the essence with respect to the Closing and all of the provisions of this Agreement.

14.13 **Attorneys Fees.** If CHS or Owner brings any action for any relief against the other, declaratory or otherwise, arising out of this Agreement, and whether such action sounds in tort or in contract, the losing party shall pay to the prevailing party a reasonable sum for attorney’s fees, which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not the action is prosecuted to judgment.

14.14 **Applicable Law.** All rights and remedies of Owner and CHS under this Agreement shall be construed and enforced according to the laws of the State of California. Any actions or proceedings brought under this Agreement or with respect to any matter arising under or out of this Agreement, shall be brought and tried only in courts located in the City and County of San Francisco, California.

14.15 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement, and the signature of any party in counterpart shall be deemed as a signature to and may be appended to any other counterpart.

14.16 **Original Agreement Superseded.** Upon execution by the parties, this Agreement shall supersede the Original Agreement in its entirety.
IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and date first above written.

OWNER: THIRD AND MISSION ASSOCIATES LLC, a California limited liability company

By: __________________________
Name: __________________________
Its: ____________________________

CHS: THE CALIFORNIA HISTORICAL SOCIETY, a California non-profit public benefit corporation

By: __________________________
Name: __________________________
Its: ____________________________
EXHIBIT A

REMAINING PREMISES
EXHIBIT B

REDUCTION PREMISES
EXHIBIT C

FORM OF FIRST AMENDMENT TO LEASE

FIRST AMENDMENT TO LEASE

This FIRST AMENDMENT TO LEASE (this “Amendment”) dated effective the ___ day of _______, 20__, is entered into by and between THIRD AND MISSION ASSOCIATES LLC, a California limited liability company (“Landlord”) and THE CALIFORNIA HISTORICAL SOCIETY, a California nonprofit public benefit corporation (“Tenant”).

RECITALS

A. Landlord and Tenant entered into that certain lease dated as of January 1, 2003 (the “Lease”) for certain premises in the building described more particularly in the Basic Lease Information as portions of CHS Level LL1 (Basement), CHS Level L1 (First Floor), and CHS Level 5 (Third Floor), as shown on Exhibits A-1, A-2 and A-3, respectively, to the Lease: and elevator space on CHS Level 4 (Second Floor).

B. For purposes of this Agreement, the portions of the leased premises located on the First Floor and the Third Floor and the elevator space on the Second Floor will be referred to as the “Reduction Premises”. The portion of the leased premises located in the Basement shall be referred to as the “Remaining Premises” and are shown in Exhibit A attached hereto.

C. Landlord and Tenant have agreed to enter into this Amendment in order for Tenant to relinquish its leasehold interest in certain portions of the leased premises surrender on the First and Third Floors and the elevator space on the Second Floor (the “Reduction Premises”) to Landlord and to otherwise amend the Lease on the terms and conditions set forth in this Agreement.

D. In partial consideration of the surrender by Tenant of the Reduction Premises and execution of this Amendment, Landlord has entered into a promissory note of even date herewith payable to Tenant in the amount of $1,750,000 (the “Note”). As security for payment of the Note, Landlord has agreed that Tenant shall have a right of reverter in the Reduction Premises, which shall terminate upon payment in full of the Note. Landlord and Tenant have also agreed upon certain other modifications to the Lease, as more specifically set forth in this Amendment.

E. Except as otherwise specifically defined in this Amendment, capitalized terms in this Amendment shall have the meaning set forth in the Lease.

NOW THEREFORE, Landlord and Tenant have agreed to amend the Lease as follows:

1. **Surrender of Reduction Premises.** Effective as of the date of this Amendment (“Reduction Effective Date”), the Premises under the Lease is decreased by the approximate
gross square footage of 9,707 in the Reduction Premises to 7,323 gross square feet in the Remaining Premises. As of the Reduction Effective Date, the Reduction Premises shall be deemed surrendered by Tenant to Landlord, the Lease shall be terminated with respect to the Reduction Premises, and the term “Premises”, as defined in the Lease and as used herein shall be deemed to mean only the Remaining Premises.

2. **Emergency Access Easement.** Under Section 1.3 of the Lease, Landlord granted Tenant a non-exclusive easement defined as the Emergency Access Easement Area through Common Area described in Exhibit B attached to the Lease. The portion of Exhibit B (Exhibit B-3) showing emergency access from Level 5 is hereby deleted from the Lease.

3. **Change to Tenant’s Share of Expenses:**

Section 5.2 (b) (i) of the Lease is hereby modified as of the Reduction Effective Date to read as follows:

“**Tenant’s Share**” for purposes of determining Tenant’s Share of Expenses shall mean a fixed sum, equal to Six Hundred Dollars ($600) per month payable on the first day of each calendar month commencing the first full calendar month following the Closing Date and increasing three percent (3%) for each calendar year thereafter, except that where “**Expenses**” consist of expenses related solely to the Premises, “**Tenant’s Share**” shall mean one hundred percent (100%). Both parties to this First Amendment recognize there may have been accrued but unpaid amounts of Tenant’s Share of Expenses prior to the execution of this First Amendment. To the extent such accrued but unpaid expenses exist, they are hereby waived in their entirety.

4. **Condition of Premises; Removal of Property.** Tenant shall remove any personal property belonging to Tenant located in the Reduction Premises and shall leave the Reduction Premises in the same condition as when possession was delivered to Tenant under the Lease.

5. **Note; Right of Reversion subject to Leases signed by Landlord:**

(a) Landlord executed a promissory note payable to Tenant of even date with this Amendment in the amount of One Million Seven Hundred Fifty Thousand Dollars ($803,051) (the “**Note**”). Tenant shall have the following right of reversion “**Right of Reversion**”) to the Reduction Premises if Landlord defaults in its payment obligations under the Note: If, after notice and opportunity to cure as provided in the Note, Landlord has failed to cure its payment default under the Note, Tenant may exercise a right to re vest its leasehold interest in the Reduction Premises as part of the Premises subject to the Lease (“**Right of Reversion**”). Tenant shall give Landlord not less than thirty (30) days’ prior written notice of its intent to exercise its Right of Reversion.

(b) The Right of Reversion shall terminate upon payment in full of the Note. As a condition of Landlord making the final payment on the Note, CHS shall provide to Landlord an Amendment to Memorandum of Lease in recordable form in the form attached as Exhibit B hereto executed and acknowledged by CHS evidencing that CHS no longer has any interest whatsoever in the Reduction Premises.
(c) Landlord shall have the right to sign leases ("Space Leases") for the Reduction Premises with tenants ("Space Tenants") without consent or approval by Tenant; provided that if Tenant exercises its Right of Reversion to revest its leasehold interest in the Reduction Premises and to make the Reduction Premises part of the Premises under the Lease, such right to revest the Reduction Premises in Tenant shall be subject to and limited by and shall not defeat, render invalid or limit, any rights or interest of any Space Tenant under its Space Lease (as such terms are defined below) in the Reduction Premises. In such event, CHS will recognize the rights of Space Tenants under any Space Leases entered into by Landlord for the Reduction Premises; provided that the Space Subleases, at the time entered into by Landlord, in Landlord’s reasonable determination, were at fair market rent and the other terms and conditions were at market; and provided further, that following such time as the Reduction Premises are revested in CHS, such Space Tenant makes the payments and performs the obligations due under its Space Lease for the benefit of Tenant as though Tenant were landlord of that portion of the Reduction Premises leased to the Space Tenant.

6. **Exhibits.** The following Exhibits referred to in this Amendment and attached hereto are incorporated herein by reference:

   **Exhibit A**  Remaining Premises
   
   **Exhibit B**  Form of Amendment to Memorandum of Lease

7. **No Further Changes except as provided in this Amendment.** Except as provided in this Amendment, the terms and provisions of the Lease shall continue in full force and effect.

8. **Further Assurances.** Subject to the terms and conditions herein provided, each of the parties hereto shall execute and deliver such documents as the other party shall reasonably request in order to consummate and make effective the transaction contemplated hereunder; provided, however, the execution and delivery of such documents shall not result in any additional liability or cost to the executing party.

9. **Counterparts.** This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement, and the signature of any party in counterpart shall be deemed as a signature to and may be appended to any other counterpart.

   [No further text on this page]
IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the day and date first above written.

LANDLORD:  THIRD AND MISSION ASSOCIATES LLC,  
a California limited liability company

By: ____________________________  
Name: __________________________  
Its: ____________________________

TENANT:  THE CALIFORNIA HISTORICAL SOCIETY,  
a California non-profit corporation

By: ____________________________  
Name: __________________________  
Its: ____________________________
Exhibit B
Form of Amendment to Memorandum of Lease

RECORDING REQUESTED BY AND:
WHEN RECORDED RETURN TO

_________________________
_________________________
_________________________
Attention: ________________

Property Address:
680 Mission Street, San Francisco, CA
Parcel Number:
Vol. 25, Block No. 3707, Lot 63

FIRST AMENDMENT TO MEMORANDUM OF LEASE

This First Amendment to Memorandum of Lease (this “Amendment”) is made and entered into by and between THIRD AND MISSION ASSOCIATES LLC, a California limited liability company (“Landlord”), as the owner of the real property located in the City and County of California described on Exhibit A attached hereto and the building located thereon (the “Building”) and THE CALIFORNIA HISTORICAL SOCIETY, a California non-profit public benefit corporation (“Tenant”), to amend that certain Memorandum of Lease entered into between Landlord and Tenant dated as of January 1, 2003 and recorded August 3, 2004 in the Official Records of the City and County of San Francisco, State of California, as Document No. 2004-H780381-00 Reel 1693, Image 0613 for a lease on the terms and conditions set forth in that certain Lease Agreement dated as of January 1, 2003, the terms and conditions of which were incorporated into the Memorandum of Lease by reference.

Landlord and Tenant hereby amend the Memorandum of Lease to reduce the premises leased to Tenant by deleting from such premises approximately 9,707 gross square feet comprised of approximately 445 square feet located on CHS Level L1, 9,180 square feet located on CHS Level 5, and 82 square feet of elevator space on CHS Level 4. The premises Tenant is continuing to lease consist of approximately 7,323 square feet located on CHS Level LL1. The leasing shall continue to be on the terms and subject to the conditions set forth in that certain Lease Agreement dated as of January 1, 2003, as amended by that certain First Amendment to Lease dated as of ________, 20__, each and every of the terms and provisions of which are hereby incorporated into this Amendment to Memorandum of Lease by reference. In the event and to the extent that any of the terms and provisions of this Amendment are inconsistent with the terms and provisions of the Lease Agreement as amended by the First Amendment to Lease, the terms and provisions of the Lease Agreement as amended by the First Amendment to Lease shall govern and prevail.
This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement, and the signature of any party in counterpart shall be deemed as a signature to and may be appended to any other counterpart.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment to Memorandum of Lease as of ________________.

LANDLORD:
THIRD AND MISSION ASSOCIATES LLC, a California limited liability company

By: ____________________________
Name: ____________________________
Its: ____________________________

TENANT:
THE CALIFORNIA HISTORICAL SOCIETY, a California non-profit public benefit corporation

By: ____________________________
Name: ____________________________
Its: ____________________________
ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

Beginning at the point of intersection of the northeasterly line of Third Street with the southeasterly line of Jessie Street; thence northeasterly along said line of Jessie Street 222.50 feet; thence at a right angle southeasterly 41 feet; thence at a right angle southwesterly 23.50 feet to a line drawn at a right angle to the northwesterly line of Mission Street from a point distant along said line of Mission Street 56 feet southwesterly from the southwesterly line of Annie Street; thence southeasterly along said drawn line 119 feet to the northwesterly line of Mission Street; thence at a right angle southwesterly along said line of Mission Street 199 feet to the northeasterly line of Third Street; thence at a right angle northwesterly along said line of Third Street 160 feet to the point of beginning.

Being a portion of 100 Vara Block No. 354.
STATE OF CALIFORNIA )
COUNTY OF _______________ ) ss.

On __________, _______, before me, _______________________, personally appeared
_____________________________, personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person whose name is subscribed to the within instrument and
acknowledged to me that he/she executed the same in his/her authorized capacity, and that by
his/her signature on the instrument the person, or the entity upon behalf of which the person
acted, executed the instrument.

WITNESS my hand and official seal.

_____________________________________
Notary Public

STATE OF CALIFORNIA )
COUNTY OF _______________ ) ss.

On __________, _______, before me, _______________________, personally appeared
_____________________________, personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person whose name is subscribed to the within instrument and
acknowledged to me that he/she executed the same in his/her authorized capacity, and that by
his/her signature on the instrument the person, or the entity upon behalf of which the person
acted, executed the instrument.

WITNESS my hand and official seal.

_____________________________________
Notary Public
EXHIBIT D-1

FORM OF CHS PROMISSORY NOTE

San Francisco, California
$803,051

For value received, the undersigned, Third and Mission Associates LLC, a California limited liability company ("Payor"), promises to pay to the order of the California Historical Society ("Payee"), a California non-profit nonprofit mutual benefit corporation, at 678 Mission Street, San Francisco, CA 94105, or at any other place that may be designated in writing by Payee, the principal sum of Eight Hundred Three Thousand Fifty One and no/100 Dollars ($803,051), with interest as set forth in this Note (calculated on the basis of a 360-day year). All sums due are payable in lawful money of the United States of America. The principal amount of this Note will bear interest at the rate of one percent (1%) per annum.

Payor is the landlord and Payee is the tenant under that certain lease dated as of January 1, 2003 for premises in the building located at 680 Mission Street, San Francisco, California, owned by Payor. This Note is being delivered by Payor to Payee pursuant to the terms of that certain Agreement for Amendment of Lease and Reduction of Leased Premises between Payee and Payor dated as of ________________ (the “Reduction Agreement”). Concurrently with execution of the Reduction Agreement, Payor and Payee have entered into a First Amendment to Lease (“First Amendment”) that provides, among other things for a remedy if Payor defaults under the terms of this Note.

Payor will pay the principal amount of this Note, and accrued interest, as follows:

(a) One payment of FIFTY THREE THOUSAND FIFTY ONE AND 00/100 DOLLARS ($53,051), together with interest accruing at the rate of one percent (1.00%) per annum, commencing as of the date of this Note. This payment shall be due on January 1, 2018.

(b) Three (3) equal annual payments of TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000), together with interest accruing at the rate of one percent (1.00%) per annum, commencing as of the date of this Note. The first such annual payment shall be due on January 1, 2019; and each of the two succeeding annual payments shall be due on each succeeding January 1.

All payments on this Note will be applied first to the payment of any costs, fees, late charges, or other charges incurred in connection with the indebtedness evidenced by this Note; next, to the payment of accrued interest; then to the reduction of the principal balance; or in any other order that Payee reasonably determines.

If: Payor fails to pay when due any sums payable to Payee under this Note following ten days written notice from Payee of such failure, then Payee, at its sole option, will have the right to enforce the Right of Reversion provided for in the First Amendment, subject to and on the terms and conditions set forth in the First Amendment.

Payor will have the right to pay, without penalty or premium, at any time, all or any portion of the outstanding principal amount of this Note prior to the Maturity Date. Payee will apply all prepayments first to the payment of accrued interest; then to the outstanding principal amount of this Note in any order that Payor may reasonably direct.
The relationship of Payor and Payee under this Note is solely that of Payor and Payee, and the obligation evidenced by this Note will in no manner make Payee the partner or joint venturer of Payor.

All notices required or permitted in connection with this Note will be in writing and will be given at the place and in the manner provided in the Lease for giving of notices. Any liability of Payor under this Note shall be limited to its interest in the Premises (as defined in the First Amendment to Lease).

This Note will be construed and enforced in accordance with California law.

THIRD AND MISSION ASSOCIATES LLC
a California limited liability company

By:______________________
Name:____________________
Title:____________________
EXHIBIT D-2
FORM OF AGENCY PROMISSORY NOTE

San Francisco, California
$946,949

For value received, the undersigned, Third and Mission Associates LLC, a California limited liability company ("Payor"), promises to pay to the order of the Successor Agency to the Redevelopment Agency of the City and County of San Francisco ("Payee"), a public body a public body, organized and existing under the laws of the State of California, at 1 South Van Ness Avenue, Fifth Floor, San Francisco, CA 94103, or at any other place that may be designated in writing by Payee, the principal sum of Nine Hundred Forty Six Thousand Nine Hundred Forty Nine and 00/100 Dollars ($946,949), with interest as set forth in this Note (calculated on the basis of a 360-day year). All sums due are payable in lawful money of the United States of America. The principal amount of this Note will bear interest at the rate of one percent (1%) per annum.

This Note is being delivered by Payor to Payee pursuant to the terms of that certain Agreement for Amendment of Lease and Reduction of Leased Premises between Payee and Payor dated as of ______________, (the "Reduction Agreement").

Payor will pay the principal amount of this Note, and accrued interest, as follows:

(a) Three (3) equal annual payments of TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000), together with interest accruing at the rate of one percent (1.00%) per annum, commencing as of the date of this Note. The first such payment shall be due on January 1, 2015; and each of the two succeeding annual payments shall be due on each succeeding January 1.

(b) One (1) annual payment of ONE HUNDRED NINETY SIX THOUSAND NINE HUNDRED FORTY NINE DOLLARS ($196,949), together with interest accruing at the rate of one percent (1.00%) per annum, commencing as of the date of this Note. This payment shall be due on January 1, 2018.

If: Payor fails to pay when due any sums payable to Payee under this Note following ten days written notice from Payee of such failure, then Payee, at its sole option, will have the right to enforce its third-party beneficiary rights under Section 7.2 of the Reduction Agreement.

Payor will have the right to pay, without penalty or premium, at any time, all or any portion of the outstanding principal amount of this Note prior to the Maturity Date. Payee will apply all prepayments first to the payment of accrued interest; then to the outstanding principal amount of this Note in any order that Payor may reasonably direct.

The relationship of Payor and Payee under this Note is solely that of Payor and Payee, and the obligation evidenced by this Note will in no manner make Payee the partner or joint venturer of Payor.

All notices required or permitted in connection with this Note will be in writing and will be given at the place and in the manner provided in the Reduction Agreement.
This Note will be construed and enforced in accordance with California law.

THIRD AND MISSION ASSOCIATES LLC
a California limited liability company

By:_____________________
Name:___________________
Title:___________________
EXHIBIT E

FORM OF CONSENT OF SUCCESSOR AGENCY

On May 16, 1990, the former San Francisco Redevelopment Agency (the “SFRA”) entered into an Agreement for Disposition of Land for Private Development, or LDA, with Third and Mission Associates LLC (the “Owner”) for the preservation of the circa-1912, four-story Jessie Hotel and the development of a new 492,000-square-foot office building at 680 Mission Street, located on the corner of Third and Mission Streets (the “Site”) in the Yerba Buena Center Approved Redevelopment Project Area D-1. Between 1990 and 2008, the LDA was amended eleven times, primarily to reflect changes in the development and to extend the performance schedule. Completed in 2002, the project – known as “The Paramount” – consists of a 43-story, mixed-use residential tower with 495 rental units.

The Site was originally purchased by the SFRA with federal urban renewal funds provided through a federal Contract for Loan and Capital Grant dated December 2, 1966 and approved by the U.S. Department of Housing and Urban Renewal (the “HUD Contract”). Under the HUD Contract, the SFRA was required to use the federal funds to carry out redevelopment activities in accordance with the Yerba Buena Center Redevelopment Plan (which expired on January 1, 2011) and the federal standards for urban renewal under Title I of the Housing Act of 1949.

In 1983, the SFRA and the City executed, with HUD concurrence, the Yerba Buena Center Redevelopment Project Area Closeout Agreement (the “YBC Closeout Agreement”) whereby the SFRA agreed to retain the Site (and other parcels identified as "Project Property" in Exhibit A to the YBC Closeout Agreement) for disposition, subject to applicable federal law and subject further to restrictions on the use of any proceeds received from the sale or lease of the Site.

In 1990, when the SFRA sold the Site to the Owner under the LDA, the purchase price was discounted by $1.0 million in exchange for the inclusion of long-term non-profit space in the project. In 2003, the Owner entered into a 99-year lease with The California Historical Society (“CHS”) for about 15,000 usable square feet of space in the project (the “Lease”), which fulfilled the LDA requirement. To protect this public benefit in the project, the SFRA required CHS and the Owner to obtain the SFRA’s consent to any change in CHS’s tenancy or to any lease termination (the “Consent”). The Consent is an attachment to the CHS Lease.

CHS no longer wants to lease 15,000 square feet at the Paramount, and would like to relinquish 10,000 square feet (or two-thirds) of its leased premises to the Owner. As a result, CHS and the Owner have executed an Amended and Restated Agreement for Amendment of Lease and Reduction of Leased Premises (the “Lease Amendment”) to effectuate this reduction in CHS’s premises in The Paramount, and are seeking the consent of the Successor Agency, the successor entity to the SFRA which was dissolved by the California State Legislature on February 1, 2012.

The key terms of the Lease Amendment include:

- **Reduced square footage for CHS.** The proposed Lease Amendment would reduce CHS’s leased premises in The Paramount by 10,000 square feet, from about 15,000
square feet to about 5,000 usable square feet. The 10,000 square feet CHS would be giving up is located on the third floor of The Paramount, and the 5,000 square feet CHS would be keeping is located in the basement of The Paramount.

- **No restrictions on the relinquished square footage.** The Owner will be allowed to lease the relinquished 10,000 square feet at market rates to other users, in exchange for a lease buy-out price of $2.25 million, which will be paid to CHS and the Successor Agency in installments over time, as described below.

- **Distribution of the $2.25 million lease-buyout price.** Under the terms of the Lease Amendment, the $2.25 million would be paid to CHS and the Successor Agency in installments over seven years. First, the Owner would make an up-front payment of $500,000 to CHS. Then, the Owner would pay the balance of $1.75 million in seven equal annual payments of $250,000 plus 1% interest per annum. The entirety of the first three annual payments, and a portion of the fourth annual payment up to $947,000, would be paid directly to the Successor Agency, evidenced by a promissory note, which is attached as **Exhibit D-2** to the Lease Amendment; the balance would be paid directly to CHS.

The Successor Agency will receive a portion of the $2.25 million because the Successor Agency is obligated to recover the pro-rata share of the discounted land price given to the Owner in 1999 for reserving approximately 15,000 square feet of space in The Paramount for CHS, since that public benefit will no longer exist. The Successor Agency’s portion ($947,000) represents approximately two-thirds of the Owner’s land discount in today’s dollars.

Once received, the Successor Agency will transfer this money, subject to approvals by the Successor Agency Commission, its Oversight Board, and the Department of Finance, to the City and County of San Francisco as Community Development Block Grant (“CDBG”) program income, since the SFRA purchased the Site with federal urban renewal funds.

Based on the foregoing, the Successor Agency to the Redevelopment Agency of the City and County of San Francisco hereby consents to the Lease Amendment dated as of _________, 2014, by and between the Owner and CHS.

**SUCCESSOR AGENCY,**
a public body, organized and existing under the laws of the State of California

By: ____________________________ Date: ____________________________

Tiffany J. Bohee
Executive Director
Honorable Dianne Feinstein  
Mayor, City and County of San Francisco  
City Hall, Room 200  
San Francisco, CA 94102  

Dear Mayor Feinstein:  

SUBJECT: Project No. Calif. R-59  
Yerba Buena Center  
Financial Settlement  

This is to inform you that the Yerba Buena Center Urban Renewal Project has been financially settled. A copy of our letter to the Redevelopment Agency formally notifying it of the financial settlement, along with a copy of the executed Closeout Agreement, are enclosed for your information.  

Please note that as is the case with the other urban renewal projects which have been closed out under the provisions of Section 570.803 of the Community Development Block Grant Program Regulations, all future proceeds from the sale or lease of Project land must be treated as program income under the CDBG program, and accounted for accordingly.  

Sincerely,  

[Signature]  
Henry Dinhoom  
Area Manager, 9.35  

Enclosures  

cc: Mr. Wilbur W. Hamilton, Executive Director  
San Francisco Redevelopment Agency  

Mr. James Johnson, Executive Director  
Mayor's Office of Housing and Community Development  

Exhibit B
YERBA BUENA CENTER REDEVELOPMENT PROJECT
CLOSEOUT AGREEMENT

THIS AGREEMENT, entered into by and between the Redevelopment Agency of the City and County of San Francisco (the local public agency carrying out the project, hereafter called the "Agency") and the City and County of San Francisco (the unit of general local government in which the project is located, hereafter called the "City"),

W I T N E S S E T H

WHEREAS, the Agency and the United States of America, acting by and through the Secretary of Housing and Urban Development "HUD") entered into Contract No. Calif. R-59 (City) dated December 2, 1966 ("HUD Contract") for the purpose of providing Federal financial assistance under Title I of the Housing Act of 1949, as amended, to carry out redevelopment activities in the Yerba Buena Center Project ("Project") in accordance with a duly adopted Redevelopment Plan ("Plan"), which HUD Contract, Project and Plan have been amended from time to time; and

WHEREAS, an environmental review of the early financial settlement of the Project has been completed in accordance with the provisions of 24 CFR 58.15(a) and the citizen participation requirements under 24 CFR 570.803(e)(2) have been complied with; and

WHEREAS, Community Development Block Grant regulations (24 CFR Part 570) permit financial settlement of urban renewal projects prior to completion, and such regulations require a closeout agreement executed by the Agency and the City pertaining to certain remaining obligations under the HUD Contract; and

WHEREAS, the Agency desires to use any grant earned under the HUD Contract, and any unearned grant as defined in Title 24 CFR Section 570.800(c) to repay the outstanding project temporary loan obligation for Calif. R-59 in the amount of $11,100,000 plus interest; and

WHEREAS, there are no surplus grant funds as defined in Title 24 CFR Section 570.800(d); and

WHEREAS, the City has a Community Development Block Grant entitlement of $22,104,722 for Fiscal year 1983 for which a Grant agreement has been executed; and

WHEREAS, a request for financial settlement of the Yerba Buena Center Redevelopment Project Calif. R-59 has been submitted to the Department of HUD by the Agency and City; and
WHEREAS, in Resolution No. 659-83, adopted on July 25, 1983, the Board of Supervisors of the City and County of San Francisco has approved this Close Out Agreement and has authorized the Mayor to make application for financial settlement of the said Yerba Buena Center Redevelopment Project to HUD;

NOW THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties hereto agree as follows:

Section 1. Project Property

(a) The Project Property is composed of the parcels (some with structures thereon) described in the Project Property Inventory, attached hereto as Exhibit "A", and made a part hereof.

(b) The Project Property shall be retained for disposition by the Agency. The requirement for disposition at fair use value under Section 110(c)(4) of Title I of the Housing Act of 1949, as amended, is not applicable to the disposition of any such Project Property.

(c) Subject to applicable federal and other law and regulation, the proceeds received from the sale and/or lease of Project Property may be used to complete the Redevelopment Project and for necessary and/or appropriate economic development activities in the Project and may also be used to repay any loan (or loans) obtained by the Agency for the purpose of repayment of its Temporary Loan obligation to HUD and any loan (or loans) obtained by the Agency for the purpose of land acquisition necessary for the completion of the Project.

(d) A description of the proposed Project Completion and Economic Development Activities is shown on Exhibit B attached hereto, and made a part hereof.

Section 2. Displacement

On displacement from any above listed occupied property, the displacees shall be provided all benefits to which they may be entitled under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

No displacement of any person from occupied residential properties listed above is involved.

Section 3. Low- and Moderate-Income Housing

The low- and moderate-income housing required to be provided due to the demolition or removal of residential
structures with Project funds, pursuant to Section 105(h) of Title I of the Housing Act of 1949, as amended, have been satisfied and provided.

Section 4. Unearned Grants

Any and all unearned grants made available as a result of the financial settlement will be applied to repayment of the outstanding Project temporary loan.

Section 5. Repayment of Project Temporary Loan

The project temporary loan of $11,100,000 due August 9, 1983 will be repaid from a portion of the proceeds of the public sale of Agency bonds, in an amount not to exceed $29,000,000 (authorized by Board of Supervisors Resolution No. 429-83), less any unearned grant as described in Section 4. Bonds are expected to be sold not later than July 28, 1983.

Section 6. Claims

Any costs or obligations incurred in connection with the Yerba Buena Center Redevelopment Project with respect to claims which are disputed, contingent, unliquidated, or unidentified, and for the payment of which insufficient project funds have been reserved under financial settlement shall be borne by the City. Such additional expenses may be paid from Community Development Block Grant funds made available under 24 CFR 570.

Section 7. Program Management

The obligations under this Closeout Agreement are subject to the applicable Program Management requirements of 24 CFR Part 570, Subpart 0.

Section 8. Special Provisions of Contract

(a) The GSA property located at 49 Fourth Street, San Francisco, California is not covered by the HUD contract but is part of the Agency and City approved Yerba Buena Center Redevelopment Project and is subject to the Agency and City approved Yerba Buena Center Redevelopment Plan as amended. Accordingly, as between the Agency and the City, the Project and the Project Property shall for purposes of Section 1, and the attached Exhibits A and B to this Agreement, include the acquisition of the GSA property by the Agency, and its disposition.

(b) Pursuant to the provisions of 24 CFR Part 58, City agrees to assume all duties of HUD under the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470 et.seq.), Executive Order 11593, and the regulations
issued pursuant thereto. Such duties are those specified in that Memorandum of Agreement of May 7, 1983, between the Advisory Council on Historic Preservation, the California State Historic Preservation Office and HUD, and in any supplemental Memorandum of Agreement or supplementary or amendatory stipulations respecting the Jessie Hotel and the Williams Building that the City, the Agency, the California State Historic Preservation Office and the Advisory Council on Historic Preservation agree to.

ATTEST:

CITY AND COUNTY OF SAN FRANCISCO

[Signature]

ACTING Clerk

ATTEST:

REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

[Signature]

Secretary

Executive Director

Concurred in:
United States of America
Secretary of Housing and Urban Development

[Signature]

San Francisco Area Office
## EXHIBIT A
### PROJECT PROPERTY INVENTORY

<table>
<thead>
<tr>
<th>PARCEL #</th>
<th>Area (Sq. Ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3706-1</td>
<td>136,000</td>
</tr>
<tr>
<td>3750-A</td>
<td>130,873</td>
</tr>
<tr>
<td>3706-P</td>
<td>80,720</td>
</tr>
<tr>
<td>3723-A</td>
<td>226,875</td>
</tr>
<tr>
<td>3723-B</td>
<td>226,875</td>
</tr>
<tr>
<td>3751-B</td>
<td>36,720</td>
</tr>
<tr>
<td>3751-P</td>
<td>16,876</td>
</tr>
<tr>
<td>3751-Q</td>
<td>48,514</td>
</tr>
<tr>
<td>3751-S</td>
<td>18,022</td>
</tr>
<tr>
<td>3751-V</td>
<td>6,480</td>
</tr>
<tr>
<td>3751-H</td>
<td>36,720</td>
</tr>
<tr>
<td>3763-A</td>
<td>25,200</td>
</tr>
<tr>
<td>3707-A</td>
<td>31,840</td>
</tr>
<tr>
<td>3707-B</td>
<td>963</td>
</tr>
<tr>
<td>3722-A</td>
<td>32,960</td>
</tr>
<tr>
<td>3722-B</td>
<td>81,525</td>
</tr>
</tbody>
</table>

YBC CLOSE OUT
Exhibit A, p 1/1
EXHIBIT B

Description of Proposed Project

Completion and Economic Development Activities

1. The CENTRAL BLOCKS 1, 2, and 3 (Between Market, Folsom, Third and Fourth Streets). (Presently under negotiation by the Agency.)

(a) On Central Block 1, the development, operation, maintenance, and security of an office building, hotel, retail and housing and related parking integrated with the development, operation, maintenance and security of open space developed with plazas, walkways, and landscaping and cultural facilities;

(b) On Central Blocks 2 and 3, the development, operation, maintenance and security of retail, ARE (Amusement, Recreation, Entertainment) and parking integrated with the existing Moscone Convention Center and the development, operation, maintenance and security of open space developed with plazas, walkways, landscaping, parks, gardens, and fountains and cultural facilities on Central Block 2. The estimated commencement of the Central Blocks 1, 2, and 3 development is within 1 year with an estimated completion within 5 years thereafter.

2. East Block 2 (on Third Street south of Mission and on Mission east of Third). (Presently under negotiation by the Agency.)

The development, operation, maintenance and security of an office building, housing and related parking and retail. The estimated completion of the development is no later than three years after the completion of Central Blocks 1, 2, and 3.

3. Remaining Project Land (areas other than described in 1 and 2 above.)

This land will be disposed of as quickly as possible consistent with development of Central Blocks 1, 2, 3, East Block 2, and appropriate economic absorption standards.

4. Housing Assistance

YBC CLOSE OUT
Exhibit B, p 1/2
It is anticipated that assistance to low and moderate income housing adjacent to (south and west of) the Project Area may be made available before completion of the Central Blocks 1, 2, and 3 development. An objective of such assistance will be to stabilize and thus keep available such existing low and moderate income housing.

5. Jobs and Minorities

It is estimated that the Project Completion and Economic Development Activities on Central Blocks 1, 2, 3, and East Block 2 will result in hundreds of construction jobs and 8,000 permanent jobs, of which 5,700 will be new jobs, many benefiting low and moderate income persons. Minority and women entrepreneurship in construction and post-construction will be provided for.