

File No. 190733

Committee Item No. 16

Board Item No. 38

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date July 10, 2019

Board of Supervisors Meeting

Date July 16, 2019

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Metropolitan Transportation Commission Resolution</u> |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____  |
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Completed by: Linda Wong Date July 5, 2019

Completed by: Linda Wong Date July 11, 2019

1 [Acquisition of Real Property - 1515 South Van Ness Avenue - LMC San Francisco I  
2 Holdings LLC - \$19,000,000]

3 **Resolution approving and authorizing the Director of Property, on behalf of the**  
4 **Mayor's Office of Housing and Community Development, to acquire real property**  
5 **located at 1515 South Van Ness Avenue from LMC San Francisco I Holdings LLC, for**  
6 **purchase at \$19,000,000 inclusive of a deposit in the amount of \$500,000; placing the**  
7 **property under the jurisdiction of the Mayor's Office of Housing and Community**  
8 **Development for use in constructing affordable housing for San Franciscans;**  
9 **adopting findings that the conveyance is consistent with the General Plan, and the**  
10 **eight priority policies of Planning Code, Section 101.1; authorizing the Director of**  
11 **Property to execute documents, make certain modifications and take certain actions**  
12 **in furtherance of the purchase agreement and this Resolution, as defined herein;**  
13 **assuming a lease and certain service contracts; and affirming the Planning**  
14 **Department's determination under the California Environmental Quality Act.**

15  
16 WHEREAS, The Mayor's Office of Housing and Community Development  
17 ("MOHCD") is responsible for the funding and development of affordable housing in the  
18 City of and County of San Francisco; and located at 1515 South Van Ness Avenue (the  
19 "Property"), for purposes of building affordable housing on the Property; LMC San  
20 Francisco I Holdings LLC (the "Seller") and City, through its MOHCD and Real Estate  
21 Division, after consultation with the Office of the City Attorney, have negotiated a purchase  
22 and sale agreement, a copy of which is on file with the Clerk of the Board in File No.  
23 190733 (the "Purchase Agreement"), for sale of the Property to the City for \$19,000,000  
24 inclusive of a deposit in the amount of \$500,000 (the "Deposit"); and  
25

1           WHEREAS, MOHCD has evaluated the Property and confirmed that it can utilize  
2 the Property for development of permanently affordable housing; and

3           WHEREAS, The Director of Property determines the Property to be at or below  
4 fair market value; and

5           WHEREAS, MOHCD is concurrently submitting a Resolution to the Board of  
6 Supervisors for authorization to accept a grant from the Metropolitan Transportation  
7 Commission Affordable Housing Jumpstart Grant Program (the "Grant") and expend it for  
8 purchase of the Property (the "Grant Resolution"); and

9           WHEREAS, If the Grant Resolution becomes effective, MOHCD intends to use up  
10 to \$5,000,000 of the Grant, plus \$14,000,000 in other City funds, to pay for the purchase of  
11 the Property; and

12           WHEREAS, The Planning Department, through General Plan Referral letter dated  
13 June 18, 2019, found that the acquisition of the Property is not considered a project under  
14 the California Environmental Quality Act ("CEQA", Pub. Resources Code, Section 21000 et  
15 seq.) pursuant to CEQA Guidelines, Section 15060, and Chapter 31 of the City's  
16 Administrative Code, and is consistent with the General Plan, and the eight priority policies  
17 of Planning Code, Section 101.1, which letter is on file with the Clerk of the Board of  
18 Supervisors in File No. 190733, and incorporated herein by this reference; and

19           WHEREAS, There exists that certain lease (the "Lease") between the Seller and  
20 Gannett Outdoor Company, Inc. of Northern California (the "Lessee") dated June 15, 1993,  
21 that the City may elect to assume; and

22           WHEREAS, There are certain service contracts (the "Service Contracts") that City  
23 may expressly agree to assume related to the operation and security of the Property; and

24           WHEREAS, The Property will be delivered vacant except for the Lease and  
25 Service Contracts at close of sale; now, therefore, be it

1           RESOLVED, That in accordance with the recommendation of the Director of  
2 MOHCD and the Director of Property, the Board of Supervisors approves the Purchase  
3 Agreement in substantially the form presented to the Board, and authorizes the Director of  
4 MOHCD and the Director of Property to take all actions necessary or appropriate to acquire  
5 the Property, along with the Lease and Service Contracts, as set forth in the Purchase  
6 Agreement, including payment of the Deposit ; and, be it

7           FURTHER RESOLVED, That MOHCD has legal authority, is willing, and is in a  
8 position financially and otherwise to assume immediate care and maintenance of the  
9 property, and that the Director of MOHCD, and the Director of the Real Estate Division, are  
10 hereby authorized and urged to accept the deed to the Property from the Seller upon the  
11 closing in accordance with the terms and conditions of the Purchase Agreement, and to  
12 take any and all steps (including, but not limited to, the execution and delivery of any and  
13 all certificates, agreements, notices, consents, escrow instructions, closing documents and  
14 other instruments or documents) as the Director of Property deems necessary or  
15 appropriate in order to acquire the Property pursuant to the Purchase Agreement, or to  
16 otherwise effectuate the purpose and intent of this Resolution, such determination to be  
17 conclusively evidenced by the execution and delivery by the Director of Property of any  
18 such documents; and, be it

19           FURTHER RESOLVED, That in accordance with the recommendation of the  
20 Director of MOHCD and the Director of Property, if the Grant Resolution becomes effective,  
21 the Director of MOHCD and Director of Property is hereby authorized to take all actions, on  
22 behalf of the City, to execute the Purchase Agreement; and, be it

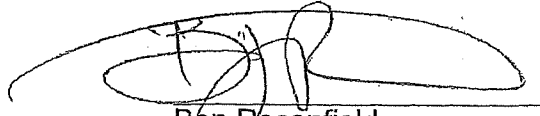
23           FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of  
24 Property (or his designee) and Director of MOHCD (or her designee), in consultation with  
25 the City Attorney, to enter into any additions, amendments, or other modifications to the

1 Purchase Agreement and any other documents or instruments necessary in connection  
2 therewith, that the Director of Property and Director of MOHCD determines are in the best  
3 interests of the City, do not materially decrease the benefits to the City with respect to the  
4 Property, do not materially increase the obligations or liabilities of the City, and are  
5 necessary or advisable to complete the transaction contemplated in the Purchase  
6 Agreement and that effectuate the purpose and intent of this Resolution, such  
7 determination to be conclusively evidenced by the execution and delivery by the Director of  
8 Property (or his designee) and Director of MOHCD (or her designee) of any such additions,  
9 amendments, or other modifications; and, be it

10           FURTHER RESOLVED, That within 30 days of the contract being fully executed  
11 by all parties, the MOHCD shall provide the final contract to the Clerk of the Board for  
12 inclusion into the official file.

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\$14,000,000 Available  
Fund ID: 10581  
Department ID: 232065  
Project ID: 10034433  
Authority ID: 20808  
Account ID: 566990  
Activity ID: 0005

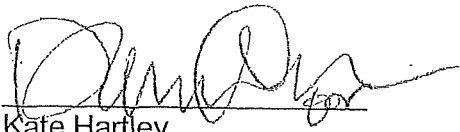


Ben Rosenfield  
Controller

1 RECOMMENDED:

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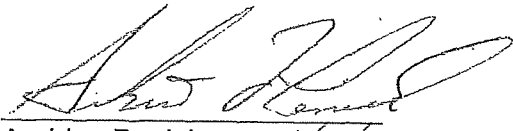


4 Kate Hartley

Director of the Mayor's Office of Housing and Community Development

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7 Andrico Penick

Director of Property,

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AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE

by and between

LMC SAN FRANCISCO I HOLDINGS LLC,  
a Delaware limited liability company  
as Seller

and

CITY AND COUNTY OF SAN FRANCISCO,  
as Buyer

For the purchase and sale of

1515 South Van Ness Avenue  
San Francisco, California

June 17, 2019



**AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE**  
(1515 South Van Ness Avenue, San Francisco)

THIS AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE (this "Agreement") dated for reference purposes only as of June 17, 2019 is by and between LMC SAN FRANCISCO I HOLDINGS LLC, a Delaware limited liability company ("Seller"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Buyer" or "City").

RECITALS

This Agreement is entered into on the basis of the following facts, understandings, and intentions of the parties:

A. Seller is the owner of that certain real property located in San Francisco, California, commonly known as 1515 South Van Ness Avenue, Assessor Parcel Numbers Block 6571, Lots 001, 001A, and 008, consisting of approximately thirty five thousand seven hundred fourteen (35,714) square feet of improved land, and more particularly described in the attached Exhibit A (the "Land").

B. City desires to purchase the Property (defined in Section 1 below), from Seller and Seller desires to sell the Property of City, on the terms and conditions stated in this Agreement.

IN CONSIDERATION of the mutual covenants of the parties contained in this Agreement and other valuable consideration, Seller and City agree as follows:

**1. PURCHASE AND SALE**

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

(a) the Land;

(b) all improvements and fixtures located on the Land, including, without limitation, that certain one-story building containing approximately 31,680 square feet of gross area, as well as all other buildings and structures located on the Land, all apparatus, equipment, and appliances used in connection with the operation or occupancy of the Land and its improvements, such as heating and air conditioning systems and facilities used to provide any utility, refrigeration, ventilation, garbage disposal, or other services, and together with all on-site parking (collectively, the "Improvements"); and

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

All of the items referred to in subsections (a), (b), and (c) above are collectively referred to as the "Property."

## 2. PURCHASE PRICE

### 2.1 Purchase Price

The total purchase price for the Property is Nineteen Million and no/100 Dollars (\$19,000,000.00) (the "Purchase Price").

### 2.2 Deposit

Within seven (7) business days after the Effective Date (as defined in Section 12.16 [Effective Date] below), City will deliver to the Title Company (as defined in Section 3.2 [Title Insurance] below), as escrow agent, Five Hundred Thousand and 00/100 Dollars (\$500,000.00) as an earnest money deposit applicable to the Purchase Price (the "Deposit"). If Buyer terminates this Agreement for failure of any condition precedent under this Agreement, then City and Seller will equally share all title fees escrow cancellation fees and Seller and City will instruct the Title Company to immediately return the Deposit to City. If the sale of the Property is not consummated because of a Buyer default, then Buyer will pay all title fees escrow cancellation fees and Seller and Buyer will instruct the Title Company to immediately release the Deposit to Seller in accordance with Section 11.2 below. If City terminates this Agreement due to a Seller default, then Seller will pay all title fees escrow cancellation fees and Seller and Buyer will instruct the Title Company to immediately return the Deposit to City. If City elects, the Title Company will deposit the Deposit into an interest bearing account at a bank or financial institution approved by City in writing, and the term "Deposit" will include any interest earned thereon. Unless this Agreement is terminated and the Deposit disbursed as provided in this Agreement, the Deposit will be applied to the Purchase Price at Closing.

### 2.3 Payment

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

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

### 2.4 Funds

All payments made by under this Agreement shall be in legal tender of the United States of America, paid in cash or by wire transfer of immediately available funds to Title Company (as defined in Section 3.2 [Title Insurance]), as escrow agent.

## 3. TITLE TO THE PROPERTY

### 3.1 Conveyance of Title to the Property

At the Closing Seller shall convey to City, or its nominee, marketable and insurable fee simple title to the Property by duly executed and acknowledged grant deed in the form attached

hereto as Exhibit B (the "**Deed**"), subject to the Accepted Conditions of Title (as provided in Section 5.1(a) below [City's Conditions to Closing]).

### 3.2 Title Insurance

Delivery of title in accordance with the preceding Section shall be evidenced by the commitment of Chicago Title Company (the "**Title Company**") to issue to City, or its nominee, an ALTA extended coverage owner's policy of title insurance (Form ALTA 2006 – updated 6/17/2006) (the "**Title Policy**") in the amount of the Purchase Price, insuring fee simple title to the Property in City, or its nominee, subject only to the Accepted Conditions of Title, as defined in the Due Diligence Agreement and Permit to Enter Property by and between Seller and City dated as of June 17, 2019 (the "**Due Diligence Agreement**") or otherwise accepted by City under the Due Diligence Agreement. If Seller gives notice under Section 1.3(c)(i) of the Due Diligence Agreement that Seller will remove or cure the exceptions objected to by City on or before the Closing and fails to remove the objectionable exceptions from title before the Closing Date, and City is unwilling to take title subject thereto, Seller shall be in default under this Agreement and City shall have the rights and remedies provided in this Agreement.

## 4. BUYER'S DUE DILIGENCE INVESTIGATIONS

City has been given a full opportunity to investigate the Property as provided in the Due Diligence Agreement.

## 5. CITY'S CONDITIONS TO CLOSING

### 5.1 Conditions Precedent

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

(a) On or before July 25, 2019, City shall have delivered to Seller the Notice to Proceed (as defined in the Due Diligence Agreement).

(b) The Title Company is committed at the Closing to issue to City, or its nominee, the Title Policy as provided in Section 3.2 [Title Insurance].

(c) The physical condition of the Property shall be substantially the same on the Closing Date as on the date of City's execution of this Agreement, reasonable wear and tear and loss by casualty excepted (subject to the provisions of Section 9.1 [Risk of Loss]), and, as of the Closing Date, there shall be no litigation pending or threatened, which after the Closing would materially adversely affect the value of the Property.

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

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

(f) The transactions contemplated herein shall have been approved by all applicable City departments and agencies, including, without limitation, the City's Board of Supervisors and Mayor, in their respective sole discretion, before the Board of Supervisors and Mayor adopt a resolution authorizing the City to execute this Agreement.

(g) The City's Mayor and the Board of Supervisors, in the respective sole discretion of each, shall have enacted a resolution approving, adopting, and authorizing this Agreement and the transactions, on or before July 23, 2019.

## 5.2 Satisfaction or Waiver

The Conditions Precedent contained in the foregoing Section 5.1(a) through 5.1(d) are solely for the benefit of City. If any of those Conditions Precedent are not satisfied, City shall have the right in its sole discretion either to waive in writing the Condition Precedent in question and proceed with the purchase or, in the alternative, terminate this Agreement. The Conditions Precedent described in Section 5.1(e), 5.1(f), and 5.1(g) above may not be waived. The Condition Precedent described in Section 5.1(e) shall be deemed satisfied upon receipt from the Title Company of an email or other communication confirming that the Title Company will conduct the Closing. The waiver of any Condition Precedent shall not relieve Seller of any liability or obligation with respect to any representation, warranty, covenant, or agreement of Seller. If the Conditions Precedent in Sections 5.1(a), 5.1(f) and 5.1(g) are not satisfied when required, then this Agreement shall automatically terminate in which case the Deposit will be returned to City and the parties shall have no further obligation to each other under this Agreement except for obligations that are expressly intended to survive. If the Conditions Precedent in Section 5.1(b) through 5.1(d) are not satisfied by the Closing Date and not waived by City in writing, then, at City's option, City may terminate this Agreement as of the Closing Date by written notice to Seller, in which case the Deposit will be returned to City and the parties shall have no further obligation to each other under this Agreement except for obligations that are expressly intended to survive. If City does not deliver a notice terminating this Agreement based on any failure of the Conditions Precedent in Section 5.1(b) through 5.1(d), then City shall be deemed to have elected to proceed with the purchase pursuant to the terms of this Agreement.

## 5.3 Map Act Compliance

The parties acknowledge that the conveyance of the Property is exempt from the California Subdivision Map Act under Government Code section 66428, therefore compliance with the Subdivision Map Act is not a condition precedent to Closing.

## 6. ESCROW AND CLOSING

### 6.1 Opening of Escrow

On or before the Effective Date (as defined in Article 12 [General Provisions]), the parties shall open escrow by depositing an executed counterpart of this Agreement with Title Company, and this Agreement shall serve as instructions to Title Company as the escrow holder for consummation of the purchase and sale contemplated hereby. Seller and City agree to execute such additional or supplementary instructions as may be appropriate to enable the escrow holder to comply with the terms of this Agreement and close the transaction; provided, however, that in the event of any conflict between the provisions of this Agreement and any additional supplementary instructions, the terms of this Agreement shall control.

## 6.2 Closing Date

The consummation of the purchase and sale contemplated hereby (the "Closing") shall be held and delivery of all items to be made at the Closing under the terms of this Agreement through escrow held by the Title Company, which is located at 455 Market Street, San Francisco, California 94105, on September 6, 2019, or on such other date as is permitted under this Agreement as City and Seller may mutually agree (the "Closing Date"), subject to the provisions of Article 5 [City's Conditions to Closing]. The Closing Date may not be extended without the prior written approval of both Seller and City, except as otherwise expressly provided in this Agreement.

## 6.3 Seller's Delivery of Documents

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

- (a) a duly executed and acknowledged Deed;
- (b) a properly executed affidavit pursuant to Section 1445(b)(2) of the Federal Tax Code in the form attached hereto as Exhibit C, and on which City is entitled to rely, that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code;
- (c) a properly executed California Franchise Tax Board Form 593-C certifying that Seller is a California resident if Seller is an individual or Seller has a permanent place of business in California or is qualified to do business in California if Seller is a corporation or other evidence satisfactory to City that Seller is exempt from the withholding requirements of Section 18662 of the State Tax Code;
- (d) such resolutions, authorizations, or other partnership documents or agreements relating to Seller and its partners as the Title Company may reasonably require to demonstrate the authority of Seller to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individuals executing any documents or other instruments on behalf of Seller to act for and bind Seller;
- (e) closing statement in form and content satisfactory to City and Seller; and
- (f) the duly executed certificate regarding the continued accuracy of Seller's representations and warranties in all material respects as required by Section 5.1(d) hereof.

## 6.4 City's Delivery of Documents and Funds

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

- (a) a certificate of acceptance of the Deed executed by City's Director of Property;
- (b) a closing statement in form and content satisfactory to City and Seller; and
- (c) the Purchase Price, as provided in Article 2 above and such other funds necessary to consummate the transaction as provided in this Agreement.

## 6.5 Other Documents

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

## 6.6 Title Company as Real Estate Reporting Person

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

## 7. EXPENSES AND TAXES

### 7.1 Apportionments

The following are to be apportioned through escrow as of the Closing Date:

#### (a) Utility Charges

City will request that all utilities serving the Property be transferred to City under City accounts effective as of the Closing Date. Seller shall use commercially reasonable efforts cause all the utility meters to be read on the Closing Date, and will be responsible for the cost of all utilities used before the Closing Date, and City will be responsible for the cost of all utilities used on and after the Closing Date. If Seller is billed for utility services used after the Closing Date, Seller may submit an invoice to City and request reimbursement for such charges. All utility deposits paid by Seller shall remain the property of Seller and City shall reasonably cooperate to cause such deposits to be returned to Seller to the extent Seller is entitled thereto. This Section 7.1(a) will survive the Closing Date.

#### (b) Other Apportionments

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

### 7.2 Closing Costs

City shall pay the cost of the Survey. Seller shall pay the base premium for the Title Policy plus the cost of any endorsements up to One Thousand Five Hundred Dollars (\$1,500) in the aggregate, and any transfer taxes applicable to the sale. City and Seller will share equally escrow and recording fees. Seller shall be responsible for all costs incurred in connection with any prepayment or satisfaction of any loan, bond, or other indebtedness of Seller secured by the Property including, without limitation, any prepayment fees, penalties, or charges related to that secured indebtedness. Any other costs and charges of the escrow for the sale not otherwise

provided for in this Section or elsewhere in this Agreement shall be allocated in accordance with the closing customs for San Francisco County, as determined by Title Company.

### 7.3 Transfer Tax Exemption and Seller Termination Right

If a real estate transfer tax is assessed or imposed with respect Seller's sale of the Property to City in accordance with this Agreement, then Seller shall have the right to terminate this Agreement by written notice to City, in which case the Deposit will be returned to City and the parties shall have no further obligation to each other under this Agreement except for obligations that are expressly intended to survive. Prior to Closing the parties shall cooperate in good faith to obtain written confirmation from the Recorder's office or other applicable governmental authority that no real estate transfer tax will be assessed or imposed on this transaction; provided, however, that receipt of such written confirmation shall not bar Seller from exercising its termination right in this Section 7.3 if in connection with Closing a transfer tax payment is being assessed or imposed.

### 7.4 Real Estate Taxes and Special Assessments

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

### 7.5 Post-Closing Reconciliation

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

### 7.6 Survival

The provisions of this Section shall survive the Closing until the date that is six (6) months after the Closing Date.

## 8. REPRESENTATIONS AND WARRANTIES

### 8.1 Representations and Warranties of Seller

For purposes of this Agreement the term "Seller's knowledge" or similar phrase shall mean the actual knowledge of J.J. Abraham (the "Seller Knowledge Person"), who Seller represents and warrants is the person in Seller's organization most likely to have the most knowledge about the Property, without any duty to investigate or review the files relating to the Property. In no event shall the Seller Knowledge Person have any personal liability hereunder. Seller represents and warrants to City as follows as of the date of this Agreement and as of the Closing Date:

(a) To Seller's knowledge, no document or instrument furnished by Seller to the City in connection with this Agreement contains any untrue statement of material fact or omits a material fact necessary to make the statements contained therein not misleading under the circumstances under which any the statement has been made.

(b) To Seller's knowledge, there are no easements or rights of way that have been acquired by prescription or that are otherwise not of record affecting the Property, and, to Seller's knowledge, there are no easements, rights of way, permits, licenses or other forms of agreement that afford third parties the right to traverse any portion of the Property to gain access to

other real property. To Seller's knowledge, there are no disputes with regard to the location of any fence or other monument of the Property's boundary or any claims or actions involving the location of any fence or boundary.

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

(d) Seller has not granted any option or right of first refusal or first opportunity to any third party to acquire any interest in any of the Property.

(e) Seller is a limited liability company duly organized and validly existing under the laws of the State of Delaware and is in good standing under the laws of the State of Delaware and duly registered as a foreign limited liability company in California; this Agreement and all documents executed by Seller that are to be delivered to City are duly authorized, executed, and delivered by Seller, are legal, valid, and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, and do not violate any provision of any contract, agreement, or judicial order to which Seller is a party or to which Seller or the Property is subject.

(f) Seller represents and warrants to City that it has not been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state, or local governmental agency. In the event Seller has been, or is before the Closing, suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension, debarment, discipline, or prohibition may result in the termination or suspension of this Agreement, in which case Seller will pay all title fees and escrow cancellation costs, and the Deposit will be returned to City.

(g) Except for a lease between Seller and Cahill Contractors, LLC, which provides for termination on 30 days' notice (the "Cahill Lease"), and a billboard lease originally entered into with Gannett Outdoor Company, Inc. of Northern California (the "Billboard Lease"; together with the Cahill Lease, the "Existing Leases"), there are no leases or other occupancy agreements affecting any of the Property. There are no obligations in connection with the Property that will be binding upon City after Closing, except for matters that are set forth in the Preliminary Report and for the Billboard Lease. At the time of Closing Seller covenants that there will be no outstanding written or oral contracts made by Seller for any work or improvements with respect to the Improvements that have not been fully paid for.

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

(i) Seller carries and will carry until the Closing commercial general liability insurance with respect to the Property in commercially reasonable amounts and with commercially reasonable deductibles, which insurance is issued on an occurrence basis.

## 8.2. Remedy

Seller's obligations respecting Seller's representations and warranties shall continue after the Closing for a period of only six (6) months, and if City fails to notify Seller as to a breach of any of Seller's representations and warranties within six (6) months after the Closing Date, Seller's liability and obligations with respect to Seller's representations and warranties and City's rights and remedies in respect thereto shall be of no further force or effect. The provisions of this Section



shall survive beyond the Closing, or any termination of this Agreement for the period specified in this Section.

## 9. RISK OF LOSS AND POSSESSION

### 9.1 Risk of Loss

If any of the Property is damaged or destroyed before the Closing Date and such damage has not been repaired by the Closing Date, or if condemnation proceedings are commenced against any portion of the Property, then the rights and obligations of Seller and City hereunder shall be as follows:

(a) If such damage or destruction affects only a portion of the Property and is fully covered by Seller's insurance except for the deductible amount thereunder, and the insurer agrees to timely pay for the entire cost of such repair (except the deductible), and such damage or destruction would cost less than Two Million and 00/100 Dollars (\$2,000,000.00) (the "Threshold Damage Amount") to repair or restore, then this Agreement shall remain in full force and effect and City shall acquire the Property upon the terms and conditions set forth herein. City shall receive a credit against the Purchase Price equal to such deductible amount, and Seller shall assign to City at Closing all of Seller's right, title, and interest in and to all proceeds of insurance on account of such damage or destruction pursuant to an instrument satisfactory to City.

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

(c) If substantially all of the Improvements on the Property are damaged and destroyed, or the cost of such damage or destruction would equal or exceed the Threshold Damage Amount, then, City shall have the right, at its election, either to terminate this Agreement in its entirety, or to not terminate this Agreement and purchase the Property. City shall have thirty (30) days after Seller notifies City damage or destruction to make such election by delivery to Seller of an election notice. City's failure to deliver such notice within such thirty (30)-day period shall be deemed City's election to terminate this Agreement in its entirety. If this Agreement is terminated in its entirety or in part pursuant to this subsection (c) by City's delivery of notice of termination to Seller, then City and Seller shall each be released from all obligations hereunder pertaining to that portion of the Property affected by such termination, the parties will share equally any title fees and escrow cancellation costs, and the Deposit will be returned to City. If City elects not to terminate this Agreement, Seller shall notify City of Seller's intention to either (A) raze all of the Improvements and leave the Land in a safe and secure condition in accordance with applicable laws, and Seller shall be entitled to receive and retain all insurance proceeds, in which case this Agreement shall remain in full force and effect, or (B) give City a credit against the Purchase Price at the Closing in the amount reasonably determined by City and Seller (after consultation with unaffiliated experts) to be the cost of razing all of the Improvements and leaving the Land in a safe and secure condition in accordance with applicable laws, in which case this Agreement shall otherwise remain in full force and effect, and Seller shall be entitled to any proceeds of insurance or condemnation awards. If Seller elects to raze the Improvements and leave the Land in a safe and secure condition pursuant to this subsection, the work must be completed to City's reasonable satisfaction within one hundred eighty (180) days following such damage or destruction and the Closing shall be extended until the work is so completed.

(d) If condemnation proceedings are commenced against any of the Property (other than by the City or any division or instrumentality thereof), then, City shall have the right, at its election, either to terminate this Agreement in its entirety, or only as to that portion of the Property subject to condemnation proceedings (in which case there shall be an equitable adjustment to the Purchase Price), or to not terminate this Agreement and purchase the Property (or the portion not affected by condemnation, as the case may be). City shall have thirty (30) days after Seller notifies City of receipt of the condemnation notice to make such election by delivery to Seller of an election notice. City's failure to deliver such notice within such thirty (30)-day period shall be deemed City's election to terminate this Agreement in its entirety. If this Agreement is terminated in its entirety or in part pursuant to this subsection (d) by City's delivery of notice of termination to Seller, then City and Seller shall each be released from all obligations hereunder pertaining to that portion of the Property affected by such termination, the parties will share equally any title fees and escrow cancellation costs, and the Deposit will be returned to City. If City elects not to terminate this Agreement, then this Agreement shall remain in full force and effect and City will pay Seller the full purchase price less the amount of any condemnation award previously paid to Seller and Seller will transfer and assign to City at Closing the right to receive any condemnation award not paid as of the Closing Date.

## **9.2 Insurance**

Through the Closing Date, Seller shall maintain or cause to be maintained, at Seller's sole cost and expense, a policy or policies of property insurance in commercially reasonable amounts, insuring against all insurable risks, including, without limitation, fire, vandalism, malicious mischief, lightning, windstorm, water and other perils customarily covered by casualty insurance and the costs of demolition and debris removal (but excluding earthquake and flood). Seller shall furnish City with evidence of such insurance upon request by City.

## **9.3 Possession**

Possession of the Property shall be delivered to City on the Closing Date. Seller shall deliver the property vacant of tenants or any other occupants, except for the tenant under the Billboard Lease, and shall terminate all service contracts (except for those that City expressly agrees to assume such contracts in writing before the Closing).

## **10. MAINTENANCE; CONSENT TO NEW CONTRACTS**

### **10.1 Maintenance of the Property by Seller**

Between the date of Seller's execution of this Agreement and the Closing, Seller shall maintain the Property and operate the Property in the same manner as before the making of this Agreement, as if Seller were retaining the Property.

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

After the date the Director of Property submits legislation for approval by City's Board of Supervisors of this Agreement and so notifies Seller, which may be by email, Seller shall not enter into any lease or contract, or any amendment thereof, without in each instance obtaining City's prior written consent, unless same is cancelable by Seller by the Closing Date and is cancelled by Seller by the Closing Date. City shall not unreasonably withhold or delay any such consent. Seller shall terminate before the Closing, at no cost or expense to City, the Cahill Lease and contracts and management agreements affecting the Property (except those that City expressly agrees to assume such contracts in writing before the Closing). Notwithstanding anything to the contrary herein, Seller shall not be required to terminate the Billboard Lease prior to Closing.

11. DEFAULT

11.1 Seller Default

If the sale of the Property is not consummated because of a Seller default under this Agreement or if a Condition Precedent cannot be fulfilled because Seller frustrated such fulfillment by some affirmative act or negligent omission, City may, at its sole election (1) terminate this Agreement by delivery of notice of termination to Seller, whereupon Seller shall pay to City all title and escrow fees and all legal and inspection expenses (as shown in reasonable supporting documentation) incurred by City and any other expenses incurred by City in connection with the performance of its due diligence review of the Property in an amount not to exceed in the aggregate Seventy-Five Thousand and 00/100 Dollars (\$75,000), and neither party shall have any further rights or obligations hereunder, or (2) continue this Agreement pending City's action for specific performance, but not damages, but, in connection with such an action for specific performance, City may recover from Seller City's reasonable attorneys' fees and court costs (reasonable attorneys' fees of the City's Office of the City Attorney will be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the practice in the City of San Francisco in law firms of approximately the same number of attorneys employed by the Office of the City Attorney). If a Seller default occurs, and City elects to pursue an action against Seller for specific performance as provided in this Section, then City must file such action within four (4) months after the scheduled Closing Date or City shall be deemed to have waived its right to sue for specific performance, and Seller will be liable for damages as provided in clause (1) above.

11.2 Buyer Default

If the sale of the Property contemplated hereby is not consummated because of a default under this Agreement by City, then City agrees to pay to Seller the sum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) as liquidated damages. The parties have agreed that Seller's actual damages, in the event of a material default by City, would be extremely difficult or impracticable to determine. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE DEPOSIT HAS BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES AND AS SELLER'S EXCLUSIVE REMEDY AGAINST CITY, AT LAW OR IN EQUITY, IN THE EVENT OF A MATERIAL DEFAULT UNDER THIS AGREEMENT ON THE PART OF CITY. SELLER AND CITY HAVE INITIALED THIS SECTION 11.2 AS EVIDENCE OF THEIR EXPRESS INTENT TO SO LIQUIDATE ALL DAMAGES AS PROVIDED IN THIS SECTION.

INITIALS: Seller [Signature] City: \_\_\_\_\_

12. GENERAL PROVISIONS

12.1 Notices

Unless a specific provision of this Agreement provides otherwise, any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, or (ii) one (1) day after being deposited with a reliable overnight courier service and addressed as follows:

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

Attn: Director of Property  
Re: 1515 SVN - MOHCD  
Email Address: Joshua.keene@sfgov.org

And

Mayor's Office of Housing and Community  
Development  
City and County of San Francisco  
1 S. Van Ness Avenue, 5th Floor  
San Francisco, California 94103  
Attn: Director  
Re: 1515 SVN - MOHCD  
Email Address: Jonathan.gagen@sfgov.org

with copy to:

Eileen K. Chauvet  
Deputy City Attorney  
Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682  
Re: 1515 SVN - MOHCD  
Email Address: eileen.chauvet@sfcityattorney.org

Seller:

LMC SAN FRANCISCO I HOLDINGS LLC  
c/o Lennar Multifamily Communities, LLC  
95 Enterprise, Suite 200  
Aliso Viejo, CA 92656  
Attn: J.J. Abraham, Division President  
Email: JJ.Abraham@livelmc.com

With a copy to:

c/o Lennar Corporation  
700 NY 107th Street, Suite 400  
Miami, FL 33172  
Attn: General Counsel  
Email: michael.oconnell@lennar.com

With a copy to:

Holt Ney Zatzoff & Wasserman, LLP  
100 Galleria Parkway, Suite 1800  
Atlanta, GA 30339  
Attn: Sanford H. Zatzoff, Esq.  
Email: szatzoff@hnzw.com

or to such other address as either party may from time to time specify in writing to the other upon five (5) days prior written notice in the manner provided above. For convenience of the parties, copies of notices may also be given by email, to the address listed above, but neither party may give official or binding notice by email. The effective time of a notice shall not be affected by the receipt, before receipt of the original, of an email copy of the notice.

## **12.2 Brokers and Finders**

Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the purchase and sale contemplated herein, except for Tri Commercial and CBRE, whose commissions, if any is due, shall be the sole responsibility of Seller pursuant to a separate written agreement with such brokers, and City shall have no liability whatsoever therefor. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings, or communication, the party through whom the broker or finder makes his or her claim shall be responsible for such commission or fee and shall indemnify and hold harmless the other party from all claims, costs, and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Agreement or the Closing, as applicable.

## **12.3 Successors and Assigns**

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators, and assigns. City may assign this Agreement to any entity under the control of City. City may not assign this Agreement to any other party without the prior written consent of Seller, which may be given or denied in Seller's sole discretion.

## **12.4 Amendments**

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

## 12.5 Seller Tax Obligations and Seller Termination Right

Seller acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code ("**Delinquent Payments**"). If, under that authority, any payment City is required to make to Seller under this Agreement is withheld, because Seller (and not any affiliate thereof or related party) owes the City a Delinquent Payment, then City will not be in breach or default under this Agreement, and the Treasurer and Tax Collector will authorize release of any payments withheld under this paragraph to Seller, without interest, late fees, penalties, or other charges, upon Seller coming back into compliance with its San Francisco Business and Tax Regulations Code obligations. Seller has received no notice of delinquency under Section 6.10-2 of the San Francisco Business and Tax Regulations Code. If Seller receives such a notice before Closing, Seller will immediately (within two (2) business days) send a copy of the notice to City. If Seller is deemed to owe Delinquent Payments at the time of Closing and City Treasurer and Tax Collector will not authorize City's payment of the Purchase Price to Seller, then the Closing will be automatically extended for a period of not more than six (6) months in order to allow Seller to resolve the matter of the Delinquent Payments to the extent necessary for the City Treasurer and Tax Collector to authorize City's payment of the Purchase Price to Seller; Seller agrees to work in good faith with the City Treasurer and Tax Collector to do so. If, despite Seller's good faith efforts, the Delinquent Payments are not resolved to the extent necessary to allow the City Treasurer and Tax Collector to authorize City's payment of the Purchase Price to Seller by the end of the 6-month period, then either party may terminate this Agreement by written notice to the other party, in which case the Deposit will be returned to City and the parties shall have no further obligation to each other under this Agreement except for obligations that are expressly intended to survive.

## 12.6 Governing Law

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

## 12.7 Merger of Prior Agreements

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

## 12.8 Parties and Their Agents; Approvals

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

## 12.9 Interpretation of Agreement

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

## 12.10 Attorneys' Fees

In the event that either party hereto fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, each party shall pay its own attorneys' and experts' fees and costs, and all court costs and other costs of the action incurred by such party. The term "attorneys' fees" also includes, 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" means 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.

## 12.11 Sunshine Ordinance

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

## 12.12 Conflicts of Interest

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

## 12.13 Notification of Limitations on Contributions

For the purposes of this Section, a "City Contractor" is a party that contracts with, or seeks to contract with, the City for the sale or leasing of any land or building to or from the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves. Through its execution of this Agreement, Seller acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits a City Contractor from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or

candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for that contract or twelve (12) months after the date that contract is approved. Seller acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Seller further acknowledges that (i) the prohibition on contributions applies to Seller, each member of Seller's board of directors, Seller's chief executive officer, chief financial officer and chief operating officer, any person with an ownership interest of more than ten percent (10%) in Seller, any subcontractor listed in the contract, and any committee that is sponsored or controlled by Seller, and (ii) within thirty (30) days of the submission of a proposal for the contract, the City department seeking to enter into the contract must notify the Ethics Commission of the parties and any subcontractor to the contract.

#### **12.14 Non-Liability of City Officials, Employees, and Agents**

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

#### **12.15 Counterparts**

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

#### **12.16 Effective Date**

As used in this Agreement, the term "Effective Date" means the date on which the City's Board of Supervisors and Mayor enact a resolution approving and authorizing this Agreement and the transactions contemplated hereby, following execution of this Agreement by both parties.

#### **12.17 Severability**

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

#### **12.18 Cooperative Drafting**

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

#### **12.19 Disclaimer of Representations and Warranties; AS-IS Sale**

(a) Disclaimer of Representations and Warranties. NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, EXCEPT FOR



THOSE REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN SECTION 8.1, ABOVE, BUYER UNDERSTANDS AND AGREES THAT NEITHER SELLER NOR ANY OF ITS AGENTS HAS MADE, AND IS NOT NOW MAKING, AND BUYER HAS NOT RELIED UPON AND WILL NOT RELY UPON (DIRECTLY OR INDIRECTLY), ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, ORAL OR WRITTEN WITH RESPECT TO THE PROPERTY, INCLUDING WARRANTIES OR REPRESENTATIONS AS TO (i) MATTERS OF TITLE; (ii) ENVIRONMENTAL MATTERS RELATING TO THE PROPERTY OR ANY PORTION THEREOF; (iii) GEOLOGICAL CONDITIONS; (iv) FLOODING OR DRAINAGE; (v) SOIL CONDITIONS; (vi) THE AVAILABILITY OF ANY UTILITIES TO THE PROPERTY; (vii) USAGES OF ADJOINING PROPERTY; (viii) ACCESS TO THE PROPERTY OR ANY PORTION THEREOF; (ix) THE VALUE, COMPLIANCE WITH PLANS AND SPECIFICATIONS, SIZE, LOCATION, AGE, USE, DESIGN, QUALITY, DESCRIPTIONS, SUITABILITY, SEISMIC, OR OTHER STRUCTURAL INTEGRITY, OPERATION, TITLE TO, OR PHYSICAL OR FINANCIAL CONDITION OF THE IMPROVEMENTS OR ANY OTHER PORTION OF THE PROPERTY; (x) ANY INCOME, EXPENSES, CHARGES, LIENS, ENCUMBRANCES, RIGHTS, OR CLAIMS ON OR AFFECTING OR PERTAINING TO THE PROPERTY OR ANY PART THEREOF; (xi) THE PRESENCE OF HAZARDOUS MATERIALS, MOLD, TERMITES, PESTS, OR WOOD DESTROYING ORGANISMS IN OR ON, UNDER, OR IN THE VICINITY OF THE PROPERTY; (xii) THE CONDITION OR USE OF THE PROPERTY OR COMPLIANCE OF THE PROPERTY WITH ANY OR ALL PAST, PRESENT OR FUTURE FEDERAL, STATE, OR LOCAL ORDINANCES, RULES, REGULATIONS OR LAWS, BUILDING, FIRE, OR ZONING ORDINANCES, CODES, OR OTHER SIMILAR LAWS INCLUDING, WITHOUT LIMITATION, COMPLIANCE WITH THE FAIR HOUSING ACT AND ALL SIMILAR STATE AND LOCAL HOUSING LAWS, ANY APPLICABLE AFFORDABLE HOUSING REQUIREMENTS AND LOCAL RENT CONTROL ORDINANCES; TITLE III OF THE AMERICANS WITH DISABILITIES ACT OF 1990 AND ALL SIMILAR STATE AND LOCAL ACCESSIBILITY LAWS AND COMPLIANCE WITH ANY ENVIRONMENTAL LAWS; (xiii) THE EXISTENCE OR NON-EXISTENCE OF UNDERGROUND STORAGE TANKS; (xiv) THE POTENTIAL FOR FURTHER DEVELOPMENT OF THE PROPERTY; (xv) ZONING, OR THE EXISTENCE OF VESTED LAND USE, ZONING, OR BUILDING ENTITLEMENTS AFFECTING THE PROPERTY; (P) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (xvii) THE TAX CONSEQUENCES OF ACQUIRING, OWNING, AND/OR SELLING THE PROPERTY; (xviii) THE FINANCIAL ABILITIES OF, AND THE CONTINUED OCCUPANCY BY, ANY OF THE TENANTS UNDER ANY LEASES; AND (xix) ANY OTHER MATTER RELATING TO THE PROPERTY INCLUDING, BUT NOT LIMITED TO, INCOME, FEASIBILITY, COST, MARKETING, AND INVESTMENT RETURN. BUYER FURTHER ACKNOWLEDGES THAT, EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN SECTION 8.1 ABOVE, ANY INFORMATION OF ANY TYPE THAT BUYER HAS RECEIVED OR MAY RECEIVE FROM SELLER OR ANY SELLER AGENTS INCLUDING, WITHOUT LIMITATION, THE DOCUMENTS, IS FURNISHED ON THE EXPRESS CONDITION THAT ALL SUCH INFORMATION IS BEING FURNISHED WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER.

(b) Sale "As Is." BUYER IS A KNOWLEDGEABLE, EXPERIENCED, AND SOPHISTICATED BUYER AND OWNER OF REAL ESTATE AND BUYER HAS RELIED AND SHALL RELY SOLELY ON (A) BUYER'S OWN EXPERTISE AND THAT OF BUYER'S CONSULTANTS IN PURCHASING THE PROPERTY; (B) BUYER'S OWN KNOWLEDGE OF THE PROPERTY BASED ON BUYER'S INVESTIGATIONS AND INSPECTIONS OF THE PROPERTY; AND (C) THOSE REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN SECTION 8.1. BY THE END OF THE

DUE DILIGENCE PERIOD AND THE CLOSING, BUYER WILL HAVE CONDUCTED SUCH INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY AS BUYER DEEMS NECESSARY, INCLUDING THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AND SHALL RELY UPON THE SAME. BUYER ACKNOWLEDGES AND AGREES THAT AT CLOSING, SELLER SHALL SELL AND CONVEY TO BUYER AND BUYER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS," WITH ALL FAULTS AND DEFECTS (LATENT AND APPARENT). BUYER FURTHER ACKNOWLEDGES AND AGREES THAT THERE ARE NO ORAL AGREEMENTS, WARRANTIES, OR REPRESENTATIONS WITH RESPECT TO THE PROPERTY MADE BY SELLER (OTHER THAN THOSE REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN SECTION 8.1 ABOVE), OR ITS AGENTS.

(c) BUYER's Release.

(i) AT THE CLOSING, BUYER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY BUYER'S INVESTIGATIONS, AND BUYER (INCLUDING ANYONE CLAIMING THROUGH BUYER, INCLUDING ITS SUCCESSORS-IN-INTEREST AND ASSIGNS) SHALL BE DEEMED TO HAVE FULLY AND IRREVOCABLY WAIVED, RELINQUISHED, AND RELEASED SELLER AND EACH OF THE SELLER AGENTS FROM AND AGAINST ANY AND ALL LOSSES OF ANY AND EVERY KIND OR CHARACTER, WHETHER KNOWN OR UNKNOWN, DIRECT OR INDIRECT, FORESEEABLE OR UNFORESEEABLE, ABSOLUTE OR CONTINGENT, THAT BUYER MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER AND ANY OF THE SELLER AGENTS AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS, AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY, EXCEPT AS EXPRESSLY REPRESENTED AND WARRANTED IN SECTION 8.1 OF THIS AGREEMENT. WITHOUT LIMITING THE SCOPE OR GENERALITY OF THE FOREGOING RELEASE AND WAIVER PROVISIONS, AND SUBJECT TO THE LIMITATIONS SET FORTH ABOVE, THOSE PROVISIONS SHALL SPECIFICALLY INCLUDE AND COVER (A) ANY CLAIM FOR OR RIGHT TO INDEMNIFICATION, CONTRIBUTION, SUBROGATION OR OTHER COMPENSATION, INCLUDING ANY CLAIM BASED ON OR ARISING UNDER ANY ENVIRONMENTAL LAW NOW OR HEREAFTER IN EFFECT, EXCEPT FOR SELLER'S EXPRESS INDEMNITY OBLIGATIONS SET FORTH IN THIS AGREEMENT AND THE DUE DILIGENCE AGREEMENT, WHICH ARE NOT WAIVED; AND (B) ANY CLAIM FOR OR BASED ON TRESPASS, NUISANCE, WASTE, NEGLIGENCE, ULTRAHAZARDOUS ACTIVITY, STRICT LIABILITY, INDEMNIFICATION, CONTRIBUTION OR OTHER THEORY ARISING AND UNDER THE COMMON LAW OF THE STATE OF CALIFORNIA (OR ANY OTHER APPLICABLE JURISDICTION) OR ARISING UNDER ANY APPLICABLE LAW NOW OR HEREAFTER IN EFFECT.

(ii) Known and Unknown Claims. THE ABOVE RELEASE BY BUYER INCLUDES CLAIMS OF WHICH BUYER IS PRESENTLY UNAWARE OR WHICH BUYER DOES NOT PRESENTLY SUSPECT TO EXIST WHICH, IF KNOWN BY BUYER, WOULD MATERIALLY AFFECT BUYER'S RELEASE OF SELLER AND THE SELLER PARTIES. BUYER SPECIFICALLY WAIVES ALL RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542 AND ANY STATE OR FEDERAL LAW OF SIMILAR EFFECT. CIVIL CODE SECTION 1542 PROVIDES AS FOLLOWS:

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

(iii) THE FOREGOING PROVISIONS OF THIS SECTION 12.19 SHALL NOT SERVE TO RELEASE SELLER FROM, AND NO RELEASE IN THIS SECTION 12.19 APPLIES TO, AND BUYER EXPRESSLY DOES NOT WAIVE (A) SELLER'S FRAUD, (B) ANY MATERIAL BREACH OF ANY REPRESENTATION OR WARRANTY MADE IN SECTION 8.1 ABOVE, OR (C) WITH RESPECT TO ANY CLAIM MADE BY ANY THIRD PARTY AGAINST BUYER WITH RESPECT TO THE PROPERTY ARISING DURING SELLER'S OWNERSHIP OF THE PROPERTY, AND PROVIDED THAT SUCH CLAIM IS NOT WITHIN THE SCOPE OF BUYER'S INDEMNIFICATION OF SELLER UNDER SECTION 1.2 OF THE DUE DILIGENCE AGREEMENT.

BY INITIALING BELOW, BUYER ACKNOWLEDGES THAT (X) BUYER HAS READ AND FULLY UNDERSTANDS THE PROVISIONS OF THIS SECTION 12.19, INCLUDING EVERY SUBSECTION THEREOF, (Y) BUYER HAS HAD AMPLE OPPORTUNITY TO ASK QUESTIONS OF ITS INDEPENDENT LEGAL COUNSEL ABOUT THE MEANING AND SIGNIFICANCE OF ALL SUCH PROVISIONS, AND (Z) BUYER HAS ACCEPTED AND AGREED TO ALL SUCH PROVISIONS.

\_\_\_\_\_  
Buyer's Initials

*[SIGNATURES ON FOLLOWING PAGES]*

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, SELLER ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL APPROPRIATE LEGISLATION OF CITY'S BOARD OF SUPERVISORS SHALL HAVE BEEN DULY ENACTED APPROVING THIS AGREEMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH LEGISLATION, AND THIS AGREEMENT SHALL BE NULL AND VOID IF CITY'S BOARD OF SUPERVISORS AND MAYOR DO NOT APPROVE THIS AGREEMENT, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY BY ANY DEPARTMENT, COMMISSION, OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH LEGISLATION WILL BE ENACTED AND ANY SUCH APPROVAL WILL NOT CREATE ANY BINDING OBLIGATIONS ON CITY.

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

SELLER:

LMC SAN FRANCISCO I HOLDINGS LLC,  
a Delaware limited liability company.

By: Lennar MF Holdings, LLC, a Delaware limited liability company, its sole member

By: Lennar Multifamily Communities, LLC, a Delaware limited liability company, its sole member

Name:   
Vice President

Date: 6/17/19

*Signatures continue on Following Page.*

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
ANDRICO Q. PENICK  
Director of Property

Date: \_\_\_\_\_

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:

  
\_\_\_\_\_  
Eileen K. Chauvet  
Deputy City Attorney

EXHIBIT A

REAL PROPERTY DESCRIPTION

Real property in the City of San Francisco, County of San Francisco, State of California, described as follows:

PARCEL I:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF 26TH STREET WITH THE WESTERLY LINE OF SHOTWELL STREET; RUNNING THENCE WESTERLY ALONG SAID SOUTHERLY LINE OF 26TH STREET 32 FEET; THENCE AT A RIGHT ANGLE SOUTHERLY 82.378 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF SERPENTINE AVENUE, AS SAID AVENUE EXISTED PRIOR TO THE VACATION THEREOF BY AN ACT OF THE STATE LEGISLATURE ON MARCH 16, 1878; THENCE SOUTHEASTERLY ALONG SAID NORTHERLY LINE OF SERPENTINE AVENUE; AS IT EXISTED PRIOR TO THE SAID VACATION THEREOF 35.18 FEET, MORE OR LESS, TO THE INTERSECTION THEREOF WITH THE WESTERLY LINE OF ABOVE-MENTIONED SHOTWELL STREET; THENCE NORTHERLY ALONG SAID LINE OF SHOTWELL STREET 97 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.  
BEING A PORTION OF MISSION BLOCK NO. 200.

PARCEL II:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SHOTWELL STREET, DISTANT THEREON SOUTH 4° 15' EAST, 97 FEET FROM THE SOUTHERLY LINE OF 26TH STREET; RUNNING THENCE NORTH 69° 30' WEST ALONG THE NORTHEASTERLY LINE OF SERPENTINE AVENUE, AS SAID AVENUE FORMERLY EXISTED PRIOR TO THE CLOSING THEREOF, 48.257 FEET TO THE WESTERLY LINE, PRODUCED NORTHERLY, OF SHOTWELL STREET; THENCE SOUTH 4° 15' EAST ALONG SAID LINE OF SHOTWELL STREET, SO PRODUCED, 40.077 FEET TO THE NORTHWESTERLY LINE OF SHOTWELL STREET; THENCE NORTH 61° 21' 24" EAST ALONG LAST-MENTIONED LINE; 48.12 FEET TO THE POINT OF BEGINNING.

PARCEL III:

BEGINNING AT A POINT WHICH IS DISTANT NORTH 84° 34' WEST 107.65 FEET FROM A POINT ON THE WESTERLY LINE OF SHOTWELL STREET (THE BEARING OF SAID LINE OF SHOTWELL STREET IS ASSUMED TO BE NORTH 4° 15' WEST FOR THE PURPOSE OF THIS DESCRIPTION AND ALL OTHER BEARINGS HEREIN ARE RELATED THERETO), DISTANT THEREON 64.864 FEET NORTHERLY FROM THE LINE OF ARMY STREET, AS SAID STREETS EXISTED PRIOR TO THE WIDENING OF ARMY STREET; RUNNING THENCE NORTH 84° 34' WEST, 2.676 FEET; THENCE NORTH 14° 49' 38"; EAST; 60.357 FEET TO THE POINT OF INTERSECTION WITH A LINE DRAWN NORTH 88° 36' 34"; EAST PARALLEL WITH THE SAID NORTHERLY LINE OF ARMY STREET FROM A POINT WHICH IS PERPENDICULARLY DISTANT SOUTHERLY 173.590 FEET FROM THE SOUTHERLY LINE OF 26TH STREET AND ALSO PERPENDICULARLY DISTANT EASTERLY 27 FEET FROM THE EASTERLY LINE OF SOUTH VAN NESS AVENUE, SAID POINT OF INTERSECTION BEING THE TRUE POINT OF BEGINNING OF THE PROPERTY TO BE DESCRIBED; RUNNING THENCE NORTH 14° 49' 38"; EAST, 74.08 FEET TO A LINE DRAWN SOUTH 88° 41' 39" WEST FROM A POINT ON THE WESTERLY LINE OF SHOTWELL STREET, PRODUCED NORTHERLY, DISTANT THEREON 207.109 FEET NORTHERLY FROM SAID NORTHERLY LINE OF ARMY STREET; THENCE NORTH 88° 41' 39" EAST, 64.91 FEET TO SAID LINE OF SHOTWELL STREET; THENCE NORTHERLY ALONG SAID LINE OF SHOTWELL STREET 35.41 FEET TO THE NORTHEASTERLY LINE OF SERPENTINE AVENUE, AS SAID AVENUE EXISTED PRIOR TO THE CLOSING THEREOF; THENCE SOUTHEASTERLY ALONG SAID LINE OF SERPENTINE AVENUE 12.962 FEET TO A LINE DRAWN SOUTHERLY AT A RIGHT ANGLE TO THE SOUTHERLY LINE OF 26TH STREET FROM A POINT DISTANT THEREON 32 FEET WESTERLY FROM ITS

INTERSECTION WITH THE WESTERLY LINE OF SHOTWELL STREET; THENCE NORTH 4° 15' WEST, ALONG SAID LINE SO DRAWN, 82.378 FEET TO THE SOUTHERLY LINE OF 26TH STREET; THENCE SOUTH 85° 45' WEST ALONG LAST SAID STREET LINE 212.99 FEET TO THE EASTERLY LINE OF SOUTH VAN NESS AVENUE; THENCE SOUTH 4° 15' EAST ALONG SAID LINE OF SOUTH VAN NESS AVENUE 172.244 FEET TO A POINT DISTANT THEREON 100.00 FEET NORTHERLY FROM THE INTERSECTION OF THE SOUTHERLY PRODUCTION THEREOF WITH THE WESTERLY PRODUCTION OF THE NORTHERLY TANGENT LINE OF THAT CERTAIN PROPERTY DESCRIBED IN DEED EXECUTED BY CATHERINE DUNLEA, ET AL, TO THE CITY AND COUNTY OF SAN FRANCISCO, FILED JUNE 27, 1941, RECORDED NOVEMBER 13, 1941, IN BOOK 3827 OF OFFICIAL RECORDS, PAGE 69, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA; THENCE NORTH 88° 36' 34" EAST PARALLEL WITH SAID LINE OF ARMY STREET 112.35 FEET TO THE TRUE POINT OF BEGINNING. BEING A PORTION OF MISSION BLOCK NO. 200.

Assessor's: Lot 001; Block 6571, Lot 001A; Block 6571 AND Lot 008; Block 6571

**EXHIBIT B**

**GRANT DEED**

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

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

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

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

**GRANT DEED**

(Assessor's Parcel Nos. 6571-001, 001A, and 008)

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

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

*[SIGNATURES ON FOLLOWING PAGE]*



Executed on \_\_\_\_\_, 20\_\_\_\_.

LMC SAN FRANCISCO I HOLDINGS LLC,  
a Delaware limited liability company

By: Lennar MF Holdings, LLC, a Delaware limited liability  
company, its sole member

By: Lennar Multifamily Communities, LLC, a Delaware  
limited liability company, its sole member

Name: \_\_\_\_\_  
Vice President

Date: \_\_\_\_\_

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

State of California            )  
  ) ss  
County of San Francisco    )

On \_\_\_\_\_, before me, \_\_\_\_\_, a notary public in and for said State, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

---

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Grant Deed to the City and County of San Francisco, a municipal corporation, is hereby accepted pursuant to Board of Supervisors' Resolution No. 18110 Series of 1939, approved August 7, 1957, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Andrico Q. Penick  
Director of Property

EXHIBIT C

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

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the transferee of certain real property located in the City and County of San Francisco, California, that withholding of tax is not required upon the disposition of such U.S. real property interest by LMC SAN FRANCISCO I HOLDINGS LLC, a Delaware limited liability company ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor's U.S. employer identification number is \_\_\_\_\_; and
3. Transferor's office address is \_\_\_\_\_

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

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

Dated: \_\_\_\_\_, 20\_\_.

On behalf of:

LMC SAN FRANCISCO I HOLDINGS LLC,  
a Delaware limited liability company

By: Lennar MF Holdings, LLC,  
a Delaware limited liability company,  
its sole member

By: Lennar Multifamily Communities, LLC,  
a Delaware limited liability company, its sole member

Name: \_\_\_\_\_  
Vice President

Date: \_\_\_\_\_

Date: December 21, 2016  
W.I.: 1611  
Referred by: PAC

ABSTRACT

Resolution No. 4260

This resolution authorizes Executive Director or his designated representative to transfer \$10 million from the Transit Oriented Affordable Housing Fund (TOAH) to the Affordable Housing Jumpstart grant program.

This resolution repeals MTC Resolution.No. 4199, which previously allocated this \$10 million from the One Bay Area Grant program to TOAH.

Further discussion of this action is contained in the Programming and Allocations Committee summary sheet dated December 14, 2016.

Date: December 21, 2106  
W.I.: 1611  
Referred by: PAC

RE: Affordable Housing Jumpstart Program

METROPOLITAN TRANSPORTATION COMMISSION

RESOLUTION NO. 4260

WHEREAS, the Metropolitan Transportation Commission (MTC) is the Regional Transportation Planning Authority for the San Francisco Bay Area pursuant to Government Code §§ 66500 *et seq.*; and

WHEREAS, MTC and the Association of Bay Area Governments (ABAG) support transit oriented development through the One Bay Area Grant and Priority Development Area Planning grant programs; and

WHEREAS, MTC and ABAG adopted Plan Bay Area and the Preferred Scenario for Plan Bay Area 2040 which included a target to reduce the combined cost of housing and transportation for low-income families by 2040, which are estimated to account for over 70% of these households' income in 2010 and 2040; and

WHEREAS, the cost of housing has increased to the point the Bay Area is the most expensive housing region in the country; and

WHEREAS, the counties of San Francisco, Alameda, and Santa Clara passed housing bond measures in 2015 and 2016 to help address the regional housing crisis; and

WHEREAS, the Commission passed Resolution 4199 in 2014 to expand the investment in the Transit Oriented Affordable Housing (TOAH) fund by \$10 million from OBAG-1; and

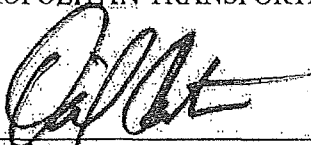
WHEREAS, the Commission did not spend any funding identified in Resolution 4199 due to restrictions in funding for affordable and mixed-income housing production; and

WHEREAS, those funds can be committed to a new pilot to accelerate the construction of new affordable housing near transit with the Affordable Housing Jumpstart grant program; now therefore be it

RESOLVED, that the Commission repeals Resolution 4199, which has not been implemented and none of the funding identified therein has been spent; and

RESOLVED, that the Commission authorizes the Executive Director or his designated representative to transfer \$10 million from the Transit Oriented Affordable Housing Fund to the Affordable Housing Jumpstart grant program.

METROPOLITAN TRANSPORTATION COMMISSION



---

Dave Cortese, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in San Francisco, California, on December 21, 2016.



METROPOLITAN  
TRANSPORTATION  
COMMISSION

Bay Area Metro Center  
375 Beale Street, Suite 800  
San Francisco, CA 94105  
415.778.6700  
www.mtc.ca.gov

April 27, 2017

*Jake Mackenzie, Chair*  
Sonoma County and Cities

*Scott Haggerty, Vice Chair*  
Alameda County

*Allida C. Aguirre*  
Cities of San Mateo County

*Tom Azambardo*  
U.S. Department of Housing  
and Urban Development

*Jeanie Britus*  
Cities of Santa Clara County

*Damon Connolly*  
Marin County and Cities

*Dave Cortese*  
Santa Clara County

*Carol Dutra-Vernaci*  
Cities of Alameda County

*Dorene M. Glucopini*  
U.S. Department of Transportation

*Federal D. Glover*  
Contra Costa County

*Anne W. Halsted*  
San Francisco Bay Conservation  
and Development Commission

*Nick Josefowitz*  
San Francisco Mayor's Appointee

*June Kim*  
City and County of San Francisco

*Sam Liccardo*  
San Jose Mayor's Appointee

*Alfredo Pedroza*  
Napa County and Cities

*Julie Pierce*  
Association of Bay Area Governments

*Bijan Sorripi*  
California State  
Transportation Agency

*Libby Schauf*  
Oakland Mayor's Appointee

*Warren Sloum*  
San Mateo County

*James P. Sperling*  
Solano County and Cities

*Amy R. Worth*  
Cities of Contra Costa County

*Steve Heminger*  
Executive Director

*Alix Buckelman*  
Deputy Executive Director, Policy

*Andrew B. Frenier*  
Deputy Executive Director, Operations

Mr. Olson Lee  
Director  
Mayor's Office of Housing and Community Development  
One South Van Ness Avenue, 5th Floor  
San Francisco, CA 94103-1267

RE: Award of \$5M in Affordable Housing Jumpstart Program Grant

Dear Mr. Lee:

I am pleased to inform you that the City and County of San Francisco has been chosen as a recipient of MTC's new Affordable Housing Jumpstart grant program. In December 2016, the Commission took action to create a grant program aimed to complement recently approved housing bonds to galvanize new affordable housing projects (see December Commission agenda item, attached).

The grant provided to San Francisco should specifically target neighborhoods undergoing rapid community change and destabilization, such as the Mission District, home to several census tracts that historically have been considered Communities of Concern (COC) by MTC's designation, but more recently have not met the COC thresholds. This change in designation underscores the radical changes that have occurred in a neighborhood's socio-economic and racial composition in recent years. We see the Jumpstart grant program as an opportunity to strategically target pooled investments in communities with the most pronounced affordability challenges.

As noted in the Commission approval referenced above, Jumpstart grants can be used to secure sites for affordable housing projects or help bridge funding gaps for affordable projects where site control is already in place. The program requires a minimum leverage toward total development costs of 9:1 prior to distributing funds, with leveraged amounts of any fund source eligible. We are still in the early stages of developing the final program details and grant agreements, however, we do anticipate the grant will operate on a reimbursement basis. We will continue to work with your staff on the required documentation as the program is developed.



April 27, 2017

Page 2

We look forward to working with you on the successful implementation of this grant. The lead MTC staff in this effort is Doug Johnson. Please let me (415-778-5250) or Doug Johnson (415-778-5246) know if we can be of further assistance.

Sincerely,



Alix A. Bockelman

Deputy Executive Director, Policy

cc: Kate Hartley, Deputy Director – Housing, SF Mayor’s Office of Housing and  
Community Development

AB:MA

Attachments:

Staff Report

MTC Resolution No. 4260

**Metropolitan Transportation Commission  
Programming and Allocations Committee**

December 14, 2016

Agenda Item 3c

**MTC Resolution No. 4260**

**Subject:** Approve reallocation of funds from the Transit Oriented Affordable Housing fund to create the Affordable Housing Jumpstart program.

**Background:** The region's housing crisis continues, with median housing costs at all-time highs coupled with slow median wage growth and limited production of low and moderate income housing over the last 15 years (the region has only produced 35% of very low, low and moderate income RHNA allocations). To tackle these challenges, MTC dedicated \$30 million in the last six years to support the construction and preservation of affordable housing. The pilot initiatives for this investment are the Transit Oriented Affordable Housing (TOAH) fund and the Naturally Occurring Affordable Housing (NOAH) program, the latter of which is still in final development since its adoption by the Commission in July 2016. MTC's investments will leverage public, private, and philanthropic funds at least 4:1 on these investments. MTC's housing investments to date are summarized in Table 1 below.

**Table 1: MTC Housing Investments**

Program	MTC	Date	Program Size	Leverage
TOAH	\$10 million	March 2011	\$50 million	4:1
TOAH	\$10 million	February 2014	TBD	TBD
NOAH	\$10 million	July 2016	\$60 million	5:1

TOAH is intended to help finance the purchase of land for affordable housing projects. MTC's original TOAH investment of \$10 million made over \$35 million in loans since inception in 2011, supporting the development of over 800 affordable homes. Most of those loans have been or will soon be repaid as expected when projects secure long-term construction financing, but few new loans are being made due to a lack of construction funding. The lack of state and federal grant funding for affordable or construction mixed income housing construction has severely limited the use of TOAH and the purchase of land for affordable housing overall. As a result of the stifled affordable grant environment, the second allocation of TOAH funding, set aside in 2014 as a part of OBAG 1, has not been deployed.

Staff therefore recommends re-purposing the funds set aside for TOAH in February 2014 for a different but timely purpose. We propose creating an Affordable Housing Jumpstart grant program to reward those counties voting for housing bonds and galvanize new projects. Specifically, the funds would be provided to San Francisco County (Proposition A for \$310 million), Alameda County (Proposition A1 for \$580 million), and Santa Clara County (Proposition A for \$950 million). San Francisco's housing

bond, passed in 2015, has already helped jumpstart affordable housing construction. Challenge grant funds would complement these bond funds to secure sites for projects or help fund the inherent gap needs that affordable projects have where site control is already in place. Staff is recommending that this investment be leveraged at a minimum of 9:1 at the end of construction as outlined in Table 2.

**Table 2: Anticipated Jumpstart Grant Program Impact**

Description	Impact
Units Constructed (# of buildings)	180 (3 buildings)
Estimated Cost per Unit	\$500,000
Estimated Land Cost	\$10 million
Total Value	\$100 million
<b>Leverage on MTC Investment</b>	<b>9:1</b>

Staff suggests that these funds specifically target communities undergoing the most pronounced change as defined by the density of census tracts removed from MTC's Communities of concern designation. Neighborhoods such as the Mission District in San Francisco, home to six census tracts (with a combined population of 25,969 in 2014) that are no longer Communities of Concern due to rapid community change, are recommended for funding.

Given the relative cost of land in each county, staff suggest the following distribution of funds: 50% to San Francisco, 20% to Alameda County and 30% to Santa Clara County. Proposition A in San Francisco, passed in 2015, is already at work creating new affordable homes. Staff suggests starting the challenge grant there, while Alameda and Santa Clara Counties establish their programs now that the bond measures have been approved. Staff will conduct an RFP process with its partners in the City and County of San Francisco on a schedule to be determined to identify and select an appropriate site or sites.

In summary, staff recommends redirecting \$10 million from the Transit Oriented Affordable Housing fund to the Affordable Housing Jumpstart grant program using the distribution noted in Table 3. Exchange funds are already in hand and can be deployed for this purpose. As a reminder these are "clean" local funds and are therefore eligible to be spent on housing-related expenses.

**Table 3: Proposed Distribution of Funds**

<b>County / COC</b>	<b>MTC Target Investment</b>	<b>Local Bond Measure and Other Housing Funding sources</b>	<b>Total Affordable Housing Investment</b>
San Francisco / Mission District	\$5 million	\$45 million	\$50 million
Alameda / TBD	\$2 million	\$18 million	\$20 million
Santa Clara / TBD	\$3 million	\$27 million	\$30 million
<b>Total</b>	<b>\$10 million</b>	<b>\$90 million</b>	<b>\$100 million</b>

**Issues:** Staff acknowledges that this \$10 million investment is quite modest compared to the affordable housing funding shortfall that the region confronts. But the 9:1 leverage would result in a \$100 million total investment. And this new pilot program would offer the Commission another opportunity to “learn by doing” in how to incentivize local jurisdictions to pursue a self-help strategy for closing the region’s gaping affordable housing deficit.

**Recommendation:** Refer Resolution No. 4260 to the Commission for approval.

**Attachment:** MTC Resolution No. 4260

Date: December 21, 2016  
W.L.: 1611  
Referred by: PAC

ABSTRACT

Resolution No. 4260

This resolution authorizes Executive Director or his designated representative to transfer \$10 million from the Transit Oriented Affordable Housing Fund (TOAH) to the Affordable Housing Jumpstart grant program.

This resolution repeals MTC Resolution No. 4199, which previously allocated this \$10 million from the One Bay Area Grant program to TOAH.

Further discussion of this action is contained in the Programming and Allocations Committee summary sheet dated December 14, 2016.

Date: December 21, 2106  
W.I.: 1611  
Referred by: PAC

RE: Affordable Housing Jumpstart Program

METROPOLITAN TRANSPORTATION COMMISSION

RESOLUTION NO. 4260

WHEREAS, the Metropolitan Transportation Commission (MTC) is the Regional Transportation Planning Authority for the San Francisco Bay Area pursuant to Government Code §§ 66500 *et seq.*; and

WHEREAS, MTC and the Association of Bay Area Governments (ABAG) support transit oriented development through the One Bay Area Grant and Priority Development Area Planning grant programs; and

WHEREAS, MTC and ABAG adopted Plan Bay Area and the Preferred Scenario for Plan Bay Area 2040 which included a target to reduce the combined cost of housing and transportation for low-income families by 2040, which are estimated to account for over 70% of these households' income in 2010 and 2040; and

WHEREAS, the cost of housing has increased to the point the Bay Area is the most expensive housing region in the country; and

WHEREAS, the counties of San Francisco, Alameda, and Santa Clara passed housing bond measures in 2015 and 2016 to help address the regional housing crisis; and

WHEREAS, the Commission passed Resolution 4199 in 2014 to expand the investment in the Transit Oriented Affordable Housing (TOAH) fund by \$10 million from OBAG-1; and

WHEREAS, the Commission did not spend any funding identified in Resolution 4199 due to restrictions in funding for affordable and mixed-income housing production; and

WHEREAS, those funds can be committed to a new pilot to accelerate the construction of new affordable housing near transit with the Affordable Housing Jumpstart grant program; now therefore be it

RESOLVED, that the Commission repeals Resolution 4199, which has not been implemented and none of the funding identified therein has been spent; and

RESOLVED, that the Commission authorizes the Executive Director or his designated representative to transfer \$10 million from the Transit Oriented Affordable Housing Fund to the Affordable Housing Jumpstart grant program.

METROPOLITAN TRANSPORTATION COMMISSION

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Dave Cortese, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in San Francisco, California, on December 21, 2016.



# SAN FRANCISCO PLANNING DEPARTMENT

## General Plan Referral

*Date:* June 18, 2019

*Case* 2019-012559GPR  
Acquisition of 1515 South Van Ness Avenue

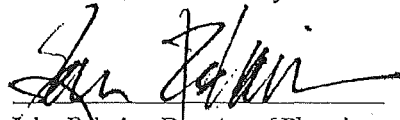
*Block/Lot No.:* 6571/008

*Project Sponsor:* Josh Keene – (415) 554-9859  
joshua.keene@sfgov.org  
Real Estate Division  
25 Van Ness Ave., Suite 400  
San Francisco, CA 94102

*Staff Contact:* Paolo Ikezoe – (415) 575-9137  
paolo.ikezoe@sfgov.org

*Recommendation:* Finding the proposed acquisition of 1515 South Van Ness, on balance, in conformity with the General Plan.

*Recommended  
By:*

  
John Rahaim, Director of Planning

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

### PROJECT DESCRIPTION

The Mayor's Office of Housing and Community Development is proposing to purchase the property at 1515 South Van Ness Avenue and construct a 100% affordable housing project on the site. The site is currently occupied by a one-story, vacant commercial property, and has been entitled for up to 157 units of housing and 1,074 square feet of retail. The Mayor's Office of Housing and Community Development intends to construct affordable housing on the site, and is conducting further analysis to refine a project for the site.

### ENVIRONMENTAL REVIEW

The acquisition of this property is not a project under CEQA Guidelines Sections 15060(c) and 15378 because there is no direct or indirect physical change in the environment. Any future development projects at this site would be evaluated and potentially subject to environmental review.



**GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION**

As described below, the proposed acquisition of 1515 South Van Ness Avenue is consistent with the Eight Priority Policies of Planning Code Section 101.1 and is, on balance, in conformity with the Objectives and Policies of the General Plan.

Note: General Plan Objectives are shown in **BOLD UPPER CASE** font; Policies are in **Bold** font; staff comments are in *italic* font.

**HOUSING ELEMENT**

**OBJECTIVE 1, IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.**

**POLICY 1.3**

**Work proactively to identify and secure opportunity sites for permanently affordable housing.**

*Comment: The acquisition of 1515 South Van Ness Avenue would secure this site for permanently affordable housing.*

**POLICY 1.10**

**Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.**

*Comment: The permanently affordable housing project to be constructed on this property would be easily accessible to major MUNI and bicycle routes, and would enable households to rely on walking, public transportation and bicycling for most trips.*

**OBJECTIVE 4, FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.**

**POLICY 4.4**

**Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.**

*Comment: The acquisition of 1515 South Van Ness Avenue would secure this site for permanently affordable housing, addressing an unmet housing need in San Francisco.*

**POLICY 4.5**

**Ensure that new permanently affordable housing is located in all of the city's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.**

*Comment: The acquisition of 1515 South Van Ness Avenue would secure this site for permanently affordable housing in an existing, diverse, mixed-use neighborhood close to amenities like parks, schools and high-frequency transit.*

**OBJECTIVE 7, SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.**

**POLICY 7.5**

Encourage the production of affordable housing through process and zoning accommodations, and prioritize affordable housing in the review and approval processes.

*Comment: Once the site is acquired, the affordable housing project constructed on the site will be eligible to take advantage of recently passed legislation encouraging production of affordable housing, including the Affordable Housing Bonus Program, SB35, and Planning Code Section 315.*

**OBJECTIVE 8, BUILD PUBLIC AND PRIVATE SECTOR CAPACITY TO SUPPORT, FACILITATE, PROVIDE AND MAINTAIN AFFORDABLE HOUSING.**

**POLICY 8.1**

Support the production and management of permanently affordable housing.

*Comment: The acquisition of 1515 South Van Ness Avenue would secure this site for permanently affordable housing.*

**PROPOSITION M FINDINGS – PLANNING CODE SECTION 101.1**

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The Project, demolition and replacement of the Chinese Recreation Center, is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

**Eight Priority Policies Findings**

The subject project is found to be consistent with the Eight Priority Policies of Planning Code Section 101.1 in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

*The existing commercial building on the site is currently vacant. It is not yet known whether the project MOHCD intends to construct will include retail spaces on the ground floor, which could provide future opportunities for neighborhood-serving retail uses and employment.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*The site contains no existing housing. The construction of a 100% affordable housing project on the site is likely to enhance the cultural and economic diversity of the neighborhood.*

3. That the City's supply of affordable housing be preserved and enhanced.

*The acquisition of this site would allow the construction of permanently affordable housing, enhancing the City's supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The Project would not result in commuter traffic impeding MUNI's transit service, overburdening the streets or altering current neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for residential employment and ownership in these sectors be enhanced.

*The Project would not adversely affect the City's economic base or future opportunities for employment and/or ownership. The future affordable housing project on the site will increase opportunities for residential employment in our industrial and service sectors by offering permanently affordable housing units for low-income households and families.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The Project would not adversely affect achieving the greatest possible preparedness against injury and loss of life in an earthquake. The affordable housing project to be constructed on the site would be required to meet all applicable building code seismic standards.*

7. That landmarks and historic buildings be preserved.

*This Project would not adversely affect any landmarks or buildings of historic significance.*

8. That our parks and open space and their access to sunlight and vistas be protected from development.

*The acquisition of the site would not adversely affect any parks or open space. The affordable housing project to be constructed on the site would undergo review to ensure it doesn't create a negative impact to sunlight and vistas to our parks and open space.*

**RECOMMENDATION:**

**Finding the acquisition of 1515 South Van Ness Avenue, on balance, in-conformity with the General Plan**

No. 902

LEASE

New \_\_\_\_\_ Renewal X

By Alan Marzoline

1. The undersigned Lessor hereby leases to GANNETT OUTDOOR COMPANY, INC. OF NORTHERN CALIFORNIA, Lessee, the exclusive use of the following described property for the purpose of erecting and maintaining outdoor advertising structures, including fixture connections, panels, signs, and copy, all referred to as "structures" herein, and free access and use of the property for Lessee to construct, post, paint, illuminate, maintain, repair, or remove the structures: Location:

APN: 6571-008

Commonly known as: 1515 S. Van Ness for sign structure with three (3) panels

at Van Ness S. E/L 100 S/O 26th

situated in the City of San Francisco, County of San Francisco State of California, for a term of ten years from 6-15-93 ("commencement date").

2. The rent shall be One-thousand two-hundred (\$1,200.00) dollars per year, payable by Lessee monthly in advance, commencing 6-15-93.

3. In the event that the portion of said property occupied by Lessee's structures is to be improved by permanent construction as evidenced by a building permit, this lease shall terminate upon thirty (30) days written notice by Lessor. The Lessor will, upon giving such notice of cancellation, return to the Lessee all rent paid for the unexpired term. Lessee shall remove its structures, except that portion below ground level, within said thirty (30) days. In the event such improvements shall not be commenced within thirty (30) days after removal of such structures, the Lessee shall have the right to re-enter said premises and reconstruct such structures, and the terms of this lease are thereupon reinstated. In the event this lease covers other structures belonging to Lessee on Lessor's property that will not be affected by said construction, then, in that event, this lease shall remain in force in regard only to those structures not affected by the proposed permanent construction, in which case the future rental shall be the percentage of the advertising income of the remaining structure(s) in direct relation to the percentage of advertising income of the original total number of structures as determined by Lessee.

4. This lease shall continue in full force and effect for its term and thereafter for subsequent successive like terms, unless terminated at the end of such term or any successive like term upon written notice by the Lessor or Lessee, served by certified or registered mail sixty (60) days before the end of such term or subsequent like term, provided that Lessee shall have the right to terminate the lease at the end of any monthly period during the term or any subsequent term upon written notice to Lessor served not less than sixty (60) days prior to the end of such monthly period.

5. Lessor and Lessor's tenants, agents, employees, or other persons acting on Lessor's behalf, shall not place or maintain any object on the property or any neighboring property which would wholly or partially obstruct the view of the advertising copy on Lessee's structure. Lessor shall remove said obstruction within ten (10) days of notice from Lessee; if Lessor fails to do so, Lessee may either (1) remove said obstruction at Lessor's expense; or, (2) cancel this agreement and remove the structure; or, (3) reduce the rent to One Dollar (\$1.00) per month while the obstruction continues. Lessor agrees Lessee may trim any or all trees and vegetation on the property as often as Lessee deems necessary to prevent obstructions.

6. The Lessee and its successors-in-interest is and shall remain the owner of all structures placed by it and/or its predecessors-in-interest upon said property, and has the right to remove said structures and cancel this lease at any time. If the structures are removed, only the above-ground portions of said structures need be removed.

7. If the view of the structures' advertising copy is partially or wholly obstructed, or the structures' advertising value is impaired or diminished by reduced vehicular circulation; or said signs remain unsold for 90 consecutive days; or the use of such structures is prevented or restricted by law, the Lessee may immediately at its option either (1) reduce rental in direct proportion to the loss suffered; or, (2) keep the lease in force except that no rental shall accrue while such conditions continue; or, (3) cancel this agreement and receive all rent paid for the unexpired term of said lease, by giving the Lessor notice in writing of such obstruction, impairment, prevention or restriction of use. If Lessee is prevented by law, government or military order, or other cause beyond Lessee's control from illuminating its signs, the rental shall be reduced by one-half while such condition continues.

8. Lessee shall indemnify and hold Lessor harmless from all injuries to third persons caused by Lessee or Lessee's employees, agents and contractors.

9. This lease is binding upon the heirs, assigns and successors of both the Lessor and Lessee.

10. The Lessor represents that he (~~are~~) (~~is~~) the (~~agent~~) (~~owner~~) (~~tenant~~) of the above described property, and has the authority to make this lease.

11. Lessee shall not be bound by any terms, conditions or oral representations made by or to any person, agents, or employees, unless the same are incorporated in this lease. Each singular term used herein (e.g., "Lessor") shall include the plural (e.g., "Lessors"), and each plural term shall include the singular.

Accepted: June 1 19 93

GANNETT OUTDOOR COMPANY, INC. OF NORTHERN CALIFORNIA  
1695 Eastshore Highway  
Berkeley, CA 94710



By: Alan Marzoline

Signed: Scott McMillan

President, McMillan Electric Co, Inc.  
Lessor

1515 South Van Ness Ave, SF, CA 94110  
Address

SS or Tax I.D. Number 94-1729373  
(required by federal law)

Telephone Number (415) 826-5100  
(optional)

Mayor's Office of Housing and Community Development  
City and County of San Francisco



**London N. Breed**  
Mayor

**Kate Hartley**  
Director

June 21, 2019

Honorable Board of Supervisors  
City and County of San Francisco  
Room 244, City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: 1515 South Van Ness Avenue Acquisition

Dear Board Members:

The Mayor's Office of Housing and Community Development (MOHCD) supports the purchase of 1515 South Van Ness from LMC San Francisco I Holdings LLC for affordable housing development.

1515 South Van Ness Avenue is in the Mission Street Neighborhood Commercial Transit zoning district. The site currently contains a one-story, 34-foot-tall, 31,680-square-foot building constructed in 1948. An electrical contractor business, McMillan Electric, previously occupied the building. The business has since moved to a new location at 1950 Cesar Chavez Street in San Francisco. MOHCD anticipates that the site will be developed as permanently affordable housing. While the site is currently entitled to include 157 units of housing and 1,074 square feet of retail, MOHCD is conducting further analysis to further refine a feasible project for the site. MOHCD is in receipt of the following documents and information related to 1515 South Van Ness

- 1) Letter of Intent
- 2) Phase 1 Report
- 3) Tank Closure Report
- 4) Phase 1 Approval from the San Francisco Department of Public Health
- 5) Preliminary Title Report dated as of March 29<sup>th</sup>, 2019

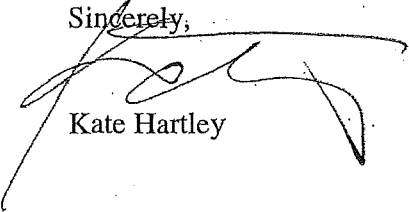
Based on our review of the materials provide, the Site is suitable for affordable housing development and meets the City's requirements for a land acquisition by the City. Conditions related to the land acquisition include the following, without limitation:

- 1) Real Estate will manage the asset in accordance with the terms of an appropriate MOU to be negotiated between Real Estate and MOHCD.

- 2) The City's acceptance of the Site is conditioned on a finding of consistency with the General Plan and approval of the conveyance by the Board of Supervisors and the Mayor, in their respective sole discretion.

Any future financing from MOHCD appears to be within our programmatic parameters for multifamily lending. Any MOHCD financing would be to fund construction work and eligible costs attributable to the project on terms and conditions satisfactory to MOHCD, and will be subject to availability of funds, compliance with funding requirements, Board of Supervisors approval, Citywide Affordable Housing Loan Committee approval, execution of all necessary legal documents and any other special terms and conditions related to this project.

Sincerely,



Kate Hartley

cc: Andrico Penick, Josh Keene, Department of Real Estate

<p><b>Item 16</b> <b>File 19-0733</b></p>	<p><b>Department:</b> Mayor's Office of Housing and Community Development</p>
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**EXECUTIVE SUMMARY**

**Legislative Objectives**

- Resolution approving and authorizing the Director of Property, on behalf of the Mayor's Office of Housing and Community Development, to acquire real property located at 1515 South Van Ness Avenue from LMC San Francisco I Holdings LLC, for \$19,000,000, inclusive of a deposit in the amount of \$500,000; placing the property under the jurisdiction of the Mayor's Office of Housing and Community Development for use in constructing affordable housing for San Franciscans; adopting findings that the conveyance is consistent with the General Plan, and the eight priority policies of Planning Code Section 101.1; authorizing the Director of Property to execute documents, make certain modifications and take certain actions in furtherance of the purchase agreement and this Resolution, as defined herein; assuming a lease and certain service contracts; and affirming the Planning Department's determination under the California Environmental Quality Act.

**Key Points**

- The Mayor's Office of Housing and Community Development (MOHCD) intends to construct a 100% affordable housing project at 1515 South Van Ness Avenue if purchase of the property is approved by the Board of Supervisors through this proposed resolution. MOHCD staff estimates that the site can accommodate over 150 units of affordable housing, as well as ground floor commercial and/or community space. MOHCD expects to complete the purchase by September 30, 2019, begin construction in Fiscal Year 2022-2023, and complete the project two years after start of construction.

**Fiscal Impact**

- The total purchase price for the 35,714 square foot property at 1515 South Van Ness Avenue is \$19,000,000 for a total purchase price of \$532 per square foot.
- MOHCD proposes to use the entirety of a \$5,000,000 grant from the Metropolitan Transportation Commission Affordable Housing Jumpstart Grant Program towards the purchase of 1515 South Van Ness Avenue. MOHCD proposes to fund the remainder of the purchase with \$14,000,000 in General Funds received from the FY 2018-19 Educational Revenue Augmentation Fund (ERAF).
- Development costs and funding sources for the proposed housing units are not known at this time. Though an appraisal has been conducted of the property, MOHCD has not provided information on whether they have had an independent appraisal review conducted, as required by the Administrative Code.

**Recommendation**

Pending receipt of the required appraisal review for the subject property, approval of the proposed resolution is a policy matter for the Board of Supervisors.

**MANDATE STATEMENT**

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

**BACKGROUND**

The Mayor's Office of Housing and Community Development (MOHCD) is responsible for the funding and development of affordable housing in the City and County of San Francisco. MOHCD has evaluated the property at 1515 South Van Ness Avenue and confirms that it can utilize the property to construct a 100% affordable housing project on the site. The property is located in the Mission Street Neighborhood Commercial Transit zoning district and has been entitled for up to 157 units of housing and 1,074 square feet of retail for the current owner. MOHCD is conducting further analysis to refine a project for the site.

The site is currently occupied by a one-story, vacant commercial property that is 34 feet tall and 31,680 square feet, and was constructed in 1948. An electrical contractor business, McMillan Electric, previously occupied the building. The business has since moved to a new location at 1950 Cesar Chavez Street in San Francisco. The site's zoning will accommodate residential and commercial uses.

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would:

(1) Approve and authorize the Director of Property, on behalf of the Mayor's Office of Housing and Community Development, to acquire real property, located at 1515 South Van Ness Avenue from LMC San Francisco I Holdings LLC, for a purchase price of \$19,000,000 inclusive of a deposit in the amount of \$500,000;

(2) Place the property under the jurisdiction of MOHCD for use in constructing affordable housing for San Franciscans;

(3) Adopt findings that the conveyance is consistent with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1;

(4) Authorize the Director of Property to execute documents, make certain modifications, and take certain actions in furtherance of the purchase agreement and this resolution;

(5) Authorize MOHCD to assume a lease and certain service contracts associated with the property; and

(6) Affirm the Planning Department's determination under the California Environmental Quality Act.



MOHCD does not currently have a funding source in place for development of the site but is exploring programming options and anticipates that the site will be developed as family housing. Once the site is acquired, MOHCD will refine programmatic goals as it develops its Request for Qualifications (RFQ) for the site. MOHCD expects to complete the purchase by September 30, 2019, begin construction in FY 2022-2023, and complete the project two years after start of construction.

#### **CEQA and Planning Approvals**

On June 18, 2019, the Planning Department determined that the purchase of 1515 South Van Ness Avenue is categorically exempt from the California Environmental Quality Act (CEQA) and is consistent with the City's General Plan and the eight priority policies of Planning Code Section 101.1. Under the proposed resolution the Board of Supervisors would adopt the findings contained in the June 18, 2019 Planning Department documents regarding CEQA, the City's General Plan and Planning Code Section 101.1.

#### **Assumption of Lease**

MOHCD may elect to assume an existing lease between Gannett Outdoor Company, Inc. of Northern California ("Gannett") and McMillan Electric Co, Inc. Gannett maintains a three-panel sign structure for outdoor advertisements at 1515 South Van Ness Avenue. The lease was originally executed on June 15, 1993 between Gannett and McMillan Electric. If MOHCD assumes this lease, it would be paid an annual rent of \$1,200 by Gannett.

### **FISCAL IMPACT**

#### **Appraisal Value of Property**

Administrative Code Section 23.3 requires an appraisal of the fair market value prior to the Board of Supervisors approval of the City's purchase of real property. If the fair market value is greater than \$200,000, the Administrative Code requires an appraisal review. An appraisal has been conducted and provided to our office but we have not received an appraisal review.

#### **Source of Funding for Acquisition of Property**

The total purchase price for the 35,714 square foot parcel at 1515 South Van Ness Avenue is \$19,000,000, inclusive of a deposit in the amount of \$500,000, for a total purchase price of \$532 per square foot. MOHCD is concurrently submitting a Resolution to the Board of Supervisors (File No. 19-0734) for authorization to accept a grant from the Metropolitan Transportation Commission Affordable Housing Jumpstart Grant Program to authorize expending the grant on the purchase of 1515 South Van Ness Avenue. MOHCD proposes using the entirety of the grant of \$5,000,000 to acquire the site, with the remainder of the purchase price of \$14,000,000 covered by the General Fund, specifically using funds received from the FY 2018-2019 Educational Revenue Augmentation Fund (ERAF).

**Table 1. Site Acquisition of 1515 South Van Ness Avenue Budget**

<b>Sources</b>	
Affordable Housing Jumpstart Program Grant	\$5,000,000
Educational Revenue Augmentation Fund (ERAF)	14,000,000
<b>Total Sources</b>	<b>\$19,000,000</b>
<b>Uses</b>	
Acquisition of Site	\$19,000,000
<b>Total Uses</b>	<b>\$19,000,000</b>

According to Mr. Jonathan Gagen, Project Manager, MOHCD will incur carrying costs to maintain the site until an interim site developer is selected. MOHCD is currently working with the existing owner to develop an estimate of monthly expenses.

According to Mr. Benjamin McCloskey, Deputy Director of Finance and Administration, MOHCD will likely need to provide \$45,000,000 of gap financing to develop affordable housing at 1515 South Van Ness Avenue to meet Jumpstart’s grant requirement that recipients provide a minimum leverage toward total development costs a rate of 9:1. A potential funding source for development of the site could be the proposed Affordable Housing Bond. In addition, MOHCD will also consider inclusionary housing in-lieu fees or Housing Trust Fund sources.

**RECOMMENDATION**

Pending receipt of the required appraisal review for the subject property, approval of the proposed resolution is a policy matter for the Board of Supervisors.

OFFICE OF THE MAYOR  
SAN FRANCISCO



LONDON N. BREED  
MAYOR

SK


TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: Sophia Kittler  
RE: Acquisition of Real Property for \$19,000,000 – 1515 South Van Ness Avenue, San Francisco – LMC San Francisco I Holdings LLC – Mayor's Office of Housing and Community Development  
DATE: Tuesday, June 25, 2019

---

**Resolution 1) approving and authorizing the Director of Property, on behalf of the Mayor's Office of Housing and Community Development, to acquire Real Property, located at 1515 South Van Ness Avenue from LMC San Francisco I Holdings LLC, for purchase at \$19,000,000 inclusive of a deposit in the amount of \$500,000; 2) placing the property under the jurisdiction of the San Francisco Mayor's Office of Housing and Community Development for use in constructing affordable housing for San Franciscans; 3) adopting findings that the conveyance is consistent with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1; and 4) authorizing the Director of Property to execute documents, make certain modifications and take certain actions in furtherance of the purchase agreement and this resolution; 5) assuming a lease and certain service contracts; and 6) affirming the Planning Department's determination under the California Environmental Quality Act.**

Please note that Supervisor Ronen is a co-sponsor of this legislation.

Should you have any questions, please contact Sophia Kittler at 415-554-6153.

BY   
2019 JUN 25 PM 4:41  
BOARD OF SUPERVISORS  
SAN FRANCISCO

1 DR. CARLTON B. GOODLETT PLACE, ROOM 200  
SAN FRANCISCO, CALIFORNIA 94102-4681  
TELEPHONE: (415) 554-6141

**FORM SFEC-126:  
NOTIFICATION OF CONTRACT APPROVAL**  
(S.F. Campaign and Governmental Conduct Code § 1.126)

<b>City Elective Officer Information</b> <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
<b>Contractor Information</b> <i>(Please print clearly.)</i>	
Name of contractor: Lennar Corporation	
<i>(1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor</i>	
<p>(1) Stuart Miller (Executive Chairman, Lennar Corporation), Rick Beckwitt (Chief Executive Officer, Lennar Corporation), Irving Bolotin (Retired Senior Vice President, Lennar Corporation), Steven Gerard (Chairman of the Board and former Chief Executive Officer, CBIZ, Inc.), Theron Gilliam (Chief Executive Officer, NBS Global Talent), Sherrill Hudson (Chairman of the Board and former Chief Executive Officer TECO Energy, Inc.), Jon Jaffe (President, Lennar Corporation), Sidney Lapidus (Retired Partner, Warburg Pincus, LLC), Teri McClure (Chief Human Resources Officer and Senior Vice President Labor and Communications, UPS), Armando Olivera (Retired President and Chief Executive Officer of Florida Power &amp; Light Company), Jeffrey Sonnenfeld (Senior Associate Dean for Executive Programs and the Lester Crown Professor-in-the-Practice of Management for the Yale School of Management President, Chief Executive Leadership Institute of Yale University), Scott Stowell (Retired Executive Chairman and Chief Executive Officer of CalAtlantic Group, Inc.)</p> <p>(2) Stuart Miller (Executive Chairman), Rick Beckwitt (Chief Executive Officer), Jon Jaffe (President), Fred Rothman (Chief Operating Officer), Diane Bessette (Vice President, Chief Financial Officer &amp; Treasurer), Jeff McCall (Senior Vice President), Mark Sustana (Vice President, General Counsel &amp; Secretary), Michael Petrolino (Vice President – Taxation), David Collins (Controller), Andrew Davis (Chief Human Resource Officer), Kay Howard (Chief Marketing &amp; Communications Officer), Bruce Gross (Chief Executive Officer – Lennar Financial Services), David Kaiserman (President - Lennar Ventures), Laura Lete (Chief Information Officer), Chris Marlin (President – Lennar International)</p> <p>(3) Lennar Corporation does not have shareholders with a stake above 20%.</p> <p>(4) N/A</p> <p>(5) Contractor does <u>not</u> sponsor or control any political committee.</p>	
Contractor address: 700 NW 107th Ave, Miami, FL 33172	
Date that contract was approved:	Amount of contract: \$19,000,000 (total purchase price)
Describe the nature of the contract that was approved: Purchase & Sale Agreement to acquire a site located at 1515 South Van Ness Avneue from Lennar Multifamily, an affiliate of Lennar Corporation	
Comments: Purchase & Sale Agreement will go before the Board of Supervisors for approval on July 23, 2019.	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors  
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

<b>Filer Information</b> <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

\_\_\_\_\_  
Signature of City Elective Officer (if submitted by City elective officer)

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

\_\_\_\_\_  
Date Signed

