



101-0222022-002

Agenda Item **No. 5(c)**
Meeting of December 6, 2022

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Thor Kaslofsky, Executive Director

SUBJECT: Authorizing an Extension of the Due Date for Payment of the Agency Affordable Housing Fee Required under the Agreement for Purchase and Sale of Real Estate between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco and 706 Mission Street Co., LLC, a Delaware limited liability company

EXECUTIVE SUMMARY

On July 22, 2013, the Oversight Board of the City and County of San Francisco (“Oversight Board”) approved, by Resolution No. 8-2013, a Purchase and Sale Agreement by and between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (“Successor Agency”) and 706 Mission Street Co., LLC (“Developer”), with The Mexican Museum, a California non-profit corporation (“Museum”) as third-party beneficiary (the “PSA”, included herewith as Attachment 1) for the sale to Developer of Successor Agency property within the former Yerba Buena Center Approved Redevelopment Project Area D-1 (“YBC Project Area”), to be consolidated with adjacent Developer-owned property for the construction of a 510-foot residential tower, 48,000-sq.ft. cultural space and 4,800 sq. ft. restaurant space (“Project”). Subsequently, the California Department of Finance (“DOF”) approved the Oversight Board Resolution.

Under the PSA, Developer agreed to pay the Successor Agency an affordable housing fee in the amount of \$4,456,378.00 (the “Agency Fee”). The Agency Fee is payable in three installments, the first of which (\$891,276) Developer paid in 2017. Under the terms of the PSA, the second installment became due in November 2020. At that time, the Successor Agency’s Executive Director exercised her discretion under Section 13.7(a) and (c) of the PSA to extend the due date for the second installment for twelve months (to November 2021), at which time the final two installments (collectively \$3,565,102) became due.

London N. Breed
MAYOR

Thor Kaslofsky
EXECUTIVE DIRECTOR

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Bivett Brackett
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Developer now seeks a further extension of the due date for the final two Agency Fee installments, totaling \$3,565,102, to coincide with the completion of recapitalization of the Project, which Developer states will be complete by March 31, 2023. The PSA does not authorize the Executive Director to provide additional extensions, however, under Section 13.7 (b), the Commission may extend the time for Developer's performance of any term, covenant or conditions of the PSA.

Staff recommends granting the requested extension to April 3, 2023.

BACKGROUND

In 2008, the former San Francisco Redevelopment Agency ("Former Agency") and Developer entered into an exclusive negotiations agreement for purchase and sale of Former Agency property ("Agency Property") within the YBC Project Area. Developer intended to merge the Agency Property with adjacent privately-owned property for the development of the Project.

In 2012, the State of California dissolved all redevelopment agencies, including the Former Agency, by operation of law pursuant to California Health and Safety Code Sections 34170 *et seq.* ("Redevelopment Dissolution Law"). Thereafter, under the authority of the Redevelopment Dissolution Law and under San Francisco Ordinance No. 215-12 (Oct. 4, 2012) (establishing the Successor Agency Commission or "Commission" and delegating to it state authority under the Redevelopment Dissolution Law), the Successor Agency continued and concluded negotiations under the ENA, an enforceable obligation of the Former Agency.

In 2013, the Commission approved, by Resolution No. 32-2013 (July 16, 2013), and the Oversight Board approved, by Resolution No. 8-2013 (July 22, 2013), the PSA, which was subsequently reviewed and approved by DOF. Under the PSA, the Developer agreed to pay consideration for the Agency Property in excess of the fair market value of \$34,280,000 dollars and provided several public benefits, including the Agency Fee (see PSA Section 8.1).

Under the PSA, the Agency Fee is payable in three installments: (i) twenty percent (\$891,276) upon issuance of the first building permit or Site Permit for the Project; (ii) forty percent (\$1,782,551) upon issuance of the first temporary certificate of occupancy for a residential unit(s) in the Project, and (iii) the remaining forty percent (\$1,782,551) one year after the date of issuance of the first temporary certificate of occupancy for a residential unit(s) in the Project. Developer has paid the first installment of the Agency Fee.

On June 30, 2020, Developer notified the Successor Agency that as a result of Public Health Order C19-07b (March 31, 2020) prohibiting most construction in San Francisco, Developer's general contractor suspended construction on the Project as of the date of the Public Health Order. See Attachment 1. Developer's general contractor re-commenced construction on May 4, 2020 after further modifications to the Public Health Order permitted resumption of construction activities in San Francisco. Developer's notice stated that Public Health Order C19-07b constituted a Force Majeure event under Section 13.7(a) of the PSA, and that "the time for performance of Developer's obligations under the [PSA] ... shall be automatically extended for a period of time equal to the period the delays arising from such Force Majeure event... ."

In November 2020, Developer received its first temporary certificate of occupancy for a residential unit, the PSA milestone for payment of the Agency Fee second installment. At that time, the Successor Agency's Executive Director exercised her discretion under Section 13.7(a) and (c) of the PSA to extend the due date for the second installment for twelve months (to November 2021), at which time the final two installments (collectively \$3,565,102) would be due.¹ The Project is now complete and Developer is actively offering units for sale.

In November 2021 through January 2022, Successor Agency provided several notices to Developer that the remaining Agency Fee amount (\$3,565,102) was now past due, and Successor Agency staff met with Developer representatives to discuss payment of the Agency Fee.

On February 11, 2022, by letter to the Successor Agency, Developer asserted that Force Majeure conditions listed in its June 20, 2020 letter (described above) continued to prevented it from making the Agency Fee payment. Specifically, Developer asserted that "the Pandemic and various governmental orders continue to restrict access to the Project and continue to have adverse impacts on travel and marketing for the Project," resulting in excusable delay in payment of the Agency Fee.² On March 3, 2022 and again on June 16, 2022, Successor Agency responded to Developer's February 11, 2022 letter, requesting evidence demonstrating the pandemic's continuing effect on Developer's ability to pay the Agency Fee.³

Also, on February 17, 2022, Supervisor Aaron Peskin requested a hearing of the City and County Board of Supervisors Government Audit and Oversight Committee to review the status of the Agency Fee and other fees owed to the City under the PSA. Prior to the hearing, Developer submitted payment of approximately \$1.5 million dollars owed to the City under Section 8.3 of the PSA. There remains continued interest from the Board of Supervisors on the matter of the Agency Fee payment.

On June 30, 2022, Developer responded to the Successor Agency, repeating earlier arguments concerning continuing Force Majeure as well as that these conditions have contributed to achieving less than Developer's intended condominium sales to date, including a softening of the "robust" pre-Pandemic luxury condominium market in San Francisco and lack of vibrancy on San Francisco's streets near the Project.⁴

¹ On January 5, 2021 (email from H. Gerwertz (SF City Attorney) to M. Farrar (Developer representative), the City provided Developer with a draft Conditional Certification of Completion of Improvements and Re-statement of Certain Obligations under Purchase Agreement Section 7.19 ("COC"), indicating the Successor Agency's Executive Director exercised her discretionary authority "to extend the due date for the second payment of the Agency Fee, for twelve months. Thus, the remaining eighty percent of the Agency Fee, in the amount of \$3,565,102, shall be paid on or before November 25, 2021 (which is the date one year from issuance of the first temporary certificate of occupancy for a residential unit(s) in the Project)." Although Developer never executed the COC, the Successor Agency considers the discretionary extension to be effective.

² Developer correspondence included in Attachment 1.

³ OCII correspondence included as Attachment 1.

⁴ Included in Attachment 1.

On August 23, 2022, the Successor Agency's Executive Director rejected Developer's request for further delay, for failure to articulate a basis consistent with the Force Majeure provisions of the PSA (Section 13.7(a)). In rejecting Developer's request, the Executive Director indicated that only the Commission could extend the due date for the payment of the remaining Agency Fee, under PSA Section 13.7(b), based on economic factors such as weakening sales conditions for luxury condominium sales in San Francisco. Under Section 13.7 (b), the PSA authorizes the Commission to "extend the time for Developer's performance of any term, covenant or conditions" of the PSA.

Lastly, by letter to the Successor Agency dated October 24, 2022, Developer "recognize[d] that pursuant to the Purchase Agreement, the Agency Fee in amount of \$3,565,102 remains outstanding," and requested an extension of the fee due date to March 31, 2023 to allow Developer to complete an immediate recapitalization of the Project necessary to ensure its future success. See Attachment 1.

DISCUSSION

Developer's stated basis for requesting an extension is its need to recapitalize the Project due to lower-than-expected sales to date in the Project. According to Developer, it expected to have pre-sold 50 units, representing approximately 34% of the Project, by the time the first temporary certificate of occupancy was issued (the initial due date for the Agency Fee second installment), with an expected 88 units sold, representing approximately 60% of the Project, within one year thereafter (the initial due date for the Agency Fee final installment). Achieving these expectations would have provided Developer sales proceeds in excess of \$700 million dollars, sufficient to pay off all Project construction financing with excess cash flow to cover carrying costs and fees, including the Agency Fee. According to Developer and recent publicly available estimates, Developer has sold just under 10% of the units in the Project. Although economic factors are not a basis a Force Majeure delay in payment of the Agency Fee, they do offer a basis for granting an extension of time for the payment. Existing evidence supports Developer's contention of a decline in luxury condominium sales in downtown San Francisco since March 2020.⁵ In addition, larger economic trends in the regional and national economy, such as inflation and interest rate increases have had a negative effect on demand for residential uses at the Project.⁶ Staff agree with Developer's characterization of the Project as being of high quality and uniquely positioned in the San Francisco market, but the current economic conditions put the sales in the Project at a disadvantage.

Based on the foregoing, staff believe there is a basis for granting the requested extension. The Agency Fee is not urgently needed to fund existing Successor Agency-sponsored affordable housing development. Thus, the extension would not prejudice the Successor Agency's ability to commence or complete affordable housing projects.

Thus, staff recommends granting the requested extension, requiring payment of the Agency Fee by April 3, 2023.

⁵ Factors driving this decline include sustained remote working or hybrid working schedules and the resulting decrease in downtown office occupancy. See, e.g., <https://sfcontroller.org/sites/default/files/Documents/Economic%20Analysis/Controller%20final%20reponse%20to%20Letter%20of%20Inquiry.pdf>

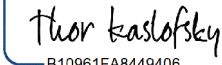
<https://www.bizjournals.com/sanfrancisco/news/2022/10/21/s-f-records-big-drop-in-median-house-sales-price.html>
<https://www.bizjournals.com/sanfrancisco/news/2022/07/28/san-francisco-new-development-condos-compass.html>

⁶ <https://www.bloomberg.com/news/articles/2022-10-28/us-pending-home-sales-fall-by-most-in-two-years-as-rates-rise?srnd=economics-indicators&sref=1oXV3gbn>

NEXT STEPS

If the Commission approves Staff's recommendation, the Successor Agency's Executive Director will monitor the Developer's refinancing efforts for the Project and will report back to the Commission following Developer's extended due date for payment.

(Originated by Aaron Foxworthy, Deputy General Counsel)

DocuSigned by:

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Thor Kaslofsky
Executive Director

Attachment 1: 706 Mission Purchase and Sale Agreement

Attachment 2: OCII and Developer Correspondence concerning Agency Fee

FREE RECORDING pursuant to
Section 27383 of the
California Government Code

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Successor Agency to the
Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

CTL ESC #160330110 - TC / ORA #36914766 - JM
APN BK 3706 Lots 275 & portion of 277


San Francisco Assessor-Recorder
Carmen Chu, Assessor-Recorder
DOC- 2014-J864850-00
Acct 26-SFCC Redevelopment Agency
Thursday, APR 17, 2014 08:46:14
Ttl Pd \$0.00 Rcpt # 0004920619
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AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

by and between

**SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
OF CITY AND COUNTY OF SAN FRANCISCO,**

as Transferor

and

**706 MISSION STREET CO LLC,
a Delaware limited liability company,**

as Transferee

and

**The Mexican Museum,
a California non-profit corporation**

as Third Party Beneficiary

For the transfer and development of

**(Assessor's Block 3706, Lot 275 and portions of Lot 277)
San Francisco, California**

July 16, 2013

ORIGINAL

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Exhibit C	Copy of Tentative Map
Exhibit D	Legal Description of Developer Property
Exhibit E	Plat of Developer Property
Exhibit F	Easement Amendments and New Easements
Exhibit G	Permit to Enter
Exhibit H	Insurance Requirements (For Entry Onto Property)
Exhibit I	Schedule of Performance
Exhibit J	Form of Grant Deed
Exhibit K	Form of Assignment of Garage Leases
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Exhibit M	Form of Bill of Sale
Exhibit N	Permitted Encumbrances
Exhibit O	Scope of Development for Cultural Component
Exhibit P	Basic Concept Drawings
Exhibit Q	Form of Architect's Certificate (Design of Cultural Component Generally)
Exhibit R	Form of Architect's Certificate (Design of Cultural Component – Accessibility for Persons with Disabilities)
Exhibit S	Form of Certificate of Completion
Exhibit T	Cultural Component Lease Term Sheet
Exhibit U	Equal Opportunity Program
Exhibit V	Conceptual Proposed Stevenson Street Upgrades

AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY (this “**Agreement**”) dated for reference purposes only as of July 16, 2013, is by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body organized and existing under the laws of the State of California (“**Successor Agency**”), commonly known as the Office of Community Investment and Infrastructure, as transferor, and 706 MISSION STREET CO LLC, a Delaware limited liability company (“**Developer**”), as transferee, and The Mexican Museum, a California non-profit corporation (the “**Mexican Museum**”), as a third-party beneficiary.

RECITALS

A. Successor Agency became the successor to the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, exercising its functions and powers and organized and existing under the Community Redevelopment Law of the State of California (the “**Former Redevelopment Agency**”), when the Former Redevelopment Agency dissolved on February 1, 2012, pursuant to the California Assembly Bill known as AB 26 and the California Supreme Court’s decision and order in the case entitled *California Redevelopment Association et al. v. Ana Matosantos*. Shortly thereafter, all of the Former Redevelopment Agency’s non-housing assets, including all real property, were transferred to Successor Agency.

B. As a result of AB 26, Successor Agency owns (1) certain real property commonly known as Former Redevelopment Agency disposition parcel CB-1-MM (Assessor’s Block 3706, a portion of Lot 277) located at the north side of Mission Street between Third and Fourth Streets, San Francisco, California, (“**CB-1-MM**”), and (2) certain other real property commonly known as the Jessie Square Garage (Assessor’s Block 3706, Lot 275 and portions of Lot 277), located in San Francisco, California, more particularly described in **Exhibit A** attached hereto and depicted in **Exhibit B** attached hereto (the “**Garage Property**”). The Garage Property consists of subsurface air space that is improved with an existing below-grade public parking garage (the “**Jessie Square Garage**”).

C. Successor Agency intends to obtain approval of and record a Parcel Map or Final Map in accordance with the California Subdivision Map Act, which will create a new separate legal parcel consisting of: (i) CB-1-MM (with no upper or lower vertical limit); (ii) the Garage Property (with no lower vertical limit, no upper vertical limit for the garage exhaust, and other than the portion of the Garage Property within Assessor’s Block 3706, Lot 275 (“**Lot 275**”)); and (iii) a small airspace parcel at the eastern boundary of CB-1-MM that will encompass the portion of the Cultural Component (as defined below) that is proposed to cantilever over the Jessie Square plaza by approximately 10 feet and with dimensions of approximately 123 feet long, 35 feet tall and 10 feet wide, which legal parcel is more particularly described as Parcel A on that certain draft Tentative Parcel Map prepared by Martin M. Ron Associates, Inc. dated June 10, 2013 (“**Tentative Map**”), a copy of which Tentative Map is attached hereto as **Exhibit C** (“**Parcel A**,” which together with Lot 275 is referred to herein as the “**Real Property**”). The

portion of the Real Property other than the Garage Property is sometimes referred to herein as the **“Agency Property.”**

D. The Real Property is located within the boundaries of the former Yerba Buena Center Approved Redevelopment Project Area D-1 and was subject to the Redevelopment Plan for the Yerba Buena Center Approved Redevelopment Project Area D-1 (the **“Project Area”**), which was duly adopted, by Ordinance No. 98-66 (April 29, 1966) in accordance with Community Redevelopment Law, and which expired by its own terms on January 1, 2011 (the **“Redevelopment Plan”**). The purpose of the Redevelopment Plan was to redevelop and revitalize blighted areas in the Project Area.

E. The Former Redevelopment Agency originally acquired the Real Property with urban renewal funds provided through a federal Contract for Loan and Capital Grant dated December 2, 1966 (Contract No. Calif. R-59) and approved by the U.S. Department of Housing and Urban Renewal (the **“HUD Contract”**). Under the HUD Contract, the Former Redevelopment Agency was required to use the federal funds to carry out redevelopment activities in accordance with the Redevelopment Plan and the federal standards for urban renewal under Title I of the Housing Act of 1949.

F. In 1983, the Former Redevelopment Agency and the City and County of San Francisco (the **“City”**) executed, with HUD concurrence, the Yerba Buena Center Redevelopment Project Closeout Agreement (**“YBC Closeout Agreement”**) whereby the Former Redevelopment Agency agreed to retain the Real Property (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 Project Property (See Section 1(b) & (c) of the YBC Closeout Agreement). Under the YBC Closeout Agreement, HUD required the Former Redevelopment Agency to use the Project Property and proceeds from its sale for “necessary and/or appropriate economic development activities,” which included “the development, operation, maintenance, and security of an office building, hotel, retail and housing and related parking integrated with open space . . . and cultural facilities.” YBC Closeout Agreement, § 1 (c) & Exhibit B, § 1 (a) (Aug. 10, 1983). In approving the YBC Closeout Agreement, HUD emphasized that “all future proceeds from the sale or lease of Project Property must be treated as program income under the **CDBG** [Community Development Block Grant] program.” Letter, H. Dishroom, HUD Area Manager, to D. Feinstein, Mayor, Re: Project No. Calif. R-59 (Aug. 10, 1983).

G. For over 30 years the Former Redevelopment Agency held the Agency Property for the governmental purposes identified in the YBC Closeout Agreement and identified the Agency Property as the future, permanent home of The Mexican Museum. The Successor Agency, as successor in interest to the Former Redevelopment Agency, and The Mexican Museum, a California nonprofit corporation (**“The Mexican Museum”**) are parties to that certain Agreement for Disposition of Land for Private Development dated as of July 30, 1993 (as amended, the **“LDA”**) which contemplated the development of a stand-alone museum for The Mexican Museum on the Agency Property. The LDA has been amended eight times, most recently on December 7, 2004. Under the Eighth Amendment, the Former Redevelopment Agency and The Mexican Museum agreed to work cooperatively to explore alternatives for the

museum facility, including the inclusion of The Mexican Museum as a cultural component in a larger development.

H. In 2000, the Former Redevelopment Agency originally approved, by Agency Resolution No. 89-2000 (June 20, 2000), the construction of the Jessie Square Garage and subsequently amended, by Agency Resolutions Nos. 185-2002, 191-2002, 192-2002 (Oct. 22, 2002), the development program and funding for the Jessie Square Garage. Development of the Jessie Square Garage satisfied numerous objectives of the Redevelopment Plan, the YBC Closeout Agreement, and the LDA with The Mexican Museum. Among other things, the Jessie Square Garage met the future parking demand from the build-out of Agency Property.

I. The Jessie Square Garage was built as part of a larger construction project to build the garage and surrounding public improvements, which was financed with approximately \$43.1 million in tax increment bonds authorized by the City's Board of Supervisors (the "**Garage Bonds**"). The Jessie Square Garage is operated by a parking operator, with net revenues passed back to the City to offset tax increment provided to the Successor Agency to pay the debt service on the Garage Bonds pursuant to that certain Cooperation and Tax Increment Reimbursement Agreement (Jessie Square Improvements) by and between the City and the Successor Agency (as successor in interest to the Former Redevelopment Agency) dated as of January 13, 2003 (the "**Cooperation and Tax Reimbursement Agreement**"). The Agency Property is currently unimproved, except for a foundation and basement that was previously constructed for the stand-alone museum for The Mexican Museum, as part of the development of the Jessie Square Garage.

J. Pursuant to that certain Resolution No. 87-93, as adopted by the Former Redevelopment Agency on May 19, 1993, the executive director of the Former Redevelopment Agency was directed to seek legislative approval for the use of bonds secured by future hotel tax receipts in order to assist The Mexican Museum to develop a permanent home in the Project Area (the "**Hotel Tax Bonds**").

K. Successor Agency and Developer acknowledge that The Mexican Museum will be requesting additional funding from the City and County of San Francisco, including Hotel Tax Bonds re-authorization for the sum of Seven Million Five Hundred Thousand Dollars (\$7,500,000.00), through the San Francisco Board of Supervisors and Mayor's Office to be used for the Cultural Component's space furniture, fixtures and equipment and tenant improvements for the Core and Shell of the Cultural Component. Successor Agency and Developer will be supportive of this request for additional funding, provided that such support shall be at no out-of-pocket cost to Successor Agency or Developer.

L. Developer owns certain real property commonly known as 706 Mission Street, San Francisco, California (Assessor's Block 3706, Lot 93), as more particularly described in **Exhibit D** hereto and depicted on **Exhibit E** hereto (the "**Developer Property**"). The Developer Property is currently improved in part with an existing 10-story building of approximately 100,000 square feet of office and retail space (the "**Aronson Building**"), which has been designated as a Category I Significant Building pursuant to the City's Planning Code and which has been informally determined to be eligible for placement on the National Register of Historic

Places. The Real Property and the Developer Property are collectively referred to herein as the “**Site**”.

M. The Successor Agency, as successor in interest to the Former Redevelopment Agency, and Developer are parties to that certain Exclusive Negotiation Agreement dated on or about July 15, 2008, as amended by that certain Amended and Restated Exclusive Negotiation Agreement dated on or about May 4, 2010, (as so amended, the “**ENA**”) regarding the parties’ mutual understanding of the terms under which Successor Agency and Developer would negotiate a purchase and sale agreement pursuant to which Successor Agency would sell the Real Property to Developer.

N. The ENA contemplated that Successor Agency would transfer the Real Property to Developer and that Developer would construct an integrated development on the Site, which has since been refined and now is proposed to consist of (a) residential uses in a new tower of approximately 510 feet in height (480 feet plus a 30 foot mechanical penthouse) (the “**Tower**”), (b) a cultural component of approximately 48,000 net square feet fronting Jessie Square (the “**Cultural Component**”) for The Mexican Museum (which excludes the Restaurant/Retail Space as defined below), (c) the historic rehabilitation of the Aronson Building (the “**Historic Rehabilitation**”), (d) approximately 4,800 gross square feet of additional restaurant/retail uses on the ground floor of the Aronson Building (the “**Restaurant/Retail Space**”), which will be owned by Developer and shall be separately leased by Developer to The Mexican Museum for revenue generation in connection with the operation of the Cultural Component, and (e) the purchase of the Jessie Square Garage (collectively, the “**Project**”). Under the terms of the ENA, the Jessie Square Garage would be dedicated to both Project-related uses and public uses.

O. Developer has obtained or will seek to obtain the various regulatory approvals, permits, and authorizations that are required for the development and construction of the Project from the public agencies with land use jurisdiction over the Project, including, without limitation, an amendment to the City’s zoning map, the adoption of a special use district under the City’s Planning Code, a Section 309 determination and Section 309 exceptions, a Major Permit to Alter, an increase to the shadow budget for Union Square, a Section 295 finding of no substantial adverse shadow impact and a shadow budget allocation, subdivision approvals and Building Permits and the Environmental Impact Report and Mitigation Monitoring and Reporting Program related to such approvals (such regulatory approvals, permits, and authorizations, collectively the “**Regulatory Approvals**”).

P. The Agency Property is the last vacant parcel to be developed under the Redevelopment Plan. The Successor Agency and The Mexican Museum have agreed that the Project is the best opportunity to develop a new museum facility for The Mexican Museum, and to complete the buildout of the Project Area contemplated by the Redevelopment Plan. The Successor Agency, as successor in interest to the Former Redevelopment Agency, and The Mexican Museum are parties to that certain Exclusive Negotiations Agreement dated as of December 14, 2010 (the “**Museum ENA**”), and that certain Grant Agreement dated December 14, 2010 (the “**Grant Agreement**”). The Museum ENA sets forth the terms and conditions for negotiating The Mexican Museum’s participation in the Project. Under the terms of the Museum ENA and related extensions, the Museum ENA expired on June 30, 2013. The Grant Agreement requires the Agency to disburse through one or more future grant disbursement agreements

approximately \$10.5 million of funding for predevelopment and planning activities and the design and construction of tenant improvements for the Cultural Component. The Parties agree that with respect to certain provisions and remedies in this Agreement, The Mexican Museum is an express third-party beneficiary with rights of enforcement as provided for in Section 15.25 hereto.

Q. On June 27, 2012, California's Governor approved companion legislation to AB 26 entitled AB 1484. AB 1484 imposes certain requirements on the successor agencies to redevelopment agencies established by AB 26, including a requirement that suspends certain dispositions of former redevelopment agency property until certain state-imposed requirements are met. Excluded from such suspension are certain transfers of property to the "appropriate public jurisdiction" in furtherance of a "governmental purpose" if the oversight board for a successor agency directs the successor agency to transfer the property, as well as "obligations required pursuant to any enforceable obligations." Cal. Health & Safety Code §§ 34177(c); 34181(a); 34191.4.

R. The Former Redevelopment Agency, and now the Successor Agency, have held the Real Property for the governmental purposes described in the YBC Closeout Agreement and the CDBG program (See 24 C.F.R. §§ 570.201 (completion of urban renewal projects under Title I of the Housing Act of 1949) and 24 C.F.R. § 570.800 (pre-1996 federal urban renewal regulations continue to apply to completion of urban renewal projects)) ("**CDBG Program Requirements**"). Even though the Real Property is held for a governmental purpose, the YBC Closeout Agreement does not permit the Successor Agency to transfer the property to another public jurisdiction. Rather, the YBC Closeout Agreement is an enforceable obligation requiring the Successor Agency to retain the property until it is transferred for "necessary and/or appropriate economic development activities." YBC Closeout Agreement, § 1 (b) ("The Project Property shall be retained for disposition by the Agency.")

S. Successor Agency now seeks to transfer the Real Property to Developer pursuant to the governmental purposes of and enforceable obligations mandated by the YBC Closeout Agreement, the CDBG Program Requirements, the ENA, the Museum ENA, and as described above, in compliance with AB 1484, and in furtherance of the Redevelopment Plan. The disposition of the Real Property is subject to the terms of the YBC Closeout Agreement and the CDBG Program Requirements and thus serves the governmental purposes applicable to completion of urban renewal projects (i.e., disposition for economic development purposes). The disposition of the Real Property is also subject to the terms of the Long Range Property Management Plan Part I that the Successor Agency has or will approve on or about the date of this Agreement pursuant to Section 34191.5 of the California Health and Safety Code.

T. The City has completed environmental review for the Project and the transactions contemplated by this Agreement pursuant to the California Environmental Quality Act ("**CEQA**") (California Public Resources Code Sections 21000 et seq.), the CEQA Guidelines (California Code of Regulations, title 14, Sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code (collectively, the "**Environmental Review**"). On March 21, 2013, the City Planning Commission certified, by Motion No. 18829, the Final Environmental Impact Report for the Project (the "**FEIR**"). Several parties timely appealed the Planning Commission's certification of the FEIR, and on May 7, 2013, the San Francisco Board of

Supervisors heard the appeals and affirmed the Planning Commission's certification of the FEIR. On May 15, 2013, the Historic Preservation Commission, by Motion No. 0197, adopted CEQA Findings including Findings of Overriding Consideration for the Project (the "**HPC Motion**"). On May 23, 2013, the Recreation and Park Commission, by Motion No. 1305-014, adopted CEQA Findings including Findings of Overriding Consideration for the Project (the "**R&P Motion**"). Also on May 23, 2013, the Planning Commission, by Motion No. 18875, adopted CEQA Findings including Findings of Overriding Consideration for the Project (the "**Planning Commission CEQA Findings**").

AGREEMENT

ACCORDINGLY, in consideration of the foregoing and the agreements set forth below, Successor Agency and Developer hereby agree as follows:

1. CONVEYANCE TERMS

1.1 Purchase and Development. Subject to the terms, covenants and conditions of this Agreement, Successor Agency agrees to sell and convey to Developer, and Developer agrees to purchase from Successor Agency, all of the following property (collectively, the "**Property**"):

- (a) the Real Property;
- (b) all buildings, structures, fixtures, landscaping and other improvements erected or located on the Real Property (collectively, the "**Improvements**");
- (c) all easements, rights of way, privileges, licenses, appurtenances and other rights and benefits of Successor Agency belonging to or in any way related to the Real Property, including minerals, oil and gas rights, air, water and development rights, roads, alleys, easements, streets and ways adjacent to the Real Property (the "**Appurtenant Rights**");
- (d) all machinery, equipment, furnishings and other tangible personal property owned by the Successor Agency and used in connection with the maintenance or operation of the Jessie Square Garage (the "**Personal Property**");
- (e) all of Successor Agency's right, title, and interest in the Garage Leases and Agreements (as defined in Section 2.1(b) below), and security deposits (if any) deposited by tenants under the Garage Leases (as defined in Section 2.1(b) below);
- (f) all of the Successor Agency's right, title and interest, if any, in and to the following (collectively, the "**Assigned Rights**"): (i) all transferable or assignable certificate(s) of occupancy, building or equipment permits, consents, authorizations, variances, waivers, licenses, permits, certificates and approvals from any governmental or quasi-governmental authority with respect to the Real Property or the Improvements (collectively the "**Approvals**"), (ii) all Service Contracts (as defined in Section 2.1(c) below), (iii) all architectural, mechanical, engineering, as-built and other plans, specifications and drawings in the Successor Agency's possession or control (the "**Plans**"), all surveys and all soil, environmental, engineering, or other reports or studies in the Successor Agency's possession or control (the "**Reports**"), all intangible property used in connection with the operations of the Real Property or the Improvements (the

“**Intangible Property**”), and all transferable or assignable warranties, representations, guaranties, and miscellaneous rights (the “**Warranties**”) relating to the ownership, development, use and operation of the Real Property or the Improvements.

1.2 Purchase Price; Additional Public Benefits.

(a) Purchase Price. The purchase price (the “**Purchase Price**”) for the Property shall be Thirty Four Million Two Hundred Eighty Thousand Dollars (\$34,280,000), which is equal to the sum of (a) the \$21,620,000 fair market value of the Jessie Square Garage and the \$12,570,000 fair market value of Parcel CB-1-MM “As-Is Scenario A,” each as reflected in that certain Valuation Report for Jessie Square/Parcel CB-1-MM/Jessie Square Garage prepared by CBRE for the Successor Agency, dated June 12, 2013 and (b) the \$90,000 fair market value of the Jessie Square Airspace Parcel as reflected in that certain Valuation Report for the Jessie Square Airspace Parcel prepared by CBRE for the Successor Agency, dated June 12, 2013. The Purchase Price shall be paid by Developer as follows: (i) Developer shall receive a dollar-for dollar credit toward the payment of the Purchase Price based on the Garage Payments made by Developer in accordance with Article 9 below, plus (ii) Developer shall pay One Dollar (\$1.00) in cash or other immediately available funds to the Successor Agency at the Close of Escrow (as defined below).

(b) Additional Public Benefits. The Successor Agency and Developer acknowledge and agree that the Successor Agency and the City shall materially benefit from the numerous other obligations that the Developer will perform as described in this Agreement, including without limitation: (i) payment of the Garage Payments in accordance with Article 9 below in excess of the portion thereof credited toward the Purchase Price in accordance with Section 1.2(a)(ii) above; (ii) the payment of the Five Million Dollars (\$5,000,000) Endowment Payment to an operating endowment for the Cultural Component in accordance with Section 8.2(e) below; (iii) the construction, at no cost to any public entity, of the base building of the Tower and the core and shell of the Cultural Component (collectively the “**Core and Shell**”) in accordance with Article 7 below, and the conveyance of the completed Core and Shell to an appropriate public entity in accordance with Section 8.2 below; (iv) the permanent dedication of at least 210 parking spaces in the Jessie Square Garage for public use at rates that the City has established for similar public parking garages in the City in accordance with Section 8.4(b) below; (v) payment of the Agency Fee (i.e., an affordable housing fee) in accordance with Section 8.1 below, which amount exceeds the fee otherwise required to be paid under the City’s Inclusionary Ordinance; and (vi) payment of the annual Gardens Support Fee Payment in accordance with Section 8.3 below, to support operations, cultural operations and capital expenditures for the adjacent Yerba Buena Gardens.

1.3 Deposits; Liquidated Damages.

(a) Deposits. Developer shall deposit into Escrow payments (each a “**Deposit Payment**” and collectively the “**Deposits**”) in accordance with the Deposit Schedule set forth below. The Deposits shall be held by Title Company (as defined below) in Escrow and invested in an interest bearing account as may be specified by Developer. The Deposits shall be fully applicable to the Redemption Funds required to be paid by Developer in accordance with Section 9.1 below in the event that Closing occurs hereunder.

DEPOSIT SCHEDULE

	PAYMENT DATE	AMOUNT OF DEPOSIT PAYMENT
First Deposit	If the Board of Supervisors of the City approves the Project “consistent with” (as defined in Section 1.4 below) the Project as described in the Planning Commission Motion No. 18894 approved by the Planning Commission on May 23, 2013 (the “ Section 309 Motion ”), then the payment date for First Deposit will be thirty-five (35) days after the date that the Notice of Determination is posted for the City’s approval of the Project.	\$500,000
Second Deposit	The payment date for the Second Deposit will be thirty (30) days after the date that the Cultural Component design, as approved by Developer, the Successor Agency (or its designee) and the Mexican Museum, has been resubmitted and reviewed by the Architectural Review Committee and approved by the Planning Department in accordance with the conditions of approval for the Major Permit to Alter for the Project and the Section 309 Motion.	Additional \$1,200,000 (for a total of \$1,700,000)

Third Deposit	The payment date for the Third Deposit shall be the date that is the one (1) year anniversary of the Effective Date of this Agreement.	Additional \$1,000,000 (for a total of \$2,700,000)
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(b) LIQUIDATED DAMAGES. THE PARTIES HAVE AGREED THAT, IN THE EVENT CLOSING DOES NOT OCCUR HEREUNDER FOR ANY REASON, SUCCESSOR AGENCY'S ACTUAL DAMAGES WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. AFTER NEGOTIATION, THE PARTIES HAVE AGREED THAT, CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, THE AMOUNTS DESCRIBED BELOW ARE A REASONABLE ESTIMATE OF THE DAMAGES THAT SUCCESSOR AGENCY WOULD SUFFER IN THE EVENT CLOSING DOES NOT OCCUR. BY PLACING THEIR INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION. THE PARTIES AGREE THAT THE LIQUIDATED DAMAGES PROVIDED FOR HEREIN IS NOT A PENALTY AND SHALL BE SUCCESSOR AGENCY'S SOLE AND EXCLUSIVE REMEDY AGAINST DEVELOPER IN THE EVENT CLOSING DOES NOT OCCUR HEREUNDER FOR ANY REASON.

(i) If the Agreement is terminated by either party in accordance with Section 1.4 below, then the amount of liquidated damages will be equal to the amount of funds expended by the Mexican Museum for the Cultural Component from funds disbursed by the Successor Agency to The Mexican Museum under the Grant Agreement as of the date of such termination, provided, that such amount shall not exceed Nine Hundred Thousand Dollars (\$900,000). Developer shall pay such liquidated damages amount to Successor Agency within thirty (30) days after the date of such termination (and such payment shall be in addition to the payment of Successor Agency Transaction Costs required to be made by Developer in accordance with Section 15.2 below).

(ii) If the Agreement is not terminated by either party in accordance with Section 1.4 below, then from and after the date of that the First Deposit is required to be paid into Escrow in accordance with Section 1.3(a) above, and if Closing does not occur for any reason and this Agreement is terminated in accordance with its terms (except for a termination by the Successor Agency pursuant to Section 13.2(a) for a reason other than an Event of Default of Developer or the failure of a Successor Agency Condition Precedent, in which case Section 1.3(b)(iii) below shall apply), the liquidated damages amount shall equal the sum of (A) the amount of the Deposits actually paid to the Successor Agency in accordance with Section 1.3(a) above as of the date of such termination, which amount shall be released to Successor Agency from Escrow as of the effective date of such termination, plus (B) the amount of funds expended by the Mexican Museum for the Cultural Component from funds disbursed by the Successor Agency to The Mexican Museum under the Grant Agreement as of the date of

such termination, which amount shall be paid by Developer to Successor Agency within thirty (30) days after the date of such termination (and such payments are in addition to the payment of Successor Agency Transaction Costs required to be made by Developer in accordance with Section 15.2 below).

(iii) If the Agreement is not terminated by either party in accordance with Section 1.4 below, and instead the Agreement is terminated by the Successor Agency pursuant to Section 13.2(a) for a reason other than an Event of Default of Developer or the failure of a Successor Agency Condition Precedent, then the liquidated damages amount shall be equal to One Hundred Dollars (\$100) which amount shall be paid by Developer to Successor Agency within thirty (30) days after the date of such termination, and all Deposits then held in Escrow, and interest accrued thereon, shall be immediately returned to Developer.

INITIALS: Successor Agency

Developer

1.4 No Project Approval; Termination Rights. Notwithstanding any other provision of this Agreement to the contrary, if the Board of Supervisors of the City does not approve the Project "consistent with" (as defined below) the Project as described in the Section 309 Motion, then the parties and The Mexican Museum agree to meet and confer within ten (10) business days after the date that a party provides written notice of such failure to discuss the appropriate steps to address such failure, potentially including mutually agreeing to amend this Agreement to modify the Project and proportionately modify the public benefits resulting from the Project described in Section 1.2(b). If the parties and the Mexican Museum have not otherwise mutually agreed to amend this Agreement to address such failure, then Developer and the Successor Agency shall each have the right to unilaterally terminate this Agreement by providing written notice of such termination to the other party, in which case the liquidated damages provision described in Section 1.3(b)(i) shall apply, provided that such written termination notice must be delivered, if at all, no later than the date that is thirty (30) days after the expiration of such ten (10) business day period for the meet and confer process and thereafter such termination right shall expire, unless otherwise agreed to in writing by the parties. As used in Section 1.3 above and this Section 1.4, the Board of Supervisors' approval of the Project shall be deemed to be "consistent with" the Project as described in the Section 309 Motion if the Board of Supervisors approves the Project and does not impose any material unforeseen condition(s) or requirement(s) that would result in the Project not being commercially feasible as reasonably determined by the mutual agreement of Successor Agency and Developer.

1.5 Easements. Successor Agency and Developer agree and acknowledge that various easements are required for the construction and operation of the Project. While many of the required easements have already been granted, some of the existing easements need to be modified or terminated, and certain other new easements must be granted. **Exhibit F** attached hereto and incorporated herein by reference identifies certain amendments to and terminations of existing easements that are required (the "**Easement Amendments**") and certain new easements that must be granted (the "**New Easements**") to construct and operate the Project. Successor Agency and Developer shall use their commercially reasonable efforts and work diligently to negotiate and finalize the Easement Amendments and New Easements prior to Closing,

including obtaining all required third-party approvals and consents, as well as any other easement amendments or new easements that are reasonably necessary for the construction or operation of the Project. The costs incurred by the Successor Agency in negotiating and finalizing the Easement Amendments and New Easements are Successor Agency Transaction Costs that the Developer will pay in accordance with Section 15.2 below. The Parties acknowledge that neither Successor Agency nor Developer control the third parties whose consent and approval is required for the Easement Amendments and New Easements, and therefore neither Party shall be in breach or default of this Agreement as a result of any failure to obtain any such third party consent or approval or execution of any required Easement Amendment or New Easement.

2. DILIGENCE AND ACCESS

2.1 Documents and Reports; Garage Leases; Service Contracts.

(a) Prior to the Effective Date, Successor Agency has furnished Developer copies of existing surveys, inspection reports, and any other data pertaining to the physical condition of the Property which are in Successor Agency's possession or control.

(b) Within ten (10) business days after the Effective Date, Successor Agency shall furnish Developer copies of any and all of the leases of any portion of the Garage Property (the "**Garage Leases**") and other agreements regarding use of any portion of the Garage Property (the "**Garage Agreements**," and together with the Garage Leases, the "**Garage Leases and Agreements**") in effect as of the Effective Date. The Garage Leases and Agreements will be assigned by Successor Agency to Developer at the Close of Escrow in accordance with the terms and conditions set forth herein.

(c) Within ten (10) business days after the Effective Date, Successor Agency shall furnish Developer copies of all service contracts and management agreements relating to the Real Property or the Improvements, including without limitation, any parking management or operating agreements relating to the Jessie Square Garage. Developer shall have until thirty (30) days prior to the Close of Escrow to notify the Successor Agency whether Developer will assume any such contracts or agreements pertaining to the Real Property or the Improvements as of the Close of Escrow, and all others shall be terminated by the Successor Agency on or before the Closing Date. All agreements and contracts so assumed are referred to herein as the "**Service Contracts.**"

2.2 Entry onto the Property. Developer shall have the right to access the Property prior to the Close of Escrow for the purpose of obtaining data and making surveys and tests, including site tests and soil borings, in accordance with this Agreement. Successor Agency shall also separately agree to provide access to the Property to The Mexican Museum prior to Close of Escrow, at the request of The Mexican Museum and subject to The Mexican Museum agreeing to the Successor Agency's standard terms and conditions for such access.

(a) In connection with any entry by Developer or its Agents (as defined in Section 15.14 below) onto the Property prior to the Closing, Developer shall give Successor Agency reasonable advance written notice of such entry and shall conduct such entry and any

inspections in connection therewith so as to minimize, to the extent possible, interference with uses being made of the Property and otherwise in a manner and on terms and conditions acceptable to the Successor Agency.

(b) All entries by Developer or its Agents onto the Property to perform any testing or other investigations which could affect the physical condition of the Property (including, without limitation, soil borings) or the uses thereof will be made only pursuant to the terms and conditions of a permit to enter in substantially the same form as attached as **Exhibit G** hereto (“**Permit to Enter**”).

(c) If the Developer or its Agents take any sample from the Property in connection with such testing, upon written request from Successor Agency, Developer shall provide to Successor Agency a portion of such sample being tested to allow Successor Agency, if it so chooses, to perform its own testing. Successor Agency or its representative may be present to observe any testing or other inspection performed on the Property. If requested by Successor Agency, Developer shall promptly deliver to the Successor Agency copies of any non-privileged, non-proprietary reports relating to any testing or other inspection of the Property performed by Developer or its Agents.

(d) Developer shall maintain, and shall require that its Agents maintain insurance in amounts and in form and substance set forth in **Exhibit H**, arising out of any entry or inspection of the Property in connection with the transaction contemplated hereby, and Developer shall provide Successor Agency with evidence of such insurance coverage upon request from Successor Agency.

(e) To the fullest extent permitted under law, Developer shall indemnify, defend and hold harmless Successor Agency, the City, and their Agents, including commissioners, members, officers, and employees, contractors, or subcontractors, and each of them (individually, an “**Indemnified Party**” and collectively, the “**Indemnitees**”), from and against any liabilities, costs, damages, losses, liens, claims and expenses (including, without limitation, reasonable fees of attorneys, experts and consultants and related costs) of every kind, nature and descriptions directly or indirectly arising out of or relating to the conduct of Developer, its Agents, contractors or subcontractors or its or their activities during any entry on, under or about the Property in performing the inspections, testing or inquiries provided for in this Agreement (the “**Access Activities**”), including, without limitation, any injuries or deaths to any persons (including, without limitation, the Developer’s Agents) and damage to any property, from any cause whatsoever; provided, however, that the foregoing indemnity shall not apply to any liabilities, costs, damages, losses, liens, claims and expenses (including, without limitation, reasonable fees of attorneys, experts and consultants and related costs) due primarily to gross negligence or willful misconduct of Indemnitees related to the Access Activities or resulting from the discovery or disclosure of any pre-existing condition on or in the vicinity of the Property (“**Excluded Claim**”); provided, further that Indemnitees may require that Developer defend Indemnitees against claims pursuant to this Section until it is established that such claims are Excluded Claims.

(f) Nothing herein shall limit or restrict the Developer’s right and ability to access the Property to the extent that the general public may access the Property.

3. ESCROW AND CLOSING

3.1 Open, Close of Escrow. On or before the date specified therefor in the Schedule of Performance attached hereto as **Exhibit I** (the “**Schedule of Performance**”), Developer shall establish an escrow with Chicago Title Company (“**Title Company**”) and shall notify Successor Agency in writing of such escrow (the “**Escrow**”). At least fifteen (15) days prior to the date specified for the Close of Escrow in the Schedule of Performance, each party agrees to furnish the Title Company with appropriate escrow instructions consistent with, and sufficient to implement the terms of, this Agreement, and shall contemporaneously furnish a copy of said instructions to the other party. At least two (2) days prior to such date specified for Close of Escrow, the parties shall each deposit into Escrow all documents and instruments that such party is obligated to deposit into Escrow in accordance with this Agreement, and at least one (1) day prior to such date specified for Close of Escrow, the parties shall each deposit into Escrow all funds that such party is obligated to deposit into Escrow in accordance with this Agreement.

3.2 Closing Date. The closing hereunder (the “**Closing**” or “**Close of Escrow**”) 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 the Title Company on or before the date set forth in the Schedule of Performance. Such date and time may be extended by the mutual written agreement of Successor Agency and Developer.

3.3 Escrow and Closing Costs. Developer shall pay to the Title Company or the appropriate payee thereof all title report costs; title insurance premiums and endorsement charges; transfer taxes; recording fees; and any and all escrow fees in connection with the conveyance of the Property by Successor Agency to Developer (the “**Closing Costs**”).

3.4 Form of Conveyance. At the Closing, Successor Agency shall convey all of its right, title and interest in and to the Real Property to Developer by grant deed in the form of **Exhibit J** attached hereto (the “**Grant Deed**”).

3.5 Deposit of Documents and Funds.

(a) At or before the Closing, Developer shall deposit into Escrow the following items with respect to the Property:

(i) funds in an amount necessary to consummate the Closing, including Closing Costs, as well as the Redemption Funds and the Reimbursement Agreement Payment, each as defined in Article 9 below);

(ii) one (1) original executed and acknowledged acceptance of the Grant Deed;

(iii) two (2) duly executed originals of the Assignment of Garage Leases in the form of attached **Exhibit K** (the “**Assignment of Garage Leases**”);

(iv) two (2) duly executed originals of the assignment, in the form of attached **Exhibit L**, assigning to Developer all of Successor Agency’s interest in the Plans,

Service Contracts, Warranties, Intangible Property and Approvals (the “**Assignment of Plans, Service Contracts, Warranties, Intangible Property and Approvals**”);

(v) one (1) executed and acknowledged original of each of the Easement Amendments and New Easements to which Developer is a party, or any other easement amendments or new easements that are reasonably necessary for the construction or operation of the Project to which Developer is a party, if any; and

(vi) one (1) original executed Preliminary Change of Ownership Report.

(b) At or before the Closing, Successor Agency shall deposit into Escrow the following items with respect to Property:

(i) one (1) original executed and acknowledged Grant Deed;

(ii) a certified copy of the resolution authorizing and approving the conveyance of the Property to the Developer in accordance with this Agreement duly adopted by the Successor Agency’s Oversight Board and either not objected to, or approved by, the California Department of Finance within the statutory period for its review;

(iii) one (1) duly executed bill of sale, in the form of attached **Exhibit M** (the “**Bill of Sale**”);

(iv) two (2) duly executed originals of the Assignment of Garage Leases;

(v) one (1) duly executed owner’s affidavit in a form reasonably acceptable to Developer and Title Company (the “**Owner’s Affidavit**”);

(vi) two (2) duly executed originals of Assignment of Plans, Service Contracts, Warranties, Intangible Property and Approvals;

(vii) to the extent in Successor Agency's possession, originals of the Service Contracts, the Warranties, and all Plans, Reports, and Approvals;

(viii) one (1) duly executed non-foreign certification in accordance with the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder using the Title Company’s standard form, stating that Successor Agency is not a “foreign person” under IRC Section 1445(f)(3);

(ix) one (1) duly executed California Form 593-W Certificate or comparable non-foreign person affidavit;

(x) one (1) executed and acknowledged original of each of the Easement Amendments and New Easements to which Successor Agency is a party, and any other easement amendments or new easements that are reasonably necessary for the construction or operation of the Project to which Successor Agency is a party;

(xi) any other documents as may be reasonably required by the Title Company, including, without limitation, duly authorized resolutions authorizing Successor Agency to enter into and perform the transactions contemplated by this Agreement, Bylaws and Articles of Incorporation of Successor Agency and any Bylaws and Articles of Incorporation of any parent entity of Successor Agency.

(c) At the Closing, the Successor Agency and Developer shall each deposit such other instruments as are reasonably required by the Title Company or otherwise required to close the escrow and consummate the purchase of the Property in accordance with the terms hereof.

3.6 Prorations. Any real property taxes and assessments, including any community benefit district assessments, and any other expenses normal to the operation and maintenance of the Property shall all be prorated as of 12:01 a.m. on the date that the Grant Deed is recorded, on the basis of a 365-day year, as set forth in a closing statement issued by the Title Company and agreed to by the parties. Successor Agency and Developer hereby agree that if any of the above described prorations cannot be calculated accurately on the Closing Date, then the same shall be calculated as soon as reasonably practicable after the Closing Date and either party owing the other party a sum of money based on such subsequent proration(s) shall promptly pay said sum to the other party.

3.7 No Brokers or Finders. The parties represent and warrant to each other that no broker or finder was instrumental in arranging or bringing about this transaction and that there are no claims or rights for brokerage commissions or finder's fees in connection with the transactions contemplated by this Agreement. If any person brings a claim for a commission or finder's fee based on any contact, dealings, or communication with Successor Agency or Developer, then the party through whom such person makes a claim shall defend the other party from such claim, and shall indemnify the indemnified party from, and hold the indemnified party against, any and all costs, damages, claims, liabilities, or expenses (including, without limitation, reasonable attorneys' fees and disbursements) that the indemnified party incurs in defending against the claim. The provisions of this Section shall survive the Closing, or, if the purchase and sale is not consummated for any reason, any termination of this Agreement.

3.8 Notice of Special Restrictions. Developer shall record or cause to be recorded against the Site any Notices of Special Restrictions ("NSRs") that the City issues in connection with the City's approval of the Regulatory Approvals when required by the City and in no event later than the Close of Escrow. Successor Agency shall cooperate with Developer in the recording of the NSRs against the Property.

4. TITLE

(a) Upon the Close of Escrow, the Title Company shall provide and deliver to Developer, an owner's title insurance policy (which at Developer's option may be an ALTA extended coverage owner's policy) issued by the Title Company, with such reinsurance and direct access agreements as Developer shall reasonably request, in an amount designated by Developer, insuring that fee title to the Property and all easements appurtenant thereto are vested in the Developer, subject only to the permitted encumbrances set forth on **Exhibit N** hereto, and

other encumbrances expressly contemplated by this Agreement, including without limitation any Regulatory Approvals to the extent such Regulatory Approvals constitute an encumbrance (collectively, the “**Permitted Encumbrances**”), together with such endorsements to such title insurance policy as Developer or a permitted Holder under a Mortgage permitted under Article 12 shall require, all at the sole cost and expense of Developer (the “**Title Policy**”).

(b) If Developer elects to secure an ALTA owner’s policy for the Property, Successor Agency shall cooperate with Developer to secure such policy by providing surveys and engineering studies in its possession or control, at no cost to Successor Agency and without warranty of any kind, which relate to or affect the condition of title, and by executing such affidavits and other instruments as required by the Title Company, including, without limitation the Owner’s Affidavit. The responsibility of Successor Agency assumed by this paragraph is limited to providing such surveys and engineering studies, if any. Developer shall be responsible for securing any and all other surveys and engineering studies at its sole cost and expense.

5. CONDITIONS PRECEDENT TO CONVEYANCE

5.1 Successor Agency’s Conditions Precedent. The following are conditions precedent to Successor Agency’s obligation to convey the Property to Developer (“**Successor Agency’s Conditions Precedent**”):

(a) Developer shall have performed all obligations hereunder required to be performed by Developer on or before the date of such conveyance;

(b) Successor Agency, in consultation with the City’s Real Estate Division and Arts Commission (collectively, the “**City Parties**”), shall have approved, as provided in Article 7, the Construction Documents for the Core and Shell of the Cultural Component which are required to be approved by the Successor Agency and The Mexican Museum by the time of conveyance as provided in the Schedule of Performance;

(c) A building permit for the Core and Shell shall have been issued, except that in the case of Fast Track permit processing, issuance of the Site Permit with initial excavation permit only, as specified in Section 7.10, for the Core and Shell shall satisfy this condition to Closing;

(d) Successor Agency shall have approved, as provided in Section 5.5, the evidence of equity capital and mortgage financing of the Cultural Component by Close of Escrow, as provided in the Schedule of Performance;

(e) Successor Agency and Developer shall have obtained and recorded the parcel map or final map creating Parcel A, and the transfer of the Property shall be in compliance with the California Subdivision Map Act;

(f) Developer shall have certified in writing to Successor Agency that Developer is ready, willing and able in accordance with the terms and conditions of this Agreement to commence construction of the Project (which includes the Core and Shell of the Cultural Component) by the time set forth in the Schedule of Performance and that all conditions precedent under this Agreement to such commencement have been fulfilled;

(g) Developer shall have instructed the Title Company to consummate the Escrow;

(h) Successor Agency shall have delivered to Escrow a fully-executed notice of termination with respect to the LDA (counter-signed by The Mexican Museum if necessary to effect the termination of the LDA), which shall be recorded at closing and which termination shall be effective as of the Close of Escrow;

(i) Developer and The Mexican Museum, on the one hand, or City and The Mexican Museum on the other hand, shall have delivered to Escrow a fully-negotiated and executed lease for the Cultural Component, pursuant to Section 8.2 (b) below;

(j) Successor Agency shall have reasonably approved the documents necessary to redeem the Garage Bonds and make the Reimbursement Agreement Payment to the City, each as provided in Article 9 below; and

(k) Adoption by the Successor Agency Commission of a resolution authorizing the transactions contemplated hereby and making all findings required by law associated therewith, and if required by applicable law, approval of the transactions by the Oversight Board of the Successor Agency and the State Department of Finance.

5.2 Failure of Successor Agency's Conditions Precedent. Each of Successor Agency's Conditions Precedent is intended solely for the benefit of Successor Agency. The party responsible for meeting or satisfying each of the Successor Agency's Conditions Precedent shall use its good faith commercially reasonable efforts to cause such Successor Agency's Condition Precedent to be met or satisfied. Any time one of the foregoing Successor Agency's Conditions Precedent is met or satisfied, or becomes incapable of being met or satisfied, the party responsible for meeting or satisfying such condition shall promptly provide the other written notification of the same to the other party. If one or more of the Successor Agency's Conditions Precedent becomes incapable of being met or satisfied, then the parties agree to meet and confer within ten (10) business days after the date that a party provides written notice that a Successor Agency's Condition Precedent has become incapable of being met or satisfied to discuss the appropriate steps to address such failure of the applicable Successor Agency's Conditions Precedent, potentially including mutually agreeing to amend this Agreement to modify such Successor Agency's Condition Precedent or allow for more time to have such Successor Agency's Conditions Precedent met and extend time for performing other terms or conditions of this Agreement accordingly as may be necessary or desired. After such meet and confer process, if the parties have not otherwise mutually agreed to amend this Agreement to address such failure of the applicable Successor Agency's Conditions, then Successor Agency shall have the right to unilaterally terminate this Agreement by providing written notice of such termination to the Developer, provided, however that the Successor Agency shall not have the right to so terminate this Agreement if such Successor Agency's Condition Precedent has not been met or satisfied because the Successor Agency has failed to use its good faith commercially reasonable efforts to meet or satisfy such condition. In addition, if there is a Developer Event of Default, the Successor Agency may pursue remedies as provided in Article 13. Notwithstanding any other provision in this Agreement to the contrary, the Successor Agency's Condition Precedent set forth in Section 5.1(e) may not be waived under any circumstances.

5.3 Developer's Conditions Precedent. The following are conditions precedent to Developer's obligation to accept the Property ("**Developer's Conditions Precedent**"):

(a) Successor Agency shall have performed all obligations hereunder required to be performed by Successor Agency on or before the date of such conveyance;

(b) Title Company shall be irrevocably committed to issuing to Developer all title insurance required by Developer pursuant to Section 4.1 insuring Developer as the owner of fee simple title to the Real Property without any exception for the Garage Bonds or Tax Reimbursement Agreement, in a form acceptable to Developer, and with such endorsements as required by Developer and the Holder of a permitted Mortgage;

(c) Successor Agency and Developer shall have obtained and recorded the parcel map or final map creating Parcel A, and the transfer of the Property shall be in compliance with the California Subdivision Map Act;

(d) All of the Regulatory Approvals necessary for the construction, development, and operation of the structural, life safety and fire suppression components of Project, including, without limitation, a Building Permit for the Project, have been approved by all applicable governmental agencies (including without limitation the Oversight Board of the Successor Agency and the State Department of Finance, to the extent required by applicable law), subject to conditions acceptable to Developer in its commercially reasonable discretion, and such Regulatory Approvals shall be final and non-appealable, and if any appeals, legal challenges, requests for rehearing, or referenda to the Regulatory Approvals have been filed or instituted, such appeals, legal challenges, requests for rehearing, or referenda shall have been fully and finally resolved in a manner acceptable to Developer in its commercially reasonable discretion and such that no further appeals, legal challenges, requests for rehearing, or referenda are possible; it being acknowledged and agreed that it shall not be unreasonable for Developer to withhold its approval of any Regulatory Approval condition or modification (resulting from the approval process or the settlement of any litigation or otherwise) that would, without limitation, result in any of the following: (i) an increase in the Project costs by more than Five Million Dollars (\$5,000,000) compared to Project costs described in that certain Economic Planning and Systems, Inc. ("**EPS**") report entitled *Financial Feasibility of 706 Mission Street: The Mexican Museum and Residential Tower Project and Alternatives* dated May 8, 2013 and/or that certain EPS Report entitled *Evaluation of Developer Contributions for 706 Mission Street: The Mexican Museum and Residential Tower Project* dated July 2013, including without limitation costs related to satisfying any new or additional mitigation measures, or (ii) a decrease in the gross square footage of the residential component of the Project by more than 20,000 square feet compared to the Project as described in the Section 309 Motion, or (iii) a material delay, as reasonably determined by Developer, in the commencement or completion of construction of the Project, or (iv) a requirement to obtain any new consent, approval or action related to the Project that must be granted or undertaken by a third party not controlled by Developer.

(e) There shall be an absence of any condemnation, environmental or other pending governmental proceedings with respect to the Property which would materially and adversely affect Developer's intended uses of the Property or the value of the Property;

(f) There shall not have occurred between the Effective Date and the Close of Escrow a material adverse change to the physical condition of the Property;

(g) This Agreement shall not have been previously terminated pursuant to any other provision hereof;

(h) Successor Agency shall have delivered to Escrow a fully-executed notice of termination with respect to the LDA (counter-signed by The Mexican Museum if necessary to effect the termination of the LDA), which shall be recorded at closing and which termination shall be effective as of the Close of Escrow;

(i) Developer and The Mexican Museum, on the one hand, or City and the Mexican Museum on the other hand, shall have delivered to Escrow a fully-negotiated and executed lease for the Cultural Component, pursuant to Section 8.2 (b) below;

(j) Fully executed and acknowledged originals of all New Easements and Amended Easements shall have been deposited into Escrow, along with any other easement amendments or new easements that are reasonably necessary for the construction or operation of the Project as determined by Developer;

(k) Successor Agency shall have instructed the Title Company to consummate the Close of Escrow; and

(l) Developer shall have reasonably approved the documents necessary to redeem the Garage Bonds and make the Reimbursement Agreement Payment to the City, each as provided in Article 9 below.

5.4 Failure of the Developer's Conditions Precedent. Each of the Developer's Conditions Precedent is intended solely for the benefit of Developer. The party responsible for meeting or satisfying each of the Developer's Conditions Precedent shall use its good faith commercially reasonable efforts to cause such Developer's Condition Precedent to be met or satisfied. Any time one of the foregoing Developer's Conditions Precedent is met or satisfied, or becomes incapable of being met or satisfied, the party responsible for meeting or satisfying such condition shall promptly provide the other written notification of the same to the other party. If one or more of the Developer's Conditions Precedent becomes incapable of being met or satisfied, then the parties agree to meet and confer within ten (10) business days after the date that a party provides written notice that a Developer's Condition Precedent has become incapable of being met or satisfied to discuss the appropriate steps to address such failure of the applicable Developer's Conditions Precedent, potentially including mutually agreeing to amend this Agreement to modify such Developer's Condition Precedent or allow for more time to have such Developer's Conditions Precedent met and extend time for performing other terms or conditions of this Agreement accordingly as may be necessary or desired. After such meet and confer process, if the parties have not otherwise mutually agreed to amend this Agreement to address such failure of the applicable Developer's Conditions, then Developer shall have the right to unilaterally terminate this Agreement by providing written notice of such termination to the Successor Agency, provided, however that the Developer shall not have the right to so terminate this Agreement if such Developer's Condition Precedent has not been met or satisfied

because Developer has failed to use its good faith commercially reasonable efforts to meet or satisfy such condition. In addition, if there is a Successor Agency Event of Default, the Developer may pursue remedies as provided in Article 13. Notwithstanding any other provision in this Agreement to the contrary, the Developer's Condition Precedent set forth in Section 5.3(c) may not be waived under any circumstances.

5.5 Submission of Evidence of Financing for the Cultural Component.

(a) No later than the time specified in the Schedule of Performance for submission of evidence of financing for the Core and Shell of the Cultural Component, Developer shall submit the following to Successor Agency for review and approval:

(i) (A) A copy of a bona fide commitment or commitments without any provisions requiring acts of Developer prohibited herein or prohibiting acts of Developer required herein for the financing of the Construction Costs of the Core and Shell (as described in the Scope of Development for Cultural Component attached hereto as **Exhibit O** (the "**Scope of Development for Cultural Component**")), certified by Developer to be a true and correct copy or copies thereof (if the investor or lender under any such commitment or commitments is to receive a Mortgage on the Site, said investor or lender shall be a Bona Fide Institutional Lender); (B) additional commitments of investment or funding to cover the difference between the Mortgage amount and the Budget for the Core and Shell; and (C) if required by the interim construction financing, commitments for permanent financing shall be provided, also certified by Developer to be true and correct copies thereof. Developer covenants to use diligent, good faith efforts to perform any and all conditions to funding thereof.

(ii) A statement in form satisfactory to Successor Agency sufficient to demonstrate that Developer has adequate funds or will have adequate funds upon the funding of the commitments referred to in subparagraph (i) above and is committing such funds to the Construction Costs of the Core and Shell.

(iii) Construction Contract. A construction contract, with a general contractor reasonably satisfactory to Successor Agency, for the construction of the Core and Shell.

(iv) Subguard Coverage or Guarantee. Evidence that the general contractor has obtained Subguard coverage from an issuer reasonably satisfactory to the Successor Agency, or a completion guaranty from the general contractor or another person reasonably satisfactory to Successor Agency for the construction of Core and Shell.

(b) Successor Agency will notify Developer in writing of its reasonable approval or disapproval of any of the foregoing documents within fifteen (15) days of submission of such documents to Successor Agency, unless some other time period is specified in the Schedule of Performance or elsewhere in this Agreement. Failure of Successor Agency to notify Developer of its reasonable approval or disapproval of a document or submission within said periods of time shall entitle the Developer to a time extension for the approval of such document or submission until the later of (i) the date of approval by Successor Agency, or (ii)

thirty (30) days after Successor Agency provides written reasons for a disapproval. In no event will Successors Agency's failure to respond be deemed to be an approval.

5.6 Conveyance of Title to the Property and Delivery of Possession. Provided that Developer is not then in default under the terms of this Agreement, the conditions to Successor Agency's obligations and the conditions to Developer's obligations with respect to the Property have been satisfied or expressly waived as permitted by this Agreement, and Developer has paid to Successor Agency all sums due hereunder at the times when due, then Successor Agency shall convey to Developer, and Developer shall accept, the conveyance of the fee interest in the Property on or before the date specified for Close of Escrow in the Schedule of Performance (the "Conveyance").

6. AS-IS TRANSFER; RELEASE; HAZARDOUS MATERIAL INDEMNITY

6.1 As-Is Conveyance. Successor Agency shall convey the Property in its present, "AS IS" condition and shall not prepare the Property for any purpose whatsoever prior to conveyance to Developer. So long as there is no material adverse change in the condition of the Property after the Effective Date, Developer agrees to accept the Property in its condition at the Close of Escrow.

(a) Developer has been and will continue to be given the opportunity to investigate the Property fully, using experts of its own choosing. In connection therewith, Successor Agency, at no cost to Successor Agency, shall cooperate reasonably with Developer and shall afford Developer access, upon not less than five (5) days' prior notice to Successor Agency, and otherwise at all reasonable times, to such books and records as Successor Agency shall have in its possession or control or otherwise available to Successor Agency and relating to the prior use and/or ownership of the Property.

(b) Developer acknowledges that, except to the extent otherwise expressly provided herein, neither Successor Agency nor any employee, representative or agent of Successor Agency has made any representation or warranty, express or implied, with respect to the Property, and it is agreed that Successor Agency makes no representations, warranties or covenants, express or implied, as to its physical condition; as to the condition of any improvements; as to the suitability or fitness of the land; as to any Environmental Law, or otherwise affecting the use, value, occupancy or enjoyment of the Property; or as to any other matter whatsoever; it being expressly understood that the Property is being sold in an "AS IS" condition. The provisions of this Section 6.1 shall survive the Close of Escrow and shall not merge into the Grant Deed delivered to Developer at the Close of Escrow.

(c) After the Close of Escrow, Developer, at its sole cost and expense, shall comply with all provisions of Environmental Law applicable to the Property and all uses, improvements and appurtenances of and to the Property, and shall perform all investigations, removal, remedial actions, cleanup and abatement, corrective action or other remediation that may be required pursuant to any Environmental Law, and Successor Agency and its respective members, officers, agents and employees, shall have no responsibility or liability with respect thereto.

(d) DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY PROVIDED HEREIN, SUCCESSOR AGENCY IS CONVEYING AND DEVELOPER IS ACCEPTING THE PROPERTY ON AN “AS-IS WITH ALL FAULTS” BASIS SUBJECT TO ALL APPLICABLE LAWS, RULES AND ORDINANCES, INCLUDING WITHOUT LIMITATION, ANY ZONING ORDINANCES, OR OTHER REGULATIONS GOVERNING THE USE, OCCUPANCY OR POSSESSION OF THE PROPERTY. DEVELOPER REPRESENTS AND WARRANTS THAT DEVELOPER IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SUCCESSOR AGENCY OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE PROPERTY, ITS SUITABILITY FOR DEVELOPER’S INTENDED USES OR ANY OF THE PROPERTY CONDITIONS. SUCCESSOR AGENCY DOES NOT GUARANTEE THE LEGAL, PHYSICAL, GEOLOGICAL, ENVIRONMENTAL OR OTHER CONDITIONS OF THE PROPERTY, NOR DOES IT ASSUME ANY RESPONSIBILITY FOR THE COMPLIANCE OF THE PROPERTY OR ITS USE WITH ANY STATUTE, RESOLUTION OR REGULATION. DEVELOPER AGREES THAT NEITHER SUCCESSOR AGENCY NOR ANY OF SUCCESSOR AGENCY’S AGENTS HAVE MADE, AND SUCCESSOR AGENCY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY CONDITIONS.

In connection with the foregoing release, Developer expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR EXPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN TO HIM MUST HAVE MATERIALLY AFFECTED THE SETTLEMENT WITH THE DEBTOR.

BY PLACING ITS INITIALS BELOW, DEVELOPER SPECIFICALLY ACKNOWLEDGES AND CONFIRMS THE VALIDITY OF THE RELEASES MADE ABOVE AND THE FACT THAT DEVELOPER WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THE ABOVE RELEASES.

INITIALS: DEVELOPER: _____

6.2 Hazardous Materials Indemnification

(a) Developer shall indemnify, defend and hold the Indemnities harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to (A) Developer’s violation of any Environmental Law, or (B) any Release or threatened Release of a Hazardous Substance, or any condition of pollution, contamination or Hazardous Substance-related nuisance on, under or from the Real Property, first occurring after the date of Conveyance, except where

such violation, Release or threatened Release, or condition was at any time caused by the negligence or intentional misconduct of the Indemnified Party seeking indemnification.

(b) For purposes of this Section 6.2, the term “**Hazardous Substance**” shall have the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Agreement, 42 U.S.C. §9601(14), and in addition shall include, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls (“PCBs”), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code §§25316 and 25281(d), all chemicals listed pursuant to the California Health & Safety Code §25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition shall not include substances which occur naturally on the Property.

(c) The term “**Environmental Law**” shall include all federal, state and local laws, regulations and ordinances governing hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee or community right-to-know requirements related to the work being performed under this Agreement.

(d) For purposes of this Section 6.2, the term “**Release**” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substance).

6.3 Risk of Loss. Successor Agency shall give Developer notice of the occurrence of damage or destruction of, or the commencement of condemnation proceedings affecting, any portion of the Property. Successor Agency agrees not to institute any condemnation proceedings affecting any portion of the Property. In the event that all or any portion of the Property is condemned, or destroyed or damaged by fire or other casualty prior to the Close of Escrow, then Developer may, at its option to be exercised within sixty (60) days of Successor Agency’s notice of the occurrence of the damage or destruction or the commencement of condemnation proceedings, either terminate this Agreement or consummate the conveyance as required by the terms hereof. If Developer elects to terminate this Agreement within such 60-day period, then this Agreement shall terminate at the end of such 60-day period, and neither party shall have any further rights or obligations hereunder except as expressly provided herein. Otherwise, this Agreement shall not terminate as a result of such damage or destruction and the Successor Agency shall assign to Developer at Closing any and all unexpended insurance proceeds and any uncollected claims and rights under insurance policies covering such loss, if any.

7. CONSTRUCTION OF THE CORE AND SHELL

7.1 Developer’s Construction Obligations. Developer shall construct, or cause to be constructed, the Core and Shell, which shall (a) be approximately 48,000 net square feet, (b) front Jessie Square, and (c) be integrated into the Project in a thoughtful and efficient manner, within the times set forth in the Schedule of Performance, as such dates may be extended from

time to time as provided herein. The specifications for the Core and Shell are more particularly described in the Scope of Development for Cultural Component.

7.2 Collaboration with The Mexican Museum. Developer and its consultants shall collaborate and work cooperatively with The Mexican Museum and any architects and consultants retained by The Mexican Museum to design the Core and Shell. The Mexican Museum acknowledges (through its acknowledgement of this Agreement) that the Developer must prepare and submit the Construction Documents (as defined in Section 7.4) for review and approval in accordance with the Scope of Development for Cultural Component and at the times established in the Schedule of Performance. The Mexican Museum further acknowledges that if it is unable to provide the information and/or input needed by the Developer to meet the times established in the Schedule of Performance, then Developer is allowed to make decisions relative to design and construction of the Core and Shell without input from The Mexican Museum, after the Developer has provided written notice to The Mexican Museum and The Mexican Museum has not provided the required information and/or input within ten (10) days after the date of such written notice.

7.3 Compliance with Construction Documents and Law. The Core and Shell shall be constructed in compliance with the HPC Motion and the Section 309 Motion, as such motions may be modified by the appeals process if applicable, and those elements of the Construction Documents for which Successor Agency's approval is required under Sections 7.4 (subject to deviations in dimensions attributable to normal industry construction tolerances) and in compliance with all applicable local, state and federal laws and regulations, including all laws relating to accessibility for persons with disabilities. As described in Section 7.22 below, the Successor Agency may assign its review and approval rights to the City or other governmental entity designee with jurisdiction over the Project.

7.4 Construction Documents.

(a) The “**Construction Documents**” submitted by Developer to Successor Agency shall consist of the following documents related to the Core and Shell:

- (i) the Schematic Design Drawings;
- (ii) the Design Development Documents; and
- (iii) the Final Construction Documents (which shall mean all design and development documents including final plans and specifications).

(b) Construction Documents are more particularly described in the Scope of Development for Cultural Component. As used herein “Construction Documents” do not mean any contracts between Developer and any contractor, subcontractor, architect, engineer or consultant.

(c) The Construction Documents shall be in substantial compliance with the basic design plans for the Core and Shell that are attached hereto as **Exhibit P** (the “**Basic Concept Drawings**”). Successor Agency and Developer previously agreed to the Basic Concept

Drawings. The Construction Documents shall also be in substantial compliance with this Agreement, including the Scope of Development for Cultural Component.

7.5 Preparation of Construction Documents / Approval of Architect.

(a) The Construction Documents shall be prepared by or signed by an architect (or architects) licensed to practice architecture in and by the State of California. The principal design architect retained by Developer to design the Core and Shell is Handel Architects of San Francisco, California, who shall consult with any architect(s) and design consultants retained by The Mexican Museum for the Cultural Component. The principal design architect retained by The Mexican Museum to design the Cultural Component is TEN Arquitectos. Any change in the principal design architect will require Successor Agency's approval, which shall not be unreasonably withheld. A California licensed architect shall coordinate the work of any associated design professions, including engineers and landscape architects. In any event:

(i) A California licensed architect shall inspect the construction of the Core and Shell and shall provide certificates in the form of **Exhibit Q** when required by Successor Agency; and

(ii) A California licensed structural and civil engineer must review and certify all final foundation and grading design.

(b) Upon Developer's submission of the Design Development Documents to Successor Agency, the architect shall provide a certificate in the form of **Exhibit R** certifying that the Core and Shell has been designed in accordance with all local, state and federal laws and regulations relating to accessibility for persons with disabilities.

(c) All architectural firms or architects engaged by Developer or by or through said architectural firms or architects (except those exclusively engaged in interior design) for the Core and Shell shall be approved by Successor Agency within the time periods provided in Section 15.4, which approval shall not be unreasonably withheld.

7.6 Submission of Construction Documents. Developer shall prepare and submit the Construction Documents to Successor Agency for review and approval as provided in Section 7.5 in accordance with the Scope of Development for Cultural Component and at the times established in the Schedule of Performance.

7.7 Scope of Agency Review and Approval of Developer's Construction Documents.

(a) Successor Agency's review and approval of the Construction Documents in coordination with The Mexican Museum's design architect and local architect of record is limited to (i) a determination of their compliance with the Scope of Development for Cultural Component and the Basic Concept Drawings; and (ii) architectural design of the Core and Shell including massing, detailing, materials and color selection, site planning, easement location, scope and size (if any), the adequacy of facilities for servicing the Cultural Component (e.g., truck loading access), interior design for the ground floors visible from the outside, exterior and public area signs and public art work; provided, however, Successor Agency shall not request

any changes to the Construction Documents that substantially comply with the Scope of Development for Cultural Component and the Basic Concept Drawings if the requested changes would conflict with or require an amendment to any of the Regulatory Approvals or the conceptual plans that were approved by Regulatory Agencies with the Regulatory Approvals, or result in the need for additional review pursuant to the California Environmental Quality Act.

(b) No Successor Agency review is made or approval given as to the compliance of the Construction Documents with any building codes and standards, including building engineering and structural design, or compliance with building codes or regulations, or any other applicable state or federal law or regulation relating to construction standards or requirements, including, without limitation, compliance with any local, state or federal law or regulation related to the suitability of the Core and Shell for use by persons with disabilities.

(c) Successor Agency's review and reasonable approval or disapproval of Construction Documents as heretofore provided in this Section 7.7 shall be final and conclusive. Successor Agency shall act in good faith in its review and approval process. Successor Agency will not disapprove or require changes subsequently (except by mutual agreement) in, or in a manner which is inconsistent with, matters which it has approved previously.

(d) If Successor Agency rejects the Construction Documents in whole or in part, Developer shall submit new or corrected plans which are in compliance within thirty (30) days after written notification to it of rejection, and the provisions of this Article 7 relating to approval, rejection and resubmission of corrected Construction Documents shall continue to apply until Construction Documents have been approved by Successor Agency; provided, however, that in any event, Developer shall have submitted satisfactory Construction Documents (i.e. approved by Successor Agency) no later than the dates specified in the Schedule of Performance, as such dates may be extended by mutual agreement.

7.8 Scope of Developer Submission of Construction Documents. The following provisions shall apply to all stages of Developer submissions of Construction Documents in accordance with the times established in the Schedule of Performance and the Scope of Development for Cultural Component. Each of the Construction Documents stages is intended to constitute a further development and refinement from the previous stage. The Schematic Design Drawings should present a further development of the Basic Concept Drawings. The elements of the Design Development Documents requiring Successor Agency approval shall incorporate conditions, modifications and changes specified by Successor Agency for the approval of the Schematic Design Drawings. Design Development Documents shall be in sufficient detail and completeness to show that the Core and Shell and the construction thereof will be in compliance with the Scope of Development for Cultural Component and matters previously approved. The Final Construction Documents shall be a final development of and be based upon and conform to the approved Design Development Documents with respect to the elements thereof requiring Successor Agency approval and shall incorporate Successor Agency conditions, modifications and changes required by Successor Agency for the approval of the Design Development Documents. The Final Construction Documents shall include all drawings, specifications and documents necessary for the Core and Shell to be constructed and completed in accordance with this Agreement.

7.9 Changes in Final Construction Documents.

(a) No material changes may be made in any Successor Agency-approved Final Construction Documents as to elements requiring Successor Agency approval, without Successor Agency approval in coordination with The Mexican Museum's design architect and local architect of record; provided, however, if certain materials approved by Successor Agency are not available for construction, Developer may substitute materials which are the architectural equivalent as to aesthetic appearance, quality, color, design and texture, as determined by Successor Agency in the exercise of its reasonable discretion.

(b) For purposes of this Section 7.9, a "Material Change" shall include, but not necessarily be limited to, the following and similarly important changes in the construction or in the Final Construction Documents:

(1) Changes in size or design affecting exterior walls and elevations, building bulk, coverage or number of floors of the Core and Shell;

(2) Changes in colors, size or design or use of exterior finishing materials substantially affecting architectural appearance of the Core and Shell;

(3) Changes in functional use and operation of the Core and Shell from those shown and specified in the approved Construction Documents;

(4) Changes in the size or placement of service facilities or in the number of elevators, stairs and ramps; or changes in general pedestrian or vehicular circulation in, around or through the Core and Shell;

(5) Changes requiring approval of, or any changes required by, any City or State board, body, commission or officer, except the Successor Agency; provided, however, changes required by the Department of Building Inspection, or any similar regulatory body, which are made to conform to building code requirements, which changes do not alter the design elements described in Subsections 1. to 5. above, are not material changes for purposes of this Section;

(6) Changes in landscape planting and design or changes in size or quality of exterior pavement, pedestrian plazas, retaining walls, exterior lighting, public art and other site features related to the development of the Core and Shell, other than that shown and specified in the approved Construction Documents; and

(7) Changes in number, size, placement, graphics, design or materials of all exterior signs for the Core and Shell, if any, differing from those shown and specified in the approved Construction Documents.

7.10 Site Permit (Fast Track).

(a) The "Site Permit" method of permit approval for construction of improvements allows the commencement of construction with an approved Site Permit and specified Addenda and the continuation of construction to completion through the issuance of

remaining Addenda covering the remaining aspects and phases of construction not covered by the initial approved portion of the building permit. Subject to City approval, the Developer shall be entitled to construct the Cultural Component as part of the Project using the “Site Permit” method of permit approval and the DBI peer review process for performance based design.

(b) Under the Site Permit method, only the Site Permit with initial excavation permit required by the City for commencement of construction is required to satisfy the building permit Successor Agency Condition Precedent to Conveyance (i.e., the Successor Agency Condition Precedent described in Section 5.1(c)).

(c) Developer has elected to use the Site Permit, and as such:

(1) Developer must submit the initial Site Permit application package to Successor Agency at the same time Developer submits it to the City and provide Successor Agency with copies of all subsequent submissions to the City at the same time such submissions are made to the City. So long as the Developer provides such submissions simultaneously to Successor Agency, prior approval by Successor Agency of such submissions will not be required, but Developer acknowledges that Successor Agency approval of such submission is a condition precedent to issuance of any Site Permit, Building Permit and subsequent Addenda permits.

(2) Developer must notify Successor Agency promptly upon reaching tentative agreement with the City on the schedule and sequence of Addenda permits.

(3) If the requirements above have been satisfied, Developer will be relieved of the requirement to submit a full set of Final Construction Documents at the time specified in the Schedule of Performance, and, in lieu thereof, the Final Construction Documents must be submitted sequentially in accordance with the agreed-upon Addenda permit schedule established above and the Schedule of Performance will be deemed to be amended accordingly.

(4) Developer may request that Successor Agency modify the Design Development Documents submittal or approval process to accommodate the Site Permit, Building Permit and Addenda schedule and, if Successor Agency agrees to such modifications, Successor Agency will make its submission schedule consistent with the City-approved schedule for Site Permit, Building Permit and Addenda permits submissions.

(5) If Developer desires, it may change from the Site Permit and Addenda permits to regular building permit at any time before commencement of construction by electing to do so in written notice to Successor Agency, but such a change may be made only if Successor Agency reasonably determines that the change will not delay the commencement and completion of construction dates specified in the Schedule of Performance for the regular building permit process and that Construction Document review by Successor Agency can be accommodated reasonably and in sufficient time for issuance of a full building permit and timely commencement of construction.

7.11 Government-Required Provisions, Changes.

(a) Without in any manner limiting any other provisions of this Agreement, Successor Agency acknowledges and agrees that Successor Agency shall not withhold its approval of those elements of the Construction Documents and those changes in the Construction Documents which are required by any governmental authority; provided, however, that (i) Successor Agency shall have been afforded a reasonable opportunity to discuss such element of, or change in, the Construction Documents with the governmental authority requiring such element or change and with Developer's architect, and (ii) Developer's architect shall have reasonably cooperated with Successor Agency and such governmental authority in seeking such reasonable modifications of such required element or change as Successor Agency shall deem necessary or desirable. Developer and Successor Agency each agrees to use its diligent, good faith efforts to resolve Successor Agency's approval of such elements or changes, and Successor Agency's request for reasonable modifications to such required elements or changes, as soon as reasonably possible.

(b) Developer shall promptly notify Successor Agency in writing of any changes requested by the City's Building Inspectors during the construction phase.

7.12 Construction Document Review Procedures

(a) Role of Successor Agency. As to each of the submittals referred to in the Scope of Development for Cultural Component (Schematic Design Drawings, Design Development Documents, Final Construction Documents and any additional materials specified in the Scope of Development for Cultural Component), Successor Agency review and approval of Construction Documents pursuant to the provisions of Section 7.7 shall mean and require review and approval by Successor Agency in coordination with The Mexican Museum's design architect and local architect of record after consideration of the submittal.

(b) Method of Successor Agency Action. Successor Agency shall approve or disapprove (or may approve conditionally) the Construction Documents, in writing, within the times established in the Schedule of Performance and as otherwise provided for in this Agreement. Failure by Successor Agency to either approve or disapprove the Construction Documents within the times provided herein shall entitle Developer to an extension of time for the period of such delay. In no event shall failure of Successor Agency to respond be deemed to be an approval.

(c) Timing of Successor Agency Disapproval/Conditional Approval and Developer Resubmission. If Successor Agency disapproves the Construction Documents, in whole or in part, Successor Agency in the written disapproval shall also recommend changes and make other recommendations regarding the Core and Shell necessary to obtain Successor Agency approval thereof. If Successor Agency conditionally approves the Construction Documents, in whole or in part, the conditions shall be stated in writing and a time shall be stated for meeting the conditions. A resubmission shall be made as expeditiously as possible. Developer may continue making resubmissions until the submissions are approved or until the times specified in any conditional approval (as the same may be extended) or until the last date specified in the Schedule of Performance, if any, by which a submission must be approved in

order to permit Developer to complete construction by the date specified for completion in the Schedule of Performance. If approval is required under Section 7.9, Developer shall request Successor Agency approval thereto in writing and Successor Agency shall respond to Developer within fifteen (15) days, provided, however, if Successor Agency Commission action is required on such request (in the judgment of Successor Agency staff), then the time for response will be within thirty (30) days thereafter. Nothing herein contained shall be deemed to prevent extensions pursuant to Section 13.8.

7.13 Progress Meetings/Consultation. During the preparation of Construction Documents, Successor Agency staff, The Mexican Museum, and Developer shall hold periodic progress meetings as appropriate considering Developer's Construction Documents progress, to coordinate the preparation of, submission to, and review of Construction Documents by Successor Agency. Successor Agency staff, The Mexican Museum, and Developer shall communicate and consult informally as frequently as is necessary to ensure that the formal submittal of any Construction Documents to Successor Agency can receive prompt and speedy consideration.

7.14 Construction Schedule/Reports.

(a) Developer shall commence, prosecute and complete all construction and development within the times specified in the Schedule of Performance as extended or within such extension of such times as may be granted by Successor Agency for Developer performance or as extended as provided in Section 13.8 for events of Force Majeure.

(b) During periods of construction of the Core and Shell, Developer shall submit written progress reports to Successor Agency when and as reasonably requested by Successor Agency, but no more frequently than once every quarter, except during the last one hundred and twenty (120) days of construction when such reports shall be monthly. The reports shall be in such form and detail as may be required reasonably by Successor Agency, and shall include a reasonable number of construction photographs taken since the last report submitted by Developer. Such reports will be held in confidence by Successor Agency to the extent permitted by law and consistent with the responsibilities of Successor Agency.

7.15 Cost of Developer Construction. The cost of constructing the Core and Shell shall be borne solely by Developer, except as otherwise provided in this Agreement.

7.16 Issuance of Building Permits. Developer shall have the sole responsibility for obtaining all necessary building permits for the Core and Shell, and shall make application for such permits directly to the Central Permit Bureau of the City, provided, however, Developer shall only be responsible for obtaining building permits for the Core and Shell and shall not be responsible for any additional building permits that may be required to complete the build-out of the Cultural Component or to construct any tenant improvements in the Cultural Component. Successor Agency shall reasonably cooperate with Developer in its efforts to obtain Regulatory Approvals and building permits for the Core and Shell and Project, at no cost or expense to Successor Agency. Developer shall submit its application for a building permit (or in the case of Fast Track, a Site Permit and initial excavation permit with subsequent Addenda permits as specified in Section 7.10) to the City within a period of time sufficient to allow issuance of such

building permit prior to the date specified for close of escrow in the Schedule of Performance. From and after the date of Developer's submission of any such application, Developer shall diligently prosecute such application.

7.17 Construction Signs and Barriers. Developer shall provide appropriate construction barriers and construction signs and post the signs on the Site during the period of construction, as provided in the Scope of Development for Cultural Component. The size, design and location (but not the content; provided, however, that Successor Agency's name shall be included in such signage where appropriate) of such signs and the composition and appearance of any non-moveable construction barriers shall be submitted to Successor Agency for approval before installation, which approval shall not be unreasonably withheld.

7.18 Access to Property – Successor Agency and The Mexican Museum. From and after the conveyance of the Property to Developer, upon reasonable prior written notice to Developer, Successor Agency and its respective representatives and/or The Mexican Museum and its respective representatives shall have the right to enter upon the Property at reasonable times, at no cost or expense to Successor Agency or The Mexican Museum, during the period of construction of the Core and Shell to the extent necessary to carry out the purposes of this Agreement, including, without limitation, inspecting the work of construction of the Core and Shell. Developer shall have the right to have an employee, agent or other representative of Developer accompany Successor Agency and its representatives and/or The Mexican Museum and its respective representatives at all times while such parties are present on the Property. Successor Agency and its respective representatives and/or The Mexican Museum and its respective representatives shall exercise due care in entering upon and/or inspecting the Property, and shall perform all such entry and inspection in a professional manner and so as to preclude any damage to the Property or improvements thereon, or any disruption to the work of construction of the Project. Successor Agency and its respective representatives and/or The Mexican Museum and its respective representatives shall abide by such reasonable safety and security measures as Developer shall impose. Developer will have no responsibility for payment of the salaries or fees of Successor Agency staff or consultants and/or The Mexican Museum staff and consultants in connection with such access to the Property.

7.19 Certificate of Completion – Issuance.

(a) From and after the date on which Developer shall have completed construction of the Core and Shell in accordance with the provisions of this Agreement, the Developer may request in writing that the Successor Agency issue to Developer, in recordable form, a Certificate of Completion in the form of **Exhibit S** (the “**Certificate of Completion**”). In submitting a request to the Successor Agency, the Developer shall provide written evidence of completion of construction of the Core and Shell in accordance with applicable law and this Agreement, and upon making such request and providing such information to the reasonable satisfaction of the Successor Agency, the Successor Agency shall issue the Certificate of Completion to Developer. The Certificate of Completion shall be (and it shall be so provided in the Certificate of Completion itself) a conclusive determination of completion of construction of the Core and Shell in accordance with this Agreement and the full performance of the agreements and covenants contained in this Agreement with respect to the obligation of the Developer, and its successors and assigns, to construct the Core and Shell in accordance with

Successor Agency-approved Final Construction Documents and the dates for the beginning and completion thereof; provided, however, that such Certificate of Completion and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a mortgage or deed of trust, or any insurer of a mortgage or deed of trust, securing money loaned to finance the Project, or any part thereof.

(b) Successor Agency's issuance of any Certificate of Completion does not relieve Developer or any other person or entity from any and all City requirements or conditions to occupancy of any the Cultural Component or Project, which requirements or conditions must be complied with separately.

(c) For the purposes of Section 7.19 and Section 7.20 of this Agreement, construction of the Core and Shell shall be deemed to have been completed in accordance with the provisions of this Agreement when Developer has completed all elements and components of the Core and Shell for which the approval of Successor Agency is required under this Agreement, and when Developer's architect has provided a Certificate of Completion.

(d) Permission for Occupancy. Developer may occupy the Site at any time after the Closing, including prior to the issuance of a Certificate of Completion.

(e) Issuance of Certifications for Individual Condominium Units. If the Developer is prepared to sell individual residential condominium units prior to issuance of a Certificate of Completion for the Core and Shell, Successor Agency will issue a certification at the request of the Developer with respect to such individual units. With respect to each individual condominium unit, the certification shall mean:

(1) that neither Successor Agency nor any party thereafter shall have or be entitled to exercise with respect to any such individual condominium unit any rights or remedies or controls that it may otherwise have or be entitled to exercise with respect to the Property as a result of a default in or breach of any provisions of this Agreement by Developer or any successor in interest or assign, unless (1) such default or breach is by the purchaser or any successor in interest to or assign of such individual condominium unit with respect to the covenants contained and referred to in Article 10.5 of this Agreement, and (2) the right, remedy, or control relates to such default or breach; and

(2) that any holder of a mortgage pertaining to such individual unit shall not be bound by this Agreement, except with respect to the covenants contained and referred to in Article 10.5.

7.20 Certificate of Completion - Non-Issuance Reasons.

(a) If Successor Agency shall refuse or fail to issue a Certificate of Completion upon Developer's written request, Successor Agency shall, within fifteen (15) days thereafter, provide Developer with a written statement setting forth in adequate detail the bases for Successor Agency's refusal or failure to issue the Certificate of Completion and the measures or acts which, in the opinion of Successor Agency, Developer must undertake or perform in order to obtain a Certificate of Completion.

(b) Notwithstanding the provisions of Section 7.19 or any other provisions of this Agreement to the contrary, Successor Agency shall nonetheless issue to Developer a Certificate of Completion if Developer shall have completed the Core and Shell in accordance with this Agreement, except for “punch list” items (but only to the extent that the punch list items required Successor Agency’s approval under the provisions of this Agreement); provided, however, that Successor Agency shall not be obligated to issue a Certificate of Completion in such circumstances unless and until Developer shall have provided to Successor Agency, at Successor Agency’s request, a bond, letter of credit, certificate of deposit or other security reasonably acceptable to Successor Agency in an amount equal to one hundred ten percent (110%) of the estimated cost of completing the punch list items, as reasonably determined by Successor Agency.

7.21 Insurance Requirements - Before Issuance of Certificate of Completion.

(a) During the period from conveyance of the Property until such time as Successor Agency has issued its Certificate of Completion, Developer shall carry or cause to be carried and maintained, in full force and effect the following insurance against claims for injuries to persons or damage to property that may arise from or in connection with work performed pursuant to this Agreement by the Developer, its representatives, agents, employees, consultants, contractors, subcontractors or joint venture partners, if any: (i) Worker’s Compensation insurance, including employer’s liability with limits of not less than \$1,000,000 each accident; (ii) Commercial General Liability insurance, with limits of not less than \$1,000,000 each occurrence for bodily injury and property damage combined, including coverage for contractual liability, personal injury, broad form property damage, explosion, collapse and underground (XCU), owners’ and contractors’ protective, and products and completed operations; (iii) Automobile Liability insurance, with limits not less than \$1,000,000 for each occurrence for bodily injury and property damage combined, including coverage for owned, non-owned and hired vehicles; (iv) Professional Liability Insurance, with limits not less than \$1,000,000 for each occurrence, including coverage for injury or damage arising out of acts or omissions with respect to all design and engineering professional services provided by the architect of record, structural, electrical and mechanical engineers with a deductible reasonably acceptable to Successor Agency; (v) during construction of the Core and Shell, Builder’s Risk insurance for the amount of the completed value (or lesser amount acceptable to Successor Agency) on an all-risk form, including earthquake and flood risks to the extent obtainable with the payment of a commercially reasonable premium, insuring the interests of Developer. Any deductibles with respect to the foregoing insurance policies shall be subject to the reasonable approval of Successor Agency.

(b) General liability and automobile liability policies shall name Successor Agency and its respective members, officers, agents and employees as additional insureds. Such insurance shall be primary to any other insurance available to the additional insureds and it shall apply separately to each insured against whom a claim is made or a suit is brought. So far as such policies provide for payment of losses, such policies shall provide or be to the legal effect that losses payable to Successor Agency shall be payable notwithstanding any act or negligence of Developer. Certificates of insurance or duplicate originals of all policies shall, at Successor Agency’s option, be furnished to Successor Agency as required by this Agreement and all such certificates or policies of insurance shall not be cancelable or materially changed except upon thirty (30) days’ prior written notice to Successor Agency, except in the case of nonpayment of

premiums and then only upon ten (10) days' prior notice to Successor Agency. Thereafter, certificates evidencing such insurance (or duplicate originals of the policies, at Successor Agency's option) shall be delivered to Successor Agency at least ten (10) days prior to the expiration or renewal date of any policy.

(c) In the event of damage or destruction to the Core and Shell following Conveyance of the Property to Developer and prior to the issuance of the Certificate of Completion, Developer shall be obligated to repair or restore Core and Shell in accordance with the terms of this Agreement, including, any deductible amounts required under the terms of applicable insurance policies.

7.22 Successor Agency's Designee. Notwithstanding any other provision of this Agreement to the contrary, Successor Agency may assign its review and approval rights and obligations set forth in this Article 7 to the City or other governmental entity designee of Successor Agency with jurisdiction over the Project, provided that such designee shall expressly assume all of the obligations of Successor Agency under this Article 7 in writing by executing and delivering to Developer an assignment and assumption agreement.

8. OTHER DEVELOPER OBLIGATIONS

8.1 Affordable Housing. Developer shall comply with the City's Residential Inclusionary Affordable Housing Program (the "**Inclusionary Program**"), as required under the Section 309 Motion, as such motion may be modified by the appeals process, and set forth in City Planning Code Sections 415 through 415.9, through the payment of an in-lieu fee per unit equal to the per unit fees established by the Inclusionary Program. The amount of the fee required under the Inclusionary Program (the "**City Fee**") shall be calculated and paid in accordance with the Inclusionary Program. If the City Fee (currently 20%) is based on an affordable housing requirement of less than 28% of the units in the Project, Developer shall pay to Successor Agency, or to the City if designated by the Successor Agency, an additional fee equal to the total amount of fees that would be due under the Inclusionary Program for 28% of the units in the Project less the City Fee (the "**Agency Fee**"). The Agency Fee will be used by the Successor Agency for the production of existing affordable housing obligations, thereby reducing the need for the use of tax increment for the completion of these existing obligations. In the event that the City adopts an alternative means of complying with an affordable housing percentage requirement under the Inclusionary Program, and Developer utilizes such alternative means of compliance, then, for the purposes of calculating the Agency Fee hereunder, the City Fee paid shall be deemed to be based upon the equivalent affordable housing percentage requirement under the Inclusionary Program. For example, if the City allows payment of a transfer tax instead of the current 20% inclusionary fee and Developer elects that option, Developer will be deemed to have paid a 20% City Fee and therefore will owe an 8% Agency Fee. The Agency Fee, if any, shall be calculated at the time that the City Fee is calculated and shall be paid as follows: (i) twenty percent (20%) of the Agency Fee shall be paid upon the issuance of the first building permit or Site Permit for the Project; (ii) forty percent (40%) of the Agency Fee shall be paid upon the issuance of the first temporary certificate of occupancy for a residential unit(s) in the Project, and (iii) the remaining forty percent (40%) of the Agency Fee shall be paid on the one year anniversary of the date of issuance of the first temporary certificate of occupancy for a residential unit(s) in the Project.

8.2 Cultural Component.

(a) Conveyance. Successor Agency and Developer, and the City Parties and The Mexican Museum (through their respective acknowledgement of this Agreement), agree that their preference is for the City to acquire, at no cost to the City, ownership of the Cultural Component and lease the Cultural Component to The Mexican Museum, and Successor Agency and Developer will use their respective good faith efforts to effectuate such arrangement. If the City does not so agree, and no other (i) governmental designee of the Successor Agency with jurisdiction over the Project can be identified that is reasonably acceptable to Successor Agency, The Mexican Museum, and Developer or (ii) non-profit organization that is reasonably acceptable to Successor Agency, The Mexican Museum, and Developer that is willing to acquire, at no cost, ownership of the Cultural Component and lease the Cultural Component to The Mexican Museum, then Developer or Developer's designee will retain ownership of the Cultural Component, and lease the Cultural Component to The Mexican Museum in accordance with Section 8.2(b) below. Any ownership interest in the Cultural Component (by the City, Developer or otherwise) shall be subject to a master declaration of restrictions mutually acceptable to the Successor Agency, The Mexican Museum, Developer and the City, which includes use restrictions and covenants applicable to The Mexican Museum (and any other tenant of the Cultural Component), including issues such as hours of operation, special events, and other activities within the Cultural Component that may affect the rest of the Project.

(b) Lease of Cultural Space. At least thirty (30) days prior to Closing, one of the following shall occur: (i) in the event that the Cultural Component will be conveyed to the City or other Successor Agency governmental designee with jurisdiction over the Project, the City or other Successor Agency permitted designee and The Mexican Museum shall deliver into Escrow a fully negotiated and executed lease for the Cultural Component; or (ii) in the event that the Cultural Component will be retained by Developer or its designee, Developer or its designee and The Mexican Museum shall deliver into Escrow a fully negotiated and executed lease for the Cultural Component that is substantially in accordance with the term sheet attached hereto as **Exhibit T** (the "**Cultural Component Lease Term Sheet**").

(c) Tenant Improvements. The Developer is not responsible for financing the build-out of tenant improvements and other improvements related to the Cultural Component other than those improvements expressly required by this Agreement. Developer shall not be responsible for and shall not bear any of the cost of permitting, designing or constructing any such tenant or other improvements related to the Cultural Component. Successor Agency and Developer shall reasonably cooperate to facilitate the construction of improvements of the Cultural Component and to ensure that it does not unreasonably interfere with Developer's construction of the rest of the Project. All parties to this Agreement (including The Mexican Museum and the City through their acknowledgements of this Agreement) agree that the tenant improvements shall be substantially completed within twenty-four (24) months of the issuance of a Temporary Certificate of Occupancy for the Core and Shell by the City and that such terms shall be included in the Cultural Component Lease Term Sheet. If the tenant improvements are not substantially completed within twenty-four (24) months of the issuance of a Temporary Certificate of Occupancy for the Core and Shell, Developer or City, if applicable, shall have the right to evaluate the state of construction of the tenant improvements and determine whether or not to pursue an alternate tenant for the Cultural Component after it provides written notice to

The Mexican Museum and a cure period of thirty (30) days or such longer cure period as may be otherwise agreed to by Successor Agency and Developer upon the written request of The Mexican Museum.

(d) Funding for Tenant Improvements. Successor Agency and Developer acknowledge that The Mexican Museum raised certain levels of funding through the Former Redevelopment Agency. As noted in Recitals J and K of this Agreement and the Sixth Amendment of the LDA, in order to accomplish the construction of The Mexican Museum building and the other public purposes that the Former Redevelopment Agency and The Mexican Museum seek to advance in the Project Area in a timely manner, The Mexican Museum requested that the Former Redevelopment Agency provide to, or for the benefit of, The Mexican Museum, financial assistance toward the construction of The Mexican Museum Building in the form of a monetary grant not to exceed \$18,209,882 (the “Grant Amount”) from (a) funds previously budgeted by the Former Redevelopment Agency; (b) the Hotel Tax Bonds; and/or (c) funds requested by Redevelopment Agency in its budgetary request to the City for fiscal year 2001-2002. The Former Redevelopment Agency issued the total amount of tax increment bond financing from the monetary grant. However, the Former Redevelopment Agency did not issue the Hotel Tax monetary grant in the sum of \$7,500,000.00 which was approved by the San Francisco Board of Supervisors for Hotel Tax Bonds issuance. Successor Agency and Developer agree, at no out-of-pocket cost to Successor Agency or Developer, to reasonably support The Mexican Museum’s prospective request to the City for the re-approval and authorization of the \$7,500,000.00 of Hotel Tax Bonds to be used for the funding of the tenant improvements for the Cultural Component space.

(e) Memorandum of Agreement. If such entities mutually agree that it would be desirable, Developer, the City Parties (through their respective acknowledgements of this Agreement), Successor Agency, and The Mexican Museum (through their acknowledgement of this Agreement) agree to enter into a Memorandum of Agreement that resolves, in a manner consistent with the terms and conditions set forth in this Agreement, issues related to the implementation of this Section 8.2, including, but not limited to: (1) issues related to the possible conveyance of the Cultural Component to the City; (2) issues related to the construction of the Core and Shell; (3) issues related to a potential future lease for the Cultural Component between the City or other permitted Successor Agency designee and The Mexican Museum; (4) associated issues related to the construction of the tenant improvements of the Cultural Component; and (5) hotel tax bonding for the tenant improvements as described Recitals J and K and Section 8.2(d) of this Agreement (the “MOA”). Notwithstanding the foregoing: (a) there shall be no default under this Agreement by virtue of any failure to enter into the MOA, (b) the execution of the MOA shall not be a Successor Agency Condition Precedent or a Developer Condition Precedent, and (c) if the City does not agree to accept conveyance of the Cultural Component through the MOA or otherwise, then as described in Section 8.2(a) above, Developer will retain ownership of the Cultural Component and lease the Cultural Component to The Mexican Museum.

(f) Endowment Contribution. Developer shall contribute Five Million and No/100 Dollars (\$5,000,000.00) (the “**Endowment Payment**”) to an operating endowment for the Cultural Component to help support the Cultural Component’s ongoing operations. Developer’s sole obligation with respect to the operating endowment will be to deliver the

endowment funds to Title Company in accordance with the schedule described below. The Title Company will distribute such funds to the endowment holder to be designated by the Mexican Museum and approved by the Successor Agency, and the operating endowment will be created by written agreement as agreed upon by the Mexican Museum and the Successor Agency. Developer shall contribute (i) the first one-third (i.e., \$1,666,666.67) no later than thirty (30) days after the building permit for the Core and Shell shall has been issued (or, in the case of Fast Track permit processing, thirty (30) days after issuance of the Site Permit with initial excavation permit), (ii) the second one-third (i.e., \$1,666,666.67) no later than thirty (30) days after the date that early non-exclusive access to the Core and Shell is granted to the Mexican Museum by Developer for the Mexican Museum to commence construction of the initial tenant improvements to the Cultural Component, and (iii) the final one-third (i.e., \$1,666,666.67) no later than the earlier to occur of (x) thirty (30) days after the Mexican Museum opens the Cultural Component to the public as a museum, or (y) the one (1) year anniversary of the date the temporary certificate of occupancy for the Cultural Component is issued.

(g) Use. The Mexican Museum (through its acknowledgement of this Agreement) shall use the Cultural Component, subject to applicable City zoning and further subject to the restrictions and covenants set forth in any deed transferring title to the Cultural Component, which shall, among other things, provide that any use of the Cultural Component shall not interfere or conflict with the use of the Project as a first class commercial, museum and residential development. Such deed shall be in a form agreed to by the parties and the Mexican Museum prior to such deed being executed and recorded.

(h) Common Area Maintenance Charges. The owner of the Cultural Component shall pay the Cultural Component's pro-rata share of all common area maintenance charges and taxes associated with the Project ("**CAM Payments**"), subject to the Successor Agency's review of the initial overall operating budget for the Project; provided, that the owner shall have the right to pass such obligation through to the tenant(s) of the Cultural Component. However, in accordance with and subject to the limitations set forth in the lease for the Cultural Component between Developer and The Mexican Museum, The Mexican Museum will not be required to pay property taxes for the first three (3) years of the lease term as described in attached **Exhibit T**.

8.3 Yerba Buena Gardens Operations, Cultural Operations and Capital Expenditures Support.

(a) In recognition of the significant investment of public funds by the Successor Agency and the City in the development of the public spaces at Yerba Buena Gardens on Central Blocks One, Two, and Three of the Project Area (the "**Gardens**") and in other public open spaces owned by the City in the adjacent South of Market Area (as defined in Section 401 of the City's Planning Code) (the "**SOMA Open Spaces**"), which public improvements contribute significantly to the value and marketing potential of any development on the Site, Developer agrees to pay or cause to be paid to the Successor Agency or its designee a fee (the "**Open Space Fee**") to support general operations and maintenance, cultural operations and capital expenditures in the Gardens and in the SOMA Open Spaces (the "**Permitted Uses**").

(b) The Open Space Fee will be paid on an annual basis, in the following amounts: (1) at the initial rate of \$1.50 per square foot of the Project's above-grade net leasable building area devoted to commercial uses, exclusive of the Cultural Component, subject to annual increases based on the annual Consumer Price Index for the San Francisco-Oakland-San Jose Metropolitan Statistical Area ("**CPI**") not to exceed 5% per annum, and (2) at the initial rate of \$1.25 per square foot of the Project's above-grade net residential saleable area, subject to annual increases based on the annual CPI not to exceed 3% per annum (collectively, the "**Open Space Fee Payment**"). The Open Space Fee Payment will be based on building square footage at completion, and each payment shall include a brief report to show how the payment amount was calculated.

(c) The Open Space Fee Payment will be due on July 1 of each year and shall be payable to the Successor Agency or its designee (or successor, as set forth in subsection (i) below), provided the first Open Space Fee Payment will be due within thirty (30) days after the issuance of the first temporary certificate of occupancy for the Project, which payment will be prorated based upon the number of days in the fiscal year remaining before the first July 1 payment is due. The Open Space Fee Payment shall be deposited in a segregated account to be used for the Permitted Uses only, and not less than fifty percent (50%) of each such payment shall be used specifically for Permitted Uses within the Gardens.

(d) In addition to the Open Space Fee, Developer will pay to the Successor Agency a one-time payment for open space uses (the "**Developer Payment**") before issuance of the first construction document (as defined in Section 107A.13.1 of the City Building Code) for the Project. The Developer Payment shall be calculated based on the gross square footage of each of the following uses that are developed as part of the Project: (i) residential at \$2.50/gsf, (ii) institutional/cultural/medical at \$5.00/gsf, and (iii) retail at \$5.00/gsf. The Developer Payment shall be used for the Permitted Uses only within the SOMA Open Spaces.

(e) Subject to any applicable requirements of the California Department of Real Estate and California Civil Code section 1098, the sale of residential condominium units in the Project shall be subject to a transfer payment in the amounts described below (each, a "**Transfer Payment**"). The Transfer Payment shall be made to the Successor Agency or its designee to be used for some or all of the following public benefits within the South of Market Area: affordable housing, rent subsidies to prevent homelessness, housing/eviction counseling, small business and nonprofit rental assistance, and services to youth and seniors. The amount of the Transfer Payment shall be determined, as follows:

(i) for the initial sale by Developer of each residential condominium unit in the Project, the Transfer Payment will be based upon the aggregate gross sales proceeds to date of the residential condominium units in the Project in accordance with the table below, which Transfer Payments will be made by Developer out of escrow at the time of the initial sale by Developer of each residential condominium unit in the Project.

Aggregate Gross Sales Proceeds for Initial Residential Condominium Unit Sales in Project*	Transfer Fee, As Percentage of Gross Sales Price for Initial Sales of Condominium Units in Project
\$0 to \$400 Million	0.5%
\$400 Million to \$500 Million	1.0%
\$500 Million to \$550 Million	2.0%
\$550 Million and Above	3.0%

* For any sale that causes the Transfer Payment to reach the next category of aggregate gross sales listed above, the Transfer Payment will be determined within each category: i.e., for a \$2 Million sale that causes Developer's aggregate gross sales proceeds to become \$400.5 million, the Transfer Payment shall be \$12,500, or \$7,500 (\$1.5 Million x .5%) plus \$5,000 (\$.5 Million x 1%).

(ii) for each subsequent sale of each residential condominium unit in the Project (i.e., after the initial sale by the Developer), the Transfer Payment will be in the amount of one-half of one percent (0.5%) of the gross sales price of the condominium, which Transfer Payments will be made by each condominium unit owner out of escrow at the time of sale.

(f) The Successor Agency may contract (including grant agreements) with the City, community benefit districts or other third parties, including vendors and nonprofit community groups, in expending the Open Space Fee Payment, the Developer Payment, and the Transfer Payment. The Successor Agency may establish a community review process and work with existing community advisory groups to advise the Successor Agency on these expenditures.

(g) If Developer creates a master condominium regime for the Project that complies with all applicable legal requirements, then subject to applicable requirements and approvals of the California Department of Real Estate ("DRE"), Developer shall transfer the obligation to make the Open Space Fee Payment to the condominium association in a recordable document approved by the Successor Agency. At the time specified in such recorded document, the condominium association will be responsible for all future payments of the Open Space Fee (and prior to such time, Developer shall continue to be responsible for payments of the Open Space Fee). If a vertical subdivision of the residential and commercial uses is created, then Developer shall allocate the Open Space Fee Payment between the residential and commercial condominium associations, consistent with the allocation between residential and commercial described in subparagraph (b) above.

(h) The Successor Agency shall have the right, in its sole discretion, to determine how and where to apply the Open Space Fee Payment, the Developer Payment, and the Transfer Payment with the only restrictions being that the funds must be used for the permitted uses and in the permitted locations expressly provided under this Section 8.3. Developer and its successors and the future owners of some or all of the Property shall have no

right to challenge the appropriateness or the amount of any expenditure so long as it is used for these uses. The Successor Agency shall maintain records to account for all expenditures of the Open Space Fee Payment, the Developer Payment and the Transfer Payment for a period of two (2) years following the date of expenditure

(i) The provisions of this Section 8.3 shall survive the expiration or termination of this Agreement, and shall constitute covenants and benefits running with the land pursuant to applicable law, including but not limited to California Civil Code Section 1468. The Open Space Fee Payment and the Transfer Payment shall be disclosed in the DRE disclosure packages for the Project, and subject to applicable requirements and approvals of the DRE, Developer shall prepare a notice to be recorded against the Property, in a form approved by the Successor Agency on or before the Closing, that describes the Open Space Fee and the post-initial sale Transfer Payment obligations (the “**Recorded Notice**”). Developer shall record the Recorded Notice before the issuance of the first temporary certificate of occupancy for the Project. The parties understand that the Successor Agency intends to transfer its interest in the Gardens and surrounding property in accordance with AB 26 and AB 1484. When the Successor Agency transfers its interests in the Gardens to another party, it shall simultaneously transfer all of its rights and obligations under this Section 8.3 (including all existing funds it holds from the Open Space Fee Payment, the Developer Payment and the Transfer Payment and the right to receive all future Open Space Fee Payment and Transfer Payment) to such party, including the obligation to use such funds as set forth in this Section 8.3; provided, the parties agree that the Successor Agency may elect instead to transfer its rights and obligations with respect to the Transfer Payment, the Developer Payment, and any portion of the Open Space Fee Payment that is not intended for the Gardens, to the City at any time on or before such transfer of the Gardens, subject to the City’s agreement to assume the same. All references to the Successor Agency in this Section 8.3 shall mean the Successor Agency or its successor in interest following any such transfer(s).

8.4 Jessie Square Garage.

(a) Private Parking. Upon the Conveyance of the Garage Property to Developer, Developer shall have the right to use designated spaces in the Jessie Square Garage to serve private Project-related uses consistent with the Section 309 Motion, as such motion may be modified by the appeals process, which provides for one (1) parking space for each residential unit in the Project. Such private parking shall be primarily located on the lower two levels of the Jessie Square Garage, though some private spaces may be located on other levels. Public and private parking spaces may also need to accommodate spaces for vans, handicapped accessibility, car sharing, electric charging, valet services and guests as provided in the Regulatory Approvals.

(b) Public Parking. Upon the Conveyance of the Garage Property to Developer, Developer shall maintain the balance of the parking spaces in the Jessie Square Garage for public use, for a total of at least Two-Hundred Ten (210) spaces, subject to the terms of Successor Agency’s existing Garage Leases and Agreements, including the existing agreements with the Contemporary Jewish Museum and St. Patrick Church, and subject to parking for The Mexican Museum as described in the cultural Component Lease Term Sheet, all in accordance with the Regulatory Approvals. No more than twenty-five percent (25%) of the parking spaces in the Jessie Square Garage reserved for public parking shall be used for monthly parking, unless otherwise agreed to in writing by the Successor Agency. The Developer shall use rates for the public parking spaces at the

Jessie Square Garage that the City establishes from time-to-time for similar public parking garages in the Union Square / South of Market area, but the Developer shall have the right to retain all revenues generated by the Jessie Square Garage.

8.5 Historic Rehabilitation of Aronson Building. As part of the construction of the Project, Developer shall rehabilitate the historically important Aronson Building in accordance with the final Regulatory Approvals and incorporate it into the overall design and development program of the Project in a manner that is consistent with the Scope of Development for Cultural Component.

8.6 World-Class Architect. Developer shall retain Handel Architects or other world-class architecture firms reasonably acceptable to the Successor Agency to design the base building of the Tower and Core and Shell. The Mexican Museum will separately retain architect(s) for the interior improvements for the Cultural Component, which architect(s) will coordinate with Handel Architects with respect to Handel Architect's work related to the Core and Shell.

8.7 Sustainable Design. Developer shall design and construct the Project to a minimum of Leadership in Energy and Environmental Design ("LEED") Silver standards (or such higher and additional requirements as adopted by the City and County of San Francisco), and shall secure U.S. Green Building Council certification of this standard (the tenant improvements and other improvements for the build out of Cultural Component will be subject to separate LEED and U.S. Green Building Council standards).

8.8 Lease of Restaurant/Retail Space. No later than thirty (30) days prior to Closing, Developer, as landlord, and Mexican Museum, as tenant, will enter into a lease for the Restaurant/Retail Space, substantially in accordance with the terms and conditions described in the term sheet for the Cultural Component lease described on attached **Exhibit T**, except that (a) the Premises will be the Restaurant/Retail Space, (b) the Permitted Use shall be limited to restaurant and retail uses, (c) if The Mexican Museum exercises its option to purchase the Restaurant/Retail Space for \$1.00, Developer will have a first right of refusal to repurchase the space for \$1.00 if The Mexican Museum desires to sell or transfer the Restaurant/Retail Space and the Restaurant/Retail Space will revert to Developer if The Mexican Museum ceases to operate a museum in the Cultural Component, (d) The Mexican Museum will not be entitled to three-years of not paying taxes under the Restaurant/Retail Space lease unless as otherwise negotiated in the lease, and (e) The Mexican Museum will not be entitled to additional parking passes in the Jessie Square Garage for the Restaurant/Retail Space unless as otherwise negotiated in the lease.

8.9 Pedestrian Improvements.

(a) In recognition of the significant investment of public funds by the Successor Agency and the City in the public improvements in the vicinity of the Project, which public improvements contribute significantly to the value and marketing potential of any development on the Site, Developer agrees to the terms and conditions described in this **Section 8.9**. In connection with the development of the Project, Developer agrees to use commercially reasonable efforts to work with the Successor Agency and the City to pursue

certain upgrades to Stevenson Street as shown on and described in that certain document entitled “706 Mission Street – Conceptual Proposed Stevenson Street Upgrades” which is attached hereto as Exhibit V (collectively, the “**Stevenson Street Upgrades**”), including certain physical improvements as well as a full-time traffic manager to guide traffic on Stevenson Street and coordinate deliveries to the Jessie Square Garage. The Parties acknowledge that the Stevenson Street Upgrades are preliminary, and are subject to change or modification based upon design and engineering refinements and the permitting and approval process.

(b) Developer also agrees to use commercially reasonable efforts to work with the Successor Agency and the City to pursue (i) a second-midblock crosswalk on Mission Street between Third Street and Fourth Streets that would connect Jessie Square to the Yerba Buena Center for the Arts if a second-midblock crosswalk on Mission Street is recommended by the pedestrian study of Block 3706 described in Planning Commission Motion No. 18894 approved by the Planning Commission on May 23, 2013 (the “**Pedestrian Study**”), or (ii) other pedestrian improvements of an equivalent cost that are recommended by the Pedestrian Study, in either case subject to the approval of the Successor Agency and applicable City agencies with jurisdiction over such improvements (the “**Additional Pedestrian Improvements**”). All approvals of the Successor Agency under this Section 8.9 shall be made by the Successor Agency Executive Director.

(c) In connection with the Project, Developer agrees, at its sole cost and expense, to use commercially reasonable efforts to seek such permits, approvals and agreements (including, without limitation, any rights-of-way and/or other third party consents or approvals) as may be reasonably necessary to implement the Stevenson Street Upgrades and the Additional Pedestrian Improvements. If Developer obtains all such permits, approvals and agreements, then Developer shall implement the Stevenson Street Upgrades and the Additional Pedestrian Improvements, respectively, at Developer’s sole cost as part of the development of the Project. If Developer cannot obtain any such permits, approvals or agreements, then Developer and the Successor Agency shall meet and confer in good faith to identify additional improvements or services in connection with the development of the Project of equivalent cost to Developer that will replicate the public benefit that cannot be achieved to the greatest extent possible.

(d) No later than the date that is ninety (90) days after the Effective Date of this Agreement, Developer shall pay to the Successor Agency Eighty Six Thousand Four Hundred Dollars (\$86,400) to be used to fund a 6 month pilot program for the Successor Agency to request and pay for City Department of Parking and Traffic personnel, pursuant to Section 10B of the City Administrative Code, to provide traffic enforcement services at the intersections of Mission Street and Third Street, Mission Street and Fourth Street and Stevenson Street and Third Street. If the City agrees to the proposed pilot program, then the City’s Municipal Transportation Agency shall determine when and where the City Department of Parking and Traffic personnel will be stationed at these intersections. Notwithstanding the foregoing, if an initiative is circulated prior to the due date for the foregoing payment that would, if successful, have the effect of either prohibiting the development of the Project as authorized by the Section 309 Motion, or reducing the size of the Project compared to the Project as described in the Section 309 Motion, then Developer shall have no obligation to make any payment for the pilot program pursuant to this Section 8.9(d) until either (i) the initiative fails to qualify for the ballot or, (ii) if the imitative qualifies for the ballot, the initiative is defeated. The Successor Agency

may contract with the City or the Yerba Buena Community Benefits District to implement the pilot program.

(e) The provisions of this Section 8.9 shall survive the expiration or termination of this Agreement, and shall constitute covenants and benefits running with the land pursuant to applicable law, including but not limited to California Civil Code Section 1468. Developer shall include in the Recorded Notice any obligations under this Section 8.9 that continue or have not been completed as of the date of recording, for the benefit of the City. On or before the date that the Successor Agency transfers its interests in the Gardens to another party, it shall transfer all of its rights and obligations under this Section 8.9 to the City, subject to the City's willingness to assume the same. The Successor Agency shall have no continuing rights or obligations under this Section 8.9 after the date of such transfer. All references to the Successor Agency in this Section 8.9 shall mean the Successor Agency or, following the date of any such transfer, the City.

9. REDEMPTION OF GARAGE BONDS

9.1 Garage Bonds. Concurrent with the Close of Escrow, Developer shall pay into a separate irrevocable escrow account established with U.S. Bank National Association, as trustee (the "**Trustee**") for the Garage Bonds (the "**Redemption Escrow Account**"), funds in an amount sufficient to redeem the then outstanding amount of debt under the Garage Bonds (the "**Redemption Funds**") and to cause Title Company to issue the Title Policy without including the Garage Bonds as a title exception to the Real Property upon the Close of Escrow. As of June 1, 2013, the remaining outstanding amount of debt under the Garage Bonds is approximately Twenty Five Million Two Hundred Eighty Four Thousand Four Hundred Sixty Eight Dollars (\$25,284,468) (such figure will change by the Close of Escrow in accordance with the Garage Bonds payment schedule). The Redemption Funds will be used only for the purpose of redeeming all outstanding Garage Bonds concurrent with the Close of Escrow or as soon thereafter as is reasonably practicable and in any event within ninety (90) days after the Close of Escrow.

9.2 Cooperation and Tax Reimbursement Agreement. No later than the Close of Escrow, Developer shall pay into an escrow account (the "**Reimbursement Escrow Account**") funds equal to the amount that the Successor Agency must reimburse the City for all Tax Increment (as defined in the Cooperation and Tax Reimbursement Agreement) used for Bond Debt Service (as defined in the Cooperation and Tax Reimbursement Agreement) and not otherwise reimbursed to the City pursuant to the Cooperation and Tax Reimbursement Agreement (the "**Reimbursement Agreement Payment**" and together with the Redemption Funds, the "**Garage Payments**") and to cause Title Company to issue the Title Policy without including the Cooperation and Tax Reimbursement Agreement as a title exception to the Real Property upon the Close of Escrow. As of June 1, 2013, the amount of such reimbursement obligation is approximately Eighteen Million Three Hundred Eleven Thousand Six Hundred Seventy Dollars (\$18,311,670) (such figure is subject to confirmation by the parties and will change by the Close of Escrow in accordance with the Cooperation and Tax Reimbursement Agreement). The Reimbursement Agreement Payment will be used only for the purpose of making such reimbursement payment to the City under the Cooperation and Tax Reimbursement Agreement, and shall be released from the Reimbursement Escrow Account directly to the City,

concurrent with the date that the Garage Bonds have been redeemed in accordance with Section 9.1 above. Upon receipt of a written request from the Developer after making the Reimbursement Agreement Payment in accordance with this Section 9.2, the Successor Agency and the City (through its acknowledgement of this Agreement) will deliver to Developer a written instrument as reasonably necessary to confirm that the Cooperation and Tax Reimbursement Agreement has been terminated and to remove the Cooperation and Tax Reimbursement Agreement as a title exception to the Real Property upon the Close of Escrow.

10. COVENANTS AND RESTRICTIONS

10.1 Covenants. Developer expressly covenants and agrees for itself, its successors and assigns and all persons claiming under or through it, that as to the Property and any improvements constructed or to be constructed thereon, or any part thereof, or alterations or changes thereto, and in addition to any other term, covenant and condition of this Agreement, Developer and all such successors and assigns and all persons claiming under or through it, shall use, devote, operate and maintain the Property and the improvements thereon, and every part thereof, only and in strict accordance with the provisions of this Article 10. The provisions hereof are contained in the Grant Deed.

10.2 General Restrictions. The Property and the improvements thereon shall be devoted only to the uses permitted by this Agreement.

10.3 Restrictions Before Completion. Prior to Successor Agency's issuance of the Certificate of Completion, the Real Property shall be used only for the construction of the Project in accordance with this Agreement, including, but not limited to, the Scope of Development for Cultural Component.

10.4 Restrictions After Completion. Following Successor Agency's issuance of the Certificate of Completion, the Real Property shall be used only for commercial, office, cultural, retail, and housing uses and off-street parking facilities and related amenities.

10.5 Nondiscrimination

(a) There shall be no discrimination against or segregation of any person or group of persons on account of age, race, color, creed, sex, sexual orientation, gender identity, marital or domestic partner status, disabilities (including AIDS or HIV status), religion, national origin or ancestry by Developer or any occupant or user of the Property in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any part thereof, and Developer itself (or any person or entity claiming under or through it) shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of the Property or any part thereof, nor shall Developer or any occupant or user of the Property or any transferee, successor, assign or holder of any interest in the Property or any person or entity claiming under or through such transferee, successor, assign or holder, establish or permit any such practice or practices of discrimination or segregation, including, without limitation, with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, vendees or others of the Property, provided, however, that Developer shall not be in default of its obligations under this Section

10.5 where there is a judicial action or arbitration involving a bona fide dispute over whether Developer is engaged in discriminatory practices and Developer promptly acts to satisfy any judgment or award against Developer.

Developer (or any person or entity claiming under or through it) further agrees and covenants that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property nor shall the Developer or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed.

(b) Any transferee, successor, assign, or holder of any interest in the Property, or any occupant or user thereof, whether by contract, lease, rental, sublease, license, deed, mortgage or otherwise, and whether or not any written instrument or oral agreement contains the foregoing prohibitions against discrimination, shall be bound hereby and shall not violate in whole or in part, directly or indirectly, the nondiscrimination requirements set forth above.

(c) All advertising (including signs) for sale and/or rental of the whole or any part of the Real Property shall include the legend "An Open Occupancy Building" in type or lettering of easily legible size and design. The word "Project" or "Development" may be substituted for the word "Building" where circumstances require such substitution.

10.6 Effect, Duration and Enforcement of Covenants.

(a) It is intended and agreed, and the Grant Deed shall expressly provide, that the covenants provided in this Article 10 shall be covenants running with the land and that they shall be, in any event and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement itself, to the fullest extent permitted by law and equity, (i) binding for the benefit and in favor of Successor Agency (or its designated successor), as beneficiary, as to all covenants set forth in this Article 10; and (ii) binding against Developer, its successors and assigns to or of the Property and any improvements thereon or any part thereof or any interest therein, and any party in possession or occupancy of the Property or the improvements thereon or any part thereof. It is further intended and agreed that the covenants provided in this Article 10 shall remain in effect subject to the termination provisions of Section 10.6(c) without limitation as to time; provided, however, that such agreements and covenants shall be binding on Developer itself, each successor in interest or assign, and each party in possession or occupancy, respectively, only for such period as it shall have title to or an interest in or possession or occupancy of the Property or part thereof.

(b) In amplification, and not in restriction, of the provisions of the preceding Sections, it is intended and agreed that Successor Agency and its successors and assigns, as to the covenants provided in this Article 10 of which they are stated to be beneficiaries, shall be beneficiaries both for and in its own right and also for the purposes of protecting the interest of

the community and other parties, public or private, and without regard to whether Successor Agency has at any time been, remains, or is an owner of any land or interest therein to which, or in favor of which, such covenants relate. Successor Agency and its successors and assigns shall have the right, in the event of any and all of such covenants of which they are stated to be beneficiaries, to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings, to enforce the curing of such breach of such covenants to which it or any other beneficiaries of such covenants may be entitled including, without limitation, restraining orders, injunctions and/or specific enforcement, judicial or administrative.

(c) As stated above, the covenants contained in this Article 10 shall remain in effect without limitation as to time.

(d) Developer shall be entitled to notice and shall have the right to cure of any breach or violation of all or any of the foregoing in accordance with Article 13.

10.7 No Change in Uses without Approval. From and after Successor Agency's issuance of a Certificate of Completion, neither Developer nor any successor or assign shall make or permit any change in the uses permitted under Section 10.4 of this Agreement, unless the express prior written consent for such change in uses shall have been requested and obtained from Successor Agency; and if obtained, upon such terms and conditions as Successor Agency may reasonably require. Successor Agency approval may be granted or withheld in its reasonable discretion.

10.8 Successor Agency Covenants.

(a) **Interim Operation of Property.** From the Effective Date hereof until the Close of Escrow or earlier termination of this Agreement, Successor Agency shall use reasonable efforts to operate and maintain the Property, and shall continue to maintain insurance for the Property, in a manner generally consistent with the manner in which Successor Agency has operated and maintained the Property prior to the date hereof. Notwithstanding the foregoing, from and after the Effective Date, Successor Agency shall not: (a) cause nor voluntarily permit, any new lien, encumbrance or any matter to cause the condition of title to be changed, without Developer's prior written consent; (b) enter into any agreements with the City, any other governmental agency, utility company or any person or entity regarding the Property, which would remain in effect after the Close of Escrow, without obtaining Developer's prior written consent; (c) enter into any new Garage Leases or Service Contracts or amend or modify any of the existing Garage Leases or Service Contracts without Developer's prior written consent; or (d) enter into any new licenses, agreements or leases that would give any person or entity any right of possession to any portion of the Property, or which would remain in effect after the Close of Escrow. If Buyer's consent is required by the terms of this Section 10.8(a), such consent shall not be unreasonably withheld, delayed, or conditioned.

(b) **Estoppel Certificates.** Prior to the Close of Escrow, if requested by Developer, Successor Agency shall reasonably cooperate with Developer to request and obtain an estoppel certificate, using a form prepared by Developer and reasonably acceptable to the Successor Agency, from each tenant under a Garage Lease and each counter-party to a Garage

Agreement or Service Agreement to be assigned to Developer at Close of Escrow in accordance with this Agreement.

11. ASSIGNMENT, TRANSFER

11.1 Prohibition Against Transfer of the Property and the Agreement. Except as otherwise provided in this Agreement, including Articles 11 and 12, and before the issuance of the Certificate of Completion, Developer shall not make or create or suffer to be made or created any total or partial sale, conveyance, encumbrance, assignment, lease, option to acquire, any trust or power, or transfer in any other mode or form, of this Agreement or the Property, or any part thereof, or interest therein (collectively a “**Transfer**”) without the prior written approval of Successor Agency; provided, however, that Developer shall have the right, without the consent of Successor Agency, to a Transfer to an Affiliate. For purposes of this Agreement, the term “**Affiliate**” shall mean any direct or indirect member or equity owner of Developer as of the date of this Agreement, which includes MF8 Mission Member, LLC, a Delaware limited liability company, and CI8 Mission Member, LLC, a Delaware limited liability company; and provided further that Developer shall have the right, with Successor Agency consent, which consent shall not be unreasonably withheld, conditioned or delayed, to a Transfer to any entity that is directly or indirectly controlled by or is under common control with (i) Developer, or (ii) Millennium Partners LLC, Christopher M. Jeffries, Philip E. Aarons and/or Philip H. Lovett, or (iii) MF8 Mission Member, LLC, a Delaware limited liability company and/or CI8 Mission Member, LLC, a Delaware limited liability company. The term “**control**” shall mean the sole power to direct the day-to-day operation of such entity through voting rights and/or ownership. Nothing contained in this Article 11 shall prohibit or limit (a) Developer’s creation of Mortgages permitted under Article 12, or any Transfer resulting from a Holder’s exercise of its rights under a Mortgage permitted under this Agreement; (b) the sale of condominium units by Developer; or (c) the assignment of Developer’s rights to a new entity formed to permit the admission of equity providers. In the absence of specific written approval by Successor Agency, no Transfer shall be deemed to relieve Developer or any other party from any obligations under this Agreement or deprive Successor Agency of any of its rights and remedies under this Agreement.

11.2 Successor Agency Review of Proposed Transfers. At any time before the issuance of the Certificate of Completion, Developer may submit a written request to Successor Agency for the approval of a proposed Transfer (a “**Proposed Transfer**”), to the extent a Proposed Transfer requires Successor Agency approval under this Agreement, with all relevant written documents and data pertaining thereto and such additional documents and data as Successor Agency may reasonably request. Within fifteen (15) business days of the submission of such a request, Successor Agency shall notify Developer in writing of the Successor Agency’s decision with respect to the Proposed Transfer; provided, however, if Oversight Board approval is required, such period shall be extended to the date by which the Department of Finance, within the statutory period for its review, has either not objected to, or approved, the Oversight Board approval. If Successor Agency approves the terms of the Proposed Transfer, Successor Agency shall thereafter accept the Proposed Transfer, provided, however, if Oversight Board approval is required, such acceptance shall be extended to the date by which the Department of Finance, within the statutory period for its review, has either not objected to, or approved, the Oversight Board approval. If Successor Agency disapproves the Proposed Transfer, it shall specify with particularity the grounds for its disapproval. If Successor Agency fails to respond to any such

request within fifteen (15) days of the submission thereof, as may be extended by the necessity for Oversight Board approval, the request shall be deemed disapproved. In the event of an assignment approved by Successor Agency, Developer shall be relieved of its obligations hereunder.

12. MORTGAGEE FINANCING

12.1 No Mortgage Except as Set Forth Herein

(a) At any time before the issuance of the Certificate of Completion, except as permitted in this Article 12, Developer shall not:

(i) engage in any financing or any other transaction creating any mortgage or deed of trust upon the Property or upon Developer's interest therein; or

(ii) suffer any encumbrance or lien to be made on or attached to the Property or Developer's interest therein, except for a Mortgage and/or a Permitted Encumbrance.

(b) Any such mortgage, encumbrance or lien not permitted by this Article 12 shall be deemed to be a violation of this covenant on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

(c) In the event that Developer complies with the provisions of this Article 12, Developer shall be authorized and entitled to create a Mortgage on the Property and improvements thereon.

(d) Developer shall be permitted to contest the validity or amount of any tax, assessment, encumbrance or lien and to pursue any remedies associated with such contest; provided, however, that such contest and pursuit of remedies does not subject the Property or any portion of it to forfeiture or sale.

(e) Successor Agency agrees to consider in good faith any mortgagee protection requirements requested by a Bona Fide Institutional Lender as a condition to providing financing for the construction of the improvements, provided, however, the Successor Agency may use its reasonable discretion in determining whether or not to accept any such provisions.

(f) Developer and Successor Agency shall use commercially reasonable efforts to obtain a non-disturbance agreement for The Mexican Museum in a form reasonably satisfactory to The Mexican Museum, for execution and recordation by the Holder and The Mexican Museum.

12.2 Notice of Mortgage.

Developer shall promptly notify Successor Agency of any lien or encumbrance which has been created on or attached to the Property, whether a Mortgage, Permitted Encumbrance or otherwise and whether by act of Developer or otherwise.

12.3 Purpose of Mortgage.

Notwithstanding the restrictions set forth in Section 12.1(a), Developer shall have the right to enter into a Mortgage to obtain financing for one or more of the following purposes:

(a) to finance the costs of constructing the Project, including Hard Construction Costs and Soft Construction Costs;

(b) to finance the costs of repair, rehabilitation, rebuilding or restoration of the Project;

(c) to finance the payment of the Redemption Funds and/or the Reimbursement Agreement Payment; or

(d) to refinance or “take-out” the loans or financing referred to in the foregoing subparagraphs (a) and/or (b) and/or (c).

12.4 Interest Covered by Mortgage

The Mortgage shall cover no interest in any real property other than Developer’s interest in the Site, the Property, and the Improvements thereon and any rights of Developer appurtenant to the Site, the Property, the Improvements and Appurtenant Rights.

12.5 Insurance and Condemnation Proceeds

Developer shall cause any Mortgage to contain provisions permitting the disposition and application of the insurance proceeds and condemnation awards in the manner provided in this Agreement.

12.6 Institutional Lender; Other Permitted Holders

Any Holder under a Mortgage permitted under this Article 12 shall be either (i) a Bona Fide Institutional Lender, or (ii) any other lender which shall have been reasonably approved by Successor Agency. In any case in which Successor Agency’s approval is required, Successor Agency shall be deemed to have approved such other lender if Successor Agency shall fail to disapprove such lender by written notice given to Developer within thirty (30) days following Successor Agency’s receipt of the written notice from Developer of the identity of such other lender and specifying that no notification of disapproval within thirty (30) days after the receipt of such written notice constitutes approval. If Successor Agency disapproves such other lender, Successor Agency’s notice shall specify with particularity the reasons for such disapproval.

12.7 Rights Subject to Agreement

All rights acquired by any Holder under a Mortgage, either before or after foreclosure or transfer in lieu thereof, or by a purchaser of the Property by means of a foreclosure sale of the Property subject to the Mortgage, shall be subject to each and all of the terms, covenants, conditions and restrictions set forth in this Agreement, none of which terms,

covenants, conditions and restrictions are or shall be waived by Successor Agency by reason of the permitting of such Mortgage, except as specifically waived by Successor Agency in writing. All of the terms, covenants, conditions and restrictions shall include, without limitation, the obligation to (a) construct or complete the Core and Shell, subject to the limitations set forth in Section 12.10(b) which must be satisfied within ninety (90) days following the date on which a Holder acquires fee title to the Property, (b) devote the Property or any part thereof to those uses provided or authorized in this Agreement, and (c) manage and operate the Property in accordance with the provisions of this Agreement, subject to the limitations set forth in Section 12.10(b) which must be satisfied within ninety (90) days following the date on which a Holder acquires fee title to the Property, as extended by events of Force Majeure. For purposes of this Article 12, all references to the term “**Holder**” also shall mean any affiliate or participant of the mortgagee or beneficiary under a Mortgage or any other Holder, and any purchaser of the Property by means of a foreclosure sale of the Property or transfer in lieu thereof, and any successors and assigns of such parties.

12.8 Required Provisions of Any Mortgage

Developer agrees to have any Mortgage provide that the Holder shall give notice to Successor Agency in writing by registered or certified mail of the occurrence of any default by Developer under the Mortgage, and that Successor Agency shall be given notice at the time any Holder initiates any Mortgage foreclosure action. In the event of any such default, Successor Agency shall have the right to cure such default, provided that Developer is given ten (10) days’ prior notice of Successor Agency’s intention to cure such default. If Successor Agency shall elect to cure such default, Developer shall pay the cost thereof to Successor Agency upon demand, together with the interest thereon at the lesser of five (5%) or the maximum interest rate permitted by law, unless (i) Developer cures such default within such ten (10) day period, or (ii) if curing the default requires more than ten (10) days and Developer shall have commenced cure within such ten (10) days after such notice, Developer shall have (A) cured such default within thirty (30) days or such greater time period as may be allowed by Holder after commencing such cure, or (B) obtained from the Holder a written extension of time in which to cure such default, together with a separate written extension of time granting Successor Agency reasonable additional time to cure such default if such default is not cured within such extension of time, and delivered executed copies thereof to Successor Agency. Subject to the foregoing ten (10) day prior notice requirement and compliance by the Successor Agency with the other provisions of this Section 12.8, Developer hereby authorizes Successor Agency in Successor Agency’s name, without any obligation to do so, to perform any act required of Developer in order to prevent a default or acceleration under any Mortgage, or the taking of any foreclosure or other action to enforce the collection of the indebtedness secured by the Mortgage, and Developer agrees to indemnify, defend and hold Successor Agency harmless from any losses, costs, claims, damages, liabilities and causes of action (including reasonable attorneys’ fees) resulting from Successor Agency exercising its rights under this Section, unless caused by Successor Agency’s gross negligence or willful misconduct. Developer also agrees to have any Mortgage provide that such Mortgage is subject to all of the terms and provisions of this Agreement.

12.9 Address of Holder

No Holder shall be entitled to exercise the rights set forth in this Article 12 unless and until written notice of the name and address of the Holder shall have been given to Successor Agency, notwithstanding any other form of notice, actual or constructive.

12.10 Holder's Right to Cure

If Developer shall create a Mortgage on the Property in compliance with the provisions of this Article 12, then so long as any such Mortgage shall remain unsatisfied of record, the following provisions shall apply:

(a) Successor Agency, upon serving Developer any notice of default or any other notice under the provisions of or with respect to this Agreement, shall also serve a copy of such notice upon any Holder at the address provided to Successor Agency pursuant to Section 12.9, and no notice by Successor Agency to Developer hereunder shall affect any rights of a Holder unless and until a copy thereof has been so served on such Holder; provided, however, that failure so to deliver any such notice shall in no way affect the validity of the notice sent to Developer as between Developer and Successor Agency, unless cured by the Holder as hereinafter provided.

(b) Any Holder, in case Developer shall be in default hereunder, shall have the right to remedy, or cause to be remedied, such default within the later to occur of (i) ninety (90) days following the date of Holder's receipt of the notice referred to in Section 12.10(a) above or after the Holder obtains possession and control of the Property to the extent such possession or control is required to effect such remedy, or (ii) ninety (90) days after the expiration of the period provided herein for Developer to remedy or cure such default, and Successor Agency shall accept such performance by or at the insistence of the Holder as if the same had been timely made by Developer.

(i) Notwithstanding the foregoing, if the default occurs prior to completion of construction of the Core and Shell or if the Holder becomes the fee owner of the Site prior to completion of construction of the Core and Shell, nothing contained in this Section 12.10 or any other section or provisions of this Agreement shall be deemed to obligate such Holder, either before or after foreclosure or transfer in lieu thereof, to undertake or continue the construction or completion of the Core and Shell beyond the extent necessary to conserve or protect the Core and Shell or construction already made (and for avoidance of doubt, if the default occurs prior to commencement of construction of the Core and Shell or if the Holder becomes the fee owner of the Site prior to commencement of construction of the Core and Shell, nothing contained in this Section 12.10 or any other section or provisions of this Agreement shall be deemed to obligate such Holder to undertake any construction activities with respect to the Core and Shell or otherwise) without (A) the express assumption by Holder (or a third party procured by Holder and reasonably acceptable to Successor Agency) by written agreement satisfactory to Successor Agency of Developer's obligations to complete, in the manner provided in this Agreement, the Core and Shell, or the part thereof to which the lien of such Mortgage relates, and otherwise to perform all of Developer's obligations under this Agreement; (B) the submittal of evidence satisfactory to Successor Agency that such Holder (or a third party

procured by the Holder and reasonably acceptable to Successor Agency) has the financial capacity necessary to perform such obligations; and (C) the submittal of evidence reasonably satisfactory to Successor Agency that such Holder (or a third party procured by the Holder and reasonably acceptable to Successor Agency) has the construction expertise to complete Developer's construction obligations as set forth in this Agreement.

(ii) Upon assuming Developer's obligations, the Holder shall be required only to exercise due diligence in completion of the construction of the Core and Shell and shall not be required to complete construction of the Core and Shell within the time set forth therefor in the Schedule of Performance. Any such assuming Holder properly completing the Core and Shell shall be entitled, upon written request made to Successor Agency, to a Certificate of Completion from Successor Agency with respect to such Core and Shell to the same extent and in the same manner as Developer would have been entitled if Developer had not defaulted. Upon transfer by any such assuming Holder to any transferee, such Holder shall be relieved of any liability hereunder.

(c) Notwithstanding anything to the contrary contained herein, upon the occurrence of a default by Developer hereunder, Successor Agency shall take no action to effect a termination of this Agreement (and, for avoidance of doubt, the Parties acknowledge that Successor Agency may effect a termination of this Agreement only prior to Closing as provided in Section 13.2(a)) without first giving to any Holder written notice thereof and a reasonable time thereafter within which either (i) to obtain possession of the Property (including possession by a receiver) or (ii) to institute, prosecute and complete foreclosure proceedings with diligence or otherwise acquire the Property with diligence; provided that if such default is reasonably susceptible of being cured at any time, Holder shall commence and diligently prosecute such cure as a condition to Successor Agency's taking no action as set forth above. A Holder upon acquiring the Property shall be required promptly to cure all other defaults by Developer then reasonably susceptible of being cured by such Holder other than a default by Developer with respect to constructing the Core and Shell, subject to subparagraph (b) above; provided, however, that: (A) such Holder shall not be obligated to continue such possession or to continue such foreclosure proceedings after such defaults have been cured; (B) nothing herein contained shall preclude Successor Agency, subject to the provisions of this Article, from exercising any rights or remedies under this Agreement with respect to any other default by Developer during the pendency of such foreclosure proceedings; and (C) such Holder shall agree with Successor Agency in writing to comply during the period of such forbearance with such of the terms, conditions and covenants of this Agreement as are reasonably susceptible of being complied with by such Holder.

(d) Any notice or other communication which Successor Agency shall desire or is required to give to or serve upon the Holder shall be in writing and shall be served in the manner set forth in Section 15.5, addressed to the Holder at the address provided for in Section 12.9.

(e) Any notice or other communication which Holder shall give to or serve upon Successor Agency shall be deemed to have been duly given or served if sent in the manner and at Successor Agency's address as set forth in Section 15.5, or at such other address as shall be designated by Successor Agency by notice in writing given to the Holder in like manner.

(f) Notwithstanding anything to the contrary contained herein, the provisions of this Article 12 shall inure only to the benefit of the Holders under Mortgages which are permitted hereunder.

13. DEFAULTS AND REMEDIES

13.1 Developer Default.

The occurrence of any one of the following events or circumstances shall constitute an Event of Default by Developer under this Agreement:

(a) (i) Developer suffers or permits a Transfer to occur in violation of this Agreement; or (ii) Developer allows any other person or entity (except Developer's authorized representatives including contractors and subcontractors) to occupy or use all or any part of the Property in violation of the provisions of this Agreement, and such event or condition shall not have been cured within thirty (30) days following the date of written demand to cure by Successor Agency to Developer;

(b) After Conveyance, Developer fails to pay real estate taxes or assessments on the Real Property or the Improvements thereon when due or places any mortgages, encumbrances or liens upon the Property or any part thereof (other than Mortgages or Permitted Encumbrances) in violation of this Agreement, and such event or condition shall not have been cured within thirty (30) days following the date of written demand to cure by Successor Agency to Developer, subject, as to encumbrances and liens, to the contest rights specified in Section 12.1;

(c) Developer fails to commence promptly, or after commencement fails to prosecute diligently to completion (as evidenced by a Certificate of Completion issued pursuant to this Agreement), the construction of the Core and Shell within the times set forth in the Schedule of Performance, as such dates may be extended by Force Majeure delays, or abandons or substantially suspends construction of the Core and Shell for more than sixty (60) consecutive days, and such failure, abandonment or suspension continues for a period of (i) thirty (30) days following the date of written notice thereof from Successor Agency as to an abandonment, suspension or failure to commence construction; or (ii) sixty (60) days following the date of written notice thereof from Successor Agency as to a failure to complete construction;

(d) Developer fails to pay any amount required to be paid hereunder, and such failure continues for a period of five (5) business days following the date of written notice thereof from Successor Agency;

(e) Developer does not accept conveyance of the Property in violation of this Agreement upon tender by Successor Agency pursuant to this Agreement, and such failure continues for a period of five (5) business days following the date of written notice from Successor Agency;

(f) Developer is in default under the Equal Opportunity Program, or the Prevailing Wage Provisions (Labor Standards); provided, however, that any rights to cure and

Successor Agency's remedies for any default under the Equal Opportunity Program shall be only as set forth in the Equal Opportunity Program;

(g) Developer fails to use its commercially reasonable efforts to obtain a Building Permit or Site Permit with foundation and excavation addenda, as the case may be, and all other necessary permits for the Core and Shell which would allow Developer to comply with the periods of time specified in this Agreement or the Schedule of Performance or pursuant to any permitted Fast Track, as such dates may be extended by Force Majeure delays, and such failure continues for a period of thirty (30) days following the date of written notice thereof from Successor Agency, or in the case of a default not susceptible of cure within thirty (30) days, Developer fails promptly to commence to cure such default and thereafter diligently to prosecute such cure to completion within a reasonable time;

(h) Developer does not submit to the Successor Agency all Construction Documents as required by this Agreement within the periods of time respectively provided in this Agreement and the Schedule of Performance or by any permitted Fast Track, as such dates may be extended by Force Majeure delays, and Developer does not cure such default within thirty (30) days following the date of written demand from Successor Agency, or in the case of a default not susceptible of cure within thirty (30) days, Developer fails promptly to commence to cure such default and thereafter diligently to prosecute such cure to completion within a reasonable time;

(i) Developer defaults in the performance of or violates any covenant, or any part thereof, set forth in the Grant Deed, and such default or violation continues for a period of thirty (30) days after the date of written demand to cure from Successor Agency to Developer, or in the case of a default not susceptible of cure within thirty (30) days, Developer fails promptly to commence to cure such default and thereafter diligently to prosecute such cure to completion within a reasonable time; or

(j) Developer fails to perform any other agreements or obligations on Developer's part to be performed under this Agreement, and such failure continues for the period of thirty (30) days after the date of written demand by Successor Agency to Developer to perform such agreement or obligation, or such longer time for any cure or the expiration of any grace period otherwise specified in this Agreement therefor, or in the case of a default not susceptible of cure within thirty (30) days, Developer fails promptly to commence to cure such default and thereafter diligently to prosecute such cure to completion within a reasonable time.

13.2 Remedies of Agency.

Upon the occurrence of an Event of Default by the Developer, the Successor Agency shall have the remedies set forth below.

(a) Termination-Prior to Conveyance. Prior to Conveyance of the Property to Developer, Successor Agency shall have the right to terminate this Agreement upon written notice to Developer. Upon the giving of such notice, this Agreement shall terminate at 5:00 p.m. on the twenty-first (21st) calendar day after Successor Agency's delivery of such notice of termination, unless Developer cures the Event of Default during such period or the Successor

Agency Commission (subject to approval of the Oversight Board and the State Department of Finance, if required by applicable law) at a public meeting held before the end of such 21-day period, either on its own motion or on application by Developer, affirmatively determines not to terminate this Agreement, or determines to extend the termination date of this Agreement, or some combination of either of such alternatives. The Successor Agency Commission shall have no obligation to act at all, but, if it chooses to act, its action may be upon such terms and conditions as it may select. If the Successor Agency terminates this Agreement pursuant to this Section 13.2(a) for a reason other than an Event of Default of Developer or the failure of a Successor Agency Condition Precedent, the liquidated damages provision described in Section 1.3(b)(iii) shall apply.

(b) Specific Performance. From and after Conveyance of the Property to Developer, Successor Agency shall have the right to institute an action for specific performance of the terms of this Agreement or of the Grant Deed including, but not limited to, the right to institute any action for specific performance of Developer's obligations under this Agreement or the Grant Deed to construct the Core and Shell to the extent that such action is available at law or in equity with respect to such default; provided, however, that the Successor Agency shall have no right to specifically enforce any Developer obligation to commence construction of the Core and Shell or the Project unless and until the Developer's Conditions Precedent have been satisfied.

(c) Limitation on Damages. Except for the liquidated damages provision set forth in Section 1.3(b) above, Developer shall not be liable to Successor Agency for any damages caused by any default by Developer, or to expend money to cure a default by Developer, except for attorneys' fees and costs as provided in Section 15.16.

13.3 Additional Remedies of Successor Agency.

Subject to limitations on rights and remedies set forth in this Agreement, the remedies provided for herein are in addition to and not in limitation of remedies set forth in other documents including, without limitation: (i) the Grant Deed; (ii) the Equal Opportunity Program; and (iii) the Prevailing Wage Provisions.

13.4 Successor Agency Default.

The occurrence of any one of the following events or circumstances shall constitute an Event of Default by the Successor Agency under this Agreement:

(a) Successor Agency fails to convey the Property to Developer in violation of this Agreement, and such failure continues for a period of five (5) days following the date of written notice thereof from Developer; or

(b) Successor Agency fails to perform any other agreements or obligations on Successor Agency's part to be performed under this Agreement, and such failure continues for the period of time for any cure or the expiration of any grace period specified in this Agreement therefor, or if no such time or grace period is specified, within thirty (30) days after the date of written demand by Developer to Successor Agency to perform such agreement or obligation, or, in the case of a default not susceptible of cure within thirty (30) days, Successor Agency fails

promptly to commence to cure such default and thereafter diligently to prosecute such cure to completion within a reasonable time.

13.5 Remedies of Developer.

For an Event of Default by Successor Agency hereunder, the Developer shall have the following remedies:

(a) Termination. Developer shall have the right to terminate this Agreement upon written notice to Successor Agency, provided that substantial construction has not commenced on the Property.

(b) Specific Performance. Developer shall have the right to institute legal action for specific performance of the terms of this Agreement to the extent that such action is available at law or in equity with respect to such default.

(c) Limitation on Damages. Successor Agency shall not be liable to Developer for damages caused by any default by Successor Agency, or to expend money to cure a default by Successor Agency, except for attorneys' fees and costs as provided in Section 15.16.

13.6 Rights and Remedies Cumulative.

Subject to limitations on rights and remedies set forth in this Agreement, the rights and remedies of the parties to this Agreement, whether provided by law, in equity or by this Agreement, shall be cumulative, and the exercise by either party of any one or more of such rights or remedies shall not preclude the exercise by such parties of any other or further rights or remedies for the same or any other default or breach by the other party. No waiver made by either party with respect to the performance, or manner or time thereof, of any obligation of the other party or any condition to its own obligation under this Agreement shall be effective beyond the particular obligation of the other party or condition to its own obligation expressly waived and to the extent thereof, or a waiver in respect to any other rights of the party making the waiver or any other obligations of the other party.

13.7 Force Majeure/Extensions of Time.

(a) Force Majeure. For the purposes of any of the provisions of this Agreement, neither Successor Agency nor Developer, as the case may be, nor any successor in interest (the “**Delayed Party**”, as applicable) shall be considered in breach of or default in any obligation or satisfaction of a condition to an obligation of another party, in the event of Force Majeure and the time for performance shall be extended as a result of any event of Force Majeure. “**Force Majeure**” means events that cause enforced delays in the Delayed Party’s performance of its obligations hereunder due primarily to causes beyond the Delayed Party’s control, including, but not limited to, acts of God or of a public enemy, terrorist acts, acts of the government, fires, floods, earthquakes, tsunamis, epidemics, quarantine restrictions, freight embargoes, inability to obtain supplies or materials or reasonably acceptable substitute supplies or materials (provided that Developer has ordered such materials on a timely basis), unusually severe weather, archeological finds on the Site, substantial interruption of work because of labor disputes, administrative appeals, litigation and arbitration, as well as delays caused by

administrative appeals or legal challenges to the Regulatory Approvals or the Environmental Impact Report for the Project or any initiatives or referenda regarding the same (provided in each such case that Developer or Successor Agency, as applicable, proceeds with due diligence to resolve any dispute that is the subject of such action), delays in the Successor Agency's review and approval of matters described in this Agreement beyond the time periods for such review and approval described in this Agreement, or delays of subcontractors due to any of these causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of Successor Agency or Developer shall be extended for the period of the enforced delay; provided, however, that within sixty (60) days after the beginning of any such enforced delay, the party seeking the benefit of the provisions of this Section shall have first notified the other party thereof in writing, stating the cause or causes thereof and requesting an extension for the period of the enforced delay. Force Majeure shall not apply prior to the Close of Escrow to any (i) obligations of Developer except as set forth in the Schedule of Performance, or (ii) conditions to Successor Agency's performance that Developer must satisfy; provided, however, administrative appeals, legal challenges, litigation, arbitration, and referenda, with respect to the Regulatory Approvals, Environmental Impact Report, or any other matter involving the Project or this Agreement, may be claimed as Force Majeure events extending the time for performance of Developer's obligations under the Schedule of Performance.

(b) Extension by Successor Agency. Successor Agency may extend the time for Developer's performance of any term, covenant or conditions of this Agreement or permit the curing of any default upon such terms and conditions as Successor Agency determines appropriate, including, but not limited to, increasing the price for the Property and the time within which Developer must agree to such terms and/or conditions; provided, however, that any such extension or permissive curing of any particular default shall not release any of Developer's obligations nor constitute a waiver of Successor Agency's rights with respect to any other term, covenant or condition of this Agreement or any other default in, or breach of, this Agreement.

(c) Extension of Time by the Executive Director. In addition to any extensions for Force Majeure delays, the Executive Director of the Successor Agency may extend the date for Developer's performance of any item set forth in the Schedule of Performance from time to time, without the necessity for further Successor Agency Commission or Oversight Board action, so long as all such extensions of any particular item do not exceed a total of one hundred eighty (180) days from the original dates in the Schedule of Performance as may be extended by events of Force Majeure; provided, however, that any such extension shall not release any of Developer's obligations nor constitute a waiver of Successor Agency's rights with respect to any other term, covenant or condition of this Agreement.

13.8 General

(a) Subject to the limitations thereon contained in this Agreement, either party may institute legal action to cure, correct or remedy any default or to obtain any other remedy consistent with the terms of this Agreement. Such legal actions must be instituted in the Superior Court of the City and County of San Francisco, State of California, or, if appropriate, in the Federal District Court in San Francisco, California.

(b) In the event that any legal action is commenced by Developer against Successor Agency, service of process on Successor Agency shall be made by personal service upon the Executive Director of Successor Agency, or in such other manner as may be provided by law. In the event that any legal action is commenced by Successor Agency against Developer, service of process on Developer shall be made by personal service upon the Developer at the address provided for Section 15.5 or at such other address as shall have been given to Successor Agency by Developer pursuant to Section 15.5 of this Agreement, or in any other manner as may be provided by law, and shall be valid whether made within or without the State of California.

14. SUCCESSOR AGENCY EQUAL OPPORTUNITY PROGRAM

14.1 Equal Opportunity Program. Developer shall comply with the requirements of the Successor Agency's Equal Opportunity Program, including the Agency programs on small business enterprises, construction workforce, equal benefits, minimum compensation, and healthcare accountability, prevailing wages, and related requirements contained in **Exhibit U** as to the Site and improvements thereon (the "**Equal Opportunity Program**"). The prevailing wage requirements in the Equal Opportunity Program are referred to herein as the "**Prevailing Wage Provisions.**" Prior to commencement of construction, Developer shall provide quarterly updates to the Successor Agency regarding Developer's efforts to meet the 50% Small Business Enterprise Goals as set forth in the Small Business Enterprise portion of the Equal Opportunity Program contained in attached **Exhibit U**.

14.2 Construction Placement Services. Developer shall utilize the Office of Economic and Workforce Development - CityBuild for construction placement services to assist in achieving the Successor Agency's workforce goals and shall execute an agreement with CityBuild to fund CityBuild's staff costs for such services, up to a maximum of One Hundred Forty Two Thousand Four Hundred Seventy One Dollars (\$142,471) of staff costs for every Five Hundred Million Dollars (\$500,000,000) in total Project costs.

14.3 City Policies Prevail. Notwithstanding the foregoing, in the event of a conflict between City policies, rules or regulations or approvals and Successor Agency policies, rules, regulations and approvals, the City's policies, rules, regulations and approvals, whether generally applicable or applied as a condition of approval to the Project, shall prevail.

15. GENERAL PROVISIONS

15.1 Indemnification. Developer shall indemnify, defend, and hold harmless the Indemnitees from and against any losses, costs, claims, damages, liabilities and causes of action (including reasonable attorney's fees and court costs) arising out of this Agreement, including with respect to any challenge to the entitlement of the Developer to undertake the program described in the Scope of Development, or in any way connected with the death of or injury to any person or damage to any property occurring on or adjacent to the applicable portion of the Site and directly or indirectly caused by any acts done thereon or any acts or omissions of Developer and their respective agents, employees or contractors; provided, however, that the foregoing indemnity shall not apply to any losses, costs, claims, damages, liabilities or causes of action (including reasonable attorneys' fees and court costs) (a) due primarily to the gross

negligence or willful misconduct of the person or party seeking to be indemnified (Agency or the City, as the case may be), or its respective agents, employees or contractors, (b) arising out of any default under this Agreement by the person or party seeking to be indemnified, or its respective agents, employees or contractors, or (c) or resulting from the discovery or disclosure of any pre-existing condition on or in the vicinity of the Property. Developer's obligations under this Section 15.1 shall survive Agency's issuance of the Certificate of Completion as to any acts or omissions occurring prior to such issuance.

15.2 Successor Agency Costs. The Developer shall pay all the Successor Agency's actual, reasonable costs associated with the Regulatory Approvals, approvals process, and implementation of this Agreement and associated MOA as described in Section 8.2 of this Agreement, including, but not limited to, all staff time, all associated benefits and actual distributed overhead, and any consultants retained by the Successor Agency in connection with the Successor Agency's obligations under this Agreement or the associated MOA and the Regulatory Approvals and approvals for the Project ("Successor Agency Transaction Costs").

The Successor Agency anticipates hiring consultants to assist it in fulfilling its obligations under this Agreement, including, but not limited to, outside legal counsel, design review, and planning services, and the Developer agrees to pay for such consultants. In the event that the Successor Agency reasonably determines that such consultants will be required, the Successor Agency shall provide to the Developer for review copies of any contracts including both scope and budget no later than ten (10) days prior to execution thereof.

The Successor Agency shall submit invoices for staff time the Successor Agency incurs on a quarterly basis to the Developer at its address specified in Section 15.5.

At the time that the Successor Agency submits such invoices, it shall also include reasonably detailed backup documentation verifying the actual costs reflected in the invoice. The Developer shall promptly pay all invoices submitted by the Successor Agency to cover Successor Agency Transaction Costs within sixty (60) days of submittal by the Successor Agency to Developer.

No advance deposit shall be required. If, however, the Developer fails to pay such invoices within such sixty (60) day period, then the Successor Agency may require that the Developer pay to the Successor Agency the sum of Fifty Thousand Dollars (\$50,000) in cash (the "Deposit for Successor Agency Costs") as a deposit to secure future payments of the Successor Agency Transaction Costs. The Successor Agency shall keep and account for separately the Deposit for Successor Agency Costs. The Successor Agency shall not use any portion of the Deposit for Successor Agency Costs unless the Developer fails to pay subsequent invoices within the applicable sixty (60) day period. The Successor Agency shall notify the Developer promptly of the use of any funds from this account. If the Successor Agency uses funds from this account, the Developer shall, within sixty (60) days of a written notice from the Successor Agency, replenish the Deposit for Successor Agency Costs. If the Developer does not replenish the Deposit for Successor Agency Costs within such sixty (60) day period, then such event will be considered an Event of Default under this Agreement.

Unless otherwise provided for in the Agreement, the Successor Agency shall return the Deposit for Successor Agency Costs, including any and all accrued interest, if any, within thirty (30) days of the Termination of this Agreement.

15.3 Term of this Agreement/Schedule of Performance.

(a) The term of this Agreement will be from the Effective Date until the earlier of termination in accordance with its terms or recordation of a Certificate of Completion by Successor Agency.

(b) Developer must perform in accordance with the Schedule of Performance.

15.4 Successor Agency Approvals; Provisions with Respect to Time Generally.

(a) Whenever the Successor Agency approval is required hereunder, the Successor Agency may act by and through its Executive Director, unless otherwise specified in this Agreement. Unless otherwise specified in this Agreement, Successor Agency shall have thirty (30) calendar days to approve or disapprove a submission or other request by the Developer and shall state the reasons for any disapproval; provided, however, that failure to respond shall not be deemed approval. Any failure by Successor Agency to so respond within the time for a response set forth in this Agreement shall entitle the Developer to an extension of any time associated with the submission or request equal to the period of the Successor Agency's delay in responding, and corresponding extensions of fixed deadlines, if applicable, for subsequent submissions.

(b) All references in this Agreement to time limitations, including those in the Schedule of Performance, shall mean such time limitations as they may be extended pursuant to the terms of this Agreement.

(c) To the extent any Successor Agency approval or action is required under this Agreement or the Grant Deed after such date (if any) that the Successor Agency no longer exists as a separate governmental entity, the entity responsible for any such approval or action shall be the entity designated to be the legal successor in interest to the Successor Agency in accordance with applicable law.

15.5 Notices. Any notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by U.S. Express Mail or commercial overnight courier that guarantees next day delivery and provides a receipt, or (d) facsimile transmission, provided that, in such case, a confirming copy is sent pursuant to subsections (a), (b) or (c), and such notices shall be addressed as follows:

Successor Agency: Successor Agency to the Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103
Attn: Executive Director
Facsimile: (415) 749-2525

With Copies To: Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Real Estate Finance Team
Facsimile: (415) 554-4755

The Mexican Museum
c/o The Marquez Law Group
20 California Street, 7th Floor
San Francisco, CA 94111
Attn: Victor Marquez, Esq.
By email: victormarquezesq@aol.com
Facsimile: (415) 677-9798

Developer: 706 Mission Street Co LLC
c/o Millennium Partners
735 Market Street, 6th Floor
San Francisco, CA 94103
Attn: Sean Jeffries
Telephone: (415) 593-1100
Facsimile: (415) 537-3895

With Copies To: Millennium Partners
1995 Broadway, 3rd Floor
New York, New York 10023
Attn: Chief Financial Officer
Telephone: (212) 875-4900
Facsimile: (212) 595-1831

And: 706 Mission Street Co LLC
c/o MF8 Mission Member, LLC
3300 PGA Boulevard, Suite 820
Palm Beach Gardens, FL 33410
Attn: General Counsel
Facsimile: (775) 659-8405

And: 706 Mission Street Co LLC
c/o MF8 Mission Member, LLC
645 Madison Avenue, 18th Floor
New York, NY 10022
Attn: Kashif Z. Sheikh
Telephone: (212) 849-8800
Facsimile: (212) 849-8801

And: Cox Castle & Nicholson
 555 California Street, 10th Floor
 San Francisco, CA 94104
 Attn: Margo Bradish
 Telephone: (415) 262-5100
 Facsimile: (415) 262-5199

Any such notice, demand or other communication transmitted by registered or certified United States mail, postage prepaid, shall be deemed to have been received forty-eight (48) hours after mailing (unless it is never delivered), and any notice, demand or other communication transmitted by personal delivery, facsimile transmission or nationally recognized private courier service shall be deemed to have been given when received by the recipient. Any party may change its address for notices under this Section by written notice given to the other party in accordance with the provisions hereof.

15.6 Time of Performance.

(a) All dates for performance (including cure) shall expire at 5:00 p.m. (San Francisco, California time) on the performance or cure date.

(b) A performance date which falls on a Saturday, Sunday or Successor Agency holiday is automatically extended to the next Successor Agency working day.

(c) Unless otherwise specified, whenever an action is required in response to a submission, request or other communication, the responding party must respond within thirty (30) calendar days.

15.7 Successors and Assigns. This Agreement shall be binding upon and, subject to the provisions of Article 11, shall inure to the benefit of, the successors and assigns of Successor Agency, Developer and any Holder and where the term “Developer”, “Successor Agency” or “Holder” is used in this Agreement, it shall mean and include their respective successors and assigns, including as to any Holder, any transferee of such Holder or any successor or assign of such transferee.

15.8 Attachments/Recitals. All exhibits and recitals to this Agreement are hereby incorporated herein and made a part hereof as if set forth in full.

15.9 Headings. Any titles of the several parts and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions. The terms “Paragraph” and “Section” may be used interchangeably.

15.10 Counterparts/Formal Amendment Required

(a) This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument.

(b) This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

(c) Any modifications or waiver of any provisions of this Agreement or any amendment thereto must be in writing and signed by a person or persons having authority to do so, on behalf of both Successor Agency and Developer.

15.11 Further Assurances. Each party agrees to execute and deliver to the other party such additional documents and instruments as the other party reasonably may request in order to fully carry out the purposes and intent of this Agreement.

15.12 Authority of Parties. Successor Agency and Developer each represent and warrant to the other party that this Agreement and all documents and delivered at Closing: (a) are, or at the time of Closing will be, duly authorized, executed and delivered by that party; (b) are, or at the time of Closing will be, legal, valid and binding obligations of that party; and (c) do not, and at the time of Closing will not, violate any provision of any agreement or judicial order to which that party is a party or to which that party is subject. Notwithstanding anything to the contrary in this Agreement, the foregoing representations and warranties and any and all other representations and warranties of the parties contained herein or in other agreements or documents executed by the parties in connection herewith, shall survive the Closing Date.

15.13 Governing Law. This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of California.

15.14 Parties and Their Agents. As used herein, the term “**Agent**” or “**Agents**” when used with respect to either party shall include the agents, employees, officers, commissioners, contractors and representatives of such part.

15.15 Interpretation of Agreement. 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 affect the purposes of the parties and this Agreement.

15.16 Attorneys’ Fees. If either party hereto fails to perform any of its respective obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all attorneys’ fees and disbursements, court costs and costs of the proceeding incurred by the other party on account of such default or in enforcing or establishing its rights hereunder. For purposes of this Agreement, the reasonable fees of Successor Agency’s attorneys 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 services were rendered.

15.17 Time of Essence. Time is of the essence with respect to the performance of the parties' respective obligations contained herein.

15.18 No Merger. The obligations contained herein shall not merge with the transfer of title to the Property but shall remain in effect until fulfilled.

15.19 No Personal Liability.

(a) No member, official or employee of Successor Agency and City shall be personally liable to Developer or any successor in interest in the event of any default or breach by Successor Agency or for any amount which may become due to Developer or successor or on any obligations under the terms of this Agreement.

(b) No officer, director, member, official or employee of Developer shall be personally liable to Successor Agency or the City or any successor in interest in the event of any default or breach by Developer or for any amount which may become due to Successor Agency or the City or successor or on any obligations under the terms of this Agreement.

15.20 No Joint Venture. The relationship between Successor Agency and Developer hereunder is solely that of transferor and transferee. None of the terms or provisions hereof shall be deemed to create a partnership between Successor Agency and Developer, nor shall it cause them to be considered joint venturers or members of any joint enterprise.

15.21 Recordation. Successor Agency shall cause this Agreement to be recorded in the Recorder's Office of the City and County of San Francisco within sixty (60) days after the Effective Date, subject to this Agreement either not being objected to, or being approved by, the California Department of Finance within the statutory period for its review, prior to such recordation.

15.22 Estoppels. At the request of either party, the other party, within ten (10) days following such request, shall execute and deliver to the requesting party a written statement in which such other party shall certify that this Agreement is in full force and effect; that this Agreement has not been modified or amended (or stating all such modifications and amendments); that neither party is in default under this Agreement (or setting forth any such defaults); that there are not then existing set-offs or defenses against the enforcement of any right or remedy of any party, or any duty or obligation of the certifying party (or setting forth any such set-offs or defenses); and as to such other matters relating to this Agreement as the requesting party shall reasonably request.

15.23 Effective Date. The Effective Date of this Agreement and the parties' rights and obligations hereunder shall be either (a) the date on which this Agreement is approved by the Oversight Board, if the California Department of Finance ("DOF") does not request to review this Agreement within the five-day statutory review period provided under the Community Redevelopment Law, or (b) the date on which this Agreement is approved by DOF if DOF does request to review this Agreement within the five-day statutory review period provided under the

Community Redevelopment Law, provided that it is executed by both the Successor Agency and the Developer (the “**Effective Date**”). The Successor Agency shall insert such date into the appropriate locations in this Agreement, but the failure to do so shall not in any way affect the enforceability of this Agreement.

15.24 Severability. If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement. Without limiting the foregoing, in the event that any applicable federal or state law prevents or precludes compliance with any material term of this Agreement, the parties shall promptly modify, amend or suspend this Agreement, or any portion of this Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the parties to this Agreement and to the Developer before such conflict with federal or state law. However, if such amendment, modification or suspension would deprive the Agency or the Developer of the substantial benefits derived from this Agreement or make performance unreasonably difficult or expensive, then the affected party may terminate this Agreement upon written notice to the other party. In the event of such termination, neither party shall have any further rights or obligations under this Agreement except as otherwise provided herein.

15.25 Third Party Beneficiary. The Mexican Museum shall be an express third-party beneficiary of Sections 2.2, 5.1(h), 5.1(i), 5.2(h), 5.2(i), 7.2, 7.5(a), 7.7(a), 7.9(a), 7.12(a), 7.13, 7.18, 8.2, 12.1(f) and **Exhibit O** and **Exhibit T** of this Agreement, and none of these Sections shall be modified or amended without the prior written consent of The Mexican Museum, which may be granted or withheld in The Mexican Museum’s sole and absolute discretion. The Mexican Museum shall have the right, but not the obligation, as an express third-party beneficiary, to enforce the provisions of these Sections; provided, however, that the limitations on the Successor Agency’s remedies as set forth herein shall also be applicable as limitations to The Mexican Museum’s rights to enforce such Sections.

16. REFERENCES AND DEFINITIONS

In addition to the other definitions described in this Agreement, the terms listed below shall be defined as follows:

“**Bona Fide Institutional Lender**” means a Person that is not a Prohibited Person and that is any of the following:

(i) a real estate investment trust, bank, saving and loan association, investment bank, insurance company, trust company, commercial credit corporation, pension plan, private equity fund, pension fund or pension advisory firm, mutual fund, government entity or plan

(ii) an investment company, money management firm or “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act of 1933, as amended, or an institutional “accredited investor” within the meaning of Regulation D under the Securities Act of 1933, as amended

(iii) an institution or other entity, including a so-called family office;

(iv) any entity controlled by any of the entities described in clause (i), (ii) or (iii) where more than fifty (50%) percent of the equity interests in such controlled entity are owned, directly or indirectly, by one or more such controlling entity or entities; or

(v) an investment fund, limited liability company, limited partnership or general partnership where a Permitted Fund Manager or an entity that is otherwise a Bona Fide Institutional Lender under clause (i), (ii), (iii) or (iv) of this definition acts as the general partner, managing member, non-member manager or fund manager and at least fifty (50%) percent of the equity interests in such investment vehicle are owned, directly or indirectly, by one or more entities that are Permitted Fund Managers or are otherwise Bona Fide Institutional Lenders under clauses (i), (ii), (iii) or (iv) of this definition.

“Building Permit(s)” means a permit or permits (including building permits and/or Site Permits and addenda) issued by the City which will allow Developer to construct the Project in accordance with this Agreement, including without limitation, all structural, life safety, fire suppression and other components of the Project.

“Construction Costs” means Developer’s customary and reasonable costs that are directly related to construction of the Core and Shell and shall include all “Hard Construction Costs” and “Soft Construction Costs” as defined below.

“Hard Construction Costs” or **“Hard Costs”** shall include, but not be limited to, if and to the extent applicable:

1. All payments for direct costs incurred for construction, whether on-site or off-site.
2. All payments for contractor’s general conditions; all premiums for builders’ risk insurance and general liability insurance carried by any contractor; gross receipts taxes; sales and use taxes; all premiums paid for bonds payable under any contractor’s construction contract, and all amounts for contractor’s fees, including profit and overhead.
3. All costs of on-site and off-site improvements including, without limitation, roads, sewers, utilities, sidewalks and landscaping.

Such costs shall include, without limitation, all excavation, demolition, grading and other site work.

“Holder” means any holder of a Mortgage, including a beneficiary of a deed of trust and the grantee/lessor in any sale/leaseback arrangement, and the successors and assigns of any Holder.

“Mortgage” means any mortgage, deed of trust, sale/leaseback documentation, or similar security instrument permitted hereunder.

“Permitted Fund Manager” means any Person that on the date of determination is (i) any manager of investment funds with a good reputation investing in equity interests relating to commercial real estate, (ii) investing through a fund with sufficient creditworthiness and liquidity to fund that portion of the equity which such entity has committed to fund for the Project, and (iii) not subject to a bankruptcy or similar proceeding.

“Person” means any natural person, corporation, limited liability company, partnership, firm, association, governmental authority or any other entity whether acting in an individual, fiduciary or other capacity.

“Prohibited Person” means any Person:

(i) listed in the annex to, or who is otherwise subject to the provisions of, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (the “Executive Order”);

(ii) that is owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) with whom a Person is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering law, including the Executive Order;

(iv) who commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order;

(v) that is named as a “specially designated national and blocked person” on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website or at any replacement website or other replacement official publication of such list; or

(vi) who is an affiliate of a Person listed in clauses (i) through (v) of this definition.

“Soft Construction Costs” or **“Soft Costs”** shall include, but not be limited to, if and to the extent applicable:

1. All costs of architectural, engineering and consulting services, including fees and expenses incurred in design and construction.

2. All project management fees and expenses, including those incurred in the pre-construction phase and the construction phase.

3. All costs of pre-construction services, including, without limitation, building programming; economic feasibility studies; project funding; and budgeting.

4. All costs of inspection and materials/systems testing.

5. All connection costs, deposits and fees paid for utilities including, without limitation, electrical service, telephone, gas service, water, sanitary sewer and fire systems.

6. All charges for building and other permits required for demolition, excavation, construction and occupancy, including, without limitation, permit fees, Fire Department review fees, Board of Education fees, street frontage fees, plan check fees, expeditor fees, filing fees, and administration costs related thereto.

7. All premiums for bonds other than those payable under applicable construction contracts whether on the general contractor or subcontractors.

8. Costs of land surveys, subdivision, mapping and similar costs.

9. Legal and accounting fees and expenses.

10. All expenses of title insurance and escrow fees.

11. Security services.

12. Landscape and other maintenance.

13. Start-up and testing of utilities and equipment.

14. Costs for start-up and training of maintenance personnel and costs of required maintenance contracts.

15. All costs of insurance allocable to the development and construction of the Site and the improvements, including, without limitation, all premiums for errors and omissions insurance but excluding any costs of insurance payable under construction contracts and included in Hard Costs.

IN WITNESS WHEREOF, Successor Agency and Developer have executed this Agreement as of the date first set forth above.

Authorized by Successor Agency Resolution No.

32 -2013, adopted July 16, 2013

SUCCESSOR AGENCY

Successor Agency to the Redevelopment Agency
of the City and County of San Francisco

By 
Tiffany J. Bohee
Executive Director

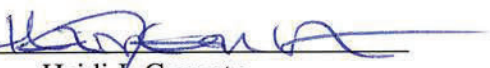
DEVELOPER

706 Mission Street Co LLC,
a Delaware limited liability company

By 
Name Sean J. Griffin
Title Authorized Officer

Approved as to Form:

DENNIS J. HERRERA,
City Attorney

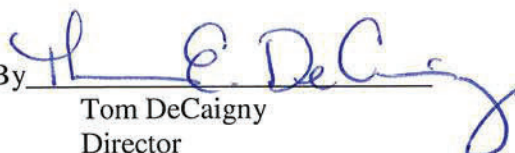
By 
Heidi J. Gewertz
Deputy City Attorney

CITY ACKNOWLEDGEMENT

Department of Real Estate

By 
John Updike
Director

San Francisco Arts Commission

By 
Tom DeCaigny
Director

THE MEXICAN MUSEUM,
as Third-Party Beneficiary as provided in
Section 15.25

The Mexican Museum,
a California nonprofit corporation

By _____
Andrew M. Kluger
Chairman, Board of Trustees

Approved as to Form:

VICTOR M. MARQUEZ
The Mexican Museum

By _____
Victor M. Marquez
General Counsel

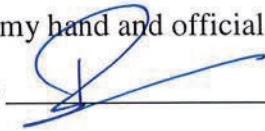
State of California)
) ss
County of San Francisco)

On **November 7, 2013**, before me, **Ricky Lam**, a notary public in and for said State, personally appeared **Tiffany Bohee**, Executive Director for Successor Agency to the San Francisco Redevelopment Agency, who 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 she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

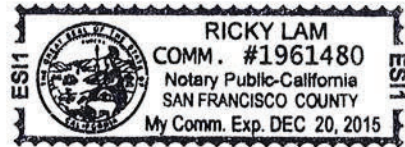
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____



(Seal)



CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of San Francisco

On 16th of July 2013 before me, A.C. McDONALD, Notary Public,
(Here insert name and title of the officer)

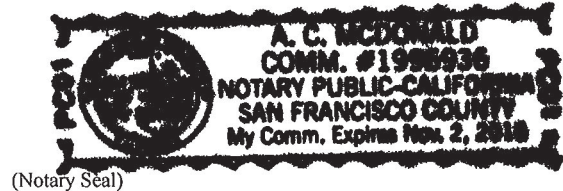
personally appeared Sean Jeffries,

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.

A.C. McDonald
Signature of Notary Public



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is ~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

IN WITNESS WHEREOF, Successor Agency and Developer have executed this Agreement as of the date first set forth above.

Authorized by Successor Agency Resolution No.

32-2013, adopted July 16, 2013

SUCCESSOR AGENCY

Successor Agency to the Redevelopment Agency
of the City and County of San Francisco

By _____
Tiffany J. Bohee
Executive Director

Approved as to Form:

DENNIS J. HERRERA,
City Attorney

By _____
Heidi J. Gewertz
Deputy City Attorney

CITY ACKNOWLEDGEMENT

Department of Real Estate

By _____
John Updike
Director

San Francisco Arts Commission

By _____
Tom DeCaigny
Director

DEVELOPER

706 Mission Street Co LLC,
a Delaware limited liability company

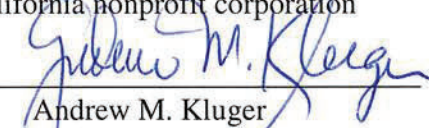
By _____

Name _____

Title _____

THE MEXICAN MUSEUM,
as Third-Party Beneficiary as provided in
Section 15.25

The Mexican Museum,
a California nonprofit corporation

By 
Andrew M. Kluger
Chairman, Board of Trustees

Approved as to Form:

VICTOR M. MARQUEZ
The Mexican Museum

By _____
Victor M. Marquez
General Counsel

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of MarinOn 7-17-2013 before me, Nessa Champagne, Notary Public,
Date Here Insert Name and Title of the Officerpersonally appeared Andrew M. Kluger
Name(s) of Signer(s)

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.

Place Notary Seal Above

Signature: Nessa Champagne
Signature of Notary Public**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached DocumentTitle or Type of Document: Contact with the City of San FranciscoDocument Date: 7-17-2013 Number of Pages: 69Signer(s) Other Than Named Above: N/A**Capacity(ies) Claimed by Signer(s)**Signer's Name: Andrew M. Kluger☐ Corporate Officer — Title(s): _____☐ Individual☐ Partner — ☐ Limited ☐ General☐ Attorney in Fact☐ Trustee☐ Guardian or Conservator☒ Other: Chairman, Board of Trustees

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Individual☐ Partner — ☐ Limited ☐ General☐ Attorney in Fact☐ Trustee☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

IN WITNESS WHEREOF, Successor Agency and Developer have executed this Agreement as of the date first set forth above.

Authorized by Successor Agency Resolution No.
32-2013, adopted July 16, 2013

SUCCESSOR AGENCY

Successor Agency to the Redevelopment Agency
of the City and County of San Francisco

By _____
Tiffany J. Bohee
Executive Director

Approved as to Form:

DENNIS J. HERRERA,
City Attorney

By _____
Heidi J. Gewertz
Deputy City Attorney

CITY ACKNOWLEDGEMENT

Department of Real Estate

By _____
John Updike
Director

San Francisco Arts Commission

By _____
Tom DeCaigny
Director

DEVELOPER

706 Mission Street Co LLC,
a Delaware limited liability company

By _____

Name _____

Title _____

THE MEXICAN MUSEUM,
as Third-Party Beneficiary as provided in
Section 15.25

The Mexican Museum,
a California nonprofit corporation

By _____
Andrew M. Kluger
Chairman, Board of Trustees

Approved as to Form:

VICTOR M. MARQUEZ
The Mexican Museum

By Victor M. Marquez
Victor M. Marquez
General Counsel

Exhibit A

Legal Description of Garage Property

TRACT TWO:

Those certain portions of PARCEL B, LOT 277, of Assessor's BLOCK 3706, as shown on Parcel Map 4115 filed for record on June 27, 2006 in Book 46 of Parcel Maps, at Pages 167-169, inclusive, City and County of San Francisco Records, more particularly described as follows:

Parcel 1:

All that real property between a lower horizontal plane and an upper sloped plane, the lower horizontal plane being at elevation minus 25.0 feet, the southeasterly line (northwesterly line of Mission Street:) of the upper sloped plane being at elevation plus 19.3 feet and the northwesterly line of the upper sloped plane being at elevation plus 24.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal and sloped planes, the limits of said vertical planes being more particularly described as follows:

Beginning at the most southerly corner of said Parcel B, Lot 277, said point of beginning being on the northwesterly line of Mission Street; thence northeasterly along said line of Mission Street 159.907 feet to a point distant thereon 79.50 feet southwesterly from the most easterly corner of said Parcel B, Lot 277; thence northwesterly at a right angle to said line of Mission Street 123 feet; thence at a right angle northeasterly 6.50 feet to the northeasterly line of said Parcel B, Lot 277; thence at a right angle northwesterly along said northeasterly line of said Parcel B, Lot 277, 71.573 feet; thence at a right angle southwesterly 166.407 feet to the northwesterly prolongation of the southwesterly line of said Parcel B, Lot 277; thence at a right angle southeasterly along said prolongation and along the southwesterly line of said Parcel B, Lot 277, 194.573 feet to the point of beginning.

Parcel 2:

All that real property between two horizontal planes, the lower plane being at elevation minus 25 feet and the upper plane being at elevation plus 24.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at a point on the southeasterly line of Stevenson Street, distant thereon 5 feet southwesterly from the most northerly corner of said Parcel B, Lot 277; thence southwesterly along said southeasterly line of Stevenson Street 10.334 feet; thence at a right angle southeasterly 16.705 feet; thence at a right angle southwesterly 8.49 feet; thence at a right angle southeasterly 2.875 feet; thence at a right angle southwesterly 100.333 feet; thence at a right angle northwesterly 1 foot; thence at a right angle southwesterly 42.25 feet; thence at a right angle southeasterly 62.07 feet to a point that is perpendicularly distant 194.573 feet northwesterly from the northwesterly line of Mission Street; thence at a right angle northeasterly parallel with said line of Mission Street 161.407 feet; thence at a right angle northwesterly 80.65 feet to the point of beginning.

Parcel 3

All that real property between two horizontal planes, the lower plane being at elevation minus 25.0 feet and the upper plane being at elevation plus 9.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows;

Beginning at a point on the southeasterly line of Stevenson Street, distant thereon 15.334 feet southwesterly from the most northerly corner of said Parcel B, Lot 277; thence southwesterly along said southeasterly line of Stevenson Street and along its southwesterly prolongation 151.073 feet; thence at a right angle southeasterly 18.58 feet; thence at a right angle northeasterly 42.25 feet; thence at a right angle southeasterly 1 foot; thence at a right angle northeasterly 100.333 feet; thence at a right angle northwesterly 2.875 feet; thence at a right angle northeasterly 8.49 feet; thence at a right angle northwesterly 16.705 feet to the point of beginning.

Parcel 4

All that real property between two horizontal planes, the lower plane being at elevation minus 25.0 feet and the upper plane being at elevation plus 44.0 foot, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at a point on the northwesterly line of said Parcel B, Lot 277, distant thereon 65.241 feet southwesterly from the most northerly corner of said Parcel B, Lot 277, said point being on the southeasterly line of Stevenson Street; thence southwesterly along the southwesterly prolongation of said northwesterly line of Parcel B, Lot 277, 25 feet to an angle point in the northwesterly line of said Parcel B, Lot 277; thence at a right angle northwesterly along said northwesterly line 25 feet to an angle point therein, said point also being on the southerly line of Stevenson Street; thence easterly along said northwesterly line of Parcel B, Lot 277, also being the southerly line of Stevenson Street 35.355 feet to the point of beginning.

Parcel 5

All that real property between two horizontal planes, the lower plane being at elevation minus 1.0 feet and the upper plane being at elevation plus 24.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows;

Beginning at the most northerly corner of said Parcel B, Lot 277; thence southeasterly along the northeasterly line of said Parcel B, Lot 277, 20.65 feet; thence at a right angle southwesterly 5 feet; thence at a right angle northwesterly 20.65 feet to the southeasterly line of Stevenson Street; thence at a right angle northeasterly along said line of Stevenson Street 5 feet to the point of beginning.

Parcel 6

All that real property between two horizontal planes, the lower plane being at elevation minus 25.0 feet and the upper plane being at elevation plus 24.5 feet. City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at a point on the horizontal line of said Parcel B, Lot 277, distant thereon 20.65 feet southeasterly from the most northerly corner of said Parcel B, Lot 277; thence continuing southeasterly along said northeasterly line of said Parcel B, Lot 277, 60 feet to a point that is perpendicularly distant 194.573 feet northwesterly from the northwesterly line of Mission Street, thence at a right angle southwesterly parallel with

said line of Mission Street 5 feet; thence at a right angle northwesterly 60 feet; thence at a right angle northeasterly 5 feet to the point of beginning.

Assessor's Parcel No. : Lot 277 (portion), Block 3706

TRACT THREE:

All that real property situated in the City and County of San Francisco, State of California, described as follows;

Beginning at the most northerly corner of Parcel B, Lot 277, as said lot is shown on that certain Parcel Map 4115 filed for record on June 27, 2006 in Book 46 of Parcel Maps, at Pages 167-169. inclusive. Official Records of the City and County of San Francisco, said point of beginning being on the southeasterly line of Stevenson Street as it existed prior to the vacation thereof; thence southwesterly along said line of Stevenson Street 2.869 feet; thence on a deflection angle of 82° 22' 27" to the right, a distance of 70.625 feet to the southwesterly prolongation of the southeasterly line of Stevenson Street; thence northeasterly along said prolongation 27.00 feet to the northeasterly line of Stevenson Street; thence at a right angle southeasterly along said northeasterly line 75 feet to the southeasterly line of Stevenson Street; thence at a right angle southwesterly along said southeasterly line of Stevenson Street 14.759 feet to an angle point therein; thence at a right angle northwesterly along said line of Stevenson Street 5 feet to the point of beginning.

Being a portion of Stevenson Street as it existed prior to the vacation thereof pursuant to City and County of San Francisco Ordinance No, 288-04, adopted by the Board of Supervisors on September 14, 2004 and approved by the Mayor on September 23, 2004 and recorded October 25, 2004 in Reel I750, Image 59, Official Records of the City and County of San Francisco. Series No. H838574 and as conveyed to the Redevelopment Agency of the City and County of San Francisco by Quitclaim Deed recorded October 25, 2004 in Reel I750, Image 60 Official Records of the City and County of San Francisco. Series No. H838575.

Assessor's Parcel No. : Lot 275, Block 3706

Exhibit B

Plat of Garage Property



ASSESSOR'S BLOCK 3706
SAN FRANCISCO, CALIFORNIA

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

B-2

Exhibit C

Copy of Tentative Map

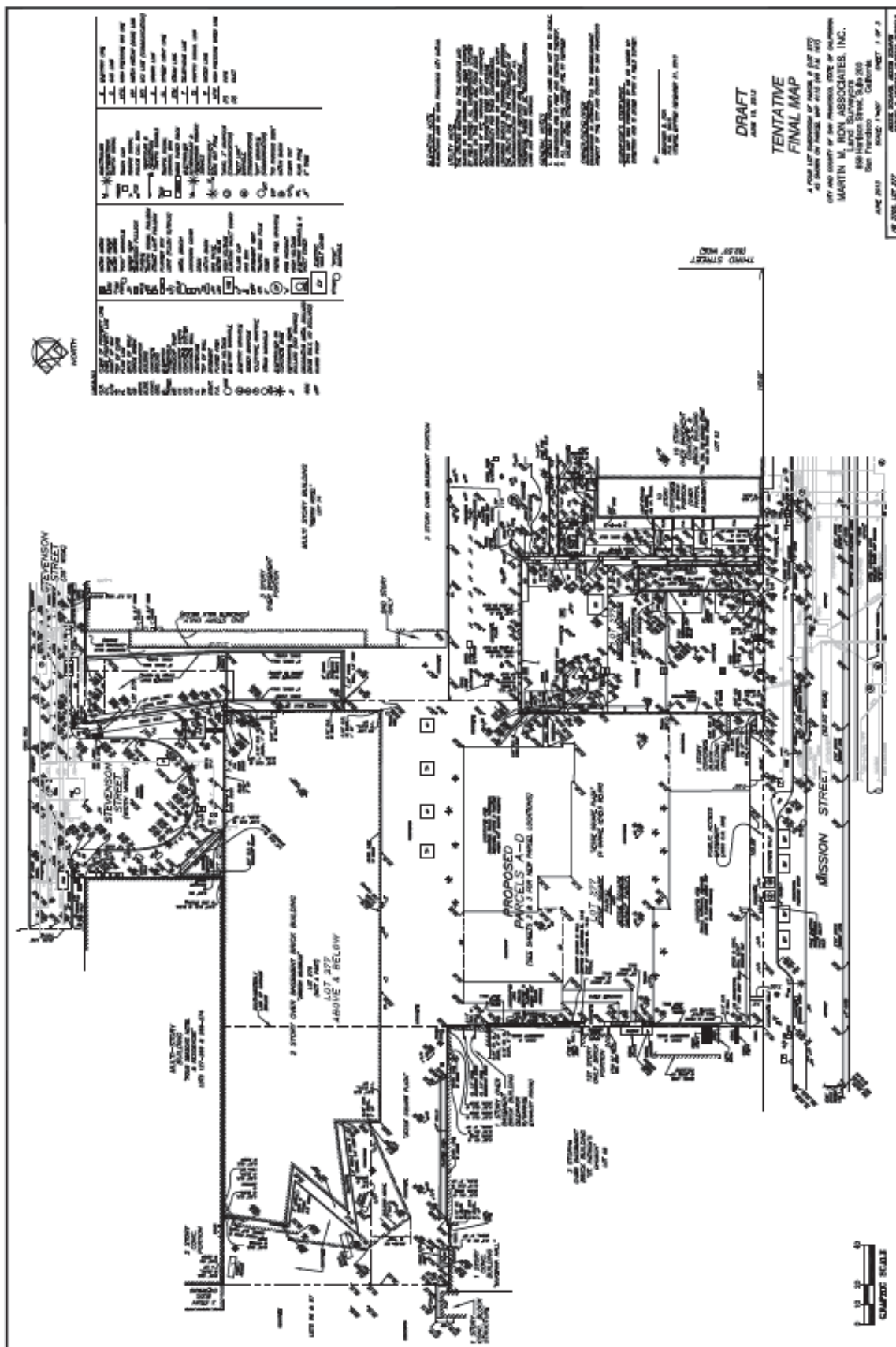






Exhibit D

Legal Description of Developer Property

PARCEL ONE:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY LINE OF MISSION STREET AND THE SOUTHWESTERLY LINE OF THIRD STREET, AS SAID STREETS ARE SHOWN ON THAT CERTAIN MAP ENTITLED, "RECORD OF SURVEY MAP OF YERBA BUENA CENTER CENTRAL BLOCKS", RECORDED FEBRUARY 19, 1975, IN BOOK "V" OF MAPS, AT PAGES 102 AND 103, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA; RUNNING THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY LINE OF MISSION STREET 147 FEET; THENCE AT A RIGHT ANGLE NORTHWESTERLY 105 FEET; THENCE AT A RIGHT ANGLE NORTHEASTERLY 147 FEET TO THE SOUTHWESTERLY LINE OF THIRD STREET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE OF THIRD STREET 105 FEET TO THE POINT OF BEGINNING,

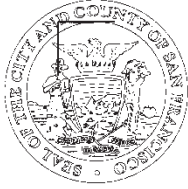
BEING A PORTION OF 100 VARA BLOCK NO. 362, AND A PORTION OF OPERA ALLEY, VACATED BY RESOLUTION NO. 106-75, ADOPTED FEBRUARY 3, 1975, BY THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

PARCEL TWO:

BEGINNING AT A POINT ON THE SOUTHWESTERLY LINE OF THIRD STREET, DISTANT THEREON 105 FEET NORTHWESTERLY FROM THE NORTHWESTERLY LINE OF MISSION STREET, AS SAID STREETS ARE SHOWN ON THAT CERTAIN MAP ENTITLED, "RECORD OF SURVEY MAP OF YERBA BUENA CENTER CENTRAL BLOCKS", RECORDED FEBRUARY 19, 1975, IN BOOK "V" OF MAPS, AT PAGES 102 AND 103, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA; RUNNING THENCE NORTHWESTERLY ALONG SAID LINE OF THIRD STREET 0.167 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY 147 FEET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY 0.167 FEET; THENCE AT A RIGHT ANGLE NORTHEASTERLY 147 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF 100 VARA BLOCK NO. 362, AND A PORTION OF OPERA ALLEY, VACATED BY RESOLUTION NO. 106-75, ADOPTED FEBRUARY 3, 1975, BY THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

ASSESSOR'S PARCEL NUMBER: LOT 93, BLOCK 3706

Exhibit E**Plat of Developer Property**

ASSESSOR RECORDER'S OFFICE

lots 94&95 into lots 96/112 for 1992 roll
 lot 112 into lots 113/115 for 1999 roll
 lot 113 into lots 116 & 117 for 1999 roll

COPYRIGHT SAN FRANCISCO
 CITY & COUNTY ASSESSOR 1995

SHT. 1
 Revision 2 3706
 100 VARA BLK 362

REVISED '75
 REVISED '79
 " '82
 " '86
 " '87
 Revised .559

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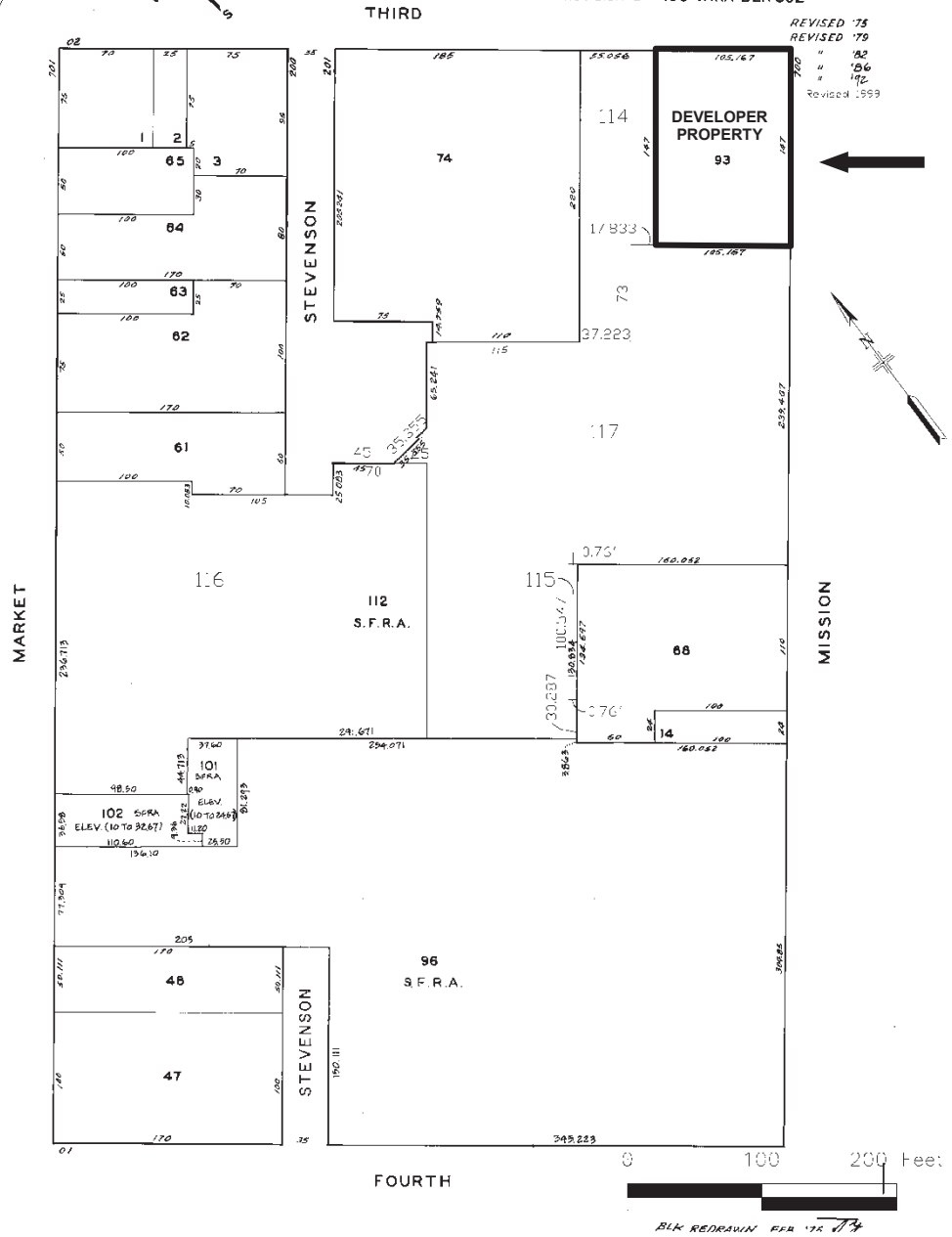


Exhibit F

Easement Amendments and New Easements

This exhibit sets forth the Easement Amendments and New Easements that are required to construct and operate the Project. While many of the required easements have already been granted, some of the existing easements need to be modified or terminated, and certain other new easements must be granted. Successor Agency and Developer shall use their commercially reasonable efforts and work diligently to negotiate and finalize the Easement Amendments and New Easements prior to Closing, including obtaining all required third-party approvals and consents, as well as any other easement amendments or new easements that are reasonably necessary for the construction or operation of the Project.

I. EASEMENT AMENDMENTS

Westin Plaza Easements

That certain Deed dated October 18, 1996 and recorded in Official Records on May 2, 1997 as Instrument No. G155852, as modified by that certain Grant of Easement and Agreement, by and between L-O SOMA Holding, Inc. and the Redevelopment Agency of the City and County of San Francisco, dated April 28, 2003, and recorded on April 29, 2003 as Instrument No. H425882 in Official Records, shall be modified as follows:

- **Light and Air Easements:**
 - Parties to revise existing light and air easement along the north side of the Project so there is no upper limit (the existing easement has an upper limit of 104 feet).
 - “Burdened Parcel” owner to grant a new 20-foot light and air easement with no vertical limit along the north and east sides of the “Benefited Parcel.” (this is also described in the second bullet under “New Easements” below).
- **Protected Openings:**
 - Parties to amend Section 5(a) of Grant of Easement and Agreement to delete the provision requiring that openings along the north-western boundary of the “Benefited Parcel” be constructed with 3/4 hour fire resistive rating and comply with the provisions of the Building Code applicable to protected openings.
- **Excavation/Shorting Easements:**
 - “Burdened Parcel” owner to grant new easement for tiebacks in connection with the excavation of the “Benefited Parcel” for the Project.
- **Legals and Exhibits:**
 - Parties to revise and update legal descriptions and exhibits.

Jessie Square Garage REA

That certain Jessie Square Garage Construction, Operation, and Reciprocal Easement Agreement, by and among L-O SOMA Holding, Inc., the Redevelopment Agency of the City and County of San Francisco, and Jessie Square Garage Partners, dated April 28, 2003 and

recorded April 29, 2003 as Instrument No. H425880 in Official Records, shall be modified as follows:

- Truck Turnaround Easement Area:
 - “Argent Hotel Owner” to quitclaim and/or relocate its “Truck Turnaround Easement” and “Truck Turntable Easement” from their existing locations where some of the Project’s off street loading spaces will be constructed; a new “Truck Turnaround Easement” and “Truck Turntable Easement” may be granted that does not interfere with the construction or operation of the Project (or, at the election of Developer, the Truck Turnaround Easement and Truck Turntable Easement areas can remain unchanged and usage language can be modified to provide for joint management and sharing with the new truck loading zone for the Project).
- Easement Amendments for Relocated Mission Street Ramp:
 - If and to the extent that the relocated Mission Street exit ramp requires access over the “Argent Loading Dock Area” as described in the Jess Square Garage REA, the “Argent Hotel Owner” to grant an expanded easement over the “Argent Hotel Parcel” for the benefit of the “Garage Parcel” and “Mexican Museum Parcel” that aligns with the relocated Mission Street exit ramp (i.e., an expanded easement within the “Argent Loading Dock Area” to connect with the relocated Mission Street exit ramp).
- Parking Attendant Booth:
 - Parties to clarify that the Garage’s parking attendant booth and the operation thereof is permitted within the “Stevenson Street Ramp Easement Area”.
- Scope of Mexican Museum Easement:
 - “Argent Hotel Owner” to revise the scope of its grant of easements for the benefit of the “Mexican Museum Parcel” so that it is “for purposes of vehicle ingress and egress, including trucks and other delivery vehicles, and the use by drivers and passengers of such vehicles of any pedestrian walkways”, or language of a substantially similar scope and effect.
- Legals and Exhibits:
 - Parties to revise and update The Mexican Museum legal description and exhibits.

Mexican Museum Exit Ramp and Emergency Stairs Easements

That certain Declaration and Agreement (Mexican Museum Parcel), by and between the Redevelopment Agency of the City and County of San Francisco and Jessie Square Garage Partners, dated April 28, 2003 and recorded April 29, 2003 as Instrument No. H425881 in Official Records, shall be modified as follows:

- Successor Agency shall terminate and quitclaim its interest in the Declaration and Agreement.

That certain Declaration of Restrictions on Grant of Easements (Mexican Museum Exit Stairs and Ramp (Benefits Garage Parcel)(Burdens Museum Parcel), by and between Jessie Square Garage Partners, LLC, and the Redevelopment Agency of the City and County of San Francisco, dated January 4, 2004, and recorded on April 8, 2005 as Instrument No. H933696 in Official Records, shall be modified as follows:

- Successor Agency and City to terminate the Declaration of Restriction on Grant of Easements.

Jewish Museum and Garage Parcel Easements

That certain Declaration of Reciprocal Easement Agreement (Jewish Museum and Garage Parcels), by and between the Redevelopment Agency of the City and County of San Francisco and Jessie Square Garage Partners, dated April 28, 2003, and recorded April 29, 2003 as Instrument No. H425881 in Official Records, shall be modified as follows:

- Legals and Exhibits:
 - Parties to revise legal descriptions and exhibits to correct describe and depict the “Jewish Museum Parcel” as it currently exists.
- Support Easement
 - Parties to limit or delete the Jewish Museum’s right to interfere with the operation of the portion of the garage under the Jewish Museum.

St. Patrick’s Church Easements

That certain Easement Agreement (Elevator, Air Intake, Garage Exhaust, Emergency Egress) and License Agreement (Structural Tiebacks), by and between The Roman Catholic Archbishop of San Francisco, the Redevelopment Agency of the City and County of San Francisco, and Jessie Square Garage Partners, LLC, dated March 31, 2003 and recorded April 29, 2003 as Instrument No. H425884 in Official Records, may (if determined necessary by the Developer and Successor Agency) be modified as follows:

- Permanent Construction Tiebacks:
 - Parties to clarify that the “Excavation/Shoring Easements” are perpetual and are not month-to-month with respect to Excavation/Shoring Easement Area Improvements that are actually installed and intended to be permanent.

CB-1 Block COREA

That certain Yerba Buena Gardens Amended and Restated Construction, Operation and Reciprocal Easement Agreement and Agreement Creating Liens, by and between YBG Associates LLC and the Redevelopment Agency of the City and County of San Francisco, dated as of March 31, 2013 and recorded April 7, 1998 as Instrument No. G331392 in Official Records, as amended by First Amendment to Amended and Restated Construction, Operation and Reciprocal Easement Agreement and Agreement Creating Liens dated October 28, 1998 and recorded on October 28, 1998 as Instrument No. G458534, shall be modified as follows.

- Light and Air Easements:
 - The “Parties” shall amend the COREA to delete the existing 20-foot light and air to permit construction of the cantilever in the easement area, and Successor Agency shall grant new 30-foot light and air easement over Jessie Square that excludes the cantilever (Section 3.5 and Exhibit B).
- Mexican Museum Parcel:
 - Amend Exhibit B so that the depiction of the “Mexican Museum Parcel” includes the cantilever section of the tower, and the depiction of the “Common Area” excludes the cantilever section.
- Permitted Uses:

- Revise Section 10.2 to expressly provide that the Project uses are permitted on the Mexican Museum site.

II. NEW EASEMENTS

- Successor Agency to grant pedestrian ingress/egress easement from the garage elevator on Jessie Square to the Real Property.
- The owner of the property on which the Westin Hotel is located to grant a new 20-foot light and air easement with no vertical limit over the Westin Plaza area along a portion of the north-eastern boundary of the Developer Parcel.
- Successor Agency to grant pedestrian passage and public access easement over the portion of Jessie Square along Mission Street where the existing passenger loading zone on Mission Street will be extended.

Exhibit G**Permit to Enter**

THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic ("Successor Agency") grants to _____ ("Permittee"), permission to enter upon certain Successor Agency-owned real property more particularly defined as the "Real Property" (hereinafter referred to as the "Permit Area") in that certain Agreement for the Purchase and Sale of Real Property by and between Successor Agency and 706 Mission Street Co LLC, a Delaware limited partnership, dated as of _____, 2013 (the "Purchase Agreement"), upon the terms, covenants and conditions hereinafter set forth.

1. **Special Provisions:** See Special Provision attached hereto as Attachment "A" and made a part hereof.

2. **Permitted Activities/Operations:**

The work permitted by and to be performed under this Permit To Enter is for Permittee to perform due diligence investigations with respect to the Permit Area[, which are more particularly described as _____] ("the Work").

3. **Time of Entry:**

Entry may commence, once the Permit to Enter is fully executed, on _____, at 8:00 a. m. Entry shall terminate on _____, at 5:00 p.m., unless earlier terminated by the Successor Agency under Section 10 hereof or earlier terminated by Permittee by cessation of activities/operations, or unless such time is extended by the Successor Agency.

4. **Compensation to Successor Agency:** Permittee shall pay compensation to the Successor Agency:

YES ☐ NO ☒

If yes is checked, Permittee shall pay the Successor Agency:

- (1) \$ _____ for each day of entry.
- (2) \$ _____ upon entry.
- (3) Balance of \$ _____ on or before _____.

5. **Indemnifications:**

- a. **Toxics Indemnification:** Permittee shall defend, hold harmless and indemnify the Successor Agency, the City and County of San Francisco ("City"), and their respective members, officers, agents and employees from and against any and all

claims, demands, actions, causes of action or suits (actual or threatened), losses, costs, expenses, obligations, liabilities, or damages, including interest, penalties, engineering consultant and attorneys' fees of every kind, nature and description, resulting from any Release or threatened Release of a Hazardous Substance, pollutant, or contaminant, or any condition of pollution, contamination, or nuisance in the vicinity of the Permit Area or in ground or surface waters associated with or in the vicinity of the Permit Area to the extent that such Release or threatened Release, or condition is directly created or aggravated by the specific investigation activities undertaken by Permittee pursuant to this Permit to Enter or by any breach of or failure to duly perform or observe any term, covenant or agreement in this Permit to Enter to be performed or observed by the Permittee, including but not limited to any violation of any Environmental Law; provided, however, that Permittee shall have no liability, nor any obligation to defend, hold harmless or indemnify any person for any claim, action, loss, cost, liability, expense or damage resulting from the discovery or disclosure of any pre-existing condition on or in the vicinity of the Permit Area.

For purposes of this Agreement, the term "Hazardous Substance" shall have the meaning set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U. S. C. Section 9601(14), and in addition shall include, without limitation, petroleum, (including crude oil or any fraction thereof), asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs" or PCB"), PCB-containing materials, all hazardous substances identified at California Health & Safety Code Sections 25316 and 25281(d), all chemicals listed pursuant to California Health & Safety Code Section 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, pollutant or contaminant under applicable state or local law.

The term "Environmental Laws" shall include but not be limited to all federal, state and local laws, regulations, ordinances, and judicial and administrative directives, orders and decrees dealing with or pertaining to solid or hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee and community right-to-know requirements, related to the work being performed under this Agreement.

For purposes of this Agreement, the term "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance or pollutant or contaminant).

- b. General Indemnification: Permittee shall defend, hold harmless and indemnify the Successor Agency, the City and/or their respective members, officers, agents and employees of and from any and all claims, demands, losses, costs, expenses, obligations, damages, injuries, actions, causes of action and liabilities of every kind, nature and description directly or indirectly, arising out of or connected with

this Permit to Enter and any of the Permittees' operations or activities related thereto, and excluding the willful misconduct or active negligence of the person or entity seeking to be defended, indemnified or held harmless, but excluding any and all claims, demands, losses, costs, expenses, obligations, damages, injuries, action, causes of action or liabilities of any kind arising out of any Release or threatened Release of any Hazardous Substance, pollutant, or contaminant, or any condition of pollution, contamination, or nuisance which shall be governed exclusively by the provisions of Section 5a above.

Permittee shall not permit any mechanics' or materialmen's liens to be levied against the Permit Area for any labor or material furnished to Permittee or claimed to have been furnished to Permittee or to Permittee's agents or contractors in connection with the Work and Permittee shall hold the Successor Agency free and harmless from any and all cost or expense connected with or arising from the Work. The existence of a mechanic's lien shall not be a default under Section 6.01 of the Agreement if the Developer is contesting such lien and prosecuting such contest diligently.

- c. For purposes of Section 5a and b, Permittee's operations and activities include but are not limited to those of its subpermittees, agents and employees.
6. **Insurance:** Permittee shall procure and maintain insurance coverage as required in Exhibit H to the Purchase Agreement for the duration of this Permit to Enter. The cost of such insurance shall be borne by the Permittee.
7. **"As is", Maintenance, Restoration, Vacating:** The Permit Area is accepted "as is" and entry upon the Permit Area by Permittee is an acknowledgment by Permittee that all dangerous places and defects in said Permit Area are known to it and are to be made secure and kept in such secure condition by Permittee. Permittee shall maintain the Permit Area so that it will not be unsafe, unsightly or unsanitary. Upon termination of the Permit, Permittee shall vacate the Permit Area and remove any and all personal property located thereon and restore the Premises to its condition at the time of entry. The Successor Agency shall have the right without notice to dispose of any property left by Permittee after it has vacated the Permit Area.
8. **Compliance With Laws:** All activities and operations of the Permittee and/or its agents, contractors or employees or authorized entries under this Permit to Enter shall be in full compliance with all applicable laws and regulations, federal, state and local. All contracts Permittee enters into shall make appropriate provision for compliance with this Section.

The Permittee herein covenants for himself or herself and for all persons claiming in or through him or her that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, gender identity, marital or domestic partner status, disability (including AIDS or HIV status), national origin, or ancestry in the use, occupancy or enjoyment of the premises.

9. **Security of Permit Area:** There is an existing fence with gates around the Permit Area:

YES ☐ NO ☐

If there is, the Permittee shall maintain said fence in good condition and repair, relocate as needed, but restore; and during completion of the permitted activities and operations keep the premises secure at all times.

10. **Early Termination:** This Permit may be terminated by Successor Agency in its sole discretion upon 24 hours' notice. Posting at the Permit Area shall be sufficient notice.

11. **Entry under Permittee Authority:** The Permit to Enter granted Permittee for the permitted activities and operations shall mean and include all employees of the Permittee. In this regard Permittee assumes all responsibility for the safety of all persons and property and any contents placed in the Permit Area pursuant to this Permit. All work performed in the Permit Area and all persons entering the Permit Area and all property and equipment placed therein in furtherance of the permission granted herein is presumed to be with the express authorization of the Permittee.

12. **Strict Construction:** This Permit is to be strictly construed and no use other than that specifically stated herein is authorized hereby.

13. **Supplementary Provisions:**

- | | | | |
|----|--|------------------------------|-----------------------------|
| a. | Additional Insurance is required: | Yes ☐ | No ☐ |
| b. | A Fence and Gate is required: | Yes ☐ | No ☐ |
| c. | Security Personnel are required: | Yes ☐ | No ☐ |
| d. | Subpermittees: Permittee intends to utilize other (Subpermittees) than itself or its employees to perform all or any part of the Permitted Activities: | Yes ☐ | No ☐ |
| e. | Special Provisions: | Yes ☐ | No ☐ |

If Yes is checked as to any of the foregoing, the Permittee's (and Subpermittee's) obligations are found in the similarly numbered provisions on page eight, which is attached hereto and made a part hereof as if set forth in full.

IN WITNESS WHEREOF, the parties hereto have executed this instrument in triplicate as of the _____ day of _____, 2013.

By: _____
PERMITTEE

By: _____
SUBPERMITTEE

By: _____
SUBPERMITTEE

APPROVED AS TO FORM:

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE CITY
AND COUNTY OF SAN FRANCISCO

By: _____
Successor Agency General
Counsel

By: _____
Name: _____
Title: _____

Attachment A

To Permit to Enter

Supplementary Provisions:

- a. Additional Insurance: Additional insurance consists of insurance protecting against loss or damage to real and personal property caused by fire, water, theft, vandalism, malicious mischief or windstorm, and any other causes contained in standard policies of insurance. Permittee shall supply such insurance in an amount of not less than \$500,000 evidenced by a policy of insurance and/or certificate attached hereto in the form and on the terms specified above and with the Additional Insureds specified above.
- b. Fence and Gate: The Permittee shall, at its expense, erect a fence (with gate) securing the Permit Area before entry on the Permit Area and shall maintain said fence and gate in good condition and repair during the period of Entry. Said fence and gate erected by Permittee shall constitute the personal property of Permittee under Section 7. Said fence and gate shall consist of the following: (Describe)
- c. Security Personnel: Permittee shall provide necessary security personnel at its own expense to prevent unauthorized entry into Permit Area. Such security personnel shall be provided during:
- Daytime: Yes ☐ No ☐ Nighttime: Yes ☐ No ☐
- d. Subpermittees: Each Subpermittee shall execute this Permit to Enter by which execution each such Subpermittee agrees to all of the terms, covenants and conditions hereof except paragraph 5(a). As additional Subpermittees are identified for various aspects of the work hereunder, they shall execute this Permit to Enter, if still valid, or a new Permit to Enter, before entering the Permit Area or commencing operations therein. Subpermittee shall also have an insurance obligation if checked Yes below.

Subpermittee shall:

- (1) also provide the required insurance: Yes ☐ No ☐
- (2) supply the required liability and damage insurance in lieu of Permittee and Successor Agency accepts this substitution: Yes ☐ No ☐
- (3) supply the required Worker's Compensation Insurance in lieu of Permittee and Successor Agency accepts this substitution: Yes ☐ No ☐

e. Special Provisions:

(1) Soils Investigation:

Without in any way limiting the provisions of Section 7, there is added to said Section the following:

- (a) If any soils investigation permitted hereby involves the drilling of holes having a diameter dimension that could create a safety hazard for persons, said holes shall during any drilling operations be carefully safeguarded and shall upon the completion of said drilling operations be refilled (and compacted to the extent necessary) to the level of the original surface penetrated by the drilling.
- (b) Successor Agency has no responsibility or liability of any kind or character with respect to any utilities that may be located in or on the Permit Area. Permittee has the sole responsibility to locate the same and to protect the same from damage. Permittee shall be solely responsible for any damage to utilities or damage resulting from any damage utilities. Prior to the start of work the Permittee is advised to contact Underground Services Alert for assistance in locating existing utilities. Telephone (808) 642-2444. Any utility conduit or pipe encountered in excavations not identified by Underground Services Alert shall be brought to the attention of the Successor Agency's Engineer immediately.
- (c) All soils test data and reports prepared based thereon, obtained from these activities shall be provided to the Successor Agency upon request and the Successor Agency may use said data for whatever purposes it deems appropriate, including making it available to others for use in connection with any development. Such data, reports and Successor Agency use shall be without any charge to the Successor Agency.
- (d) Any hole drilled shall, if not refilled and compacted at the end of each days operation, be carefully safeguarded and secured after the completion of each days work, as shall the drilling work area and any equipment if left on the Site.

(2) Acceptance of Risk:

Without in any way limiting the provisions of Section 7, there is further added to said Section the following:

- (a) Except as set forth in this Permit or in the Purchase Agreement, Successor Agency makes no representations or warranties, express or implied, with respect to the environmental condition of the

Permit Area or the surrounding property (including without limitation all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), or compliance with any Environmental Laws, and gives no indemnification, express or implied, for any costs of liabilities arising out of or related to the presence, discharge, migration or Release or threatened Release of the Hazardous Substance in or from the Permit Area.

- (b) Permittee recognizes that, in entering upon the Permit Area and performing work under this Permit, its employees and subcontractors may be working with, or be exposed to substances or conditions which are toxic or otherwise hazardous. Permittee acknowledges that the Successor Agency has entered into this Permit with the Permittee on the basis of the Permittee's representations concerning its broad experience and special expertise in dealing with such substances and conditions and that the Successor Agency is relying on the Permittee to identify and evaluate the potential risks involved in such work and to take all appropriate precautions to avoid such risks to its employees and subcontractors. Permittee agrees that it is assuming full responsibility for ascertaining the existence of such risks, evaluating their significance, implementing appropriate safety precautions for its personnel and subcontractors and making the decision on how (and whether) to enter upon the Permit Area and carry out the Work, with due regard to such risks and appropriate safety precautions.
- (c) Permittee further acknowledges that, in granting this Permit the Successor Agency shall be deemed a generator of Hazardous Substances. However, Permittee assumes sole responsibility for managing, removing and properly disposing of any waste produced during or in connection with Permittee's entry and/or activities on the Permit area including, without limitation, preparing and executing on behalf of the Successor Agency any manifest or other documentation required for or associated with the removal, transportation and disposal of Hazardous Substances to the extent required in connection with the Permittee's activities hereunder and subject to the limitations of Section 5a.

Exhibit H

Insurance Requirements (For Entry Onto Property)

A. Developer's Insurance.

Without in any way limiting Developer's indemnification obligations under the Agreement to which this exhibit is attached, and subject to approval by the Successor Agency's Risk Manager of the insurers and policy forms, the Developer shall obtain and maintain, at the Developer's expense, the following insurance and bonds throughout the term of the Agreement, unless otherwise provided in the Agreement.

B. Minimum Scope of Insurance. Coverage shall be at least as broad as:

- (a) Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 00 01) or equivalent.
- (b) Insurance Services Office (form number CA 00 01) covering Automobile Liability, code 1 (any auto) or equivalent.
- (c) Workers' Compensation insurance as required by the State of California and Employers' Liability insurance.
- (d) Professional Liability insurance covering all negligent acts, errors and omissions in Developer's Architectural and Engineering Professional Design Services. As an alternative to Developer's providing said Professional Liability insurance, Developer shall require that all architectural and engineering professional consultants for the Project have liability insurance covering negligent acts, errors and omissions. Developer shall provide the Successor Agency with copies of consultants' insurance certificates showing such coverage.

C. Minimum Limits of Insurance. Developer shall maintain limits no less than:

- (a) General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project or the general aggregate limit shall be twice the required occurrence limit.
- (b) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

(c) Workers' Compensation and Employers' Liability: Workers' Compensation limits as required by the State of California and Employers' Liability limits of \$1,000,000 per accident.

(d) Professional Liability: \$1,000,000 each claim/\$2,000,000 policy and \$2,000,000 in the annual aggregate covering all negligent acts, errors and omissions of Developer's design team members, including all architects, engineers and surveyors. As a preferred alternative, Developer may provide Project specific Professional Liability coverage if applicable with limits of \$5,000,000 per claim and in the policy aggregate. Insurance under this clause must be maintained and evidence of insurance must be provided. Developer will require its design team to maintain insurance required under this subsection for at least ten (10) years after completion of construction. Developer shall provide evidence of such required insurance for ten (10) years after completion of construction.

D. Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions over \$100,000 must be declared to and approved by the Successor Agency's Risk Manager. At the option of the Successor Agency's Risk Manager, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the "Successor Agency to the San Francisco Redevelopment Agency, the City and their respective officers, agents, employees and Commissioners"; or Developer shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

E. Other Insurance Provisions.

The policies are to contain, or be endorsed to contain, the following provisions:

(a) The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions: The "Successor Agency to the San Francisco Redevelopment Agency, the City and their respective officers, agents, employees and Commissioners" are to be covered as additionally insureds as respects liability arising out of activities performed by or on behalf of Developer related to the Project; and liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Developer. The coverage shall contain no special limitations on the scope of protection afforded to the Successor Agency, the City and their respective officers, agents, employees and commissioners.

(b) For any claims related to this Project, Developer's insurance coverage must be primary insurance as respects to the "Successor Agency to the San Francisco Redevelopment Agency, the City and their respective Commissioners, officers, agents, and employees". Any insurance or self-insurance maintained by the Successor Agency, the City and their respective Commissioners, officers, agents or employees must be in excess of Developer's insurance and will not contribute with it.

(c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Successor Agency, the City and their respective Commissioners, officers, agents or employees.

(d) Developer's insurance shall apply separately to each insured against whom claim is made or suit is brought in relation to this Project, except with respects to the limits of the insurers liability.

(e) Workers' Compensation and Employers Liability Coverage: The insurer shall agree to waive all rights of subrogation against the "Successor Agency to the San Francisco Redevelopment Agency, the City and their respective officers, agents, employees and Commissioners" for losses arising from or in connection with the Project.

(f) Each insurance policy required by this clause must be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after Developer has used reasonable efforts to provide thirty (30) days' prior written notice by certified mail, return receipt requested, to the Successor Agency.

F. Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII, unless otherwise approved by the Successor Agency's Risk Manager.

G. Verification of Coverage.

Developer must furnish the Successor Agency with certificates of insurance and additional endorsements effecting coverage required by this exhibit prior to any disbursement of funds. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the Successor Agency before work commences. The Successor Agency reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

H. Subcontractors and Consultants Insurance.

Developer shall require all subcontractors and consultants to carry the insurance required above and shall cause each subcontractor and consultant to furnish separate certificates and endorsements. All coverages for subcontractors and consultants shall be subject to all of the requirements stated herein, unless otherwise approved by the Successor Agency's Risk Manager. Subcontractor's Professional Liability limit as required by Sections B(d) & C(d) above may be reduced or eliminated upon the Successor Agency's Risk Manager's written approval.

I. Review.

The Successor Agency may require the Developer to increase the insurance limits and/or forms of coverage in the reasonable discretion of the Successor Agency's Risk Manager.

Exhibit I

Schedule of Performance

NOTE: All of the dates and deadlines described below shall be subject to extension due to Force Majeure events, including any administrative, judicial or other challenges or appeals of the Regulatory Approvals.

Execution of this Agreement by the Successor Agency. Successor Agency shall hold a public hearing and consider authorizing the execution of this Agreement and deliver the counter-signed Agreement to the Developer.

Within thirty (30) days after the execution of this Agreement by the Developer and delivery to the Successor Agency (provided that the Effective Date of the Agreement and the parties' rights and obligations shall be subject to the Agreement either not being objected to, or being approved by, the California Department of Finance within the statutory period for its review as provided in Section 15.23).

Opening of Escrow. Developer shall open escrow with the Title Company pursuant to Section 3.1 of this Agreement.

Within thirty (30) days after approval of this Agreement by the Successor Agency.

Submission - Basic Concept Drawings. Developer shall prepare and submit to the Successor Agency for approval Basic Concept Drawings and related documents.

Submitted and attached as Exhibit P to this Agreement.

Approval - Basic Concept Drawings. Successor Agency has approved the Basic Concept Drawings.

Concurrently with the approval of this Agreement.

Resubmit Cultural Component Design as part of the Core and Shell for Architectural Review Committee (ARC) Review and Planning Department Approval. Developer (in cooperation with and support from The Mexican Museum) shall prepare and resubmit design plans for the Core and Shell to the ARC for review and Planning Department for approval.

Prior to Architectural Addendum.

Submission - Schematic Design Drawings. Developer shall prepare and submit to the Successor Agency for approval Schematic Design Drawings and related documents.

No later than four (4) months after the execution of this Agreement by the Developer and Successor Agency.

Approval - Schematic Design Drawings. Within thirty (30) days of Developer's submittal of the Schematic Design Drawings. Successor Agency shall approve or disapprove the Schematic Design Drawings.

Submission - Design Development Documents. No later than six (6) months after approval of the Schematic Design Drawings by the Successor Agency. Developer shall prepare and submit to the Successor Agency for approval Design Development Documents.

Approval - Design Development Documents. Within thirty (30) days of Developer's submittal of the Design Development Documents. Successor Agency shall approve or disapprove the Design Development Documents.

Submission - Final Construction Documents. No later than eight (8) months after approval of the Design Development Documents by the Successor Agency. Developer shall prepare and submit to the Successor Agency for approval Final Construction Documents (except to the extent otherwise provided in Section 7.10(c)(3)).

Approval - Final Construction Documents. Within thirty (30) days of Developer's submittal of the Final Construction Documents. Successor Agency shall approve or disapprove the Final Construction Documents (except to the extent otherwise provided in Section 7.10(c)(3)).

Submission — Equal Opportunity Program. No later than forty-five (45) days prior to Close of Escrow. Developer shall prepare and submit to the Successor Agency its Equal Opportunity Program and related requirements pursuant to Exhibit U of this Agreement.

Approval - Equal Opportunity Program. Within thirty (30) days of the Developer's submittal of its Equal Opportunity Program and related requirements. Successor Agency shall approve or disapprove the Developer's Equal Opportunity Program and related requirements.

Submission - Evidence of Financing and Section 5.5 Items. No later than thirty (30) days prior to Close of Escrow. Developer shall submit to the Successor Agency its evidence of financing for the Core and Shell and all items referred to in Section 5.5 of this Agreement.

Approval — Evidence of Financing and Section 2.08 Items. Successor Agency shall approve or disapprove the Developer's evidence of financing for the Core and Shell and all items referred to in Section 5.5 of this Agreement.

Within fifteen (15) days after Developer's submittal of its evidence of financing for the Core and Shell and all items referred to in Section 5.5 of this Agreement.

Close of Escrow/Conveyance of Property. The Successor Agency shall convey the Property to the Developer and Developer shall accept conveyance of the Property.

The earlier to occur of (a) thirty (30) days after the Successor Agency's Conditions Precedent and the Developer's Conditions Precedent have been satisfied, or (b) eighteen months after the Effective Date of this Agreement (provided, however, that such eighteen month period may be extended by six months (i.e., to twenty-four months after the Effective Date of this Agreement) at the discretion and subject to the prior written approval of the Executive Director of the Successor Agency).

Commencement of Construction. Developer shall commence construction of the Project.

No later than thirty (30) days after the later to occur of (a) conveyance of the Property to the Developer, or (b) the date that the Successor Agency's Conditions Precedent and the Developer's Conditions Precedent have been satisfied.

Creation of a Condominium Regime. Developer shall provide for Successor Agency review and approval proposed organizational documents (CC&R's, condominium parcel map, etc.) for the condominium regime to be formed for the Project.

No later than sixty (60) days prior to submittal of the organizational documents to the California Department of Real Estate.

Approval - Creation of a Condominium Regime. Successor Agency shall review and approve the proposed organizational documents for the condominium regime to be formed for the Project.

Within fifteen (15) days after Developer's submittal of the Condominium Regime documents.

Completion of Construction. Developer shall complete construction of the Project.

Within thirty-six (36) months after the commencement of construction of the Project.

Exhibit J

Form of Grant Deed

(Attached)

Recorded at the Request of the
Successor Agency to the San Francisco
Redevelopment Agency

When Recorded, Please Mail to:

Mail Tax Statement to:
SAME AS ABOVE

Space Above This Line Reserved for Recorder's Use

GRANT DEED

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic, hereinafter referred to as "**Grantor**", hereby GRANTS to _____, herein called "**Grantee**", all that certain real property and the improvements thereon situated in the City and County of San Francisco, State of California, more particularly described in **Exhibit A** attached hereto and made a part hereof, hereinafter referred to as the "**Property**".

SUBJECT, however, to easements of record, and the following conditions, covenants and restrictions set forth in this Grant Deed:

1. **Covenants.** Grantee expressly covenants and agrees for itself, its successors and assigns and all persons claiming under or through it, that as to the Property and any improvements constructed or to be constructed thereon, or any part thereof, or alterations or changes thereto, Grantee and all such successors and assigns and all persons claiming under or through it, shall use, devote, operate and maintain the Property and the improvements thereon, and every part thereof, only and in strict accordance with the agreements and covenants set forth in this Grant Deed.

2. **Uses.**

(a) **Permitted Uses.** The Property shall be used only for (1) commercial, office, cultural, museum, retail, restaurant, residential, parking, loading, and garage uses (the "**Permitted Uses**"), (2) any uses that are incidental or accessory to the foregoing Permitted Uses; and (3) the operation, management, construction, maintenance, repair, replacement,

rehabilitation, or restoration of improvements and structures for the Permitted Uses. Neither Grantee nor any successor or assign shall make or permit any change in the uses permitted by this Section 2 unless the express prior written consent for such change in use shall have been requested and obtained from Grantor or its successors and assigns, and if obtained, upon such terms and conditions as Grantor may reasonably require. Grantee approval may be granted or withheld in its reasonable discretion.

(b) Cultural Component. Any improvements that are now or may be in the future constructed, rehabilitated, restored or replaced on the Property shall include approximately 48,000 net square feet devoted to a cultural, museum, or similar public-serving use on the portion of the Property described as [NOTE: Include description] (the “**Cultural Component**”). The Cultural Component and any use of the Cultural Component shall not interfere or conflict with the use of the rest of the Property as a first class commercial and residential development.

3. Nondiscrimination.

(a) There shall be no discrimination against or segregation of any person or group of persons on account of age, race, color, creed, sex, sexual orientation, gender identity, marital or domestic partner status, disabilities (including AIDS or HIV status), religion, national origin or ancestry by Grantee or any occupant or user of the Property in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any part thereof, and Grantee itself (or any person or entity claiming under or through it) shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of the Property or any part thereof, nor shall Grantee or any occupant or user of the Property or any transferee, successor, assign or holder of any interest in the Property or any person or entity claiming under or through such transferee, successor, assign or holder, establish or permit any such practice or practices of discrimination or segregation, including, without limitation, with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, vendees or others of the Property, provided, however, that Grantee shall not be in default of its obligations hereunder where there is a judicial action or arbitration involving a bona fide dispute over whether Grantee is engaged in discriminatory practices and Grantee promptly acts to satisfy any judgment or award against Grantee. Grantee (or any person or entity claiming under or through it) further agrees and covenants that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property nor shall the Grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed.

(b) Any transferee, successor, assign, or holder of any interest in the Property, or any occupant or user thereof, whether by contract, lease, rental, sublease, license, deed, mortgage or otherwise, and whether or not any written instrument or oral agreement contains the

foregoing prohibitions against discrimination, shall be bound hereby and shall not violate in whole or in part, directly or indirectly, the nondiscrimination requirements set forth above.

(c) All advertising (including signs) for sale and/or rental of the whole or any part of the Property shall include the legend "An Open Occupancy Building" in type or lettering of easily legible size and design. The word "Project" or "Development" may be substituted for the word "Building" where circumstances require such substitution.

4. **Effect, Duration and Enforcement of Covenants.**

(a) It is intended and agreed that the covenants and agreements set forth in this Grant Deed shall be covenants running with the land and that they shall be, in any event and without regard to technical classification or designation, legal or otherwise, to the fullest extent permitted by law and equity, (i) binding for the benefit and in favor of Grantor (or its designated successor), as beneficiary; and (ii) binding against Grantee, its successors and assigns to or of the Property and any improvements thereon or any part thereof or any interest therein, and any party in possession or occupancy of the Property or the improvements thereon or any part thereof. It is further intended and agreed that the covenants set forth in this Grand Deed shall remain without limitation as to time; provided, however, that such agreements and covenants shall be binding on Grantee itself, each successor in interest or assign, and each party in possession or occupancy, respectively, only for such period as it shall have title to or an interest in or possession or occupancy of the Property or part thereof.

(b) In amplification, and not in restriction, of the provisions of the preceding sections, it is intended and agreed that Grantor and its successors and assigns, as to the covenants set forth in this Grant Deed of which they are stated to be beneficiaries, shall be beneficiaries both for and in its own right and also for the purposes of protecting the interest of the community and other parties, public or private, and without regard to whether Grantee has at any time been, remains, or is an owner of any land or interest therein to which, or in favor of which, such covenants relate. Grantor and its successors and assigns shall have the right, in the event of any and all of such covenants of which they are stated to be beneficiaries, to institute an action for injunction and/or specific enforcement to cure an alleged breach or violation of such covenants, subject to Section 4(c) below. Grantee shall not be liable to Grantor or any beneficiaries for any damages caused by any breach or violation of a covenant by Grantee under any circumstances, including but not limited to expenditure of money to cure a breach or violation by Grantee.

(c) Grantee shall be entitled to written notice from Grantor and have the right to cure any alleged breach or violation of all or any of the covenants set forth in this Grant Deed; provided that Grantee shall cure such breach or violation within thirty (30) days following the date of written notice from Grantor, or in the case of a breach or violation not reasonably susceptible of cure within thirty (30) days, Grantee shall commence to cure such breach or violation within such thirty (30) day period and thereafter diligently to prosecute such cure to completion within a reasonable time.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have executed this instrument this _____
day of _____, 20__.

GRANTOR:

Authorized by Resolution
No. _____, adopted _____, 20__

Successor Agency to the Redevelopment Agency
of the City and County of San Francisco

Form Approved:

By _____
Successor Agency General Counsel

By: _____
Title: Executive Director

GRANTEE ACCEPTANCE:

Grantee hereby acknowledges and accepts the terms and conditions subject to which the above
referenced Property is conveyed by Grantor.

By: _____

Name: _____

Title: _____

ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public, 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.

Notary's Signature

[Notarial Seal]

ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public, 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.

Notary's Signature

[Notarial Seal]

Exhibit A

Legal Description of Property

[To Be Attached]

Exhibit K

**Form of Assignment of Garage Leases
(Attached)**

ASSIGNMENT OF GARAGE LEASES

THIS ASSIGNMENT OF GARAGE LEASES (“**Assignment**”) is executed as of the _____ day of _____, _____, by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic (“**Assignor**”) and _____, a _____ (“**Assignee**”).

RECITALS

A. This Assignment is being entered into pursuant to that certain Agreement for the Purchase and Sale of Real Property by and between Assignor and Assignee dated _____, 2013 (the “**Agreement**”). Concurrently herewith, Assignor is selling to Assignee and Assignee is purchasing from Assignor all of Assignor’s interest in the Garage Property (as defined in the Agreement).

B. In connection with the sale of the Real Property to Assignee, Assignor desires to assign to Assignee all of Assignor’s interest as lessor under all leases existing with respect to the Garage Property, which leases are listed in attached Schedule I (the “**Leases**”).

IN CONSIDERATION of the foregoing, the parties hereto agree as follows:

1. Assignor hereby grants, conveys, assigns and transfers to Assignee all of Assignor’s rights, title, interest and obligations in and under the Leases free of all liens and monetary encumbrances.

2. Assignor represents and warrants to Assignee that, as of the date hereof:

a. Schedule I lists all of the Leases affecting the Garage Property.

b. Except as previously disclosed in writing to Assignee, the Leases have not been amended or modified in any manner and there are no oral agreements, correspondence, actions or understandings that would effectively modify the terms of the Leases.

c. There are no assignments or agreements to assign any of the Leases to any other party.

d. The Leases are in full force and effect and there exists no default on the part of Assignor thereunder, nor does Assignor have any actual knowledge of any defaults or any acts or events which with the passage of time or the giving of notice, or both, could become defaults thereunder on the part of any other party to the Leases, except as otherwise disclosed to Assignee in writing.

3. Concurrently herewith, Assignor has assigned and delivered to Assignee the security deposits listed on Schedule I hereto.

4. Assignee hereby assumes Assignor's obligations under the Leases arising from and after the date hereof.

5. The terms of this Assignment shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

6. The parties hereby agree to execute such other documents and perform such other acts as may be necessary, appropriate or reasonably required to carry out the purposes and provisions of this Assignment.

7. This Assignment may be executed in any number of counterparts, all of which evidence only one agreement, binding on all parties, even though all parties are not signatories to the same counterpart.

8. Each of the individuals executing this Assignment on behalf of a party individually represents and warrants that he or she has been authorized to do so and has the power to bind the party for whom they are signing.

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

ASSIGNOR:

APPROVED AS TO FORM:

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO

By: _____
Successor Agency General Counsel

By: _____
Name: _____
Title: _____

ASSIGNEE:

a _____

By: _____
Name: _____
Title: _____

SCHEDULE I TO ASSIGNMENT OF LEASES

LIST OF LEASES AND SECURITY DEPOSITS

1. _____ LEASE, BY AND BETWEEN _____, AS LESSOR, AND _____, AS LESSEE, DATED _____. SECURITY DEPOSIT OF \$_____.

2. _____ LEASE, BY AND BETWEEN _____, AS LESSOR, AND _____, AS LESSEE, DATED _____. SECURITY DEPOSIT OF \$_____.

3. _____ LEASE, BY AND BETWEEN _____, AS LESSOR, AND _____, AS LESSEE, DATED _____. SECURITY DEPOSIT OF \$_____.

Exhibit L

Form of Assignment of Plans, Service Contracts, Warranties, Intangible Property and Approvals

(Attached)

ASSIGNMENT OF PLANS, SERVICE CONTRACTS,
WARRANTIES, INTANGIBLE PROPERTY AND APPROVALS

THIS ASSIGNMENT OF PLANS, SERVICE CONTRACTS, WARRANTIES, INTANGIBLE PROPERTY, AND APPROVALS is executed as of the _____ day of _____, 2013, by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic (“**Assignor**”) and _____, a _____ (“**Assignee**”).

RECITALS

A. Assignor and Assignee are parties to that certain Agreement Purchase and Sale of Real Property dated as of _____, 2013 (the “**Purchase Agreement**”). Concurrently herewith, Seller is selling to Buyer and Buyer is purchasing from Seller all of Seller’s interest in the Property, as defined in the Purchase Agreement.

B. In connection with the sale of the Property to Assignee, Assignor desires to assign to Assignee all of Assignor’s interest in the following:

1. all architectural, mechanical, engineering, as-built and other plans, specifications, drawings and reports pertaining to the Property (“**Plans**”);
2. the service, utility, management, maintenance and other contracts or agreements listed in attached Schedule I (“**Service Contracts**”);
3. all transferable or assignable warranties, representations and guaranties made by or received from any third party with respect to the Property and any fixture, machinery, equipment or material situated on or comprising a part of the Property (“**Warranties**”);
4. all intangible personal property used in connection with the ownership, use, leasing or operation of the Property (“**Intangible Property**”); and
5. all transferable or assignable certificate(s) of occupancy, building or equipment permits, consents, authorizations, variances, waivers, licenses, permits, certificates and other approvals from any governmental or quasi-governmental authority with respect to the Property (“**Approvals**”).

IN CONSIDERATION of and incorporating the foregoing Recitals, the parties hereto agree as follows:

1. Assignor hereby assigns, grants, conveys and transfers to Assignee all of Assignor’s rights, title and interest in the Plans, Service Contracts, Warranties, Intangible Property, and Approvals free of all liens and monetary encumbrances.
2. Assignor represents and warrants to Assignee that, as of the date hereof:
 - a. Schedule I lists all of the Service Contracts affecting the Property.

b. Except as previously disclosed in writing to Assignee, the Plans, Service Contracts and Warranties have not been amended or modified in any manner and there are no oral agreements, correspondence, actions or understandings that would effectively modify the terms of the Plans, Service Contracts or Warranties.

c. There are no assignments or agreements to assign any of the Plans, Service Contracts, Warranties, Intangible Property, and Approvals to any other party.

d. The Service Contracts are in full force and effect and there exists no default on the part of Assignor thereunder, nor does Assignor have any actual knowledge of any defaults or any acts or events which with the passage of time or the giving of notice, or both, could become defaults thereunder on the part of any other party to the Service Contracts, except as otherwise disclosed to Assignee in writing.

3. Assignee hereby assumes Assignor's obligations under the Plans, Service Contracts, Warranties, Intangible Property and Approvals arising from and after the date hereof.

4. The terms of this Assignment of Plans, Service Contracts, Warranties, Intangible Property and Approvals shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

5. The parties hereby agree to execute such other documents and perform such other acts as may be necessary or desirable to carry out the purposes of this Assignment of Plans, Service Contracts, Warranties, Intangible Property and Approvals.

6. This Assignment may be executed in any number of counterparts, all of which evidence only one agreement, binding on all parties, even though all parties are not signatories to the same counterpart.

7. Each of the individuals executing this Assignment on behalf of a party individually represents and warrants that he or she has been authorized to do so and has the power to bind the party for whom they are signing.

IN WITNESS WHEREOF, the parties have executed this Assignment of Plans, Service Contracts, Warranties, Intangible Property and Approvals as of the date and year first above written.

ASSIGNOR:

APPROVED AS TO FORM:

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO

By: _____
Successor Agency General Counsel

By: _____
Name: _____
Title: _____

ASSIGNEE:

a _____

By: _____
Name: _____
Title: _____

SCHEDULE I TO THE ASSIGNMENT OF PLANS, SERVICE CONTRACTS
WARRANTIES, INTANGIBLE PROPERTY AND APPROVALS

List of Service Contracts

Exhibit M

Form of Bill of Sale

(Attached)

BILL OF SALE

THIS BILL OF SALE is executed as of the _____ day of _____, _____ by the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic ("**Seller**") in favor of _____, a _____ ("**Buyer**").

RECITALS

A. Seller and Buyer are parties to that certain Agreement for Purchase and Sale of Real Estate dated as of _____, 2013 (the "**Purchase Agreement**"). Concurrently herewith, Seller is selling to Buyer and Buyer is purchasing from Seller all of Seller's interest in the Property, as defined in the Purchase Agreement.

B. In connection with the sale of the Property to Buyer, Seller desires to transfer to Buyer all of Seller's interest in the Personal Property (as defined in the Purchase Agreement) owned by Seller and used in connection with the operation of the Property.

IN CONSIDERATION OF THE FOREGOING, and for other good and valuable consideration, Seller agrees as follows:

Seller hereby grants, transfers and conveys to Buyer all of Seller's interest in the machinery, equipment, furnishings and other tangible personal property owned by Seller and used in connection with the maintenance or operation of the Property. Seller covenants that it is the lawful owner of the referenced personal property, free from all liens, claims or encumbrances, and agrees to warrant and defend the title to the personal property hereby conveyed against the just and lawful claims and demands of all persons claiming by or through Seller.

Seller hereby agrees to execute such other documents and perform such other acts as may be reasonably necessary or desirable to carry out the purposes of this Bill of Sale.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale this _____ day of _____.

APPROVED AS TO FORM:

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO

By: _____
Successor Agency General Counsel

By: _____
Name: _____
Title: _____

Exhibit N

Permitted Encumbrances

As used in the Agreement to which this Exhibit N is attached (the “Agreement”), “Permitted Encumbrances” shall mean:

(a) the encumbrances shown as Items 1, 4, 5, 6 (subject to modification of this Item to read as follows: “*The lien of supplemental taxes, if any, resulting from changes of ownership, new construction or other events occurring on or after the date of the policy, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California.*”), 8, 9, 10 (subject to noting that this Item affects only Tracts 11 and 12), 11 (subject to noting that this Item affects only Tracts 11 and 12), 12 (subject to noting that this Item affects only Tracts 6, 7, 10 and 15), 13 (subject to noting that this Item affects only Tracts 6, 7, 10 and 15), 16 (subject to noting that this Item affects only Tracts 9 and 13), 17 (subject to noting that this Item affects only Tracts 6, 7, 10 and 15), 18, 19, 21 (subject to noting that this Item affects only Tracts 9 and 13), 23 (subject to noting that this Item affects only Tract 5), 24 (subject to noting that this Item affects only Tract 4), 25, 26 (subject to noting that this Item affects only Tracts 11 and 12), 27 (subject to noting that this Item affects only Tracts 9 and 13), 28, 29, 30, 31, 32, 33, 35, 39, 40, 41, 42, 43, 44, 45, 46, 47 (subject to noting that this Item affects only Tracts 11 and 12), 48, 49 (subject to this Item being updated to reflect an as-built survey of the Jessie Square Garage), 50 (subject to noting that this Item affects only Tracts 9 and 13), 51, 52, 55 (subject to this Item specifically identifying any parties in possession, which shall be limited to only those parties in possession of the Jessie Square Garage pursuant to valid written leases that are assigned at closing pursuant to the terms of the Agreement) on pages 7 through 35 of the Preliminary Title Report issued by Chicago Title Company under Order No. 13-36914766-C-JM and dated January 30, 2013, a copy of which is attached to this Exhibit N and incorporated herein by this reference, and, for avoidance of doubt excluding any encumbrances related to the Garage Bonds and/or the Cooperation and Tax Reimbursement Agreement;

(b) other encumbrances expressly contemplated by this Agreement, including without limitation, the Easement Amendments, the New Easements and any Regulatory Approvals to the extent such Regulatory Approvals constitute an encumbrance.

Defined terms used in this cover sheet to Exhibit N shall have the meaning ascribed to such terms in the Agreement.



CHICAGO TITLE COMPANY

PRELIMINARY REPORT

*In response to the application for a policy of title insurance referenced herein, **Chicago Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.*

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Chicago Title Insurance Company, a Nebraska corporation.

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

Morris Evans
Countersigned



Chicago Title Company

BY

[Signature]
President

ATTEST

[Signature]
Secretary

CLTA Preliminary Report Form - Modified (11/17/06)

Visit Us on our Website: www.ctic.com



Chicago Title Company

ISSUING OFFICE: 2150 John Glenn Drive, Suite 400 • Concord, CA 94520
925 288-8000 • FAX 925 521-9562

PRELIMINARY REPORT

Amended

Title Officer: Jeff Martin

Title No.: 13-**36914766**-C-JM

Locate No.: CACTI7738-7738-2369-0036914766

TO: Chicago Title Company
455 Market Street, 21st Floor
San Francisco, CA 94105

ATTN: Nicki Carr
YOUR REFERENCE: 160330110

PROPERTY ADDRESS: Jessie Square Garage / Agency Property, San Francisco, California

EFFECTIVE DATE: January 30, 2013, 07:30 A.M.

The form of policy or policies of title insurance contemplated by this report is:

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A FEE as to TRACT(s) ONE, TWO and THREE;
EASEMENTS more fully described below as to TRACT(s) FOUR through SIXTEEN, inclusive

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

The Redevelopment Agency of the City and County of San Francisco

3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

JL\JL 02/25/2013

Title No. 13-**36914766**-C-JM
 Locate No. CACTI7738-7738-2369-0036914766

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

TRACT ONE:

That certain portion of PARCEL B, LOT 277, of Assessor's BLOCK 3706, as shown on Parcel Map 4115 filed for record on June 27, 2006 in Book 46 of Parcel Maps, at Pages 167-169, inclusive. City and County of San Francisco Records, more particularly described as follows:

All that real property between two horizontal planes, the lower plane being at elevation minus 27.5 feet and the upper plane being at elevation plus 133.0 feet. City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at the most easterly corner of said Parcel B, Lot 277, said point of beginning being on the northwesterly line of Mission Street; thence southwesterly along said line of Mission Street 79.50 feet to a point distant thereon 159.907 feet northeasterly from the most southerly corner of said Parcel B, Lot 277; thence northwesterly at a right angle to said line of Mission Street 123 feet to the southwesterly prolongation of the northwesterly line of said Parcel B, Lot 277; thence at a right angle northeasterly along said prolongation and along said northwesterly line 79.50 feet to the northeasterly line of said Parcel B, Lot 277; thence at a right angle southeasterly along said northeasterly line 123 feet to the point of beginning.

Assessor's Parcel No. : Lot 277 (portion), Block 3706

TRACT TWO:

Those certain portions of PARCEL B, LOT 277, of Assessor's BLOCK 3706, as shown on Parcel Map 4115 filed for record on June 27, 2006 in Book 46 of Parcel Maps, at Pages 167-169, inclusive, City and County of San Francisco Records, more particularly described as follows:

Parcel 1:

All that real property between a lower horizontal plane and an upper sloped plane, the lower horizontal plane being at elevation minus 25.0 feet, the southeasterly line (northwesterly line of Mission Street:) of the upper sloped plane being at elevation plus 19.3 feet and the northwesterly line of the upper sloped plane being at elevation plus 24.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal and sloped planes, the limits of said vertical planes being more particularly described as follows:

Beginning at the most southerly corner of said Parcel B, Lot 277, said point of beginning being on the northwesterly line of Mission Street; thence northeasterly along said line of Mission Street 159.907 feet to a point distant thereon 79.50 feet southwesterly from the most easterly corner of said Parcel B, Lot 277; thence northwesterly at a right angle to said line of Mission Street 123 feet; thence at a right angle northeasterly 6.50 feet to the northeasterly line of said Parcel B, Lot 277; thence at a right angle northwesterly along said northeasterly line of said Parcel B, Lot 277, 71.573 feet; thence at a right angle southwesterly 166.407 feet to the northwesterly prolongation of the southwesterly line of said Parcel B, Lot 277; thence at a right angle southeasterly along said prolongation and along the southwesterly line of said Parcel B, Lot 277, 194.573 feet to the point of beginning.

Parcel 2:

All that real property between two horizontal planes, the lower plane being at elevation minus 25 feet and the upper plane being at elevation plus 24.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

EXHIBIT "A" (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

Beginning at a point on the southeasterly line of Stevenson Street, distant thereon 5 feet southwesterly from the most northerly corner of said Parcel B, Lot 277; thence southwesterly along said southeasterly line of Stevenson Street 10.334 feet; thence at a right angle southeasterly 16.705 feet; thence at a right angle southwesterly 8.49 feet; thence at a right angle southeasterly 2.875 feet; thence at a right angle southwesterly 100.333 feet; thence at a right angle northwesterly 1 foot; thence at a right angle southwesterly 42.25 feet; thence at a right angle southeasterly 62.07 feet to a point that is perpendicularly distant 194.573 feet northwesterly from the northwesterly line of Mission Street; thence at a right angle northeasterly parallel with said line of Mission Street 161.407 feet; thence at a right angle northwesterly 80.65 feet to the point of beginning.

Parcel 3

All that real property between two horizontal planes, the lower plane being at elevation minus 25.0 feet and the upper plane being at elevation plus 9.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows;

Beginning at a point on the southeasterly line of Stevenson Street, distant thereon 15.334 feet southwesterly from the most northerly corner of said Parcel B, Lot 277; thence southwesterly along said southeasterly line of Stevenson Street and along its southwesterly prolongation 151.073 feet; thence at a right angle southeasterly 18.58 feet; thence at a right angle northeasterly 42.25 feet; thence at a right angle southeasterly 1 foot; thence at a right angle northeasterly 100.333 feet; thence at a right angle northwesterly 2.875 feet; thence at a right angle northeasterly 8.49 feet; thence at a right angle northwesterly 16.705 feet to the point of beginning.

Parcel 4

All that real property between two horizontal planes, the lower plane being at elevation minus 25.0 feet and the upper plane being at elevation plus 44.0 foot, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at a point on the northwesterly line of said Parcel B, Lot 277, distant thereon 65.241 feet southwesterly from the most northerly corner of said Parcel B, Lot 277, said point being on the southeasterly line of Stevenson Street; thence southwesterly along the southwesterly prolongation of said northwesterly line of Parcel B, Lot 277, 25 feet to an angle point in the northwesterly line of said Parcel B, Lot 277; thence at a right angle northwesterly along said northwesterly line 25 feet to an angle point therein, said point also being on the southerly line of Stevenson Street; thence easterly along said northwesterly line of Parcel B, Lot 277, also being the southerly line of Stevenson Street 35.355 feet to the point of beginning.

Parcel 5

All that real property between two horizontal planes, the lower plane being at elevation minus 1.0 feet and the upper plane being at elevation plus 24.5 feet, City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows;

Beginning at the most northerly corner of said Parcel B, Lot 277; thence southeasterly along the northeasterly line of said Parcel B, Lot 277, 20.65 feet; thence at a right angle southwesterly 5 feet; thence at a right angle northwesterly 20.65 feet to the southeasterly line of Stevenson Street; thence at a right angle northeasterly along said line of Stevenson Street 5 feet to the point of beginning.

Parcel 6

All that real property between two horizontal planes, the lower plane being at elevation minus 25.0 feet and the upper plane being at elevation plus 24.5 feet. City of San Francisco datum, bounded by vertical planes which extend between the aforesaid horizontal planes, the limits of said vertical planes being more particularly described as follows:

Beginning at a point on the horizontal line of said Parcel B, Lot 277, distant thereon 20.65 feet southeasterly from the most northerly corner of said Parcel B, Lot 277; thence continuing southeasterly along said northeasterly line of said Parcel B, Lot 277, 60 feet to a point that is perpendicularly distant 194.573 feet northwesterly from the northwesterly line of Mission Street, thence at a right angle southwesterly parallel with

EXHIBIT "A" (continued)

Title No. 13-36914766-C-JM
Locate No. CACTI7738-7738-2369-0036914766

said line of Mission Street 5 feet; thence at a right angle northwesterly 60 feet; thence at a right angle northeasterly 5 feet to the point of beginning.

Assessor's Parcel No. : Lot 277 (portion), Block 3706

TRACT THREE:

All that real property situated in the City and County of San Francisco, State of California, described as follows;

Beginning at the most northerly corner of Parcel B, Lot 277, as said lot is shown on that certain Parcel Map 4115 filed for record on June 27, 2006 in Book 46 of Parcel Maps, at Pages 167-169, inclusive. Official Records of the City and County of San Francisco, said point of beginning being on the southeasterly line of Stevenson Street as it existed prior to the vacation thereof; thence southwesterly along said line of Stevenson Street 2.869 feet; thence on a deflection angle of 82° 22' 27" to the right, a distance of 70.625 feet to the southwesterly prolongation of the southeasterly line of Stevenson Street; thence northeasterly along said prolongation 27.00 feet to the northeasterly line of Stevenson Street; thence at a right angle southeasterly along said northeasterly line 75 feet to the southeasterly line of Stevenson Street; thence at a right angle southwesterly along said southeasterly line of Stevenson Street 14.759 feet to an angle point therein; thence at a right angle northwesterly along said line of Stevenson Street 5 feet to the point of beginning.

Being a portion of Stevenson Street as it existed prior to the vacation thereof pursuant to City and County of San Francisco Ordinance No. 288-04, adopted by the Board of Supervisors on September 14, 2004 and approved by the Mayor on September 23, 2004 and recorded October 25, 2004 in Reel I750, Image 59, Official Records of the City and County of San Francisco. Series No. H838574 and as conveyed to the Redevelopment Agency of the City and County of San Francisco by Quitclaim Deed recorded October 25, 2004 in Reel I750, Image 60 Official Records of the City and County of San Francisco. Series No. H838575.

Assessor's Parcel No. : Lot 275, Block 3706

TRACT FOUR (CB-1 MARKET STREET PARCEL B):

EASEMENTS AS SET FORTH IN AND RESERVED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "GRANT DEED (CB-1 MARKET STREET PARCEL (PARCEL B))", RECORDED OCTOBER 28, 1998, IN REEL H250, IMAGE 584, AS INSTRUMENT NO. G458537, OFFICIAL RECORDS.

TRACT FIVE (CB-1 MARKET STREET PLAZA):

EASEMENTS AS SET FORTH IN AND GRANTED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "PEDESTRIAN AND LIGHT AND AIR EASEMENT AGREEMENT", RECORDED OCTOBER 28, 1998, IN REEL H250, IMAGE 585, AS INSTRUMENT NO. G458538, OFFICIAL RECORDS.

TRACT SIX (PARCEL 3706-H (2A& 2B)):

EASEMENTS AS SET FORTH IN AND RESERVED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN DEED RECORDED MAY 2, 1997, IN REEL G874, IMAGE 154, AS INSTRUMENT NO. G155852, OFFICIAL RECORDS AND AS MODIFIED BY AND PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "EASEMENT AGREEMENT", BY AND AMONG L-O SOMA HOLDING, INC., A DELAWARE CORPORATION, THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, RECORDED APRIL 29, 2003, AS INSTRUMENT NO. H425882, OFFICIAL RECORDS.

TRACT SEVEN (JESSIE SQUARE GARAGE):

EASEMENTS AS SET FORTH IN AND RESERVED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "JESSIE SQUARE GARAGE CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT", BY AND AMONG L-O SOMA HOLDING, INC., A DELAWARE CORPORATION, THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, AND JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY, RECORDED APRIL 29, 2003, AS INSTRUMENT NO. H425880, OFFICIAL RECORDS.

EXHIBIT "A" (continued)

Title No. 13-36914766-C-JM
Locate No. CACTI7738-7738-2369-0036914766**TRACT EIGHT (MEXICAN MUSEUM PARCEL):**

EASEMENTS AS SET FORTH IN AND RESERVED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "DECLARATION AND AGREEMENT (MEXICAN MUSEUM PARCEL)", BY AND AMONG THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, AND JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY, RECORDED APRIL 29, 2003, AS INSTRUMENT NO. H425881, OFFICIAL RECORDS.

TRACT NINE (JEWISH MUSEUM AND GARAGE PARCEL):

EASEMENTS AS SET FORTH IN AND RESERVED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "DECLARATION OF RECIPROCAL EASEMENT AGREEMENT (JEWISH MUSEUM AND GARAGE PARCELS)", BY AND AMONG THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, AND JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY, RECORDED APRIL 29, 2003, AS INSTRUMENT NO. H425883, OFFICIAL RECORDS.

TRACT TEN (MEXICAN MUSEUM EMERGENCY EXIT):

EASEMENT AS SET FORTH IN AND GRANTED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "EASEMENT AGREEMENT", BY AND AMONG L-O SOMA HOLDING, INC., A DELAWARE CORPORATION, THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, RECORDED APRIL 29, 2003, AS INSTRUMENT NO. H425882, OFFICIAL RECORDS.

TRACT ELEVEN (ST. PATRICK'S CHURCH EASEMENT):

EASEMENTS AS SET FORTH IN AND GRANTED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED "EASEMENT AGREEMENT (ELEVATOR, AIR INTAKE, GARAGE EXHAUST, EMERGENCY EGRESS) AND LICENSE AGREEMENT (STRUCTURAL TIEBACKS)" BY AND AMONG THE ROMAN CATHOLIC ARCHBISHOP OF SAN FRANCISCO, A CORPORATION SOLE, THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, AND JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY, RECORDED APRIL 29, 2003, AS INSTRUMENT NO. H425884, OFFICIAL RECORDS.

TRACT TWELVE (AIR INTAKE AND GARAGE EXHAUST EASEMENT):

EASEMENT AS SET FORTH IN AND GRANTED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "DECLARATION OF RESTRICTIONS ON GRANT OF EASEMENTS (AIR INTAKE AND GARAGE EXHAUST EASEMENTS, BENEFITED PROPERTY: GARAGE PARCEL, BURDENED PARCEL: CHURCH PROPERTY)", BY AND AMONG , THE ROMAN CATHOLIC ARCHBISHOP OF SAN FRANCISCO, A CORPORATION SOLE, JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, RECORDED APRIL 8, 2005, AS INSTRUMENT NO. H933694, OFFICIAL RECORDS.

TRACT THIRTEEN (JEWISH MUSEUM EXIT STAIRS):

EASEMENT AS SET FORTH IN AND GRANTED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "DECLARATION OF RESTRICTIONS ON GRANT OF EASEMENTS (JEWISH MUSEUM EXIT STAIRS EASEMENTS, BENEFITS GARAGE PARCEL, BURDENS JEWISH MUSEUM PARCEL)" BY AND BETWEEN JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY AND THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, RECORDED APRIL 8, 2005, AS INSTRUMENT NO. H933695, OFFICIAL RECORDS.

TRACT FOURTEEN (MEXICAN MUSEUM EXIT STAIRS AND RAMP):

EASEMENT AS SET FORTH IN AND GRANTED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "DECLARATION OF RESTRICTIONS ON GRANT OF EASEMENTS (MEXICAN MUSEUM EXIT STAIRS AND RAMP)," BY AND BETWEEN JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY AND THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY

EXHIBIT "A" (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, RECORDED APRIL 8, 2005, AS INSTRUMENT NO. H933696, OFFICIAL RECORDS.

TRACT FIFTEEN (STEVENSON STREET RAMP AIR INTAKE AND SUBTERRANEAN OPENINGS):

EASEMENT AS SET FORTH IN AND GRANTED PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "DECLARATION OF RESTRICTIONS ON GRANT OF EASEMENTS (STEVENSON STREET RAMP AIR INTAKE AND SUBTERRANEAN OPENINGS, BENEFITS GARAGE PARCEL, BURDENS ARGENT HOTEL PARCEL)" BY AND AMONG L-O SOMA HOLDING, INC., A DELAWARE LIMITED LIABILITY COMPANY, JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, RECORDED APRIL 8, 2005, AS INSTRUMENT NO. H933697, OFFICIAL RECORDS.

TRACT SIXTEEN (COREA):

THOSE CERTAIN NON-EXCLUSIVE EASEMENTS DESCRIBED IN, RESERVED BY, AND GRANTED TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY AS CONTAINED IN ARTICLES (____), AS SET FORTH IN AND PURSUANT TO THE TERMS, COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED "AMENDED AND RESTATED CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT AND AGREEMENT CREATING LIENS" BY AND AMONG YBG ASSOCIATES LLC, A DELAWARE LIMITED LIABILITY COMPANY AND THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, ORGANIZED UNDER THE COMMUNITY REDEVELOPMENT LAW OF THE STATE OF CALIFORNIA, RECORDED APRIL 7, 1998, IN REEL H106, IMAGE 579, OFFICIAL RECORDS, AS INSTRUMENT NO. G331392 AND AS AMENDED BY THAT CERTAIN INSTRUMENT ENTITLED "FIRST AMENDED AND RESTATED CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT AND AGREEMENT CREATING LIENS", RECORDED OCTOBER 28, 1998, AS INSTRUMENT NO. G458534, IN REEL H250, IMAGE 581, OFFICIAL RECORDS.

APN: Lot 277 (portions) and Lot 275, Block 3706

Title No. 13-**36914766**-C-JM
 Locate No. CACTI7738-7738-2369-0036914766

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. **Property taxes**, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2013-2014.
2. **Said property has been declared tax defaulted** for non-payment of delinquent taxes for the fiscal year(s) 2008-2009

APN: Lot 117, Block 3706
 Default No.: 02436
 Default Date: June 30, 2009

Amounts to redeem for the above stated fiscal year (and subsequent years, if any) are:

Amount: \$23,616.85
 By: February 28, 2013
 Amount: \$23,816.86
 By: March 31, 2013

Please confirm the redeemable tax amounts shown above, with the San Francisco County Tax Collector's Office at (415) 554-4499.

There is an additional \$55.00 Redemption Fee.

Affects: The herein described land and other land.

3. **Said property has been declared tax defaulted** for non-payment of delinquent taxes for the fiscal year(s) 2009-2010

APN: Lot 275, Block 3706
 Default No.: 02342
 Default Date: June 30, 2010

Amounts to redeem for the above stated fiscal year (and subsequent years, if any) are:

Amount: \$736.09
 By: February 28, 2013
 Amount: \$742.50
 By: March 31, 2013

Please confirm the redeemable tax amounts shown above, with the San Francisco County Tax Collector's Office at (415) 554-4499.

There is an additional \$55.00 Redemption Fee.

Affects: TRACT THREE

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

4. **The herein described property** lies within the boundaries of a Mello-Roos Community Facilities District ("CFD"), as follows:

CFD No: 90-1
For: School Facility Repair and Maintenance

This property, along with all other parcels in the CFD, is liable for an annual special tax. This special tax is included with and payable with the general property taxes of the City and County of San Francisco. The tax may not be prepaid.

Further information may be obtained by contacting:

Chief Financial Officer
San Francisco Unified School District
135 Van Ness Ave. – Room 300
San Francisco, CA 94102
Phone (415) 241-6542

5. **The herein described property** lies within the boundaries of a Yerba Buena Community Benefit District ("CBD"), as follows:

CFD No.: Business Improvement District\CBD
For: Yerba Buena Community Benefit District (Yerba Buena CBD)
Disclosed By: Assessment Diagrams for the Yerba Buena Community Benefit District
Recorded: August 28, 2008, Instrument No. 2008-I640262-00,
Book J-715, Page 0428, of Official Records

This property, along with all other parcels in the CBD, is liable for an annual special tax. This special tax is included with and payable with the general property taxes of the City of San Francisco, County of San Francisco. The tax may not be prepaid.

6. **The lien of supplemental taxes**, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

7. **Premises** lies within the bounds of Yerba Buena Center Redevelopment Project Area D-1, so called, as approved by Ordinance No. 98-66 of the Board of Supervisors of the City and County of San Francisco, adopted April 25, 1966. Redevelopment Plan and Acquisition Map was filed JULY 21, 1966, SERIES NO. P-03937, OFFICIAL RECORDS.

Said Plan was amended by Ordinance No. 201-71, adopted July 26, 1971 and recorded AUGUST 18, 1971, INSTRUMENT NO. U-11274, OFFICIAL RECORDS.



Said Plan was also amended by Ordinance No. 393-73, adopted October 9, 1973, recorded DECEMBER 27, 1973, SERIES NO. W-40397, OFFICIAL RECORDS; by Ordinance No. 386-76, adopted September 13, 1976, recorded OCTOBER 8, 1976, SERIES NO. Z-031462, OFFICIAL RECORDS; Ordinance No. 367-77, adopted August 8, 1977, recorded NOVEMBER 23, 1977, SERIES NO. A-48452, OFFICIAL RECORDS; Ordinance No. 420-79, adopted September 13, 1979, recorded OCTOBER 16, 1979, SERIES NO. C-036946, OFFICIAL RECORDS; and by Ordinance No. 538-81, adopted November 2, 1981, recorded JANUARY 15, 1982, SERIES NO. D-164784, OFFICIAL RECORDS; Ordinance No. 477-86, adopted December 12, 1986, recorded FEBRUARY 29, 1988, SERIES NO. E-135921, OFFICIAL RECORDS; and by Ordinance No. 404-94, adopted November 21, 1994, recorded JULY 17, 1995, SERIES NO. 95-F816258, OFFICIAL RECORDS; and by Ordinance No. 33-97, adopted January 27, 1997, recorded MAY 5, 1997, SERIES NO. 97-G156439-00, OFFICIAL RECORDS.

Said Agreement has been amended by Ordinance No. 236-00 adopted October 13, 2000, recorded September 29, 2003, Series No. 03-H550516-00, OFFICIAL RECORDS.

Statutory Statement pursuant to Health and Safety Code Section 33373, recorded JULY 21, 1966, BOOK B68, PAGE 348, SERIES NO. P-03938, OFFICIAL RECORDS; and recorded JANUARY 15, 1982, BOOK D340, PAGE 714, SERIES NO. D164785, OFFICIAL RECORDS. The effect of this Statement is to disclose the land which is subject to the Redevelopment Plan.

8. **Covenants**, conditions, restrictions and easements, but omitting any covenant or restriction, based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, contained in the Declaration

By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
Recorded: DECEMBER 13, 1966, BOOK B103, PAGE 210, SERIES NO. P-30087, OFFICIAL RECORDS

Contains no reversionary clause

Contains no mortgagee protection clause

NOTE: Section 12956.1 of the Government Code provides the following: If this document contains any restriction based on race, color, religion, sex, familial status, marital status disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**9. Terms and conditions contained in the Notice of Designation of Landmark**

Executed By: DEPARTMENT OF CITY PLANNING CITY AND COUNTY OF SAN FRANCISCO
 Recorded: DECEMBER 12, 1968, BOOK B296, PAGE 754, SERIES NO. R31711, OFFICIAL RECORDS

Affects: TRACT ELEVEN (ST. PATRICK'S CHURCH)

10. Owner Participation Agreement

Dated: MARCH 13, 1974
 Executed By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
 And Between: THE ROMAN CATHOLIC ARCHBISHOP OF SAN FRANCISCO, A CORPORATION SOLE

Upon the terms, provisions, covenants and conditions contained therein,

Recorded: APRIL 23, 1974, BOOK B878, PAGE 604, OFFICIAL RECORDS

Said instrument was amended and restated in its entirety by instrument recorded AUGUST 11, 1987, REEL E404, IMAGE 1475, SERIES NO. E037334, OFFICIAL RECORDS.

Said Owner Participation Agreement has been amended by the Second Amendment to said Agreement.

Upon the terms, provisions, covenants and conditions contained therein,

Recorded: April 29, 2003, as Instrument No. 2003-H425876, Official Records

Said Owner Participation Agreement has been amended by the Third Amendment to said Agreement.

Upon the terms, provisions, covenants and conditions contained therein,

Recorded: April 29, 2003, as Instrument No. 2003-H425877, Official Records

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

- 11. Covenants** , conditions and restrictions, but omitting any covenant or restriction, based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, contained in the Declaration

By: THE ROMAN CATHOLIC ARCHBISHOP OF SAN FRANCISCO
Recorded: APRIL 23, 1974, BOOK B878, PAGE 620, OFFICIAL RECORDS

NOTE: Section 12956.1 of the Government Code provides the following: If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void. "Any person holding an interest in this property may request that the county recorder remove the restrictive language pursuant to subdivision (c) of Section 12956.1 of the Government Code."

Modification and/or amendment thereof, recorded AUGUST 11, 1987, REEL E404, IMAGE 1509, OFFICIAL RECORDS, but omitting any covenant or restriction, if any, based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

Contains no reversionary clause.

Contains a mortgagee protection clause.

- 12. Agreement** for Disposition of Land for Private Development

Dated: MARCH 28, 1980
Executed By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
And Between: ARCON/PACIFIC, LTD., A LIMITED PARTNERSHIP

Upon the terms, provisions, covenants and conditions contained therein,
Recorded: SEPTEMBER 29, 1981, REEL D280, IMAGE 601, SERIES NO. D131018, OFFICIAL RECORDS

As amended by that certain First Amendatory Agreement entered into as of September 17, 1980 and recorded on September 29, 1981 in Book No. D280, Page 672 in the Official Records.

That certain Second Amendment to the Agreement for Disposition of Land for Private Development entered into as of August 31, 1993 and recorded September 7, 1993, in Reel F958, Image 283, as Instrument No. F430500.

And that certain unrecorded Third Amendment to the Agreement for Disposition of Land for Private Development entered into as of May 21, 2001.

Said Disposition Agreement has been amended by the Fourth Amendment to the Agreement for Disposition of Land for Private Development between the Redevelopment Agency of the City and County of San Francisco, and L-O Soma Holding, Inc.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

Upon the terms, provisions, covenants and conditions contained therein,

Recorded: April 29, 2003, as Instrument No. 2003-H425878, Official Records

A Certificate of Completion of Improvements was recorded December 21, 1983, Book D620, Page 694, Series No. D440693, Official Records.

A Certificate of Completion of Improvements was recorded February 20, 1996, Book G572, Page 118, Series No. F931874, Official Records.

Contains no reversionary clause.

- 13. Covenants**, conditions and restrictions, but omitting any covenant or restriction, if any, based on race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, contained in the Deed

From: REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
To: ARCON/PACIFIC LTD., A LIMITED PARTNERSHIP
Recorded: SEPTEMBER 29, 1981, BOOK D280, PAGE 698, SERIES NO. D131019, OFFICIAL RECORDS

Contains a mortgagee protection clause.

Contains a reversionary clause.

A Certificate of Completion of Improvements was recorded December 21, 1983, Book D620, Page 694, Series No. D440693, Official Records.

Affects: TRACT SIX

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**14. Easement Agreement**

Dated: December 29, 1989
 By and Among: YBG ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP;
 THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO,
 A PUBLIC BODY, CORPORATE AND POLITIC; AND THE ROMAN CATHOLIC
 ARCHBISHOP OF SAN FRANCISCO, A CORPORATION SOLE

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: JANUARY 25, 1990, REEL F48, IMAGE 994, SERIES NO. E494451,
 OFFICIAL RECORDS

Said Agreement has been amended by an instrument entitled "Grant of Easements, Amendment to
 1989 Easement Agreement and Quitclaim Agreement" upon the terms, provisions, covenants and
 conditions contained therein,

Recorded: April 29, 2003, as Instrument No. 2003-H425855, Official Records

A Quitclaim Deed pertaining to the termination of temporary and construction easements in the 1989
 Easement Agreement upon the terms, provisions and conditions therein contained

Grantor: The Roman Catholic Archbishop of the City and County of San Francisco, a
 corporation sole
 Grantee: The Redevelopment Agency of the City and County of San Francisco
 Recorded: April 29, 2003, as Instrument No. 2003-H425856, Official Records

No representation is made as to the ownership of interests or matters affecting the rights or interests
 of the parties arising out of or occasioned by said instrument.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

- 15. Agreement for :** DISPOSITION OF LAND FOR PRIVATE DEVELOPMENT
Dated: JULY 30, 1993
Executed By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF
 SAN FRANCISCO
And Between: THE MEXICAN MUSEUM, A CALIFORNIA NON-PROFIT CORPORATION

Upon the terms, provisions, covenants and conditions contained therein,
Recorded: OCTOBER 1, 1993, REEL F976, IMAGE 426, SERIES NO. F459429, OFFICIAL
 RECORDS

Said Agreement was amended by that certain First Amendment dated as of August 6, 1996.
 Upon the terms, provisions, covenants and conditions contained therein,
Recorded: April 29, 2003, as Instrument No. 2003-H425863, Official Records

That certain Second Amendment dated as of November 18, 1997.
 Upon the terms, provisions, covenants and conditions contained therein,
Recorded: April 29, 2003, as Instrument No. 2003-H425864, Official Records

That certain Third Amendment dated as of September 1, 1998.
 Upon the terms, provisions, covenants and conditions contained therein,
Recorded: April 29, 2003, as Instrument No. 2003-H425865, Official Records

That certain Fourth Amendment dated as of October 27, 1998.
 Upon the terms, provisions, covenants and conditions contained therein,
Recorded: April 29, 2003, as Instrument No. 2003-H425866, Official Records

That certain unrecorded Fifth Amendment dated as of June 20, 2000.
 Upon the terms, provisions, covenants and conditions contained therein,

Said unrecorded and partially executed Fifth Amendment was superseded in its entirety by the Sixth
 Amendment.

And that certain Sixth Amendment to the Agreement for Disposition of Land for Private Development
 entered into as of May 22, 2001.

Upon the terms, provision, covenants and conditions therein, recorded April 29, 2003, as Instrument
 No. 2003-H425867, Official Records.

A Grant Deed to release any and all interest, legal or equitable upon the terms, provisions and
 conditions therein contained

Grantor: The Mexican Museum, a California non profit public benefit corporation
Grantee: The Redevelopment Agency of the City and County of San Francisco
Recorded: April 29, 2003, as Instrument No. 2003-H425868, Official Records

Said Agreement has been amended by the Seventh Amendment to the Agreement for Disposition of
 Land for Private Development by and between The Redevelopment Agency of the City and County of
 San Francisco and The Mexican Museum, a California Nonprofit public benefit corporation.

Upon the terms, provision, covenants and conditions therein, recorded April 29, 2003, as Instrument
 No. 2003-H425869, Official Records.

Said Agreement has been amended by the Eighth Amendment to The Agreement for Disposition of
 Land for Private Development, dated as of December 7, 2004.
 Upon the terms, provisions, covenants and conditions contained therein,
Recorded: January 31, 2005, as Instrument No. 2005-H896780, Official Records

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**16. Disposition and Development Agreement**

Dated: NOVEMBER 4, 1995
 Executed By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
 And Between: THE JEWISH MUSEUM OF SAN FRANCISCO, A CALIFORNIA NON-PROFIT PUBLIC
 BENEFIT CORPORATION

Upon the terms, provisions, covenants and conditions contained therein,

Recorded: NOVEMBER 27, 1995, REEL G515, IMAGE 532, SERIES NO. F890332, OFFICIAL
 RECORDS

As amended by that certain First Amendment dated as of November 12, 1996.
 Upon the terms, provision, covenants and conditions therein, recorded April 29, 2003, as Instrument
 No. 2003-H425870, Official Records.

That certain Second Amendment dated as of April 2, 1997.
 Upon the terms, provision, covenants and conditions therein, recorded April 29, 2003, as Instrument
 No. 2003-H425871, Official Records.

That certain Third Amendment dated as of November 10, 1998.
 Upon the terms, provision, covenants and conditions therein, recorded April 29, 2003, as Instrument
 No. 2003-H425872, Official Records.

That certain Fourth Amendment dated as of April 25, 2000.
 Upon the terms, provision, covenants and conditions therein, recorded April 29, 2003, as Instrument
 No. 2003-H425873, Official Records.

That certain Fifth Amendment dated as of May 22, 2001.
 Upon the terms, provision, covenants and conditions therein, recorded April 29, 2003, as Instrument
 No. 2003-H425874, Official Records.

Said Agreement has been amended by the Sixth Amendment to the Disposition and Development
 Agreement by and between The Redevelopment Agency of the City and County of San Francisco and
 The Magnes Museum, a California nonprofit corporation.

Upon the terms, provision, covenants and conditions therein, recorded April 29, 2003, as Instrument
 No. 2003-H425875, Official Records.

Terms and conditions of that certain Quitclaim Deed, recorded June 29, 2006, as Instrument No.
 2006-I202461-00, Book J-172, Page 0576 of Official Records.

Terms and conditions of that certain Amended and Restated Disposition and Development Agreement,
 recorded June 29, 2006, as Instrument No. 2006-I202462-00, Book J-172, Page 0577 of Official
 Records.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

- 17. Covenants**, conditions and restrictions, but omitting any covenant or restriction, if any, based on race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, contained in the Deed

From: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
 To: ANA HOTELS SAN FRANCISCO INC., A CALIFORNIA CORPORATION
 Recorded: MAY 2, 1997, REEL G874, IMAGE 154, SERIES NO. 97-G155852-00, OFFICIAL RECORDS

And as amended by that Grant of Easement and Agreement (Mexican Museum Emergency Exit)

Executed By: L-O SOMA HOLDINGS, INC. A DELAWARE CORPORATION
 And Between: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, A PUBLIC BODY, CORPORATE AND POLITIC

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: April 29, 2003
 SERIES NO.: H425882, OFFICIAL RECORDS

(AFFECTS TRACT SIX AND TEN)

NOTE: Section 12956.1 of the Government Code provides the following: If this document contains any restriction based on race, color, religion, sex, familial status, marital status disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

- 18. Matters** set forth on those certain Parcel Maps recorded May 2, 1997, in Book 43 of Parcel Maps at Page 70 and 71 and March 26, 1998 in Book 43 of Parcel Maps at Pages 155-156, City and County of San Francisco, Official Records.

Said maps, among other matters, disclose encroachments of improvements located on adjacent land (St. Patrick's Church) onto the herein described Tract One and Tract Six, and an encroachment of improvements located on adjacent land (Lot 93, Block 3706) onto the herein described Tract Five.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**19. Amended and Restated Construction, Operation and Reciprocal Easement Agreement and Agreement Creating Liens**

Dated: MARCH 31, 1998
 Executed By: YBG ASSOCIATES LLC, A DELAWARE LIMITED LIABILITY COMPANY
 And Between: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF
 SAN FRANCISCO, CALIFORNIA, AN AGENCY ORGANIZED UNDER THE
 COMMUNITY DEVELOPMENT LAW OF THE STATE OF CALIFORNIA

Upon the terms, provisions, covenants and conditions contained therein,

Recorded: APRIL 7, 1998, REEL H106, IMAGE 579, SERIES NO. 98-G331392-00, OFFICIAL
 RECORDS

And as amended by that certain document

Entitled: FIRST AMENDMENT TO AMENDED AND RESTATED CONSTRUCTION,
 OPERATION AND RECIPROCAL EASEMENT AGREEMENT AND AGREEMENT
 CREATING LIENS
 Recorded: OCTOBER 28, 1998, REEL H250, IMAGE 581, SERIES NO. 98-G458534-00,
 OFFICIAL RECORDS

A document subject to the terms, provisions and conditions therein contained therein

Entitled: GRANT DEED
 Grantor: CB 1 ENTERTAINMENT PARTNERS LP., A CALIFORNIA LIMITED PARTNERSHIP
 Grantee: CB 1 HOTEL LLC, A DELAWARE LIMITED LIABILITY COMPANY
 Recorded: NOVEMBER 14, 2001 IN REEL I014, IMAGE 0295, SERIES NO. H055074, OFFICIAL
 RECORDS

Provisions pertaining to the maintenance of Jessie Square Parcel have been modified by that certain instrument

Entitled: SECOND AMENDMENT TO CENTRAL BLOCK 1 RETAIL LEASE
 Recorded: April 29, 2003, REEL I376, IMAGE 793, SERIES NO. H425860, OFFICIAL
 RECORDS.

Right of Entry Agreement

Dated: April 28, 2003
 Executed By: CB-1 ENTERTAINMENT PARTNERS, L.P., A CALIFORNIA LIMITED
 PARTNERSHIP
 And Between: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN
 FRANCISCO, A PUBLIC BODY, CORPORATE AND POLITIC

Upon the terms, provisions, covenants and conditions contained herein,

Recorded: April 29, 2003, REEL I376, IMAGE 818,
 SERIES NO.: H425885, OFFICIAL RECORDS

No representation is made as to the ownership of interests or matters affecting the rights or interests or liens of the parties arising out of or occasioned by said instrument.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**20. Disposition and Development Agreement**

Dated: JULY 1, 1997
 Executed By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
 And Between: CB-1 ENTERTAINMENT PARTNERS, LP, A CALIFORNIA LIMITED PARTNERSHIP

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: APRIL 7, 1998, REEL H106, IMAGE 580, SERIES NO. 98-G331393-00, OFFICIAL RECORDS

First Amendment to Disposition and Development Agreement
 Recorded: APRIL 7, 1998, REEL H106, IMAGE 581, SERIES NO. 98-G331394-00, OFFICIAL RECORDS

As amended by unrecorded Second Amendment to the Disposition and Development Agreement entered into as of June 20, 2000, executed by the Developer, approved by the Agency Commission, but not executed by the Agency.

Said Agreement has been amended by the Third Amendment to the Disposition and Development Agreement between The Redevelopment Agency of the City and County of San Francisco, CB-1 Entertainment Partners LP, Jessie Square Garage Partners LLC, CB-1 Museum Partners LLC, and CB-1 JM Partners LLC.

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: April 29, 2003, REEL I376, IMAGE 790, SERIES NO. H425857, OFFICIAL RECORDS

Terms, covenants and conditions of that certain instrument related to said CB-1 DDA Third Amendment

Entitled: Assignment and Assumption Agreement
 Dated: May 22, 2001
 Executed By: CB-1 ENTERTAINMENT PARTNERS, LP, A CALIFORNIA LIMITED PARTNERSHIP, (THE "DEVELOPER")
 And Between: JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY AND CB-1 MUSEUM PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: April 29, 2003, as Instrument No. 2003-H425858, Official Records.

Said Agreement has been amended by the Fourth Amendment to the Disposition and Development Agreement by and among The Redevelopment Agency of the City and County of San Francisco, CB-1 Entertainment Partners LP, Jessie Square Garage Partners LLC, CB-1 Museum Partners LLC, and CB-1 JM Partners LLC.

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: April 29, 2003, as Instrument No. 2003-H425859, Official Records.

A Certificate of Completion of Improvements was recorded September 10, 2001, Book H969, Page 387, Series No. H019310 Official Records, and as re-recorded November 2, 2001, Book I007, Page 174, Series No. H049587 Official Records.

Affects: Residential Condominium Units/Lots various

A Certificate of Completion of Improvements was recorded October 5, 2001, Book H987, Page 665, Series No. H033799 Official Records.

Affects: Hotel Unit / Lots 270 and 271, Block 3706

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

A Certificate of Completion of Improvements was recorded September 3, 2002, Book I214, Page 505, Series No. H233379 Official Records.

Affects: Garage Unit / Lot 269, Block 3706

A Certificate of Completion of Improvements was recorded September 3, 2002, Book I214, Page 509, Series No. H233383 Official Records.

Affects: Sports Club / Lot 273, Block 3706

Said Agreement has been amended by the Fifth Amendment to the Disposition and Development Agreement by and between The Redevelopment Agency of the City and County of San Francisco and CB-1 Entertainment Partners LP.

Upon Terms, provisions, covenants and condition contained therein,

Dated: December 16, 2003
Recorded: January 23, 2004, Reel I559, Image 802
Instrument No: 2004-H645223, Official Records

Reference is made to the record for full particulars.

Certificate of Transfer of TDR, dated October 14, 2003 regarding those particular TDR's described as 3706/117:00001 through 3706/117:1683000

Upon Terms, provisions, covenants and condition contained therein,
Recorded: June 30, 2004, Reel I670, Image 700
Instrument No: 755215

21. A document subject to all the terms, provisions, and conditions therein contained

Entitled: Statement of Eligibility of TDR
Dated: September 22, 2001
Executed by: Planning Department of the City and County of San Francisco
Recorded: November 2, 2001, in Reel I007, Image 0337, Series No. 01-H049750, Official Records

Affects: Jessie Street Substation, City Landmark #87, Transferable Development Rights.

Reference is made to the record for full particulars.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**22. Lease** upon the terms and conditions contained therein

Dated: MARCH 31, 1998
 Lessor: REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
 Lessee: CB-1 ENTERTAINMENT PARTNERS, LP, A CALIFORNIA LIMITED
 PARTNERSHIP
 Recorded: APRIL 7, 1998, REEL H106, IMAGE 583, SERIES NO. 98-G331396-00, OFFICIAL
 RECORDS
 Term: NOT DISCLOSED

As amended and/or modified by that certain instrument

Entitled: AMENDMENT TO LEGAL DESCRIPTION TO CENTRAL BLOCK 1 RETAIL LEASE
 Recorded: OCTOBER 28, 1998, REEL H250, IMAGE 583, SERIES NO. 98-G458536-00, OFFICIAL
 RECORDS

Affects that portion of Tract One described as follows:

Covenants, Conditions, and Restrictions in the Deed

Executed By: The Redevelopment Agency of the City and County of San Francisco
 Recorded: October 28, 1998, In Reel H250, Image 584, Official Records
 Instrument No: G458537
 Affects: Tract Two

NOTE 1: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN
 FRANCISCO DATUM.

CB1:R8C (PARCEL C)

ALL THAT REAL PROPERTY ABOVE A HORIZONTAL PLANE AT ELEVATION 24.67 FEET, BOUNDED BY
 PLANES PROJECTED VERTICALLY ABOVE THE LIMITS OF CERTAIN LAND DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY LINE OF MISSION STREET
 WITH THE NORTHEASTERLY LINE OF FOURTH STREET; THENCE NORTHEASTERLY ALONG SAID LINE
 OF MISSION STREET, 308.713 FEET; THENCE AT A RIGHT ANGLE NORTHWESTERLY 160.052 FEET
 TO A POINT ON THE SOUTHEASTERLY LINE OF JESSIE STREET, AS SAID STREET EXISTED PRIOR TO
 THE VACATION THEREOF, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE AT A
 RIGHT ANGLE NORTHEASTERLY, ALONG THE SOUTHEASTERLY LINE OF FORMER JESSIE STREET,
 9.137 FEET; THENCE AT A RIGHT ANGLE NORTHWESTERLY 15 FEET; THENCE AT A RIGHT ANGLE
 SOUTHWESTERLY 9.137 FEET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY 15 FEET TO THE TRUE
 POINT OF BEGINNING.

Assessors LOT 123, BLOCK 3706

The Central Block-1 Retail Lease Parcel described as CB-1: R8C (Rectory Kiosk) Parcel C (Assessor's
 Lot 123, Block 3706) was formerly included within former Lot 113 as shown on that certain Parcel Map
 recorded May 2, 1997 in Book 43 of Parcel Maps at Pages 70-71, City and County of San Francisco,
 Official Records.

The Central Block-1 Retail Lease Parcel described as CB-1: R8C (Rectory Kiosk) Parcel C (Assessor's
 Lot 123, Block 3706) is currently included within Lot 117 as shown on that certain Parcel Map recorded
 March 26, 1998 in Book 43 of Parcel Maps at Pages 155-156, City and County of San Francisco,
 Official Records.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

As amended and/or modified by that certain instrument

Entitled: SECOND AMENDMENT TO CENTRAL BLOCK 1 RETAIL LEASE

Recorded: April 29, 2003, as Instrument No. 2003-H425860, Official Records.

As amended and/or modified by that certain instrument

Entitled: Grant Deed

Recorded: October 17, 2003, as Instrument No. 2003-H565582, Official Records.

A deed of trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Instrument No: 2004-H680173, of Official Records

An agreement to modify the terms and provisions of said deed of trust as therein provided

Recorded: Instrument No. 2004-H680173, of Official Records

The present ownership of said leasehold and other matters affecting the interest of the lessee are not shown herein.

- 23. Covenants**, conditions and restrictions, but omitting any covenant or restriction, if any, based on race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, contained in the Deed

From: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

To: CB-1 ENTERTAINMENT PARTNERS LP, A CALIFORNIA LIMITED PARTNERSHIP

Recorded: APRIL 7, 1998, REEL H106, IMAGE 582, SERIES NO. 98-G331395-00, OFFICIAL RECORDS

(AFFECTS TRACT FIVE (CB-1 MARKET STREET PLAZA))

NOTE: Section 12956.1 of the Government Code provides the following: If this document contains any restriction based on race, color, religion, sex, familial status, marital status disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

- 24. Covenants**, Conditions, and Restrictions in the Deed

Executed By: The Redevelopment Agency of the City and County of San Francisco

And Between: CB-1 Entertainment Partners LP, A California limited Partnership

Recorded: October 28, 1998, In Reel H250, Image 584, Official Records

Instrument No: G458537

Affects: TRACT FOUR (MARKET STREET PLAZA, PARCEL B)

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**25. Pedestrian** and Light and Air Easement AgreementExecuted By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
And Between: CB-1 ENTERTAINMENT PARTNERS LP, A CALIFORNIA LIMITED PARTNERSHIPUpon the terms, provisions, covenants and conditions contained therein,
Recorded: OCTOBER 28, 1998, REEL H250, IMAGE 585, SERIES NO. 98-G458538-00,
OFFICIAL RECORDS

(AFFECTS TRACT FIVE)

26. STATEMENT OF ELIGIBILITY OF TDR, dated July 27, 2001, regarding those particular TDR'S described as 3706/068:00001 through 3706/068:186590, recorded September 4, 2001, REEL H965, IMAGE 96, SERIES NO. 2001-H07852, OFFICIAL RECORDS.

Affects: TRACT ELEVEN (St. Patrick's Church)

27. STATEMENT OF ELIGIBILITY OF TDR, dated SEPTEMBER 22, 2001, regarding those particular TDR'S described as 3706/26:00001 through 3706/26:2361000, recorded NOVEMBER 2, 2001, REEL I007, IMAGE 0337, SERIES NO. 2001-H049750, OFFICIAL RECORDS.

Certificate of Transfer of TDR, dated October 14, 2003 regarding those particular TDR's described as 3706/117:00001 through 3706/117:1683000

Upon Terms, provisions, covenants and condition contained therein,
Recorded: June 30, 2004, Reel I670, Image 700
Instrument No: 755215

Reference is made to the record for full particulars.

Affects: The herein described land and other land.

CERTIFICATE OF TRANSFER OF TDR, dated SEPTEMBER 27, 2001, regarding those particular TDR'S described as 3706/068:00001 through 3706/068:65674, recorded OCTOBER 4, 2001, REEL H986, IMAGE 234, SERIES NO. 2001-H064600, OFFICIAL RECORDS.

Affects: TRACT ELEVEN (St. Patrick's Church)

CERTIFICATE OF TRANSFER OF TDR, dated DECEMBER 12, 2001, regarding those particular TDR'S described as 3706/068:65675 through 3706/068:81674 recorded March 22, 2002, REEL I100, IMAGE 318, SERIES NO. 2002-H132645, OFFICIAL RECORDS.

Affects: TRACT ELEVEN (St. Patrick's Church)

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

- 28. Disposition** and Development Agreement for the Lease and Development of the Jessie Square Parcel, Garage Parcel and Mexican Museum Parcel (Garage DDA)
 Executed By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
 And Between: CB-1 ENTERTAINMENT PARTNERS, LP, A CALIFORNIA LIMITED PARTNERSHIP

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: April 29, 2003, as Instrument No. 2003-H425861, Official Records.

Terms, covenants and conditions of that certain instrument
 Entitled: Assignment and Assumption Agreement
 Dated: October 22, 2002
 Executed By: CB-1 ENTERTAINMENT PARTNERS, LP, A CALIFORNIA LIMITED PARTNERSHIP, (THE "DEVELOPER")

And Between: JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY AND CB-1 MUSEUM PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY

Executed By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
 And Between: CB-1 ENTERTAINMENT PARTNERS, LP, A CALIFORNIA LIMITED PARTNERSHIP

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: April 29, 2003, as Instrument No. 2003-H425862, Official Records.

Said instrument recites in part "Pursuant to the terms of the Garage DDA, Developer hereby transfers and assigns all of its rights and obligations under the Garage DDA as follows: (i) all of its right and obligations under Garage DDA pertaining to the Garage Parcel, the Jessie Square Parcel, the Argent Work, the Jewish Museum Work and the St. Patrick's Church Work (collectively, "DDA Jessie Square and Garage Rights and Obligations"), to the Garage Developer, and (ii) all of its rights and obligations under the Garage DDA pertaining to the Mexican Museum Parcel (collectively, "DDA Mexican Museum Rights and Obligations," and together with the DDA Jessie Square and Garage Rights and Obligations, collectively, the "DDA Rights and Obligations"), to the Mexican Museum Developer. Garage Developer hereby assumes all of such DDA Jessie Square and Garage Rights and Obligations. Mexican Museum Developer hereby assumes all of such DDA Mexican Museum Rights and Obligations.

Garage Certificate of Completion (Garage and Jewish Museum Parcel) upon the terms and conditions contained therein

Dated: February 15, 2005
 Recorded: February 16, 2005 in Reel I828, Image 540, Official Records
 Instrument No: H905203

Said Certificate excludes Garage Punchlist Items.

As amended and/or modified by that certain instrument
 Entitled: Notice of Partial Termination of Central Block-1 Garage Lease
 Recorded: February 16, 2005, Reel I828, Image 541, Series No. H905204, Official Records

Upon the terms, provisions, covenants and conditions contained therein,
 Entitled: First Amendment to Disposition and Development Agreement
 Recorded: August 29, 2005, Reel I963, Image 0210, Instrument No. 2005-21493, Official Records

Reference is made to the record for full particulars.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

Terms and Conditions contained in that certain Second Amendment to Disposition and Development Agreement, recorded November 9, 2007, as Instrument No. 2007-1487841-00, Book J-515, Page 0720 of Official Records.

Terms and Conditions contained in that certain Notice of Final Termination of Central Block-1 Garage Lease, recorded February 4, 2011, as Instrument No. 2011-1131502-00, Book K-326, Page 0349 of Official Records.

29. TERMS , COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "JESSIE SQUARE GARAGE CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT"

Executed By: L-O SOMA HOLDING, INC., A DELAWARE CORPORATION
And Among: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO,
CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, AND JESSIE SQUARE
GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY

Upon the terms, provisions, covenants and conditions contained therein,
Recorded: April 29, 2003, as Instrument No. 2003-H425880, Official Records.

30. TERMS , COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "DECLARATION AND AGREEMENT (MEXICAN MUSEUM PARCEL)"

Executed By: JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY
COMPANY
And Among: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO,
CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC

Upon the terms, provisions, covenants and conditions contained therein,
Recorded: April 29, 2003, as Instrument No. 2003-H425881, Official Records.

Upon the terms, provisions, covenants and conditions contained therein,
Recorded: April 29, 2003, as Instrument No. 2003-H425882, Official Records.

31. Grant of Easement and Agreement (Mexican Museum Emergency Exit)

Executed By: L-O SOMA HOLDINGS, INC. A DELAWARE CORPORATION
And Between: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF
SAN FRANCISCO, A PUBLIC BODY, CORPORATE AND POLITIC

Upon the terms, provisions, covenants and conditions contained therein,
Recorded: April 29, 2003, as Instrument No. 2003-H425882, Official Records.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**32. TERMS , COVENANTS AND CONDITIONS OF THAT CERTAIN INSTRUMENT ENTITLED, "DECLARATION OF RECIPROCAL EASEMENT AGREEMENT (JEWISH MUSEUM AND GARAGE PARCELS)",**

Executed By: JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY
 And Between: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: April 29, 2003, as Instrument No. 2003-H425883, Official Records.

33. EASEMENT AGREEMENT (ELEVATOR, AIR INTAKE, GARAGE EXHAUST, EMERGENCY EGRESS) AND LICENSE AGREEMENT (STRUCTURAL TIEBACKS)

Dated: DECEMBER 29, 1989
 Executed By: JESSIE SQUARE GARAGE PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY
 And Among: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, A PUBLIC BODY, CORPORATE AND POLITIC, AND THE ROMAN CATHOLIC ARCHBISHOP OF SAN FRANCISCO, A CORPORATION SOLE

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: April 29, 2003, as Instrument No. 2003-H425884, Official Records.

34. Grant of Easements, Amendment to 1989 Easement Agreement and Quitclaim Agreement

Executed By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, A PUBLIC BODY, CORPORATE AND POLITIC
 And Between: THE ROMAN CATHOLIC ARCHBISHOP OF SAN FRANCISCO,

Upon the terms, provisions, covenants and conditions contained therein,

Recorded: April 29, 2003, as Instrument No. 2003-H425855, Official Records.

Affects: The herein described land and other land.

35. Right of Entry Agreement

Executed By: CB-1 ENTERTAINMENT PARTNERS
 And Between: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, A PUBLIC BODY, CORPORATE AND POLITIC

Upon the terms, provisions, covenants and conditions contained therein,
 Recorded: April 29, 2003, as Instrument No. 2003-H425885, Official Records.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

- 36.** Lease upon the terms and conditions contained therein (Garage Lease)
 Lessor: REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
 Lessee: JESSIE SQUARE LLC, A DELAWARE LIMITED LIABILITY COMPANY
 Recorded: April 29, 2003, as Instrument No. 2003-H425886, Official Records.

Garage Certificate of Completion (Garage and Jewish Museum Parcel) upon the terms and conditions contained therein

Dated: February 15, 2005
 Recorded: February 16, 2005 in Reel I828, Image 540, Official Records
 Instrument No: H905203

Said Certificate excludes Garage Punchlist Items.

As amended and/or modified by that certain instrument

Entitled: Notice of Partial Termination of Central Block-1 Garage Lease
 Recorded: February 16, 2005, Reel I828, Image 541, Series No. H905204, Official Records

The present ownership of said leasehold and other matters affecting the interest of the lessee are not shown herein.

- 37. Lease** upon the terms and conditions contained therein (Museum Lease)

Lessor: REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
 Lessee: CB-1 MUSEUM PARTNERS, LLC, A DELAWARE LIMITED LIABILITY COMPANY
 Recorded: April 29, 2003, as Instrument No. 2003-H425887, Official Records.

The present ownership of said leasehold and other matters affecting the interest of the lessee are not shown herein.

- 38. Matters** contained in that certain document entitled "License Agreement" dated April 28, 2003, executed by and between T/W Associates, California general partnership; Jessie Square Garage Partners LLC, a Delaware limited liability company; CB-1 Museum Partners LLC, a Delaware limited liability company recorded June 4, 2003, Instrument No. 2003-H453313-00, Book I-401, Page 0276, of Official Records.

Reference is hereby made to said document for full particulars.

- 39. Terms** and conditions contained in the Declaration of Use (Minor Sidewalk Encroachment)

Recorded: August 21, 2003, Reel I456, Image 0735, Instrument No. H517852, Official Records

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**40. Grant of Easement and Declaration of Restrictions on Grant of Easements (Elevator Opening Protection and Garage Exhaust)**

Dated: January 9, 2004
 Executed By: The Redevelopment Agency of the City and County of San Francisco
 And Between: Jessie Square Garage Partners LLC, a Delaware limited liability company

Upon the terms, provisions, covenants, and conditions contained therein

Recorded: April 8, 2005, in Reel I864, Image 008, Official Records
 Instrument No: H933692

Reference is made to the record for full particulars.

41. Grant of Easements and Declaration of Restrictions on Grant of Easements (Church Stairs Easement and Accessibility Easement)

Dated: January 9, 2004
 Executed By: The Redevelopment Agency of the City and County of San Francisco
 And Among: Jessie Square Garage Partners LLC, a Delaware limited liability company and the Roman Catholic Archbishop of San Francisco, a corporation sole

Upon the terms, provisions, covenants, and conditions contained therein

Recorded: April 8, 2005, in Reel I864, Image 009, Official Records
 Instrument No: H933693

Reference is made to the record for full particulars.

42. Grant of Easements and Declaration of Restrictions on Grant of Easements (Air Intake and Garage Exhaust Easement)

Dated: January 9, 2004
 Executed By: The Redevelopment Agency of the City and County of San Francisco
 And Among: Jessie Square Garage Partners LLC, a Delaware limited liability company and the Roman Catholic Archbishop of San Francisco, a corporation sole

Upon the terms, provisions, covenants, and conditions contained therein

Recorded: April 8, 2005, in Reel I864, Image 010, Official Records
 Instrument No: H933694

Reference is made to the record for full particulars.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**43. Grant of Easement and Declaration of Restrictions on Grant of Easements (Jewish Museum Exit Stairs)**

Dated: January 9, 2004
 Executed By: The Redevelopment Agency of the City and County of San Francisco
 And Between: Jessie Square Garage Partners LLC, a Delaware limited liability company

Upon the terms, provisions, covenants, and conditions contained therein

Recorded: April 8, 2005, in Reel I864, Image 011, Official Records
 Instrument No: H933695

Reference is made to the record for full particulars.

44. Grant of Easement and Declaration of Restrictions on Grant of Easements (Mexican Museum Exit Stairs and Ramp)

Dated: January 9, 2004
 Executed By: The Redevelopment Agency of the City and County of San Francisco
 And Between: Jessie Square Garage Partners LLC, a Delaware limited liability company

Upon the terms, provisions, covenants, and conditions contained therein

Recorded: April 8, 2005, in Reel I864, Image 012, Official Records
 Instrument No: H933696

Reference is made to the record for full particulars.

45. Grant of Easement and Declaration of Restrictions on Grant of Easements (Stevenson Street Ramp Air Intake and Subterranean Openings)

Dated: January 9, 2004
 Executed By: The Redevelopment Agency of the City and County of San Francisco
 And Among: Jessie Square Garage Partners LLC, a Delaware limited liability company and Soma Holdings, Inc., a Delaware limited liability company

Upon the terms, provisions, covenants, and conditions contained therein

Recorded: April 8, 2005, in Reel I864, Image 013, Official Records
 Instrument No: H933697

Reference is made to the record for full particulars.

46. Matters set forth on those certain Parcel Maps recorded May 2, 1997, in Book 43 of Parcel Maps at Page 70 and 71 and March 26, 1998 in Book 43 of Parcel Maps at Pages 155-156, City and County of San Francisco, Official Records.

Said maps, among other matters, disclose encroachments of improvements located on adjacent land (St. Patrick's Church) onto the herein described Tract One and Tract Six, and an encroachment of improvements located on adjacent land (Lot 93, Block 3706) onto the herein described Tract Five.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**47. A document** subject to all the terms, provisions and conditions therein contained therein

Entitled: Statement of Eligibility of TDR
 Dated: July 27, 2001
 Executed by: Planning Department of the City and County of San Francisco
 Recorded: September 4, 2001 in Reel H965, Image 96, Series No. 01-H007852, OFFICIAL RECORDS

Affects: Saint Patrick's Church and Rectory, City Landmark#4, Transferable Development Rights.

A document subject to all the terms, provisions and conditions therein contained

Entitled: Certificate of Transfer of TDR
 Dated: September 27, 2001
 Executed by & between: The Roman Catholic Archbishop of San Francisco, a corporation sole and Pacific Resources PCX Development Inc., a California corporation
 Recorded: October 4, 2001 in Reel H986, Image 234, Series No. 01-H032692, OFFICIAL RECORDS

A document subject to all the terms, provisions and conditions therein contained

Entitled: Certificate of Transfer of TDR
 Dated: March 7, 2002
 Executed by & between: The Roman Catholic Archbishop of San Francisco, a corporation sole and Pan Pacific Ocean Hotel
 Recorded: March 22, 2002 in Reel I100, Image 318, Series No. 02-H132645, OFFICIAL RECORDS

Affects: ST. PATRICK'S CHURCH

48. Terms and conditions contained in the Declaration of Use Limitation (Underground Connecting Passage)

Executed By: THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
 And Between: CB-1 GARAGE CO LLC
 Recorded: May 5, 2005, Reel I883, Image 0013, H947805, Official Records

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**49. The following** matters as shown on A.L.T.A. Survey dated April 9, 2003, prepared by Martin M. Ron, Associates, Inc., Job No. S-4503:

- I. An encroachment of the improvements, situated on land adjoining on the North as follows:
 - i. 4th story portion 0.02' over to 0.03' over
- II. An encroachment of the improvements situated on said land onto Stevenson Street as follows:
 - i. 0.5' +/- over various abandoned pipes along building face
 - ii. 1.0' +/- over metal roll-up door frame, 10' up
 - iii. 2.6' +/- over light, 12' up (abandoned)
- III. An encroachment of the improvements, situated on land adjoining on the Northeast (Argent Hotel Lands) onto said land, as follows:
 - i. 0.1' over to 0.2' over edge of concrete
 - ii. 5.1' over landscaped planted area
 - iii. 11' +/- maximum various tree spreads
- IV. An encroachment of the improvements situated on said land onto adjoining land on the Northeast (Argent Hotel Lands) as follows:
 - i. 0.2' over to 0.6' over fence
 - ii. 14' +/- over maximum various tree spreads and planted area
- V. An encroachment of the improvements, situated on land adjoining on the Southwest (St. Patrick's Church Lands) onto said land, as follows:
 - i. 0.27' over building
 - ii. 0.35' over roof
 - iii. 0.46' over roof flashing
 - iv. 15.5' +/- over stairs
 - v. 6.5 +/- over landing
 - vi. 1.5 +/- over concrete landing and stairs
 - vii. 2.5 +/- over landing
- VI. An encroachment of the improvements situated on said land onto Mission Street as follows:
 - i. 5' +/- parking sign, 8' up, 8' high
 - ii. 0.14' over 24" +/- brick wall
- VII. An encroachment of the improvements, situated on land adjoining on the South (St. Patrick's Church lands) onto said land, as follows:
 - i. 0.2' +/- over roof overhand
 - ii. 0.15' +/- over building
 - iii. 5.7' +/- over steps
 - iv. 0.21' +/- over building
 - v. 0.13' +/- over base
 - vi. 0.30' +/- over roof cornice
 - vii. 0.5' +/- over roof cornice
 - viii. 0.7' +/- over light 14' up, typical
 - ix. 0.9' +/- over roof cornice (3rd story portion)
 - x. 0.51 over scupper

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

- xi. 15' up water downspout to sidewalk
- xii. 0.39' over at base 1' up
- xiii. 0.06' over building door 3' up
- xiv. door 3' up

VIII. An encroachment of the improvements situated on said land onto adjoining land on the South (St. Patrick's Church lands) as follows:

- i. 0.02' over 0.09 ' over brick wall

50. **Matters** contained in that certain document entitled "Grant Deed (Agency Disposition Parcel CB-1-JSS)" dated June 27, 2006, executed by and between Redevelopment Agency of The City and County of San Francisco, a public body, corporate and politic, of the State of California; The Contemporary Jewish Museum, a California nonprofit public benefit corporation recorded June 29, 2006, Instrument No. 2006-I202463-00, Book J-172, Page 0578, of Official Records.

Reference is hereby made to said document for full particulars.

51. **Matters** contained in that certain document entitled "Grant of Easement and Declaration of Restrictions (Burdens Jessie Square Parcel)" dated May 5, 2008, executed by and between Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic; City and County of San Francisco, a municipal corporation recorded May 28, 2008, Instrument No. 2008-I588924-00, Book J-650, Page 0360, of Official Records.

Reference is hereby made to said document for full particulars.

52. **Matters** contained in that certain document entitled "Jessie Square Notice of Compliance (Jessie Square Parcel)" dated February 3, 2011, executed by and between Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic; CB-1 Entertainment Partners LP, California limited partnership recorded February 4, 2011, Instrument No. 2011-J131501-00, Book K-326, Page 0348, of Official Records.

Reference is hereby made to said document for full particulars.

53. **The fact** that said land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document.

Redevelopment

Agency: Redevelopment Agency of the City and County of San Francisco (Yerba Buena Center)

Recorded: January 8, 2010, Instrument No. 2010-I902285-00, Book K-055, Page 0347, of Official Records

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

54. Any claim that the transaction vesting the Title as shown in Schedule A or creating the lien of the Insured Mortgage, or any other transaction occurring on or prior to Date of Policy in which Redevelopment Agency of the City and County of San Francisco or its successors transferred, acquired, or made any agreement affecting the title to or any interest in the Land, is void or voidable, or subject to termination, renegotiation, or judicial review, under California Assembly Bill 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session).

55. Any rights of the parties in possession of a portion of, or all of, said land, which rights are not disclosed by the public record.

This Company will require, for review, a full and complete copy of any unrecorded agreement, contract, license and/or lease, together with all supplements, assignments and amendments thereto, before issuing any policy of title insurance without excepting this item from coverage. The Company reserves the right to except additional items and/or make additional requirements after reviewing said documents.

56. Matters which may be disclosed by an inspection and/or by a correct ALTA/ACSM Land Title Survey of said land that is satisfactory to this Company, and/or by inquiry of the parties in possession thereof.

57. Any claims for mechanics' liens that may be recorded by reason of a recent work of improvement under construction and/or completed at the date hereof.

58. If a work of improvement is contemplated, in progress or recently completed. To assist the Company in determining if it can give the priority coverage contained within the policy contemplated by this report, please provide the following:

- (a) Current Financial Statement and/or Current Loan Application.
- (b) Project Cost Breakdown.
- (c) Completed Loss of Priority Questionnaire. (This form furnished by the Company).
- (d) A fully executed Indemnity Agreement. (This form furnished by the Company).
- (e) If work* has commenced prior to the recordation of the Construction Deed of Trust there will be further requirements and the closing of the transaction could be delayed.

*"Work" may include, among other things, any preparation of the site for the planned construction, delivery of construction materials or equipment and any labor furnished.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

59. This Company will require that a valid Notice of Completion be recorded.

ITEMS: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

- 60. This Company will require** an Owner's Affidavit to be completed by the party(ies) named below before any title assurance requested under this application will be issued.

Party(ies): The Redevelopment Agency of the City and County of San Francisco

The Company reserves the right to add additional items or make further requirements after review of the requested Affidavit.

- 61. This Company will require** the following documents for review prior to the issuance of any title assurance predicated upon a conveyance or encumbrance by the corporation named below.

Corporation: The Redevelopment Agency of the City and County of San Francisco,

- (a) A copy of the corporation By-Laws and Articles of Incorporation.
- (b) An original or certified copy of the Resolution authorizing the transaction contemplated herein.
- (c) If the Articles and/or By-Laws require approval by a "parent" organization, a copy of the Articles and By-Laws of the parent.

The right is reserved to add requirements or additional items after completion of such review.

- 62. The transaction contemplated** in connection with this Report is subject to the review and approval of the Company's Corporate Underwriting Department. The Company reserves the right to add additional items or make further requirements after such review.

Please call the Title Department five (5) days prior to the contemplated closing to determine if additional documents or information is required.

- 63. No open Deeds of Trust: CONFIRM BEFORE CLOSING**

END OF ITEMS

- Note 1. The application** for title insurance was placed by reference to only a street address or tax identification number.

Based on our records, we believe that the description in this report covers the parcel requested, however, if the legal description is incorrect a new report must be prepared.

If the legal description is incorrect, in order to prevent delays, the seller/buyer/borrower must provide the Company and/or the settlement agent with the correct legal description intended to be the subject of this transaction.

- Note 2.** The charge for a policy of title insurance, when issued through this title order, will be based on the Basic (not Short-Term) Title Insurance Rate.

NOTES: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766**Note 3.** Property taxes for the fiscal year shown below are PAID. For proration purposes the amounts are:

Tax Identification No.:	Lot 277, Block 3706
Fiscal Year:	2012 - 2013
1st Installment:	\$4,588.80
2nd Installment:	\$4,588.80
Exemption:	-0-
Land:	\$0.00
Improvements:	\$0.00
Personal Property:	-0-
Bill No.:	124557

The lien of the assessment shown below, which assessment is or will be collected with, and included in, the property taxes shown above.

Assessment:	Yerba Buena CBD
Amount:	\$9,177.60

Affects: TRACT ONE, TRACT TWO and other land

Note 4. **Property taxes**, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2012-2013, Assessor's Parcel Number Lot 275, Block 3706.

Code Area Number:	
1st Installment:	\$0.00 NO TAXES DUE
2nd Installment:	\$0.00 NO TAXES DUE
Land:	\$0.00
Improvements:	\$0.00
Exemption:	-0-
Personal Property:	-0-
Bill No.:	124555

Affects: TRACT THREE

Note 5. The Company is not aware of any matters which would cause it to decline to attach the CLTA Endorsement Form 116 indicating that there is located on said land Commercial Property known as (Jessie Square Garage / Agency Property), San Francisco, CA to an Extended Coverage Loan Policy.**Note 6.** There are NO deeds affecting said land, recorded within twenty-four (24) months of the date of this report.

NOTES: (continued)

Title No. 13-**36914766**-C-JM
Locate No. CACTI7738-7738-2369-0036914766

Note 7. Effective December 17, 2010, as mandated through local ordinance, the transfer tax rates are as follows:

More than \$100 but Less than or Equal to \$250,000 at \$2.50 for each \$500 (\$5.00 per thousand)
More than \$250,000 but Less than \$1,000,000 at \$3.40 for each \$500 (\$6.80 per thousand)
\$1,000,000 or More but Less than \$5,000,000 at \$3.75 for each \$500 (\$7.50 per thousand)
\$5,000,000 or More but Less than \$10,000,000 at \$10.00 for each \$500 (\$20.00 per thousand)
\$10,000,000.00 or More at \$12.50 for each \$500 or portion thereof (\$25.00 per thousand)

NOTE: These rates are for documents recorded on or after December 17, 2010, regardless of when the instrument was executed.

Note 8. If a county recorder, title insurance company, escrow company, real estate broker, real estate agent or association provides a copy of a declaration, governing document or deed to any person, California law requires that the document provided shall include a statement regarding any unlawful restrictions. Said statement is to be in at least 14-point bold face type and may be stamped on the first page of any document provided or included as a cover page attached to the requested document. Should a party to this transaction request a copy of any document reported herein that fits this category, the statement is to be included in the manner described.

Note 9. Please contact Escrow Office for Wire Instructions.

Note 10. Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an agent, an authorized employee of the insured lender, or by using Bancserv or other approved third-party service. If the above requirements cannot be met, please call the company at the number provided in this report.

END OF NOTES

Exhibit O

Scope of Development for Cultural Component

I. GENERAL DESCRIPTION OF DEVELOPMENT

A. The Site

The Project site (“Site”) is approximately 63,468 square feet (1.45 acres) in area and is located at the northwest corner of Third and Mission Streets in the former Yerba Buena Center Redevelopment Project Area. The existing improvements on the Site are the Aronson Building, located at 706 Mission Street, Block 3706 Lot 93, which occupies the Third and Mission Street corner of the Site; the Agency Property, located at 720 Mission Street, Block 3706 Portion of Lot 277; and the Jessie Square Garage, located at 223 Stevenson Street, Block 3706 Portion of Lot 277 and entirety of Lot 275. The Aronson Building is a 10-story steel framed, concrete and masonry building constructed in 1903. It has a footprint size of approximately 84 feet by 106 feet.

B. Developer Improvements and Uses

(1) The Developer shall construct or cause to be constructed on the Site a mixed-use residential and cultural use project. The Project shall include up to 190 market rate residential condominium units, approximately 48,000 net square feet of cultural/museum uses (the “Cultural Component”), approximately 4,800 gross square feet ground floor restaurant/retail uses that shall be leased by Developer to The Mexican Museum, residential amenity areas, and up to 470 off-street parking spaces within the existing Jessie Square Garage, which shall include no more than (1) private parking space for each residential unit in the Project, with the balance of the spaces being available for public parking. The public parking shall include up to ten (10) parking spaces for the Cultural Component in accordance with the Regulatory Approvals, at a competitive rate consistent with

rates paid by the Contemporary Jewish Museum. Public and private parking spaces may also need to accommodate spaces for vans, handicapped accessibility, car sharing, electric charging, valet services and guests as provided in the Regulatory Approvals.

(2) Pursuant to Section 7.1 of this Agreement, the Developer will deliver the Core and Shell for the Cultural Component of approximately 48,000 net square feet within the Project completed to a condition ready for tenant improvements.

(3) In connection with the Aronson Building, the Project's Environmental Impact Report (EIR), Historic Structures Report (HSR), Architectural Design Intent Statement (ADIS), and Project Entitlements including Major Permit to Alter and Appendix outline the manner in which the Aronson Building is to be addressed for the retention, rehabilitation, and adaptive reuse of the Aronson Building.

II. GENERAL DEVELOPMENT AND CULTURAL COMPONENT DESIGN OBJECTIVES

The intent of this Scope of Development is to provide a general direction to the development of the Cultural Component to insure the following objectives:

- A. To complete the redevelopment of the YBC Redevelopment Project Area envisioned under the *Yerba Buena Center Redevelopment Plan*.
- B. To stimulate and attract private investment and generate sales taxes and other General Fund revenues from new uses on the project site, thereby improving the City's overall economic health, employment opportunities, tax base, and community economic development opportunities.
- C. To ensure construction of a preeminent building with a superior level of design for this important site across from Yerba Buena Gardens and adjacent to Jessie

Square in a manner that complements the landscaping and design of Jessie Square.

- D. To provide housing in an urban infill location to help alleviate the effects of suburban sprawl.
- E. To create a development that is financially feasible and that can fund the project's capital costs and ongoing operation and maintenance costs related to the redevelopment and long-term operation of the Mexican Museum parcel without reliance on public funds.
- F. To maximize the quality of the pedestrian experience along Mission Street and Third Street, while maintaining accessibility to the project site for automobiles and loading.
- G. To provide for rehabilitation of the historically important Aronson Building.

III. DEVELOPMENT STANDARDS AND REQUIREMENTS

The Development of the Site and Cultural Component shall comply with the following Land Uses and Development Standards:

A. Site

- 1. General. It is the intent of the Agency, in evaluating the development, to insure a compatible architectural design consistent with the goals and objectives of the former Redevelopment Plan and the Development Standards, Planning Code, the City's General Plan, and the City's Downtown Streetscape Plan and the Regulatory Approvals.

B. Architectural

- 1. General. The Development shall be of high architectural quality and appearance, relating to the surrounding buildings.
- 2. Building Height. The overall structure shall not exceed 510 feet in height (480' to roof with a 30' elevator/mechanical penthouse) including elevator

and mechanical equipment and appurtenances necessary for the design, maintenance and operation of the building, skylights, roof and other architectural elements.

3. Building Setbacks. Building setbacks, if any, shall conform to the requirements of the San Francisco Planning Code and the Regulatory Approvals.
4. Roof Tops. Any appurtenances occurring on the roof must be carefully grouped and screened from view in a manner approved by the Agency and Planning Department. Efforts are to be made to create and maintain an attractive appearance of the roof top.
5. Utilities. All utility services on the Site and for Cultural Component shall be underground or concealed within the building. Mechanical equipment, meters, and other items shall be completely enclosed within the building.
6. Trash Areas. Any trash storage and loading/removal areas shall be completely enclosed within the building at the loading dock level.
7. Freight Loading. Freight loading areas shall be completely enclosed within the building.
8. Public Vehicular Access. Site access into the Jessie Square Garage for parking and loading areas for the Cultural Component shall be ingress from Stevenson Street, and egress to Stevenson Street (loading and vehicular) or Mission Street (vehicular only).

C. Landscaping

1. General. The Site and landscaped building areas shall be provided with appropriate landscaping of such design, material selection and irrigation system as to insure a permanent landscaped environment which enhances the Site.

2. Street trees, sidewalk improvements and ground level landscape design adjacent to the Cultural Component shall be subject to final approval by the Successor Agency in cooperation with The Mexican Museum, Planning Department, and the City's Department of Public Works.

D. Exterior Signs

1. General. The Developer, in collaboration with The Mexican Museum's development team, shall provide an appropriate exterior signage program including design and location as to be compatible with the development of the Site and Cultural Component, which signage program shall be consistent with applicable City regulations and requirements, and subject to the approval of the Successor Agency, not to be unreasonably withheld. Interior signs for the Cultural Component and any Cultural Component exterior identity signage shall be consistent with this signage program and shall be a part of the tenant improvements and shall be paid for and installed by Tenant.
2. Signs. All exterior signs for the Cultural Component will be subject to Successor Agency approval for design, and location, and shall also conform to the approved exterior sign program and limitations of the City's sign ordinance.

E. Construction

1. General. The construction of the Development shall be performed in a safe and orderly manner which insures minimal disturbance to the adjoining property as well as to the neighborhood as a whole.
2. Dust and Disturbance. During construction of the Development the Developer shall take all reasonable precautions to minimize dust and disturbance to adjacent properties.

3. Construction Barricade. During construction the Developer shall erect and maintain a construction barricade at the perimeter of the Site, not less than 8 feet in height and of a design approved by the Successor Agency and in accordance with applicable City regulations and requirements.
4. Construction Noise. Construction noise disturbance shall be minimized with least disturbance to neighboring uses in compliance with the City's Noise Ordinance.

IV. DEVELOPMENT PROGRAM

Developer and Agency obligations regarding Development and Cultural Component program and uses:

A. Agency's Obligations

Agency has no obligations concerning the Site or the Development except as set forth in this Agreement and the Attachments hereto.

B. Developer's Obligations

1 On-Site Preparation.

The Developer shall perform or cause to be performed the following work on the Site.

- (a) Demolition and removal of existing improvements, if any, subject to the Project's Environmental Impact Report (EIR), Historic Structures Report (HSR), and Architectural Design Intent Statement (ADIS), and Project Entitlements including the Major Permit to Alter and Appendix.
- (b) Developer shall be responsible for securing delivery of all utilities necessary for the Development, including the removal and/or relocation of utilities now in service, such as storm sewers, sanitary

sewers, water systems, steam, underground electrical systems, telephone, data and gas systems.

- (c) Backfill with suitable materials and compact and grade to a level consistent with Developer's plans and drawings approved by the Agency.
- (d) Developer shall be responsible for developing the Cultural Component space in such a way to provide the highest level of care for the security and protection of The Mexican Museum's art collection as well as prospective travelling exhibits of art to be displayed at the Cultural Component space. The Developer shall take into account and proactively address The Mexican Museum's concerns which include but are not limited to the prevention of water infiltration from the uses of the residential component of the Project; providing the appropriate load requirements on each new construction floor to support the weight of large and heavy art objects which are projected to be exhibited in the Cultural Component space, based on requirements provided in a timely manner by The Mexican Museum (Cultural Component to work within the existing historic Aronson building structure loading maximums provided and/or feasible); appropriate freight elevator capacity commensurate with the needs of The Mexican Museum, based on requirements provided in a timely manner by The Mexican Museum; appropriate paths of ingress and egress into the Cultural Component space for large objects of art, as feasible; and work collaboratively to achieve the best and highest use of the existing Aronson Building's rehabilitation for The Mexican Museum's needs.

2. Off-Site Preparation.

Developer shall perform or cause to be performed on the Site the following: Construct, resurface or rebuild and repair sidewalk frontages along the boundaries of the Site. Such off-site improvements will consist of new curbs, gutters (if required), sidewalks, street trees and street lighting within the public rights-of-way and will also include such work in expanded sidewalk setback, Jessie Square Plaza, and Westin Walkway areas, as required.

C. In addition to the other Developer responsibilities set forth elsewhere in this Agreement, the Developer shall be responsible, at its sole expense, for the installation and/or coordination of all public improvements required for the development of the Site. Such public improvements, whether within the Site or in the adjacent public rights-of-way, shall include, but not be limited to, the following:

1. All site preparation activities on the Site.
2. The construction, resurfacing, or rebuilding and repairing, if required, by the City of sidewalks, curbs, gutters, depressed curbs, driveways, ramps, catch basins, street trees or other public improvements within the public rights-of-way abutting the Site.
3. All utility services required for the Development and the Cultural Component stub-ins and provisions either within the Site or the adjacent public rights-of-way including, but not limited to, the following:
 - (a) Water
 - (b) Power
 - (c) Sewer
 - (d) Storm Drain
 - (e) Natural Gas

- (f) Steam
- (g) Telephone
- (h) Cable

- 4. Reparcelization of the Site, if necessary, for the Development and Cultural Component uses as set forth in this Agreement.

Items 1, 2, 3 and 4 of this Section IV.C shall be performed according to City requirements.

V. SUBMITTALS

The basic submittals to be made by the Developer to the Agency shall include, but not be limited to, the following:

A. Schematic Design Drawings, which shall generally include, but not be limited to:

- 1. Site Plan showing general relationships of the Core and Shell to other building areas, open space, easements, walks, streets and parking areas. Adjacent existing trees and structures proposed to be retained, and proposed street trees, landscape elements, and structures shall be shown.
- 2. Site Sections showing height relationship in addition to those shown above.
- 3. Building plans, elevations, and sections sufficient to indicate the proposed Core and Shell, the general architectural character, and structural system and materials proposed at sufficiently large scale to fully explain the proposal.

4. Cultural Component data including size and use of the facilities proposed to be provided, structural system, and principal building materials consistent with Section IV.B(D) above.
5. Perspective sketches (at eye level) and/or model showing the architectural character of the proposed design of the tower and base building, and the Cultural Component design to the extent feasible.

The Schematic Design Drawings shall be in sufficient detail and completeness to show that such Improvements and the construction thereof will comply with the provisions of this Agreement, as well as with any agreements with The Mexican Museum, and/or as set forth in any and/all Regulatory Approvals, including but not limited to conditions set forth by the Planning Commission, the Historic Preservation Commission, and/or the San Francisco Board of Supervisors.

B. Design Development Documents which shall generally include, but not be limited to:

1. Site plan or plans at appropriate scale showing:
 - (a) Buildings, streets, easements, walks, parking areas and other open spaces. All land uses shall be designated. All site development details, and bounding streets, points of vehicular and pedestrian access shall be shown.
 - (b) All utilities, easements or service facilities, whether related to work by the City or by Developer, shall be shown.
2. All building plans and elevations at appropriate scale.

3. Building sections showing all typical cross sections at appropriate scale including structural system.
4. Floor Plans at appropriate scale.
5. Grading Plan at appropriate scale.
6. Landscape plans showing all details including walls, fences, planting materials, paving, exterior lighting, and improvements in the City's rights-of-way.
7. Perspective sketches (at eye level) and/or model showing the architectural character of the proposed design of the tower and base building, and the Cultural Component design to the extent feasible.
8. Outline specifications for materials and methods of construction.
9. Material samples.
10. Roof plans showing all mechanical and other equipment.
11. Exterior sign program showing location and sizes, indicated in the proposed type face.
12. Roof plans for all underground uses showing location of ventilation system and all other penetrations.
13. Final exterior façade/curtain wall design wind analysis including wind tunnel analysis, if necessary.

These Design Development Documents shall be in sufficient detail and completeness to show that such Improvements and the construction thereof will comply with the provisions this Agreement.

C. Final Construction Documents, which shall generally include, but not be limited to (and may be submitted in accordance with the procedure described in Section 7.10(c)(3)):

1. All items specified in Section V.B. above “Design Development Documents” in final and complete form, including full specifications.
2. Cost estimate.

D. Supplementary Documents or other documents reasonably requested by the Agency may be necessary and appropriate to support, explain and implement the foregoing Development and Cultural Component. Such documents, when requested, shall be incorporated in the submissions specified in this Section V., Items A., B. and C.

VI. CORE AND SHELL WORK TO BE PERFORMED BY DEVELOPER

The scope of Core and Shell development shall include the following (as referred to below, “Landlord” refers to the owner of the Cultural Component and “Tenant” refers to the tenant of the Cultural Component under the Cultural Component Lease):

A. Building Structure:

1. Floor Structure:

- a) At new construction, floor slabs shall be mild steel reinforced concrete and/or steel with concrete deck, and designed to meet Code requirements for live and dead loads for assembly occupancy; at existing historic building structure to remain, provide estimated maximum live and dead load capacities for the Tenant’s occupancy use and design purposes. At

new construction, floor loading in the galleries shall be equal to 150 PSF for all areas where the permanent collection shall be displayed and 200 PSF in the special exhibition gallery areas; provided, however, that 200 PSF shall only be required for the floors of the Cultural Component that are new construction, and the floors of the Cultural Component in the existing Aronson Building are anticipated to support loads of approximately 100 PSF to 150 PSF, although the exact permissible floor loading amount will be determined at a later time based on field testing.

- b) Design to meet Code requirements for construction type and occupancy separations.
- c) Existing historic structure shall be seismically upgraded to meet Code requirements.
- d) Recessed floor slab at ground level new construction only where required for special floor finishes.
- e) Elevator pits/floor openings of sufficient size for one 10,000# passenger/service elevator and up to three 3500# passenger elevators enclosed with rated shaft walls with required clearances and machine room enclosures adjacent or near elevator shafts (possibly outside demised premises if convenient for both Landlord and Tenant). Landlord shall provide and install elevators and associated equipment and systems, which are consistent with Section IV.B(D) above; Tenant shall provide and install final interior cab finishes. Tenant's service elevator will require security monitoring by camera only as it will be located within Landlords base building services areas.
- f) Floor openings for internal stairs, mechanical/electrical/plumbing systems, and shafts: if sufficient information with respect thereto is provided by Tenant in a timely manner so as not to increase costs to Landlord (in collaboration and coordination with the Developer's design, permitting, and construction timeline); if information is not available, provide floor openings for stairs, mechanical/electrical/plumbing systems, and shafts as shown on Design Development Documents consistent with Section IV.B(D) above.

2. Columns:

- a) Columns, fireproofed as required by construction type. Column locations determined by base building structural grid.

B. Building Envelope

1. Exterior Wall Systems:

- a) Base building standard, weather resisting exterior wall systems. Exterior wall system at the Cultural Component to include proper moisture barrier to maintain required relative humidity (RH) and temperature requirements, criteria for which shall be defined in coordination with Cultural Component requirements and in compliance with applicable Codes.
- b) Insulation at exterior walls as required by Code and sufficient to provide acoustical insulation from other adjacent program uses comparable to that provided for the residential lobby.
- c) At historic building, base building standard storefront system within existing and/or rehabilitated exterior walls and up to three (3) pair swing entry doors along ground floor facades, in locations as approved with the Major Permit to Alter and Appendix, without vestibules; base building standard windows within existing and/or rehabilitated exterior walls at upper levels, and museum standard glazing at Cultural Component levels, to be defined by The Mexican Museum in coordination with Developer and subject to the Regulatory Approvals, including the entitlements and conditions of approval from the Historic Preservation Commission, and other Planning and Building Code and legal requirements.
- d) At tower base, glazed storefront system along ground floor facades and up to four (4) pair swing doors without vestibule; glazed and/or solid curtain wall system along upper floor facades at tower base.
- e) Hollow metal exterior doors at egress stairs, access doors, and access to loading dock and basement storage areas.
- f) Exterior facades shall be designed to address and mitigate wind conditions as required to comply with the Project's Environmental Impact Report (EIR).
- g) Exterior facades shall be designed to comply with the requirements of the Project's Environmental Impact Report (EIR), Permit to Alter, Historic Structures Report (HSR), and the Architectural Design Intent Statement (ADIS), and Regulatory Approvals including the Major Permit to Alter and Appendix.
- h) Exterior materials, colors and texture of exterior finishes, architectural and decorative detailing, door and other opening locations, glazing types and locations, and building envelope: sufficient information with respect thereto shall be provided by Tenant (in collaboration and coordination with the Developer's design, permitting, and construction timeline) in a timely manner so as not to increase costs to Landlord; if information is not available, provide as shown on Design Development Documents.

2. Building Maintenance System

- a) Building envelope and facades shall be designed to accommodate base building window washing system requirements, access and equipment.

C. Demising Partitions:

- 1. Full height, building standard demising partitions with fire ratings as required by Code and occupancy separations.

D. Exterior Areas:

- 1. Paving, substrates, drainage, waterproofing, railings, windscreens, landscaping, lighting, irrigation, and associated plumbing and electrical systems: sufficient information with respect thereto shall be provided by Tenant in a timely manner so as not to increase costs to Landlord; if information is not available, provide as shown on Design Development Documents.

E. Egress System:

- 1. Internal exit stairs, rated enclosures, and associated life safety devices as part of the base building egress system, as required by Code. Other internal and feature stairs shall be designed and installed by Tenant.

F. Mechanical:

- 1. HVAC:
 - a) Provide base building stub-ins for condenser water, fresh air and exhaust air through Tenant demising wall and/or exterior walls at mechanical levels of Tenant's space to support Cultural Components relative humidity (RH) and temperature requirements as dictated by museum standards, to be defined and provided in a timely manner to Developer by The Mexican Museum.
- 2. Smoke Control:
 - a) Provide base building smoke control system as required by Code. Tenant's improvements shall conform and comply with base building smoke control system design and requirements.

G. Plumbing:

- 1. Plumbing drain and domestic water stubbed into tenant space adjacent to demising wall at anticipated restroom and mechanical areas at each level of Tenant's space. Water service to be separately metered with meter supplied by Tenant.

H. Fire Protection:

1. Code-required fire sprinkler protection to appropriate hazard rating for museum space occupancy at each level of Tenant's space; Tenant to complete final fire sprinkler protection routing and head types and locations with interior improvements. Cultural Component fire protection standards will be different than those of the base building (museum standards) and shall be independent of the base building system, subject to compliance with applicable laws and codes and San Francisco Fire Department requirements.

I. Electrical

1. Base building electrical power and transformer to 120/208 volt panels in Tenant's space at each level. Electrical service to be separately metered with meter supplied by Tenant.

J. Fire Alarm:

1. Code-required fire alarm system and devices within Tenant's space and provisions for tie-in to building fire alarm system; Tenant to complete final fire alarm system routing, system requirements and device types and locations with interior improvements.

K. Security System:

1. Empty two-inch conduit from telephone service room to perimeter at each level of Tenant's space.
2. Tenant will require its own security control room to be located on Level B1, adjacent to the loading dock.

L. Telephone System:

1. Empty two-inch conduit from telephone service room to perimeter at each level of Tenant's space.

M. Sustainability:

1. Base building including Core and Shell shall be permitted and constructed in accordance with required applicable green building Codes and Leadership in Energy and Environmental Design (LEED) certification level; Tenant shall be responsible for permitting and construction interior improvements in accordance with required applicable green building Codes and LEED certification level.

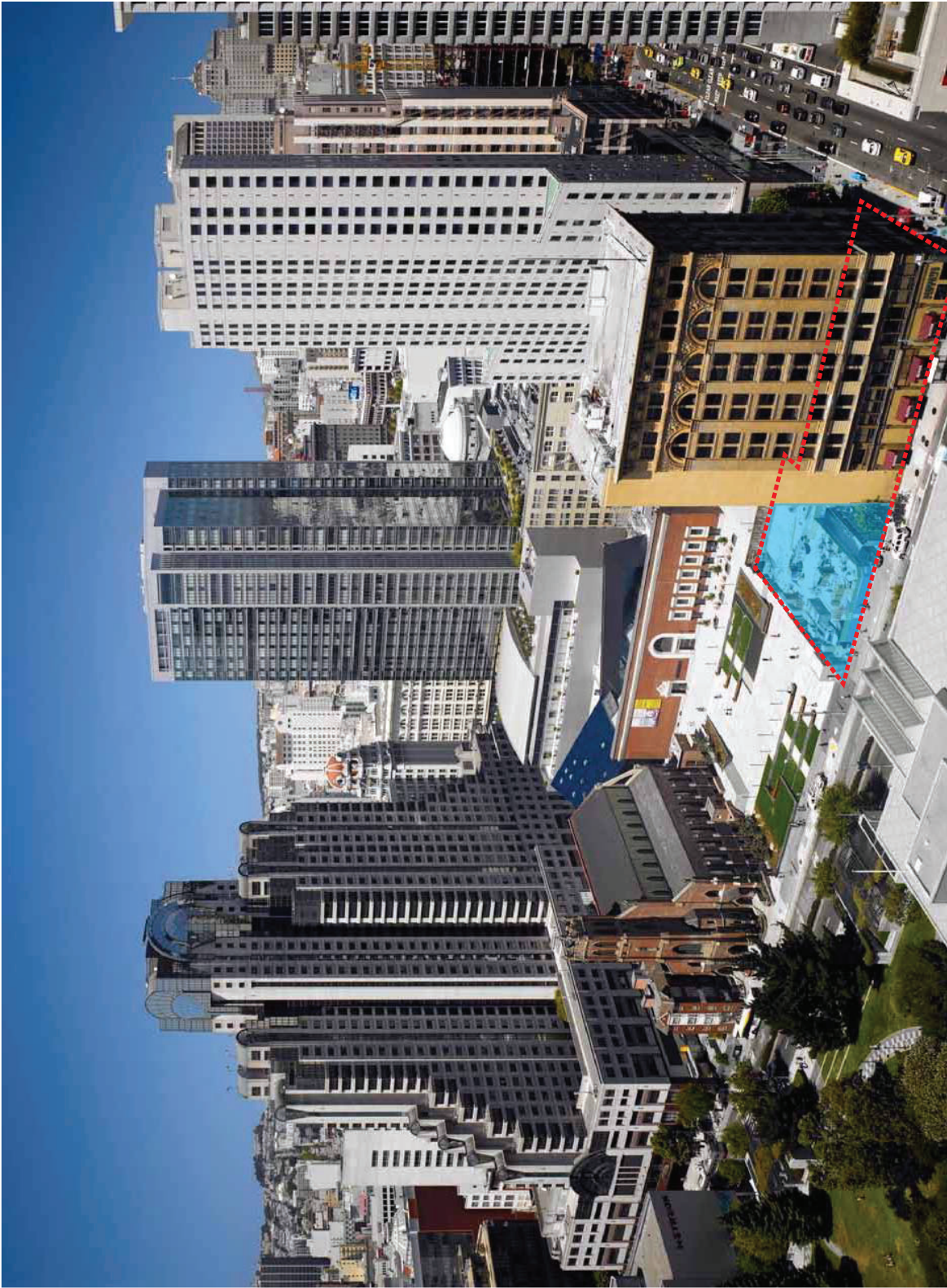
N. Loading:

1. Shared Level B1 garage loading dock facilities for deliveries and services near Cultural Component freight elevator; use and logistics to be coordinated with base building services, operations and management. The Cultural Component will require secure loading area(s) that are able to be separated for a limited amount of time from base building loading functions within the shared loading dock area for the shipping and receiving of all artwork. All other tenant activities (retail, mail, trash, other deliveries etc.) will occur within the shared loading dock facilities.

Exhibit P

Basic Concept Drawings

(Attached)



LEGEND



INDICATES SCOPE OF WORK



706 T M
MISSION MI
THE MEXICAN MUSEUM CONCEPTUAL RENDERING

MILLENNIUM PARTNERS | HANDEL ARCHITECTS LLP
JUNE 6, 2013

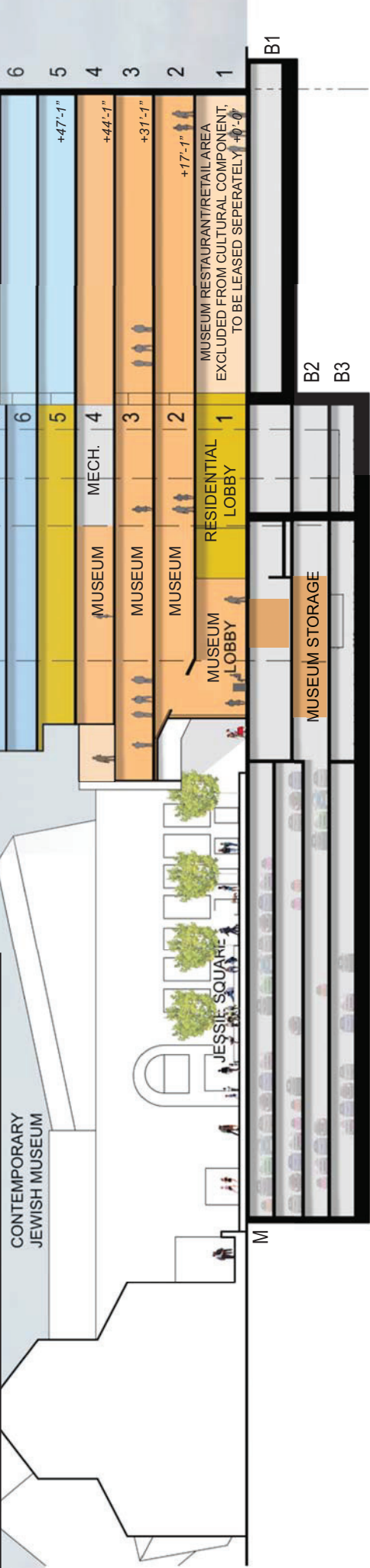


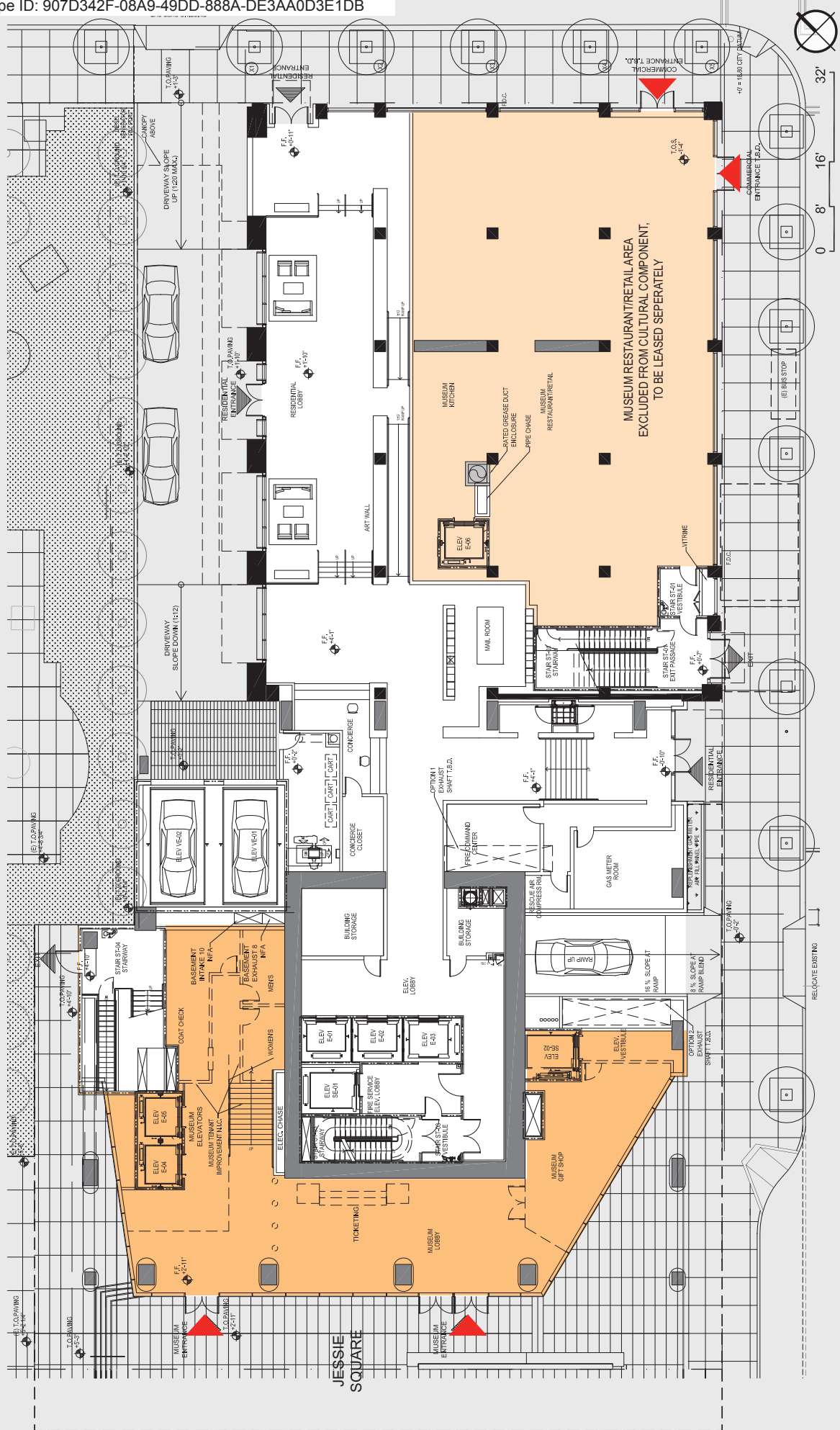
VIEW FROM MISSION STREET LOOKING SOUTH WEST

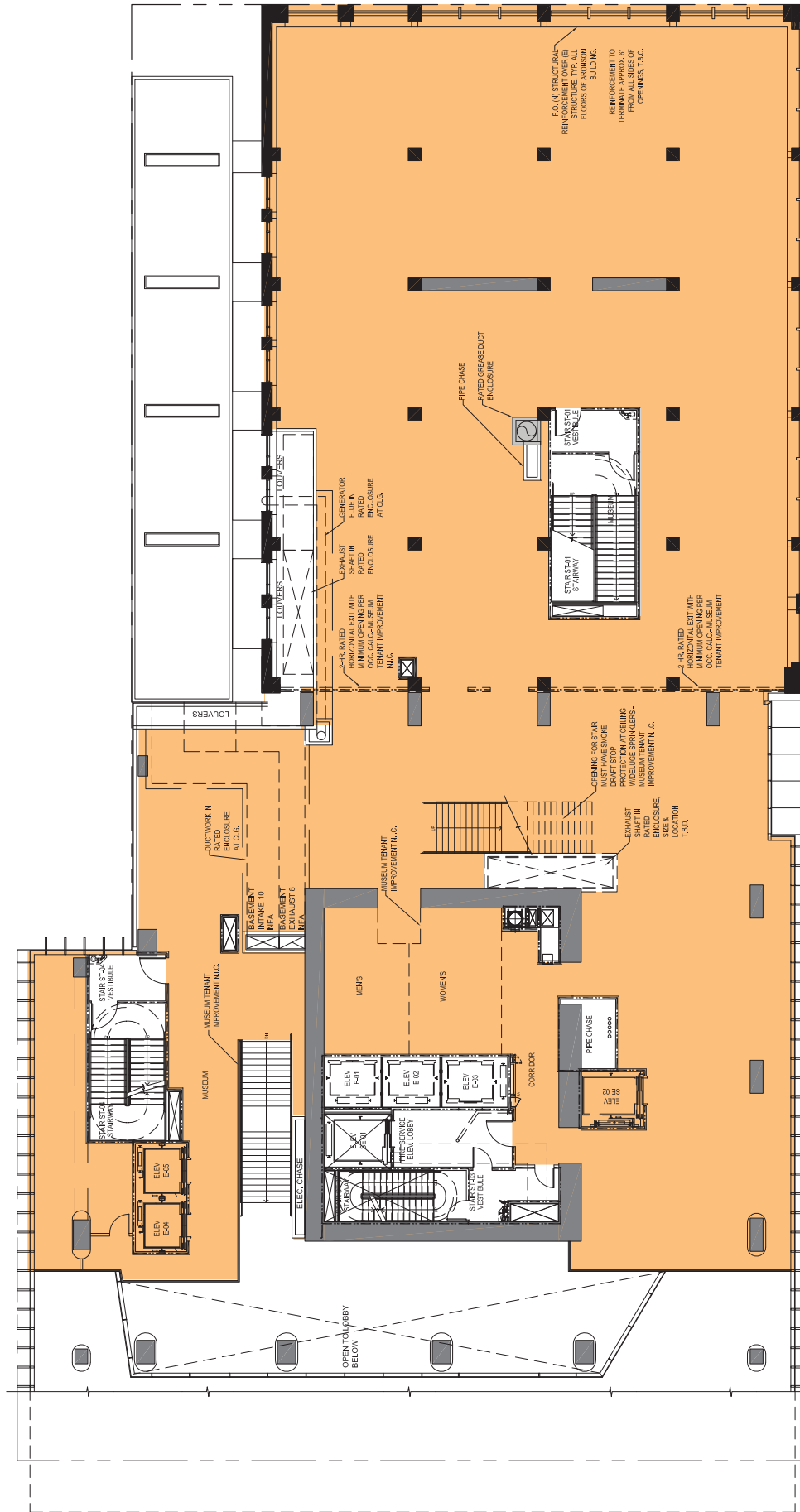


VIEW FROM THIRD STREET LOOKING NORTH EAST

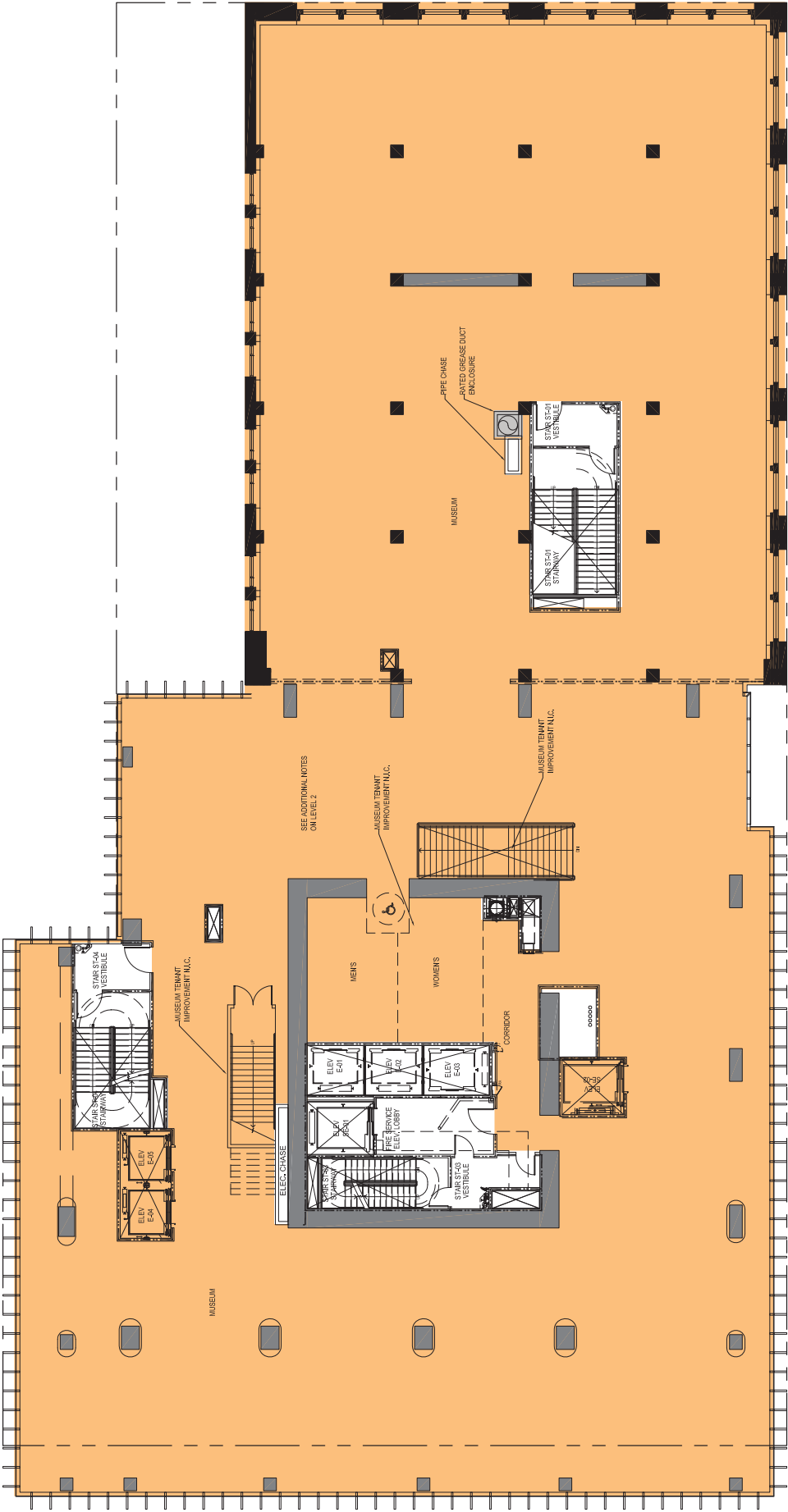
Floor	Gross GSF Museum	Net NSF Museum	Usable NSF Museum
B2	2100	2,000	0
1	3,733	3,556	2,795
2	19,244	14,601	12,845
3	23,307	18,837	16,742
4	12,661	9,320	7,986
* L1-GF Restaurant/Retail to be leased to museum separately			
	4,800	4,560	4,423
* L4-Terrace	2,500	1,516	1,516
Totals	61,045 GSF	48,314 NSF	40,368 NSF
Notes:			
All SF number are approximate and based on 2013.05.31 concept plans for levels 1,2,3,4, B2			
GSF= is measured to exterior face of exterior wall			
(currently shown as orange on plans, including double height spaces)			
NSF = GSF less circulation, floor openings, approx. 5% for future Struc/ MEPS			
USF= NSF less storage, restrooms, security, BOH			
* L1 Restaurant/Retail and L4 Terrace areas not included as part of cultural component area.			

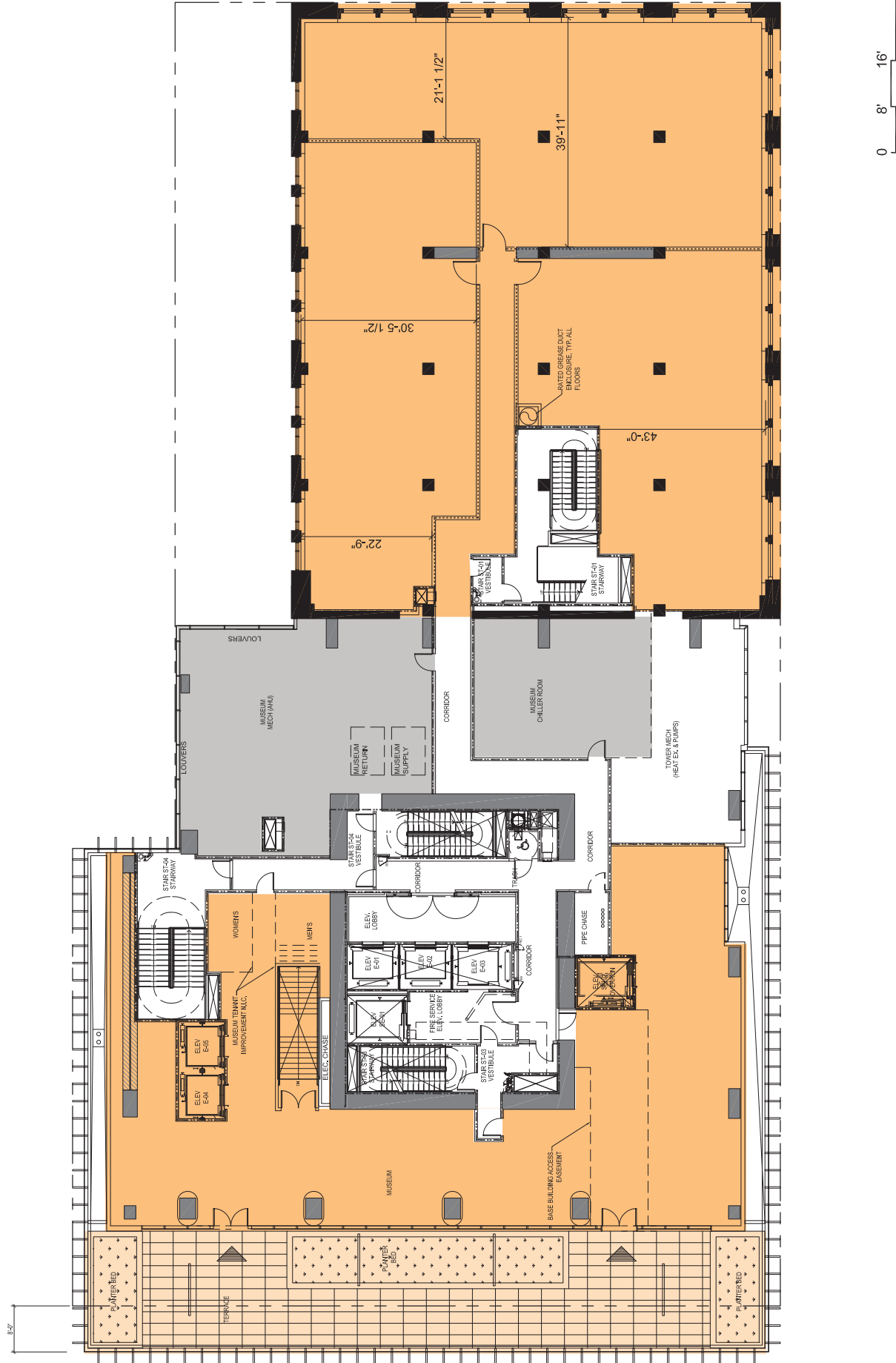


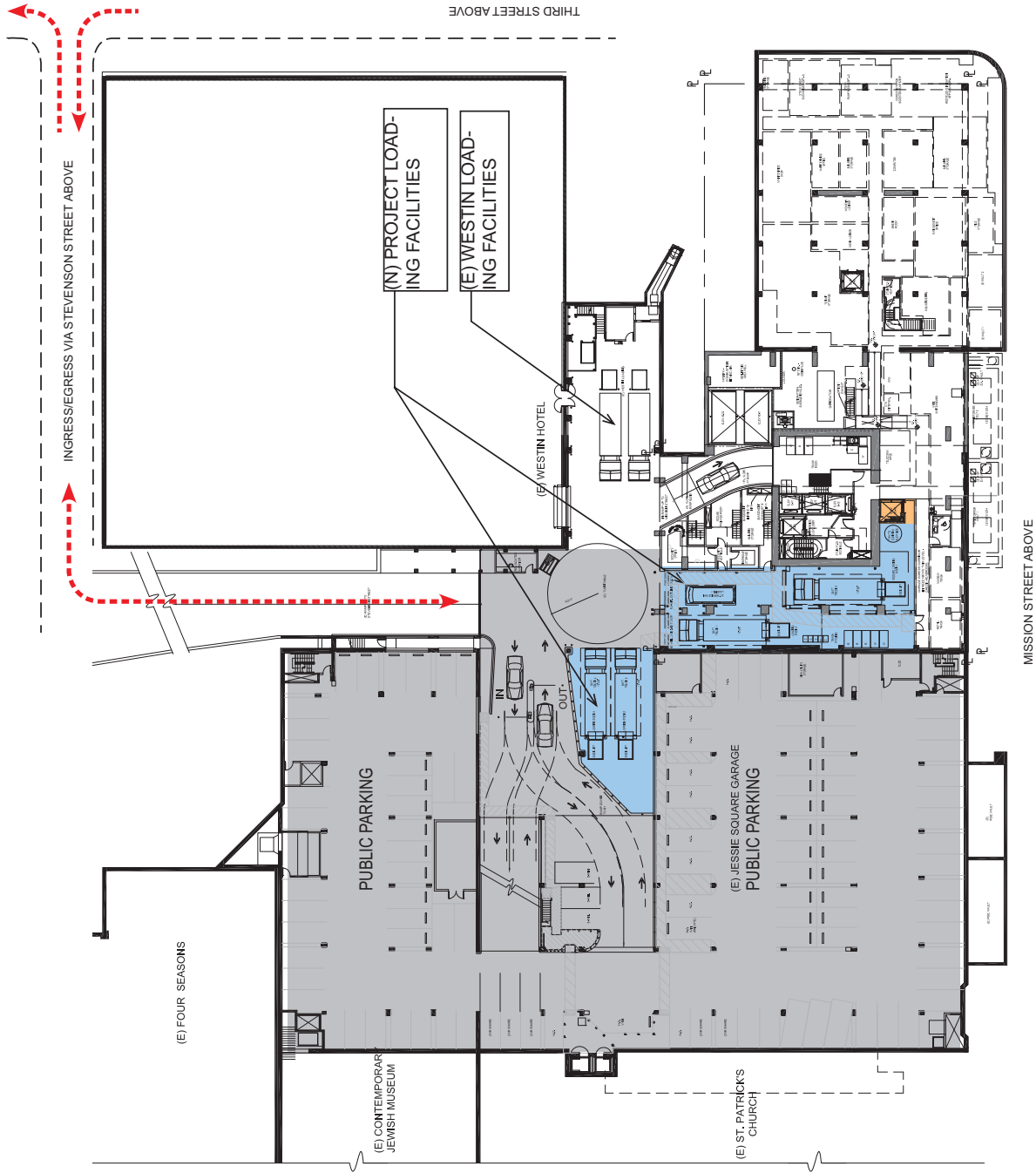




0' 8' 16' 32'







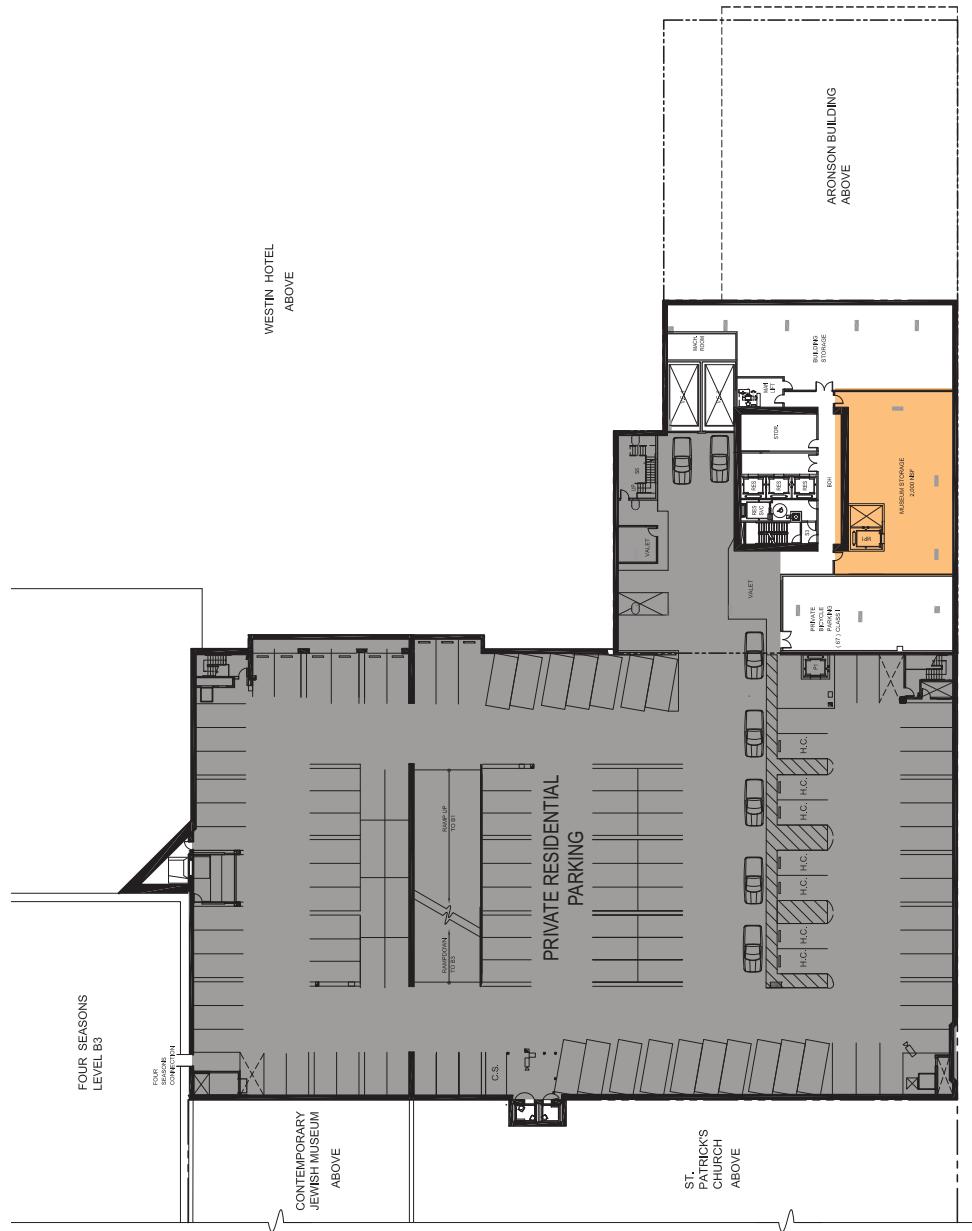


Exhibit Q**Form of Architect's Certificate****(Design of Cultural Component Generally)**

TO:
 Successor Agency to the San Francisco
 Redevelopment Agency
 One South Van Ness Avenue, Fifth Floor
 San Francisco, CA 94103

Dated: _____

Development: _____

FROM: Architect of Record

Location: _____

Note: This Declaration is being provided pursuant to Section 7.5(a)(i) of that certain Agreement for Purchase and Sale of Real Estate between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco and 706 Mission Street Co LLC, a Delaware limited liability company, dated _____, 2013, hereinafter referred to as the ("Purchase Agreement"). Unless otherwise specifically provided below, capitalized terms used herein have the meanings given in the Purchase Agreement.

As Architect of Record for the design and construction of the Project improvements ("Improvements"), I hereby declare to the best of my knowledge it is my professional opinion that:

1. I observed the Improvements on _____ (date(s)), and all the statements made below are made as of the date(s) of my observation(s).

2. Based on my observations, the construction of the Improvements has been and is being performed in accordance with those elements of the Construction Documents for the Improvements approved by the Agency pursuant to Article VII of the Purchase Agreement, except as may be noted on Schedule A attached hereto.

3. Based on my observations, the construction of the Improvements has been done in a good and workerlike manner, and all of the work, materials and fixtures are acceptable, except as may be noted on Schedule A attached hereto.

4. The construction heretofore completed on the Improvements complies with all applicable local, state and federal building laws, regulations and ordinances, except as may be noted on Schedule A attached hereto.

5. The required certificates, approvals and permits of all governmental authorities having jurisdiction covering the work to date on the Improvements have been issued and are in force, and there is not an undischarged violation of applicable laws, regulations or orders of any governmental authority having jurisdiction of which we have notice as of the date hereof, except as may be noted on Schedule A attached hereto.

6. In my opinion construction of the Improvements is progressing satisfactorily so that it can be completed in accordance with those elements of the Construction Documents for the Improvements approved by the Agency pursuant to Article VII of the Purchase Agreement by the completion date set forth in the Schedule of Performance, as such date may have been extended in accordance with the provisions of the Purchase Agreement.

Architect

SCHEDULE A

EXCEPTIONS TO ARCHITECT'S DECLARATION

DATED _____.

The statements made on the Architect's Declaration to which this Schedule is attached are subject to the following exceptions:

Exhibit R

Form of Architect's Certificate

(Design of Cultural Component – Accessibility for Persons with Disabilities)

TO:
Successor Agency to the San Francisco
Redevelopment Agency
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

Dated: _____

Development: _____

FROM: Architect of Record

Location: _____

Note: This Declaration is being provided pursuant to Section 7.5(b) of that certain Agreement for Purchase and Sale of Real Estate between the Successor Agency to the Redevelopment Agency of the City and County of San Francisco and 706 Mission Street Co LLC, a Delaware limited liability company, dated _____, 2013, hereinafter referred to as the ("Purchase Agreement"). Unless otherwise specifically provided below, capitalized terms used herein have the meanings given in the Purchase Agreement.

As Code Compliance Consultant for the construction of the Project improvements ("Improvements"), I hereby declare to the best of my knowledge it is my professional opinion that:

1. Design of the Improvements has been performed in accordance with all applicable local, state, federal building laws and regulations with respect to Accessibility for Persons with Disabilities.
2. I examined the Design Development Documents for conformity to such local, state, federal building laws and regulations with respect to Accessibility for Persons with Disabilities.
3. I hereby declare that the Design Development Documents for construction of the Improvements are consistent with all applicable local, state, federal building laws and regulations with respect to Accessibility for Persons with Disabilities.

Architect

Exhibit S

Form of Certificate of Completion

Recorded at the Request of the
Successor Agency to the San Francisco
Redevelopment Agency

When Recorded, Please Mail to:

CERTIFICATION OF COMPLETION OF IMPROVEMENTS

WHEREAS, by Grant Deed dated _____, 20____, and recorded on _____, 20____, in the Office of the Recorder of the City and County of San Francisco, as Instrument Number _____, the Successor to the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic (“Successor Agency”), did convey to _____ hereinafter referred to as “Grantee”, certain real property situated in the City and County of San Francisco, State of California, which property is particularly described in Exhibit A attached hereto and made a part hereof;

WHEREAS, with respect to the above described real property, the Successor Agency has conclusively determined that the construction obligations of the Grantee as specified in said Deed and in the Agreement for Purchase and Sale of Real Estate (“Agreement”) between the Successor Agency and [Grantee] and recorded _____, 20____ as Instrument Number _____, Official Records of said City and County of San Francisco, have been fully performed and the Project improvements completed in accordance therewith; and

WHEREAS, as stated above in said Agreement, the Successor Agency’s determination regarding said construction obligations is not directed to, and thus the Successor Agency assumes no responsibility for, engineering or structural matters or compliance with building codes and regulations or applicable State or Federal law relating to construction standards.

NOW, THEREFORE, as provided in said Deed and Agreement, with respect to the above described real property, and subject to the foregoing provisions hereof, the Agency does hereby certify that said obligations and Project improvements have been performed fully and completed as aforesaid and that said conditions have been fully satisfied and are of no further force or effect by reason thereof.

Nothing contained in this instrument shall modify in any other way any other provision of said Deed nor any other provisions of those documents incorporated in said Deed.

IN WITNESS HEREOF, the Successor Agency has executed this instrument this _____ day of _____, 20____.

Authorized by Successor Agency Resolution
No. _____ adopted _____, 19 ____.

FORM APPROVED:

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE CITY
AND COUNTY OF SAN FRANCISCO,
a public body, corporate and politic

Successor Agency General Counsel

By _____
Name: _____
Title: _____
Senior Deputy Executive Director

Exhibit T

Cultural Component Lease Term Sheet

NOTE: Capitalized terms used in this Term Sheet and not otherwise defined herein shall have the meaning ascribed to such terms in the Purchase Agreement to which this Exhibit T is attached.

Successor Agency and Developer agree that, subject to any required City approvals, their preference is for the City and County of San Francisco (“City”) to acquire ownership of the Core and Shell of the Cultural Component and lease the Cultural Component to The Mexican Museum as described in the Purchase Agreement. If the City is unable or unwilling to acquire ownership of the Cultural Component and lease the Cultural Component to The Mexican Museum, then as a back-up alternative, Developer or its designee (or such entity’s successor) would continue to own the Cultural Component and enter into a lease (“Lease”) for the Cultural Component with The Mexican Museum substantially in accordance with the terms and conditions set forth in this Term Sheet.

Successor Agency and Developer understand and agree that if the City acquires ownership of the Cultural Component, then the City and The Mexican Museum will enter into a separate lease, subject to all required City approvals and that the City would not be bound to the terms and conditions set forth in this Term Sheet or any subsequent draft or final lease agreement between the Developer and The Mexican Museum.

In either event, the lease of the Cultural Component (either between the City and The Mexican Museum or between Developer or its designee and the Mexican Museum) shall be fully negotiated, executed, and delivered into Escrow at least 30 days prior to Closing.

The terms and conditions of this Term Sheet are preliminary, not complete and for negotiations purposes only. Specific additional issues will need to be addressed in the Lease.

1. **Landlord:** Developer or its designee.
2. **Tenant:** The Mexican Museum, a California nonprofit public benefit corporation.
3. **Premises:** A condominium unit or parcel that is a portion of Floors 1 through 4 of the Project and basement space, consisting of approximately 48,000 net square feet fronting Jessie Square (and excluding the approximately 4,800 gross square feet of restaurant/retail uses on the ground floor of the Aronson Building) as shown on the Basic Concept Drawings, with the Core and Shell of the Cultural Component and the restaurant/retail space to be constructed by Landlord in accordance with the Purchase Agreement.
4. **Project:** The mixed-use building, fixtures, equipment and other improvements and appurtenances, including the Jessie Square Garage improvements, now

located or hereafter erected upon the land generally at the northwest corner of Third and Mission Streets, San Francisco, California, as shown on the Basic Concept Drawings.

5. Scheduled Commencement Date; Early Entry: The Scheduled Commencement Date will be within (30) days after the later to occur of (1) the issuance of the Temporary Certificate of Occupancy for the Core and Shell of the Cultural Component and (2) the recording of the final subdivision map that creates an air space parcel or condominium unit for the Cultural Component. Landlord shall grant Tenant early non-exclusive access to the Premises approximately 11-12 months prior to the projected date for issuance of the Temporary Certificate of Occupancy for the Core and Shell of the Cultural Component for the purpose of allowing Tenant to commence construction of the initial tenant improvements; provided, however, that Landlord will not be required to grant such early access if Landlord determines in good faith that the same might delay or interfere with Landlord's construction of the Project or increase the cost of the Landlord's construction of the Project.
6. Commencement Date: The date upon which Landlord delivers exclusive possession of the Premises to Tenant or upon which Landlord would have so delivered the Premises but for a Tenant delay.
7. Rent Commencement Date: The date the Tenant shall be required to commence payments of rent (including Tenant's Operating Payment, as defined below), will occur on the earlier of (i) the date that is 180 days following the Commencement Date and (ii) the date when Tenant opens the Premises to the public for the Permitted Use (defined below) or otherwise commences material business operations in the Premises.
8. Expiration Date: The date that is the last day of the month in which the sixty-sixth (66th) anniversary of the Commencement Date occurs, with an option to extend as agreed to by the parties but in no event to exceed thirty-three (33) years, and provided that if the City is the Lessor the maximum length for an option to extend will be eleven (11) years and a maximum of three (3) options.
9. Term: The period commencing on the Commencement Date and ending on the Expiration Date or the effective date of a City approved transfer of the Cultural Component from the Developer to the City.
10. Option to Purchase: Provided the Lease is then in effect and not in default, and the museum has been in continuous operation over the Lease term, the Tenant will have the right to acquire the fee interest in the Cultural Component at any time after the thirty-sixth (36th) month of the Lease, for the price of One Dollar (\$1.00). Notwithstanding the above, if the City is the fee

owner, the Tenant will have a Right of First Refusal to purchase the fee interest in the Cultural Component if the City determines that it will transfer the Cultural Component to an entity that is not a public entity and if the Lease is then in effect and not in default and the museum has been in continuous operation over the Lease Term.

11. Permitted Use: Operation of a first class museum of the art and culture of the Hispanic peoples of the Americas and uses incidental thereto, including a museum gift shop and a permitted café, with rights to use part of the Cultural Component space for events and catering functions.
12. Rent: All sums payable by Tenant to Landlord under the Lease, including without limitation Tenant's Tax Payment (defined below), Tenant's Operating Payment (defined below), late charges and any fines imposed on Landlord under that certain Master Declaration of Covenants, Conditions and Restrictions and Reciprocal Easement Agreement (the "Master Declaration") resulting from Tenant's occupancy, overtime or excess service charges, damages, and interest and other costs related to Tenant's failure to perform any of its obligations under this Lease. Tenant shall pay the Rent payments on the 1st day of each month of the Term subject to Section 7 above.
13. Tenant's Tax Payment: Tenant shall pay to Landlord in monthly installments its pro rata share of taxes applicable to the Project for each year ("Tenant's Tax Payment"). To the extent that (i) Tenant is exempt from the payment of any taxes and (ii) the taxes that would otherwise be payable by Landlord are actually reduced by such exemption, Tenant shall be entitled to the full benefit of such reduction as a reduction in Tenant's Tax Payment. Tenant shall be responsible for any applicable occupancy or rent tax now in effect or hereafter enacted. Notwithstanding the foregoing, Tenant shall not be responsible for Tenant's Tax Payment or any occupancy or rent tax for the first three (3) years after the Commencement Date, and from and after such date Developer will have the right to either transfer fee ownership of the Cultural Component to the City (subject to the approval and consent of the City), the Mexican Museum (subject to the approval and consent of the Mexican Museum), or to another non-profit entity designated by Developer and approved by Tenant and the City.
14. Tenant's CAM Payment: Tenant shall pay Landlord in monthly installments for each year its pro rata share of operating expenses applicable to the Project for such year ("CAM Payment"), which expenses will be more specifically described in the Lease.
15. Cleaning. Tenant shall cause the Premises to be cleaned daily and shall cause the inside and outside of all window surfaces to be cleaned as necessary, but no less frequently than once per month. Tenant shall cause all glass doors in the Premises to be cleaned daily to remove dirt and fingerprints from both

sides of such doors. Tenant shall provide for all other janitorial services to the Premises and shall cause the Premises to be cleaned daily in a fashion comparable with other cultural institutions in the vicinity of the Premises and consistent with standards to be mutually agreed upon between the parties (normally found as an exhibit to the lease).

16. Initial Tenant Improvements. Tenant shall be solely responsible for financing the build-out of all tenant improvements and other improvements related to the Cultural Component in accordance with plans and specifications to be described in the Lease, other than the Core and Shell of the Cultural Component, which Core and Shell will be delivered to Tenant in compliance with (1) 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") and (2) standards applicable to comparable museum/cultural facilities including HVAC and MEP systems standards for such facilities. Tenant shall consult with Landlord prior to making tenant improvements and tenant improvements are subject to Landlord's reasonable approval. Tenant shall construct all tenant improvements in compliance with the Disabilities Laws and in compliance with all requirements under the Grant Agreement between Successor Agency and Tenant for construction of tenant improvements. The tenant improvements shall be substantially completed within twenty-four (24) months of the issuance of the Temporary Certificate of Occupancy for the Core and Shell and if not completed in such time period the Developer or City, if applicable, shall have the right to evaluate the state of the construction of the tenant improvements and determine whether or not to pursue an alternate tenant for the Cultural Component after it provides written notice to The Mexican Museum and a cure period of thirty (30) days or such longer cure period as may be otherwise agreed to by Successor Agency and Developer upon written request by Tenant. Landlord shall not be responsible for and shall not bear any of the cost of construction of any such tenant or other improvements related to the Cultural Component. Landlord and Tenant shall reasonably cooperate to ensure that the Tenant's construction of improvements of the Cultural Component does not unreasonably interfere with Landlord's construction of the rest of the Project.
17. Landlord's Repair and Maintenance: Landlord shall operate, maintain and make all necessary repairs to (i) the mechanical, electrical, plumbing, sanitary, sprinkler, HVAC chilled or condensing water and exterior ventilation openings integral with building envelope, security, life-safety, and other service systems or facilities of the Project as applicable up to the point of connection of localized distribution to the Premises (excluding, however, main and supplemental HVAC systems of tenants, sprinklers and the horizontal or vertical distribution systems within and servicing the Premises

and by which mechanical, electrical, plumbing, sanitary, heating, ventilating and air conditioning, security, life-safety and other service systems are distributed from the base building risers, feeders, panel boards, etc. for provision of such services to the Premises) and (ii) the Project common areas. In addition, except as provided in the paragraph immediately below, Landlord shall make all necessary structural repairs to the Premises, in conformance with standards applicable to comparable buildings for museum/cultural facilities.

18. Tenant's Repair and Maintenance. Tenant shall, at its expense (i) keep in good order, condition and repair meeting the physical standards of a First Class museum/cultural facility, the Premises and every part thereof, including the store front and the exterior and interior portions of all doors, windows, plate glass, all plumbing and sewage facilities within and exclusively serving the Premises, fixtures, interior walls, floors, ceilings, signs, and all wiring, electrical systems, HVAC systems and equipment, elevators and similar equipment exclusively serving the Premises, and (ii) make all nonstructural repairs to the Premises and the fixtures, equipment and appurtenances therein as and when needed to preserve the Premises in good working order, condition and repair.

19. Payment for Electricity, Gas and Water. Tenant shall be separately metered for electric service (which separate metering system shall be designed and built-out by Developer in the constructions of the Core and Shell) and shall contract with and pay the public utility company directly for all electric service to the Premises. Tenant shall either be separately metered for domestic water service (as distinguished from chilled or condensing water used in the operation of the HVAC system, the cost of which shall be included in operating expenses), in which case Tenant shall pay the public utility company directly for all domestic water service to the Premises, or Tenant shall be separately sub-metered and billed directly by Landlord for domestic water service to the Premises. Tenant shall either be separately metered for gas service, in which case Tenant shall pay the public utility company directly for all gas service to the Premises, or Tenant shall be separately sub-metered and billed directly by Landlord for all gas service to the Premises.

20. Tenant's Insurance Requirement: Tenant, at its expense, shall obtain and keep in full force and effect during the Term: (i) Commercial General Liability insurance on an occurrence basis against claims for personal injury, death and/or property damage, minimum limits of liability shall be a combined single limit with respect to each occurrence in an amount of not less than \$5,000,000.00 per occurrence, \$5,000,000.00 annual aggregate, naming Landlord, Landlord's agents, mortgagees and other Landlord-related or Project-related entities as specified, as an additional insured; (ii) during construction of the tenant improvements or any alterations, Builder's Risk

insurance on an “all risk” basis and on a completed value form including a “Permission to Complete and Occupy” endorsement, for full replacement value covering the interest of Landlord and Tenant (and their respective contractors and subcontractors) and with respect to any design, architectural, engineering, or electrical work, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than \$1,000,000; (iii) Property insurance written on an “all-risk” form, including coverage for earthquake (if available at commercially reasonable premiums), insuring Tenant’s property and all alterations and improvements to the Premises, for the full insurable value thereof or replacement cost; (iv) Business Interruption insurance written on an “actual loss sustained” form in an amount sufficient to cover rents until the Premises are re-opened for the Permitted Use; (v) Statutory Workers’ Compensation insurance, as required by law; (vi) Employer’s Liability insurance with a limit of not less than \$1,000,000 for each accident; and (vii) such other insurance in such amounts as the Landlord may reasonably require from time to time.

21. No Assignment or Subletting: Tenant shall not assign, mortgage, pledge, encumber, or otherwise transfer the Lease and shall not sublet, or permit, or suffer the Premises or any part thereof to be used or occupied by others, without the prior consent of Landlord and subject to any terms and conditions imposed by the Landlord, except that Tenant shall have the right to sublet up to ten (10) percent of the Premises, including the bookstore and bookstore café, subject to and consistent with all applicable recorded restrictions, with Landlord’s prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall have the right to: (i) mortgage, pledge, or encumber its leasehold estate under the Lease; and (ii) assign or otherwise transfer its interest in the Lease to the City.
22. Compliance with Purchase Agreement and Master Declaration: The Lease shall be subject and subordinate to the terms of the Purchase Agreement and the Master Declaration of Covenants, Conditions and Restricts and Reciprocal Easement Agreement (“Master Declaration”) applicable to the Project. Tenant shall comply with all applicable terms of the Purchase Agreement and the Master Declaration and shall not perform or omit to perform any act the performance or omission of which would result in a violation of the Purchase Agreement or the Master Declaration by Tenant or Landlord.
23. Tenant Default: Upon the occurrence of an event of default by Tenant under the Lease, or in the event the Tenant fails to maintain a public museum with regular public exhibitions and public programs, or fails to provide audited financial statements that demonstrates using industry standards that The Mexican Museum is fiscally sound with net income or endowment returns sufficient to cover Tenant’s financial obligations, Landlord shall have such legal and equitable remedies as set forth in the Lease. In the event of default,

Landlord shall provide written notice to Tenant of any non-monetary default, and Tenant shall have 60 days from receipt of such notice in which to cure the non-monetary default; provided that if the default is not capable of being cured within such 60-day period, Tenant commences to cure the default within such 60-day period and thereafter diligently prosecutes such cure to completion, provided that the outside date to cure is 180 days.

24. Tenant's Indemnity: Tenant shall indemnify, defend, protect and hold harmless each of Landlord and specified Landlord indemnitees (collectively, the "Indemnitees") from and against any and all losses, to the extent resulting from any claims (i) against the Indemnitees arising from any act, omission or negligence of Tenant, (ii) against the Indemnitees arising from any accident, injury or damage whatsoever caused to any person or to the property of any person and occurring in or about the Premises, except to the extent attributable to Landlord's gross negligence or willful misconduct, and (iii) against the Indemnitees resulting from any breach, violation or nonperformance of any covenant, condition or agreement of the Lease on the part of Tenant.
25. Landlord's Indemnity: Landlord shall indemnify, defend, protect and hold harmless Tenant from and against any and all losses, to the extent resulting from any claims (i) against Tenant arising from any act, omission or negligence of Landlord, (ii) against the Tenant resulting from any breach, violation or nonperformance of any covenant, condition or agreement of the Lease on the part of Landlord.
26. Reporting: Landlord shall have the right to seek reasonable review or audit of Tenant's books and records with reasonable advance notice to be provided to the Tenant to prepare for such review.
27. Parking Passes: Landlord shall provide to Tenant, at a competitive rate consistent with rates paid by the Contemporary Jewish Museum to be specified in the Lease, commencing on the Commencement Date, ten (10) (or such lesser number as may be requested by Tenant from time to time) unreserved parking passes on a monthly basis throughout the Term as requested by Tenant, which parking passes may be used only for passenger cars or minivans and shall pertain to the public parking area of Jessie Square Garage, in accordance with the Regulatory Approvals. Additional parking for Tenant in the Jessie Square Garage shall be coordinated between Landlord and Tenant.
28. Common Areas: All common areas shall be subject to the exclusive control and management of Landlord; provided that Tenant shall have (i) the right to use the loading dock for receipt and sending of bulk deliveries and the corridors and elevators connecting the loading dock to the Premises and (ii)

the right to use any connecting areas providing access between the Project lobby and the Premises for ingress to and egress from the Premises.

29. Non-Disturbance Agreement: Within 30 days of execution of the Lease, The Mexican Museum should obtain from any existing lenders on the Project a Non-Disturbance Agreement.

Exhibit U

Equal Opportunity Program

Equal Opportunity Program

Included in this Attachment 9:

1. Small Business Enterprise Agreement
2. Nondiscrimination in Contracts and Benefits
3. Minimum Compensation Policy
4. Healthcare Accountability Policy
5. Construction Workforce Agreement
6. Permanent Workforce Agreement
7. Prevailing Wages

Small Business Enterprise Agreement

The company or entity executing this Small Business Enterprise Agreement, by and through its duly authorized representative, hereby agrees to use good faith efforts to comply with all of the following:

I. PURPOSE. The purpose of entering into this Small Business Enterprise Program agreement (“**SBE Program**”) is to establish a set of Small Business Enterprise (“SBE”) participation goals and good faith efforts designed to ensure that monies are spent in a manner which provides SBEs with an opportunity to compete for and participate in contracts by or at the behest of the Successor Agency to the San Francisco Redevelopment Agency (“**Agency**”) and/or the Agency-Assisted Contractor. A genuine effort will be made to give First Consideration to Project Area SBEs and San Francisco-based SBEs before looking outside of San Francisco.

II. APPLICATION. The SBE Program applies to all Contractors and their subcontractors seeking work on Agency-Assisted Projects on or after November 17, 2004 and any Amendment to a Pre-existing Contract .

III. GOALS. The Agency’s SBE Participation Goals are:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

A. Trainee Hiring Goal. In addition to the goals set forth above in Section III, there is a trainee hiring goal for architects, designers and other professional services consultants as follows:

<u>Trainees</u>	<u>Design Professional Fees</u>
0	\$ 0 – \$99,000
1	\$ 100,000 – \$249,999
2	\$ 250,000 – \$499,999
3	\$ 500,000 – \$999,999
4	\$1,000,000 – \$1,499,999
5	\$1,500,000 – \$1,999,999
6	\$2,000,000 - \$4,999,999
7	\$5,000,000 - \$7,999,999
8	\$8,000,000 – or more

IV. TERM. The obligations of the Agency-Assisted Contractor and/or Contractor(s) with respect to SBE Program shall remain in effect until completion of all work to be performed by the Agency-Assisted Contractor in connection with the original construction of the site and any tenant improvements on the site performed by or at the behest of the Agency-Assisted Contractor unless another term is specified in the Agency-Assisted Contract or Contract.

V. FIRST CONSIDERATION. First consideration will be given by the Agency or Agency-Assisted Contractor in awarding contracts in the following order: (1) Project Area SBEs, (2) San Francisco-based SBEs (outside an Agency Project or Survey Area, but within San Francisco), and (3) Non-San Francisco-based SBEs. Non-San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-San Francisco-based SBEs.

VI. CERTIFICATION. The Agency no longer certifies SBEs but instead relies on the information provided in other public entities’ business certifications to establish eligibility for the Agency’s program. Only businesses certified by the Agency as SBEs whose certification has not expired and economically disadvantaged businesses that meet the Agency’s SBE Certification Criteria will be counted toward meeting

the participation goals. The SBE Certification Criteria are set forth in the Policy (as defined in Section VII below).

VII. INCORPORATION. Each contract between the Agency, Agency-Assisted Contractor or Contractor on the one hand, and any subcontractor on the other hand, shall physically incorporate as an attachment or exhibit and make binding on the parties to that contract, a true and correct copy of this SBE Agreement.

VIII. DEFINITIONS. Capitalized terms not otherwise specifically defined in this SBE Agreement have the meaning set forth in the Agency's SBE Policy adopted on November 16, 2004 and amended on July 21, 2009 ("**Policy**") or as defined in the Agency-Assisted Contract or Contract. In the event of a conflict in the meaning of a defined term, the SBE Policy shall govern over the Agency-Assisted Contract or Contract which in turn shall govern over this SBE Agreement.

Affiliates means an affiliation with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliated business concerns need not be in the same line of business. The calculation of a concern's size includes the employees or receipts of all affiliates.

Agency-Assisted Contract means, as applicable, the Development and Disposition Agreement ("**DDA**"), Land Disposition Agreement ("**LDA**"), Lease, Loan and Grant Agreements, personal services contracts and other similar contracts, and Operations Agreement that the Agency executed with for-profit or non-profit entities.

Agency-Assisted Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed an Agency-Assisted Contract.

Amendment to a Pre-existing Contract means a material change to the terms of any contract, the term of which has not expired on or before the date that this Small Business Enterprise Policy ("**SBE Policy**") takes effect, but shall not include amendments to decrease the scope of work or decrease the amount to be paid under a contract.

Annual Receipts means "total income" (or in the case of a sole proprietorship, "gross income") plus "cost of goods sold" as these terms are defined and reported on Internal Revenue Service tax return forms. The term does not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts. Receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts. If a concern has not been in business for three (3) years, the average weekly revenue for the number of weeks the concern has been in business is multiplied by 52 to determine its average annual receipts.

Arbitration Party means all persons and entities who attend the arbitration hearing pursuant to Section XII, as well as those persons and entities who are subject to a default award provided that all of the requirements in Section XII.L. have been met.

Commercially Useful Function means that the business is directly responsible for providing the materials, equipment, supplies or services in the City and County of San Francisco (“City”) as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a “commercially useful function” unless the brokerage, referral or temporary employment services are required and sought by the Agency.

Contract means any agreement between the Agency and a person(s), firm, partnership, corporation, or combination thereof, to provide or procure labor, supplies or services to, for, or on behalf of the Agency.

Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed a Contract.

Non-San Francisco-based Small Business Enterprise means a SBE that has fixed offices located outside the geographical boundaries of the City.

Office” or “Offices means a fixed and established place(s) where work is performed of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify as an “office” under this SBE Policy. Work space provided in exchange for services (in lieu of monetary rent) does not constitute an “office.” The office is not required to be the headquarters for the business but it must be capable of providing all the services to operate the business for which SBE certification is sought. An arrangement for the right to use office space on an “as needed” basis where there is no office exclusively reserved for the business does not qualify as an office. The prospective SBE must submit a rental agreement for the office space, rent receipt or cancelled checks for rent payments. If the office space is owned by the prospective SBE, the business must submit property tax or a deed documenting ownership of the office.

Project Area Small Business Enterprise means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of a Redevelopment Project or Survey Area where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a Project Area or Survey Area business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in a Project Area or Survey Area for at least six months preceding its application for certification as a SBE; and (e) has a Project Area or Survey Area office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers of residential addresses alone shall not suffice to establish a firms’ location in a Project Area or Survey Area.

Project Area means an area of San Francisco that meets the requirements under Community Redevelopment Law, Health and Safety Code Section 33320.1. These areas currently include the Bayview Industrial Triangle, Bayview Hunters Point (Area B), Federal Office Building, Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), Rincon Point/South Beach, South of Market, Transbay Terminal, Yerba Buena Center and Visitacion Valley.

San Francisco-based Small Business Enterprise means a SBE that: (a) has fixed offices located within the geographical boundaries of the City where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a San Francisco business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in the City for at least six months preceding its application for certification as a SBE; and (e) has a San Francisco office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers or residential addresses alone shall not suffice to establish a firm's status as local.

Small Business Enterprise (SBE) means an economically disadvantaged business that: is an independent and continuing business for profit; performs a commercially useful function; is owned and controlled by persons residing in the United States or its territories; has average gross annual receipts in the three years immediately preceding its application for certification as a SBE that do not exceed the following limits: (a) construction--\$14,000,000; (b) professional or personal services--\$2,000,000 and (c) suppliers--\$7,000,000; and is (or is in the process of being) certified by the Agency as a SBE and meets the other certification criteria described in the SBE application.

In order to determine whether or not a firm meets the above economic size definitions, the Agency will use the firm's three most recent business tax returns (i.e., 1040 with Schedule C for Sole Proprietorships, 1065s with K-1s for Partnerships, and 1120s for Corporations). Once a business reaches the 3-year average size threshold for the applicable industry the business ceases to be economically disadvantaged, it is not an eligible SBE and it will not be counted towards meeting SBE contracting requirements (or goals).

Survey Area means an area of San Francisco that meets the requirements of the Community Redevelopment Law, Health and Safety Code Section 33310. These areas currently include the Bayview Hunters Point Redevelopment Survey Area C.

IX. GOOD FAITH EFFORTS TO MEET SBE GOALS Compliance with the following steps will be the basis for determining if the Agency-Assisted Contractor and/or Consultant has made good faith efforts to meet the goals for SBEs:

A. Outreach. Not less than 30 days prior to the opening of bids or the selection of contractors, the Agency-Assisted Contractor or Contractor shall:

1. **Advertise.** Advertise for SBEs interested in competing for the contract, in general circulation media, trade association publications, including timely use of the ***Bid and Contract Opportunities*** newsletter published by the City and County of San Francisco Purchasing Department and media focused specifically on SBE businesses such as the ***Small Business Exchange***, of the opportunity to submit bids or proposals and to attend a pre-bid meeting to learn about contracting opportunities.

2. **Request List of SBEs.** Request from the Agency's Contract Compliance Department a list of all known SBEs in the pertinent field(s), particularly those in the Project and Survey Areas and provide written notice to all of them of the opportunity to bid for contracts and to attend a pre-bid or pre-solicitation meeting to learn about contracting opportunities.

B. Pre-Solicitation Meeting. For construction contracts estimated to cost \$5,000 or more, hold a pre-bid meeting for all interested contractors not less than 15 days prior to the opening of bids or the selection of contractors for the purpose answering questions about the selection process and the specifications and requirements. Representatives of the Contract Compliance Department will also participate.

C. Follow-up. Follow up initial solicitations of interest by contacting the SBEs to determine with certainty whether the enterprises are interested in performing specific items involved in work.

D. Subdivide Work. Divide, to the greatest extent feasible, the contract work into small units to facilitate SBE participation, including, where feasible, offering items of the contract work which the Contractor would normally perform itself.

E. Provide Timely and Complete Information. The Agency-Assisted Contractor or Contractor shall provide SBEs with complete, adequate and ongoing information about the plans, specifications and requirements of construction work, service work and material supply work. This paragraph does not require the Agency-Assisted Contractor or Contractor to give SBEs any information not provided to other contractors. This paragraph does require the Agency Assisted Contractor and Contractor to answer carefully and completely all reasonable questions asked by SBEs and to undertake every good faith effort to ensure that SBEs understand the nature and the scope of the work.

F. Good Faith Negotiations. Negotiate with SBEs in good faith and demonstrate that SBEs were not rejected as unqualified without sound reasons based on a thorough investigation of their capacities.

G. Bid Shopping Prohibited. Prohibit the shopping of the bids. Where the Agency-Assisted Contractor or Contractor learns that bid shopping has occurred, it shall treat such bid shopping as a material breach of contract.

H. Other Assistance. Assist SBEs in their efforts to obtain bonds, lines of credit and insurance. (Note that the Agency has a Surety Bond Program that may assist SBEs in obtaining necessary bonding.) The Agency-Assisted Contractor or Contractor(s) shall require no more stringent bond or insurance standards of SBEs than required of other business enterprises.

I. Delivery Scheduling. Establish delivery schedules which encourage participation of SBEs.

J. Utilize SBEs as Lower Tier Subcontractors. The Agency-Assisted Contractor and its Contractor(s) shall encourage and assist higher tier subcontractors in undertaking good faith efforts to utilize SBEs as lower tier subcontractors.

K. Maximize Outreach Resources. Use the services of SBE associations, federal, state and local SBE assistance offices and other organizations that provide assistance in the recruitment and placement of SBEs, including the Small Business Administration and the Business Development Agency of the Department of Commerce. However, only SBEs certified by the Agency shall count towards meeting the participation goal.

L. Replacement of SBE. If during the term of this SBE Agreement, it becomes necessary to replace any subcontractor or supplier, the Agency's Contract Compliance Specialist should be notified prior to replacement due to the failure or inability of the subcontractor or supplier to perform the required services or timely delivery the required supplies, then First Consideration should be given to a certified SBE, if available, as a replacement.

IX. ADDITIONAL PROVISIONS

A. No Retaliation. No employee shall be discharged or in any other manner discriminated against by the Agency-Assisted Contractor or Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Agreement.

B. No Discrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity,

age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of an Agency-Assisted Contract or Contract. The Agency-Assisted Contractor or Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

C. Compliance with Prompt Payment Statute. Construction contracts and subcontracts awarded for \$5,000 or more shall contain the following provision:

“Amounts for work performed by a subcontractor shall be paid within ten (10) days of receipt of funds by the contractor, pursuant to California Business and Professions Code Section 7108.5 *et seq.* Failure to include this provision in a subcontractor or failure to comply with this provision shall constitute an event of default which would permit the Agency to exercise any and all remedies available to it under contract, at law or in equity.”

In addition to and not in contradiction to the Prompt Payment Statute (California Business and Professions Code Section 7108.5 *et seq.*), if a dispute arises which would allow a Contractor to withhold payment to a subcontractor due to a dispute, the Contractor shall only withhold that amount which directly relates to the dispute and shall promptly pay the remaining undisputed amount, if any.

D. Submission Of Electronic Certified Payrolls. For any Agency-Assisted Contract which requires the submission of certified payroll reports, the requirements of Section VII of the Agency’s Small Business Enterprise Policy shall apply. Please see the Small Business Enterprise Policy for more details.

X. PROCEDURES

A. Notice to Agency. The Agency-Assisted Contractor or Contractor(s) shall provide the Agency with the following information within 10 days of awarding a contract or selecting subconsultant:

1. the nature of the contract, e.g. type and scope of work to be performed;
2. the dollar amount of the contract;
3. the name, address, license number, gender and ethnicity of the person to whom the contract was awarded; And
4. SBE status of each subcontractor or subconsultant.

B. Affidavit. If the Agency-Assisted Contractor or Contractor(s) contend that the contract has been awarded to a SBE, the Agency-Assisted Contractor or Contractor(s) shall, at the same time also submit to the Agency a SBE Application for Certification and its accompanying Affidavit completed by the SBE owner. However, a SBE that was previously certified by the Agency shall submit only the short SBE Eligibility Statement.

C. Good Faith Documentation. If the 50% SBE Participation Goals are not met in each category (Construction, Professional Services and Suppliers), the Agency-Assisted Contractor or Contractor(s) shall meet and confer with the Agency at a date and time set by the Agency. If the issue of the Agency-Assisted Contractor's or Contractor's good faith efforts is not resolved at this meeting, the Agency-Assisted Contractor or Contractor shall submit to the Agency within five (5) days, a declaration under penalty of perjury containing the following documentation with respect to the good faith efforts ("**Submission**"):

1. A report showing the responses, rejections, proposals and bids (including the amount of the bid) received from SBEs, including the date each response, proposal or bid was received. This report shall indicate the action taken by the Agency-Assisted Contractor or Contractor(s) in response to each proposal or bid received from SBEs, including the reasons(s) for any rejections.

2. A report showing the date that the bid was received, the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the non-SBE contractor who was selected submitted more than one bid, the amount of each bid and the date that each bid was received shall be shown in the report. If the bidder asserts that there were reasons other than the respective amounts bid for not awarding the contract to an SBE, the report shall also contain an explanation of these reasons.

3. Documentation of advertising for and contacts with SBEs, contractor associations or development centers, or any other agency which disseminates bid and contract information to small business enterprises.

4. Copies of initial and follow-up correspondence with SBEs, contractor associations and other agencies, which assist SBEs.

5. A description of the assistance provided SBE firms relative to obtaining and explaining plans, specifications and contract requirements.

6. A description of the assistance provided to SBEs with respect to bonding, lines of credit, etc.

7. A description of efforts to negotiate or a statement of the reasons for not negotiating with SBEs.

8. A description of any divisions of work undertaken to facilitate SBE participation.

9. Documentation of efforts undertaken to encourage subcontractors to obtain small business enterprise participation at a lower tier.

10. A report which shows for each private project and each public project (without a SBE program) undertaken by the bidder in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars awarded to SBEs and the percentage of contract dollars awarded to non-SBEs.

11. Documentation of any other efforts undertaken to encourage participation by small business enterprises.

D. Presumption of Good Faith Efforts. If the Agency-Assisted Contractor or Contractor(s) achieves the Participation Goals, it will not be required to submit Good Faith Effort documentation.

E. Waiver. Any of the SBE requirements may be waived if the Agency determines that a specific requirement is not relevant to the particular situation at issue, that SBEs were not available, or that SBEs were charging an unreasonable price.

F. SBE Determination. The Agency shall exercise its reasonable judgment in determining whether a business, whose name is submitted by the Agency-Assisted Contractor or Contractor(s) as a SBE, is owned and controlled by a SBE. A firm's appearance in any of the Agency's current directories will be considered by the Agency as prima facie evidence that the firm is a SBE. Where the Agency-Assisted Contractor or Contractor(s) makes a submission the Agency shall make a determination, as to whether or not a business which the Agency-Assisted Contractor or Contractor(s) claims is a SBE is in fact owned and controlled by San Francisco-based SBEs. If the Agency determines that the business is not a SBE, the Agency shall give the Agency-Assisted Contractor or Contractor a Notice of Non-Qualification and provide the Agency-Assisted Contractor or Contractor with a reasonable period (not to exceed 20 days) in which to meet with the Agency and if necessary make a Submission, concerning its good faith efforts. If the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to Section XII.

G. Agency Investigation. Where the Agency-Assisted Contractor or Contractor makes a Submission and, as a result, the Agency has cause to believe that the Agency-Assisted Contractor or Contractor has failed to undertake good faith efforts, the Agency shall conduct an investigation, and after affording the Agency-Assisted Contractor or Contractor notice and an opportunity to be heard, shall recommend such remedies and sanctions as it deems necessary to correct any alleged violation(s). The Agency shall give the Agency-Assisted Contractor or Contractor a written Notice of Non-Compliance setting forth its findings and recommendations. If the Agency-Assisted Contractor or Contractor disagree with the findings and recommendations of the Agency as set forth in the Notice of Non-Compliance, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to this SBE Agreement.

XI. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this SBE Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. Demand for Arbitration. Where the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Agency-Assisted Contractor or Contractor shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying any entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Agency-Assisted Contractor and Contractor fails to file a timely Demand for Arbitration, the Agency-Assisted Contractor and Contractor shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

C. Parties' Participation. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Agency-Assisted Contractor or Contractor made an initial timely Demand for Arbitration pursuant to Section XII.B. above.

D. Agency Request to AAA. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

E. Selection of Arbitrator. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

F. Setting of Arbitration Hearing. A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

G. Discovery. In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

H. Burden of Proof. The burden of proof with respect to SBE status and/or Good Faith Efforts shall be on the Agency-Assisted Contractor and/or Contractor. The burden of proof as to all other alleged breaches by the Agency-Assisted Contractor and/or Contractor shall be on the Agency.

I. California Law Applies. Except where expressly stated to the contrary in this SBE Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. Arbitration Remedies and Sanctions. The arbitrator may impose only the remedies and sanctions set forth below:

1. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Agency-Assisted Contract or this SBE Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Agency-Assisted Contract or this SBE Agreement, other than those minor modifications or extensions necessary to enable compliance with this SBE Agreement.

2. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the SBE Program requirements in the Agency-Assisted Contract or this SBE Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this SBE Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. Arbitrator's Decision. The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. Default Award; No Requirement to Seek an Order Compelling Arbitration. The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. Arbitrator Lacks Power to Modify. Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agency-Assisted Contract, this SBE Agreement or any other agreement between the Agency, the Agency-Assisted Contractor or Contractor or to negotiate new agreements or provisions between the parties.

N. Jurisdiction/Entry of Judgment. The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

O. Exculpatory Clause. Agency-Assisted Contractor or Contractor (regardless of tier) expressly waive any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Agency-Assisted Contractor or Contractor (regardless of tier) acknowledge and agree that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this SBE Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. Severability. The provisions of this SBE Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this SBE Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this SBE Agreement or the validity of their application to other persons or circumstances.

Q. Arbitration Notice: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE

COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

**WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO
SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE
"ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.**

Agency

Agency-Assisted Contractor

XII. AGREEMENT EXECUTION

Note: If you are seeking Agency certification as a SBE, you should fill out the “Application for SBE Certification”. If you are already an Agency certified SBE, you should execute the “SBE Eligibility Statement”.

I, hereby certify that I have authority to execute this SBE Agreement on behalf of the business, organization or entity listed below and that it will use good faith efforts to comply with the Agency’s 50% SBE Participation Goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name and Phone Number

Nondiscrimination in Contracts and Benefits
Instructions

A. What is the Nondiscrimination in Contracts Policy?

The Successor Agency to the San Francisco Redevelopment Agency's Nondiscrimination in Contracts Policy (Policy) requires companies or organizations providing products or services to, or leasing a real property from, the Successor Agency to agree not to discriminate against groups who are protected from discrimination under the Policy, and to include a similar provision in subcontracts and other agreements. Those provisions are the subjects of this form. The Policy is posted on the Web at: www.ci.sf.ca.us/sfra.

If you do not comply with the Policy, the Successor Agency cannot do business with you, except under certain very limited circumstances.

B. What Successor Agency contracts are covered by the Policy?

- Contracts or purchase orders where the Successor Agency purchases products, services or construction with contractors/vendors whose total amount of business with the Successor Agency exceeds a cumulative amount of \$5,000 in a 12-month period.
- Leases of property owned by the Successor Agency for a term of 30 days or more. In these cases, the Successor Agency is the landlord. The Policy also applies to leases for a term of 30 days or more where the Successor Agency is the tenant.

C. What are the groups protected from discrimination under the Policy?

You may not discriminate against:

- your employees
- an applicant for employment
- any employee of the Successor Agency or the City and County of San Francisco
- a member of the public having contact with you.

D. What are prohibited types of discrimination?

You may not discriminate against the specified groups for the following reasons (see Question 1a on the declaration form).

- | | |
|----------------------|---------------------------|
| • Race | • color |
| • creed | • religion |
| • ancestry | • national origin |
| • age | • sex |
| • sexual orientation | • gender identity |
| • marital status | • domestic partner status |
| • disability | • AIDS/HIV status |

In the provision of benefits, you also may not discriminate between employees with spouses and employees with domestic partners, or between the spouses and domestic partners of employees, subject to the conditions listed in F.2 below.

E. How are subcontracts affected?

For any subcontract, sublease, or other subordinate agreement you enter into which is related to a contract you have with the Successor Agency, you must include a nondiscrimination provision (See Question 1b on the Declaration Form). The subcontracting provision need not include nondiscrimination in benefits as part of the nondiscrimination requirements. If you're unsure whether a contract qualifies as a subcontract, contact the Successor Agency division administering your contract with the Successor Agency. "Subcontract" also includes any subcontract of your subcontractor for performance of 10% or more of the subcontract.

F. Nondiscrimination in benefits for spouses and domestic partners**1. Who are domestic partners?**

If your employee and another person are currently registered as domestic partners with a state, county or city that authorizes such registration, then those two people are domestic partners. It doesn't matter where the domestic partners now live or whether they are a same-sex couple or an opposite sex couple. A company/organization may also institute its own domestic partnership registry (contact the Successor Agency for more information).

2. What is nondiscrimination in benefits?

You must provide the same benefits to employees with spouses and employees with domestic partners, and to spouses and domestic partners of employees, subject to the following qualifications (See Question 2c on the Declaration Form).

- If your cost of providing a benefit for an employee with a domestic partner exceeds that of providing it for an employee with a spouse, or vice versa, you may require the employee to pay the excess cost.
- If you are unable to provide the same benefits, despite taking all reasonable measures to do so, you must provide the employee with a cash equivalent. This qualification is intended to address situations where your benefits provider will not provide equal benefits and you are unable to find an alternative source or state or federal law prohibit the provision of equal benefits. (See Question 2d on the Declaration form).
- The Policy does not require any benefits be offered to spouses or domestic partners. It does require, however, that whatever benefits are offered to spouses be offered equally to domestic partners, and vice versa.

3. Examples of benefits

The law is intended to apply to all benefits offered to employees with spouses and employees with domestic partners. A sample list appears in Question 2c on the Declaration Form.

G. Form required

Complete the Declaration Form to tell the Successor Agency whether you comply with the Policy. All parties to a Joint Venture must submit separate Declarations.

Please submit an original of the Declaration Form and keep a copy for your records. If an Successor Agency division should ask you to complete the form again, you may submit a copy of the form you originally submitted (if the information has not changed), unless you are advised otherwise.

H. Attachments

If you provide equal benefits, as indicated by your answers to Question 2c on the Declaration form, **YOU MUST ATTACH DOCUMENTATION TO THIS FORM**, unless such documentation does not exist. See item 3, "Documentation for Nondiscrimination in Benefits." If documentation does not exist, attach an explanation (e.g., some of your policies are unwritten).

I. If your answers change

If, after you submit the Declaration, your company/organization's nondiscrimination policy or benefits change such that the information you provided to the Successor Agency is no longer accurate, you must advise the Successor Agency promptly by submitting a new Declaration.

Nondiscrimination in Contracts and Benefits
Declaration Form

1. Nondiscrimination—Protected Classes

a. Is it your company/organization's policy that you will not discriminate against your employees, applicants for employment, employees of the Successor Agency to the San Francisco Redevelopment Agency (Successor Agency) or City and County of San Francisco (City), or members of the public for the following reasons:

- | | | |
|---------------------------|------------------------------|-----------------------------|
| • race | ☐ Yes | ☐ No |
| • color | ☐ Yes | ☐ No |
| • creed | ☐ Yes | ☐ No |
| • religion | ☐ Yes | ☐ No |
| • ancestry | ☐ Yes | ☐ No |
| • national origin | ☐ Yes | ☐ No |
| • age | ☐ Yes | ☐ No |
| • sex | ☐ Yes | ☐ No |
| • sexual orientation | ☐ Yes | ☐ No |
| • gender identity | ☐ Yes | ☐ No |
| • marital status | ☐ Yes | ☐ No |
| • domestic partner status | ☐ Yes | ☐ No |
| • disability | ☐ Yes | ☐ No |
| • AIDS or HIV status | ☐ Yes | ☐ No |

b. Do you agree to insert a similar nondiscrimination provision in any subcontract you enter into for the performance of a substantial portion of the contract that you have with the Successor Agency or the City?

☐ Yes ☐ No

If you answered "no" to any part of Question 1a or 1b, the Successor Agency or the City cannot do business with you.

2. Nondiscrimination—Equal Benefits (Question 2 does not apply to subcontracts or subcontractors)

a. Do you provide, or offer access to, any benefits to employees with spouses or to spouses of employees?

Yes ☐ No

☐

b. Do you provide, or offer access to, any benefits to employees with domestic partners (Partners) or to domestic partners of employees?

Yes ☐ No

☐

If you answered "no" to both Questions 2a and 2b, skip 2c and 2d, and sign, date and return this form. If you answered "yes" to Question 2a or 2b, continue to 2c.

c. If "yes," please indicate which ones. This list is not intended to be exhaustive. Please list any other benefits you provide (even if the employer does not pay for them).

Benefit	Yes, for Spouses	Yes, for Partners	No
• Medical (health, dental, vision)	☐	☐	☐
• Pension	☐	☐	☐
• Bereavement	☐	☐	☐
• Family leave	☐	☐	☐
• Parental leave	☐	☐	☐
• Employee assistance programs	☐	☐	☐
• Relocation and travel	☐	☐	☐
• Company discounts, facilities, events	☐	☐	☐
• Credit union	☐	☐	☐
• Child care	☐	☐	☐
• Other _____	☐	☐	☐
• Other _____	☐	☐	☐

If you answered “yes” to Question 2a or 2b, and in 2c indicated that you do not provide equal benefits, you may still comply with the Policy if you have taken all reasonable measures to end discrimination in benefits, have been unable to do so, and now provide employees with a cash equivalent.

- (1) Have you taken all reasonable measures? ☐ Yes ☐ No
- (2) Do you provide a cash equivalent? ☐ Yes ☐ No

3. Documentation for Nondiscrimination in Benefits (Questions 2c and 2d only)

If you answered “yes” to any part of Question 2c or Question 2d, you must attach to this form those provisions of insurance policies, personnel policies, or other documents you have which verify your compliance with Question 2c or Question 2d. Please include the policy sections that list the benefits for which you indicated “yes” in Question 2c. If documentation does not exist, attach an explanation, e.g., some of your personnel policies are unwritten. If you answered “yes” to Question 2d(1) complete and attach form SFRA/CC-103, “Nondiscrimination in Benefits—Reasonable Measures Affidavit,” which is available from the Successor Agency. You need not document your “yes” answer to Question 1a or Question 1b.

I declare (or certify) under penalty of perjury that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this ____ day of _____, 20____, at _____, _____.
(City) (State)

Name of Company/Organization: _____

Doing Business As (DBA): _____

Also Known As (AKA): _____

General Address: _____

(For General Correspondence) _____

Remittance Address: _____

(If different from above address) _____

Name of Signatory: _____ Title: _____

(Please Print)

Signature: _____

Phone Number: _____ Federal Tax ID Number: _____

Approximate number of employees in the U.S.: _____ Vendor Number: _____
(if known)

- ☐ Check here if your address has changed.
- ☐ Check here if your organization is a non-profit.
- ☐ Check here if your organization is a governmental entity.

THIS FORM MUST BE RETURNED WITH THE ORIGINAL SIGNATURE

Please return this form to: Successor Agency to the San Francisco Redevelopment Agency, One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103.

MINIMUM COMPENSATION POLICY DECLARATION

What the Policy does. The Successor Agency to the Redevelopment Agency of the City and County of San Francisco adopted the Minimum Compensation Policy (MCP), which became effective on September 25, 2001. The MCP requires contractors and subcontractors to provide the following to their employees covered by the MCP on Agency contracts and subcontracts for services: For Commercial Business MCP the wage rate is \$12.43. For Nonprofit MCP the wage rate is \$11.03; 12 days' paid vacation per year (or cash equivalent); 10 days off without pay per year.

The Successor Agency may require contractors to submit reports on the number of employees affected by the MCP.

Effect on Successor Agency contracting. For contracts and amendments signed on or after September 25, 2001, the MCP will have the following effect:

- In each contract, the contractor will agree to abide by the MCP and to provide its employees the minimum benefits the MCP requires, and to require its subcontractors subject to the MCP to do the same.
- If a contractor does not provide the MCP minimum benefits, the Agency can award a contract to that contractor only if the contract is exempt under the MCP, or if the contract has received a waiver from the Agency.

What this form does. If you can assure the Successor Agency now that, beginning with the first Successor Agency contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the MCP to your covered employees, and will ensure that your subcontractors also subject to the MCP do the same, this will help the Successor Agency's contracting process. The Successor Agency realizes that it may not be possible to make this assurance now.

If you cannot make this assurance now, please do not return this form.

For more information, the complete text of the MCP is available from the Successor Agency's Contract Compliance Department by calling (415) 749-2400.

Routing. Return this form to: Contract Compliance Department, Successor Agency to the San Francisco Redevelopment Agency, 1 South Van Ness, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first Successor Agency contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the MCP to our covered employees, and will ensure that our subcontractors also subject to the MCP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

HEALTH CARE ACCOUNTABILITY POLICY DECLARATION

What the Ordinance does. The Successor Agency to the San Francisco Redevelopment Agency adopted the San Francisco Health Care Accountability Policy (the "HCAP"), which became effective on September 25, 2001. The HCAP requires contractors and subcontractors that provide services to the Successor Agency, contractors and subcontractors that enter into leases with the Successor Agency, and parties providing services to tenants and sub-tenants on Successor Agency property to choose between offering health plan benefits to their employees or making payments to the Successor Agency or directly to their employees.

Specifically, contractors can either: (1) offer the employee minimum standard health plan benefits approved by the Oversight Board (2) pay the Successor Agency \$3.00 per hour for each hour the employee works on the covered contract or subcontract or on property covered by a lease (but not to exceed \$120 in any week) and the Successor Agency will appropriate the money for staffing and other resources to provide medical care for the uninsured, or (3) participate in a health benefits program developed by the Successor Agency.

The Successor Agency may require contractors to submit reports on the number of employees affected by the HCAP.

Effect on Successor Agency contracting. For contracts and amendments signed on or after September 25, 2001, the HCAP will have the following effect:

- in each contract, the contractor will agree to abide by the HCAP and to provide its employees the minimum benefits the HCAP requires, and to require its subcontractors to do the same.
- if a contractor does not provide the HCAP's minimum benefits, the Successor Agency can award a contract to that contractor **only if** the contract is exempt under the HCAP, or if the contract has received waiver; from the Successor Agency.

What this form does. If you can assure the Successor Agency now that, beginning with the first Successor Agency's contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the HCAP to your covered employees, and will ensure that your subcontractors also subject to the HCAP do the same, this will help the Successor Agency contracting process. The Successor Agency realizes that it may not be possible to make this assurance now.

If you cannot make this assurance now, please do not return this form.

For more information, (1) see the complete text of the HCAP, available from the Successor Agency's Contract Compliance Department at: (415) 749-2400.

Routing. Return this form to: Contact Compliance Department, Successor Agency to the San Francisco Redevelopment Agency, 1 South Van Ness Avenue, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first Successor Agency contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the HCAP to our covered employees, and will ensure that our subcontractors also subject to the HCAP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

CONSTRUCTION WORK FORCE AGREEMENT

- I. **PURPOSE.** The purpose of the Agency and the Developer/Affordable Developer entering into this Construction Work Force Agreement is to ensure participation of San Francisco residents and equal employment opportunities for minority group persons and women in the construction work force involved in constructing any of the phases upon the Site covered by the DDA.

- II. **WORK FORCE GOALS.**
 - A. The goal set forth below is expressed as a percentage of each Contractor's total hours of employment and training by trade on the Site. The goal represents the level of San Francisco resident participation each Contractor should reasonably be able to achieve in each construction trade in which it has employees on the Site. The Owner agrees, and will require each Contractor (regardless of tier), to use its good faith efforts to employ San Francisco residents to perform construction work upon the Site at a level at least consistent with said goals.

 - B. Goal: **50 percent** participation of San Francisco residents in the total hours worked in the trade.

 - C. Amendments to the goals shall be prospective and go into effect 20 days after the Agency mails written notice of the amendments to the Developer/Affordable Developer. New goals shall not be applied retroactively.

 - D. Although paragraph B establishes a single goal for participation of San Francisco residents, each Contractor is required to provide equal employment opportunity and to take equal opportunity for all ethnic groups, both male and female, and all women, both minority and non-minority. Consequently, a Contractor may be in violation of this Construction Work Force Agreement if a particular ethnic group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goal for participation of San Francisco residents, the Contractor may be in violation if a specific ethnic group is underutilized.) If the Agency determines, after affording a Contractor notice and an opportunity to be heard, that the Contractor has violated its obligations under this paragraph, the Agency may set, for that Contractor, work force participation goals by particular ethnic group, e.g., Blacks, Latinos, etc.

 - E. Each Contractor is individually required to comply with its obligations under this Construction Work Force Agreement, and to make a good faith effort to achieve each goal in each trade in which it has employees employed at the Site. (See Section IV below.) The overall good faith performance by other contractors or subcontractors toward a goal does not excuse any covered Contractor's failure to make good faith efforts to achieve the goals.

 - F. The Contractor shall not use the goals or equal opportunity standards to discriminate against any person because of age, ancestry, color, creed, disability, gender, national origin, race, religion or sexual orientation.

 - G. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability

of employment opportunities. Unless otherwise permitted by law, trainees must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS").

III. INCORPORATION. Whenever the Owner, the general contractor, any prime contractor, or any subcontractor at any tier subcontracts a portion of the work on the Site involving any construction trade, it shall set forth verbatim and make binding on each subcontractor which has a contract in excess of \$10,000 the provisions of this Construction Work Force Agreement, including the applicable goals for San Francisco resident participation in each trade.

IV. EQUAL OPPORTUNITY REQUIREMENTS.

- A. Each Contractor shall take specific equal opportunities to ensure equal employment opportunity ("EEO"). The evaluation of the Contractor's compliance with this Construction Work Force Agreement shall be based upon its good faith efforts to achieve maximum results from its actions. Each Contractor shall document these efforts fully, and shall implement equal opportunity steps at least as extensive as the following:
1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at the Site. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment.
 2. Provide written notification to CityBuild when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 3. Maintain a current file of the names, addresses and telephone numbers of each resident applicant and each resident referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
 4. Provide immediate written notification to the Agency when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a resident sent or requested by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 5. Develop on-the-job training opportunities and/or participate in training programs, including apprenticeship, trainee and upgrading programs relevant to the Contractor's employment needs, especially those funded or approved by BAT or DAS. The Contractor shall provide notice of these programs to the sources compiled under Section IV.A.2 above.

6. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at the Site.
7. Review, prior to beginning work at the Site and at least annually thereafter, the Contractor's EEO policy and equal opportunity obligations under the DDA and this Construction Work Force Agreement with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as superintendents, general foremen, etc. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter. The Agency's contract compliance staff shall be invited to attend the meeting held prior to the beginning of work at the Site.
8. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
9. Direct its recruitment efforts, both oral and written, to local minority group, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
10. Encourage present minority and female employees to recruit other minority group persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the Site and in other areas of a Contractor's work force.
11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
12. Conduct, at least annually, an inventory and evaluation of San Francisco resident personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training etc., such opportunities.
13. Ensure that seniority practices, job classifications, work assignments and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations hereunder are being carried out.

14. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the genders.
 15. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and equal opportunity obligations.
- B. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their equal opportunity obligations under Section IV.A.1 through 15. The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Section IV.A.1 through 15 provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minority group persons and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force composition, makes a good faith effort to meet its individual goals, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

V. ADDITIONAL PROVISIONS.

- A. The failure by a union with which the Contractor has a collective bargaining agreement, to refer San Francisco residents shall not excuse the Contractor's obligations under this Construction Work Force Agreement.
- B. A Contractor shall not enter into any subcontract with any person or firm that the Contractor knows or should have known is debarred from government contracts pursuant to Executive Order 11246.
- C. No employee to whom the equal opportunity provisions of this Construction Work Force Agreement are applicable shall be discharged or in any other manner discriminated against by the Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to Attachment 9 of the DDA or this Schedule.
- D. Each Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the Contractor's EEO policy is being carried out.

VI. DOCUMENTATION AND RECORDS.

- A. Submission of electronic certified payrolls. Each Contractor shall submit through the General Contractor to the Agency by noon on each Wednesday a report providing the information contained in the Agency's Optional Form of payroll report for the week preceding the previous week on each of its employees. Each prime contractor is responsible for the submission of this report by each of its subcontractors.
- B. Each Contractor shall submit through the General Contractor to the Agency by noon on each Wednesday a payroll report for the week preceding the previous week on each of its

employees. Each prime contractor is responsible for the submission of this report by each of its subcontractors and for certifying its accuracy.

- C. No monthly progress payments will be processed until Contractor has submitted weekly certified payrolls to the Agency for the applicable time period. Certified payrolls shall be prepared pursuant to this SBE Policy for the period involved for all employees, including those of subcontractors of all tiers, for all labor incorporated into the work.
- D. Contractor shall submit certified payrolls to the Agency electronically via the Project Reporting System ("PRS") selected by the Agency, an Internet-based system accessible on the World Wide Web through a web browser. The Contractor and each Subcontractor and Supplier must register with PRS and be assigned a log-on identification and password to access the PRS.
- E. Use of the PRS may require Contractor, Subcontractors and Suppliers to enter additional data relating to weekly payroll information including, but not limited to, employee identification, labor classification, total hours worked and hours worked on this project, and wage and benefit rates paid. Contractor's payroll and accounting software may be capable of generating a "comma delimited file" that will interface with the PRS software.
- F. For each Agency-Assisted project, the Agency will provide basic training in the use of the PRS at a scheduled training session. Contractor and all Subcontractors and Suppliers and/or their designated representatives must attend the PRS training session.
- G. Contractor shall comply with the requirements of this Article VI at no additional cost to the Agency or the Owner.
- H. The Agency will not be liable for interest, charges or costs arising out of or relating to any delay in making progress payments due to Contractor's failure to make a timely and accurate submittal of weekly certified payrolls.
- I. In addition to the above, Contractor shall comply with the requirements of California Labor Code Section 1776, or as amended from time to time, regarding the keeping, filing and furnishing of certified copies of payroll records of wages paid to its employees and to the employees of its Subcontractors of all tiers.
- J. The Contractor shall make the payroll records available to for inspection at all reasonable hours at the job site office of Contractor.
- K. Contractor is solely responsible for compliance with Labor Code Section 1776 or this SBE Policy. The Agency shall not be liable for Contractor's failure to make timely or accurate submittals of certified payrolls.

ARBITRATION OF DISPUTES.

- A. **Arbitration** by **AAA**. Any dispute regarding this Construction Work Force Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

- B. **Demand for Arbitration.** Where the Owner disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Owner shall have seven (7) business days, in which to file a Demand for Arbitration,** unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Owner fails to file a timely Demand for Arbitration, the Owner shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.
- C. **Parties' Participation.** The Agency and all persons or entities that have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Owner made an initial timely Demand for Arbitration pursuant to Section V.B. above.
- D. **Agency Request to AAA.** Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.
- E. **Selection of Arbitrator.** One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.
- F. **Setting of Arbitration Hearing.** A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.
- G. **Discovery.** In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.
- H. **Burden of Proof.** The burden of proof with respect to Construction Work Force compliance and/or Good Faith Efforts shall be on the Owner. The burden of proof as to all other alleged breaches by the Owner shall be on the Agency.
- I. **California Law Applies.** Except where expressly stated to the contrary in this Construction Work Force Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. **Arbitration Remedies and Sanctions.** The arbitrator may impose only the remedies and sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.
2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Owner or this Construction Work Force Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Owner or this Construction Work Force Agreement, other than those minor modifications or extensions necessary to enable compliance with this Construction Work Force Agreement.
3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the Agency's Work Force policy requirements. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.
4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this Construction Work Force Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.
5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. **Arbitrator's Decision.** The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. **Default Award; No Requirement to Seek an Order Compelling Arbitration.** The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

- M. **Arbitrator Lacks Power to Modify.** Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of this Construction Work Force Agreement or any other agreement between the Agency and Owner or to negotiate new agreements or provisions between the parties.
- N. **Jurisdiction/Entry of Judgment.** The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.
- O. **Exculpatory Clause.** Owner expressly waives any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Owner acknowledges and agrees that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this Construction Work Force Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.
- P. **Severability.** The provisions of this Construction Work Force Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Construction Work Force Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this Construction Work Force Agreement or the validity of their application to other persons or circumstances.
- Q. **Arbitration Notice:** BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

 Agency

 Owner

VI. PRECONSTRUCTION MEETING.

- A. Prior to the commencement of construction, the general contractor, any prime contractor, or any subcontractor at any tier shall attend a preconstruction meeting convened by the Agency and to which outreach organizations are invited to review the reporting requirements, the prospective construction work force composition and any problems that may be anticipated in meeting the construction work force goal.
- B. Any subcontractor at any tier, who does not attend such a meeting shall not be permitted on the job site. The Agency shall convene additional preconstruction meetings within 24 hours of the Contractor's request. The Contractor shall endeavor to include as many prospective subcontractors as possible at these meetings in order not to protract unduly the number of meetings.
- C. Failure to comply with this preconstruction meeting provision may result in the Agency ordering a suspension of work by the prime contractor and/or the subcontractor until the breach has been cured. Suspension under this provision is not subject to arbitration.

VII. TERM. The obligations of the Owner and the Contractors with respect to their construction work forces, as set forth in Attachment 9 of this DDA and this Construction Work Force Agreement, shall remain in effect until completion of all work to be performed by the Owner in connection with the construction of any of the phases.

I, hereby certify that I have authority to execute this Construction Work Force Agreement on behalf of the business, organization or entity listed below and that it will use good faith efforts to comply with the Agency's Construction Work Force participation goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

 Signature

 Date

 Print Your Name

 Title

 Company Name and Phone Number

PERMANENT WORK FORCE AGREEMENT

- I. PURPOSE.** The purposes of the Agency and the Developer/Affordable Developer in entering into this Permanent Work Force Agreement are to ensure:
- A. that San Francisco residents obtain **50 percent** of the permanent jobs in the work forces of the Owner and tenants at the Site.

- B. that San Francisco residents are given first consideration for employment by the Owner and tenants for permanent employment at the Site.

- II. APPLICATION OF THIS SCHEDULE TO TENANTS.** The Developer shall include verbatim in its leases and require the incorporation verbatim in all subleases for space in the Site the provisions of this Permanent Work Force Agreement. The lease shall make the incorporated provisions binding on and enforceable by the Agency against the tenant to the same extent as these provisions are binding on and enforceable against the Developer; except that:

- A. Unless agreed otherwise by the Agency, a tenant with **26 or more** employees shall submit its workforce plan through the Developer to the Agency not later than 90 days prior to hiring any permanent employees to work on the tenant's premises; rather than pursuant to the requirements set forth in Section V.B.
- B. A tenant with 25 or less employees shall not be required to submit an workforce plan pursuant to Section IV, but instead shall undertake and document in writing the good faith efforts it made to meet the goals and first consideration in employment requirements set forth in Section III. The Agency's Contract Compliance Department shall determine if such a tenant has exercised good faith efforts.
- C. A tenant with less than 25 employees shall submit to the Agency the reports required by Section VII of not later than 60 days after it opens for business and annually thereafter.

III. GOALS AND OBJECTIVES.

- A. make good faith efforts to employ 50 percent of its work force at the Site in each job category from residents of the City and County of San Francisco.
- B. as provided in Section IV.B.1, give first consideration for employment at the Site to residents of San Francisco.

IV. PERMANENT WORKFORCE PLAN.

- A. The Developer and each tenant with more than 26 employees, whether or not it is a federal contractor, shall prepare and adopt a plan for its permanent work force at the Site.
- B. The workforce plan shall contain the following:
 - 1. Detailed procedures for ensuring that San Francisco residents who are equally or more qualified than other candidates obtain first consideration for employment. These procedures shall include specific recruiting, screening and hiring

procedures (e.g., phased hiring) which ensure that qualified residents receive offers of employment prior to other equally or less qualified candidates. If a candidate(s) who is entitled to first consideration is not selected for the position, the Developer or tenant shall have the burden of establishing to the Agency and the arbitrator (if the matter is taken to arbitration), that the candidate who was selected was better qualified for the position than the candidate(s) who was entitled to first consideration.

2. Where it is a reasonable expectation that 10 percent or more of the employees in any job category will regularly work less than 35 hours per week, detailed procedures for ensuring that minority group persons, women, and San Francisco residents do not receive a disproportionate share of the part time work.
3. An agreement that not more than 15 percent of the positions in any job category will be filled by persons transferred from other facilities operated by the Developer, without the prior approval of the Agency. The Agency shall grant approval upon a showing that transfers in excess of 15 percent do not unreasonably interfere with the objective of creating new jobs for San Francisco residents and that such transfers further legitimate business needs of the Owner. Transfers shall be counted in determining if the Developer has met the employment goals for each ethnic group and women.
4. Where required by the Agency, detailed procedures for utilizing Outreach Organizations as meaningful referral sources for job applicants.

V. ARBITRATION OF DISPUTES.

Arbitration by AAA. Any dispute regarding this Permanent Work Force Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

Demand for Arbitration. Where the Owner disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Owner shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Owner fails to file a timely Demand for Arbitration, the Owner shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

Parties' Participation. The Agency and all persons or entities that have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Owner made an initial timely Demand for Arbitration pursuant to Section V.B. above.

Agency Request to AAA. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

Selection of Arbitrator. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

Setting of Arbitration Hearing. A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

Discovery. In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

Burden of Proof. The burden of proof with respect to Permanent Work Force compliance and/or Good Faith Efforts shall be on the Owner. The burden of proof as to all other alleged breaches by the Owner shall be on the Agency.

California Law Applies. Except where expressly stated to the contrary in this Permanent Work Force Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

Arbitration Remedies and Sanctions. The arbitrator may impose only the remedies and sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.
2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Owner or this Permanent Work Force Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Owner or this Permanent Work Force Agreement, other than those minor modifications or extensions necessary to enable compliance with this Permanent Work Force Agreement.
3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the Agency's Work Force policy requirements. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this Permanent Work Force Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.
5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

Arbitrator's Decision. The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

Default Award; No Requirement to Seek an Order Compelling Arbitration. The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

Arbitrator Lacks Power to Modify. Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of this Permanent Work Force Agreement or any other agreement between the Agency and Owner or to negotiate new agreements or provisions between the parties.

Jurisdiction/Entry of Judgment. The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

Exculpatory Clause. Owner expressly waives any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Owner acknowledges and agrees that the procedures set forth herein for dealing with alleged breaches or failure to comply with

the obligations and requirements of this Permanent Work Force Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

Severability. The provisions of this Permanent Work Force Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Permanent Work Force Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this Permanent Work Force Agreement or the validity of their application to other persons or circumstances.

Arbitration Notice: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Owner

VII. REPORTS.

A. The Owner and each tenant shall prepare, for its Site work force, reports for each job category which show by race, gender, residence (including if in the Western Addition Redevelopment Project Area A-2), and, where required by the Agency, by transfer/non-transfer and referral source:

1. Current work force composition;
2. applicants;
3. job offers;
4. hires;
5. rejections;

6. pending applications;
7. promotions and demotions; and
8. employees working, on average, less than 35 hours per week.

B. The reports shall be submitted quarterly to the Agency, unless otherwise required by the Agency. In this regard the Owner and each tenant agrees that if a significant number of positions are to be filled during a given period or other circumstances warrant, the Agency may require daily, weekly or monthly reports containing all or some of the above information. The Owner and each tenant further agrees that the above reports may not be sufficient for monitoring the Owner's or tenant's performance in all circumstances, that they will negotiate in good faith concerning additional reports, and that the arbitrator shall have authority to require additional reports if the parties cannot agree.

VIII. TERM. The obligations of the Owner and its tenants with respect to their permanent work forces as set forth in the DDA, and this Permanent Work Force Agreement, shall arise from the date the Owner or its tenants first assigns employees to the Site on a permanent basis and remain in effect for three years thereafter.

I, hereby certify that I have authority to execute this Permanent Work Force Agreement on behalf of the business, organization or entity listed below and that it will use good faith efforts to comply with the Agency's Permanent Work Force participation goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name and Phone Number

PREVAILING WAGE PROVISIONS
(LABOR STANDARDS)

1. **Applicability.** These Prevailing Wage Provisions (hereinafter referred to as "Labor Standards") apply to any and all construction of the Improvements as defined in the Disposition and Development Agreement (DDA) between the Developer and the Agency of which this Attachment 9 and these Labor Standards are a part.

2. **All Contracts and Subcontracts shall contain the Labor Standards. Confirmation by Construction Lender.**
 - (a) All specifications relating to the construction of the Improvements shall contain these Labor Standards and the Developer shall have the responsibility to assure that all contracts and subcontracts, regardless of tier, incorporate by reference the specifications containing these Labor Standards. If for any reason said Labor Standards are not included, the Labor Standards shall nevertheless apply. The Developer shall supply the Agency with true copies of each contract relating to the construction of the Improvements showing the specifications that contain these Labor Standards promptly after due and complete execution thereof and before any work under such contract commences. Failure to do shall be a violation of these Labor Standards.

 - (b) Before close of escrow under the DDA and as a condition to close of escrow, the Developer shall also supply a written confirmation to the Agency from any construction lender for the Improvements that such construction lender is aware of these Labor Standards.

3. **Definitions.** The following definitions shall apply for purposes of this Prevailing Wage Provisions:
 - (a) "Contractor" is the Developer if permitted by law to act as a contractor, the general contractor, and any contractor as well as any subcontractor of any tier subcontractor having a contract or subcontract that exceeds \$10,000, and who employs Laborers, Mechanics, working foremen, and security guards to perform the construction on all or any part of the Improvements.

 - (b) "Laborers" and "Mechanics" are all persons providing labor to perform the construction, including working foremen and security guards.

 - (c) "Working foreman" is a person who, in addition to performing supervisory duties, performs the work of a Laborer or Mechanic during at least 20 percent of the workweek.

4. **Prevailing Wage.**
 - (a) All Laborers and Mechanics employed in the construction of the Improvements will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by §11.5) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the General Prevailing Wage Determination (hereinafter referred to as the "Wage

Determination") made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, sections 1770, 1773 and 1773.1, regardless of any contractual relationship which may be alleged to exist between the Contractor and such Laborers and Mechanics. A copy of the applicable Wage Determination is on file in the offices of the Agency with the Development Services Manager. At the time of escrow closing the Agency shall provide the Developer with a copy of the applicable Wage Determination.

All Laborers and Mechanics shall be paid the appropriate wage rate and fringe benefits for the classification of work actually performed, without regard to skill. Laborers or Mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the Contractor's payroll records accurately set forth the time spent in each classification in which work is performed.

- (b) Whenever the wage rate prescribed in the Wage Determination for a class of Laborers or Mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit in the manner as stated therein i.e. the vacation plan, the health benefit program, the pension plan and the apprenticeship program, or shall pay an hourly cash equivalent thereof.
- (c) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any Laborer or Mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the Wage Determination, provided that the Executive Director of the Agency has found, upon the written request of the Contractor, made through the Developer that the intent of the Labor Standards has been met. Records of such costs shall be maintained in the manner set forth in subsection (a) of §11.8. The Executive Director of the Agency may require the Developer to set aside in a separate interest bearing account with a member of the Federal Deposit Insurance Corporation, assets for the meeting of obligations under the plan or program referred to above in subsection (b) of this §11.4. The interest shall be accumulated and shall be paid as determined by the Agency acting at its sole discretion.
- (d) Regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

5. Permissible Payroll Deductions. The following payroll deductions are permissible deductions. Any others require the approval of the Agency's Executive Director.

- (a) Any withholding made in compliance with the requirements of Federal, State or local income tax laws, and the Federal social security tax.
- (b) Any repayment of sums previously advanced to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when cash or its equivalent has been advanced to the employee in such manner as to give him or her complete freedom of disposition of the advanced funds.

- (c) Any garnishment, unless it is in favor of the Contractor (or any affiliated person or entity), or when collusion or collaboration exists.
- (d) Any contribution on behalf of the employee, to funds established by the Contractor, representatives of employees or both, for the purpose of providing from principal, income or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents provided, however, that the following standards are met:
 - 1. The deduction is not otherwise prohibited by law; and
 - 2. It is either:
 - a. Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for obtaining or for the continuation of employment, or
 - b. Provided for in a bona fide collective bargaining agreement between the Contractor and representatives of its employees; and
 - 3. No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor (or any affiliated person or entity) in the form of commission, dividend or otherwise; and
 - 4. The deduction shall serve the convenience and interest of the employee.
- (e) Any authorized purchase of United States Savings Bonds for the employee.
- (f) Any voluntarily authorized repayment of loans from or the purchase of shares in credit unions organized and operated in accordance with Federal and State credit union statutes.
- (g) Any contribution voluntarily authorized by the employee for the American Red Cross, United Way and similar charitable organizations.
- (h) Any payment of regular union initiation fees and membership dues, but not including fines or special assessments, provided that a collective bargaining agreement between the Contractor and representatives of its employees provides for such payment and the deductions are not otherwise prohibited by law.

6. Apprentices and Trainees. Apprentices and trainees will be permitted to work at less than the Mechanic's rate for the work they perform when they are employed pursuant to and are individually registered in an apprenticeship or trainee program approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or with the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS") or if a person is employed in his or her first 90 days of probationary employment as an apprentice or trainee in such a program, who is not individually registered in the program, but who has been certified by BAT or DAS to be eligible for probationary employment. Any employee listed on a

payroll at an apprentice or trainee wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate for a Mechanic. Every apprentice or trainee must be paid at not less than the rate specified in the registered program for the employee's level of progress, expressed as a percentage of a Mechanic's hourly rate as specified in the Wage Determination. Apprentices or trainees shall be paid fringe benefits in accordance with the provisions of the respective program. If the program does not specify fringe benefits, employees must be paid the full amount of fringe benefits listed in the Wage Determination.

7. **Overtime.** No Contractor contracting for any part of the construction of the Improvements which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such construction to work in excess of eight hours in any calendar day or in excess of 40 hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, whichever is greater.

8. **Payrolls and Basic Records.**

- (a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of its construction of the Improvements and preserved for a period of one year thereafter for all Laborers and Mechanics it employed in the construction of the Improvements. Such records shall contain the name, address and social security number of each employee, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for fringe benefits or cash equivalents thereof), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the wages of any Laborer or Mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program, the Contractor shall maintain records which show the costs anticipated or the actual costs incurred in providing such benefits and that the plan or program has been communicated in writing to the Laborers or Mechanics affected. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage prescribed in the applicable programs or the Wage Determination.
- (b)
 1. The Contractor shall submit to the Agency on each Wednesday at noon a copy of the payrolls for the week preceding the previous week in which any construction of the Improvements was performed. The payrolls submitted shall set out accurately and completely all of the information required by the Agency's Optional Form, an initial supply of which may be obtained from the Agency. The Contractor if a prime contractor or the Developer acting as the Contractor is responsible for the submission of copies of certified payrolls by all subcontractors; otherwise each Contractor shall timely submit such payrolls.
 2. Each weekly payroll shall be accompanied by the Statement of Compliance that accompanies the Agency's Optional Form and properly executed by the Contractor or his or her agent, who pays or supervises the payment of the employees.
- (c) The Contractor shall make the records required under this §11.8 available for inspection or copying by authorized representatives of the Agency, and shall permit

such representatives to interview employees during working hours on the job. On request the Executive Director of the Agency shall advise the Contractor of the identity of such authorized representatives.

9. **Occupational Safety and Health.** No Laborer or Mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her safety and health as determined under construction safety and health standards promulgated by Cal-OSHA or if Cal-OSHA is terminated, then by the federal OSHA.
10. **Equal Opportunity Program.** The utilization of apprentices, trainees, Laborers and Mechanics under this part shall be in conformity with the equal opportunity program set forth in this Attachment 9 of the DDA including the Construction Work Force Agreement and the Permanent Work Force Agreement. Any conflicts between the languages contained in these Labor Standards and Attachment 9 shall be resolved in favor of the language set forth in Attachment 9, except that in no event shall less than the prevailing wage be paid.
11. **Nondiscrimination Against Employees for Complaints.** No Laborer or Mechanic to whom the wage, salary or other Labor Standards of this Agreement are applicable shall be discharged or in any other manner discriminated against by the Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to these Labor Standards.
12. **Posting of Notice to Employees.** A copy of the Wage Determination referred to in subsection (a) of §11.4 together with a copy of a "Notice to Employees," in the form appearing on the last page of these Labor Standards, shall be given to the Developer at the close of escrow. The Notice to Employees and the Wage Determination shall both be posted and maintained by the Contractor in a prominent place readily accessible to all applicants and employees performing construction of the Improvements before construction commences. If such Notice and Wage Determination is not so posted or maintained, the Agency may do so.
13. **Violation and Remedies.**
 - (a) **Liability to Employee for Unpaid Wages.** The Contractor shall be liable to the employee for unpaid wages, overtime wages and benefits in violation of these Labor Standards.
 - (b) **Stop Work--Contract Terms, Records and Payrolls.** If there is a violation of these Labor Standards by reason of the failure of any contract or subcontract for the construction of the Improvements to contain the Labor Standards as required by §11.2 ("Non-Conforming Contract"); or by reason of any failure to submit the payrolls or make records available as required by §11.8 ("Non-Complying Contractor"), the Executive Director of the Agency may, after written notice to the Developer with a copy to the Contractor involved and failure to cure the violation within five working days after the date of such notice, stop the construction work under the Non-Conforming Contract or of the Non-Complying Contractor until the Non-Conforming Contract or the Non-Complying Contractor comes into compliance.

- (c) Stop Work and Other Violations. For any violation of these Labor Standards the Executive Director of the Agency may give written notice to the Developer, with a copy to the Contractor involved, which notice shall state the claimed violation and the amount of money, if any, involved in the violation. Within five working days from the date of said notice, the Developer shall advise the Agency in writing whether or not the violation is disputed by the Contractor and a statement of reasons in support of such dispute (the "Notice of Dispute"). In addition to the foregoing, the Developer, upon receipt of the notice of claimed violation from the Agency, shall with respect to any amount stated in the Agency notice withhold payment to the Contractor of the amount stated multiplied by 45 working days and shall with the Notice of Dispute, also advise the Agency that the moneys are being or will be withheld. If the Developer fails to timely give a Notice of Dispute to the Agency or to advise of the withhold, then the Executive Director of the Agency may stop the construction of the Improvements under the applicable contract or by the involved Contractor until such Notice of Dispute and written withhold advice has been received.

Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Developer shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §11.14.

- (d) Withholding Certificates of Completion. The Agency may withhold any or all certificates of completion of the Improvements provided for in this Agreement, for any violations of these Labor Standards until such violation has been cured.
- (e) General Remedies. In addition to all of the rights and remedies herein contained, but subject to arbitration, except as hereinafter provided, the Agency shall have all rights in law or equity to enforce these Labor Standards including, but not limited to, a prohibitory or mandatory injunction. Provided, however, the stop work remedy of the Agency provided above in subsection (b) and (c) is not subject to arbitration.

14. Arbitration of Disputes.

- (a) Any dispute regarding these Labor Standards shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further provisions thereof.
- (b) The Agency and all persons or entities that have a contractual relationship affected by the dispute shall be made a party to the arbitration. Any such person or entity not made a party in the demand for arbitration may intervene as a party and in turn may name any such person or entity as a party.
- (c) The arbitration shall take place in the City and County of San Francisco.
- (d) Arbitration may be demanded by the Agency, the Developer or the Contractor.
- (e) With the demand for arbitration, there must be enclosed a copy of these Labor Standards, and a copy of the demand must be mailed to the Agency and the Developer, or as appropriate to one or the other if the Developer or the Agency is

demanding arbitration. If the demand does not include the Labor Standards they are nevertheless deemed a part of the demand. With the demand if made by the Agency or within a reasonable time thereafter if not made by the Agency, the Agency shall transmit to the AAA a copy of the Wage Determination (referred to in §11.4) and copies of all notices sent or received by the Agency pursuant to §11.13. Such material shall be made part of the arbitration record.

- (f) One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators of the AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the parties fail to select an arbitrator, within seven (7) days from the receipt of the panel, the AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within 30 days from appointment.
- (g) Any party to the arbitration whether the party participates in the arbitration or not shall be bound by the decision of the arbitrator whose decision shall be final and binding on all of the parties and any and all rights of appeal from the decision are waived except a claim that the arbitrator's decision violates an applicable statute or regulation. The decision of the arbitrator shall be rendered on or before 30 days from appointment. The arbitrator shall schedule hearings as necessary to meet this 30 day decision requirement and the parties to the arbitration, whether they appear or not, shall be bound by such scheduling.
- (h) Any party to the arbitration may take any and all steps permitted by law to enforce the arbitrator's decision and if the arbitrator's decision requires the payment of money the Contractor shall make the required payments and the Developer shall pay the Contractor from money withheld.
- (i) Costs and Expenses. Each party shall bear its own costs and expenses of the arbitration and the costs of the arbitration shall be shared equally among the parties.

15. Non-liability of the Agency. The Developer and each Contractor acknowledge and agree that the procedures hereinafter set forth for dealing with violations of these Labor Standards are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids for the construction of the Improvements, in determining the time for commencement and completion of construction and in proceeding with construction work. Accordingly the Developer, and any Contractor, by proceeding with construction expressly waives and is deemed to have waived any and all claims against the Agency for damages, direct or indirect, arising out of these Labor Standards and their enforcement and including but not limited to claims relative to stop work orders, and the commencement, continuance or completion of construction.

SAN FRANCISCO REDEVELOPMENT AGENCY

NOTICE TO EMPLOYEES

***EQUAL
OPPORTUNITY
NON-DISCRIMI-
NATION***

The contractor must take equal opportunity to provide employment opportunities to minority group persons and women and shall not discriminate on the basis of age, ancestry, color, creed, disability, gender, national origin, race, religion or sexual orientation.

***PREVAILING
WAGE***

You shall not be paid less than the wage rate attached to this Notice for the kind of work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 8 a day or 40 a week, whichever is greater.

APPRENTICES

Apprentice rates apply only to employees registered under an apprenticeship or trainee program approved by the Bureau of Apprenticeship and Training or the California Division of Apprenticeship Standards.

PROPER PAY

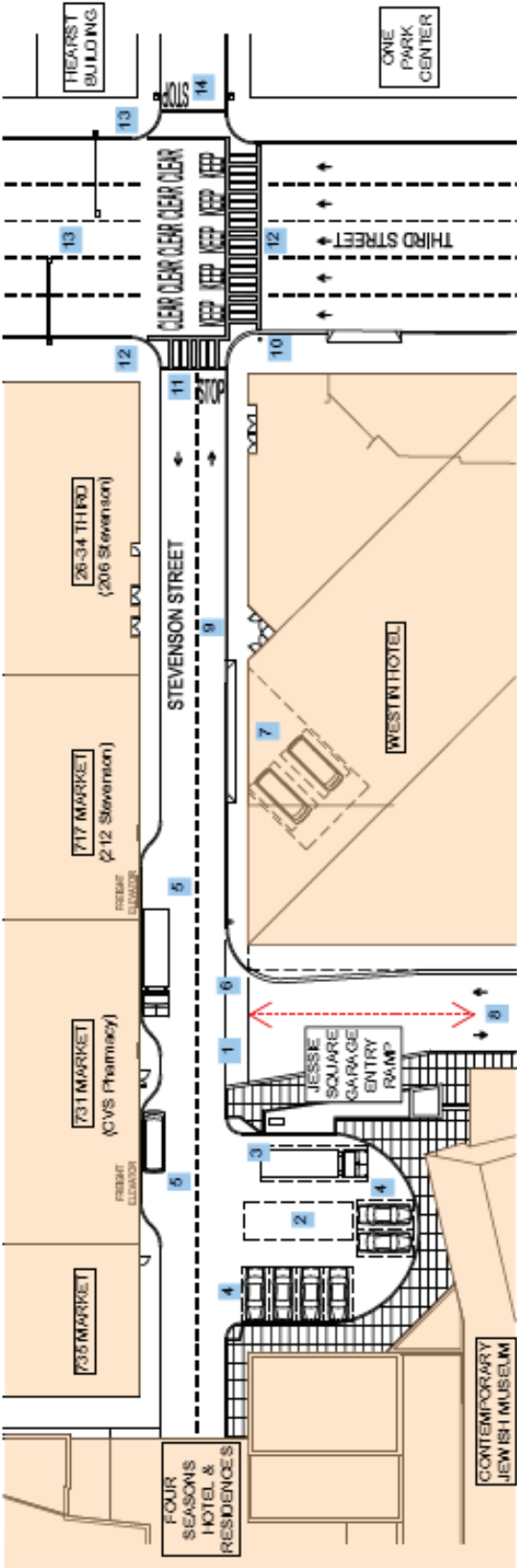
If you do not receive proper pay, write
Successor Agency to the San Francisco Redevelopment Agency
1 South Van Ness Avenue, Floor 5
San Francisco, CA 94103
or call Contract Compliance Specialist

George Bridges at 415-749-2546

Exhibit V

Conceptual Proposed Stevenson Street Upgrades

(Attached)



- 1

EMPLOY A FULL-TIME TRAFFIC MANAGER MONDAY THROUGH FRIDAY TO GUIDE TRAFFIC AND COORDINATE ALLOEUVES
- 2

EXISTING TURN-AROUND AREA
- 3

NEW SHARED LOADING AREA
- 4

TEMPORARY CAR STAGING
- 5

NEW FULL-OVERLOADING ZONES AT FREIGHT ELEVATORS
- 6

NEW CURB FOR EASIER VEHICLE TURNING; RELOCATE FIRE HYDRANT
- 7

NEW SHARED LOADING AREA INSIDE WESTIN DOCK (IF TRASH COLLECTION MOVES TO JESSIE SQUARE GARAGE LEVEL B1)
- 8

JESSIE SQUARE GARAGE TURN-TABLE TO BE UTILIZED AT LEVEL B1
- 9

NEW STRIPING ALONG STEVENSON STREET
- 10

EMPLOY GARAGE FULL * SIGNAGE WHEN GARAGE IS FULL
- 11

ENHANCED RAISED CROSSWALK ON STEVENSON STREET
- 12

NEW CROSSWALK ON THIRD STREET, SOUTH OF "KEEP CLEAR" ZONE
- 13

PEDESTRIAN SIGNAGE IMPROVEMENTS
- 14

SIGNAL TIMING IMPROVEMENTS

706 MISSION STREET - CONCEPTUAL PROPOSED STEVENSON STREET UPGRADES

MILLENNIUM PARTNERS HANDEL ARCHITECTS BASED ON PRELIMINARY PROJECT DESIGN AND USES AS OF THIS DATE SUBJECT TO CHANGE BASED ON FUTURE DESIGN DEVELOPMENT.



5.20.2013

October 24, 2022

Via Email and FedEx

Successor Agency to the Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103
Attention: Thor Kaslofsky, Executive Director
Email: Thor.Kaslofsky@sfgov.org

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attention: Heidi Gewertz, Esq.
Email: Heidi.Gewertz@sfcityatty.org

Re: Agreement for Purchase and Sale of Real Estate dated as of July 16, 2013 by and between Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body organized and existing under the laws of the State of California ("Successor Agency"), commonly known as the Office of Community Investment and Infrastructure, as transferor, and 706 Mission Street Co LLC, a Delaware limited liability company ("Developer"), as transferee, and The Mexican Museum, a California non-profit corporation ("Mexican Museum"), as a third-party beneficiary (the "Purchase Agreement")

Ladies and Gentlemen:

Reference is made to the Purchase Agreement. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Purchase Agreement.

As has been well documented, the San Francisco condominium market continues to struggle and to date has shown very little recovery relative to other major urban markets in the United States. Sales volume for condominium product is limited at best as a result of virtually non-existent buyer demand. These realities have caused a material increase in unsold inventory. Notwithstanding these exceptionally challenging circumstances, Developer remains confident in the unmatched quality and unique positioning of the Project, but needs to complete an immediate recapitalization of the Project to ensure its future success.

Developer recognizes that pursuant to the Purchase Agreement, the Agency Fee in amount of \$3,565,102 remains outstanding. Upon conclusion of the Project recapitalization, which Developer expects to occur no later than March 31, 2023, Developer will pay the Agency Fee in full. Developer appreciates the Successor Agency's accommodation with respect to the timing of the payment of the Agency Fee and its continued support of the Project, which will assist the Project to be successful for the Developer, the City of San Francisco and the community.

Please contact Matt Price at (617) 532-7155 if you have any questions regarding this letter.

Very truly yours,

706 Mission Street Co LLC,
a Delaware limited liability company

By: 

Name: Diego Rico

Title: Vice President

Cc: *via email*

James Morales (james.morales@sfgov.org)

Aaron Foxworthy (aaron.foxworthy@sfgov.org)

Lucinda Nguyen (lucinda.nguyen@sfgov.org)

Matt Kenney (MKenney@WestbrookPartners.com)

Kashif Sheikh, Esq. (KSheikh@WestbrookPartners.com)

Matthew Price (MPrice@WestbrookPartners.com)

Kristin Gonsar (kgonsar@706missionco.com)

Karin Johnston (kcj@hmsassoc.com)

Gerard Walsh (gwalsh@orrick.com)



August 23, 2022

Mr. Diego Rico
706 Mission Street Co LLC
7121 Fairway Drive, Suite 410
Palm Beach Gardens, FL 33418

Re: Agreement for Purchase and Sale of Real Estate dated as of July 16, 2013 by and between Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body organized and existing under the laws of the State of California ("Successor Agency"), commonly known as the Office of Community Investment and Infrastructure, as transferor, and 706 Mission Street Co LLC, a Delaware limited liability company ("Developer"), as transferee, and The Mexican Museum, a California non-profit corporation ("Mexican Museum"), as a third-party beneficiary (the "Purchase Agreement")

Mr. Rico:

I am in receipt of your letter dated June 30, 2022 concerning continued delays under the Purchase Agreement, including delays in Developer's payment of the remaining eighty percent of the Agency Fee (in the amount of \$3,565,102) owed under Section 8.1 of the Purchase Agreement, which was approved by the Successor Agency Commission (Resolution No. 32-2013 (July 16, 2013) and the Oversight Board of the City and County of San Francisco ("Oversight Board") (Resolution No.8-2013 (July 22, 2013). Capitalized terms used but not defined herein shall have the meaning given in the Purchase Agreement.

As discussed further below, Developer has failed to provide a basis, under Purchase Agreement Section 13.7(a), for claiming excusable delay in paying the Agency Fee due to the COVID-19 Pandemic. Thus, the Successor Agency rejects Developer's claim of ongoing Force Majeure concerning the Agency Fee payment, and hereby notifies the Developer that failure to pay the Agency Fee in full within five days of this notice shall be considered a default under Purchase Agreement Section 13.1(d). Alternatively, Developer may wish to request an amendment to the Purchase Agreement, to extend the deadline for payment of the Agency Fee. Approval of an amendment is subject to authorization by the Successor Agency Commission and Oversight Board. If Developer wishes to proceed with an amendment, it must notify the Successor Agency within five business days of this notice, and must submit supporting information for such a request, as discussed below, by **September 16, 2022**. Failure to submit such information by such date shall be considered a default under Purchase Agreement Section 13.1(d) and will entitle the Successor Agency to proceed in accordance with its remedies under Section 13.2.

London N. Breed
MAYOR

Thor Kaslofsky
EXECUTIVE DIRECTOR

Miguel Bustos
CHAIR

Mara Rosales
Bivett Brackett
Alex Ludlum
Dr. Carolyn Ransom-Scott
COMMISSIONERS

One S. Van Ness Ave.
5th Floor
San Francisco, CA
94103

415 749 2400

www.sfocii.org

Mr. Diego Rico
Page 2

108-0122022-014
August 23, 2022

BACKGROUND

On June 30, 2020, Developer provided notice to Successor Agency and Mexican Museum of the occurrence and continuance of a Force Majeure event under Purchase Agreement Section 13.7(a), based on the City's prohibition of construction activities under Order of Public Health Officer C-19-07b concerning the COVID-19 pandemic (issued March 31, 2020) (the "Force Majeure Notice"). As noted in the Force Majeure Notice, Developer's contractor re-commenced construction activities on May 4, 2020.

On January 5, 2021 (email from H. Gerwertz to M. Farrar), the City provided Developer with a draft Conditional Certification of Completion of Improvements and Restatement of Certain Obligations under Purchase Agreement Section 7.19 ("COC"), indicating the Successor Agency Executive Director's exercise of her discretionary authority under Purchase Agreement Section 13.7(b) "to extend the due date for the second payment of the Agency Fee, for twelve months. Thus, the remaining eighty percent of the Agency Fee, in the amount of \$3,565,102, shall be paid on or before November 25, 2021 (which is the date one year from issuance of the first temporary certificate of occupancy for a residential unit(s) in the Project)." Although Developer never executed the COC, the Successor Agency considers the discretionary extension to be effective.

On November 1, 2021 (email from P. Peltzer to M. Farrar, K. Gonsar, S. Jeffries), Successor Agency staff notified Developer of the upcoming, extended deadline to pay Agency Fees. Successor Agency staff sent similar emails on November 22, 2021 (P. Peltzer to K. Johnston, K. Gonsar, S. Jeffries); December 6, 2021 (P. Peltzer to K. Johnston, K. Gonsar, S. Jeffries); January 26, 2022 (A. Foxworthy to K. Johnston, K. Gonsar, M. Price); February 15, 2022 (A. Foxworthy to K. Johnston, K. Gonsar, M. Price). On December 2, 2021, Successor Agency staff met with Developer representatives (K. Johnston, K. Gonsar, M. Price) to discuss the status of the Agency Fee, at which meeting Developer representatives indicated their intention to request a deferral of the Agency Fee.

On February 11, 2022, Successor Agency received a letter from Developer ("Force Majeure Follow-Up") stating that "[a]lthough the Project has now been completed, the [COVID-19] Pandemic and various governmental orders continue to restrict access to the Project and continue to have adverse impacts on travel and marketing for the Project..." This letter provides no detail concerning which governmental orders restricted access to the Project as of February 11, 2022, which governmental orders restricted travel to the Project, or how such restrictions cause enforced delays in the payment of the Agency Fee.

Thus, on March 3, 2022 and again on June 16, 2022, the Successor Agency requested that Developer substantiate its claim of enforced delays in making the Agency Fee payment due to the COVID-19 Pandemic.

DISCUSSION

Developer's June 30, 2022 letter provides no basis for enforced delay in paying the Agency Fee due to the COVID-19 Pandemic. In sum, the letter alleges that: (1) that local, state and federal governments have imposed and continue to impose quarantine restrictions since March 2020, as well as mandated Project and office closures and travel restrictions; (2) supply chain disruptions and labor shortages inhibited the ability of Developer's general contractor and its subcontractors to complete the Project as originally scheduled, to the point that punch list items remain outstanding on the Project; and (3) several conditions have contributed to achieving less than Developer's

Mr. Diego Rico
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intended condominium sales to date, including a softening of the robust pre-Pandemic luxury condominium market in San Francisco, decreases in the daily activity and vibrancy of San Francisco's streets, significant increases in drug use on and the presence of the homeless population occupying City streets, particularly in the Project's immediate neighborhood.

As a threshold matter, Purchase Agreement Section 8.1 establishes the following applicable milestones for payment of the Agency Fee: (a) issuance of first building permit or Site Permit for the Project; and (b) issuance of the first temporary certificate of occupancy for residential unit(s) in the Project. There is no dispute as to the first milestone; and by Developer's admission, the second milestone has long since arisen. See Force Majeure Follow-Up ("...the Project is complete").

While the outbreak of the COVID-19 Pandemic caused initial delays in construction of the Project, the Developer's contractor was able to recommence construction activities on May 4, 2020. See Developer's Force Majeure Letter. By November 2020, the City had issued the first temporary certificates of occupancy for residential units within the Project, and at that point, any Pandemic-related delays in achieving this milestone had been resolved. Nevertheless, the Successor Agency Executive Director granted Developer a discretionary extension of twelve months – not a force majeure delay – for payment of the second installment of the Agency Fee. Thus, although the COVID-19 Pandemic may have caused supply chain or labor disruptions affecting the achievement of milestones established in Purchase Agreement Section 8.1 for payment of the Agency Fees, those disruptions have subsided and the affected milestone (first temporary certificates of occupancy) has long since been achieved. Any lingering effects of those delays have been more than adequately addressed by the Executive Director's previously provided 12-month discretionary extension.

Concerning quarantine restrictions, travel and office restrictions, and alleged social conditions in surrounding areas of the City, Developer provides no evidentiary basis for how these conditions, if they exist, have affected Developer's ability to achieve pertinent milestones under the Purchase Agreement. At its core, Developer alleges economic impracticability as the basis for its delay in paying the Agency Fee: Developer has not achieved intended level of sales because the luxury condominium market is not as "robust" as assumed at the execution of the Purchase Agreement, and thus Developer is claiming that it is not obligated to pay the Agency Fee until such time as the market improves.

In effect, the Developer attempts to insert into the Purchase Agreement additional economic milestones for the payment of the Agency Fee. Developer states:

"When the Purchase Agreement was executed almost a decade ago, Developer had expected to have pre-sales of 50 units, representing approximately 34% of the Project, by the time the first temporary certificate of occupancy was issued, with an expected 88 units sold, representing approximately 60% of the Project, within one year thereafter. Achieving these expectations would have provided Developer sales proceeds in excess of \$700 million, sufficient to pay off all Project construction financing with excess cash flow to cover carrying costs and fees, including the Agency Fee."

The Purchase Agreement does not contain sales milestones for payment of the Agency Fee, nor does it contemplate that the Agency Fee would be payable only if sales proceeds reached a certain level to allow prior payoff of construction financing or other Project costs. The only pertinent milestone for payment of the Agency Fee

Mr. Diego Rico
Page 4

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August 23, 2022

is the issuance of first temporary certificate of occupancy for residential units in the Project, which arose in November 2020 despite the COVID-19 Pandemic.

Furthermore, Developer has made other payments related to the Project. Developer states that it has used "net sales proceeds" from the Project to pay down Project financing, pay ad valorem property taxes and pay \$1.5 million in Open Space Fees owed to the City as required under the Purchase Agreement. Developer does not have a contractual right to pay some but not all of the amounts owed under the Purchase Agreement. As such, Developer is hereby notified that it must pay the Agency Fee in full within five days of this letter or be in Default under Purchase Agreement Section 13.1(d).

As Successor Agency staff has previously discussed with Developer representatives, Developer may request an amendment to the Purchase Agreement to extend the date for payment of the Agency Fee, based on the economic conditions of the Project. The Successor Agency Commission and Oversight Board must approve such an amendment. For Successor Agency staff to recommend such an amendment to the Successor Agency Commission and Oversight Board, Developer should provide quantitative information concerning the financial status of the Project and justifying a delay in the payment obligation. Moreover, the Developer should provide information, as required under Redevelopment Dissolution Law, that will assist the Oversight Board in finding that the amendment "would be in the best interests of the taxing entities." Cal. Health & Safety Code § 34181 (e). If Developer wishes to pursue an amendment, Developer must notify the Successor Agency within five business days of this notice, and must submit the required supporting information, **by September 16, 2022**. Failure to submit such information by such date shall be considered a default under Purchase Agreement Section 13.1(d) and will entitle the Successor Agency to proceed in accordance with its remedies under Section 13.2.

Please contact me with any questions on the foregoing.

Best,

DocuSigned by:



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Thor Kaslofsky
Executive Director

Cc: Millennium Partners
MF8 Mission Member, LLC
Kashif Sheikh, Esq., MF8 Mission Member, LLC
Matthew Price, Westbrook Partners (via email)
Kristin Gonsar, Millennium Partners (via email)
Karin Johnston, HMS Associates (via email)
Heidi Gewertz, Office of the City Attorney (via email)
James Morales, OCII (via email)
Aaron Foxworthy, OCII (via email)

June 30, 2022

Via FedEx

Successor Agency to the Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103
Attention: Executive Director

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attention: Real Estate Finance Team

Re: Agreement for Purchase and Sale of Real Estate dated as of July 16, 2013 by and between Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body organized and existing under the laws of the State of California ("Successor Agency"), commonly known as the Office of Community Investment and Infrastructure, as transferor, and 706 Mission Street Co LLC, a Delaware limited liability company ("Developer"), as transferee, and The Mexican Museum, a California non-profit corporation ("Mexican Museum"), as a third-party beneficiary (the "Purchase Agreement")

Ladies and Gentlemen:

Reference is made to the Purchase Agreement. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Purchase Agreement.

On June 30, 2020, Developer provided notice to Successor Agency and Mexican Museum of the occurrence and continuance of the ongoing Force Majeure event under Section 13.7(a) of the Purchase Agreement (the "Force Majeure Notice"). On February 11, 2022, Developer provided a subsequent notice to Successor Agency of the Force Majeure event continuing to cause delays in the Developer's performance of its obligations under the Purchase Agreement (the "Force Majeure Follow-Up"). On March 3, 2022, Developer received a response from the Successor Agency requesting additional information to support Developer's statements in the Force Majeure Follow-Up. The purpose of this letter is to provide such information.

The San Francisco luxury condominium market has not recovered to the robust levels experienced prior to the Pandemic. According to the Polaris Pacific April 2022 market report, sales volume in San Francisco remains down 13.1% year-over-year with median sales pricing still below pre-Pandemic levels. Inventory also remains well above pre-Pandemic levels. As of April 2022, Polaris Pacific quoted 1,268 unsold new condominium units in the market, a 26.5% annual increase in unsold residential condominium unit inventory.

Pursuant to Section 13.7(a) of the Purchase Agreement, Developer shall not "be considered in breach of or default in any obligation...in the event of Force Majeure and the time for performance shall be extended as a result of any event of Force Majeure." As stated in the Force Majeure Follow-Up, the time

for performance of Developer's obligations under the Purchase Agreement, including payment of the Agency Fee under Section 8.1 of the Purchase Agreement, shall continue to be automatically extended for a period of time equal to the period the delays arising from such Force Majeure event.

The events and circumstances that have occurred as of result of the Pandemic are included within the definition of a Force Majeure event as written in Section 13.7(a) of the Purchase Agreement, reading, "'Force Majeure' means events that cause enforced delays in the...performance of...obligations hereunder due primarily to causes beyond the Delayed Party's control, including, but not limited to,...[1] acts of the government,...[2] epidemics, [3] quarantine restrictions,...[4] inability to obtain supplies or materials or reasonably acceptable substitute supplies or materials (provided that Developer has ordered such materials on a timely basis), ...[5] or delays of subcontractors due to any of these causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of Successor Agency or Developer shall be extended for the period of the enforced delay..." The Pandemic clearly qualifies as a Force Majeure event under many of the clauses in Section 13.7(a) of the Purchase Agreement. Clause [1] is satisfied given a pandemic is defined as an epidemic of an infectious disease that has spread across a large region or multiple countries, and with the Centers for Disease Control and Prevention defining the Pandemic as a pandemic. Satisfying clauses [1] and [3], several federal, state, city and foreign countries have imposed and continue to impose quarantine restrictions since March 2020, as well as mandated Project and office closures and travel restrictions. Finally, satisfying clauses [4] and [5], supply chain disruptions and labor shortages inhibited the ability of Developer's general contractor and its subcontractors to complete the Project as originally scheduled, to the point that punch list items remain outstanding on the Project as of today. These Force Majeure impacts resulted in construction delays, periodic closures of the Project's sales office, an inability of prospective buyers to visit the Project and prospective buyers terminating purchase discussions, all causing the actualized volume of condominium unit sales to be significantly below Developer's initial expectations. Further contributing to the challenging sales environment for the Project, the Pandemic has caused a significant decrease in the daily activity and vibrancy of San Francisco's streets, while seeing a significant increase in drug use on and the presence of the homeless population occupying San Francisco's streets, particularly in the Project's immediate neighborhood.

Pursuant to Section 8.1 of the Purchase Agreement, "(i) twenty percent (20%) of the Agency Fee shall be paid upon issuance of the first building permit or Site Permit for the Project; (ii) forty percent (40%) of the Agency Fee shall be paid upon the issuance of the first temporary certificate of occupancy for a residential unit(s) in the Project, and (iii) the remaining forty percent (40%) of the Agency Fee shall be paid on the one year anniversary of the date of issuance of the first temporary certificate of occupancy for a residential unit(s) in the Project." As intended, Developer paid the initial twenty percent (20%) Agency Fee payment of \$891,276 upon issuance of the first building permit or Site Permit for the Project. The timing of the second and third Agency Fee payments were intended to align with closing of the Project's pre-sold units and a substantial number of units expected to be sold in the first year following issuance of the first temporary certificate of occupancy. When the Purchase Agreement was executed almost a decade ago, Developer had expected to have pre-sales of 50 units, representing approximately 34% of the Project, by the time the first temporary certificate of occupancy was issued, with an expected 88 units sold, representing approximately 60% of the Project, within one year thereafter. Achieving these expectations would have provided Developer sales proceeds in excess of \$700 million, sufficient to pay off all Project construction financing with excess cash flow to cover carrying costs and fees, including the Agency Fee.

As a result of the ongoing Force Majeure event, Developer has been unable to sell units in the Project in line with the aforementioned expectations. To date, the Project has sold only 14 units, representing less than 10% of the Project, generating less than \$100 million in net sales proceeds, 100% of which has been used to pay down a portion of the Project's financing. As a direct result of the ongoing Force Majeure event, sales have not provided the net sales proceeds to repay the financing as expected, not to mention any excess proceeds to cover carrying costs and fees, including the Agency Fee. Despite the poor sales performance of the Project and less than supportive conditions in the Project's neighborhood, Developer has paid over \$15.3 million in real estate taxes to the City of San Francisco since the beginning of the Pandemic, as well as ~\$1.5 million in Open Space Fees to the Successor Agency to fund the ongoing improvement of San Francisco and the Project's neighborhood.

Developer is hopeful the San Francisco market will quickly recover to pre-Pandemic levels. During such recovery, Developer is eager to work with the Successor Agency to discuss how best both parties can satisfy their obligations while ensuring the success of the Project. In the interim, according to the terms of the Purchase Agreement and the ongoing Force Majeure event, the time for performance of Developer's obligations under the Purchase Agreement, including payment of the Agency Fee under Section 8.1 of the Purchase Agreement, shall continue to be automatically extended for a period of time equal to the period the delays arising from such Force Majeure event, which continue to be unknown at this time.

Please contact Matt Price at (617) 532-7155 if you have any questions regarding this letter.

Very truly yours,

706 Mission Street Co LLC,
a Delaware limited liability company

By: 
Name: Diego Rico
Title: Vice President

Cc: Matt Kenney
Kashif Sheikh, Esq.



office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

108-0072022-014

June 16, 2022

Ms. Cindy Woon
706 Mission Street Co LLC
7121 Fairway Drive, Suite 410
Palm Beach Gardens, FL 33418

Re: Agreement for Purchase and Sale of Real Estate dated as of July 16, 2013 by and between Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body organized and existing under the laws of the State of California ("Successor Agency"), commonly known as the Office of Community Investment and Infrastructure, as transferor, and 706 Mission Street Co LLC, a Delaware limited liability company ("Developer"), as transferee, and The Mexican Museum, a California non-profit corporation ("Mexican Museum"), as a third-party beneficiary (the "Purchase Agreement")

Ms. Woon:

I write in furtherance of our letter dated March 3, 2022 (attached), concerning continued delays under the Purchase Agreement, including delays in Developer's payment of the remaining eighty percent of the Agency Fee, in the amount of \$3,565,102, owed under Section 8.1 of the Purchase Agreement. Capitalized terms used but not defined herein shall have the meaning given in the Purchase Agreement.

The delayed payments referenced in our previous letter continue to be outstanding. To date, Developer has provided no basis for the delay in meeting its obligations under the Purchase Agreement. If, **by July 1, 2022**, Developer fails, to provide (i) full compliance with its obligations under the Purchase Agreement; or (ii) a reasoned and supported basis for its delay, we will be forced to avail ourselves of all legal rights available to enforce the Purchase Agreement, including those set out in article 13 of the Purchase Agreement.

Please contact me with any questions on the foregoing.

Best,

DocuSigned by:

Thor Kaslofsky

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Thor Kaslofsky
Executive Director

London N. Breed
MAYOR

Thor Kaslofsky
EXECUTIVE DIRECTOR

Miguel Bustos
CHAIR

Mara Rosales
Bivett Brackett
Alex Ludlum
Dr. Carolyn Ransom-Scott
COMMISSIONERS

One S. Van Ness Ave.
5th Floor
San Francisco, CA
94103

415 749 2400

www.sfocii.org

Exhibit A: Letter from. J. Morales to C. Woon, dated March 3, 2022

Ms. Cindy Woon
Page 2

108-0072022-014
June 16, 2022

Cc: Matthew Price, Westbrook Partners (via email)
Kristin Gonsar, Millennium Partners (via email)
Karin Johnston, HMS Associates (via email)
James Morales, OCII (via email)
Aaron Foxworthy, OCII (via email)



Exhibit A

108-0042022-014

March 3, 2022

Ms. Cindy Woon
706 Mission Street Co LLC
7121 Fairway Drive, Suite 410
Palm Beach Gardens, FL 33418

Re: Agreement for Purchase and Sale of Real Estate dated as of July 16, 2013 by and between Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body organized and existing under the laws of the State of California ("Successor Agency"), commonly known as the Office of Community Investment and Infrastructure, as transferor, and 706 Mission Street Co LLC, a Delaware limited liability company ("Developer"), as transferee, and The Mexican Museum, a California non-profit corporation ("Mexican Museum"), as a third-party beneficiary (the "Purchase Agreement")

Ms. Woon:

Thank you for your letter of February 11, 2022 concerning the existence of Force Majeure conditions related to the COVID-19 pandemic causing continued delays in the Developer's payment of the remaining eighty percent of the Agency Fee, in the amount of \$3,565,102 owed under the Purchase Agreement. Capitalized terms used but not defined herein shall have the meaning given in the Purchase Agreement.

The letter does not provide sufficient information – for example project data, market data, broker's opinions – to determine whether the COVID-19 pandemic has prevented Developer from making the Agency Fee payment. Until receipt of such information, if available, the Successor Agency considers the Agency Fee to be past due.

Please contact Aaron Foxworthy, Acting Development Services Manager, with any questions on the foregoing.

Best,

DocuSigned by:
James B. Morales
30EF0328C5DD496...

James Morales
Interim Executive Director

Cc: Matthew Price, Westbrook Partners (via email)
Kristin Gonsar, Millennium Partners (via email)
Karin Johnston, HMS Associates (via email)

London N. Breed
MAYOR

James Morales
INTERIM
EXECUTIVE DIRECTOR

Miguel Bustos
CHAIR

Mara Rosales
Bivett Brackett
Dr. Carolyn Ransom-Scott
COMMISSIONERS

One S. Van Ness Ave.
5th Floor
San Francisco, CA
94103

415 749 2400

www.sfocii.org

**706 Mission Street Co LLC
7121 Fairway Drive, Suite 410
Palm Beach Gardens, Florida 33418**

June 30, 2020

Via FedEx

Successor Agency to the Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103
Attention: Executive Director

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attention: Real Estate Finance Team

The Mexican Museum
c/o The Marquez Law Group
20 California Street, 7th Floor
San Francisco, CA 94111
Attention: Victor Marquez, Esq.

Re: Agreement for Purchase and Sale of Real Estate dated as of July 16, 2013 by and between Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public body organized and existing under the laws of the State of California ("Successor Agency"), commonly known as the Office of Community Investment and Infrastructure, as transferor, and 706 Mission Street Co LLC, a Delaware limited liability company ("Developer"), as transferee, and The Mexican Museum, a California non-profit corporation ("Mexican Museum"), as a third-party beneficiary (the "Purchase Agreement")

2020 JUL - 2 11:00 AM
CITY ATTORNEY'S OFFICE
1390 MARKET ST.

Ladies and Gentlemen:

Reference is made to the Purchase Agreement. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Purchase Agreement.

As you are aware, in response to the COVID-19 pandemic (the "Pandemic"), the Health Officer of the City and County of San Francisco issued a "Shelter in Place" order, Order no. C19-07, and the Governor of the State of California issued Executive Order N33-20 (collectively, the "Initial Orders") ordering residents to shelter at their place of residence except to the extent necessary to provide or receive certain essential services and work for certain essential businesses. The Initial Orders permitted residential construction to proceed as long as contractors complied with certain social distancing and other Pandemic related safety precautions. Developer's general contractor, Webcor Construction LP, a California limited partnership ("Webcor") indicated there were certain construction delays associated with complying with the social distancing and similar precautions mandated by the Initial Orders, but despite these difficulties Webcor was able to continue construction of the Project in compliance with the Initial Orders. On March 31, 2020 the Health Officer of the City and County of San Francisco issued another "Shelter in Place" order, Order no.

June 30, 2020

Page 2

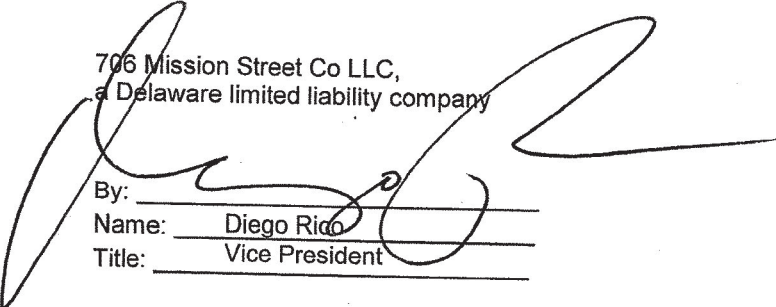
C19-07b that clarified and further limited essential business activities, including construction (the "Updated March City Order"). The Updated March City Order prohibited all construction, with exceptions for certain limited types of construction, none of which include the construction of the Project. As a result, Webcor informed Developer that Webcor had reviewed the Updated March City Order and determined that the Project is not one of the certain limited types of construction permitted to continue pursuant to the Updated March City Order, and that Webcor was suspending construction of the Project, other than those construction activities necessary to secure the construction site. Subsequently, Webcor gave additional notice to Developer that due to the Pandemic and the Updated City Order, which resulted in suspension of all on-site work on the Project, that Webcor had incurred an "Unavoidable Delay" and that Webcor would continue incurring delays in construction of the Project for an indefinite period of time, but at least until the Updated City Order expires or is otherwise terminated and construction of the Project is permitted to resume without onerous health and safety requirements. On April 29, 2020 the Health Officer of the City and County of San Francisco issued a further order, Order no. C19-07c (the "April Order") that allowed gradual re-opening of certain businesses in San Francisco, including some construction projects. Webcor informed the Developer on May 1, 2020 that it intended to resume work at the Project Site in accordance with the terms of the April Order, and such work re-commenced May 4, 2020. Webcor assured the Developer that the requirements of the April Order have been and will continue to be adhered to, including social distancing and other safety measures outlined specifically in the April Order. Adhering to such requirements means that the progress on the Project cannot resume at the pace it was on prior to the Initial Orders.

Accordingly, as a result of the Pandemic and the governmental orders which will continue to apply for an undetermined amount of time, and may require retreating to further work stoppages if shelter-in-place orders are re-established, this letter shall serve as Developer's notice to Successor Agency that a "Force Majeure" event as defined in Section 13.7(a) of the Purchase Agreement has occurred and is continuing. As a result of such Force Majeure event, the time for performance of Developer's obligations under the Purchase Agreement, including the Schedule of Performance, shall be automatically extended for a period of time equal to the period the delays arising from such Force Majeure event, which are unknown at this time. Please note that the ongoing city, county, state and federal responses to the Pandemic are evolving constantly, and we will continue to monitor them.

Please contact Mark Farrar at (415) 760-1493 or Mfarrar@706missionco.com if you have any questions regarding this letter.

Very truly yours,

706 Mission Street Co LLC,
a Delaware limited liability company

By: 
Name: Diego Rico
Title: Vice President