

File No. 181089

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date: December 6, 2018

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input 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 type="checkbox"/> | Contract/Agreement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong

Date: November 30, 2018

Completed by: Linda Wong

Date: _____

1 [Real Property Lease Extension - 1700-1740-17th Street and 1415-16th Street - \$256,281
2 Monthly Base Rent]

3 **Resolution retroactively authorizing the Director of Property to exercise a Lease**
4 **Extension approving a First Amendment for the real property located at 1700-1740-17th**
5 **Street and 1415-16th Street with 1415-16th Street Associates, LLC, a California limited**
6 **liability corporation, extending the Lease by ten years, from November 3, 2018, for a**
7 **total term of November 3, 2008, through November 2, 2028, with a monthly base rent of**
8 **\$256,281 for a total annual base rent of \$3,075,375 on behalf of the Police Department,**
9 **to commence upon approval by the Board of Supervisors and the Mayor.**

10
11 WHEREAS, The Police Department is a law enforcement agency committed to the
12 protection of life and property and the prevention of crime; and

13 WHEREAS, The Police Department's tactical Company are the first responders to
14 critical incidents in the City; and

15 WHEREAS, The City entered into a Lease with 1415-16th Street Associated, LLC
16 ("Landlord") as Landlord for the lease by City, as tenant, of 52,125 rentable square feet at
17 1700-1740-17th Street and 1415-16th Street (the "Premises"), that satisfies the requirements
18 of the Police Department Tactical Company; and

19 WHEREAS, The Lease provides for the City's first right of refusal to purchase the
20 building in which the Premises are located; and

21 WHEREAS, The monthly fair market rent for the initial term shall be \$256,281 or \$4.92
22 per square foot, subject to annual increases based on the San Francisco Bay Area CPI index
23 with adjustments being no less than 2% and no greater than 5%; now, therefore, be it

24 **RESOLVED** In accordance with the recommendations of the Chief of Police and the
25 Director of Property, the Director of Property is hereby authorized to take all actions on behalf

1 of the City and County of San Francisco, as tenant to execute the extension of the Lease for
2 the Premises; and, be it

3 FURTHER RESOLVED, That the Director of Property be authorized to enter into any
4 additions, amendments or other modifications to the Lease agreement (including without
5 limitations, the exhibits) that the Director of Property determines, in consultation with the
6 Director of Public Health and the City Attorney, are in the best interests of the City, do not
7 materially increase the obligations of the City and are necessary to advisable to complete the
8 transaction contemplated.

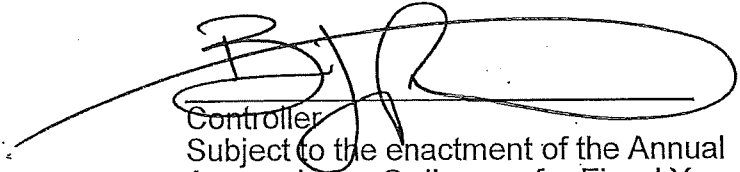
9 FURTHER RESOLVED, That said Lease shall be subject to certification of funds by the
10 Controller pursuant to Section 6.301 of the Charter.

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\$3,075,375 Available:

Fund ID: 10000
Department ID: 232086
Project ID: 10001893
Authority ID: 10000
Account ID: 530110

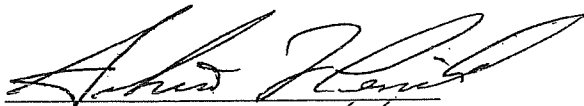

Controller
Subject to the enactment of the Annual
Appropriation Ordinance for Fiscal Year
2018/2019

Recommended:

 FOR CHIEF SCOTT

Deputy Chief Robert M. Moser #1434
Administration Bureau

William Scott,
Chief of the San Francisco Police Department



Andrico Q. Penick *u.s. br.*
Director of Property

<p>Item 1 File 18-1089</p>	<p>Departments: Police Real Estate Division</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • The proposed resolution retroactively approves the first amendment to the existing lease between the City and 1415 16th Street Associates, LLC, for the property located at 1700-1740 17th Street and 1415 16th Street for the Police Department’s Tactical Company, extending the term by 10 years to November 2028 and increasing the rent to \$3,075,375 in the first year. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • The original lease approved by the Board of Supervisors in October 2008 was for 10 years from November 3, 2008 through November 2, 2018 with an option to extend the lease by 10 years. Under the terms of the original lease, rent would be adjusted to market rate for comparable properties in the South of Market, including Showplace Square/ Potrero Hill. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • An appraisal prepared by Colliers International determined that the annual fair market rent for the subject property is \$59.00 per square foot, or \$3,075,375, as of November 26, 2018. The valuation is based on six comparable leases for space in the South of Market/Showplace Square area. • Total lease costs over the 10-year extension period are estimated to range from \$36,918,494 to \$41,925,732, depending on annual Consumer Price Index (CPI) adjustments. 	
<p style="text-align: center;">Policy Consideration</p>	
<ul style="list-style-type: none"> • The City’s Capital Plan addresses the capital needs of existing public safety programs in City-owned property but does not address the long-term needs of public safety programs in leased properties. According to the Budget and Legislative Analyst’s April 2017 <i>Performance Audit of the City’s Real Estate Division</i>, the City does not have a sufficient process to reduce the high costs to the City of leasing private property in San Francisco’s real estate market. 	
<p style="text-align: center;">Recommendation</p>	
<ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

City Charter Section 9.118(c) states that any modification, amendment or termination of a lease that had an initial term of ten years or more, including options to extend, or that had anticipated revenues of \$1 million or more is subject to Board of Supervisors approval.

City Administrative Code section 23.27 states that a lease in which the City is the tenant and the lease amount is more than \$45 per square foot per year, the Director of Property shall obtain an appraisal for the market rent of the lease.

BACKGROUND

In October 2008, the Board of Supervisors authorized a lease agreement between 1415 16th Street Associates as landlord and the City as tenant to lease approximately 52,125 square feet of office and warehouse space located at 1700-1740 17th Street and 1415 16th Street for the Police Department's Tactical Company (File No. 08-1167; Resolution No. 453-08).

The term of the original lease was ten years, from November 3, 2008 through November 2, 2018, with one option to extend by an additional ten years. Base rent for the original lease was \$33.00 per square foot, or \$1,720,125 per year, increasing annually by \$0.75 per square foot, to annual base rent of \$2,071,969, or \$39.75 per square foot in year 10 of the lease. The City paid for utilities and custodial services.

According to the Budget and Legislative Analyst's report to the October 10, 2008 Budget and Finance Committee, tenant improvement expenses for 1700-1740 17th Street and 1415 16th Street were \$3,814,196, of which the City paid \$1,989,821 and the landlord paid \$1,824,375.

The original lease terms required the City to give notice of its intent to exercise the option to extend at least 270 days (nine months) prior to the expiration of the initial term. According to Mr. Josh Keene, Special Projects/Transaction Manager in the Real Estate Division, the City notified the landlord of its intention to exercise the option to extend in late January 2018. Under the terms of the original lease, rent would be adjusted to market rate for comparable properties in the South of Market, including Showplace Square and Potrero Hill, at the commencement of the extended term. Under the terms of the lease, the City could dispute the proposed base rent rate and enter into rate negotiations, or obtain an independent rate estimate from an appraiser.

Under the original lease terms, the City has right of first refusal to purchase the property if it is offered for sale. According to Mr. Keene, the property owner has not offered the building for sale during the lease term.

According to Capt. Alexa O'Brien, Captain of Administration for the Police Department, there have been no major changes to the use of the space by the Tactical Company since the original lease commenced in 2008.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution retroactively approves the first amendment to the existing lease between the City and 1415 16th Street Associates, LLC, for the property located at 1700-1740 17th Street and 1415 16th Street for the Police Department's Tactical Company. The proposed first amendment extends the term by ten years, from November 3, 2018 to November 2, 2028, with annual base rent of \$3,075,375, or \$59.00 per square foot.

The original lease expired on November 2, 2018, so the lease is currently in month-to-month holdover status until the proposed lease extension is approved. According to Mr. Keene, the City and Landlord agreed to have the 10-year extension commence when the previous term expired rather than add approximately 6 weeks of term through the holdover period.

FISCAL IMPACT

According to a lease appraisal report, prepared for the Real Estate Division by Colliers International, the annual fair market rent for the subject property is \$59.00 per square foot, or \$3,075,375, as of November 26, 2018. The valuation is based on six comparable leases for space in the South of Market/Showplace Square area with an adjusted lease rate range from \$48.75 to \$60.95 per square foot, with a median of \$58.33 per square foot and an average of \$56.53 per square foot.

The annual base rent in the first year of the proposed lease extension is \$3,075,375. Funding for lease costs is included in the Police Department's FY 2018-19 budget, as previously approved by the Board of Supervisors.

Annual increases to the base rent would be based on the San Francisco Bay Area Consumer Price Index (CPI) with adjustments being no less than 2 percent and no greater than 5 percent per year. The City will continue to pay for utilities and custodial services, which are estimated to cost approximately \$5.43 per square foot. The landlord will pay for HVAC improvements estimated to cost \$28,750. The City is responsible for paying for any additional improvements.

As shown in Table 1 below, total rent and operating costs to the City over the 10-year extension period would range \$36,918,494 to \$41,925,732.

Table 1: Costs of 10-Year Lease Extension

Lease Year	Base Rent		Custodial Services ^c	Utilities ^d	Total Lease Cost	
	Minimum ^a	Maximum ^b			Minimum ^a	Maximum ^b
Year 1	\$3,075,375	\$3,075,375	\$125,701	\$157,274	\$3,358,350	\$3,358,350
Year 2	3,136,883	3,229,144	129,472	161,992	3,428,347	3,520,608
Year 3	3,199,620	3,390,601	133,356	166,852	3,499,829	3,690,810
Year 4	3,263,613	3,560,131	137,357	171,858	3,572,827	3,869,346
Year 5	3,328,885	3,738,138	141,478	177,013	3,647,376	4,056,629
Year 6	3,395,463	3,925,044	145,722	182,324	3,723,509	4,253,090
Year 7	3,463,372	4,121,297	150,094	187,794	3,801,259	4,459,184
Year 8	3,532,639	4,327,361	154,597	193,427	3,880,663	4,675,386
Year 9	3,603,292	4,543,730	159,235	199,230	3,961,757	4,902,194
Year 10	3,675,358	4,770,916	164,012	205,207	4,044,577	5,140,135
Total	\$33,674,498	\$38,681,736	\$1,441,023	\$1,802,972	\$36,918,494	\$41,925,732

^a Based on 2 percent per year increase.

^b Based on 3 percent per year increase.

^c Based on prior year actual custodial service costs of \$122,040, increased by 3 percent.

^d Based on prior year actual utility (electrical, gas, and water) costs of \$152,693, increased by 3 percent.

POLICY CONSIDERATION

The City's costs for the proposed lease over the next 10 years are at least \$37 million. The proposed lease extension does not provide an option for the City to terminate the lease during the extended 10-year term if other options to locate the Police Department's Tactical Company become available.

According to Mr. Keene, the Real Estate Division considers leasing options at the time that a lease is to be renewed. Considerations include the operational requirements of the City department, the availability of alternative space, and the costs of relocating.

The City's Capital Plan addresses the capital needs of existing public safety programs in City-owned property but does not address the long-term needs of public safety programs in leased properties. According to the Budget and Legislative Analyst's April 2017 *Performance Audit of the City's Real Estate Division*, the City does not have a sufficient process to reduce the high costs to the City of leasing private property in San Francisco's real estate market; we continue to recommend that the City's Real Estate Division and Capital Planning Committee work together on setting criteria and priorities on planning alternatives to housing essential City functions in leased space.

RECOMMENDATION

Approve the proposed resolution.

FIRST AMENDMENT TO LEASE

The First Amendment to Lease (this "**Amendment**"), dated as of _____, 2018, is made by and between 1415 16th STREET ASSOCIATES, LLC, a California limited liability company ("**Landlord**") and the CITY AND COUNTY OF SAN FRANCISCO ("**City**" or "**Tenant**").

RECITALS

This Amendment is made with reference to the following facts:

A. Landlord and City are parties to that certain Lease dated July 25th, 2008 (Board of Supervisors' Resolution No. 453-08, adopted October 21, 2008) (the "**Existing Lease**"), pursuant to which Landlord leased to City certain premises in the real property and improvements described as 1700-1740 17th Street and 1415 16th Street, San Francisco, California, consisting of approximately 52,125 square feet. The Existing Lease expires on November 2, 2018.

B. Landlord and Tenant desire to amend the Existing Lease to (i) extend the term of the Existing Lease, (ii) increase the Base Rent during the extended term, and (iii) make certain other amendments to the Existing Lease, all subject to, and on the basis of, the terms, covenants, and conditions of this Amendment. The Existing Lease, as amended by this Amendment, is referred in this Amendment to as the "**Lease**."

AGREEMENT

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and City hereby agree as follows:

1. Definitions; Recitals. Unless otherwise defined in this Amendment or unless the context clearly requires otherwise, all capitalized terms used in this Amendment have the defined meanings given to them in the Existing Lease. The provisions of the Recitals above are fully incorporated into this Amendment by this reference.
2. Extension. The term of the Lease is extended until November 2, 2028 (the "**Expiration Date**"). The portion of the term of the Lease commencing Approval of the Board of Supervisors and Mayor (the "**Extended Term Commencement Date**") and ending on November 2, 2028 is referred to in this Amendment as the "**Extended Term**." The reference to the Extension Option in the Basic Lease Information and Sections 3.4 and 3.5 and of the Existing Lease are deleted.
3. Base Rent. Base Rent during the Extended Term shall be payable as follows:
 - 3.1 First Year of the Extended Term. Base Rent for the first Lease Year of the Extended Terms is \$3,075,375 per year with the monthly payments of \$256,281.00.
 - 3.2 Subsequent Years in the Extended Term. After the first Lease Year of the Extended Term, Base Rent during each year of the Extended Term will be increased annually on November 3 (the "**Extended Term Rent Adjustment Date**"). The increase in annual Base Rent

on the Extended Term Rent Adjustment Date (for the applicable Lease Year in question) will equal the increase in the Consumer Price Index for All Urban Consumers (base years 1982-1984 = 100) for the San Francisco-Oakland-San Jose area (the "CPI") during the preceding Lease Year, based on the 12-month CPI figures most recently published before the Extended Term Rent Adjustment Date (for example, as of the date of this Amendment, the CPI is published only in even months, so the increase would be calculated using the August-to-August CPI increase). Notwithstanding, these limitations, the increase in Base Rent will be at least 2.5% above the prior Lease Year's Base Rent, but may not be more than not more than 5% above the prior Lease Year's Base Rent. Landlord must notify Tenant of the Base Rent increase at least two (2) weeks before the Extended Term Rent Adjustment Date. If Landlord does not timely notify Tenant of the increased Base Rent, then the Base Rent will continue to be payable at the rate applicable for the prior Lease Year, but any the increase in the Base Rent is not waived. Tenant will be obligated to pay the increase accrued since the Extended Term Rent Commencement Date once (a) Landlord has invoiced Tenant for the increased amount ("**Delayed Rent Increase Notice**") and (b) if the Delayed Rent Increase Notice is provided before the fourteenth (14th) day of the then pending month, then the full increased Base Rent payment (including any amount shortfall in payments since the Extended Term Rent Adjustment Date) will be due on the first day of the first month that follows the Delayed Rent Increase Notice, otherwise it will be due on the first day of the second month. Until the Delayed Rent Increase Notice is given, and the payment is due, the unpaid amount of the increase will not be considered late or delinquent, will not be subject to interest or late fees, and will not constitute a default or a Tenant event of default.

4. Extended Term Leasehold Improvements.

4.1 Construction by Landlord. Promptly upon approval of this Amendment by City's Board of Supervisors and Mayor, in their sole discretion, Landlord will perform work to the Premises as provided in this Section 4 (the "**Extended Term Leasehold Improvements**" and the work of completing the Extended Term Leasehold Improvements, "**Landlord's Work**"). Landlord will complete the Extended Terms Leasehold Improvements no later than December 31, 2018.

(a) Landlord and Tenant have approved the Extended Term Leasehold Improvements and Landlord's Work, as described (i) in the bid summary for the "HVAC Work," as described in Exhibit A-1 ("**Approved Plan**").

(b) Landlord will cause construction of the Tenant Extended Term Leasehold Improvements to be completed in a good and workmanlike manner based on and pursuant to the Approved Plans.

(c) Subject to the provisions of Section 4.2 below, Landlord will pay the cost of the Extended Term Leasehold Improvements. Those costs include, but are not limited to:

(i) All costs of any preliminary and final architectural and engineering plans, drawings, and specifications for the Extended Term Leasehold Improvements and any revisions to those plans, drawings, and specifications required by the applicable government authorities;

(ii) All costs of obtaining building permits and other necessary authorizations from the applicable governmental authority, if any;

(iii) All costs of interior design and finish schedule plans, drawings, and specifications including as-built drawings, if applicable;

(iv) All direct and indirect costs of procuring materials and installing Extended Term Leasehold Improvements in the Premises, including the subcontractors' costs and fees, the general contractor's costs and fees for overhead and profit, the cost of all of contractor's on-site supervisory and administrative staff and the cost of all of Landlord's project management and supervisory staff, office, equipment, and temporary services provided in connection with construction of the Extended Term Leasehold Improvements;

(v) All costs associated with compliance with the Americans with Disabilities Act, other applicable laws, and fire and safety code codes related to the Extended Term Leasehold Improvements in the Premises; and

(vi) Fire and Builder's All-Risk insurance and commercial general liability insurance premiums and fees.

4.2 Changes Requested by Tenant.

(a) No changes to the Approved Plans requested by Tenant will be made without Landlord's prior approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Any changes to the Approved Plans will be in writing and signed by both Landlord and Tenant before the change is made.

(b) Tenant will be responsible for the actual out-of-pocket added costs resulting from Tenant's requested and approved changes. Tenant will pay Landlord as Additional Rent, within thirty (30) days after receipt of an itemized written bill with reasonable supporting documentation from Landlord, any actual out-of-pocket added costs resulting from Tenant's requested and approved changes. A written change request will constitute an agreement by Tenant to any reasonable delay in substantial completion caused by reviewing, processing, and implementing the change.

(c) As soon as reasonably possible after receipt of a written change request from Tenant, Landlord will notify Tenant of Landlord's approval or disapproval of the request, and, if the request is approved, of an estimated increase in costs, if any, and an estimate of the effect the change shall have on the projected date for substantial completion of the Extended Term Leasehold Improvements.

4.3 Changes by Landlord. Landlord will have the authority, without the consent of Tenant, to order minor changes in the Extended Term Leasehold Improvements so long as they do not create any increase in cost to Tenant, do not extend the expected date of substantial completion, do not negatively affect the operation of the Premises, including, but not limited to, HVAC or generator, and are not inconsistent with the intent and the quality of the work described in the Approved Plans.

4.4 Cooperation. Landlord and Tenant will cooperate and Landlord shall diligently assist the contractor in completing construction of the Extended Term Leasehold Improvements.

4.5 Completion.

(a) Landlord will keep City apprised on a regular basis of the status of plan preparation, permit issuance, and the progress of construction. From time to time during the design and construction of the Extended Term Leasehold Improvements, City will have the right at reasonable times to inspect Landlord's Work, provided such inspections do not unreasonably interfere with the construction. Landlord or its representative may accompany City during any inspection. When construction progress permits, but not less than fifteen (15) days before completion, Landlord will notify City of the approximate date that Landlord's Work will be substantially completed in accordance with the Approved Plans. Landlord will revise the notice of the approximate substantial completion date as appropriate from time to time and will immediately notify City when Landlord's Work is substantially completed. On a mutually agreeable date as soon as practicable after Landlord's notice to the City of the substantial completion of the Extended Term Leasehold Improvements, City and its authorized representatives will accompany Landlord or its Agent on an inspection of the Extended Term Leasehold Improvements.

(b) The Leasehold Improvement Work will be deemed to be "substantially completed" for purposes of this Amendment when the Extended Term Leasehold Improvements have been sufficiently completed in accordance with the Approved Plans so that City can use the Premises and conduct its business for its intended uses and City, through its Director of Property, has approved the Extended Term Leasehold Improvements. City may, at its option, approve the Extended Term Leasehold Improvements even though there may remain minor details that would not interfere with City's use. Landlord will diligently pursue to completion all incomplete details. Within thirty (30) days after City's approval of the Extended Term Leasehold Improvements or as soon thereafter as practicable, City will have the right to present to Landlord a written punchlist of any items that have not been finished in accordance with the Approved Plans. Landlord will promptly complete all defective or incomplete items identified in the punchlist, and will in any event complete all items within thirty (30) days after the delivery of the punchlist. City's failure to include any item on the punchlist will not alter Landlord's obligation under the Lease to complete the Extended Term Leasehold Improvement Work in accordance with the Approved Plans, or constitute any waiver of any latent defects.

(c) If Landlord does not complete the Extended Term Leasehold Improvements by December 31, 2018, Tenant will have all of its rights and remedies under the Lease, at law and in equity, including but not limited to, as provided under Section 15.3 of the Existing Lease.

4.6 Approvals. No approval by City or any of its Agents of the Approved Plans, or completion of the Extended Term Leasehold Improvement Work for purposes of this Amendment will be deemed to constitute approval of any governmental or regulatory authority with jurisdiction over the Premises, and nothing in this Amendment will limit Landlord's obligations to obtain all needed approvals.

5. Energy Consumption. City acknowledges and agrees that Landlord delivered the Data Verification Checklist (as defined in the California Code of Regulations, Title 20, Division 2, Chapter 4, Article 9, Section 1681) for the Premises, copies of which are attached as Schedule 1 to this Amendment, no less than 24 hours prior to City's execution of this Amendment.

6. Amendments to Existing Lease. The Existing Lease is amended as follows:

6.7 Disability Access. A new Section 2.2 is added as follows:

2.2 Disability Access

California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements.

City is hereby advised that the Premises have been inspected by a CASp and have been found to meet all applicable construction-related accessibility requirements pursuant to California Civil Code Section 55.53.

6.8 A new Section 9.2 is added as follows:

9.2 Additional Services

City reserves the right to request that the Landlord, at City's cost, perform minor Lease-related services or incur additional expenses not covered under this Lease that the City may require from time to time as reasonably requested by the City and approved by the Real Estate Division, acting through the Director of Property or his or her designee ("Additional Services"), provided that if Landlord, in its sole and absolute discretion, agrees to perform such services or incur such additional expenses, City shall reimburse Landlord for the pre-approved cost for such expenses as Additional Charges within thirty (30) days after receipt of Landlord's invoice therefor. Landlord's charges for the Additional Services may not exceed the rates customarily charged by landlords to tenants or occupants of buildings like the Premises in San Francisco. Landlord shall provide City with invoices for all Additional Services in a format reasonably approved by City. Additional Services may not exceed ten thousand dollars (\$35,000) in any calendar month.

6.9 Prevailing Wages for Construction Work. Section 23.24 of this the Existing Lease deleted and replaced with the following:

Landlord agrees that any person performing labor in the construction of the Leasehold Improvements or other improvements to the Premises which Landlord provides under this Lease shall be paid not less than the highest prevailing rate of wages and that Landlord shall include, in any contract for construction of such improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord further agrees that, as to the construction of such improvements under this Lease, Landlord shall comply with all the provisions of subsection (b) of San Francisco Charter Section A and Sections 6.33 through 6.45 of the San Francisco Administrative Code that relates to payment of prevailing wages. Landlord shall require any contractor to provide, and shall deliver to City every two weeks during any construction period, certified payroll reports with respect to all persons performing labor in the construction of any Leasehold Improvements or other improvements to the Premises.

- 6.10 Authority. Section 23.4 is hereby deleted and replaced in its entirety with the following:

23.4 Authority

Landlord represents and warrants to City that it is the sole owner of the Property and the execution and delivery of this Lease by Landlord does not violate any provision of any agreement, or Laws to which Landlord or the Property is subject. Each of the persons executing this Lease on behalf of Landlord does hereby covenant and warrant that Landlord is a duly authorized and existing limited liability company, that Landlord has and is qualified to do business in California, that Landlord has the full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Landlord are authorized to do so. On City's request, Landlord will provide City with evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

- 6.11 Prevailing Wages. Section 23.24 is deleted and replaced with the following:

23.24 Prevailing Wages and Working Conditions

Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. Landlord agrees to require its Contractors and Subcontractors performing (i) labor in the construction of a "public work" as defined in California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet

laying, or refuse hauling if paid for in whole or part out of public funds), or (ii) Covered Construction at the Premises to (1) pay workers performing such work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "**Prevailing Wage Requirements**"). Landlord agrees to cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

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

6.12 Non Discrimination: Section 23.25 is deleted and replaced with the following:

23.25 Non Discrimination in City Contracts and Benefits Ordinance

(a) Covenant Not to Discriminate

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

status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) Subcontracts

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

(c) Non-Discrimination in Benefits

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

(d) CMD Form

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

(e) Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties

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

6.13 Resource Efficient Buildings. Section 23.28 is deleted and replaced with the following:

23.28 Resource Efficient City Buildings

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

6.14 Limitations on Contributions. Section 23.26 is deleted and replaced with the following:

23.36 Notification of Limitations on Contributions

Through its execution of this Lease, Landlord acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) 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 such contract or six months after the date the contract is approved. Landlord acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Landlord further acknowledges that the prohibition on contributions applies to each

Landlord; each member of Landlord's board of directors, and Landlord's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Landlord; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Landlord. Additionally, Landlord acknowledges that Landlord must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Landlord will provide to City the name of each person, entity, or committee described above.

7. Miscellaneous.

7.15 This Amendment will become effective on the date that (a) City's Mayor and Board of Supervisors, in their sole and absolute discretion, adopt a resolution approving this Lease in accordance with all applicable Laws, and (b) this Lease is duly executed by the parties.

7.16 Except as modified by this Amendment, all of the terms, conditions and provisions of the Existing Lease remain in full force and effect.

7.17 To the extent the terms of the Existing Lease and this Amendment are inconsistent, the terms of this Amendment will control.

7.18 This Amendment contains the entire agreement of Landlord and Tenant regarding the extension of the term of Existing Lease. It is understood that there are no oral agreements between Landlord and Tenant affecting the Existing Lease as amended by this Amendment, and this Amendment supersedes and cancels any and all previous negotiations, representations, agreements, and understandings, if any, between Landlord and Tenant and their respective agents with respect to the Existing Lease as amended by this Amendment, and none may be used to interpret or construe the Lease.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS HAS DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS LEASE. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY UNDER THIS LEASE ARE CONTINGENT UPON ADOPTION OF THAT RESOLUTION, AND THIS LEASE WILL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION, OR AGENCY OF CITY WILL NOT BE DEEMED TO IMPLY THAT THE RESOLUTION WILL BE ADOPTED AND NO SUCH APPROVAL WILL CREATE ANY BINDING OBLIGATIONS ON CITY.

Remainder of Page Intentionally Left Blank; Signatures Appear on Following Pages

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

LANDLORD:

1415 16th Street Associates, LLC
a California limited liability company

By: _____
DAVID O'KEEFFE
Managing Member

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Name: ANDRICO Q. PENICK
Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Eileen Chauvet
Deputy City Attorney

EXHIBIT A-1
HVAC Work

The HVAC Work is as follows:

***1415 16TH Street Associates LLC
188 King Street, Suite 408
San Francisco, Ca 94107***

Date: May 15, 2018

Location: 1740 17th Street, San Francisco, CA 94106

Estimate New 5-ton Air conditioning unit for computer room

5 Ton split system for Data Room

Air Handler hung from ceiling

Condensing unit installed on roof

All electrical back to sub panel

Related roof jack waterproofing

New make up air vent to men's locker room 2nd floor

Replace fan belt to exhaust system

Repair and replace leak to existing condensate line in data room

Total estimate \$28,750.

OFFICE LEASE

between

1415 16th STREET ASSOCIATES, LLC,
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,
as Tenant

For the lease of
1700-1740 17th Street and 1415 16th Street
San Francisco, California

July 25, 2008

47228
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OFFICE LEASE

THIS OFFICE LEASE (this "Lease"), dated for reference purposes only as of July 25, 2008, is by and between 1415 16th STREET ASSOCIATES, LLC, a California limited liability company ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Tenant").

Landlord and City hereby agree as follows:

1. BASIC LEASE INFORMATION

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

Lease Reference Date: July 25, 2008

Landlord: 1415 16th Street Associates, LLC

Tenant: City and County of San Francisco

Building (Section 2.1): 1700-1740 17th Street and 1415 16th Street, San Francisco, California, 94103, a stand-alone building.

Premises (Section 2.1): 1700-1740 17th Street and 1415 16th Street San Francisco, California, 94103 upon a lot area of 62,373 square feet.

Rentable Area of Premises (Section 2.1): Approximately 52,125 rentable square feet

Term (Section 3):

Initial Term (Section 3.1):

— Estimated commencement date: October 15, 2008

— Initial Term expiration date: Ten (10) years after the Commencement Date (defined in Section 3.2)

Extension Options (Section 3.4): One (1) additional term of ten (10) years, exercisable by City by notice to Landlord given not less than 270 days prior to the expiration date of the Initial Term.

Base Rent (Section 4.1):

Initial Term:

First Lease Year (defined in Section 3.2)

Annual Base Rent: \$1,720,125
(\$33.00 per sq. ft.)

Monthly payments: \$143,344

Initial Term Base Rent Adjustment Dates (Section 4.2):

On the first day of the second Lease Year of the Initial Term, and on the first day of each succeeding Lease Year during the Initial Term, Base Rent shall increase as set forth below by \$0.75 per square foot over the rate payable in the immediately preceding Lease Year:

Lease Year	Annual Base Rent	Annual Square Foot Rental Rate	Monthly Base Rent Payment
2	\$1,759,219	\$33.75	\$146,602
3	\$1,798,313	\$34.50	\$149,859
4	\$1,837,406	\$35.25	\$153,117
5	\$1,876,500	\$36.00	\$156,375
6	\$1,915,594	\$36.75	\$159,633
7	\$1,954,688	\$37.50	\$162,891
8	\$1,993,781	\$38.25	\$166,148
9	\$2,032,875	\$39.00	\$169,406
10	\$2,071,969	\$39.75	\$172,664

Extended Term Base Rent Adjustment (Section 3.5):

At the commencement of the Extended Term, the Base Rent shall be adjusted to the then-prevailing, market-rate rent for comparable premises in the South of Market area of San Francisco, including Showplace Square and Potrero Hill, however in no event shall the Base Rent be reduced below the Base Rent payable immediately prior to the commencement of the Extended Term.

Use (Section 5.1):

Office and associated public-program use by the San Francisco Police Department, including, but not limited to, tactical company, explosive-ordinance detail, motorcycle-unit and K-9 division uses, and other related uses.

Leasehold Improvements and Work Letter; Tenant Improvement Allowance (Section 4.4):

Landlord will provide all work on a mutually agreeable "turnkey basis" in accordance with plans and specifications approved by City in the Work Letter (defined in Section 6.1). Landlord will provide a tenant improvement allowance of \$1,824,375 and City will be responsible for the

cost of any improvements above the allowance. Landlord shall offer City the opportunity to amortize up to \$2,000,000 of such excess improvement expenses above the allowance over the first 5 years of the Initial Term at an interest rate equal to the prime commercial rate, plus two percent.

Utilities (Section 9.1):

City shall pay directly for electricity, gas, water, telephone, and telecommunication services.

Services (Section 9.2):

City shall provide janitorial services and garbage removal at its cost.

Notice Address of Landlord (Section 23.1):

1415 16th STREET ASSOCIATES, LLC
188 King Street, Suite 605
San Francisco, CA 94107
Fax No.: (415) 760-7118

Key Contact for Landlord:

David O'Keeffe

Landlord Contact Telephone No.:

(415) 552-3800

Notice Address for Tenant (Section 23.1):

Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Amy L. Brown,
Director of Property
Fax No.: (415) 552-9216

with a copy to:

San Francisco Police Department, Hall of Justice
Attn: Captain Mario Gonzalez, Planning
Division
Fax No.: 415-553-1104

and to:

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

Key Contact for Tenant:

Captain Mario Gonzalez
San Francisco Police Department

Tenant Contact Telephone No.:

(415) 553-1125

Brokers (Section 23.8):

John Jensen, Grubb & Ellis Company

2. PREMISES

2.1 Lease Premises

Landlord leases to City and City leases from Landlord, subject to the provisions of this Lease, those premises in the building identified in the Basic Lease Information (the "**Building**") and shown on the floor plan(s) attached hereto as Exhibit A, together with the land adjacent to and upon which the Building is located also shown on Exhibit A (the "**Premises**"). The Premises contain the rentable area and are located on the floor(s) of the Building specified in the Basic Lease Information. As used in this Lease, the term "**rentable area**" shall mean that measurement of interior floor area computed in accordance with the "Standard Method for Measuring Floor Area in Office Buildings, the American National Standard" (Z65.1-1996), adopted by the Building Owners and Managers Association (BOMA). The Building, the land adjacent to and upon which the Building is located, and all other improvements on or appurtenances to such land are sometimes also referred to collectively as the "**Property**."

3. TERM

3.1 Term of Lease

This Lease will be effective on the date (the "**Effective Date**") it is mutually executed and delivered by the parties. The Premises are leased for an initial term (the "**Initial Term**") commencing on the date that is the later of

(a) the date specified in the Basic Lease Information as the estimated commencement date (the "**Estimated Commencement Date**"), and

(b) the date (the "**Approval Date**") City's Mayor and Board of Supervisors approve this Lease and the transactions contemplated herein, at their respective sole and absolute discretion, as further provided in this Lease.

The Initial Term of this Lease shall end on the expiration date specified in the Basic Lease Information, or such earlier date on which this Lease terminates pursuant to Section 23.23, the other provisions of this Lease, or otherwise as provided by law, provided that City shall have the right to extend the Initial Term pursuant to Section 3.4 (Extension Option, below). The word "**Term**" as used herein shall refer to the Initial Term and any Extended Terms if City exercises the Extension Option.

3.2 Commencement Date and Expiration Date

The dates on which the Term commences and terminates pursuant hereto are referred to respectively as the "**Commencement Date**" and the "**Expiration Date**." If the Commencement Date occurs on a date other than the Estimated Commencement Date, then promptly thereafter Landlord shall deliver to City a notice substantially in the form of Exhibit B attached hereto, confirming the actual Commencement Date, but Landlord's failure to do so shall not affect the commencement of the Term. The term "**Lease Year**" means a period of 12 consecutive full calendar months. The first Lease Year will begin on the Commencement Date if the Commencement Date occurs on the first day of a calendar month. If not, the first Lease Year will commence on the first day of the calendar month next following the Commencement Date. Each succeeding Lease Year will commence upon the anniversary of the day following expiration of the first Lease Year.

3.3 Delay in Delivery of Possession

Landlord shall use its best efforts to deliver possession of the Premises with all of the Leasehold Improvements substantially completed and accepted by City's Director of Property pursuant to Section 6.1 (Landlord's Obligation to Construct Improvements) on or before the Estimated Commencement Date and, in no event, no later than one hundred twenty (120) days from the Approval Date. City shall reasonably cooperate as necessary with Landlord in obtaining permits and approvals required for Leasehold Improvement Work (defined in Section 6.1), provided however, Landlord acknowledges that City is leasing the Premises in its proprietary capacity and not in its regulatory capacity. If Landlord is unable to deliver possession of the Premises to City as required hereunder within one hundred and fifty (150) days after the Approval Date, then City may, at its option, terminate this Lease, without any further liability under this Lease, upon notice to Landlord, provided that such one hundred-fifty day (150) period shall not commence or continue to the extent that any day of delay results from a Tenant Delay (defined in Paragraph 6.b of the Work Letter). To the extent that any day of delay results solely and directly from a Tenant Delay, such one hundred twenty (120)-day and one hundred-fifty (150) day periods will be extended. In addition to the above, if Landlord fails to deliver possession of the Premises as required above on or before the date (the "**Delay Date**") that is one hundred twenty (120) days after the Approval Date, except to the extent any such day of delay is caused by (a) a Tenant Delay or (b) an Unavoidable Delay resulting from a determination by any applicable governmental authority that the Building design depicted in the Schematic Design Documents (defined in Paragraph 1.a of the Work Letter) must be upgraded to include an elevator and/or a fire-sprinkler system, then until the date of Substantial Completion, Landlord will credit, and City will have no obligation to pay, any Rent attributable to each day of delay after the Delay Date.

3.4 Extension Option

City shall have the right to extend the Initial Term of this Lease (the "**Extension Option**") for the additional term specified in the Basic Lease Information (the "**Extended Term**"). Such Extension Option shall be on all of the terms and conditions contained in this Lease except that the Base Rent for the Extended Term shall be adjusted to the prevailing market rent at the beginning of the Extended Term, as determined pursuant to Section 3.5 (Determination of Base Rent for the Extended Term). City may exercise the Extension Option, if at all, by giving notice to Landlord no later than two hundred and seventy (270) days prior to expiration of the Initial Term; provided, however, if City is in material default under this Lease on the date of giving such notice and fails to cure such default as provided in this Lease, Landlord may reject such exercise by delivering notice thereof to City promptly after such failure to cure.

3.5 Determination of Base Rent for the Extended Term

At the commencement of the Extended Term, the Base Rent shall be adjusted to the prevailing market rate for space of comparable size and location to the Premises then being offered for rent in other buildings similar in age, location, and quality to the Premises situated within the South of Market area of San Francisco, including Showplace Square and Potrero Hill; provided, however, in no event shall the Base Rent be reduced below the Base Rent for the Lease Year immediately prior to commencement of such Extended Term. As used herein, the term "**prevailing market rate**" shall mean the base rental for such comparable space, taking into account (a) any additional rental and all other payments and escalations payable hereunder, (b) floor location and size of the premises covered by leases of such comparable space, (c) the duration of the renewal term and the term of such comparable leases, (d) free rent given under such comparable leases and any other tenant concessions, and (e) building standard tenant improvement allowances and other allowances given under such comparable leases. Landlord

shall give City notice of Landlord's determination of the prevailing market rate for the Extended term within thirty (30) days of City's exercise of the Extension Option.

If City disputes Landlord's determination of the prevailing market rate, City shall so notify Landlord within fourteen (14) days following Landlord's notice to City of the prevailing market rate and such dispute shall be resolved as follows:

(i) Within thirty (30) days following Landlord's notice to City of the prevailing market rate, Landlord and City shall attempt in good faith to meet no less than two (2) times, at a mutually agreeable time and place, to attempt to resolve any such disagreement.

(ii) If within this thirty (30)-day period Landlord and City cannot reach agreement as to the prevailing market rate, they shall each select one appraiser to determine the prevailing market rate. Each such appraiser shall arrive at a determination of the prevailing market rate and submit his or her conclusions to Landlord and City within thirty (30) days of the expiration of the thirty (30)-day consultation period described in (i) above.

(iii) If only one appraisal is submitted within the requisite time period, it shall be deemed to be the prevailing market rate. If both appraisals are submitted within such time period, and if the two appraisals so submitted differ by less than ten percent (10%) of the higher of the two, then the average of the two shall be the prevailing market rate. If the two appraisals differ by more than ten percent (10%) of the higher of the two, then the two appraisers shall immediately select a third appraiser who will within thirty (30) days of his or her selection make a determination of the prevailing market rate and submit such determination to Landlord and City. This third appraisal will then be averaged with the closer of the two previous appraisals and the result shall be the prevailing market rate.

(iv) If City's Director of Property does not approve of the prevailing market rate as determined by the appraisal procedure specified above, the Director of Property shall revoke the exercise of the Extension Option by City.

(v) All appraisers specified herein shall be "MAI" designated members of the Appraisal Institute with not less than five (5) years' experience appraising leases of commercial properties similar to the Premises in the South of Market area of San Francisco. Landlord and City shall pay the cost of the appraiser selected by such party and one-half of the cost of the third appraiser plus one-half of any other costs incurred in the arbitration.

3.6 Due Diligence

To the extent not provided previously to City by Landlord, promptly after the Effective Date, Landlord will provide to City copies of the following documents regarding the Property:

- (a) a recent soils report, if in Landlord's custody or control,
- (b) a current AAI Phase 1 Environmental Site Assessment report, together with any other environmental assessments or surveys of the Property and surrounding property in Landlord's possession, if in Landlord's custody or control,
- (c) a current utility plan
- (d) a site plan in CAD format
- (e) a recent title report with copies of all exceptions to title and a plat map depicting the location of easements
- (f) copies of all CC&Rs or other documents contemplated for recording that would affect title to or City's intended use of the Property.

All such plans, tests, surveys, reports, and other documents will be, to Landlord's knowledge, accurate and complete.

4. RENT

4.1 Base Rent

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

4.2 Adjustments in Base Rent

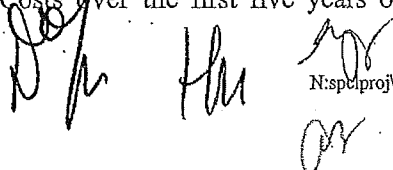
On each date specified in the Basic Lease Information for the adjustment of Base Rent (an "**Adjustment Date**"), the Base Rent payable under Section 4.1 shall be adjusted to equal the corresponding amount set forth in the Basic Lease Information.

4.3 Additional Charges

City shall pay to Landlord any charges or other amounts required under this Lease as additional rent ("**Additional Charges**"), including monthly amortized tenant improvement allowance reimbursement payments, if any, payable pursuant to Section 4.4. All such Additional Charges shall be payable to Landlord at the place where the Base Rent is payable. Landlord shall have the same remedies for a default in the payment of any Additional Charges as for a default in the payment of Base Rent. The Base Rent and Additional Charges are sometimes collectively referred to below as "**Rent.**"

4.4 Tenant Improvement Allowance and City's Reimbursement Obligation.

Landlord shall fund the Leasehold Improvements Work as contemplated and pursuant to the Work Letter by providing a tenant improvement allowance ("**Allowance**") in an amount not to exceed One Million Eight Hundred Twenty-four Thousand Three Hundred Seventy Five Dollars (\$1,824,375). Within thirty (30) days of the date Landlord issues the Completion Notice, Landlord shall submit to Tenant Landlord's certification of the total amounts expended by Landlord (together with all documentation of such costs required pursuant to Paragraph 4.d of the Work Letter) (collectively, the "**Tenant Improvement Costs Documentation**") incurred by Landlord in connection with the construction of the Tenant Improvements that are chargeable against the Allowance in accordance with the provisions of the Work Letter. Any portion of the Allowance that is not used for the Leasehold Improvements shall be credited against Base Rent next due or payable under the Lease, or at City's option, refunded to City. If the cost of the Leasehold Improvements exceeds the \$1,824,375 Allowance cap, City will pay all Leasehold Improvements costs in excess of the Allowance cap as provided in the Work Letter (the "**Excess Improvement Costs**") within thirty (30) days of receipt of all documents constituting the Tenant Improvement Costs Documentation or, at City's option, it may elect, by notice to Landlord given within such 30-day period, to reimburse Landlord for up to Two Million Dollars (\$2,000,000) of such Excess Improvement Costs over the first five years of the Initial Term, together with



commercial rate reported in *The Wall Street Journal* on the Commencement Date plus 2% per annum. If City makes such election, such amount will be paid in sixty (60) equal monthly installments of principal and interest amortized over the Initial Term, commencing on the first day of the first full calendar month that begins at least thirty (30) days after City's receipt of all documents constituting the Tenant Improvement Costs Documentation, provided that City may prepay all amounts outstanding as Excess Improvement Costs at any time without penalty. Notwithstanding any City election to reimburse Landlord for Excess Improvement Costs over the Initial Term as provided in this Section 4.4, City will reimburse Landlord for all amounts of Excess Improvement Costs above Two Million Dollars (\$2,000,000) and not disputed in good faith by City within thirty (30) days of the date City receives the Tenant Improvement Costs Documentation.

5. USE

5.1 Permitted Use

City may use the Premises for general office and public program use by the San Francisco Police Department and such other uses as may be specified in the Basic Lease Information, and for no other use without Landlord's prior consent, which shall not be unreasonably withheld or delayed.

5.2 Interference with Access

Landlord shall provide to City at all times use of the Premises and uninterrupted access thereto to the maximum extent possible, including, without limitation, during any power outages affecting the Premises or any portion of the Building; provided, however, that Landlord may, after consultation with City's Administrator, interrupt City's access to the Premises or the Building in the event of an immediate threat of the Premises being rendered unsafe for human occupancy. If City's use of any of the Premises or access thereto is interrupted as a result of the Premises or any portion of the Building being rendered unsafe for human occupancy due to Landlord's failure to comply with its obligations under this Lease or for any other reason other than City's default hereunder, then Landlord shall immediately undertake all necessary steps to correct such condition. In the event such condition continues for five (5) days and impairs City's ability to carry on its business in the Premises, the Rent payable hereunder shall be abated based on the extent to which such default interferes with City's ability to carry on its business at the Premises. If any such default by Landlord shall continue for thirty (30) days or more after City's use is interrupted and impairs City's ability to carry on its business in the Premises, then City shall have the right, without limiting any of its other rights under this Lease to terminate this Lease, unless Landlord supplies City with evidence reasonably satisfactory to City that City's normal and safe use will be restored within sixty (60) days of the date City's use was interrupted, and such use is actually restored within such sixty (60)-day period. Nothing in this Section shall limit City's rights with respect to any disruption due to casualty pursuant to Section 12 (Damage and Destruction) hereof.

6. LEASEHOLD IMPROVEMENTS

6.1 Construction of Leasehold Improvements

Landlord shall construct the Premises, perform the work, and make the installations in the Premises pursuant to and as described in the Work Letter attached hereto as Exhibit C (the "Work Letter"). All work and installations performed pursuant to the Work Letter are referred to as the "Leasehold Improvement Work" and "Leasehold Improvements."

6.2 Installation of Telecommunications and Other Equipment

Landlord and City acknowledge that Landlord shall complete the Leasehold Improvement Work without installation of telecommunications, data, and computer cabling facilities, and equipment. City shall be responsible for installing such facilities and equipment, provided that Landlord shall furnish access to City and its consultants and contractors to the main telephone service serving the floor(s) on which the Premises are located and all other parts of the Building for which access is needed for proper installation of all such facilities and equipment including, but not limited to, wiring. City shall have the right to enter the Premises and such other portions of the Building at reasonable times during the course of construction of the Leasehold Improvements in order to install such facilities and equipment. City and Landlord shall use their good-faith efforts to coordinate and schedule any such activities to allow the Leasehold Improvements and the installation of such facilities and equipment to be completed in a timely, coordinated, and cost-effective manner.

6.3 Construction of Improvements that Disturb or Remove Exterior Paint

Landlord, on behalf of itself and its successors, assigns, and Agents (defined in Section 23.5), shall comply with all requirements of the San Francisco Building Code Chapter 34 and all other applicable local, state, and Federal laws, including but not limited to the California and United States Occupational and Health Safety Acts and their implementing regulations, when the work of improvement or alteration disturbs or removes exterior or interior lead-based or "presumed" lead-based paint (as defined below). Landlord and its Agents shall give to City three (3) business days' prior notice of any disturbance or removal of exterior or interior lead-based or presumed lead-based paint. Landlord acknowledges that the required notification to the Department of Building Inspection regarding the disturbance or removal of exterior lead-based paint pursuant to Chapter 34 of the San Francisco Building Code does not constitute notification to City as Tenant under this Lease and similarly that notice under this Lease does not constitute notice under Chapter 34 of the San Francisco Building Code. Further, Landlord and its Agents, when disturbing or removing exterior or interior lead-based or presumed lead-based paint, shall not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding, or grinding without containment barriers or a High Efficiency Particulate Air filter ("HEPA") local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool; and (e) heat guns operating above 1,100 degrees Fahrenheit. Landlord covenants and agrees to comply with the requirements of Title 17 of the California Code of Regulations when taking measures that are designed to reduce or eliminate lead hazards. Under this Section, paint on the exterior or interior of buildings built before January 1, 1979 is presumed to be lead-based paint unless a lead-based paint test, as defined by Chapter 34 of the San Francisco Building Code, demonstrates an absence of lead-based paint on the interior or exterior surfaces of such buildings. Under this Section, lead-based paint is "disturbed or removed" if the work of improvement or alteration involves any action that creates friction, pressure, heat, or a chemical reaction upon any lead-based or presumed lead-based paint on a surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface.

7. ALTERATIONS

7.1 Alterations by City

City shall not make or permit any alterations, installations, additions, or improvements (collectively, "Alterations") to the Premises without first obtaining Landlord's consent, which Landlord shall not unreasonably withhold or delay. However, the installation of furnishings, fixtures, equipment, or decorative improvements, none of which affect the Building Systems or structural integrity of the Building, and the repainting and recarpeting of the Premises shall not constitute Alterations requiring Landlord's consent. Any Alterations permitted hereunder shall

be made at City's cost in compliance with applicable Laws (defined in Section 10.1). Landlord shall, without cost to itself, cooperate with City in securing building and other permits and authorizations needed in connection with any permitted Alterations. Landlord shall not be entitled to any construction or other administrative fee in connection with any Alteration. City shall not be required to remove any Alterations upon the expiration or sooner termination of this Lease unless Landlord notifies City in writing at the time Landlord approves such Alterations that they must be removed at the Expiration Date.

7.2 Title to Improvements

Except for City's Personal Property (defined in Section 7.3) and the Leasehold Improvements, all appurtenances, fixtures, improvements, equipment, additions, and other property permanently installed in the Premises as of the Commencement Date or during the Term shall be and remain Landlord's property. City may not remove such property unless Landlord consents thereto.

7.3 City's Personal Property

All furniture, furnishings, equipment, trade fixtures (including communication equipment), and articles of movable personal property installed in the Premises by or for the account of City and that can be removed without structural damage to the Premises (collectively, "City's Personal Property") shall be and remain City's property. At any time during the Term or at the expiration thereof, City may remove any of City's Personal Property, provided City shall repair any damage to the Premises resulting from such removal. Upon the expiration or earlier termination of this Lease, City shall remove City's Personal Property from the Premises in accordance with Section 20 (Surrender of Premises), below. Landlord acknowledges that some of City's Personal Property may be financed by an equipment lease financing, otherwise subjected to a security interest, or owned by an equipment company and leased to City. Landlord, upon City's reasonable request, shall execute and deliver any document required by any supplier, lessor, or lender in connection with the installation in the Premises of any items of City's Personal Property, pursuant to which Landlord waives any rights it may have or acquire with respect to City's Personal Property, so long as the supplier, equipment lessor or lender agrees that it (i) will remove City's Personal Property from the Premises within five (5) days after the Expiration Date (but if it does not remove City's Personal Property within such time it shall have waived any rights it may have had to City's Personal Property), and (ii) will repair any damage caused by the removal of City's Personal Property. Landlord shall recognize the rights of any supplier, lessor or lender who has an interest in any items of City's Personal Property to enter the Premises and remove such property at any time during the Term or within five (5) days after the Expiration Date.

7.4 Alteration by Landlord

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

8. REPAIRS AND MAINTENANCE; TAXES

8.1 Landlord's Repairs

Landlord shall repair and maintain, at its cost and in first-class condition, the exterior and structural portions of the Building, including, without limitation, the roof, foundation, bearing and exterior walls, utility stubs to the Building, concealed pipes and wiring, the plumbing and electrical systems, and other mechanical systems (but not communication systems, elevator(s), or

fire-sprinkler systems) of the Building (collectively, the "**Building Systems**"). Landlord shall also be responsible for repairs (such as interior paneling, wall, floor, or ceiling repairs, or repaving the parking areas or outside walkways) necessitated by, resulting from, or in connection with repairs, replacement, or maintenance of utility lines or other Building Systems. Without limiting the foregoing, Landlord shall maintain the Building in a clean, safe, and attractive manner and shall not permit any other persons to disturb or interfere with City's use of the Premises or permit to be done in or about the Premises anything that is illegal, is dangerous to persons or property, or constitutes a nuisance. Subject to Landlord's obligations to maintain the Building Systems, Tenant shall repair and maintain the Premises.

8.2 City's Repairs

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

8.3 Liens

City shall keep the Premises free from liens arising out of any work performed, material furnished or obligations incurred by City during the Term. Landlord shall have the right to post on the Premises any notices permitted or required by law or that are needed for the protection of Landlord, the Premises, or the Building, from mechanics' and material suppliers' liens. City shall give Landlord at least ten (10) days' prior notice of commencement of any repair or construction by City on the Premises.

8.4 Taxes

(a) Personal Property Taxes. City will pay all taxes levied and assessed against City's Personal Property that become payable during the Term. The parties intend that City's Personal Property will be assessed and billed separately from Landlord's real property. If City's Personal Property is assessed and taxed with Landlord's real property, Landlord will furnish City with a copy of the tax bill, a written statement setting forth the amount of personal-property taxes due from City, and the method of calculation of such amount. City will pay Landlord the portion of such taxes attributable to City's Personal Property not later than 10 days prior to the date of delinquency or 30 days after receipt of the billing from Landlord, whichever is later.

(b) Real Property Taxes. Subject to Tenant's obligations pursuant to pay all taxes levied against City's Personal Property, Landlord will pay all Real Property Taxes levied and assessed

against the Property prior to the date of delinquency. The term "Real Property Taxes" includes any form of real-estate taxes, general or special assessments, and any license fee, commercial-rental tax, improvement bonds, levy, or tax imposed on the Property by any authority having the direct power to tax, including any city, county, state, or federal government or any school, agricultural, sanitary, fire, street, drainage, or other improvement or assessment district of the governmental authority, as against (i) the legal or equitable interest of Landlord in the Property, (ii) Landlord's right to rent or other income from the Property, (iii) the act of entering into this Lease, or (iv) the occupancy of the Premises by City. If at any time during the Term the laws concerning Real Property Taxes are changed such that any other governmental imposition, however described, including a so-called value-added tax, is imposed on the Property or Landlord as a direct substitution, in whole or in part, for, or in addition to, any Real Property Taxes, Landlord will pay such imposition. Landlord will also be solely responsible for penalties and interest associated with Real Property Taxes, any tax that may be levied upon Landlord's net income, profits, or business or any personal-property taxes, gift, franchise, inheritance, estate, succession, capital levy, or transfer taxes that may be levied against any estate or interest of Landlord, and land-development fees, including assessments of any kind for utilities and special improvements installed in connection with the initial development of the Property.

9. UTILITIES AND SERVICES.

City shall be responsible for and pay the cost of all utilities and services for its use of the Premises.

10. COMPLIANCE WITH LAWS; PREMISES CONDITION

10.1 Premises Condition and Landlord's Compliance with Laws; Indemnity

Landlord represents and warrants to City, and covenants with City, as follows to the best of Landlord's knowledge: (a) the physical structure, fixtures, and permanent improvements of the Premises (including, without limitation, the Leasehold Improvements) and all portions of the Property and the Building along the path of travel to the Premises (including, but not limited to, the Building entrances, restrooms, elevators, lobbies, telephone banks, drinking fountains, and parking areas are now, and as of the Commencement Date will be, in compliance with the requirements of the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable federal, state, local, and administrative laws, rules, regulations, orders, and requirements intended to provide equal accessibility for persons with disabilities (collectively, "Disabilities Laws"); (b) the Building is not an unreinforced masonry building, and is now, and as of the Commencement Date will be, in compliance with all applicable federal, state, local, and administrative laws, rules, regulations, orders, and requirements relating to seismic safety (collectively, "Seismic Safety Laws"); (c) the Building and Building Systems serving the Premises are now, and as of the Commencement Date will be, in full compliance with all applicable federal, state, local, and administrative laws, rules, regulations, orders, and requirements relating to fire and life safety (including, without limitation, the San Francisco High-Rise Sprinkler Ordinance) (collectively, "Life Safety Laws"); (d) the Building and Building Systems serving the Premises are now, and as of the Commencement Date will be, in compliance with all other applicable federal, state, local, and administrative laws, rules, regulations, orders, and requirements; and (e) there are not now, and as of the Commencement Date will not be, any material physical or mechanical defects in the Premises, Building or the Building Systems that would materially adversely affect City's intended use of the Premises. Landlord shall at all times during the Term maintain, at its cost, the Property, Building, and the Building Systems serving the Premises in compliance with applicable present or future federal, state, local, and administrative laws, rules, regulations, orders, and requirements (collectively, "Laws"), including, without limitation, Disabilities Laws, Seismic Safety Laws, and Life Safety Laws. Without limiting Section 16.2 (Landlord's Indemnity), Landlord shall Indemnify (defined in Section 16.1) City against any and all Claims

(defined in Section 16.1) arising out of any failure of the Property, Building, Building Systems, or any portion thereof, to comply with applicable Laws as provided in this Section or any misrepresentation by Landlord under this Section.

10.2 City's Compliance with Laws; Indemnity

City shall use the Premises during the Term in compliance with applicable Laws, except that City shall not be required to make any structural alterations, additions, or other modifications in order to comply therewith unless such modifications are necessary solely because of any Alterations to the Premises made by City pursuant to Section 7 hereof and such modifications are not otherwise Landlord's responsibility under this Lease. City shall be responsible for complying with any requirement of the Disabilities Laws relating to the placement of City's furniture or other City Personal Property and the operation of any programs in the Premises, other than any requirement relating to the physical structure, fixtures, and permanent improvements of the Premises or portions of the Property or Building along the path of travel to the Premises, which are Landlord's obligation as provided in Section 10.1 above. Without limiting Section 16.1 (City's Indemnity), City shall Indemnify Landlord against any and all Claims arising out of City's failure to comply with all applicable Laws as provided in this Section.

10.3 City's Compliance with Insurance Requirements

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

11. SUBORDINATION

(a) Without the necessity of any additional document being executed by City for the purpose of effecting a subordination, and subject to subsection (b) below, this Lease shall be subject and subordinate at all times to the following (each an "Encumbrance"): (i) any reciprocal easement agreements, ground leases, or other underlying leases that may hereafter be executed affecting Landlord's interest in the Property, or any portion thereof, and (ii) the lien of any mortgages or deeds of trust and renewals, modifications, consolidations, replacements, and extensions of any of the foregoing that may hereafter be executed by Landlord in any amount for which any part of the Property, any ground lease or underlying lease, or Landlord's interest or estate therein is subject, it being acknowledged that Landlord may replace, renew, or modify any Encumbrance affecting the Property at any time during the Term. Notwithstanding the foregoing, if the ground lessor, mortgagee, trustee, or holder of any such mortgage or deed of trust elects to have City's interest in this Lease be superior to any such instrument, then upon notice thereof to City, this Lease shall be deemed superior, whether this Lease was executed before or after the date of said instrument or the recording thereof. At City's request, the holder of the Encumbrance shall enter into a subordination and nondisturbance agreement with City in a form reasonably acceptable to City evidencing such subordination or superiority of this Lease.

(b) In the event any mortgage or deed of trust to which this Lease is subordinate is foreclosed or a deed in lieu of foreclosure is given to the mortgagee or beneficiary,

or in the event any ground lease or underlying lease to which this Lease is subordinate is terminated, this Lease shall not be barred, terminated, cut off, or foreclosed nor shall the rights and possession of City hereunder be disturbed if City shall not then be in default in the payment of rental or other sums due hereunder or otherwise be in default under the terms of this Lease. City shall attorn to and become the tenant of the successor-in-interest to Landlord, provided that City has received proper notice of such succession and the name and address of the successor landlord. City's covenant under subsection (a) above to subordinate this Lease to any Encumbrance or other hypothecation hereafter executed is conditioned upon each such senior instrument containing the commitments specified in this subsection (b). The provisions of this Section shall be self-operative and no further instrument shall be required other than as provided in this Section. City agrees, however, to execute upon request by Landlord and in a form reasonably acceptable to City, any additional documents evidencing the priority or subordination of this Lease with respect to any such Encumbrance as provided herein.

12. DAMAGE AND DESTRUCTION

If the Premises, the Building, or any Building Systems are damaged by fire or other casualty, Landlord shall repair the same without delay (and if Landlord is then carrying insurance on the Leasehold Improvements or if City at its sole option makes funds available to Landlord, Landlord shall also repair the Leasehold Improvements), provided that such repairs can be made under applicable laws within sixty (60) days after Landlord obtains all necessary permits for such repairs but not later than two hundred ten (210) days after the date of such damage (the "Repair Period"). In such event, this Lease shall remain in full force and effect, except that City shall be entitled to an abatement of Rent while such repairs are being made. Such abatement in Rent shall be based upon the extent to which such damage and the making of such repairs interfere with City's business in the Premises. Landlord's repairs shall not include, and the Rent shall not be abated as a result of, any damage by fire or other cause to City's Personal Property or any damage caused by the negligence or willful misconduct of City or its Agents.

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

Notwithstanding the foregoing, in the event the Premises are destroyed or substantially damaged (as defined below) by reason of flood, earthquake, or terrorist attack, and such damage or substantial destruction is not fully covered by insurance proceeds payable under the insurance policies Landlord is required to carry hereunder (excluding any deductible, for which Landlord shall be responsible), Landlord may terminate this Lease by notice to City within thirty (30) days of the date Landlord receives notice that such damage is not covered by insurance. Such notice from Landlord shall include adequate written evidence of the denial of insurance coverage. If Landlord does not elect to terminate this Lease as provided above, this Lease shall remain in full force and effect, and Landlord shall repair and restore the Premises as provided above.

If at any time during the last six (6) months of the Term of this Lease there is substantial damage (as defined below) that Landlord would be required to repair hereunder, Landlord or City may, at the respective option of each, terminate this Lease as of the date such damage occurred by giving notice to the other party of its election to do so within thirty (30) days after

the date of such damage; provided, however, Landlord may terminate this Lease only if it would take more than thirty (30) days to repair such damage.

For the purpose of this Section, the Property and the Premises will be deemed to be "substantially damaged" if either (a) Landlord reasonably determines that damage to the Premises cannot be repaired within three (3) years of the date of the casualty or (b) the hard costs of restoration exceed sixty-five percent (65%) of the hard costs of replacing the Building (exclusive of costs to repair or replace the Building's footings and foundation) in its entirety.

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

13. EMINENT DOMAIN

13.1 Definitions

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

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

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

13.2 General

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

13.3 Total Taking; Automatic Termination

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

13.4 Partial Taking; Election to Terminate

(a) If there is a Taking of any portion (but less than all) of the Premises, then this Lease shall terminate in its entirety if all of the following exist: (i) the partial Taking, in City's reasonable judgment, renders the remaining portion of the Premises untenable or unsuitable for continued use by City for its intended purposes or otherwise materially adversely affects City's normal operations in the Premises, (ii) the condition rendering the Premises

untenantable or unsuitable either is not curable or is curable but Landlord is unwilling or unable to cure such condition, and (iii) City elects to terminate.

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

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

13.5 Rent; Award

Upon termination of this Lease pursuant to an election under Section 13.4 above, then: City's obligation to pay Rent shall continue up until the date of termination, and thereafter shall cease, except that Rent shall be reduced as provided in Section 13.6 below for any period during which this Lease continues in effect after the Date of Taking. Landlord and City may separately pursue their claims against the condemning authority. City will be entitled to receive, and Landlord will have no right to pursue for itself, any award for claims based on (a) the adjusted book value (deemed to be the amortized or depreciated value for federal-income-tax purposes) of the construction of the Leasehold Improvements (less the amortized principal amount of amounts outstanding and unpaid to Landlord pursuant to Section 3.4) and Alterations, (b) loss of or damage to City's Personal Property, (c) City's cost of removal and relocation, (d) loss to City because of interruption of or damage to its business, and (e) any leasehold value for the difference between the market value of the Premises for the remainder of the Term above the value, at the Date of Taking, of the Rent payable for the remainder of the Term. Tenant will have no right to pursue a claim based upon the amortized principal amount of amounts outstanding and unpaid to Landlord pursuant to Section 3.4 or the residual value of the Property after expiration of the Term or pursue claims or retain any award to which Landlord is entitled so as inequitably to diminish Landlord's award.

13.6 Partial Taking; Continuation of Lease

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

13.7 Temporary Taking

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

occupancy of the Premises during the Term up to the total Rent owing by City for the period of the Taking.

14. ASSIGNMENT AND SUBLETTING

Except as provided in this Section below, City shall not directly or indirectly sell, assign, encumber, pledge, or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Premises or its leasehold estate hereunder or permit all or any portion of the Premises to be occupied by anyone other than itself or sublet all or any portion of the Premises (any such action, a "Transfer"), without Landlord's prior consent in each instance, which shall not be unreasonably withheld or delayed. Reasonable grounds for denying consent may include: (a) the transferee's proposed use is not consistent with the character or quality of the Building, (b) the transferee's financial condition is reasonably deemed by Landlord to be inadequate to support the financial obligations to be assumed under this Lease, or (c) Landlord's consent to the proposed Transfer would result in the material breach by Landlord of another lease or agreement to which Landlord is a party, is effective on the date that Landlord's consent is requested, and will continue to be in effect on the date the proposed Transfer will become effective. Notwithstanding the foregoing, City shall have the right from time to time, upon notice to but without the consent of Landlord, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission, or agency of City for uses permitted under this Lease. Assignments or transfers to any City department, commission, or agency that will result in uses other than general office use and accompanied by regular visits to such offices by members of the general public will require Landlord's prior consent, which shall not be unreasonably withheld or delayed.

15. DEFAULT; REMEDIES

15.1 Events of Default by City

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

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

(b) City abandons the Premises (within the meaning of California Civil Code Section 1951.3); or

(c) City's failure to perform any other covenant or obligation of City hereunder (not involving the payment of money) and to cure such non-performance within thirty (30) days of the date of receipt of notice thereof from Landlord, provided that if more than thirty (30) days are reasonably required for such cure, no event of default shall occur if City commences such cure within such period and diligently prosecutes such cure to completion.

15.2 Landlord's Remedies

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

(a) The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate City's

right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that City proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2.

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

15.3 Landlord's Default

If Landlord fails to perform any of its obligations under this Lease, then (without limiting any of City's other cure rights under this Lease) City may, at its sole option, cure such default at Landlord's expense if such default continues after ten (10) days from the date City gives notice to Landlord of City's intention to perform such cure. However, in the case of a default which for causes beyond Landlord's control (excluding any financial inability to perform) cannot with due diligence be cured within such ten (10)-day period, such ten (10)-day period shall be extended if Landlord, promptly upon receipt of City's notice, advises City of Landlord's intention to take all steps required to cure such default, and Landlord promptly commences such cure and diligently prosecutes the same to completion. Subject to the other provisions of this Lease relating to abatement of Rent, if Landlord fails to cure any default within the cure period provided above, then, whether or not City elects to cure Landlord's default as provided herein, the Base Rent and any other charges hereunder shall be abated based on the extent to which such default interferes with City's ability to carry on its business at the Premises. Notwithstanding the foregoing, if any such default by Landlord continues for sixty (60) days and impairs City's ability to carry on its business in the Premises, then City shall have the right to terminate this Lease upon notice to Landlord within thirty (30) days after the expiration of such sixty (60)-day period. City's rights hereunder and under Section 3.3 (Delay in Delivery of Possession), and Section 5.3 (Interference with Access), shall not limit in any way any of its other rights and remedies hereunder or at law or in equity.

16. INDEMNITIES

16.1 City's Indemnity

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

16.2 Landlord's Indemnity

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

17. INSURANCE

17.1 City's Self-Insurance

Landlord acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any insurance with respect to this Lease. City assumes the risk of damage to any of City's Personal Property, except for damage caused by Landlord or its Agents.

17.2 Landlord's Insurance

At all times during the Term, Landlord shall keep the Building (excluding the land upon which it is located) insured against damage and destruction by fire, vandalism, malicious mischief, sprinkler damage, and other perils customarily covered under a cause of loss-special form property insurance policy in an amount equal to one hundred percent (100%) of the full insurance replacement value (replacement cost new, including, debris removal and demolition) thereof. Landlord shall, upon request by City, provide to City a certificate of insurance issued by the insurance carrier, evidencing the insurance required above. The certificate shall expressly provide that the policy is not cancelable or subject to, reduction of coverage or otherwise subject to modification except after thirty (30) days' prior notice to City. Landlord hereby waives any rights against City for loss or damage to the Premises or any other part of the Property, to the extent covered by Landlord's property insurance.

In addition, Landlord, at no cost to City, shall procure and keep in effect at all times during the Term insurance as follows: (a) Commercial general liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, independent contractors, broad-form property damage, fire damage legal liability (of not less than Fifty Thousand Dollars (\$50,000)), personal injury, products and completed operations, and explosion, collapse, and underground (XCU); and (b) Worker's Compensation Insurance with Employer's Liability Limits not less than One Million Dollars (\$1,000,000) each accident. Landlord shall not be required to obtain or carry insurance that covers damages caused by earthquakes.

17.3 Waiver of Subrogation

Notwithstanding anything to the contrary contained herein, Landlord hereby waives any right of recovery against City for any loss or damage sustained by Landlord with respect to the Building or the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of City, to the extent such loss or damage is covered by insurance which Landlord is required to purchase under this Lease

or is otherwise actually recovered from valid and collectible insurance covering Landlord. Landlord shall obtain a waiver of subrogation endorsement from each insurance carrier issuing policies relative to the Building or the Premises; provided, Landlord's failure to do so shall not affect the above waiver.

18. ACCESS BY LANDLORD

Landlord reserves for itself and any designated Agent the right to enter the Premises at all reasonable times and, except in cases of emergency (in which event Landlord shall give any reasonable notice), after giving City at least forty eight (48) hours' advance written or oral notice, for the purpose of (a) inspecting the Premises, (b) supplying any service to be provided by Landlord hereunder, (c) showing the Premises to any prospective purchasers, mortgagees or, during the last six (6) months of the Term of this Lease, tenants, (d) posting notices of non-responsibility, and (e) altering, improving or repairing the Premises and any portion of the Building, and Landlord may for that purpose erect, use, and maintain necessary structures in and through the Premises where reasonably required by the character of the work to be performed, provided that the entrance to the Premises shall not be blocked thereby, and further provided that City's use shall not be interfered with. Notwithstanding the foregoing, after the Commencement Date, Landlord and its Agents will not be entitled to enter any area of the Premises without City's prior consent if City determines that access to such area should be limited based on concerns related to law-enforcement operations, security, or safety.

19. ESTOPPEL CERTIFICATES

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

20. SURRENDER OF PREMISES

Upon the expiration or sooner termination of this Lease, City shall surrender the Premises to Landlord in good order and condition, reasonable use and wear and damage by fire or other casualty excepted. Within five (5) days after the Expiration Date, City shall remove from the Premises all of City's Personal Property, City's telecommunications, data, and computer facilities and any Alterations City desires or is required to remove from the Premises pursuant to the provisions of Section 7.1 (Alterations by City), above. City shall repair or pay the cost of repairing any damage to the Premises or the Building resulting from such removal. Subject to Section 23.23, but otherwise notwithstanding anything to the contrary in this Lease, City shall not be required to demolish or remove from the Premises any of the Leasehold Improvements. City's obligations under this Section shall survive the expiration or earlier termination of this Lease.

21. HAZARDOUS MATERIALS

21.1 Definitions

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

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

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

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

21.2 Landlord's Representations and Covenants

Landlord represents and warrants to City that, to the best of Landlord's knowledge, the following statements are true and correct and will be true and correct as of the Commencement Date: (a) the Property is not in violation of any Environmental Laws; (b) the Property is not now, nor has it been, used for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material, except for the use of such substances in such limited quantities as are customarily used in offices, which limited use has been and is in compliance with Environmental Laws; (c) the Property does not consist of any landfill or contain any underground storage tanks; (d) the Building does not consist of any asbestos-containing materials or building materials that contain any other Hazardous Material, nor do the Premises contain any lead-based paints; (e) there has been and is no Release of any Hazardous Material in the Building or in, on, under or about the Property; and (f) the Property is not subject to any claim by any governmental regulatory agency or third party related to the Release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in the Building or in, on, under or about the Property, or the migration of Hazardous Material from or to other real property. Subject to City's obligations under this Section below, Landlord shall maintain the Property throughout the Term in compliance with all Environmental Laws that could affect the health, safety, and welfare of City's employees or City's use, occupancy or enjoyment of the Premises for their intended purposes.

21.3 Landlord's Environmental Indemnity

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

21.4 City's Covenants

Neither City nor its Agents shall cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or the Property, or transported to or from the Premises or the Property, in violation of any Environmental Laws, provided that

City may use such substances in such limited amounts as are customarily used in offices or law enforcement operational and training facilities so long as such use is in compliance with all applicable Environmental Laws.

21.5 City's Environmental Indemnity

If City breaches its obligations contained in the preceding Section 21.4, or if City or its Agents cause the Release of Hazardous Material from, in, on or about the Premises or the Property, then City shall Indemnify Landlord against any and all Claims arising during or after the Term of this Lease as a result of such Release, except to the extent Landlord or its Agents is responsible for the Release. The foregoing Indemnity shall not include any Claims resulting from the non-negligent aggravation by City, its Agents or Invitees (defined in Section 23.5) of physical conditions of the Premises, or other parts of the Property, existing prior to City's occupancy.

22. SPECIAL PROVISIONS

22.1 First Right of Refusal to Purchase

(a) **Purchase Rights.** If Landlord decides to sell or exchange the Property during the Term, Landlord shall first offer the Property to City at the purchase price that the Property will be offered to the real estate market or as otherwise provided in the offer to exchange (the "**Listing Price**"). The Listing Price shall be stated in a notice ("**Sale Notification**") from Landlord to City. City shall have forty-five (45) days from the date it receives the Sale Notification to submit either an offer to purchase at the Listing Price or a all-cash-on-closing counteroffer at a lesser price and otherwise upon business terms consistent with this Section and agreeable to the parties (the "**City's Counteroffer**").

City's obligation to purchase the Property shall be subject to (i) the approval of the Board of Supervisors and the Mayor within seventy five (75) days of the parties' mutual execution and delivery of a purchase agreement with respect to the Property ("**Purchase Agreement**"), (ii) the written commitment of a title company reasonably acceptable to City to issue ALTA Title Insurance acceptable to City, and (iii) City's successful issuance of debt to fund the purchase.

If City does not agree to purchase the property for the Listing Price or make a City's Counteroffer within the forty-five (45)-day period, then this right of first refusal shall terminate and Landlord shall be free to sell the Property to any person whomever and upon any terms whatsoever without any obligation to City. If, however, City refuses to offer the Listing Price, but makes a City's Counteroffer within the forty-five (45) day period that is not accepted by Landlord, then Landlord may sell the property, free of any claim of City, to any potential buyer who is willing to pay a gross purchase price (an amount determined without regard to any brokerage commission liability, but reduced by any Landlord credits or give backs to the potential buyer for such items as existing building conditions or improvements) exceeding the amount of City's Counteroffer.

In the event Landlord is unable to sell the Property for more than City Counteroffer, Landlord may give another Sale Notification with a reduced purchase price and the above procedure for City's first right of refusal (the "**First Right of Refusal**") shall be repeated.

THIS FIRST RIGHT OF REFUSAL SHALL TERMINATE AND BE OF NO FURTHER EFFECT IF A SALE OF THE PROPERTY TO AN ARM'S-LENGTH THIRD PARTY IS CONSUMMATED IN ACCORDANCE WITH THE FOREGOING PROVISIONS.

(b) **Due Diligence.** Within (3) days of the mutual execution and delivery of a Purchase Agreement, Landlord shall deliver copies of all reports, appraisals, and other

documents relating to the Property in Landlord's possession and not previously delivered to City. Landlord shall cooperate with City in its due diligence investigation.

(c) **Closing.** Close of escrow shall occur on or before one hundred and fifty-five (155) days from the date of City's notice of the approval by City's Board of Supervisors and Mayor of the purchase. At closing, City shall pay for the cost of the premium of the extended coverage title insurance policy, one half the escrow fees, and one half of the other typical closing expenses. Landlord shall pay transfer taxes, one half the escrow fees, and one half the other typical closing expenses such as notary fees and overnight express charges. Landlord shall deliver the following (among other customary items) through a mutually agreeable escrow company:

- (i) a grant deed conveying ALTA insurable title subject only to taxes not yet due and payable and other exceptions acceptable to City,
- (ii) a bill of sale for all personal property on the Property, and
- (iii) a written disclosure of all facts known to Landlord (including any and all property inspection reports) that affect the marketability or City's intended use of the Property.

(d) **1031 Exchanges** City agrees to cooperate with Landlord and any escrow holder or exchange facilitator selected by Landlord in facilitating a tax-deferred exchange pursuant to the Internal Revenue Code of 1986 undertaken by Landlord with respect to the Property, provided that Landlord shall indemnify the City against all costs and liabilities incurred by the City in connection with any such exchange, and provided further that: (i) consummation or accomplishment of such an exchange shall not be a condition precedent or a condition subsequent to either party's obligations under this Lease; (ii) Landlord shall effect the exchange through an assignment of this Lease, or its rights under this Lease, to a qualified intermediary without release of Landlord from any liability hereunder; (iii) Landlord shall pay any additional costs that would not otherwise have been incurred by Landlord or the City had Landlord not undertaken such exchange; and (iv) the City shall not be required to take an assignment of the purchase for purposes of consummating the exchange. Neither party by this agreement or acquiescence to an exchange shall have its rights under this Lease affected or diminished in any manner or be responsible for compliance with or be deemed to have warranted to the other party that the exchange in fact complies with Section 1031 of the Code. Landlord shall have the right to extend the closing date by two (2) periods of up to thirty (30) days each in order to effectuate a property exchange; provided, Landlord gives City written notice of such extension not less than ten (10) days prior to such closing date. The Closing Date shall be the date proposed by Landlord, provided, City shall have a period of not less than thirty (30) days following notification to deposit funds into escrow and otherwise satisfy its closing obligations pursuant to this Section 22.

23. GENERAL PROVISIONS

23.1 Notices

Except as otherwise specifically provided in this Lease, any notice, consent, approval, or other communication to be given or required under this Lease shall be in writing and given by delivering such notice or other communication in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: (a) City at Tenant's address set forth in the Basic Lease Information; or (b) Landlord at Landlord's address set forth in the Basic Lease Information; or (c) such other address as either Landlord or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice or other communication given in the manner prescribed in this Section will be deemed to have been given

and received at the date and time of receipt, attempted delivery, or rejected delivery. For convenience of the parties, copies of notices may also be given by telefacsimile to the telefacsimile number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile.

23.2 No Implied Waiver

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

23.3 Amendments

Neither this Lease nor any terms or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant, and condition of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Whenever this Lease requires or permits the giving by City of its consent or approval, the Director of Property, or his or her designee, shall be authorized to provide such approval, except as otherwise provided by applicable law, including the City's Charter. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the exhibits to this Lease, shall be subject to the mutual written agreement of City and Landlord, and City's agreement may be made upon the sole approval of the Director of Property, or his or her designee; provided, however, material amendments or modifications to this Lease (a) changing the legal description of the Premises, (b) increasing the Term, (c) increasing the Rent, (d) changing the general use of the Premises from the use authorized under Section 5.1 of this Lease, and (e) any other amendment or modification which materially increases City's liabilities or financial obligations under this Lease shall additionally require the approval of City's Board of Supervisors.

23.4 Authority

Landlord represents and warrants to City that the execution and delivery of this Lease by Landlord has been duly authorized and does not violate any provision of any agreement, law or regulation to which Landlord or the Property is subject.

23.5 Parties and Their Agents; Approvals

If applicable, the word "Landlord" as used in this Lease shall include the plural as well as the singular. As used in this Lease, the term "Agents" when used with respect to either party shall include the agents, employees, officers, and contractors of such party, and the term "Invitees" when used with respect to City shall include the clients, customers, invitees, guests, licensees, assignees, or subtenants of City. All approvals, consents, or other determinations permitted or required by City under this Lease shall be made by or through City's Director of

Property unless otherwise provided in this Lease, subject to any applicable limitations in City's Charter and Administrative Code.

23.6 Interpretation of Lease

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

23.7 Successors and Assigns

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

23.8 Brokers

Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, 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 lease contemplated herein, except for the broker, if any, identified in the Basic Lease Information, whose commission, if any is due, shall be the sole responsibility of Landlord pursuant to a separate written agreement between Landlord and such broker, and City shall have no liability 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 claim shall be responsible for such commission or fee and shall indemnify the other party from any and all Claims incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Lease.

23.9 Severability

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

23.10 Governing Law

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

23.11 Entire Agreement

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

23.12 Attorneys' Fees

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

23.13 Holding Over

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

23.14 Cumulative Remedies

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

23.15 Time of Essence

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

23.16 Survival of Indemnities

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

23.17 Signs

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

23.18 Quiet Enjoyment and Title

Landlord covenants and represents that it has full right, power, and authority to grant the leasehold estate hereunder, and covenants that City, upon paying the Rent hereunder and performing the covenants hereof, shall peaceably and quietly have, hold, and enjoy the Premises and all appurtenances during the full Term of this Lease as against all persons or entities claiming by and through Landlord or on account of any action, inaction or agreement of Landlord or its Agents. Without limiting the provisions of Section 16.2 (Landlord's Indemnity), Landlord agrees to indemnify City and its Agents against Claims arising out of any assertion that would interfere with City's right to quiet enjoyment as provided in this Section.

23.19 Bankruptcy

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

23.20 Transfer of Landlord's Interest

Landlord shall have the right to transfer its interest in the Property, the Building, or this Lease to any other financially responsible person or entity. In the event of any such transfer, Landlord shall be relieved, upon notice to City of the name and address of Landlord's successor,

of any obligations accruing hereunder from and after the date of such transfer and upon delivering to City an express assumption by the transferee of all of Landlord's obligations hereunder.

23.21 Non-Liability of City Officials, Employees, and Agents

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

23.22 MacBride Principles - Northern Ireland

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

23.23 Controller's Certification of Funds

The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of City's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the City to pay or expend money under this Lease unless City's Controller first certifies, pursuant to Section 3.105 of City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of City after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of Rent and any other payments required under this Lease are not appropriated, then City may terminate this Lease, without penalty, liability or expense of any kind to City, as of the last date on which sufficient funds are appropriated. Subject to the foregoing, City shall use its reasonable efforts to give Landlord at least nine (9) months' advance notice of City's intent to terminate the Lease pursuant to this Section 23.23 and reimburse Landlord fully for the unamortized cost of the Tenant Improvements paid for by Landlord prior to vacating Premises. If the Lease is terminated pursuant to this Section 23.23, City shall be responsible for restoring the Premises to its original configuration or to a configuration designated by Landlord, whichever option is least expensive, upon Landlord's reasonable determination that the Tenant Improvements do not provide economic utility to other potential users.

23.24 Prevailing Wages for Construction Work

Landlord agrees that any person performing labor in the construction of the Leasehold Improvements or other improvements to the Premises that Landlord provides under this Lease shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Landlord shall include, in any contract for construction of such Leasehold Improvements or other improvements to the Premises, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of any Leasehold Improvements or other improvements to the Premises.

23.25 Non Discrimination in City Contracts and Benefits Ordinance

(a) Covenant Not to Discriminate

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

(b) Subcontracts

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

(c) Non-Discrimination in Benefits

Landlord does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension, and retirement benefits specified above within the United States, between employees with domestic partners and employees with spouses, and/or between domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the condition set forth in Section 12.B2(b) of the San Francisco Administrative Code.

(d) HRC Form

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

(e) Incorporation of Administrative Code Provisions by Reference

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

violation of the provisions of this Lease may be assessed against Landlord and/or deducted from any payments due Landlord.

23.26 Tropical Hardwood and Virgin Redwood Ban

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

(b) City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

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

23.27 Bicycle Storage Facilities

Article 1.5, Section 155.1, of the San Francisco Planning Code (the "Planning Code") requires the provision of bicycle storage at City-leased buildings at no cost to Landlord and if funds are available. In the event public and/or private donations, grants, or other funds become available, at any time during the Term of this Lease including any extension thereof, City may, by giving a 60-day advanced notice to Landlord, install compliant bicycle storage in the Building garage. City shall pay the monthly rent value for any such parking spaces used for such bicycle parking, or Landlord also agrees that City may install bicycle racks in other location(s) in front of the Building, which are required to meet the Class 1 and/or Class 2 requirements of the Planning Code. Landlord, at no cost to Landlord, shall reasonably cooperate with City regarding the location of such spaces in furtherance of the implementation of such requirements of the Planning Code.

23.28 Resource-Efficient City Buildings and Pilot Projects

Landlord acknowledges that City has enacted San Francisco Environment Code Sections 700 to 707 relating to resource-efficient City buildings and resource-efficient pilot projects. Landlord hereby agrees that it shall comply with all applicable provisions of such code sections.

23.29 Counterparts

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

23.30 Effective Date

The date on which this Lease shall become effective (the "Effective Date") is the date upon which (a) City's Mayor and Board of Supervisors, in their sole and absolute discretion, adopt a resolution approving this Lease in accordance with all applicable laws and (b) this Lease is duly executed by the parties hereto.

23.31 Certification by Landlord

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

23.32 Sunshine Ordinance

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

23.33 Conflicts of Interest

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

23.34 Notification of Limitations on Contributions

Through its execution of this Lease, Landlord acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with City for the selling or leasing of any land or building to or from City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three (3) months has elapsed from the date the contract is approved by City's elective officer, or the board on which that elective officer serves.

23.35 Preservative-Treated Wood Containing Arsenic

As of July 1, 2003, Landlord may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code, Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "**preservative-treated wood containing arsenic**" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Landlord may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Landlord from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "**saltwater immersion**" shall mean

a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

23.36 Food Service Waste Reduction

Landlord agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Lease as though fully set forth. This provision is a material term of this Lease. By entering into this Lease, Landlord agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Landlord agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Lease was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Landlord's failure to comply with this provision.

23.37 Memorandum of Lease

On the Effective Date, Landlord and City shall execute the memorandum of lease in the form attached hereto as Exhibit D (the "**Memorandum of Lease**"), and Landlord shall cause the Memorandum of Lease to be recorded in the Official Records of the City and County of San Francisco within two (2) business days thereafter. Upon termination of the First Right of Refusal, City shall execute in recordable form such documents as reasonably requested by Landlord to establish that the Property is no longer subject to the First Right of Refusal.

23.38 Building Occupancy Resumption Program

The City's Department of Building Inspection ("**DBI**") has created a Building Occupancy Resumption Program ("**BORP**") to permit building owners to pre-certify private inspectors to perform building-safety assessments following an earthquake or other catastrophic event. The purpose of BORP is to allow quick and thorough structural damage evaluations by qualified persons so as to facilitate prompt reoccupancy of buildings following such catastrophies. To participate in BORP, building owners must submit and maintain a BORP plan, and enter into an agreement with qualified inspectors, approved by DBI. Upon approval, DBI will send the building owner verification of BORP participation and will place the building on DBI's BORP list. Additional information about BORP can be found on the DBI section of City's website at http://www.sfgov.org/site/dbi_page.asp?id=11515. As a material part of the consideration for this Lease, Landlord covenants and agrees to participate in BORP and to keep and maintain the Building on DBI's BORP list throughout the Term.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION **APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY.** THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS LEASE BY ANY DEPARTMENT,

COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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

LANDLORD:

1415 16TH STREET ASSOCIATES, LLC,

a California limited liability company

By: 

DAVID O'KEEFE

Its: Managing Member



KARI KRANEN O'KEEFE

CITY:


CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: 

AMY L. BROWN

Director of Property

RECOMMENDED:



HEATHER FONG, Chief of Police

San Francisco Police Department

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

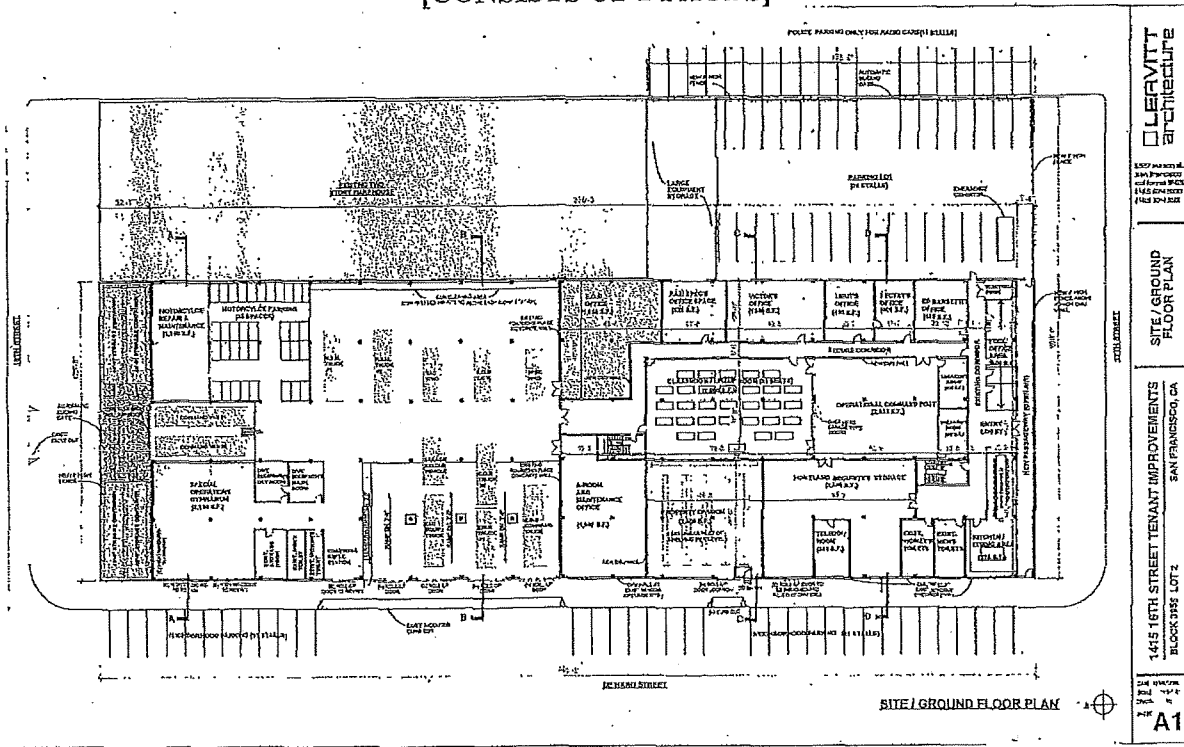
By: 

Deputy City Attorney

EXHIBIT A

FLOOR PLAN(S)

[CONSISTS OF 2 PAGES]



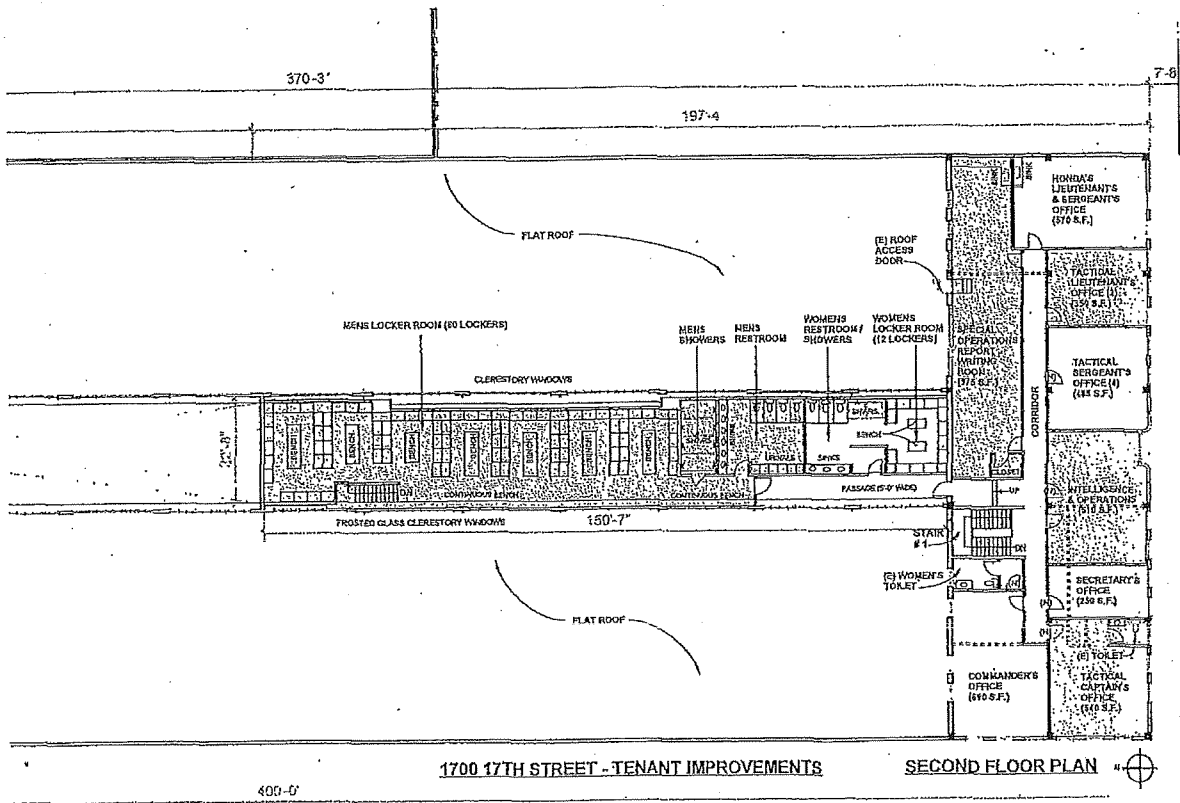


EXHIBIT B

NOTICE OF COMMENCEMENT DATE

[Date]

Ms. Amy L. Brown
Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

RE: Acknowledgement of Commencement Date, Lease Between 1415 16TH STREET ASSOCIATES, LLC (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (City), for premises known as 1700-1740 17th Street and 1415 16th Street San Francisco, California.

Dear Ms. Brown:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Section 3.2 of the Lease) is _____, 200_.

Please acknowledge your acceptance of this letter by signing and returning a copy of this letter.

Very truly yours,

1415 16TH STREET ASSOCIATES, LLC, a
California limited liability company

By: _____
DAVID O'KEEFFE,
Managing Member

Accepted and Agreed

By: _____
Amy L. Brown
Director of Property

Dated: _____

EXHIBIT C

WORK LETTER

1700-1740 17th Street and 1415 16th Street, San Francisco, CA

This Work Letter is part of the Office Lease dated as of July 18, 2008, (the "**Lease**"), executed concurrently herewith, by and between 1415 16th STREET ASSOCIATES, LLC, as Landlord, and THE CITY AND COUNTY OF SAN FRANCISCO, as Tenant, covering certain premises described in the Lease. All terms that are capitalized but not defined herein shall have the same meanings given to them in the Lease. The provisions of the Lease shall apply to this Work Letter, except that if there is any conflict between the provisions of this Work Letter and any provision of the Lease, the provision of this Work Letter shall control.

Landlord, at its cost and expense (except as otherwise specifically set forth herein), and through its general contractor approved by City (the "**Contractor**"), shall furnish and install within the Premises the improvements and work shown on the Construction Documents finally approved by City pursuant to Paragraph 1 below (the "**Leasehold Improvements**" and the "**Leasehold Improvement Work**"), in accordance with the provisions of this letter.

1. Plans and Specifications

a. Schematic Design Documents. City and Landlord hereby approve the schematic design plans for the Leasehold Improvement Work dated May 12, 2008, prepared by Leavitt Architecture Inc. (the "**Schematic Design Documents**") in accordance with the program requirements of City; provided, however, such approval shall not limit Landlord's obligations hereunder.

b. Design Development Documents. Based on the approved Schematic Design Documents and any adjustments approved by City, on or before September 1, 2008, Landlord shall have caused its architect or space planner approved by City (the "**Architect**") and its qualified and licensed engineer approved by City (the "**Engineer**") to prepare and submit to City for its approval plans and specifications expanding in greater detail the representations of the Schematic Design Documents and fixing and describing the size and character of the Leasehold Improvements, including, without limitation, architectural, structural, mechanical, electrical, fire and life safety systems, materials, and such other elements as may be appropriate, together with fully developed floor plans, interior elevations, reflected ceiling plans, and wall and building sections (collectively, the "**Design Development Documents**"). The Design Development Documents shall show, without limitation, the following:

- i. location of all demolition;
- ii. location and type of all partitions;
- iii. location and type of all doors, with door hardware specifications;
- iv. location of telephone equipment room, with all special electrical and cooling requirements;
- v. location and type of all electrical outlets, switches, telephone outlets, and lights;

vi. location and type of all computer and other equipment requiring special electrical requirements;

vii. location, weight-per-square-foot and description of any heavy equipment or filing system exceeding 50 pounds per-square-foot live and dead load;

Premises;

viii. requirements for special air conditioning or ventilation for the

ix. location of all heating and air conditioning ducts;

x. location, type, and color of floor covering;

xi. location, type, and color of all window treatment;

xii. ceiling plans including light fixtures;

xiii. location of sprinklers;

xiv. location, type, and color of wall covering;

xv. location, type, and color of paint or finishing;

xvi. location and type of plumbing;

xvii. location and type of kitchen equipment;

xviii. disabled accessibility standards for ingress and egress to the Building, including any improvements to the lobbies, corridors, drinking fountains, telephone banks, elevators, elevator vestibules, stairs, stair vestibules, and restrooms on all floors of the Building and exterior access improvements such as ramps, dedicated parking spots, signs, and accessible paths of travel;

xix. any modifications needed to increase the existing raised floor areas;

xx. location, capacity, and type of water tower or chilling equipment or air conditioning equipment;

xxi. location and type of back up generator;

xxii. critical dimensions for construction; and

xxiii. other interior improvement work required by City.

The Design Development Documents shall be subject to approval by City in accordance with Paragraph 1.e below.

c. Construction Documents. Based on the approved Design Development Documents and any further adjustments approved by City, on or before September 1, 2008, Landlord shall cause its Architect and Engineer to prepare and submit to City for its approval final plans, specifications, and working drawings for the Leasehold Improvements, setting forth in detail all aspects of the design, function, and construction of the Leasehold Improvements, in form sufficient for bidding of all elements of construction, and in conformity with all of the requirements of this Work Letter (collectively, the "**Construction Documents**"). Such

Construction Documents shall be subject to approval by City in accordance with Paragraph 1.e below.

d. Design in Accordance with City's Requirements. City has prepared and submitted to Landlord program documents that outline City's space requirements for the Premises. Landlord's Architect shall design the Premises and prepare all plans and specifications hereunder, including the Design Development Documents and Construction Documents, in conformity with such program documents. Landlord's Architect shall consult and hold periodic meetings with City and its architectural consultants and space planners, as needed, in the preparation of the Design Development Documents and Construction Documents.

e. City's Approval of Plans. The Design Development Documents and Construction Documents (and any Landlord Change Orders thereto, as described below) shall be subject to City's approval, which approval shall not be unreasonably withheld or delayed, in accordance with the following procedure. After submission of the Design Development Documents, Construction Documents, or proposed Change Order by Landlord to City, City shall have five (5) days to disapprove any element thereof. If City does so, then City shall notify Landlord within such period of its disapproval and of the revisions that City reasonably requires in order to obtain approval consistent with the terms of this Work Letter. As soon as reasonably possible thereafter, but in no event later than five (5) days after receipt of such notice, Landlord shall submit to City documents incorporating the required revisions. Such revisions shall be subject to approval by City, which shall not be unreasonably withheld or delayed. Such revisions shall be deemed approved by City if City fails to notify Landlord of any objection within five (5) days after receipt of the revision.

f. Payment for Plans. The costs of preparing the Schematic Design Documents, Design Development Documents, and the Construction Documents shall be paid by Landlord and shall be deducted from the Allowance (as defined in Paragraph 4.b below), subject to City's prior approval of such costs as provided in Paragraph 4.c below. Landlord shall evidence such costs by invoices and other substantiation as City may reasonably require.

g. Changes to Approved Construction Documents.

i. City Change Orders. If, following its approval of the Construction Documents, City requests any change, addition, or alteration thereto relating to the design or specifications of the Leasehold Improvement Work ("**City Change Order**"), Landlord shall cause the Architect or Engineer, as applicable, to prepare plans and specifications with respect to such change, addition or alteration. Within five (5) days of City's request, Landlord shall notify City of the cost that would be incurred by reason of such proposed City Change Order and any delay in the anticipated date of Substantial Completion that would result from such City Change Order. If City approves the cost of the City Change Order within five (5) days of receipt from Landlord, then Landlord's Contractor shall proceed with such City Change Order as soon as reasonably practical thereafter. If City does not approve such cost within the above-mentioned five (5) day period, construction of the Premises shall proceed in accordance with the original completed and approved Construction Documents. City shall be responsible for the reasonable cost actually incurred by Landlord in the preparation of the plans and specifications relating to any City Change Order, as evidenced by invoices or other substantiation reasonably required by City.

ii. Landlord Change Orders. If following City's approval of the Construction Documents, Landlord requests or is required to make any change, addition, or alteration thereto relating to the design or specifications of the Leasehold Improvement Work ("**Landlord Change Order**"), Landlord shall provide City with proposed plans and specifications with respect to such change, addition, or alteration, together with notice of any delay in the anticipated date of Substantial Completion that would result from such Landlord

Change Order: Any such Landlord Change Order shall be subject to City's prior, written approval, in accordance with Paragraph 1.e above. No approval by City of any such Landlord Change Order shall relieve or modify Landlord's obligations hereunder to complete the construction of the Leasehold Improvements in accordance with the approved Construction Schedule, nor shall any such approval limit any of City's rights or remedies hereunder or under the Lease. Landlord shall be solely responsible for the cost of the Landlord Change Order, including, without limitation, the costs of preparing the plans and specifications relating thereto, and no such amount shall be paid or deducted from the Allowance.

iii. Appointment of Representatives. City and Landlord shall each designate and maintain at all times during the design and construction period a project representative ("**Representative**"), and an alternate for such Representative ("**Alternate**"), each of whom shall be authorized to confer and attend meetings and represent such party on any matter relating to this Work Letter. Landlord and City shall not make any inquiries of or requests to, and shall not give any instructions or authorizations to, any other employee or agent of the other party, including without limitation, the other party's architect, engineers, consultants, and contractors or any of their agents or employees, with regard to matters associated with this Work Letter. The initial Representatives and Alternates shall be:

City:	Representative –	Captain Mario Gonzalez
	Alternate –	Officer Ivan Sequeira
Landlord:	Representative –	David O'Keeffe
	Alternate –	Gerard O'Keeffe

Each party may at any time and from time to time change its Representative or Alternate by notice to the other party. Each party's Representative or Alternate shall be available during ordinary business hours so that questions and problems may be quickly resolved and so that the Leasehold Improvements may be completed economically and in accordance with the Construction Schedule. All approvals made by City's Representative or Alternate shall be made in writing.

2. Permits

a. Responsibility for Obtaining Permits. Landlord shall have the responsibility for obtaining all governmental permits and approvals required to commence and complete the Leasehold Improvement Work, and promptly upon receipt thereof shall deliver copies of all of such permits and approvals to City. Landlord shall use its best efforts to obtain all such approvals and permits on or before September 1, 2008. Landlord shall have the responsibility of calling for all inspections required by City's Bureau of Building Inspection.

b. First Source Hiring Ordinance. City has adopted a First Source Hiring Ordinance (Board of Supervisors Ordinance No. 264-98) that establishes specific requirements, procedures, and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions. Within thirty (30) days after the City and County of San Francisco Real Estate Division of the Department of Administrative Services adopts a First Source Hiring Implementation and Monitoring Plan in accordance with the First Source Hiring Ordinance, Landlord shall enter into a First Source Hiring Agreement meeting applicable requirements of Section 83.9 of the First Source Hiring Ordinance in connection with certain building permit applications.

3. Construction

a. Construction of Leasehold Improvements. Following City's approval of the Construction Documents, Landlord shall cause the Leasehold Improvements to be constructed and installed in a good and professional manner with appropriate materials in accordance with

sound building practice and in strict conformity with the Construction Documents, as revised by any Change Orders, and the terms of this Work Letter. City shall not have any obligation with respect to any such work other than as provided herein.

b. Construction Schedule. Landlord shall commence construction of the Leasehold Improvements within two (2) days after approval of all required permits for construction in accordance with the approved Construction Documents, and shall diligently pursue construction to completion, all in accordance with the construction schedule attached hereto as Exhibit C-1 (the "**Construction Schedule**").

c. Status Reports; Inspections. Landlord shall keep City apprised of the status of permit approval and the progress of construction. Landlord or its Contractor shall furnish City with weekly reports on construction. From time to time during the design and construction of the Leasehold Improvements, City shall have the right upon reasonable advance oral or written notice to Landlord to enter the Premises at reasonable times to inspect the Premises, provided such inspections do not unreasonably interfere with the construction. Landlord or its Representative may accompany City during any such inspection.

d. General Conditions. The performance of all Leasehold Improvement Work by Landlord shall be subject to the following terms and conditions:

i. All of the Leasehold Improvement Work shall be performed in compliance with all laws, codes, regulations, and building requirements (collectively, "**Laws**") bearing on construction of the Leasehold Improvements;

ii. Without limiting the foregoing, the construction of the Leasehold Improvements shall comply with all requirements of the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable federal, state, local and administrative laws, rules, regulations, orders and requirements intended to provide equal accessibility for persons with disabilities (collectively, "**Disabled Access Laws**"), and with City's work plan for accessibility improvements as set forth in the attached Exhibit C-2;

iii. Landlord and its Contractor shall be responsible for all required insurance; and

iv. Landlord shall require at least three (3) competitive bids from subcontractors in each trade in connection with all work performed by Landlord or its Contractor hereunder.

e. Cooperation. Landlord shall cooperate at all times with City in bringing about the timely completion of the Leasehold Improvements. Landlord shall resolve any and all disputes arising out of the construction of the Leasehold Improvements in a manner that allows work to proceed expeditiously.

f. Telecommunications, Data and Computer Cabling Installation Work to be Performed by City. City, or its consultants and contractors, shall, at City's cost, perform surveys and develop plans and specifications for the installation of telecommunications, data and computer cabling for City's occupancy of the Premises. Landlord shall cause the Contractor to cooperate with City in the installation work and coordinate such work with the Leasehold Improvement Work. Landlord shall be responsible for providing telecommunications, data, and computer cabling up to the point where it is stubbed out in the Building's core area. Beyond that point, City shall be responsible for installing such cabling at its expense. Landlord agrees to cause Contractor to cooperate reasonably with City and its consultants, contractors, and subcontractors during all surveying work and the installation of such telecommunications, data and computer cabling. The foregoing obligation shall include, without limitation, an obligation

to give City and its consultants, contractors, and subcontractors access and entry to the Premises and sufficient opportunity and time during each workday without separate charge therefor, to enable City to install such telecommunications, data, and computer cabling. Such access shall include reasonable access to the elevator in the Building designated for freight use (i) on a non-exclusive basis during normal business hours and (ii) on an exclusive basis after hours as reasonably needed from time to time. Landlord understands that the conduit for the telecommunications, data, and computer cabling shall be included in the Construction Documents and installed by Contractor.

g. Asbestos Related Work. In the event that City, its consultants, contractors, or subcontractors encounter any asbestos containing materials (ACM) in the Building in connection with the installation of City's telecommunications, data, and computer cabling, Landlord agrees to be responsible for all legally required work or other work necessary relating to the proper containment, abatement, removal, and disposal of such ACM and all costs thereof. In no event shall any such costs be deducted from the Allowance or otherwise be City's responsibility. Any delay due to the presence of unknown ACM in the Building shall be considered a Landlord Delay.

h. Construction Improvements that Disturb or Remove Exterior Paint. Landlord, on behalf of itself and its agents, employees, officers, and contractors, shall comply with all requirements of the San Francisco Building Code Chapter 36 and all other applicable local, state, and Federal laws, including but not limited to the California and United States Occupational and Health Safety Acts and their implementing regulations, when the work of improvement or alteration disturbs or removes exterior or interior lead-based or "presumed" lead-based paint (as defined below). Landlord, its agents, employees, officers, and contractors shall give to City three (3) business days prior written notice of any disturbance or removal of exterior or interior lead-based or presumed lead-based paint. Landlord acknowledges that the required notification to the Department of Building Inspection regarding the disturbance or removal of exterior lead-based paint pursuant to Chapter 34 of the San Francisco Building Code does not constitute notification to City as Tenant under the Lease and similarly that notice under the Lease does not constitute notice under Chapter 36 of the San Francisco Building Code. Further, Landlord and its agents, employees, officers, and contractors, when disturbing or removing exterior or interior lead-based or presumed lead-based paint, shall not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding, or grinding without containment barriers or a High Efficiency Particulate Air filter ("HEPA") local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool; and (e) heat guns operating above 1,100 degrees Fahrenheit. Landlord covenants and agrees to comply with the requirements of Title 17 of the California Code of Regulations when taking measures that are designed to reduce or eliminate lead hazards. Under this Paragraph, (x) paint on the exterior or interior of buildings built before January 1, 1979 is presumed to be lead-based paint unless a lead-based paint test, as defined by Chapter 34 of the San Francisco Building Code, demonstrates an absence of lead-based paint on the interior or exterior surfaces of such buildings, and (y) lead-based paint is "disturbed or removed" if the work of improvement or alteration involves any action that creates friction, pressure, heat or a chemical reaction upon any lead-based or presumed lead-based paint on a surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface.

4. Payment for Work; Allowance

a. Accessibility Improvements. Landlord shall through its approved Contractor furnish and install all improvements that are required to bring the Premises, including, without limitation, the lobbies, corridors, telephone banks, drinking fountains, elevators, elevator vestibules, stairs, stair vestibules, and restrooms, and signage in all such areas, into full compliance with all Disabled Access Laws and City's work plan in accordance with

Paragraph 3.d.ii. above. All costs of such work shall be performed at Landlord's sole cost and expense, and no such costs shall be deducted from the Allowance (as hereafter defined).

b. Other Leasehold Improvement Work. Subject to Paragraph 4.a above, Landlord shall pay for the cost of constructing and installing the Leasehold Improvements (as defined below in Paragraph 4.c) up to a total sum of One Million Eight Hundred Twenty Four Thousand And Three Hundred Seventy Five Dollars (\$1,824,375) (the "Allowance"). Any portion of the Allowance that is not used for the Leasehold Improvements shall be credited against Base Rent next due or payable under the Lease, or at City's option, refunded to City. In the event that the actual costs to construct and install the Leasehold Improvement Work incurred by Landlord exceed the amount of the Allowance, City shall pay such excess costs ("Excess Improvement Costs") within thirty (30) days of receipt of all documents constituting the Tenant Improvement Costs Documentation or, at City's option, it may elect, by notice to Landlord given within such thirty (30)-day period, to reimburse Landlord for the Excess Improvement Costs over a five (5)-year period commencing on the first day of the third full calendar month of the Initial Term, together with interest accruing on and after the Commencement Date on the unpaid balance at the prime commercial rate reported in *The Wall Street Journal* on the Commencement Date plus two percent (2%) per annum. If Tenant makes such election, such amount will be paid in sixty (60) equal monthly installments of principal and interest amortized over a five (5)-year period commencing on the first day of the third full calendar month of the Initial Term. City shall not be responsible for, and the Allowance shall exclude, any review, supervision, administration, or management fees of any person or entity, any overhead or other general expenses of Landlord or any other person or entity, and any charges for parking or use of hoists or freight elevators. Landlord shall be solely responsible for the base, core, and shell of the Premises including, without limitation, earthquake, fire, and life safety, and other work, and no portion of the Allowance shall be applied to any such costs. City shall be solely responsible for the costs of the telecommunications, data and computer cabling work described above, except as provided in this Work Letter.

c. City's Approval of Costs. The cost of the Leasehold Improvement Work shall include costs based on a detailed construction budget prepared by Landlord and approved by City. Such costs may include all architectural fees related to the Leasehold Improvement Work. Prior to August 15, 2008, Landlord shall provide City with an initial construction budget for its approval. The approved construction budget shall restrict all costs to be included in the Allowance and any other costs to be paid by City hereunder to line items in cost categories of the budget. If the Leasehold Improvements cannot be completed in strict conformity with the most recently approved construction budget, Landlord shall immediately submit to City for its approval a revised construction budget and shall identify to City changes in line items and the reasons for the changes. If further changes are required, Landlord shall seek City's approval, following the same procedures. No costs shall be included in the Allowance, and City shall not be obligated to pay any costs in excess of the Allowance, unless and until it approves the construction budget and any revisions thereto. City shall have the right to approve or disapprove any construction budget or revisions in its reasonable judgment. No such approval or disapproval shall be unreasonably delayed. The most recently approved construction budget shall supersede all previously approved budgets.

d. Required Documentation of Costs. Landlord shall provide City with copies of (i) all invoices received by Landlord from the Contractor in connection with the construction of the Leasehold Improvements, (ii) satisfactory evidence of payment of such invoices, including unconditional lien waivers, or if such invoices have not been paid, conditional lien waivers, all such lien waivers being in the form prescribed by California Civil Code Section 3262 and executed by each subcontractor and material supplier, and (iii) such additional supporting data substantiating the Contractor's right to payment as City may reasonably require, such as copies of requisitions from subcontractors and material suppliers.

5. Substantial Completion

a. Construction Schedule. Landlord shall use its best efforts to complete the Leasehold Improvement Work within one hundred twenty (120) days from the date the City's Mayor and Board of Supervisors approve the lease. However, in no event shall construction of the Leasehold Improvements be Substantially Completed later than one hundred and fifty (150) days except as extended by Tenant Delays and Unavoidable Delays (as such terms are defined in Paragraph 6 below). When construction progress so permits, but not less than fifteen (15) days in advance of completion, Landlord shall notify City of the approximate date on which the Leasehold Improvement Work will be substantially completed in accordance with the approved Construction Documents and the provisions hereof. Landlord shall notify City when the Leasehold Improvement Work is in fact Substantially Completed and the Premises are ready for occupancy by City, and City or its representatives shall be permitted to accompany Landlord or its architect on an inspection of the Premises on such date or other mutually agreeable date soon thereafter.

b. Substantial Completion. The Leasehold Improvements and the Premises shall be deemed to be "**Substantially Completed**" for purposes hereof when the Leasehold Improvements and, if required by any applicable governmental authority, all elevators and/or fire-sprinkler systems, are sufficiently complete in accordance with the Construction Documents and the terms of this Work Letter so that City can occupy the Premises and conduct its business and City shall have approved the Leasehold Improvements after its inspection of the Premises. City may, at its option, approve the Leasehold Improvements even though there remain minor details that would not interfere with City's use. Landlord shall diligently pursue to completion all such details. Notwithstanding the foregoing, City shall have the right to present to Landlord within thirty (30) days after acceptance of the Premises, or as soon thereafter as practicable, a written "punchlist" consisting of any items that have not been finished in accordance with the Construction Documents and the terms of this Work Letter. Landlord shall promptly complete all defective or incomplete items identified in such punchlist, and in any event within thirty (30) days after the delivery of such list. City's failure to include any item on such list shall not alter Landlord's responsibility hereunder to complete all Leasehold Improvement Work in accordance with the Construction Documents and the provisions hereof, nor constitute a waiver of any latent defects.

c. Landlord's Certification of Construction Costs. Within thirty (30) days of the date Tenant receives the Completion Notice pursuant to Section 3.1 of the Lease, Landlord shall submit to City Landlord's certification of the total amounts expended by Landlord for the construction of the Leasehold Improvements and or otherwise in connection with the Leasehold Improvement Work. Such amount shall not exceed the total of invoices submitted pursuant to Paragraph 4.d above (duly supported by evidence of payment and other documentation as required by Paragraph 4.d).

6. Delays in Construction

a. Unavoidable Delays. For purposes hereof, "**Unavoidable Delays**" shall mean any delays by reason of acts of God, accidents, breakage, repairs, strikes, lockouts, other labor disputes, inability to obtain labor or materials after using diligent and timely efforts, enemy action, civil commotion, protests, riots, demonstrations, or by any other reason without fault and beyond the reasonable control of the party obligated to perform. In the event of any such delay, the party affected by such delay shall give prompt written notice to the other of the occurrence of such event and the projected delay in performance, and thereafter shall keep the other party regularly informed of the status of such Unavoidable Delay. Under no circumstances shall the number of days of Unavoidable Delays exceed a total of sixty (60) days.

b. Tenant Delays. Subject to any Unavoidable Delay, City shall be responsible for any delay in the construction of the Leasehold Improvements due solely and directly to any of the following (collectively, "Tenant Delays"): (i) a delay in granting its reasonable approval of plans and specifications (beyond the period granted therefor), (ii) City Change Orders to the Construction Documents, provided such delay shall be limited to the number of days consented to by City, and (iii) City's delay in granting its reasonable approval of any costs to be included in the Allowance (beyond the period granted therefor). Such Tenant Delays in the completion of construction of the Leasehold Improvement Work shall extend the date for Substantial Completion hereunder. Notwithstanding the foregoing, City shall be responsible and the date for Substantial Completion shall be extended only to the extent any delays are actually and directly caused by Tenant Delays.

7. General Provisions.

a. Notices. Except as may be otherwise specifically provided herein, any notice, consent, approval, or other communication to be given or required under this Work Letter Lease shall be in writing and given by delivering such notice or other communication in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: (a) City at Tenant's address set forth in the Basic Lease Information; or (b) Landlord at Landlord's address set forth in the Basic Lease Information; or (c) such other address as either Landlord or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice or other communication given in the manner prescribed in this Section will be deemed to have been given and received at the date and time of receipt, attempted delivery, or rejected delivery. For convenience of the parties, copies of notices may also be given by telefacsimile to the telefacsimile number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile.

b. Landlord's Duty to Notify City. Landlord shall promptly notify City in writing of (i) any written communication that Landlord may receive from any governmental, judicial or legal authority, giving notice of any claim or assertion that the Property, Building or Leasehold Improvements fail in any respect to comply with applicable laws, rules and regulations; (ii) any known material adverse change in the physical condition of the Property, including, without limitation, any damage suffered as a result of earthquakes; and (iii) any known default by the Contractor or any subcontractor or material supplier, or any known material adverse change in the financial condition or business operations of any of them.

c. Prevailing Wages for Construction Work. Landlord agrees that any person performing labor in the construction of the Leasehold Improvements which Landlord is obligated to provide under this Work Letter shall be paid not less than the highest prevailing rate of wages and that Landlord shall include, in any contract for construction of the Leasehold Improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord further agrees that, as to the construction of the Leasehold Improvements under this Work Letter, Landlord shall comply with all the provisions of subsection (b) of San Francisco Charter Section A7.204 and Section 6.22(E) of the San Francisco Administrative Code.

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

wood products. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood, or virgin redwood wood products. In the event Landlord fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Landlord shall be liable for liquidated damages for each violation in any amount equal to Landlord's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Landlord acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County of San Francisco upon demand and may be set off against any monies due to Landlord from any contract with the City and County of San Francisco.

e. Days. Unless otherwise provided herein, all periods specified by a number of days shall refer to business days. Saturdays, Sundays and recognized City holidays shall not constitute business days.

f. Approvals. Landlord understands and agrees that City is entering into this Work Letter in its proprietary capacity and not as a regulatory agency with certain police powers. Notwithstanding anything to the contrary herein, no approval by City of the plans for the Leasehold Improvements (including the Design Development Documents or Construction Documents), completion of the Leasehold Improvement Work nor any other approvals by City hereunder shall be deemed to constitute approval of any governmental or regulatory authority with jurisdiction over the Premises. All approvals or other determinations of City as tenant hereunder may be made by City's Director of Property unless otherwise specified herein.

8. Time of the Essence. Time is of the essence with respect to all provisions of this Work Letter in which a definite time for performance is specified, including, without limitation, the date for Substantial Completion.

The parties have executed this Work Letter as of the date of the Lease.

LANDLORD:

1415 16th STREET ASSOCIATES, LLC

a California limited liability company

By _____

DAVID O'KEEFFE

Its: Managing Member

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____

AMY L. BROWN

Director of Property

RECOMMENDED:

SAN FRANCISCO POLICE DEPARTMENT

BY: _____

HEATHER FONG, CHIEF OF POLICE

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

BY: _____

Richard Handel
Deputy City Attorney

Revised: _____
 Date: _____

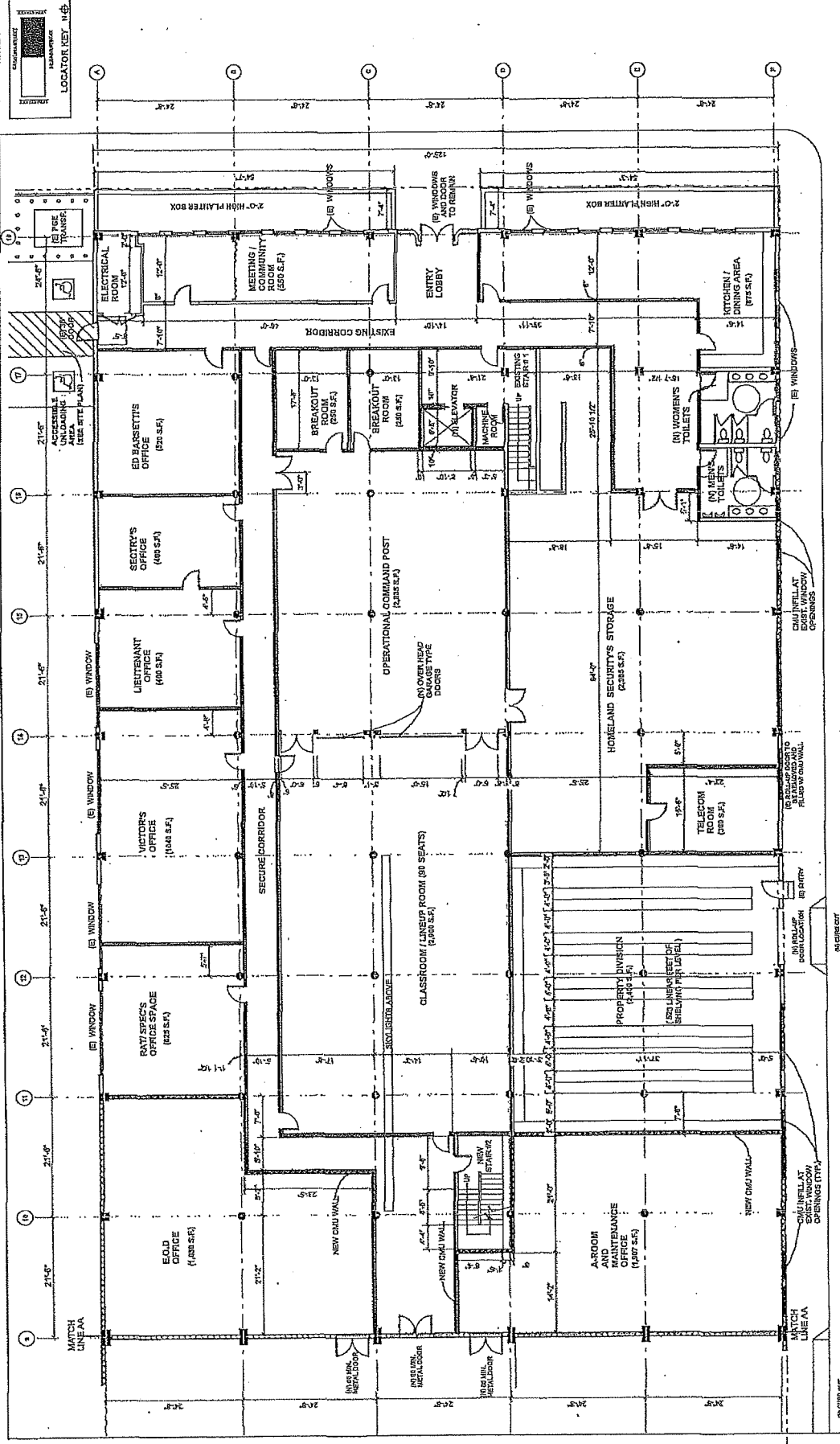
LEAVITT
 architecture

3227 MISSION ST.
 SAN FRANCISCO
 CALIFORNIA 94118
 TEL: 415.774.8100
 FAX: 415.774.8101
 WWW: LEAVITTARCH.COM

PROPOSED GROUND
 FLOOR PLAN
 17TH STREET SIDE

1415 16TH STREET TENANT IMPROVEMENTS
 SAN FRANCISCO, CA
 BLOCK 3955 L6

DATE: 07/20/2009
 SCALE: 1/8"=1'-0"
 SHEET: 10
 A5



KEY:

(Solid line)	NEW WALL
(Dashed line)	NEW 4 HR SEPARATION WALL
(Dotted line)	EXISTING WALL TO REMAIN
(Dash-dot line)	EXISTING 4 HR WALL TO REMAIN

EXHIBIT C-2
 (Page 1 of 1)

EXHIBIT D

FORM OF MEMORANDUM OF LEASE

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

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

FOR RECORDER'S USE ONLY

MEMORANDUM OF LEASE

This Memorandum of Lease ("**Memorandum**"), dated for reference purposes as of _____, 2008, is by and between 1415 16TH STREET ASSOCIATES, LLC, a California limited liability company ("**Landlord**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**).

Recitals

A. Concurrently herewith, Landlord and City have entered into that certain Lease, dated _____, 200_ (the "**Lease**"), pursuant to which Landlord leased to City and City leased from Landlord the real property more particularly described in the attached Exhibit A (the "**Property**"), which is incorporated by this reference.

B. Landlord and City desire to execute this Memorandum to provide constructive notice of the Lease, which also provides for City's right of first refusal to purchase the Property (the "**First Right of Refusal**") to all third parties, and all of the terms and conditions of the Lease are incorporated herein by reference as if they were fully set forth herein and reference is made to the Lease itself for a complete and definitive statement of the rights and obligations of Landlord and Tenant thereunder.

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

1. Term. Pursuant to the terms of the Lease, Landlord leased the Property to City for a term commencing on the Commencement Date (as such term is defined in the Lease) set forth in the Lease. The Term of the Lease shall expire on the date that is ten (10) years after the Commencement Date, subject to one (a) ten (10)-year option to extend the Lease term (subject to the terms and conditions of the Lease), unless earlier terminated in accordance with the terms of the Lease.

2. Lease Terms. The lease of the Property to City is made pursuant to the Lease, which is incorporated in this Memorandum by reference. In addition to the other terms and conditions of the Lease, the Lease provides for City's First Right of Refusal. This Memorandum shall not be deemed to modify, alter or amend in any way the provisions of the Lease. In the event any conflict exists between the terms of the Lease and this Memorandum,

the terms of the Lease shall govern. Except as otherwise defined in this Memorandum, capitalized terms shall have the meanings given them in the Lease.

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

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

LANDLORD:

1415 16TH STREET ASSOCIATES, LLC,
a California limited liability company

By: _____
DAVID O'KEEFFE

By: _____
KARI KRANEN

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation,

By: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

State of California)
)ss
County of San Francisco)

On _____, 200_, before me, _____, a notary public in
and for said State, personally appeared _____,
_____ personally known to me (or proved to me
on the basis of satisfactory evidence) to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in his authorized capacity, and
that by his signature on the instrument the person, or the entity on behalf of which the person
acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California)
) ss
County of San Francisco)

On _____, 200_, before me, _____, a notary public in
and for said State, personally appeared _____,
_____ personally known to me (or proved to me
on the basis of satisfactory evidence) to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in his authorized capacity, and
that by his signature on the instrument the person, or the entity on behalf of which the person
acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California)
) ss
County of San Francisco)

On _____, 200_, before me, _____, a notary public in
and for said State, personally appeared _____
_____, personally known to me (or proved to me
on the basis of satisfactory evidence) to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in his authorized capacity, and
that by his signature on the instrument the person, or the entity on behalf of which the person
acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

Legal Description of Property

1 [Lease of Real Property at 1700-1740 17th Street and 1415 16th Street, San Francisco]

2
3 Resolution authorizing the lease of property, with a first right of refusal to purchase,
4 comprising approximately 52,125 square feet of improvements upon a lot area of
5 62,373 square feet, located at 1700-1740 17th Street and 1415 16th Street (Assessor's
6 Block 3955, Lot 002) in San Francisco for the San Francisco Police Department.
7

8 WHEREAS, the San Francisco Police Department is a law enforcement agency
9 committed to the protection of life and property and the prevention of crime; and,

10 WHEREAS, the San Francisco Police Department's Tactical Company are the first
11 responders to critical incidents in the City; and,

12 WHEREAS, the Tactical Company is currently located at Hunter's Point Shipyard and
13 must relocate to accommodate pending redevelopment; and

14 WHEREAS, the Real Estate Division has negotiated a lease (the "Lease") with 1415
15 16th Street Associates, LLC ("Landlord"), as landlord, for the lease by City, as tenant, of
16 52,125 rentable square feet at 1700-1740 17th Street and 1415 16th Street (the "Premises")
17 that satisfies the requirements of the San Francisco Police Department's Tactical Company;
18 and

19 WHEREAS, the Lease provides for the City's first right of refusal to purchase the
20 building in which the Premises are located; and,

21 WHEREAS, the term of the Lease shall be ten years with an estimated commencement
22 date of October 15, 2008; and,

23 WHEREAS, the monthly base rent of the Lease shall be \$143,344 per month and such
24 rent shall escalate to \$146,602 per month in Year 2, \$149,859 per month in Year 3, \$154,117
25 per month in Year 4, \$156,375 per month in Year 5, \$159,633 per month in Year 6, \$162,891

1 RESOLVED, in accordance with the recommendation of the Chief of Police and the
2 Director of Property, the Director of Property is hereby authorized to take all actions on behalf
3 of the City and County of San Francisco, as tenant, to execute the Lease for the Premises in
4 the form on file with the Clerk of the Board of Supervisors in File No.
5 081167; and, be it

6 FURTHER RESOLVED, that the Lease shall include a clause approved by the City
7 Attorney indemnifying and holding harmless the Landlord from and agreeing to defend the
8 Landlord against any and all claims, costs and expenses, including, without limitation,
9 reasonable attorney's fees, incurred as a result of City's use of the Premises, any default by
10 the City in the performance of any obligations under the Lease, or any negligent acts or
11 omissions of City or its agents or invitees, in, on, or about the Premises or the property on
12 which the Premises are located, excluding those claims, costs, and expenses incurred as a
13 result of the negligence or willful misconduct of Landlord or its agents; and, be it

14 FURTHER RESOLVED, that all actions heretofore taken by any City employee or
15 official with respect to this Lease are hereby approved, confirmed, and ratified; and be it

16 FURTHER RESOLVED, that the Board of Supervisors authorizes the Director of
17 Property to enter into any amendments or modifications to the Lease or consent to any
18 matters with respect to the Lease that the Director of Property determines, in consultation with
19 the City Attorney, are in the best interest of the City, do not increase the rent or otherwise
20 materially increase the obligations or liabilities of the City, are necessary or advisable to
21 effectuate the purposes of the Lease, and are in compliance with all applicable laws, including
22 City's Charter.

23
24 \$1,218, 424 Rent
25 \$ 82,925 Additional Rent for Estimated
Tenant Improvement Expense
Index Code: 385036



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails
Resolution

File Number: 081167

Date Passed:

Resolution authorizing the lease of property, with a first right of refusal to purchase, comprising approximately 52,125 square feet of improvements upon a lot area of 62,373 square feet, located at 1700-1740 17th Street and 1415 16th Street (Assessor's Block 3955, Lot 002) in San Francisco for the San Francisco Police Department.

October 21, 2008 Board of Supervisors — ADOPTED

Ayes: 8 - Alioto-Pier, Chu, Daly, Dufty, Elsbernd, Mirkarimi, Peskin, Sandoval
Noes: 3 - Ammiano, Maxwell, McGoldrick

Print Form

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2018 NOV 13 PM 4:21
BY Time stamp BE
or meeting date

Introduction Form

By a Member of the Board of Supervisors or Mayor

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

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

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

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

Sponsor(s):

Cohen

Subject:

[Real Property Lease Extension – 1700-1740 17th Street and 1415 16th Street, San Francisco -\$3,107,986 Initial Annual Base Rent]

The text is listed:

Resolution authorizing the Director of Property to exercise the a Lease Extension for the real property located at 1700-1740 17th Street and 1415 16th Street with 1415 16th Street Associates, LLC, a California limited liability corporation, for a 10 year extension term commencing upon the approval by the Board of Supervisors and the Mayor at the monthly base rent of \$256,281 for a total annual base rent of \$3,075,375 on behalf of the San Francisco Police department, retroactively dated to November 3rd.

Signature of Sponsoring Supervisor:

For Clerk's Use Only

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

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: 1415 16 th Street Associates, LLC	
Please list the names of (1) <i>Managing Member: David O'Keefe</i> (3) <i>any person who has an ownership of 20 percent or more in the contractor; David O'Keefe and Kari O'Keefe</i> (4) <i>any subcontractor listed in the bid or contract; None</i> (5) <i>any political committee sponsored or controlled by the contractor. None</i>	
Contractor address: 188 King Street #408, San Francisco, CA 94107	
Date that contract was approved:	Amount of contracts: \$3,075,375
Describe the nature of the contract that was approved: Lease Agreement for real property located at 1700-1740-17 th Street and 1415-16 th Street.	
Comments:	

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

Filer Information <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

