File No. 121106

Committee Item No. 7
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Date 11/15/12

Board of Supervisors Meeting Date _____

Cmte	Board	
☐	☐	Motion
☐	☐	Resolution
☒	☐	Ordinance
☐	☐	Legislative Digest
☐	☐	Budget Analyst Report
☐	☐	Legislative Analyst Report
☐	☐	Youth Commission Report
☒	☐	Introduction Form (for hearings)
☒	☐	Department/Agency Cover Letter and/or Report
☐	☐	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☒	☐	Contract/Agreement
☐	☐	Award Letter
☐	☐	Application
☐	☐	Public Correspondence

OTHER (Use back side if additional space is needed)

☒	☐	SF PUC Commission Resolution
☐	☐	
☐	☐	
☐	☐	
☐	☐	

Completed by: Linda Wong Date 11/9/12
Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

[Settlement of Lawsuit - Pacific Rod and Gun Club]

Ordinance authorizing settlement of the unlawful detainer lawsuit entitled City and County of San Francisco, et al., v. Pacific Rod and Gun Club, et al. filed on September 24, 2012, in San Francisco Superior Court, Case No. CUD-12-642832 regarding City owned property located at 520 John Muir Drive in San Francisco; material terms of the settlement agreement include City and Club executing an amended and restated month to month lease with improved insurance, indemnity and other provisions in favor of the City, a new ninety day termination notice requirement, and a stipulation for entry of judgment without trial to facilitate City obtaining a writ of possession following such notice period.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The City Attorney is hereby authorized to settle the action entitled "City and County of San Francisco, et al., v. Pacific Rod and Gun Club, et al.", San Francisco Superior Court, Case Number CUD-12-642832 by entering into a settlement agreement between the City and County of San Francisco (City) and the Pacific Rod and Gun Club (Club) with material terms that provide: (1) the San Francisco Public Utilities Commission (SFPUC) and the Club will enter into an amendment and restatement of a lease, originally entered into between the City and Club in 1934, for property located on Lake Merced at 520 John Muir Drive in San Francisco (Lease Premises), on a form approved by the City Attorney, to improve the insurance, indemnity and other provisions of the lease for the protection of the City, (as authorized by the SFPUC on October 23, 2012, subject to this Board's approval of the Settlement Agreement); (2) the Amended Lease will provide for a ninety day advance notice upon termination of the Amended Lease, instead of the current thirty day lease termination

notice requirement, to facilitate the Club's orderly vacation of the Lease Premises in the event of termination; and (3) to allow for entry of a stipulated judgment without trial and City's acquisition of a writ of possession in the event that Club defaults under the terms of the Amended Lease or fails to vacate the property ninety days following receipt of a notice of termination from the SFPUC.

Section 2. The above-named action was filed in San Francisco Superior Court on September 24, 2012, and the following parties were named in the lawsuit: Pacific Rod and Gun Club, a California non-profit corporation.

APPROVED AS TO FORM AND RECOMMENDED:

DENNIS J. HERRERA
City Attorney

See File for Signature
JOSHUA MILSTEIN
Deputy City Attorney

RECOMMENDED:

SAN FRANCISCO PUBLIC UTILITIES COMMISSION

See File for Signature
HARLAN L. KELLY, JR.
General Manager, SFPUC

APPROVED:

See File for Signature
Donna Hood, Secretary

SETTLEMENT AGREEMENT
CITY AND COUNTY OF SAN FRANCISCO VS. PACIFIC ROD AND GUN CLUB
SAN FRANCISCO SUPERIOR COURT NO. CUD-12-642832

This Settlement Agreement ("**Agreement**") is made and entered into this 5th day of November 2012 by and between PACIFIC ROD AND GUN CLUB, a California nonprofit corporation ("**Club**"), and THE CITY AND COUNTY OF SAN FRANCISCO, a California municipal corporation ("**City**"), acting through its San Francisco Public Utilities Commission ("**SFPUC**") and San Francisco City Attorney Dennis J. Herrera.

I. RECITALS

The parties enter into this Agreement with reference to the following facts and understandings:

A. Club and City entered into a month-to-month lease agreement, effective January 1, 1934 ("**1934 Lease**"), with respect to approximately 4 acres of City-owned land located on a portion of the SFPUC's 811.13-acre Lake Merced tract located at 520 John Muir Drive in San Francisco, for purposes of skeet shooting and fly casting. Over the course of the term of the 1934 Lease, Club has occupied and used approximately 10 acres of City owned land ("**Premises**").

B. On September 28, 2012, City filed an action in unlawful detainer no. CUD-12-642832 in the San Francisco Superior Court, seeking eviction of the Club from the Premises ("**the Action**") under the 1934 Lease.

C. Club and City desire to resolve and settle the Action on the terms and conditions set forth herein without the time and expense of a trial of the Action. City will permit Club's continued occupancy of the Premises in an amendment and restatement of the 1934 Lease, and Club agrees that its continued occupancy of the Premises will be governed solely in accordance with the terms of this Agreement and the Amended and Restated Lease (the "**Amended Lease**") attached as **Exhibit 1**. Authorized representatives of Club, the SFPUC, and the City Attorney's Office executed this Agreement on November 2, 2012, subject to the understanding and agreement that this Agreement, and all terms herein, are contingent upon the San Francisco Board of Supervisors, acting in its sole discretion, approving an ordinance authorizing the settlement, as described herein.

NOW, THEREFORE, in consideration of the facts recited above, and the covenants, conditions and promises contained herein, the parties agree as follows:

II. AGREEMENT

1. **Condition Precedent.** This Agreement shall take effect on the date ("**Effective Date**") that the San Francisco Board of Supervisors, acting in its sole discretion, ("**Board**") adopts legislation approving this Agreement, and the legislation becomes effective.

2. **Terms of Continued Occupancy of Premises Under Amended and Restated Lease.** Club may remain on the Premises only as permitted under this Agreement and in accordance with the Amended Lease. The SFPUC's acceptance of monthly base rental and other payments from Club under the 1934 Lease and the Amended Lease do not or constitute a waiver of any of City's rights, including but not limited to, City's right to recover possession of the Premises pursuant to this Agreement, the stipulation for entry of judgment attached hereto as **Exhibit 2,** or otherwise by lawful means. The existence of the Amended and Restated Lease shall not require City to file another unlawful detainer action in order to evict Club from the Premises. Instead, City's delivery of the Termination Notice as provided in section 3, the filing of a Stipulation for Entry of Judgment under section 4, and the issuance of the writ of possession attached to the Stipulation for Entry of Judgment shall be the only actions required by City to terminate the Club's tenancy and to secure possession of the Premises under the Amended and Restated Lease.

3. **Termination Notice; Default Termination Notice; Vacation and Surrender of Premises**. In accordance with section 4.1 of the Amended and Restated Lease, either Party may terminate the Amended and Restated Lease by providing ninety (90) days' written notice to the other Party. Within ninety (90) calendar days of receipt of a written Notice of Termination (**"Termination Notice"**) from the SFPUC, or within ninety (90) calendar days of City's receipt of a Termination Notice from Club; provided however, that in the event City elects to terminate the Lease because of an uncured Event of Default by Tenant (as such term is defined in the Amended Lease) under the Amended Lease, City may terminate the term of the Amended Lease immediately, or on a date then designated by City, by delivery of a written notice (a "**Default Termination Notice**") that specifies the effective date of termination and identifies the uncured Event of Default. On or before the date specified in the applicable Termination Notice or Default Termination Notice, Club shall vacate and surrender the Premises in accordance with sections 8.4 and 21.1 of the Amended and Restated Lease.

4. **Stipulated Judgment in the Action**. In the event that Club fails to vacate and surrender the Premises (i) within ninety (90) calendar days of receipt of the Termination Notice from the SFPUC, (ii) within ninety (90) calendar days of City's receipt of a Termination Notice from Club, or (iii) the date specified for termination of the Amended Lease term in a Default Termination Notice, City may file the Stipulation for Entry of Judgment attached as **Exhibit 2** to this Agreement with the San Francisco Superior Court.

5. **Survival of Indemnity Clause in 1934 Lease**. The indemnity clause in section 2 of the 1934 Lease shall survive the termination of the Amended and Restated Lease. Club agrees to cooperate in any SFPUC efforts to obtain coverage for any claims arising out of Club's occupancy of the Premises.

6. **Representations and Warranties.**

a. Each party represents and warrants to the other party that:

i. to the extent applicable to such party, it is duly organized and existing and is in good standing in its state of formation;

ii. it has the full right and authority to enter into this Agreement;

iii. the person or persons signatory to this Agreement and any document executed pursuant to this Agreement on behalf of such party have full power and authority to bind such party; and

iv. upon due execution and delivery by the respective parties, this Agreement

will be the valid, binding, and enforceable obligation of such party in accordance with their respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights generally.

7. **Negotiated Settlement**. The discussions that have produced this Agreement have been conducted with the explicit understanding that they are privileged under California Evidence Code section 1152, and that such discussions shall be without prejudice to the position of either Party and may not be used in any manner in any proceeding or otherwise, except as may be necessary to enforce or interpret this Agreement or as otherwise required by law.

8. **Exercise of Independent Judgment**. Club acknowledges that, in executing this Agreement, it is acting on its own, independent judgment informed by its legal counsel. Club acknowledges having read this Agreement, the Amended and Restated Lease, and the Stipulation for Entry of Judgment of Possession attached to this Agreement, and has been advised by its attorney as to its meaning and effect. Club acknowledges and warrants that its execution of this Agreement is free and voluntary.

9. **Entire Agreement.** Each party acknowledges that this Agreement and the attached exhibits 1 and 2 contain and constitute the entire agreement between the parties with respect to the Action. The terms of this Agreement are contractual and not a mere recital. Each party acknowledges that the other party has made no representations, express or implied, to induce that party to enter into this Agreement, other than as expressly set forth herein.

10. **No Admission**. No aspect of this Agreement or the settlement which led to it is intended to be nor at any time shall be construed, deemed, or treated in any respect as an admission by either party of liability, or wrongful actions, for any purpose.

11. **Severability.** If any of the provisions of this Agreement or the application thereof is held to be invalid, its invalidity shall not affect any other provision or application of this Agreement to the extent that such other provision or application can be given effect without the invalid provision or application, and to this end, the provisions of this Agreement are declared and understood to be severable.

12. **Attorney's Fees.** Each party understands and acknowledges that it shall bear its own legal expenses and costs incurred in connection with prosecuting or defending the Action, provided, however, that if any person or entity brings or commences any action or proceeding to enforce or interpret any provision of this Agreement, the prevailing party in such action or proceeding shall be entitled to receive its reasonable attorney's fees and costs therein incurred

from the party not prevailing. For purposes of this Agreement, reasonable fees of attorneys of City's Office of City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in City in law firms with approximately the same number of attorneys as employed by the Office of City Attorney.

13. **Interpretation of Agreement.** For purposes of interpreting this Agreement, the parties hereto shall be deemed to have participated equally in its drafting. This Agreement and the settlement which led to it have been fully negotiated with the assistance of counsel and should not be construed more strictly against one party than another.

14. **Conflict of Interest**. No member, official or employee of City may have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement that affects her or his personal interest or the interests of any corporation, partnership or association in which she or he is interested directly or indirectly.

15. **Counterparts.** This Agreement may be executed in two or more counterparts, all of which counterparts shall be deemed originals.

IN WITNESS WHEREOF, the parties hereto and their respective attorneys of record have approved and executed this Agreement on the dates specified below:

AGREEING PARTIES:

CITY AND COUNTY OF SAN FRANCISCO

Dated: _____, 2012

By:_____
Harlan L. Kelly, Jr.
SFPUC General Manager

PACIFIC ROD AND GUN CLUB

Dated: NOV. 5 ,2012

By: Michael C. Miller
Name: MICHAEL C. MILLER
Its: PRESIDENT

APPROVED AS TO FORM

DENNIS HERRERA
City Attorney

Dated: _____, 2012

By: _____
Noreen Ambrose
Deputy City Attorney

APPROVED AS TO FORM

Attorney for Pacific Rod and Gun Club

Dated: November 5, 2012

By: Jan R. Arnold

EXHIBIT 1

AMENDED AND RESTATED LEASE

EXHIBIT 2
STIPULATION FOR ENTRY OF JUDGMENT

CITY AND COUNTY OF SAN FRANCISCO VS. PACIFIC ROD AND GUN CLUB
SAN FRANCISCO SUPERIOR COURT NO. CUD-12-642832
SETTLEMENT AGREEMENT
EXHIBIT 1

SAN FRANCISCO PUBLIC UTILITIES COMMISSION

EDWIN M. LEE, MAYOR

AMENDED AND RESTATED LEASE

between

CITY AND COUNTY OF SAN FRANCISCO,
as Landlord

and

PACIFIC ROD AND GUN CLUB,
as Tenant

for the lease of
property located at 520 John Muir Drive, San Francisco, California

December 15, 2012

PUBLIC UTILITIES COMMISSION

Anson B. Moran - President
Art Torres - Vice President
Ann Moller Caen – Commissioner
Francesca Vietor - Commissioner
Vince Courtney - Commissioner

Harlan L. Kelly, Jr.
General Manager

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SAN FRANCISCO PUBLIC UTILITIES COMMISSION

AMENDED AND RESTATED LEASE

THIS AMENDED AND RESTATED LEASE (this "**Lease**") dated for reference purposes only as of December 15, 2012, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**" or "**Landlord**"), acting by and through its Public Utilities Commission ("SFPUC"), and the PACIFIC ROD AND GUN CLUB, a California non-profit corporation ("**Tenant**")(collectively, the "**Parties**"). This Lease amends and restates a lease dated January 1, 1934 ("**1934 Lease**") between the Parties and is entered into pursuant to a settlement agreement dated December __, 2012 ("**Settlement Agreement**") between Landlord and Tenant in San Francisco Superior Court Action No. CUD-12-642832 (the "**Action**").

City and Tenant hereby agree as follows:

1. BASIC LEASE INFORMATION

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

Lease Reference Date:	December 15, 2012
Landlord:	CITY AND COUNTY OF SAN FRANCISCO, acting by and through the SFPUC.
Tenant:	PACIFIC ROD AND GUN CLUB, a California non-profit corporation.
Premises (Section 3.1):	That real property located in San Francisco, California, as more particularly described in **Exhibit A** and shown in **Exhibit B**, together with any appurtenances and use of approximately four (4) acres of open water area on Lake Merced more particularly shown in **Exhibit B**.
Term (Section 4.1):	Commencing on the Effective Date, this Lease shall have a month-to-month term, subject to termination at any time by either party upon ninety (90) days' prior written notice.
Base Rent (Section 5.1):	Monthly payments of Five Thousand Dollars ($5,000), subject to automatic adjustment upon written notice from SFPUC, as described in **Section 5.2**.
Use (Section 7.1):	Skeetshooting, fly-casting, trapshooting, small bore rifle range, U.S. Olympic shooting team training facility, tenant meeting space, and certain other uses expressly described as Permitted Uses in **Sections 2** and **7.1**.
Security Deposit (Section 24):	Ten Thousand Dollars ($10,000)
Pro Rata Share of Property Taxes	One Hundred percent (100%)
Notice Address of City (Section 24.1):	Real Estate Services

	Public Utilities Commission 525 Golden Gate Avenue, 10th Floor San Francisco, California 94102 Attn: Real Estate Director Re: Pacific Rod and Gun Club Lease
with a copy to:	Office of the City Attorney City and County of San Francisco 1390 Market Street, Suite 418 San Francisco, California 94102 Attn: Utilities General Counsel Re: Pacific Rod and Gun Club Lease
Key Contact for City:	Real Estate Director
Telephone No.:	(415) 487-5210
Notice Address of Tenant (Section 24.1):	Adrian Sawyer, Esq. c/o Kerr & Wagstaffe LLP 100 Spear Street, 18th Floor San Francisco, California 94105-1576
Key Contact for Tenant:	_____
Telephone No.:	415-371-8500
Email Address:	sawyer@kerrwagstaffe.com

2. DEFINITIONS

For purposes of this Lease, initially capitalized terms shall have the meanings ascribed to them in this Section:

"1934 Lease" refers to that certain lease dated January 1, 1934 under which Tenant has occupied the Premises on a month-to-month basis since the expiration of the 1934 Lease. The 1934 Lease is the subject of the Action and this Amended and Restated Lease is entered into pursuant to the settlement of the Action.

"Action" shall mean the unlawful detainer proceeding filed in the California Superior Court in the City and County of San Francisco (San Francisco Superior Court Action No. CUD-12-642832).

"**Additional Charges**" means any and all real and personal property taxes, possessory interest taxes and other costs, impositions, and expenses described in **Section 6** or otherwise payable by Tenant under this Lease.

"**Adjustment Date**" means the annual date for adjusting the Monthly Base Rent as specified in Basic Lease Information and **Section 5.2**.

"**Affiliate of Tenant**" means any person or entity which directly or indirectly, through one or more intermediaries, controls, is controlled by or is under the common control with, Tenant. As used above, the words "control," "controlled," and "controls" mean the right and

power, directly or indirectly through one or more intermediaries, to direct or cause the direction of substantially all of the management and policies of a person or entity through ownership of voting securities or by contract, including, but not limited to, the right to fifty percent (50%) or more of the capital or earnings of a partnership or, alternatively, ownership of fifty percent (50%) or more of the voting stock of a corporation.

"**Agents**" means, when used with reference to either Party to this Lease, the officers, directors, employees, agents, and contractors of such Party, and their respective heirs, legal representatives, successors and assigns.

"**Alterations**" means any alterations, installations, or additions to any Improvements or to the Premises.

"**Assignment**" has the meaning given in **Section 15.1**.

"**Basic Lease Information**" means the information with respect to this Lease summarized in **Section 1**.

"**Base Rent**" means the monthly Base Rent specified in the Basic Lease Information and described in **Section 5.1**.

"**City**" means the City and County of San Francisco, a municipal corporation, and the SFPUC, and their respective officers, agents, and employees.

"Club" or "Tenant" means the Pacific Rod and Gun Club, a California nonprofit corporation.

"Default Termination Notice" shall have the meaning assigned to such term in Section 3 of the Settlement Agreement.

"**Effective Date**" means the date on which this Lease becomes effective pursuant to **Section 4.2**.

"**Encumber**" means create any Encumbrance; "**Encumbrance**" means any mortgage, deed of trust, assignment of rents, fixture filing, security agreement, or similar security instrument, or other lien or encumbrance.

"**Encumbrancer**" means a mortgagee, beneficiary of a deed of trust, or other holder of an Encumbrance.

"**Environmental Laws**" means any present or future federal, state, local or administrative law, rule, regulation, order, or requirement relating to (i) Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge, or storage); or (ii) human health and safety, industrial hygiene, or environmental conditions in, on, under, about, or adjacent to the Premises (including any permitted Improvements) and any other property, including, without limitation, soil, air, and groundwater conditions.

"**Event of Default**" means any one of the events of default described in **Section 16.1**.

"**General Manager**" means the General Manager of the SFPUC.

"**Hazardous Material**" means any material that, because of its quantity, concentration, or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state ,or local governmental authority to pose a present or potential hazard to human health, welfare, or safety or to the environment. Hazardous Material includes, without limitation, any material or

substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing improvements on the Land, any Improvements to be constructed on the Land by or on behalf of Tenant, or are naturally occurring substances on, in, or about the Land; and petroleum, including crude oil or any fraction thereof, natural gas, or natural gas liquids. "**Hazardous Material Claims**" means any and all enforcement, Investigation, Remediation, or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Environmental Laws, together with any and all Losses made or threatened by any third party against City, the SFPUC, their Agents, or the Premises or any Improvements, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Material by Tenant during the Term of this Lease, including, without limitation, Losses based in common law. Hazardous Material Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Premises or any Improvements, the loss or restriction of the use or any amenity of the Premises or any Improvements, and attorneys' fees and consultants' fees and experts' fees and costs.

"**Improvements**" means any and all buildings, structures, fixtures, and other improvements constructed, installed or placed on the Premises by or on behalf of Tenant pursuant to this Lease or during Tenant's possession of the Premises prior to the Effective Date, including, without limitation, any trailers, storage containers, mobile homes, permanent tent facilities, signs, billboards or other advertising materials, roads, trails, driveways, parking areas, curbs, walks, fences, walls, stairs, poles, plantings, and landscaping.

"**Indemnify**" means indemnify, protect, defend and hold harmless forever.

"**Indemnified Parties**" means City, including, but not limited to, all of its boards, commissions, departments, agencies, and other subdivisions, including, without limitation, its PUC, and all of its and their respective Agents, and their respective heirs, legal representatives, successors and assigns, and each of them.

"**Investigate and Remediate**" ("**Investigation**" and "**Remediation**") when used with reference to Hazardous Material means any activity undertaken to determine the nature and extent of Hazardous Material that may be located in, on, under, about, or adjacent to the Premises, or any Improvements or any portion thereof or which have been, are being, or are threatened to be Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor, or otherwise control such Hazardous Material. Remediate includes, without limitation, those actions included within the definition of "remedy" or "remedial action" in California Health and Safety Code Section 25322 and "remove" or "removal" in California Health and Safety Code Section 25323. Investigation shall include, without limitation, preparation of site history reports and sampling and analysis of environmental conditions in, on, under, about, or adjacent to the Premises or any Improvements.

"**Invitees**" when used with respect to Tenant means the clients, customers, invitees, guests, members and licensees, assignees, and subtenants of Tenant.

"**Land**" means the real property described in **Exhibit A** attached hereto.

"**Landlord**" means the City and County of San Francisco.

"**Law**" means any law, statute, ordinance, resolution, regulation, proclamation, order, or decree of any municipal, county, state, or federal government or other governmental or regulatory authority with jurisdiction over the Premises, or any portion thereof, whether currently in effect or adopted in the future and whether or not in the contemplation of the Parties.

"**Lease**" means this Amended and Restated Lease as it may be amended in accordance with its terms.

"**Lease Year**" has the meaning given in **Section 5.2**.

"**Losses**" means any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments, awards, costs, and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs.

"**Official Records**" means the official records of the county(ies) in which the Premises are located.

"**Party**" means City or Tenant; "**Parties**" means both City and Tenant.

"Permitted Occasional User" shall have the meaning assigned to such term in **Section 7.1**.

"Permitted Uses" refers to Tenant's authorized uses of the Premises described in **Section 7.1** consisting of (a) skeet shooting; (b) fly-casting; (c) trap shooting; (d) Olympic air-rifle range shooting and related training; (e) meeting space solely for Tenant's members; (f) storage for Tenant's personal property; and (g) use of Premises by Permitted Occasional Users strictly in accordance with the terms of **Section 7.1.**

"**Premises**" has the meaning given in **Section 3.1**. The Premises shall include any existing and permitted future Improvements, together with any additions, modifications, or other Alterations thereto permitted hereunder. Notwithstanding anything to the contrary in this Lease, the Premises do not include the SFPUC Facilities, nor any water, water rights, riparian rights, water stock, mineral rights, or timber rights relating to the Premises.

"Premises Surrender Plan" has the meaning given in **Section 8.4.**

"Release" when used with respect to Hazardous Material means any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any existing improvements or any Improvements constructed hereunder by or on behalf of Tenant, or in, on, under, or about the Premises or any adjacent property, or into the environment.

"**Rent**" means the Base Rent, as adjusted pursuant to the provisions of **Section 5.2**, together with any and all Additional Charges.

"Settlement Agreement" refers to the settlement agreement arising out of City's termination of the 1934 Lease by filing San Francisco Superior Court Action No. CUD-12-642832 and all exhibits thereto, including this Amended and Restated Lease.

"**SFPUC**" means the San Francisco Public Utilities Commission of the City and County of San Francisco.

"**SFPUC Facilities**" means any and all water pipelines, drainage pipelines, hatch covers, wells and other surface and subsurface facilities owned by the SFPUC and now or later located

in, under, on, or about the Premises for the storage, transportation or distribution of water for municipal purposes, together with all appurtenances thereto and all monuments thereof.

"**Sublease**" has the meaning given in **Section 15.1**.

"**Tenant**" means the Pacific Rod and Gun Club, a California nonprofit corporation, identified as Tenant in the Basic Lease Information and at the beginning of this Lease. Except when immediately followed by the word "itself," the term Tenant shall also refer to the successors and assigns of Tenant's interests under this Lease, provided that the rights and obligations of Tenant's successors and assigns shall be limited to only those rights and obligations that this Lease permits to be transferred and that have been transferred in accordance with this Lease.

"**Tenant's Personal Property**" means the personal property of Tenant described in **Section 8.5**.

"**Term**" means the term of this Lease as determined under **Section 4.1**.

"**Termination Notice**" has the meaning given such term in **Section 4.1**.

"**Transfer**" means any Assignment or Sublease.

"**Transferee**" means any recognized assignee of any part of Tenant's leasehold interest hereunder or any recognized subtenant of any portion of the Premises, pursuant to a Transfer that complies with **Section 15**.

"**Unmatured Event of Default**" means any default by Tenant under this Lease that, with the giving of notice or the passage of time, or both, would constitute an Event of Default hereunder.

3. PREMISES

3.1 Leased Premises

Subject to the terms, covenants, and conditions of the Settlement Agreement and this Lease, City leases to Tenant and Tenant leases from City, the real property described in the attached **Exhibit A**, together with any and all improvements existing thereon as of the date of this Lease (the "**Premises**"), excluding therefrom and reserving during the Term unto City, its successors and assigns, the rights described in **Section 3.2**. The Premises are shown generally on the attached **Exhibit B**. Any acreage stated in this Lease with respect to the Premises is an estimate only, and City does not warrant it to be correct. However, the Parties agree that for all purposes of this Lease, any such acreage shall be deemed to be correct. Nothing in this Lease is intended to grant Tenant any right whatsoever to possess, use or operate SFPUC Facilities, or any portion thereof. As of the Effective Date, this Lease supersedes, amends, and restates the 1934 Lease, provided that Section 2 of the 1934 Lease shall continue to survive with respect to (a) Tenant's occupancy of the Premises pursuant to the 1934 Lease prior to the Effective Date; and (b) this Lease on and after the Effective Date.

3.2 Rights Reserved to City

Notwithstanding anything to the contrary in this Lease, City reserves and retains all of the following rights relating to the Premises:

(a) Any and all water and water rights, including, but not limited to (i) any and all surface water and surface water rights, including, without limitation, riparian rights and

appropriative water rights to surface streams and the underflow of streams, and (ii) any and all groundwater and subterranean water rights, including, without limitation, the right to export percolating groundwater for use by City or its water customers;

(b) Any and all timber and timber rights, including, without limitation, all standing trees and downed timber;

(c) Any and all minerals and mineral rights of every kind and character now known to exist or hereafter discovered in the Premises, including, but not limited to, oil and gas rights thereto, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to City or its successors and assigns, but without entering upon or using the surface of the lands of the Premises and in such manner as not to damage the surface of the Premises or to interfere with the permitted use thereof by Tenant, without Tenant's prior written consent;

(d) All rights to use, operate, maintain, repair, enlarge, modify, expand, replace, and reconstruct the SFPUC Facilities;

(e) The right to grant future easements and rights-of-way over, across, under, in, and upon the Premises as City shall determine to be in the public interest, provided that any such easement or right-of-way shall be conditioned upon the grantee's assumption of liability to Tenant for damage to its property that Tenant may sustain hereunder as a result of the grantee's use of such easement or right-of-way;

(f) Without limiting the generality of **Section 3.2(e)**, the right to grant future easements, rights-of-way, permits, and/or licenses over, across, under, in, and upon the Premises for the installation, operation, maintenance, repair, and removal of (i) equipment for furnishing cellular telephone, radio, or other telecommunications services, including, without limitation, antennas, radio, devices, cables, and other equipment associated with a telecommunications cell site, and (ii) commercial billboards, signs and/or advertising kiosks, provided that any such easement or right-of-way shall not materially interfere with Tenant's use of the Premises hereunder, and provided further that the grant of any such easement or right-of-way shall be conditioned upon the grantee's assumption of liability to Tenant for damage to its property that Tenant may sustain hereunder as a result of the grantee's use of such easement or right-of-way; and

(g) All rights of access provided for in **Section 19**.

3.3 Subject to Municipal Uses

Tenant acknowledges that the property of which the Premises are a part constitutes a portion of City's Lake Merced Tract under the jurisdiction of, and managed by the SFPUC water enterprise, which City holds for the purposes of providing an emergency water supply to its water customers in San Francisco and associated recreational and habitat preservation uses, and for any other municipal uses. Tenant's rights under this Lease shall be subject to the terms of the Settlement Agreement and to City's use of the Premises for such purposes and for other City uses, including, but not limited to, any City use related to mitigating or remediating the Hazardous Materials conditions on the Premises. Any use of the term "right-of-way" or similar terms in this document shall not be deemed to imply that City holds less than fee title to the Premises or otherwise call into question the nature of City's title to any of its property. Landlord shall in no way be liable for any damage or destruction to Tenant's property and/or improvements resulting from any pipeline break or from any other repair or maintenance activities of Landlord. Tenant shall, at Landlord's request, immediately remove any property or improvements on the Premises to allow Landlord access to any pipelines, tunnels or any other existing or future facilities of City. In the event Landlord deems it necessary, at Landlord's sole

discretion, Landlord shall have the right to remove any such property or improvements and Landlord shall not be responsible for restoring or returning same to its prior condition.

3.4 As Is Condition of Premises

(a) Inspection of Premises

Tenant represents and warrants that prior to the Effective Date, Tenant has been and remains in occupancy of the Premises under the terms and conditions of the 1934 Lease. Tenant further represents and warrants that Tenant has conducted a thorough and diligent inspection and investigation, either independently or through Agents of Tenant's own choosing, of the Premises and the suitability of the Premises for Tenant's intended use. Tenant is fully aware of the needs of its operations and has determined, based solely on its own investigation, that the Premises are suitable for its operations and intended uses.

(b) As Is; Disclaimer of Representations

Tenant acknowledges and agrees that the Premises are being leased and accepted strictly in their "**AS IS, WITH ALL FAULTS**" condition, without representation or warranty of any kind, and subject to all applicable Laws governing the use, occupancy, management, operation, and possession of the Premises. Without limiting the foregoing, this Lease is made subject to any and all covenants, conditions, restrictions, easements, and other title matters affecting the Premises, or any portion thereof, whether or not of record. Tenant acknowledges and agrees that neither City, SFPUC, nor any of their Agents have made, and City hereby disclaims, any representations or warranties, express or implied, concerning: (i) title or survey matters affecting the Premises, (ii) the physical, geological, seismological, or environmental condition of the Premises, (iii) the quality, nature, or adequacy of any utilities serving the Premises, (iv) the present or future suitability of the Premises for Tenant's business and intended uses, (v) the feasibility, cost, or legality of constructing any Improvements on the Premises if required for Tenant's use and permitted under this Lease, or (vi) any other matter whatsoever relating to the Premises or their use, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

4. TERM

4.1 Term

The term ("Term") of this Lease shall commence on the **Effective Date**, and continue on a month-to-month basis thereafter until either Party elects to terminate this Lease by giving the other Party at least ninety (90) days prior written notice ("**Termination Notice**") unless sooner terminated pursuant to the terms of this Lease (the "**Expiration Date**"); provided that in no event shall the Term extend beyond the date occurring two (2) years after the Effective Date, unless authorized by Resolution of the SFPUC. Notwithstanding anything to the contrary contained in this Lease, at any time during the term, either Party may, by providing no less than ninety (90) days prior written Termination Notice to the other Party, terminate this Lease for any or no reason effective as of the date set forth in such notice. Upon any such termination under this section, City, as Landlord, and Club, as Tenant, shall have no further rights or obligations to each other under this Lease, except for any obligations which specifically survive the expiration or termination of this Lease, and Club shall be required to surrender the Premises to City on or before such termination date in accordance with the terms of the Settlement Agreement and this Lease, specifically including, without limitation, **Section 21** (Surrender of Premises). Termination of this Lease by either Party shall not affect the survival of the indemnity clause contained in section 2 of the 1934 Lease, nor any provision of this Lease that, pursuant to its terms, is intended to survive any such termination.

In connection with any such termination, Tenant acknowledges that Tenant expressly waives the right to any and all relocation assistance and benefits available under state law or otherwise, as more particularly set forth in **Section 21.1** below. Tenant expressly releases and waives any and all Claims for damages related to any such termination and for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned hereby. Nothing in this section shall affect City's rights and remedies following a default by Tenant under this Lease, including but not limited to the right to terminate this Lease and seek damages as set forth in **Section 16.2**.

4.2 Effective Date

This Lease shall become effective when signed by the General Manager following execution by Tenant and approval as to form by the City Attorney.

5. RENT

5.1 Base Rent

Tenant shall pay to City during the Term of this Lease, beginning on the Effective Date, the Monthly Base Rent specified in the Basic Lease Information (the "**Base Rent**"). The Base Rent shall be payable in monthly installments on or before the first day of each month, in advance, at the San Francisco Public Utilities Commission, Customer Service Bureau, Attn: Real Estate Billing, 525 Golden Gate Avenue, Second Floor, San Francisco, California 94102 (reference SFPUC lease number), or such other place as City may designate in writing. If the Effective Date occurs on a day other than the first day of a calendar month, or if the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for such fractional month shall be prorated based on a thirty (30) day month. Tenant shall pay to City during the Term of this Lease, as additional rent, fifty percent (50%) of all proceeds from license agreements entered into with Permitted Occasional Users in compliance with Section 7.1 ("**Additional Rent**") no later than ninety (90) days following the commencement date of each such license agreement.

5.2 Adjustments in Base Rent

Each twelve (12) month period following the Effective Date is a "**Lease Year**". On the first day of the second Lease Year of the Term, and on the first day of each Lease Year thereafter (each, an "**Adjustment Date**"), the monthly Base Rent for each month during the Lease Year immediately following an Adjustment Date shall be increased to an amount equal to one hundred four percent (104%) of the Base Rent due and payable each month during the immediately preceding Lease Year.

5.3 Late Charge

If Tenant fails to pay any Rent within five (5) days after the date the same is due and payable, such unpaid amount will be subject to a late payment charge equal to six percent (6%) of the unpaid amount in each instance. The late payment charge has been agreed upon by City and Tenant, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that City will incur as a result of any such failure by Tenant, the actual costs thereof being extremely difficult if not impossible to determine. The late payment charge constitutes liquidated damages to compensate City for its damages resulting from such failure to pay and Tenant shall promptly pay such charge to City together with such unpaid amount.

5.4 Default Interest

If any Rent is not paid within five (5) days following the due date, such unpaid amount shall bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate an individual is permitted to charge under Law. However, interest shall not be payable on late charges incurred by Tenant nor on any amounts on which late charges are paid by Tenant to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Tenant.

5.5 Net Lease

This Lease is a "net lease." Accordingly, Tenant shall pay to City the Base Rent, Additional Charges, and any other payments hereunder free of any charges, assessments, or deductions of any kind, without prior demand and without abatement, counterclaim or setoff. Under no circumstances, whether now existing or hereafter arising, and whether or not beyond the present contemplation of the Parties, shall City be expected or required to make any payment of any kind whatsoever with respect to Tenant's use or occupancy of the Premises and any permitted Improvements or this Lease, except as may otherwise be expressly set forth herein. Without limiting the foregoing, Tenant shall be solely responsible for paying each item of cost or expense of every kind and nature whatsoever, the payment of which City would otherwise be or become liable by reason of its estate or interests in the Premises and any Improvements, any rights or interests of City in or under this Lease, or the ownership, leasing, operation, management, maintenance, repair, rebuilding, remodeling, renovation, use, or occupancy of the Premises, any permitted Improvements, or any portion thereof. Except as may be specifically and expressly provided otherwise in this Lease, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant from its liability to pay all of the sums required by any of the provisions of this Lease, or shall otherwise relieve Tenant from any of its obligations under this Lease, or shall give Tenant any right to terminate this Lease in whole or in part. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease or to receive any abatement, diminution, reduction, or suspension of payment of such sums, on account of any such occurrence or situation.

5.6 Processing Fee

Tenant previously paid Landlord a lease application fee of Five Thousand Dollars ($5,000).

6. TAXES, ASSESSMENTS, AND OTHER EXPENSES

6.1 Taxes and Assessments, Licenses, Permit Fees, and Liens

(a) Payment Responsibility

Tenant shall pay any and all real and personal property taxes, general and special assessments, excises, licenses, permit fees, and other charges and impositions of every description levied on or assessed against the Premises, any Improvements, Tenant's Personal Property, the leasehold estate or any subleasehold estate, or Tenant's use of the Premises or any Improvements. Tenant shall make all such payments directly to the charging authority when due and payable and at least ten (10) days before delinquency, subject to Tenant's right to contest the validity of such charge pursuant to **Section 6.1(c)**. However, with respect to real property taxes and assessments levied on or assessed against the Premises for which City receives the tax bill directly from the taxing authority, Tenant shall reimburse City for payment of such sums immediately upon demand.

(b) Taxability of Possessory Interest

Without limiting the foregoing, Tenant recognizes and agrees that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest.

(c) No Liens

Tenant shall not allow or suffer a lien for any taxes payable by Tenant hereunder to be imposed upon the Premises or upon any equipment or other property located thereon without promptly discharging the same. Tenant may have a reasonable opportunity to contest the validity of any such taxes provided Tenant, before commencement of any proceeding or contest, furnishes to City a surety bond issued by a surety company qualified to do business in California and acceptable to City's Controller. The amount of such bond shall be equal to one hundred twenty-five percent (125%) of the amount of taxes in dispute and shall be in such form as approved by the City Attorney of City. The bond shall insure payment of any judgment that may be rendered should Tenant be unsuccessful in any such contest. Tenant shall Indemnify City, the other Indemnified Parties, and the Premises from and against any Losses arising out of any proceeding or contest provided for hereunder. The foregoing Indemnity shall not be limited by the amount of the bond.

(d) Reporting Requirement

Tenant agrees to provide such information as City may request to enable City to comply with any tax reporting requirements applicable to this Lease.

6.2 Other Expenses

Tenant shall be responsible for any and all other charges, costs, and expenses related to its use, occupancy, operation or enjoyment of the Premises or any Improvements permitted thereon, including, without limitation, the cost of any utilities or services necessary for Tenant's use.

6.3 Evidence of Payment

Tenant shall, upon City's request, furnish to City within ten (10) days after the date when any charges are due and payable, official receipts of the appropriate taxing authority or other evidence reasonably satisfactory to City, evidencing payment thereof.

7. USE; COVENANTS TO PROTECT PREMISES AND SFPUC FACILITIES

7.1 Tenant's Permitted Use

Tenant may use the Premises and any Improvements allowed hereunder only for the use specified in the Basic Lease Information, and as provided below, and for no other purpose. Tenant may also make limited use of the approximately four (4) acre open water area over Lake Merced shown on Exhibit B solely for the purpose of occasionally receiving steel shot and targets during clay target shooting activities.

Notwithstanding anything to the contrary in this Lease, one or more users (each, a "**Permitted Occasional User**") may enter upon the Premises from time to time to use the Premises for a period of up to ten (10) days for the Permitted Use only or for longer periods of time as may be approved in writing by SFPUC. Any use of the Premises by a Permitted Occasional User shall (i) require SFPUC's prior written consent, at its sole discretion, requested a minimum of seven (7) days in advance of the commencement of the use; (ii) require the

Permitted Occasional User to sign and deliver to SFPUC and Tenant a license agreement on a form approved by SFPUC and the City Attorney; and (iii) require Tenant to pay Additional Rent to SFPUC. Any license agreement issued to an authorized Permitted Occasional User pursuant to this Section, and any rent related thereto, shall not be subject to any prohibition against assignment or subleasing as set forth in **Section 15**, or the recapture provisions of **Section 15** with respect to such authorized Permitted Occasional User. Consent by Tenant to a license agreement with a Permitted Occasional User, notwithstanding consent by City thereto, shall not relieve Tenant, or any guarantor, of any obligation to be performed by Tenant under this Lease. Any license agreement with a Permitted Occasional User that is not in compliance with this Section shall, at the option of City at its sole and absolute discretion, be void and, at City's option, shall constitute a material Event of Default by Tenant under this Lease. Tenant agrees and acknowledges that no such Permitted Occasional User shall have any right, title, or interest in or to any of the Premises other than the limited right to use the Premises as provided in this Section and in any related license agreement, and that SFPUC does not grant any estate or any interest in the Premises to such Permitted Occasional User. In addition, Tenant shall not perform any alterations or in any way separately demise space for any Permitted Occasional User. Tenant will ensure that any Permitted Occasional User accessing or occupying the Premises complies with all terms and conditions of the applicable license agreement, and with all applicable laws at all times while on the Premises, as further defined in the license agreement.

7.2 Covenants Regarding Use

As a material inducement to City to enter into this Lease, Tenant covenants with City as follows:

(a) No Unlawful Uses or Nuisances

Tenant shall not use or occupy any of the Premises or any Improvements, or permit the use or occupancy thereof, in any unlawful manner or for any illegal purpose, or permit to be carried on any offensive, immoral, noisy (except as reasonably necessary to conduct the permitted uses, provided that the permitted uses do not violate the San Francisco Noise Ordinance) or hazardous use or any use in violation of the conditions of any certificate of occupancy. Tenant shall take all precautions to eliminate immediately any nuisances or hazards relating to its activities on or about the Premises or any Improvements permitted hereunder. Tenant shall take suitable protective measures such as installing buoys and/or providing suitable warnings to keep boaters out of the four (4) acre open water area shown on Exhibit B that are off limits to boaters during trap and skeet shooting activities. Tenant shall not permit residential occupancy of the Premises.

(b) Covenant Against Waste

Tenant shall not cause or permit any waste, damage, or injury to the Premises.

(c) Covenant to Protect SFPUC Facilities

At all times during the Term of this Lease, Tenant shall protect the SFPUC Facilities from any damage, injury, or disturbance. If Tenant or any of its Agents or Invitees damages, injures or disturbs any of the SFPUC Facilities, or any portion of the SFPUC Facilities (including monuments), Tenant shall immediately notify City of that occurrence. City may, without limiting any of its other rights hereunder, take all actions it deems proper to repair such SFPUC Facilities (including relocation of monuments) at Tenant's sole expense. Tenant shall promptly, upon City's request, remove or alter to City's satisfaction and at Tenant's sole cost, any Improvements, Alterations, or Tenant's Personal Property placed on the Premises by or on behalf of Tenant as necessary to avoid interference with City's use of the Premises for municipal utility purposes. Alternatively, subject to the SFPUC General Manager's approval at his or her sole

discretion, Tenant may pay City for the costs determined by the SFPUC General Manager that City will incur as a result of such interference.

City may adopt from time to time such rules and regulations with regard to Tenant's facilities and operations hereunder as City may determine are necessary or appropriate to safeguard against corrosion of City's pipelines and related SFPUC Facilities. Tenant shall comply with all such rules and regulations upon receipt of a copy thereof.

(d) Covenant to Protect Water Courses

Tenant shall not cause any ponding on the Premises or any flooding on adjacent land. Tenant shall not engage in any activity that causes any change, disturbance, fill, alteration or impairment to the bed, bank or channel of any natural water course, wetland, or other body of water on, in, under or about the Premises, nor shall Tenant engage in any activity that would pollute or degrade any surface or subsurface waters or result in the diminution or drainage of such waters.

(e) Covenant Against Dumping

Tenant shall not cause or permit the dumping or other disposal on, under or about the Premises of landfill, refuse, Hazardous Material or other materials that are unsightly or could pose a hazard to human health or safety, native vegetation or wildlife, or the environment.

(f) Covenant to Protect Trees or Other Native Vegetation

Tenant shall not engage in or permit the cutting, removal, or destruction of trees or any other native vegetation on the Premises, without the prior written approval of the SFPUC.

(g) No Tree Planting

Tenant shall not plant any trees on the Premises, nor shall Tenant plant any other vegetation on the Premises except as otherwise expressly provided herein.

(h) Covenant Against Hunting

Tenant shall not engage in or permit any hunting or trapping on or about the Premises, except for hunting or trapping for the purpose of controlling predators or problem animals by the appropriate use of selective control techniques approved in advance by the SFPUC provided such hunting and trapping is done in strict accordance with all applicable Laws. Whenever possible, all measures used for such control shall be limited in their application to the specific problem animals. Tenant shall not use poison bait, cyanide guns, traps, or other similar non-selective control techniques. In no event may Tenant use any prophylactic predator control measures. The restrictions of this Section applicable to the identification and control of predators and problem animals shall not apply to commensal rodents.

(i) Pesticides Prohibition

Tenant shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "**Pesticide Ordinance**") that (i) prohibit the use of certain pesticides on City property; (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage; and (iii) require Tenant to submit to the SFPUC an integrated pest management ("**IPM**") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the terms of this Lease; (b) describes the steps Tenant will take to meet City's IPM Policy described in Section 300 of the Pesticide Ordinance; and (c) identifies, by name, title, address

and telephone number, an individual to act as the Tenant's primary IPM contact person with City. In addition, Tenant shall comply with Sections 303(a) and 303(b) of the Pesticide Ordinance.

(j) Weed Control

Tenant shall not introduce any noxious weeds on or about the Premises. Tenant shall control noxious weeds, provided that Tenant may use chemical herbicides only if such use complies with the requirements of **Section 7.2(i)**.

(k) Maintenance of Roads

Tenant shall keep all roads on the Premises open and in the same condition as such roads are now in, ordinary wear and tear excepted, and shall not interfere with any travel on such roads.

(l) Covenant Against Burning

Tenant shall not burn any weeds, debris, or other substances on or about the Premises.

(m) No Off-Road Vehicles

Tenant shall not use or permit the use of off-road vehicles on any portion of the Premises except on existing roads and in the manner for which such roads are intended.

(n) Restrictions on Heavy Equipment and Vehicles

To prevent damage to City's underground pipelines, Tenant shall strictly adhere to the following restrictions when using vehicles and equipment within twenty feet (20') of City's pipelines:

(i) The depth of soil cover over the tops of City's pipelines must be at least three feet (3') for steel cylinder pipe and four feet (4') for reinforced pre-stressed concrete cylinder pipe to accommodate the loading as defined below in item (ii). If any equipment with axle loading exceeds the weight stated in item (ii) below or if the depth of soil cover is less than stated above, Tenant shall submit to SFPUC for review and approval, engineering calculations prepared by a registered civil engineer to provide adequate protection of the pipelines showing that City's pipelines will not be adversely affected.

(ii) The effects of vehicle and equipment loads to the pipe must not exceed the effects of the "AASHO Standard H-10 Loading." H-10 loading is defined as loading caused by a two-axle truck with a gross weight of ten tons (20,000 lbs.), axles fourteen feet (14') apart, and rear axle carrying eight tons (16,000 lbs.). Tenant shall be responsible to provide SFPUC adequate evidence that Tenant's equipment and vehicles meet the foregoing requirements.

(iii) Tenant shall not use vibrating compaction equipment unless it first obtains City's written approval.

(iv) If the depth of the soil cover over the pipeline (determined by potholing or other proof procedure) is less than the minimum stated in (i) above, unless an alternate method is approved by City all excavation and grading over the pipeline shall be performed manually. For any machinery equipment excavation and grading over and within twenty feet (20') on each side of the centerline of the pipeline (measured on the surface), Tenant

shall submit a written proposal together with all supporting calculations and data to SFPUC for review and approval. In any case, the two feet (2') of soil around the pipeline shall be removed manually or by other methods approved by SFPUC with due care as provided above.

(o) Watershed Management Plan

Tenant shall comply with any and all other regulations or requirements resulting from City's development of a watershed management plan, and any modifications or additions to such plan, provided that such regulations or requirements do not unreasonably interfere with Tenant's use and enjoyment of the Premises hereunder.

8. IMPROVEMENTS

8.1 Construction of Improvements

Tenant shall not construct or install any Improvements nor make or permit any Alterations in, to or about the Premises, without SFPUC's prior written consent in each instance, which SFPUC may give or withhold at its sole and absolute discretion. Subject to SFPUC's consent as provided above, any permitted Improvements or Alterations shall be done at Tenant's sole expense (i) in strict accordance with plans and specifications approved in advance by SFPUC in writing, (ii) by duly licensed and bonded contractors or mechanics approved by SFPUC, (iii) in a good and professional manner, (iv) in strict compliance with all Laws, and (v) subject to all other conditions that SFPUC may reasonably impose, including, without limitation, provision of such completion security as is acceptable to SFPUC. In no event shall the construction or installation of any such Improvements or the making of any Alterations impair the use or operation of the SFPUC Facilities, or any portion thereof, or SFPUC's access thereto. Before the commencement of any work on the Premises to construct any permitted Improvements or make any permitted Alterations, Tenant, at its sole expense, shall procure all required permits and approvals and shall promptly upon receipt deliver copies of all such documents to SFPUC. No material change from the plans and specifications approved by SFPUC may be made without SFPUC's prior, written consent. SFPUC and its Agents shall have the right to inspect the course of such construction at all times. Upon completion of such Improvements or Alterations, Tenant shall furnish SFPUC with a complete set of final as-built plans and specifications. Tenant shall require from each contractor and subcontractor performing any work on or about the Premises a policy of general public liability insurance, with such limits as may reasonably be required by City from time to time, but in any event not less than One Million Dollars ($1,000,000) combined single limit. Such insurance shall also be in compliance with the requirements set forth in **Section 18.2(c).**

8.2 Asbestos

Without limiting **Section 22.2** (No Hazardous Materials) below, in the event that asbestos-containing materials ("**ACM**") are determined to exist in or about the Premises, Tenant shall ensure that all Alterations and any asbestos related work, as defined in California Health & Safety Code Section 25914.1(b), is performed in compliance with all laws relating to asbestos, including but not limited to California Occupational Safety and Health (OSHA) regulations found in Title 8 of the California Code of Regulations, Sections 1502 and 1529. Additionally, Tenant shall distribute notifications to all employees and contractors as required pursuant to California Health & Safety Code Section 25915 et seq. informing them of the existence of ACM and that moving, drilling, boring, or otherwise disturbing ACM may present a health risk and should not be attempted by an unqualified employee. No Alterations affecting ACM-containing areas or any asbestos related work shall be performed without City's prior written consent in each instance.

8.3 Tenant's Improvements or Alterations that Disturb or Remove Lead-Based Paint

Tenant, on behalf of itself and its Agents or Invitees, shall comply with all requirements of the San Francisco Building Code, Section 3407, and all other applicable Laws including, without limitation, the requirements of any board of fire underwriters or other similar body, any directive or occupancy certificate issued pursuant to any Law by any public officer or officers acting in their regulatory capacity, including, without limitation, the California and United States Occupational Health and Safety Acts and their implementing regulations, when the work of improvement or alteration disturbs or removes exterior lead-based or "presumed" lead-based paint (as defined below). Tenant and its Agents or Invitees shall give to City three (3) business days prior, written notice of any disturbance or removal of exterior lead-based or presumed lead-based paint. Further, Tenant and its Agents or Invitees, when disturbing or removing exterior lead-based or presumed lead-based paint, shall not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding or grinding without containment barriers or a High Efficiency Particulate Air filter ("**HEPA**") local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool; and (e) heat guns operating above 1,100 degrees Fahrenheit. Paint on the exterior of buildings built before December 31, 1978, is presumed to be lead-based paint unless lead-based paint testing, as defined in Section 3407 of the San Francisco Building Code, demonstrates an absence of lead-based paint on the exterior surfaces of such buildings. Under this Section, lead-based paint is "disturbed or removed" if the work of improvement or alteration involves any action that creates friction, pressure, heat or a chemical reaction upon any lead-based or presumed lead-based paint on an exterior surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface. Notice to City under this Lease shall not constitute notice to the City's Department of Building Inspection ("**DBI**") required under Section 3407 of the San Francisco Building Code.

8.4 Ownership of Improvements

Any Improvements or Alterations constructed on or affixed to the Premises by or on behalf of Tenant prior to the Effective Date or pursuant to the terms and limitations of **Section 8.1** shall be and remain Tenant's property during the Term. Within one hundred and twenty (120) days of the Commencement Date, Tenant shall submit a written plan (a "**Premises Surrender Plan**") to City that includes a survey of Improvements, Alterations, Tenant's Personal Property (inclusive of building materials and equipment), and debris on the Premises that Tenant intends to remove in the event that either Party delivers a Termination Notice to the other Party under **Section 4.1.** For the purposes of **this Section 8.4**, the term "debris" shall not include shards of broken clay or ceramic target "pigeons," but shall include any other discarded personal property, lumber, equipment, trash, rubbish, or building materials lying on or about the Premises. The Premises Surrender Plan shall include (i) an inventory of all Improvements, Alterations, personal property (inclusive of building materials and equipment), and debris on the Premises; (ii) the approximate age of any Improvements slated for removal and the proposed method of removal; (iii) a plan and schedule for removal of the Improvements and Alterations; (iv) measures to protect any SFPUC or City-owned Facilities that may be damaged as a result of Tenant's removal of any Improvements or Alterations; (v) measures to repair and restore the Premises as a result of removal of any Improvements or Alterations; and (vi) any Improvements, Alterations, or personal property that Tenant proposes to leave on the Premises. The Premises Surrender Plan shall be subject to the written approval of the General Manager at his or her sole and absolute discretion.

Following receipt of a Termination Notice or a Default Termination Notice from City, or in the event that City receives a Termination Notice from Tenant, Tenant shall remove all such Improvements, Alterations, personal property (inclusive of building materials and equipment), and debris from the Premises in accordance with the provisions of the approved Premises

Surrender Plan, the Settlement Agreement, and **Section 21.1**, on or before the effective date of any earlier termination of this Lease, unless otherwise agreed to in writing by the General Manager. If, for any reason, there is no approved Premises Surrender Plan in effect on the expiration or termination of this Lease, Tenant shall be solely responsible to surrender the Premises as specified in **Section 21**.

8.5 Tenant's Personal Property

All furniture, furnishings and articles of movable personal property and equipment installed in the Premises by or for the account of Tenant under the 1934 Lease or during the Term that can be removed without structural or other material damage to the Premises (all of which are herein called "**Tenant's Personal Property**") shall be and remain the property of Tenant and shall be removed by it subject to the provisions of **Section 22.1**. At least ten (10) days before delinquency, Tenant shall pay all taxes levied or assessed upon Tenant's Personal Property and shall deliver satisfactory evidence of such payment to City.

9. REPAIRS AND MAINTENANCE

9.1 Tenant Responsible for Maintenance and Repair

Tenant shall continue to be fully and solely responsible for the condition, operation, repair and maintenance, and management of the Premises and any permitted Improvements from and after the Effective Date. City shall not under any circumstances be responsible for the performance of any repairs, changes, or alterations to the Premises or any adjoining property (including, without limitation, access roads, utilities, and other infrastructure serving the Premises), nor shall City be liable for any portion of the cost thereof. Tenant shall make all repairs and replacements, interior and exterior, structural as well as non-structural, ordinary as well as extraordinary, foreseen and unforeseen, that may be necessary to maintain the Premises including the existing buildings and any permitted Improvements at all times in clean, safe, attractive, and sanitary condition and in good order and repair, to City's reasonable satisfaction and so that the Premises, including the existing buildings, shall be at least equal in quality, value, and utility to the Premises as they exist on the Effective Date. If any portion of the Premises or any of City's property located on or about the Premises is damaged by any of the activities conducted by Tenant or its Agents or Invitees hereunder, Tenant shall immediately, at its sole cost, repair any and all such damage and restore the Premises or City's property to its previous condition.

9.2 Utilities

City has no responsibility or liability of any kind with respect to any utilities that may be on or about the Premises. Tenant has the sole responsibility to locate such utilities and protect them from damage. Tenant shall make all arrangements directly with the utility companies for, and shall pay for, any and all utilities and services furnished to or used by it, including, without limitation, gas, electricity, water, sewage, telephone service, trash collection, and janitorial service, and for all deposits, connection, and installation charges. Tenant shall be responsible for installation and maintenance of all facilities required in connection with such utility services. The Parties agree that any and all utility improvements shall be subject to the provisions of **Section 8.1** and that such improvements shall be deemed part of City's real property, and not personal property or trade fixtures of Tenant. During the Term, Tenant shall be obligated to repair and maintain any and all utility systems and improvements located on or within the Premises (except for the SFPUC Facilities) in good operating condition. City shall not be liable for any failure or interruption of any utility service furnished to the Premises, and no such failure or interruption shall entitle Tenant to any abatement in Rent or to terminate this Lease.

9.3 Maintenance of Fences

Tenant shall maintain in good condition and repair and its expense the existing fence along or about the property line of the Premises.

9.4 No Right to Repair and Deduct

Tenant expressly waives the benefit of any existing or future Law or judicial or administrative decision that would otherwise permit Tenant to make repairs or replacements at City's expense, or to terminate this Lease because of City's failure to keep the Premises or any adjoining property (including, without limitation, access roads, utilities and other infrastructure serving the Premises) or any part thereof in good order, condition or repair, or to abate or reduce any of Tenant's obligations hereunder on account of the Premises or any adjoining property (including, without limitation, access roads, utilities and other infrastructure serving the Premises) or any part thereof being in need of repair or replacement. Without limiting the foregoing, Tenant expressly waives the provisions of California Civil Code Sections 1932, 1941 and 1942 or any similar Laws with respect to any right of Tenant to terminate this Lease and with respect to any obligations of City for tenantability of the Premises and any right of Tenant to make repairs or replacements and deduct the cost thereof from Rent.

10. LIENS

Tenant shall keep the Premises and all of City's property free (including, without limitation, the SFPUC Facilities) from any liens arising out of any work performed, material furnished, or obligations incurred by or for Tenant. In the event Tenant does not, within five (5) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, City shall have in addition to all other remedies provided herein and by Law or equity the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by City and all expenses it incurs in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to City by Tenant upon demand. City shall have the right at all times to post and keep posted on the Premises any notices permitted or required by Law or that City deems proper for its protection and protection of the Premises and City's property from mechanics' and material supplier's liens. Tenant shall give City at least fifteen (15) days' prior written notice of the commencement of any repair or construction on any of the Premises. Notwithstanding the foregoing, Tenant shall have the right, upon posting of an adequate bond or other security acceptable to City, to contest any such lien, and in such case City shall not seek to satisfy or discharge such lien unless Tenant has failed to do so within ten (10) days after final determination of the validity thereof. Tenant shall Indemnify City, the other Indemnified Parties, and the Premises against any and all Losses arising out of any such contest.

11. COMPLIANCE WITH LAWS

11.1 Compliance with Laws

Tenant shall promptly, at no cost to City, maintain the Premises, including any Improvements and Tenant's use and operations thereon, in strict compliance at all times with all present and future Laws, whether foreseen or unforeseen, ordinary as well as extraordinary. Such Laws shall include, without limitation, all Laws relating to health and safety and disabled accessibility including, without limitation, the Americans with Disabilities Act, 42 U.S.C. Sections 12101 et seq. and Title 24 of the California Code of Regulations, all present and future Environmental Laws (as defined in **Section 2** of this Lease), and all present and future life safety, fire sprinkler, seismic retrofit and other building code requirements. Landlord and Tenant recognize that Tenant constructed Improvements on the Premises during its occupancy of the

Premises pursuant to the 1934 Lease prior to the Effective Date, and that City has no record of approving the construction of these Improvements. Within thirty (30) days of the Effective Date, Tenant shall have the main clubhouse building inspected by either representatives of DBI and the City's Fire Department or a licensed private building inspector acceptable to City (at its sole and absolute discretion) and shall promptly correct any violations of the San Francisco Building Code that constitute or create a material risk of injury or death to any person.

The Parties acknowledge and agree that Tenant's obligation to comply with all Laws as provided herein is a material part of the bargained-for consideration under this Lease. Tenant's obligation under this Section shall include, without limitation, the responsibility of Tenant to make substantial or structural repairs and alterations to the Premises (including any Improvements), regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term, the relative benefit of the repairs to Tenant or City, the degree to which the curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular Law involved, and whether the Law involved is related to Tenant's particular use of the Premises. Without limiting **Section 5.5**, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant from its obligations hereunder, or shall give Tenant any right to otherwise seek redress against City. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to receive any abatement, diminution, reduction, or suspension of payment of Rent, or to compel City to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

11.2 Regulatory Approvals

(a) Responsible Party

Tenant understands and agrees that Tenant's use of the Premises may require authorizations, approvals, or permits from governmental regulatory agencies with jurisdiction over the Premises. Tenant shall be solely responsible for obtaining any and all such regulatory approvals. Tenant shall not seek any regulatory approval without first obtaining the written consent of the SFPUC. Tenant shall bear all costs associated with applying for, obtaining, and maintaining any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval. Any fines or penalties levied as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval shall be immediately paid and discharged by Tenant, and City shall have no liability, monetary or otherwise, for any such fines or penalties. Tenant shall Indemnify City and the other Indemnified Parties against all Losses arising in connection with Tenant's failure to obtain or comply with the terms and conditions of any regulatory approval.

(b) City Acting as Owner of Real Property

Tenant further understands and agrees that City, acting by and through SFPUC, entered into the Settlement Agreement and this Lease in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in the Settlement Agreement or this Lease shall limit in any way Tenant's obligation to obtain any required approvals from City departments, boards, or commissions having jurisdiction over the Premises. By entering into the Settlement Agreement and this Lease, City is in no way modifying or limiting Tenant's obligation to cause the Premises or any permitted Improvements to be used and occupied in accordance with all applicable Laws, as provided further above.

11.3 Compliance with City's Risk Management Requirements

Tenant shall not do anything, or permit anything to be done, in or about the Premises or any Improvements permitted hereunder that would create any unusual fire risk, and shall take commercially reasonable steps to protect City from any potential premises liability. Tenant shall faithfully observe, at its expense, any and all reasonable requirements of City's Risk Manager with respect thereto and with the requirements of any policies of public liability, fire or other policies of insurance at any time in force with respect to the Premises and any Improvements as required hereunder.

11.4 Reports

Tenant shall submit a report and provide such documentation to City as City may from time to time request regarding Tenant's operations and evidencing compliance with this Lease and all Laws.

12. FINANCING; ENCUMBRANCES; SUBORDINATION

12.1 Encumbrance of Landlord's Fee Interest

The following provisions shall apply notwithstanding anything to the contrary contained in this Lease.

(a) Encumbrance by City

To the extent permitted by applicable Law, City may at any time sell or otherwise transfer or encumber its fee estate in any portion of the Premises.

(b) Encumbrance By Tenant

Tenant shall not under any circumstances whatsoever Encumber in any manner the Premises, the SFPUC Facilities, City's estate in the Premises or any adjoining property, City's interest under this Lease, or any portion thereof.

12.2 Leasehold Encumbrances

Without limiting **Section 15**, Tenant shall not Encumber this Lease, or assign or pledge assignment of the same as security for any debt, without first obtaining the written consent of City, which City may give or withhold at its sole discretion.

13. DAMAGE OR DESTRUCTION

13.1 Damage or Destruction to the Improvements

With respect to any damage to or destruction by fire or any other casualty to any Improvements permitted hereunder made by or on behalf of Tenant during the Term, or during Tenant's occupancy of the Premises prior to the Effective Date, Tenant may, at its option and at its sole cost, restore, repair, replace, or rebuild such Improvements to the condition such Improvements were in before such damage or destruction, subject to and in strict accordance with the requirements of **Section 8.1**. However, if Tenant does not notify City in writing within thirty (30) days after the date of such damage or destruction of Tenant's election to restore, repair, replace, or rebuild any such damaged or destroyed Improvements as provided above, Tenant shall promptly, at its sole cost, demolish such Improvements and remove them (including all debris) from the Premises in compliance with the provisions of **Section 21.1**.

13.2 Abatement in Rent

In the event of any damage or destruction to the Premises or any permitted Improvements, there shall be no abatement in the Base Rent or Additional Charges payable hereunder.

13.3 Waiver

The Parties understand and agree that the foregoing provisions of this Section are intended to govern fully the rights and obligations of the Parties in the event of damage or destruction to the Premises or Improvements.

14. CONSTRUCTION PROJECTS; WAIVER OF RELOCATION ASSISTANCE

14.1 Proximity of Construction Projects

Tenant acknowledges that during the Term, major construction projects or other work may be undertaken by City on property in the immediate vicinity of the Premises, or on the Premises. Tenant is aware that the construction of such projects or the performance of such work may result in disturbance of Tenant's quiet enjoyment of the Premises. Such impacts may include, but are not limited to, increased vehicle and truck traffic, traffic delays and re-routing impediments to access, loss of street and public parking, dust, dirt, construction noise and visual obstructions. Tenant hereby waives any and all claims against SFPUC, City and their Agents based on such inconvenience or disturbance, including without limitation any abatement or reduction of rent.

14.2 Waiver of Relocation Assistance Rights

Tenant hereby waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code Sections 7260 et seq., and the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. Sections 4601 et seq., or under any similar law, statute, or ordinance now or hereafter in effect.

Tenant's Initials

15. ASSIGNMENT AND SUBLETTING

15.1 Restriction on Assignment and Subletting

Tenant shall not directly or indirectly (including, without limitation, by merger, acquisition, sale, or other transfer of any controlling interest in Tenant), voluntarily or by operation of Law, sell, assign, encumber, pledge or otherwise transfer any part of its interest in or rights with respect to the Premises, the business, any Improvements or its leasehold estate hereunder (collectively, "**Assignment**"), or permit any portion of the Premises or any Improvements to be occupied by anyone other than itself, or sublet any portion of the Premises or any permitted Improvements thereon (collectively, "**Sublease**"), without the SFPUC's prior written consent in each instance, which the SFPUC may withhold at its sole discretion. Any Assignment or Sublease, without the SFPUC's prior consent, shall be voidable at the option of City at its sole and absolute discretion, and the General Manager shall have the right to immediately terminate this Lease by sending written notice to Tenant.

Tenant further agrees and understands that the intent and purpose of this Lease is to facilitate settlement of the Action and allow for Tenant's continued occupancy of the Premises consistent with the Settlement Agreement, and not for the purpose of creating an investment in property. Therefore, while Tenant may charge to an assignee or sublessee an amount in excess of that rent which is at the time being charged by City to Tenant, all rental income or other consideration received by Tenant which is attributable to the value of the leasehold estate created by this Lease over and above that Rent charged to Tenant by City shall be paid directly to City with no profit, direct or indirect, to Tenant attributable to the value of the leasehold estate created by this Lease.

15.2 Notice of Proposed Transfer

If Tenant desires to enter into an Assignment or a Sublease, then it shall give written notice (a "**Notice of Proposed Transfer**") to the SFPUC of its intention to do so. The Notice of Proposed Transfer shall include a copy of the proposed Assignment or Sublease, identify the Transferee and state the terms and conditions under which Tenant is willing to enter into such proposed Assignment or Sublease, including a copy of the proposed Assignment or Sublease agreement. Tenant shall provide the SFPUC with financial statements for the proposed Transferee and such additional information regarding the proposed Transfer as the SFPUC may reasonably request.

15.3 SFPUC's Response

Within twenty (20) business days after SFPUC's receipt of the Notice of Proposed Transfer and any such additional information requested by SFPUC (the "**Response Period**"), the SFPUC may, by written notice to Tenant, elect to: (a) sublease the portion of the Premises specified in the Notice of Proposed Transfer on the terms and conditions set forth in such notice, except as otherwise provided in **Section 15.4**, or (b) terminate this Lease as to the portion (including all) of the Premises that is specified in the Notice of Proposed Transfer (a "**Recapture**").

If the SFPUC declines to exercise either of the options provided in clauses (a) and (b) above, then Tenant shall be entitled for a period of ninety (90) days following the earlier of SFPUC's notice that it will not elect either such option or the expiration of the Response Period, to enter into such Assignment or Sublease, subject to the SFPUC's prior, written approval of the proposed Transferee and the terms and conditions of the proposed Transfer. The parties recognize and agree that the purpose of this Lease is to allow for the permitted uses and not to create an investment in property, and therefore City may condition its consent to any Assignment or Sublease on the receipt of some or all of the consideration realized by Tenant under any such Assignment or Sublease (or the amount thereof attributable to the Premises if the transaction includes other properties) in excess of the Base Rent and Additional Charges payable hereunder, after deducting the proportionate share of any reasonable broker's commissions or transaction costs incurred by Tenant. Tenant shall provide the SFPUC with such information regarding the proposed Transferee and the proposed Assignment or Sublease as the SFPUC may reasonably request.

Notwithstanding the foregoing, if following the SFPUC's decline to exercise the foregoing options Tenant desires to enter into such Assignment or Sublease on terms and conditions materially more favorable to Tenant than those contained in the Notice of Proposed Transfer, then Tenant shall give SFPUC a new Notice of Proposed Transfer, which notice shall state the terms and conditions of such Assignment or Sublease and identify the proposed Transferee, and SFPUC shall again be entitled to elect one of the options provided in clauses (a) and (b) above at any time within fifteen (15) business days after the SFPUC's receipt of such new Notice of Proposed Transfer.

In the event the SFPUC elects either of the options provided in clauses (a) or (b) above, the SFPUC shall be entitled, at its sole option, to enter into a lease, sublease or assignment agreement with respect to the Premises (or portion thereof specified in such new Notice of Proposed Transfer) with the proposed Transferee identified in Tenant's notice.

Notwithstanding the foregoing, if any Event of Default or Unmatured Event of Default by Tenant is outstanding hereunder at the time of Tenant's Notice of Proposed Transfer, then City may elect by notice to Tenant to refuse to consent to Tenant's proposed Transfer and pursue any of its rights or remedies hereunder or at Law or in equity.

15.4 Sublease or Recapture Premises

If City elects to Sublease or Recapture from Tenant as provided in **Section 15.3**, the following shall apply:

(a) Sublease

In the case of a Sublease, (i) City shall have the right to use the portion of the Premises covered by the Notice of Proposed Transfer (the "**Sublease Premises**") for any legal purpose, (ii) City may make alterations and improvements to the Sublease Premises as it may elect, and City may remove any such alterations or improvements, in whole or in part, before or upon the expiration of the Sublease, provided that City shall repair any damage or injury to the Sublease Premises caused by such removal, (iii) City shall have the right to further sublease or assign the Sublease Premises to any party, without the consent of Tenant, and (iv) Tenant shall pay to City on demand any costs incurred by City in physically separating the Sublease Premises (if less than the entire Premises) from the balance of the Premises and in complying with any applicable Laws relating to such separation.

(b) Recapture

In the case of Recapture, (i) the portion of the Premises subject to the Recapture (the "**Recapture Premises**") shall be deleted from the Premises for all purposes hereunder, and Tenant and City shall be relieved of all of their rights and obligations hereunder with respect to the Recapture Premises except to the extent the same would survive the Expiration Date or other termination of this Lease pursuant to the provisions hereof, and (ii) City shall pay any cost incurred in physically separating the Recapture Premises (if less than the entire Premises) from the balance of the Premises and in complying with any applicable governmental Laws relating to such separation.

15.5 Effect of Transfer

No Sublease or Assignment by Tenant nor any consent by City thereto shall relieve Tenant, or any guarantor, of any obligation to be performed by Tenant under this Lease. Any Sublease or Assignment that is not in compliance with this Section shall, at the option of City at its sole and absolute discretion, be void and, at City's option, shall constitute a material Event of Default by Tenant under this Lease. The acceptance of any Rent or other payments by City from a proposed Transferee shall not constitute consent to such Sublease or Assignment by City or a recognition of any Transferee, or a waiver by City of any failure of Tenant or other transferor to comply with this Section.

15.6 Assumption by Transferee

Each Transferee shall assume all obligations of Tenant under this Lease and shall be and remain liable jointly and severally the assignor or sublessor for the payment of Rent, and for the performance of all of the terms, covenants and conditions to be performed by Tenant under this

Lease. No Assignment shall be binding on City unless Tenant or Transferee shall deliver to City a counterpart of the Assignment and an instrument that contains a covenant of assumption by such Transferee satisfactory in substance and form to City, and consistent with the requirements of this Section. However, the failure or refusal of such Transferee to execute such instrument of assumption shall not release such Transferee from its liability as set forth above. Tenant shall reimburse City on demand for any reasonable costs that may be incurred by City in connection with any proposed Transfer, including, without limitation, the costs of making investigations as to the acceptability of the proposed Transferee and legal costs incurred in connection with the granting of any requested consent.

15.7 Indemnity for Relocation Benefits

Without limiting **Section 15.6**, Tenant shall cause any Transferee to expressly waive entitlement to any and all relocation assistance and benefits in connection with this Lease. Tenant shall Indemnify City and the other Indemnified Parties for any and all Losses arising out of any relocation assistance or benefits payable to any Transferee.

15.8 IPM Plan and Form HRC-12B-101

As a condition to any Assignment or Sublease, the Transferee shall execute Form HRC-12B-101 (as such term is defined in Section 29.22 (Non Discrimination in City Contracts and Benefits Ordinance)) with supporting documentation and secure the San Francisco Human Rights Commission approval of such form. As a condition to any Assignment or Sublease, the Transferee shall assume the IPM plan of Tenant or submit a new IPM plan in accordance with the requirements of **Section 7.2(i)** (Pesticides Prohibition) or obtain an exemption, through SFPUC. Any transferee must also comply with all other provisions of this Lease, including but not limited to the insurance provisions.

16. DEFAULT; REMEDIES

16.1 Events of Default

Any of the following shall constitute an event of default ("**Event of Default**") by Tenant hereunder:

(a) Rent

Any failure to pay any Rent or other sums as and when due, provided Tenant shall have a period of three (3) days from the date of written notice of such failure from City within which to cure any default in the payment of Rent or other sums; provided, however, that City shall not be required to provide such notice regarding Tenant's failure to make such payments when due more than twice during any calendar year, and any such failure by Tenant after Tenant has received two such notices in any calendar year from City shall constitute a default by Tenant hereunder without any requirement on the part of City to give Tenant notice of such failure or an opportunity to cure;

(b) Covenants, Conditions, and Representations

Any failure to perform or comply with any other covenant, condition, or representation made under this Lease, provided Tenant shall have a period of fifteen (15) days from the date of written notice from City of such failure within which to cure such default under this Lease, or, if such default is not capable of cure within such fifteen (15) day period, Tenant shall have a reasonable period to complete such cure if Tenant promptly undertakes action to cure such default within such fifteen (15) day period and thereafter diligently prosecutes the same to completion and Tenant uses its best efforts to complete such cure within sixty (60) days

after the receipt of notice of default from City; provided, however, that upon the occurrence during the Term of two defaults of the same obligation City shall not be required to provide any notice regarding Tenant's failure to perform such obligation, and any subsequent failure by Tenant after Tenant has received two such notices shall constitute a default by Tenant hereunder without any requirement on the part of City to give Tenant notice of such failure or an opportunity to cure;

(c) Vacation or Abandonment

Any vacation or abandonment of the Premises for more than fourteen (14) consecutive days; and

(d) Bankruptcy

The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment by Tenant for the benefit of creditors, or any action taken or suffered by Tenant under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, if any such receiver, assignment or action is not released, discharged, dismissed or vacated within sixty (60) days.

Nothing in this **Section 16.1** shall affect or diminish either Party's right to terminate the Term of this Lease by delivery of a Termination Notice pursuant to **Section 4.1**.

16.2 Remedies

Upon the occurrence of an Event of Default by Tenant, City shall have the following rights and remedies in addition to all other rights and remedies available to City at Law, in equity, or under the terms of the Settlement Agreement:

(a) Terminate Lease and Recover Damages

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

(b) Continue Lease and Enforce Rights

The rights and remedies provided by California Civil Code Section 1951.4 (continuation of lease after breach and abandonment), which allows City to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover Rent as it becomes due, for so long as City does not terminate Tenant's right to possession, if Tenant has the right to sublet or assign, subject only to reasonable limitations. For purposes hereof, none of the following shall constitute a termination of Tenant's right of possession: acts of maintenance or preservation; efforts to relet the Premises or the appointment of a receiver upon City's initiative to protect its interest under this Lease; or withholding consent to an Assignment or Sublease, or terminating an Assignment or Sublease, if the withholding or termination does not violate the rights of Tenant specified in subdivision (b) of California Civil Code Section 1951.4. If City exercises its remedy under California Civil Code Section 1951.4, City may from time to time sublet the Premises or any part thereof for such term or terms (which

may extend beyond the Term) and at such rent and upon such other terms as City at its sole discretion may deem advisable, with the right to make alterations and repairs to the Premises. Upon each such subletting, Tenant shall be immediately liable for payment to City of, in addition to Base Rent and Additional Charges due hereunder, the cost of such subletting and such alterations and repairs incurred by City and the amount, if any, by which the Base Rent and Additional Charges owing hereunder for the period of such subletting (to the extent such period does not exceed the Term) exceeds the amount to be paid as Base Rent and Additional Charges for the Premises for such period pursuant to such subletting. No action taken by City pursuant to this **Section 16.2(b)** shall be deemed a waiver of any default by Tenant and, notwithstanding any such subletting without termination, City may at any time thereafter elect to terminate this Lease for such previous default.

(c) Appointment of Receiver

The right to have a receiver appointed for Tenant upon application by City to take possession of the Premises and to apply any rental collected from the Premises and to exercise all other rights and remedies granted to City pursuant to this Lease.

(d) Rights of Termination Pursuant to Settlement Agreement

Nothing in this **Section 16.2** will lessen or detract from City's right to terminate the Lease immediately upon the occurrence of an uncured Event of Default in accordance with the Settlement Agreement.

16.3 City's Right to Cure Tenant's Defaults

If Tenant defaults in the performance of any of its obligations under this Lease, then City may at any time thereafter with three (3) days prior oral or written notice (except in the event of an emergency as determined by City), remedy such Event of Default for Tenant's account and at Tenant's expense. Tenant shall pay to City, as Additional Rent, promptly upon demand, all sums expended by City, or other costs, damages, expenses, or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such Event of Default. Tenant's obligations under this Section shall survive the termination of this Lease. Nothing herein shall imply any duty of City to do any act that Tenant is obligated to perform under any provision of this Lease, and City's cure or attempted cure of Tenant's Event of Default shall not constitute a waiver of Tenant's Event of Default or any rights or remedies of City on account of such Event of Default.

16.4 Special Administrative Charges.

Without limiting Landlord's other rights and remedies set forth in this Lease, at law or in equity, in the event Tenant (i) constructs or installs any Alteration or Improvement without the written approval of Landlord as required by **Section 8** of this Lease, or (ii) fails to make a repair required by Section 9 on a timely basis, or (iii) fails to provide evidence of the required insurance coverage described in **Section 18** below on a timely basis, then upon written notice from Landlord of such failure or unauthorized action, Tenant shall pay, as an additional charge, the respective amount specified in the table below in consideration of Landlord's administrative cost and expense in providing notice or performing inspections. In the event Tenant fails to remove the unauthorized Alteration or Improvement and restore the Premises or perform the necessary repair or provide the necessary document, as applicable, within the time period set forth in such notice and Landlord delivers to Tenant additional written notice requesting such document or evidence of such repair, or performs additional inspections to verify compliance, then Tenant shall pay to Landlord, as an additional charge, the respective amount specified in the table below for each additional written notice Landlord delivers to Tenant requesting such corrective action.

Violation	Lease Section	Initial inspection and/or notice	Follow up inspection and/or notice
Construction of Improvements or Alterations that are not approved by Landlord	8	$350.00	$400.00
Failure to make required repairs	9	$300.00	$350.00
Failure to obtain/maintain insurance	18	$300.00	$350.00

Such administrative fees shall be due and payable as Additional Rent. The Parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the administrative cost and expense that Landlord will incur in connection with providing notices or performing inspections as set forth above and that Landlord's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this Lease, at law or in equity.

17. WAIVER OF CLAIMS; INDEMNIFICATION

17.1 Waiver of Claims

Tenant covenants and agrees that City shall not be responsible for or liable to Tenant for, and, to the fullest extent allowed by Law, Tenant hereby waives all rights against City and its Agents and releases City and its Agents from, any and all Losses, including, but not limited to, incidental and consequential damages, relating to any injury, accident, or death of any person or loss or damage to any property, in or about the Premises or any other City property, from any cause whatsoever. Nothing herein shall relieve City from liability caused solely and directly by the gross negligence or willful misconduct of City or its Agents, but City shall not be liable under any circumstances for any consequential, incidental, or punitive damages. Without limiting the foregoing:

(a) Tenant expressly acknowledges and agrees that the Rent payable hereunder does not take into account any potential liability of City for any consequential or incidental damages including, but not limited to, lost profits arising out of disruption to the Improvements or Tenant's uses hereunder. City would not be willing to enter into the Settlement Agreement or this Lease in the absence of a complete waiver of liability for consequential or incidental damages due to the acts or omissions of City or its Agents, and Tenant expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification obligations of Tenant or other waivers contained in this Lease and as a material part of the consideration for this Lease, Tenant fully RELEASES, WAIVES, AND DISCHARGES forever any and all claims, demands, rights, and causes of action against City for consequential and incidental damages (including without limitation, lost profits), and covenants not to sue for such damages, City, its departments, commissions, officers, directors, and employees, and all persons acting by, through or under each of them, arising out of this Lease or the uses authorized hereunder, including, without limitation, any interference with uses conducted by Tenant pursuant to this Lease regardless of the cause, and whether or not due to the negligence or gross negligence of City or its Agents.

(b) In connection with the foregoing releases, Tenant acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

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

Tenant acknowledges that the releases contained herein includes all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Tenant realizes and acknowledges that it has agreed to the Settlement Agreement and this Lease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The releases contained herein shall survive any termination of this Lease.

17.2 Tenant's Indemnity

Tenant, on behalf of itself and its successors and assigns, shall Indemnify City and the other Indemnified Parties from and against any and all Losses incurred in connection with or arising directly or indirectly, in whole or in part, out of: (a) any accident, injury to, or death of a person, including, without limitation, Agents and Invitees of Tenant, or loss of or damage to property (including, without limitation, the SFPUC Facilities) howsoever or by whomsoever caused, occurring in, or on, the Premises; (b) any default by Tenant in the observation or performance of any of the terms, covenants or conditions of this Lease to be observed or performed on Tenant's part; (c) the use, occupancy, conduct or management, or manner of use, occupancy, conduct or management by Tenant, its Agents or Invitees or any person or entity claiming through or under any of them, of the Premises or any Improvements; (d) the condition of the Premises or any Improvements; (e) any construction or other work undertaken by Tenant on or about the Premises or any Improvements whether before or during the Term of this Lease; (f) the deposit of Hazardous Materials on the Premises after the Effective Date; or (g) any acts, omissions or negligence of Tenant, its Agents or Invitees, or of any trespassers, in, on, or about the Premises or any Improvements; all regardless of the sole negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that such Indemnity is void or otherwise unenforceable under applicable Law in effect on or validly retroactive to the date of this Lease and further except only such Losses as are caused exclusively by the gross negligence or intentional wrongful acts and omissions of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants, and experts and related costs and City's costs of investigating any Loss. Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend City and the other Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Tenant by City and continues at all times thereafter. Tenant's obligations under this Section shall survive the expiration or sooner termination of the Lease.

18. INSURANCE

18.1 Tenant's Insurance

Tenant shall maintain throughout the Term of this Lease and pay the cost thereof, insurance in the following amounts and coverages, which Tenant either has had, or has a binding quote for and will obtain on or before the Commencement Date:

(a) Property Insurance

Property insurance, on an all-risk form, for eighty percent (80%) of the full insurable value of the Premises and the permitted Improvements, with any deductible not to

exceed Ten Thousand Dollars ($10,000) each occurrence. Such insurance shall include Tenant and City as named insureds as their respective interests may appear. With respect to City's interest, such insurance shall, include rental interruption coverage in an amount equal to twelve months Base Rent. "Full insurable value" shall mean the actual replacement cost of the Improvements and the existing improvements; which are included in the Premises (excluding foundation and excavation costs but without deduction for physical depreciation). It shall be determined at inception and each renewal by Insurer selected and paid by Tenant and reasonably acceptable to City; provided, however, that City shall have the right, at any time, to ascertain the full insurable value at its own expense, except that in the event such full insurance value exceeds the value of the then existing amount of insurance coverage procured by Tenant, Tenant shall pay the expense of determining the full insurable value.

(b) Boiler and Machinery Insurance – INTENTIONALLY OMITTED.

(c) Commercial General Liability Insurance

Commercial General Liability Insurance with limits not less than Five Million Dollars ($5,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, broad-form property damage, independent contractors, liquor liability, personal injury, products, and completed operations.

(d) Builder's Risk Insurance – INTENTIONALLY OMITTED.

(e) Worker's Compensation Insurance

Worker's Compensation Insurance in statutory amounts, with employer's liability coverage not less than One Million Dollars ($1,000,000) each accident.

(f) Business Automobile Liability

Business Automobile liability insurance with limits not less than One Million Dollars ($1,000,000) each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles as applicable, if Tenant uses or causes to be used any vehicles in connection with its use of the Premises.

(g) Environmental Pollution Liability

Environmental Pollution Liability insurance with limits not less than One Million Dollars ($1,000,000) each occurrence combined single limit, including coverages for on-site or off-site party claims for bodily injury and property damage for abatement and disposal of hazardous materials, or such higher limits as may be reasonably required by City's Risk Manager based upon the scope of work. (City and Tenant acknowledge that Tenant has obtained a binding quote for this coverage, for which Tenant shall have a policy issued on or before the Commencement Date.)

(h) Other Insurance

City reserves the right to change amounts and types of insurance as permitted use of the property may change from time to time.

18.2 General Requirements

All insurance provided for under this Lease shall be effected under valid enforceable policies issued by insurers of recognized responsibility and reasonably approved by City.

(a) Should any of the required insurance be provided under a claims-made form, Tenant shall maintain such coverage continuously throughout the Term and, without lapse, for a period of three (3) years beyond the expiration or termination of this Lease, to the effect that, should occurrences during the Term give rise to claims made after expiration or termination of this Lease, such claims shall be covered by such claims-made policies.

(b) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall be double the occurrence or claims limits specified above.

(c) All liability insurance policies shall be endorsed to provide the following:

(i) Name the City and County of San Francisco, its officers, agents, and employees, as additional insureds, as their respective interests may appear hereunder.

(ii) That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Lease, and that insurance applies separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limit of liability.

(iii) All insurance policies required to be maintained by Tenant hereunder shall be endorsed to provide thirty (30) days' prior, written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to both Tenant and City. Notice to City shall be mailed to the address(es) for City set forth in the Basic Lease Information.

18.3 Proof of Insurance

Tenant has delivered and shall deliver to City certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to City, evidencing the coverages required hereunder, on or before the Effective Date, together with complete copies of the policies promptly upon City's request, and Tenant shall provide City with certificates or policies thereafter at least ten (10) days before the expiration dates of expiring policies. In the event Tenant shall fail to procure such insurance, or to deliver such policies or certificates, City may, at its option, procure the same for the account of Tenant, and the cost thereof shall be paid to City within five (5) days after delivery to Tenant of bills therefore.

18.4 Review of Insurance Requirements

Tenant and City shall periodically review the limits and types of insurance carried pursuant to this Section. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Tenant with respect to risks comparable to those associated with the Premises, then, at City's option, Tenant shall increase at its sole cost the amounts or coverages carried by Tenant to conform to such general commercial practice.

18.5 No Limitation on Indemnities

Tenant's compliance with the provisions of this Section shall in no way relieve or decrease Tenant's indemnification obligations under **Sections 17.2** and **22.3**, or any of Tenant's other obligations or liabilities under this Lease.

18.6 Lapse of Insurance

Notwithstanding anything to the contrary in this Lease, City may elect, at City's sole and absolute discretion, to terminate this Lease upon the lapse of any required insurance coverage by sending a written Termination Notice to Tenant.

18.7 Tenant's Personal Property

Tenant may, at its expense, insure Tenant's Personal Property.

18.8 Waiver of Subrogation

Notwithstanding anything to the contrary contained herein, City and Tenant (each a "**Waiving Party**") each waives any right of recovery against the other Party for any loss or damage sustained by such other Party with respect to the Premises or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other Party, to the extent such loss or damage is covered by insurance that is required to be purchased by the Waiving Party under this Lease or is actually covered by insurance obtained by the Waiving Party. Each Waiving Party agrees to cause its insurers to issue appropriate waiver of subrogation rights endorsements to all policies relating to the Premises; provided, the failure to obtain any such endorsement shall not affect the above waiver.

19. ACCESS BY CITY

19.1 Access to Premises by City

(a) General Access

City reserves for itself and its designated Agents, the right to enter the Premises and any portion thereof at all reasonable times upon not less than forty-eight (48) hours' oral or written notice to Tenant (except in the event of an emergency) for any purpose.

(b) Emergency Access

In the event of any emergency, as determined by City, City may, at its sole option and without notice, enter the Premises and alter or remove Tenant's Personal Property on or about the Premises. City shall have the right to use any and all means City considers appropriate to gain access to any portion of the Premises in an emergency. In such case, City shall not be responsible for any damage or injury to any such property, nor for the replacement of any such property and any such emergency entry shall not be deemed to be a forcible or unlawful entry onto or a detainer of, the Premises, or an eviction, actual or constructive, of Tenant from the Premises or any portion thereof.

(c) No Liability

City shall not be liable in any manner, and Tenant hereby waives any claims, for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of City's entry onto the Premises, except damage resulting directly and exclusively from the gross negligence or willful misconduct of City or its Agents and not contributed to by the acts, omissions, or negligence of Tenant, its Agents, or Invitees.

(d) No Abatement

Tenant shall not be entitled to any abatement in Rent if City exercises any rights reserved in this Section.

(e) Minimize Disruption

City shall use its reasonable good faith efforts to conduct any activities on the Premises allowed under this Section in a manner that, to the extent practicable, will minimize any disruption to Tenant's use hereunder.

19.2 Pipeline and Utility Installations

Without limiting **Section 19.1**, City shall have the right at all times, to enter upon the Premises upon forty-eight (48) hours' advance, written or oral notice (except in cases of emergency as determined by City), to use, install, construct, repair, maintain, operate, replace, inspect, and remove SFPUC Facilities or any other public utility facilities. City shall bear the expense of any such activities, unless the need is occasioned by the acts, omissions, or negligence of Tenant, its Agents, or Invitees. City shall not be responsible for any temporary loss or disruption of Tenant's use of the Premises occasioned by any such facility installations or other activities.

19.3 Roadways

City and its Agents shall have the right to enter upon and pass through and across the Premises on any existing or future roadways and as City otherwise determines necessary or appropriate for purposes of the SFPUC Facilities, provided that City shall use its reasonable good faith efforts to use such roadways in a manner that, to the extent practicable, will minimize any disruption to Tenant's use hereunder.

20. ESTOPPEL CERTIFICATES

Either Party hereto shall, from time to time during the Term upon not less than twenty (20) days' prior, written notice from the other Party, execute, acknowledge and deliver to the other Party, or such persons or entities designated by such other Party, a statement in writing certifying: (a) the Expiration Date of this Lease, (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (c) that there are no known defaults under this Lease (or if so, specifying the same), and (d) the dates, if any, to which the Rent has been paid. Any such certificate shall be in the form attached as **Exhibit C**, and may be relied upon by the other Party or any prospective purchaser or Encumbrancer of its estate. The General Manager shall be authorized to execute, acknowledge and deliver any such certificates of City.

21. SURRENDER

21.1 Surrender of the Premises

Upon the Expiration Date or upon the effective date of any earlier termination of this Lease through either Party's delivery of a Termination Notice to the other Party pursuant hereto or a Default Termination Notice delivered by City pursuant to the Settlement Agreement, Tenant shall, at its sole cost, surrender to City the Premises either (a) in the condition specified in Tenant's approved Premises Surrender Plan pursuant to **Section 8.4** or (b) if no approved Premises Surrender Plan is then in effect as contemplated by **Section 8.4,** free of all Improvements, Alterations, Tenant's Personal Property, equipment, lumber, building materials, any debris (excluding only shards of broken clay or ceramic target "pigeons"), or hazards, all in accordance with the Settlement Agreement, and **Sections 4.1** and **8.4** of this Lease (except for any Improvements, Alterations, equipment, building materials, debris, or Tenant's Personal Property that the General Manager agrees are to remain part of the Premises pursuant to the approved Premises Surrender Plan). Tenant shall, at its sole expense, repair any damage to the Premises resulting from the removal of any such items and restore the Premises to their condition

immediately prior to the presence of any Improvements or Alterations. In connection therewith, Tenant shall obtain any and all necessary permits and approvals, including, without limitation, any environmental permits, and execute any manifests or other documents necessary to complete the demolition, removal or restoration work required hereunder. Tenant's obligations under this Section shall survive the Expiration Date or other termination of this Lease. Any items of Tenant's Personal Property remaining on or about the Premises after the Expiration Date of this Lease or other termination of this Lease may, at City's option, be deemed abandoned and in such case City may dispose of such property in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by Law.

If Tenant fails to surrender the Premises to City on the Expiration Date or earlier termination of the Term as required by this Section, City may file the Stipulation for Entry of Judgment attached to the Settlement Agreement and obtain an immediate order of possession for the Premises. Tenant shall Indemnify City against all Losses resulting from Tenant's failure to surrender the Premises to City on the Expiration Date or earlier termination of the Term as required by this Section and the terms of the Settlement Agreement.

Tenant hereby waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code Sections 7260 et seq., and the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. Sections 4601 et seq., or under any similar law, statute or ordinance now or hereafter in effect.

21.2 Automatic Reversion

Upon the Expiration Date or earlier termination of this Lease, the Premises shall automatically, and without further act or conveyance on the part of Tenant or City, become the property of City, free and clear of all liens and Encumbrances and without payment therefore by City and shall be surrendered to City upon such date. Upon or at any time after the date of termination of this Lease, if requested by City, Tenant shall promptly deliver to City, without charge, a quitclaim deed to the Premises suitable for recordation and any other instrument reasonably requested by City to evidence or otherwise effect the termination of Tenant's leasehold estate hereunder and to effect such transfer or vesting of title to the Premises or any permitted Improvements or Alterations that City agrees are to remain part of the Premises pursuant to the provisions of **Section 8.4**.

22. HAZARDOUS MATERIALS

22.1 Reserved

22.2 No Hazardous Materials

Tenant covenants and agrees that neither Tenant nor any of its Agents or Invitees shall cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises, or transported to or from the Premises, with the sole exception that Tenant may keep and use such substances in the Premises in such reasonably limited amounts as are customarily used for general office purposes (such as copy toner and other normal office and cleaning supplies) and may generate such substances as a result of measures taken pursuant to Articles 7 or 8 of this Lease that disturb or remove lead-based or presumed lead-based paint from the exterior or interior surfaces of the Premises so long as such generation, storage, transportation, use, and disposal are in compliance with all applicable Environmental Laws at all times. Tenant shall give immediate written notice to City of: **(a)** any action, proceeding, or inquiry by any governmental authority (including, without limitation, the California State Department of Health Services, the State or any Regional Water Quality Control Board, the Bay Area Air Quality Management district or any local governmental entity) against Tenant with respect to the presence or Release or suspected presence or Release of Hazardous

Material on or about the Premises, or the migration thereof from or to other property; **(b)** all demands or claims made or threatened by any third party against Tenant or the Premises, relating to any loss or injury resulting from any Hazardous Materials; **(c)** any Release of Hazardous Material on or about the Premises has occurred that may require any Investigation or Remediation; and **(d)** all matters of which Tenant is required to give notice pursuant to Section 25359.7 of the California Health and Safety Code.

22.3 Tenant's Environmental Indemnity

If Tenant breaches any of its obligations contained in this Section, or, if any act or omission of Tenant, its Agents, or Invitees, results in any Release of Hazardous Material in, on, under, or about the Premises in violation of any applicable Environmental Laws, including but not limited to Chapter 36 of the San Francisco Building Code, then, without limiting Tenant's Indemnity contained in **Section 17.2**, Tenant shall, on behalf of itself and its successors and assigns, Indemnify the Indemnified Parties, and each of them, from and against all Claims (including, without limitation, damages for decrease in value of the Premises, the loss or restriction of the use of rentable or usable space or of any amenity of the Premises and sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees and costs) arising during or after the Term of this Lease and relating to such Release. The foregoing Indemnity includes, without limitation, costs incurred in connection with activities undertaken to Investigate and Remediate Hazardous Material and to restore the Premises to their prior condition, fines and penalties assessed for the violation of any applicable Environmental Laws, including but not limited to Chapter 36 of the San Francisco Building Code, and any natural resource damages. Without limiting the foregoing, if Tenant or any of its Agents or Invitees, causes or permits the Release of any Hazardous Materials in, on, under or about the Premises , Tenant shall immediately and at no expense to City take any and all appropriate actions to return the Premises affected thereby to the condition existing prior to such Release and otherwise Investigate and Remediate the Release in accordance with all Environmental Laws. Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Tenant by the City and continues at all times thereafter. Tenant shall afford City a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

22.4 Survival of Obligation

Tenant's obligations under this **Section 22** shall survive the Expiration Date or other termination of this Lease.

22.5 Hazardous Substance Disclosure

California law requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, Tenant is hereby advised that occupation of the Premises may lead to exposure to Hazardous Materials such as, but not limited to, lead based paint and asbestos in structures on the premises that were previously constructed by Tenant. Further, there are Hazardous Materials located on the Premises described in the July, 2011 report by AMEC Geomatrix Consultants entitled "Supplemental Investigation and Health Risk Assessment Report, Pacific Rod & Gun Club, San Francisco, California", a copy of which has been delivered to or made available to Tenant. By execution of this Lease, Tenant acknowledges that the notices and warnings set forth above satisfy the requirements of California Health and Safety Code Section 25359.7 and related statutes.

23. SECURITY DEPOSIT

Tenant shall pay to City upon execution of this Lease the sum specified for the security deposit in the Basic Lease Information as security for the faithful performance of all terms, covenants and conditions of this Lease. Tenant agrees that City may (but shall not be required to) apply the security deposit in whole or in part to remedy any damage to the Premises or SFPUC Facilities caused by Tenant, its Agents, or Invitees, to pay any fines assessed against Tenant under this Lease, or for any other failure of Tenant to perform any other terms, covenants, or conditions contained in this Lease, without waiving any of City's other rights and remedies hereunder or at Law or in equity. Should City use any portion of the security deposit to cure any Event of Default by Tenant or pay any fine of Tenant, then Tenant shall immediately replenish the security deposit to the original amount, and Tenant's failure to do so within five (5) days of City's notice shall constitute a material Event of Default under this Lease. City's obligations with respect to the security deposit are solely that of debtor and not trustee. City shall not be required to keep the security deposit separate from its general funds, and Tenant shall not be entitled to any interest on such deposit. The amount of the security deposit shall not be deemed to limit Tenant's liability for the performance of any of its obligations under this Lease.

24. GENERAL PROVISIONS

24.1 Notices

Except as otherwise expressly provided in this Lease, any notice given hereunder shall be effective only if in writing and given by delivering the notice in person, or by sending it first-class mail or certified mail with a return receipt requested or reliable commercial overnight courier, return receipt requested, with postage prepaid, to: (a) Tenant (i) at Tenant's address set forth in the Basic Lease Information or (ii) at the Premises, or (iii) at any place where Tenant or any Agent of Tenant may be found if sent subsequent to Tenant's vacating, abandoning or surrendering the Premises; or (b) City at City's address set forth in the Basic Lease Information; or (c) to such other address as either City or Tenant may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Section at least ten (10) days before the effective date of such change. A properly addressed notice transmitted by one of the foregoing methods shall be deemed received upon confirmed delivery, attempted delivery, or rejected delivery. Any fax numbers are provided for convenience of communication only; neither party may give official or binding notice by fax. For convenience of the Parties, copies of notices may also be given by telefacsimile to the telefacsimile number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by telefacsimile. The effective time of a notice shall not be affected by the receipt, before receipt of the original, of a telefacsimile copy of the notice.

24.2 No Implied Waiver

No failure by City to insist upon the strict performance of any obligation of Tenant under this Lease or to exercise any right, power, or remedy arising out of a breach, irrespective of the length of time for which such failure continues, no acceptance of full or partial Base Rent or Additional Charges during the continuance of any such breach, or possession of the Premises before the expiration of the Term by any Agent of City, shall constitute a waiver of such breach or of City's right to demand strict compliance with such term, covenant, or condition or operate as a surrender of this Lease. No express written waiver of any default or the performance of any provision of this Lease shall affect any other default or performance, or cover any other period of time, other than the default, performance, or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision of this Lease shall not be deemed to be a waiver of a subsequent default or performance. The consent of City given

in any instance under the terms of this Lease shall not relieve Tenant of any obligation to secure the consent of City in any other or future instance under the terms of this Lease.

24.3 Amendments

Neither this Lease nor any term or provision of this Lease may be changed, waived, discharged, or terminated, except by a written instrument signed by the Parties hereto.

24.4 Authority

If Tenant signs as a corporation, a partnership, or a limited liability company, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing entity, that Tenant has and is qualified to do business in California, that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon City's request, Tenant shall provide City with evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

24.5 Joint and Several Obligations

The word "Tenant" as used herein shall include the plural as well as the singular. If there is more than one Tenant, the obligations and liabilities under this Lease imposed on Tenant shall be joint and several.

24.6 Interpretation of Lease

The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the party responsible for drafting any part of this Lease. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice, or to undertake any other action occurs on a Saturday, Sunday, or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Lease, whether or not language of non-limitation, such as "without limitation" or similar words, are used. Unless otherwise provided herein, whenever the consent of City is required to be obtained by Tenant hereunder, City may give or withhold such consent at its sole and absolute discretion.

24.7 Successors and Assigns

Subject to the provisions of **Section 16** relating to Assignment and Subletting, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of City and Tenant and, except as otherwise provided herein, their personal representatives and successors and assigns; provided, however, that upon any sale, assignment or transfer by City named herein (or by any subsequent landlord) of its interest in the Premises as owner or lessee, including any transfer by operation of Law, City (or any subsequent landlord) shall be relieved from all subsequent obligations and liabilities arising under this Lease subsequent to such sale, assignment or transfer.

24.8 Severability

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

24.9 Governing Law

This Lease and the Settlement Agreement shall be construed and enforced in accordance with the Laws of the State of California.

24.10 Entire Agreement

This instrument and the Settlement Agreement (including the exhibits hereto, which are made a part of this Lease) contains the entire agreement between the Parties and supersedes all prior written or oral negotiations, discussions, understandings, and agreements. The Parties further intend that the Settlement Agreement and this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts and any changes from such drafts) may be introduced in any judicial, administrative, or other legal proceeding involving this Lease. Tenant hereby acknowledges that neither City nor City's Agents have made any representations or warranties with respect to the Premises or this Lease except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Tenant by implication or otherwise unless expressly set forth herein and in the terms of the Settlement Agreement. In the event of a conflict between the terms of this Lease and the terms of the Settlement Agreement, the terms of the Settlement Agreement shall control.

24.11 Attorneys' Fees

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

24.12 Time of Essence

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

24.13 Cumulative Remedies

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

24.14 Survival of Indemnities

Termination of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, nor shall it affect any provision of this Lease that expressly states it shall survive termination of this Lease. Tenant specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, Tenant has an immediate and independent obligation to defend City and the other Indemnified Parties from any claim that actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent, or false, which obligation arises at the time such claim is tendered to Tenant by City and continues at all times thereafter. Tenant further agrees that the indemnity obligation contained in section 2 of the 1934 Lease shall survive the termination of this Lease.

24.15 Relationship of Parties

City is not, and none of the provisions in this Lease shall be deemed to render City, a partner in Tenant's business, or joint venturer or member in any joint enterprise with Tenant. Neither party shall act as the agent of the other party in any respect hereunder, and neither party shall have any authority to commit or bind the other party without such party's consent as provided herein. This Lease is not intended nor shall it be construed to create any third-party beneficiary rights in any third party, unless otherwise expressly provided. The granting of this Lease by City does not constitute authorization or approval by City of any activity conducted by Tenant on, in or relating to the Premises.

24.16 Transfer by City

If City sells or otherwise transfers the Premises, City shall be released from its obligations hereunder arising on or after the date of such sale or transfer and Tenant shall look solely to the successor-in-interest to City. Upon a sale of the Premises by City, Tenant shall attorn to the purchaser or transferee, such attornment to be effective and self-operative without the execution of any further instruments on the part of the parties to this Lease. This Lease shall not be deemed to constitute any commitment by City, or create any priority or right in favor of Tenant, with regard to any future sale or other disposition of all or any part of the Premises.

24.17 Recording

Tenant agrees that it shall not record this Lease nor any memorandum or short form of this Lease in the Official Records.

24.18 Non-Liability of City Officials, Employees and Agents

No elective or appointive board, commission, member, officer, employee or other Agent of City shall be personally liable to Tenant or its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Tenant or its successors and assigns, or for any obligation of City under this Agreement.

24.19 Wages and Working Conditions

With respect to the construction of the Improvements and any Alterations, any employee performing services for Tenant shall be paid not less than the highest prevailing rate of wages (as

determined under Section 6.22(E) of the San Francisco Administrative Code for work in San Francisco, and as determined in the local jurisdiction if in a different county), shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in the county in which the Premises are located. Tenant shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of any Improvements or Alterations to the Premises.

24.20 Non-Discrimination in City Contracts and Benefits Ordinance

(a) Covenant Not to Discriminate

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

(b) Subleases and Other Subcontracts

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

(c) Non-Discrimination in Benefits

Tenant does not as of the date of this Lease and will not during the term of this Lease, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Condition to Lease

As a condition to this Lease, Tenant shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(e) Incorporation of Administrative Code Provisions by Reference

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

24.21 Requiring Health Benefits for Covered Employees

Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q (Chapter 12Q), including the implementing regulations, as the same may be amended or updated from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Lease as though fully set forth herein. The text of the HCAO is currently available on the web at http://www.sfgov.org/olse/hcao. Capitalized terms used in this Section and not defined in this Lease shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee Tenant shall provide the applicable health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if Tenant meets the requirements of a "small business" as described in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) Tenant's failure to comply with the requirements of the HCAO shall constitute a material breach by Tenant of this Lease. If, within thirty (30) days after receiving City's written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such thirty- (30-) day period, Tenant fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

(d) Any Sublease or Contract regarding services to be performed on the Premises entered into by Tenant shall require the Subtenant or Contractor and Subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Tenant shall notify the Purchasing Department when it enters into such a Sublease or Contract and shall certify to the Purchasing Department that it has notified the Subtenant or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Subtenant or Contractor through written agreement with such Subtenant or Contractor. Tenant shall be responsible for ensuring compliance with the HCAO by each Subtenant, Contractor and Subcontractor performing services on the Premises. If any Subtenant, Contractor or Subcontractor fails to comply, City may pursue the remedies set forth in this Section against Tenant based on the Subtenant's, Contractor's, or Subcontractor's failure to comply, provided that the Contracting Department has first provided Tenant with notice and an opportunity to cure the violation.

(e) Tenant shall not discharge, reprimand, penalize, reduce the compensation of, or otherwise discriminate against, any employee for notifying City of any issue relating to the HCAO, for opposing any practice proscribed by the HCAO, for participating in any proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the requirements of the HCAO.

(g) Tenant shall keep itself informed of the requirements of the HCAO, as they may change from time to time.

(h) Upon request, Tenant shall provide reports to City in accordance with any reporting standards promulgated by City under the HCAO, including reports on Subtenants, Contractors, and Subcontractors.

(i) Within five (5) business days after any request by City, Tenant shall provide City with access to pertinent records relating to any Tenant's compliance with the HCAO. In addition, City and its agents may conduct random audits of Tenant at any time during the term of this Lease. Tenant agrees to cooperate with City in connection with any such audit.

24.22 Notification of Limitations on Contributions

Through its execution of this Lease, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Tenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of Fifth Thousand Dollars ($50,000) or more. Tenant further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Tenant's board of directors, chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Tenant; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Tenant. Additionally, Tenant acknowledges that Tenant must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Tenant further agrees to provide to City the names of each person, entity, or committee described above.

24.23 No Relocation Assistance; Waiver of Claims

Tenant acknowledges that it will not be a displaced person at the time this Lease is terminated or expires by its own terms, and Tenant fully RELEASES, WAIVES, AND DISCHARGES forever any and all claims, demands, rights, and causes of action (including, without limitation, consequential and incidental damages) against, and covenants not to sue, City, its departments, commissions, officers, directors and employees, and all persons acting by, through, or under each of them, under any Laws, including, without limitation, any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws (including, but not limited to, California Government Code Section 7260 et seq.).

24.24 MacBride Principles - Northern Ireland

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

24.25 Conflicts of Interest

Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Sections 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code and Sections 87100 et seq. and Sections 1090 et seq. of the Government Code of the State of California and certifies that it does not know of any facts that would constitute a violation of said provision, and agrees that if Tenant becomes aware of any such fact during the term of this Lease, Tenant shall immediately notify City.

24.26 Charter Provisions

This Lease is governed by and subject to the provisions of the Charter of the City and County of San Francisco.

24.27 Tropical Hardwood and Virgin Redwood Ban

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Tenant shall not provide any items to the construction of the Improvements or the Alterations, or otherwise in the performance of this Lease that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. In the event Tenant fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Tenant shall be liable for liquidated damages for each violation in any amount equal to Tenant's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

24.28 Prohibition of Tobacco Sales and Advertising

Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

24.29 Prohibition of Alcoholic Beverage Advertising

Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies, and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling, or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any

event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit, or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

24.30 Consents, Approvals, Elections and Options

Any consent or approval required by the SFPUC, or any election or option exercisable by the SFPUC, must be given or exercised pursuant to a resolution duly passed by the SFPUC in its discretion. No consent, approval, election, or option shall be effective unless evidenced by a written instrument.

24.31 Counterparts

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

24.32 Disclosure

Tenant understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code Chapter 67) and the State Public Records Law (Gov't Code Section 6250 et seq.) apply to this Lease and any and all records, information, and materials submitted to the City in connection with this Lease. Accordingly, any and all such records, information and materials may be subject to public disclosure in accordance with City's Sunshine Ordinance and the State Public Records Law. Tenant hereby authorizes City to disclose any records, information, and materials submitted to the City in connection with this Lease.

24.33 Food Service Waste Reduction

Tenant agrees to comply fully with and be bound by all of the applicable provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Lease as though fully set forth herein. Accordingly, Tenant acknowledges that City contractors and lessees may not use Disposable Food Service Ware that contains Polystyrene Foam in City Facilities and while performing under a City contract or lease, and shall instead use suitable Biodegradable/Compostable or Recyclable Disposable Food Service Ware. This provision is a material term of this Lease.

24.34 Cooperative Drafting

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

[SIGNATURES ON FOLLOWING PAGE]

City and Tenant have executed this Lease in triplicate as of the date first written above.

TENANT

PACIFIC ROD AND GUN CLUB
a California NON-PROFIT Corporation

By: Michael C. Miller

Its: President

CITY:

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation

By:_____
Harlan L. Kelly, Jr.
General Manager
Public Utilities Commission

AUTHORIZED BY SAN FRANCISCO
PUBLIC UTILITIES COMMISSION

Resolution No. _____

Adopted:_____

Attest:

_____
Donna Hood, Secretary
Public Utilities Commission

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By:_____
Joshua Milstein
Deputy City Attorney

APPROVED AS TO FORM
PACIFIC ROD & GUN CLUB

By: James R. Arnold
JAMES R. ARNOLD

EXHIBIT A

Legal Description of Premises

All that real property situate in the City and County of San Francisco, State of California, being a portion of Parcel 55, as described in the deed from Spring Valley Water Company, a corporation, to the City and County of San Francisco, a municipal corporation, recorded March 3, 1930 in Book 2002 of Official Records, at Page 1, in the office of the Recorder of the County of San Francisco, more particularly described as follows:

Beginning at the southeasterly end of that course labeled 1027.968 feet in the easterly right-of-way of John Muir Drive, as shown on that certain map entitled "Map Showing the Opening of John Muir Drive Between Skyline Blvd. and Lake Merced Blvd." recorded in Map Book "V" at page 32, on September 18, 1958, in the Recorder's Office of the County of San Francisco;
thence along said right-of-way line of John Muir Drive North 68° 13′ 45″ West 438.00 feet;
thence leaving said right-of-way North 21° 46′ 15″ East 25.00 feet;
thence North 68° 13′ 45″ West 500.00 feet;
thence on a tangent curve to the right with a radius of 1,500.00 feet a central angle of 18° 00′ 00″ an arc distance of 471.239 feet;
thence North 07° 04′ 15″ East 69.00 feet;
thence North 26° 40′ 15″ East 75.00 feet;
thence North 47° 12′ 15″ East 185.00 feet;
thence South 69° 47′ 45″ East 175.00 feet;
thence South 49° 47′ 45″ East 175.00 feet;
thence South 69° 28′ 45″ East 230.00 feet;
thence South 59° 58′ 45″ East 450.00 feet;
thence South 49° 58′ 45″ East 450.224 feet to the prolongation of a radial line from a curve long John Muir Drive;
thence South 26° 16′ 15″ West 160.202 feet to a point on a curve along the right-of-way of John Muir Drive;
thence along said right-of-way of John Muir Drive on a non-tangent curve to the left with a radius of 1,250.00 feet a central angle of 4° 30′ 00″ an arc distance of 98.175 feet to the point of beginning.
Consisting of 449,801 sq. ft. (10.33 acres) of SFPUC Parcel 55.

EXHIBIT B

SFPUC Drawing of Premises

Working Drawing No. 11-0040
(consisting of 1 page)

[add 4 acre open water area]

EXHIBIT C

Form of Estoppel Certificate

LANDLORD ESTOPPEL CERTIFICATE

[address]

Re: Amended and Restated Lease, dated _____, 20__ (the "**Lease**"), by and between the City and County of San Francisco, a municipal corporation, acting by and through its Public Utilities Commission ("**Landlord**") and Pacific Rod and Gun Club, a California non-profit corporation ("**Tenant**"), relating to certain property located in the City and County of San Francisco, California (the "**Premises**")

Ladies and Gentlemen:

The undersigned hereby confirms, represents and warrants to Tenant that:

1. Attached hereto is a true and correct copy of the Lease;

2. The Expiration Date of the Lease is _____;

3. The Lease is in full force and effect and, except as shown in the attachments to this Certificate, has not been assigned, modified, supplemented or amended in any way;

4. The Lease represents the entire agreement between Tenant and Landlord with respect to the Premises;

5. To Landlord's knowledge, on this date, there are no known defaults under this Lease and no event has occurred, which with the giving of notice, the passage of time or both, would constitute a default by Landlord or Tenant under the Lease [except as set forth in Schedule A attached to this Certificate];

6 All rent amounts due and owing to date have been paid, and no rental, other than for the current month, has been paid in advance [except as set forth in Schedule A to this Certificate];

7. The undersigned executing this estoppel certificate represents and warrants that he or she is duly authorized to execute this certificate on behalf of Landlord.

The truth and accuracy of the certifications contained herein may be relied upon by Tenant and the addressee set forth above, and their successors and assigns.

Very truly yours

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting through its Public
Utilities Commission

By: _____
Name:
Title:
Date: _____

TENANT ESTOPPEL CERTIFICATE

[address]

Re: Amended and Restated Lease, dated _____, 20__ (the "**Lease**"), by and between the City and County of San Francisco, a municipal corporation, acting by and through its Public Utilities Commission ("**Landlord**") and Pacific Rod and Gun Club, a California non-profit corporation ("**Tenant**"), relating to certain property located in the City and County of San Francisco, California (the "**Premises**")

Ladies and Gentlemen:

The undersigned hereby confirms, represents and warrants to Landlord that:

1. Attached hereto is a true and correct copy of the Lease;

2. Tenant has accepted possession of the Premises under the Lease;

3. The Expiration Date of the Lease is _____;

4. The Lease is in full force and effect and, except as shown in the attachments to this Certificate, has not been assigned, modified, supplemented or amended in any way;

5. The Lease represents the entire agreement between Tenant and Landlord with respect to the Premises;

6. To Tenant's knowledge, on this date, there are no known defaults under this Lease and no event has occurred, which with the giving of notice, the passage of time or both, would constitute a default by Landlord or Tenant under the Lease [except as set forth in Schedule A attached to this Certificate];

7 All rent amounts due and owing to date have been paid, and no rental, other than for the current month, has been paid in advance [except as set forth in Schedule A to this Certificate];

8. The undersigned executing this estoppel certificate represents and warrants that he or she is duly authorized to execute this certificate on behalf of Tenant.

The truth and accuracy of the certifications contained herein may be relied upon by Landlord and the addressee set forth above, and their successors and assigns.

Very truly yours

PACIFIC ROD AND GUN CLUB

a California non-profit corporation

By:

Its:

[EXHIBIT 2]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

LIMITED CIVIL JURISDICTION

CITY AND COUNTY OF SAN FRANCISCO, Plaintiff, vs. PACIFIC ROD AND GUN CLUB, ET AL, Defendant.	Case No. CUD-12-642832 (Unlawful Detainer) **STIPULATION FOR ENTRY OF JUDGMENT OF POSSESSION**

Pursuant to settlement of the above-captioned lawsuit under the Settlement Agreement dated as of November 5, 2012 (the "Settlement Agreement"), plaintiff City and County of San Francisco and defendant Pacific Rod and Gun Club, enter into this Stipulation for Entry of Judgment.

1. THE CITY AND COUNTY OF SAN FRANCISCO AND DEFENDANT PACIFIC ROD AND GUN CLUB HEREBY STIPULATE that, upon submittal to the court by the City of a declaration under penalty of perjury that defendant Pacific Rod and Gun Club has failed to vacate the Premises within 90 calendar days of either Party's receipt of a Termination Notice as defined in Paragraph 3 of the Settlement Agreement, or within the time specified in a Default Termination Notice as defined in Paragraph 3 of the Settlement Agreement, the City and County of San Francisco acting by and through the San Francisco Public Utilities Commission ("SFPUC"), is entitled to immediately recover possession of the Premises, as more fully described in Exhibits A and B hereto, comprising 10.33 acres of SFPUC Parcel No. 55 located at 520 John Muir Drive in the City and County of San Francisco, State of California.

2. THE CITY AND COUNTY OF SAN FRANCISCO AND DEFENDANT PACIFIC ROD AND GUN CLUB FURTHER STIPULATE that should defendant Pacific Rod and Gun Club fail to vacate the Premises on or before 5:00 p.m. of the date that this judgment is entered

by the court, the City shall cause a writ of possession to be issued, and an eviction of defendant Pacific Rod and Gun Club by the San Francisco Sheriff's Department from the Premises, and that the Clerk of this Court shall forthwith issue, at the request of the City, a writ of possession for the Premises in the form attached as Exhibit C hereto.

3. In the event that a writ of possession is issued, defendant Pacific Rod and Gun Club acknowledges that there are no other occupants of the Premises, and expressly and knowingly waives any right to seek a stay of the writ of possession or a stay of any method of enforcement of the judgment.

4. Defendant Pacific Rod and Gun Club specifically agrees that the breach of any provision of this Stipulation for Entry of Judgment entitles the City to, and without further notice, proceed to enforce its judgment for immediate possession of the Premises.

5. If any provision of this Stipulation shall be declared void or unenforceable, the remainder of this Stipulation shall be valid and enforceable.

SO STIPULATED:

CITY AND COUNTY OF SAN FRANCISCO, acting by and through the SAN FRANCISCO PUBLIC UTILITIES COMMISSION

By: _____
Harlan L. Kelly, Jr.
Its: General Manager

APPROVED AS TO FORM:

Dennis J. Herrera
City Attorney

By: _____
David Ammons
Deputy City Attorney

PACIFIC ROD AND GUN CLUB, a NON-PROFIT **California corporation**

By: Michael C. Miller
Mike Miller
Its: President

APPROVED AS TO FORM:

By: James R. Lorrigl
Attorney for Pacific Rod and Gun Club

IT IS SO ORDERED.

Dated: _____, 2013

_____
JUDGE OF THE SUPERIOR COURT

EXHIBIT A
LEGAL DESCRIPTION OF PREMISES

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

Lands within Fenced Areas
Inclusive of Debris Piles along Lake Merced Shoreline

All that real property situate in the City and County of San Francisco, State of California, being a portion of Parcel 55, as described in the deed from Spring Valley Water Company, a corporation, to the City and County of San Francisco, a municipal corporation, recorded March 3, 1930 in Book 2002 of Official Records, at Page 1, in the office of the Recorder of the County of San Francisco, more particularly described as follows:

Beginning at the southeasterly end of that course labeled 1027.968 feet in the easterly right-of-way of John Muir Drive, as shown on that certain map entitled "Map Showing the Opening of John Muir Drive Between Skyline Blvd. and Lake Merced Blvd." recorded in Map Book "V" at page 32, on September 18, 1958, in the Recorder's Office of the County of San Francisco;

thence along said right-of-way line of John Muir Drive North 68° 13′ 45″ West 438.00 feet;

thence leaving said right-of-way North 21° 46′ 15″ East 25.00 feet;

thence North 68° 13′ 45″ West 500.00 feet;

thence on a tangent curve to the right with a radius of 1,500.00 feet a central angle of 18° 00′ 00″ an arc distance of 471.239 feet;

thence North 07° 04′ 15″ East 69.00 feet;

thence North 26° 40′ 15″ East 75.00 feet;

thence North 47° 12′ 15″ East 185.00 feet;

thence South 69° 47′ 45″ East 175.00 feet;

thence South 49° 47′ 45″ East 175.00 feet;

thence South 69° 28′ 45″ East 230.00 feet;

thence South 59° 58′ 45″ East 450.00 feet;

thence South 49° 58′ 45″ East 450.224 feet to the prolongation of a radial line from a curve long John Muir Drive;

thence South 26° 16′ 15″ West 160.202 feet to a point on a curve along the right-of-way of John Muir Drive;

thence along said right-of-way of John Muir Drive on a non-tangent curve to the left with a radius of 1,250.00 feet a central angle of 4° 30′ 00″ an arc distance of 98.175 feet to the point of beginning.

Consisting of 449,801 sq. ft. (10.33 acres) of SFPUC Parcel 55.

EXHIBIT B

SFPUC Drawing of Premises

Working Drawing No. 11-0040

(consisting of 1 page)

EXHIBIT C
WRIT OF POSSESSION

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number and address):*

TELEPHONE NO.: FAX NO.:
E-MAIL ADDRESS:
ATTORNEY FOR *(Name):*
☐ ATTORNEY FOR ☐ JUDGMENT CREDITOR ☐ ASSIGNEE OF RECORD

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

PLAINTIFF:

DEFENDANT:

CASE NUMBER:

WRIT OF
☐ **EXECUTION (Money Judgment)**
☐ **POSSESSION OF** ☐ **Personal Property** ☐ **Real Property**
☐ **SALE**

☐ **Limited Civil Case** ☐ **Small Claims Case**
☐ **Unlimited Civil Case** ☐ **Other** _____

1. **To the Sheriff or Marshal of the County of:**
   You are directed to enforce the judgment described below with daily interest and your costs as provided by law.
2. **To any registered process server:** You are authorized to serve this writ only in accord with CCP 699.080 or CCP 715.040.
3. *(Name):*
   is the ☐ judgment creditor ☐ assignee of record whose address is shown on this form above the court's name.
4. **Judgment debtor** *(name, type of legal entity stated in judgment if not a natural person, and last known address):*
   ☐ Additional judgment debtors on next page
5. **Judgment entered** on *(date):*
6. ☐ **Judgment renewed** on *(dates):*
7. **Notice of sale** under this writ
   a. ☐ has not been requested.
   b. ☐ has been requested *(see next page).*
8. ☐ Joint debtor information on next page.
9. ☐ See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.
10. ☐ This writ is issued on a sister-state judgment.
11. Total judgment . . . . . $
12. Costs after judgment (per filed order or memo CCP 685.090) . . . . . $
13. Subtotal *(add 11 and 12)* . . . . . $ _____
14. Credits . . . . . $
15. Subtotal *(subtract 14 from 13)* . . . . . $ _____
16. Interest after judgment (per filed affidavit CCP 685.050) (not on GC 6103.5 fees) . . $
17. Fee for issuance of writ . . . . . $
18. **Total** *(add 15, 16, and 17)* . . . . . $ _____
19. Levying officer:
    (a) Add daily interest from date of writ *(at the legal rate on 15)* (not on GC 6103.5 fees) of . . . . . $
    (b) Pay directly to court costs included in 11 and 17 (GC 6103.5, 68637; CCP 699.520(i)) . . . . . $
20. ☐ The amounts called for in items 11–19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.

[SEAL]

Issued on *(date):* Clerk, by _____, Deputy

NOTICE TO PERSON SERVED: SEE NEXT PAGE FOR IMPORTANT INFORMATION.

Form Approved for Optional Use
Judicial Council of California
EJ-130 [Rev. January 1, 2012]

WRIT OF EXECUTION

Legal Solutions Plus

Code of Civil Procedure, §§ 699.520, 712.010, 715.010
Government Code, § 6103.5

PLAINTIFF:	CASE NUMBER:
DEFENDANT:	

— Items continued from page 1—

21. ☐ **Additional judgment debtor** *(name, type of legal entity stated in judgment if not a natural person, and last known address):*

22. ☐ **Notice of sale** has been requested by *(name and address):*

23. ☐ **Joint debtor** was declared bound by the judgment (CCP 989–994)
    a. on *(date):*
    b. name, type of legal entity stated in judgment if not a natural person, and last known address of joint debtor:
    a. on *(date):*
    b. name, type of legal entity stated in judgment if not a natural person, and last known address of joint debtor:
    c. ☐ additional costs against certain joint debtors *(itemize):*

24. ☐ *(Writ of Possession* or *Writ of Sale)* **Judgment** was entered for the following:
    a. ☐ Possession of real property: The complaint was filed on *(date):*
    (Check (1) or (2)):
    (1) ☐ The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46. The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.
    (2) ☐ The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.
    (a) $ was the daily rental value on the date the complaint was filed.
    (b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates *(specify):*
    b. ☐ Possession of personal property.
    ☐ If delivery cannot be had, then for the value *(itemize in 24e)* specified in the judgment or supplemental order.
    c. ☐ Sale of personal property.
    d. ☐ Sale of real property.
    e. Description of property:

NOTICE TO PERSON SERVED

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying *Notice of Levy* (Form EJ-150).
WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will make a demand upon you for the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.
WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.
► *A* Claim of Right to Possession *form accompanies this writ (unless the Summons was served in compliance with CCP 415.46).*

Public Utilities Commission
City and County of San Francisco

RESOLUTION NO. **12-0197**

WHEREAS, The City and County of San Francisco owns an approximately 811.13-acre parcel in San Francisco commonly known as the Lake Merced Tract ("**Tract**"), purchased in 1930 as part of the acquisition of the Spring Valley Water Company, and under the jurisdiction of the San Francisco Public Utilities Commission ("**SFPUC**"); and

WHEREAS, On January 30, 1950, the SFPUC adopted Resolution No. 10,435, which gave the San Francisco Recreation and Park Department ("**RPD**") the right to "occupy, use and improve, for park and recreational purposes" the entire Tract, along with the right to grant concessions or leases; and

WHEREAS, In 2007, the San Francisco Board of Supervisors adopted Resolution No. 14-07 urging the SFPUC and RPD to work together to modify the provisions of SFPUC Resolution No. 10,435 to allow the SFPUC to manage the Tract following standards applied to the management of an urban watershed, and to allocate the resources necessary to have the SFPUC assume a greater role in the protection of water quality through creation of a long-term vision for the Tract that sustainably balances multiple beneficial uses, including management of natural areas, watershed protection and restoration, public education, and recreation; and

WHEREAS, On May 8, 2012, by Resolution No. 12-0077, the SFPUC authorized the General Manager of the SFPUC to assume management and administration of the Pacific Rod and Gun Club ("**Club**") lease, a month-to-month lease agreement effective January 1, 1934 ("**1934 Lease**"), with respect to approximately 4 acres of the Tract located at 520 John Muir Drive for purposes of skeet shooting and fly casting. Over the course of the term of the 1934 Lease, the leased premises occupied and used by Club has increased to approximately 10 acres of the Tract ("**Premises**") previously managed by the Recreation and Park Department; and

WHEREAS, After efforts to negotiate amended lease provisions, that were consistent with SFPUC approved forms of agreement, failed, on September 28, 2012, the City filed an action in unlawful detainer in the San Francisco Superior Court, seeking eviction of the Club from the Premises (the "**Action**") under the 1934 Lease; and

WHEREAS, The SFPUC and Club are negotiating to resolve and settle the Action on the terms and conditions that would protect SFPUC's interests without the time and expense of a trial of the Action. As proposed, SFPUC would permit Club's continued occupancy of the Premises in an amendment and restatement of the 1934 Lease (an "**Amended Lease**"), and Club would agree that its continued occupancy of the Premises will be governed solely in accordance with the terms of the Settlement Agreement and the Amended Lease. The Settlement Agreement is contingent upon the Board of Supervisors, acting at its sole discretion, approving an ordinance authorizing the settlement; now, therefore, be it

RESOLVED, This Commission authorizes the General Manager of the SFPUC to negotiate the terms and conditions of an Amended Lease, with a month-to-month term and initial monthly rental rate of $5,000, and such other terms that will protect the SFPUC's interests, as an Exhibit to a Settlement Agreement with respect to the Action. The City Attorney's Office, together with SFPUC staff are negotiating the terms of the Settlement Agreement with the Club.

San Francisco
Water Power Sewer
Services of the San Francisco Public Utilities Commission

525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102
T 415.554.1830
TTY 415.554.3488

TO: **Olivia Scanlon, Office of Supervisor Sean Elsbernd**

FROM: **Radhika Fox, 554-1830**

DATE: **November 5, 2012**

SUBJECT: **Settlement of Lawsuit – City and County of San Francisco vs. Pacific Rod and Gun Club**

Attached please find an ordinance authorizing the Settlement of Lawsuit- City and County of San Francisco vs. Pacific Rod and Gun Club, accompanied by 4 copies of the Board of Supervisors ordinance. The Settlement Agreement and attached exhibits are also provided. The entire packet includes:

1. Board of Supervisor's Ordinance authorizing the Settlement of Lawsuit- City and County of San Francisco vs. Pacific Rod and Gun Club
2. Signed copy of Settlement Agreement: City and County of San Francisco vs. Pacific Rod and Gun Club, San Francisco Superior Court No. CUD-12-642832
3. City and County of San Francisco vs. Pacific Rod and Gun Club Settlement Agreement Exhibit 1- Amended and Restated Lease
4. City and County of San Francisco vs. Pacific Rod and Gun Club Settlement Agreement Exhibit 2- Stipulation for Entry of Judgment
5. Signed copy of SFPUC Commission Resolution 12-1097

Please contact us if you need any additional information on these items.

Edwin M. Lee
Mayor

Anson Moran
President

Art Torres
Vice President

Ann Moller Caen
Commissioner

Francesca Vietor
Commissioner

Vince Courtney
Commissioner

Harlan L. Kelly, Jr.
General Manager

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☒ 1. For reference to Committee:
An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee:

☐ 4. Request for letter beginning "Supervisor inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No.

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

Sean R. Elsbernd

Subject:

Ordinance settling lawsuit between the City and County of San Francisco v Pacific Rod and Gun Club.

The text is listed below or attached:

Signature of Sponsoring Supervisor:

For Clerk's Use Only:

121106