

File No. 230915

Committee Item No. 4

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date September 20, 2023

Board of Supervisors Meeting

Date \_\_\_\_\_

### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

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

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Brent Jalipa

Date September 14, 2023

Completed by: Brent Jalipa

Date \_\_\_\_\_

1 [Amended and Restated Office Lease - Retroactive - The Lighthouse Building LLC - 1155  
2 Market - Not to Exceed \$6,685,260.20 in Initial Year]

3 **Resolution retroactively approving and authorizing the Director of Property to amend**  
4 **and restate the current lease with The Lighthouse Building LLC, as landlord, for the**  
5 **City’s lease of approximately 103,487 square feet of rentable square feet comprised of**  
6 **floors one through eight at 1155 Market Street for use by approximately nine City**  
7 **Departments, to enter into an amended and restated office lease for a lease term of five**  
8 **years, commencing February 1, 2023, through January 31, 2028, with one five-year**  
9 **option to extend to January 31, 2033, at an initial annual rent of \$6,685,260.20 (or**  
10 **\$557,105.02 per month) with 3% annual increases thereafter for the remainder of the**  
11 **initial term; and authorizing the Director of Property to enter into any additions,**  
12 **amendments, or other modifications to the Restated Lease that do not materially**  
13 **increase the obligations or liabilities of the City to effectuate the purposes of this**  
14 **Resolution.**

15  
16 WHEREAS, Pursuant to the authorization granted under San Francisco Board of  
17 Supervisors Resolution No. 409-12, adopted by the Board of Supervisors on November 6,  
18 2012, the City and The Lighthouse Building LLC (the “Landlord”) entered int to that certain  
19 Office Lease, dated November 9, 2012, as amended from time to time (the “Lease”), for the  
20 City’s lease of approximately 103,487 square feet of rentable space comprised of floors one  
21 through eight at 1155 Market Street (the “Premises”); and

22 WHEREAS, The Premises provide nine different City Departments with office space in  
23 close proximity to City Hall in the Civic Center area and is convenient to public transit; and

24 WHEREAS, The current Lease between the City and Landlord has been in holdover  
25 pursuant to its terms since January 31, 2023; and

1           WHEREAS, The current Lease includes an option to extend the term for an additional  
2 five years and the City provided Landlord timely notice of its intent to exercise the option; and

3           WHEREAS, The City's Real Estate Division and Landlord have negotiated an amended  
4 and restated office lease (the "Restated Lease") to: (i) extend the Lease term for five years to  
5 January 31, 2028, with an option to extend the term for an additional five years, to January 31,  
6 2033; (ii) set the initial rent base rent under the Restated Lease during this extended term to  
7 \$6,685,260.20 (or \$557,105.02 per month), to increase by 3% each year, starting in February  
8 2024 and for the remainder of the initial term of the Restated Lease; (iii) provide the City with  
9 the right to rent up to 14 reserved parking stalls; (iv) provide City with a tenant improvement  
10 allowance equal to \$15 per rentable square feet (or \$1,552,305) (the "Tenant Improvement  
11 Allowance"), which may, at the City's option, be applied to the premises' improvements or  
12 against base rent, provided, that if the Tenant Improvement Allowance is applied against base  
13 rent, it will be discounted by 5%; (v) update City requirements adopted and brought into effect  
14 since the latest amendment of the Lease; and (vi) make certain other amendments to the  
15 Lease; and

16           WHEREAS, A copy of the proposed Restated Lease is on file with the Clerk of the  
17 Board in File No. 230915; and

18           WHEREAS, Both the City and the Landlord obtained an appraisal from independent  
19 MAI appraisers whose fair market value determinations were within 10% of each other and  
20 where the parties split the difference to come to an agreed upon fair market determination  
21 and where the City's appraisal was confirmed by an appraisal review, consistent with  
22 Administrative Code, Chapter 23; and

23           WHEREAS, Starting in 2024, City will pay its pro-rata share of increases in the  
24 Building's operating expenses and property taxes over the new base year of 2023; and

25

1           WHEREAS, Charter, Section 9.118, requires the approval of the Board of Supervisors  
2 when the term of a lease of real property is for a period of 10 or more years, including options  
3 to renew, and if City exercises its option to extend the lease term by five years under the  
4 Restated Lease, the term will be 10 years; now, therefore, be it

5           RESOLVED, That in accordance with the recommendation of the City Attorney and the  
6 Director of Property, the Board of Supervisors approves the Restated Lease and authorizes  
7 the Director of Property and the City Attorney to take all actions necessary to enter into and  
8 perform the City's obligations under the Restated Lease; and, be it

9           FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of  
10 Property to enter into any amendments to the Restated Lease (including without limitation, the  
11 exhibits) that the Director of Property determines, in consultation with the City Attorney, are in  
12 the best interest of the City, do not materially increase the obligations or liabilities of the City,  
13 do not materially decrease the benefits to the City, or are necessary or advisable to effectuate  
14 the purposes of this Resolution, and are in compliance with all applicable laws; and, be it

15           FURTHER RESOLVED, That within 30 days of the execution of the Restated Lease,  
16 the Director of Property shall provide a copy to the Clerk of the Board for the Board's file.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Fund ID:	14300
Department ID:	228875
Project Authority ID:	10001302
Account ID:	530110
Activity ID:	0027
Authority ID:	17378

*/s/*  
\_\_\_\_\_  
Ben Rosenfield  
Controller

RECOMMENDED:

*/s/*  
\_\_\_\_\_  
Andrico Penick  
Director of Property

<b>Item 4</b> <b>File 23-0915</b>	<b>Department:</b> Real Estate Division (RED)
--------------------------------------	--

**EXECUTIVE SUMMARY**

**Legislative Objectives**

- The proposed resolution would retroactively approve an amended and restated lease between The Lighthouse Building LLC as landlord and the City as tenant for approximately 103,487 square feet of space at 1155 Market Street, for a term of five years from February 2023 through January 2028, with one five-year option to extend through January 2033, at an initial rent of \$6,685,260, with three percent annual increases thereafter, and authorize the Director of Property to enter into further immaterial amendments to the lease.

**Key Points**

- The existing lease for 1155 Market Street expired in January 2023. The Real Estate Division submitted a Notice of Option to Extend the lease in January 2022. Due to extensive negotiations, the landlord did not agree on rent terms until August 2023. If approved, the new amended and restated lease would be retroactive to February 1, 2023.
- The City has paid holdover rent of \$79.33 per square foot since February 2023. If approved, the City will be owed a rent credit for the difference between holdover rent of \$79.33 and proposed rent of \$64.60 between February 1, 2023 and enactment of the amended lease.

**Fiscal Impact**

- First year rent in the extended lease term is \$64.60 and increases annually by three percent. Estimated rent over the five-year lease extension through January 2028 is \$35.5 million.

**Policy Consideration**

- The proposed rent in the first year of the extended term of \$64.60 per square foot is 4.2 percent higher than fair market rent of \$62.00 per square foot, based on the appraisal by Colliers International. According to the terms of the original lease, if the difference in proposed rent between the landlord and the City is 10 percent or less, the rent is to be set as the average of the landlord’s and the City’s fair market rent determination.

**Recommendations**

- Given the cost to the City for the leased space and City departments’ ongoing need for office space, the Board of Supervisors should request a report from the Director of Property in July 2025 regarding progress towards identifying potential purchase opportunities in the Civic Center that would satisfy the City’s needs.
- Approval of the proposed resolution is a policy matter for the Board of Supervisors because the proposed rent of \$64.60 per square foot in the first year of the lease, which was set as the average of the rent amounts proposed by the landlord and the City in accordance with the original lease terms, was based on an appraisal as of December 2022 but fair market rent for office space in San Francisco declined between December 2022 and July 2023 by an additional 4 percent to 6 percent.

**MANDATE STATEMENT**

City Administrative Code 23.27 states that any lease with a term of one year or longer and where the City is the tenant is subject to Board of Supervisors approval by resolution. A third-party appraisal is required for leases in which the rent exceeds \$45 per square foot per year, and an appraisal review is required for leases in which the rent exceeds \$60 per square foot.

**BACKGROUND**

The City has leased office space at 1155 Market Street since 1999. In November 2012, the Board of Supervisors approved the most recent lease for approximately 103,501 square feet at 1155 Market Street, for a term of 10 years, from February 2013 through January 2023 (File 12-1048). The Real Estate Division submitted a Notice of Option to Extend the lease on January 24, 2022. Due to extensive negotiations, the landlord did not agree on lease amendment terms until August 7, 2023. If approved, the new amended and restated lease would be retroactive to February 1, 2023, or the date after the previous lease expired.

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would retroactively approve an amended and restated lease between the Lighthouse Building LLC as landlord and the City as tenant for approximately 103,487 square feet of space at 1155 Market Street, for a term of five years from February 2023 through January 2028, with one five-year option to extend through January 2033, at an initial rent of \$6,685,260, with three percent annual increases thereafter, and authorize the Director of Property to enter into further immaterial amendments to the lease. The Real Estate Division is seeking retroactive approval due to extensive negotiations with the landlord over the lease terms.

**City Departments Use of Space**

The San Francisco Public Utilities Commission (SFPUC) leased four floors of 1155 Market Street from 1999 to 2003; the lease was amended in 2002 to add seven floors to the leased space. SFPUC vacated most of the leased space in 2012 when the new SFPUC building at 525 Golden Gate Avenue opened.

The City entered into a new lease for 1155 Market Street from 2012 to 2023 for use of eight floors. Several City departments relocated to 1155 Market Street from 875 Stevenson, for which the City’s lease had been terminated.<sup>1</sup> The 2012 lease provided the City the option to lease three additional floors at 1155 Market Street and the right of first offer to purchase 1155 Market Street. The lease was amended in 2014, when ownership of 1155 Market Street was acquired by Lighthouse Building LLC, to delete these provisions.

---

<sup>1</sup> The City departments leasing space at 1155 Market Street include the departments relocating from 875 Stevenson (Assessor, Treasurer-Tax Collector, General Services Agency), the Mayor’s Office of Disability, the Office of Civic Engagement and Immigrant Affairs, Department of the Environment, and Contract Monitoring Division.

Under the proposed lease amendment, City departments would continue to lease eight floors of 1155 Market Street. The lease would be for five years to 2028 with one five-year option to extend to 2033.

**FISCAL IMPACT**

*Holdover Rent*

The City has paid holdover rent of \$79.33 per square foot since February 2023, equal to 160 percent of rent of \$49.57 in effect when the original lease expired at the end of January 2023. According to the existing lease, if the landlord and City have not agreed on rent by the start of the extended term, holdover rent is set at the amount proposed by the landlord for the first year of the lease extension.

*Determination of Rent for Extended Term*

According to the existing lease, rent is to be set at fair market value at the beginning of the extended term. The landlord is to provide the City with written notice of the landlord’s good faith determination of fair market rent. If the City does not agree, the City is to provide the landlord with written notice of the City’s good faith determination of fair market rent. If the difference between the landlord’s and the City’s determination of fair market rent is 10 percent or less, the lease provides for rent to be set at the average of the landlord’s and the City’s fair market rent determination.<sup>2</sup>

The City obtained an appraisal of fair market rent from Collier’s International and an appraisal review from R. Blum & Associates. The proposed rent in the first year of the extended term of \$64.60 is 4.2 percent higher than the appraised fair market rent. According to the Director of Property, the landlord proposed rent of \$69.00 – \$69.50 per square foot for the first year of the lease extension. Because the landlord did not accept the City’s appraisal of fair market rent, and the difference in value was less than 10 percent, the proposed rent of \$64.60 in the first year of the extended term is the average of the landlord’s and the City’s fair market rent estimates.

*Retroactive Lease*

The lease would be retroactive to February 1, 2023.<sup>3</sup> The City will be owed a rent credit for the difference between holdover rent of \$79.33 and proposed rent of \$64.60 between February 1, 2023 and enactment of the amended lease.

<sup>2</sup> The lease provides for arbitration if fair market rent estimates differ by more than 10 percent.  
<sup>3</sup> While the existing lease does not specifically address rent credits if holdover rent exceeds the final determination of fair market rent, the lease provides for rent credits if the final fair market rent determination is based on the City’s estimate. We estimate that the rent credit to the City from February 2023 – September 2023 is \$1.0 million.



*Rent in the Amended Lease*

First year rent in the extended lease term is \$64.60. Rent increases annually by three percent. Therefore, estimated rent over the five-year lease extension from February 2023 through January 2028 is \$35.5 million, as shown in Exhibit 1 below.

**Exhibit 1: Total Rent Paid by the City to Lighthouse Building LLC, February 2023 – January 2028**

	<b>Per Square Foot</b>	<b>Square Feet</b>	<b>Total</b>
Year 1	\$64.60	103,487	\$6,685,260
Year 2	\$66.54	103,487	\$6,886,025
Year 3	\$68.54	103,487	\$7,092,999
Year 4	\$70.60	103,487	\$7,306,182
Year 5	\$72.72	103,487	\$7,525,575
<b>Total</b>			<b>\$35,496,041</b>

Source: Proposed Lease Amendment

*Other Operating Expenses and Additional Charges*

The City will continue to pay additional charges for the City’s proportional share of property taxes and operating expenses, including janitorial, security, utilities, and other expenses. According to the Director of Property, the estimated operating expenses and additional charges in the first year of the extended term are \$74,676 assuming a 2023 base year reset. According to the amended lease, the landlord is to provide the City details of operating expenses and additional charges each year. The City has the right to audit these expenses and charges.

*Tenant Improvement Allowance*

The amended lease provides the City a one-time tenant improvement allowance of \$15 per square foot or \$1,552,305. According to the Director of Property, tenant improvements may include paint, carpet, tenant remodeling or conversion to rent credits.

**POLICY CONSIDERATION**

*Property Appraisal and Proposed Rent*

The proposed rent in the first year of the extended term of \$64.60 per square foot is 4.2 percent higher than fair market rent of \$62.00 per square foot, based on the appraisal by Colliers International. According to the terms of the original lease, if the difference in proposed rent between the landlord and the City is 10 percent or less, the rent is to be set as the average of the landlord’s and the City’s fair market rent determination.

We consider approval of the proposed amended and restated lease to be a policy matter for the Board of Supervisors because, although the proposed rent of \$64.60 is consistent with the terms of the original lease, we estimate that the proposed rent exceeds fair market rent by more than 4.2 percent. According to the Colliers International appraisal report, the fair market rent of \$62.00 per square foot was based on market rent valuation as of December 2022. According to a table included in the report, fair market rents decreased by 7 percent between March 2022 and December 2022. According to information provided to the Budget and Legislative Analyst by a

commercial real estate broker, office vacancies remain high and commercial rents have continued to decline in 2023. According to a table included in the commercial real estate broker's report, fair market rent in Class A office buildings decreased by 4 percent and in Class B office buildings decreased by 6 percent between December 2022 and July 2023.

### *Leased Space*

According to the September 20, 2022 memorandum from the Director of Property to the Board of Supervisors, "it is in the City's best interest to acquire a Class A office building in the Civic Center area in the range of 300,000 square feet to 500,000 square feet in the next three to five years." The memorandum further states that "Leases allow you to more easily give up space during economic downturn. It also allows you to quickly acquire space to accommodate new hires and programs. For core programs and staffing levels where cost predictability is a greater concern than flexibility, owning property is the best option for office space in the Civic Center."

According to the Director of Property, many City leases will expire between 2023 and 2028, which is a window to increase City-owned space in the Civic Center, although the City would need to purchase building space in 2025-2026 to allow sufficient time for tenant improvements and transition. Three of the departments leasing space at 1155 Market Street have occupied that space since 2012 or for more than 10 years. Given the cost to the City for the leased space and City departments' ongoing need for office space, the Director of Property should evaluate options for reducing or ending the lease at 1155 Market Street at the end of the five-year extension term through January 2028 and locating City department staff in City-owned space in the Civic Center.

## **RECOMMENDATIONS**

1. Given the cost to the City for the leased space and City departments' ongoing need for office space, the Board of Supervisors should request a report from the Director of Property in July 2025 regarding progress towards identifying potential purchase opportunities in the Civic Center that would satisfy the City's needs.
2. Approval of the proposed resolution is a policy matter for the Board of Supervisors because the proposed rent of \$64.60 per square foot in the first year of the lease, which was set as the average of the rent amounts proposed by the landlord and the City in accordance with the original lease terms, was based on an appraisal as of December 2022 but fair market rent for office space in San Francisco declined between December 2022 and July 2023 by an additional 4 percent to 6 percent.

AMENDED AND RESTATED OFFICE LEASE

between

The Lighthouse Building LLC,  
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,  
as Tenant

For the lease of  
1155 Market Street, Floors 1 - 8  
San Francisco, California

February 1, 2023

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
1. BASIC LEASE INFORMATION .....	2
2. PREMISES .....	5
2.1 Lease Premises.....	5
2.2 Common Areas .....	5
2.3 Condition of the Premises on Delivery .....	5
2.4 Disability Access .....	5
2.5 Parking .....	6
2.6 Restatement and Supersession. ....	7
3. TERM .....	7
3.1 Term of Lease .....	7
3.2 Commencement Date and Expiration Date.....	7
3.3 Intentionally Omitted .....	7
3.4 Extension Option .....	7
3.5 Tenant Improvement Allowance.....	8
4. RENT .....	9
4.1 Base Rent .....	9
4.2 Adjustments in Base Rent.....	10
4.3 Determination of Base Rent for the Extended Term .....	10
4.4 Additional Charges .....	11
4.5 Definitions.....	11
4.6 Payment of City’s Percentage Share of Operating Costs.....	14
4.7 Payment of City’s Percentage Share of Real Estate Taxes.....	14
4.8 Proration.....	15
4.9 Audits.....	15
4.10 Records .....	16
4.11 Payments by City .....	16
4.12 Landlord’s Compliance with City Business and Tax Regulations Code.....	16
4.13 Additional Services.....	17
5. USE .....	17
5.1 Permitted Use.....	17
5.2 Observance of Rules and Regulations .....	17

5.3	Interference with Access.....	18
6.	LEASEHOLD IMPROVEMENTS .....	18
6.1	Intentionally Omitted.....	18
6.2	Intentionally Omitted.....	18
6.3	Installation of Equipment and Telecommunications .....	19
6.4	Construction of Improvements that Disturb or Remove Exterior Paint .....	20
7.	ALTERATIONS.....	21
7.1	Alterations by City.....	21
7.2	Title to Improvements.....	21
7.3	City’s Personal Property .....	21
7.4	Alteration by Landlord.....	22
8.	REPAIRS AND MAINTENANCE .....	22
8.1	Landlord’s Repairs.....	22
8.2	City’s Repairs.....	22
8.3	Liens.....	23
9.	UTILITIES AND SERVICES .....	23
9.1	Landlord’s Provision of Utilities .....	23
9.2	Services .....	24
9.3	Conservation .....	25
9.4	Disruption in Essential Utilities or Services .....	25
10.	COMPLIANCE WITH LAWS; PREMISES CONDITION .....	26
10.1	Landlord’s Compliance with Laws; Premises Condition; Indemnity.....	26
10.2	City’s Compliance with Laws; Indemnity .....	26
10.3	City’s Compliance with Insurance Requirements.....	26
11.	SUBORDINATION.....	27
12.	DAMAGE AND DESTRUCTION.....	27
13.	EMINENT DOMAIN .....	28
13.1	Definitions.....	28
13.2	General.....	29
13.3	Total Taking; Automatic Termination .....	29
13.4	Partial Taking; Election to Terminate.....	29
13.5	Termination of Lease; Rent and Award.....	30
13.6	Partial Taking; Continuation of Lease .....	30

13.7	Temporary Taking .....	30
14.	ASSIGNMENT AND SUBLETTING .....	30
15.	DEFAULT; REMEDIES .....	31
15.1	Events of Default by City .....	31
15.2	Landlord’s Remedies .....	31
15.3	Landlord’s Default .....	32
16.	INDEMNITIES.....	32
16.1	City’s Indemnity .....	32
16.2	Landlord’s Indemnity.....	33
17.	INSURANCE.....	33
17.1	City’s Self-Insurance .....	33
17.2	Landlord’s Insurance .....	35
17.3	Waiver of Subrogation.....	35
18.	ACCESS BY LANDLORD.....	36
19.	ESTOPPEL CERTIFICATES .....	36
20.	SURRENDER OF PREMISES .....	36
21.	HAZARDOUS MATERIALS.....	37
21.1	Definitions.....	37
21.2	Intentionally Deleted.....	37
21.3	Exculpation of City.....	37
21.4	City’s Covenants.....	38
21.5	City’s Environmental Indemnity.....	38
22.	Intentionally Omitted.....	38
23.	CITY PROVISIONS.....	38
23.1	MacBride Principles - Northern Ireland .....	38
23.2	Controller’s Certification of Funds.....	38
23.3	Prevailing Wages and Working Conditions.....	39
23.4	Non Discrimination in City Contracts and Benefits Ordinance.....	39
23.5	Tropical Hardwood and Virgin Redwood Ban .....	41
23.6	Bicycle Parking Facilities .....	41
23.7	Resource-Efficient City Buildings.....	41
23.8	Sunshine Ordinance .....	41
23.9	Conflicts of Interest.....	42

23.10	Notification of Prohibition on Contributions .....	42
23.11	Preservative-Treated Wood Containing Arsenic .....	42
24.	GENERALLY APPLICABLE PROVISIONS .....	43
24.1	Notices .....	43
24.2	No Implied Waiver .....	43
24.3	Amendments .....	43
24.4	Authority .....	44
24.5	Parties and Their Agents; Approvals .....	44
24.6	Interpretation of Lease .....	44
24.7	Successors and Assigns .....	44
24.8	Brokers .....	44
24.9	Severability .....	45
24.10	Governing Law .....	45
24.11	Entire Agreement; Incorporation of Exhibits .....	45
24.12	Attorneys' Fees .....	45
24.13	Holding Over .....	46
24.14	Cumulative Remedies .....	46
24.15	Time of Essence .....	46
24.16	Survival of Indemnities .....	46
24.17	Signs 47	
24.18	Quiet Enjoyment and Title .....	47
24.19	Bankruptcy .....	47
24.20	Transfer of Landlord's Interest .....	47
24.21	Non-Liability of City Officials, Employees, and Agents .....	47
24.22	Counterparts .....	48
24.23	Effective Date .....	48
24.24	Certification by Landlord .....	48
24.25	Acceptance of Lease by City .....	48
24.26	Memorandum of Lease .....	48
24.27	Building Association Obligation .....	48
24.28	Criminal History in Hiring and Employment Decisions .....	49
24.29	Landlord Exculpation .....	49
24.30	Force Majeure .....	49

24.31 Cooperative Drafting .....49



LIST OF EXHIBITS AND SCHEDULES

EXHIBIT A — Floor Plan of Premises

EXHIBIT B — Notice of Commencement Date

EXHIBIT C — Exclusions from Operating Costs

EXHIBIT D — Building Rules and Regulations

EXHIBIT E — Intentionally Omitted

EXHIBIT F — Bicycle Parking Spaces

EXHIBIT G — Intentionally Omitted

EXHIBIT H — Intentionally Omitted

EXHIBIT I — Form of Memorandum of Lease

## AMENDED AND RESTATED OFFICE LEASE

THIS AMENDED AND RESTATED OFFICE LEASE (this “**Lease**”), dated for reference purposes only as of February 1, 2023, is by and between THE LIGHTHOUSE BUILDING LLC, a Delaware limited liability company (“**Landlord**”), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**City**” or “**Tenant**”).

### RECITALS

**A.** Landlord and City are parties to that certain Office Lease dated November 9, 2012 (the “**Initial Lease**”), as amended by that certain First Amendment to Office Lease dated as of December 3, 2013 (the “**First Amendment**”), as amended by that certain Second Amendment to Office Lease dated as of June 20, 2014 (the “**Second Amendment**”), as further amended by that certain Third Amendment to Office Lease dated as of September 5, 2014 (the “**Third Amendment**”), and further amended by that certain Fourth Amendment to Office Lease dated as of December 9, 2015 (the “**Fourth Amendment**”), with respect to the City’s lease of that certain premises consisting of floors 1 through 8, comprised of approximately 103,487 rentable square feet at Parcel A (as defined in this Lease), which is located in the Building (as defined below) located at 1155 Market Street, San Francisco, California. The Initial Lease, as amended by the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment shall be referred to as the “**Original Lease**”.

**B.** The building located at the Property consists of four separate legal vertical airspace parcels comprised of Parcel A, and those parcels referred to as “Parcel B”, “Parcel C” and “Parcel D” (collectively the “**Building**”), as more particularly shown on that certain Parcel Map 8315, recorded in the official records of the City and County of San Francisco (the “**Official Records**”) on April 27, 2015, at Book 49, Page 37 (the “**Parcel Map**”). In connection with the Parcel Map, a Declaration of Covenants, Restrictions and Easements for 1155 Market Street was recorded in the Official Records on December 9, 2015, Series No. 2015R169522 (the “**CC&Rs**”).

**C.** On January 24, 2022, the City timely provided its Notice to Exercise its Option to Extend the Original Lease. The parties have diligently negotiated the terms of a proposed extension. Pursuant to the terms of the Original Lease, the City has been in holdover since February 1, 2023.

**D.** Landlord and Tenant have reached agreement and desire to enter into this Lease to amend and restate the Original Lease in its entirety, subject to, and on the basis of, the terms, covenants and conditions hereinafter set forth.

In consideration of the foregoing Recitals, which are incorporated into this Lease by this reference, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, 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 is deemed to incorporate all of the terms in this Lease pertaining to that item. If there is any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision will control.

Lease Reference Date:	February 1, 2023
Landlord:	THE LIGHTHOUSE BUILDING LLC, a Delaware limited liability company
Tenant:	CITY AND COUNTY OF SAN FRANCISCO
Property ( <u>Section 2.1</u> ):	1155 Market Street
Premises ( <u>Section 2.1</u> ):	That approximately 99.88% portion of Parcel A, consisting of Floors 1 – 8, inclusive (approximately 103,487 rentable square feet)
Parking ( <u>Section 2.5</u> ):	Tenant shall have the right to rent up to fourteen (14) reserved parking stalls in the Building garage at the then monthly rate with pricing controls as further described in Section 2.5.
Rentable Area of Premises ( <u>Section 2.1</u> ):	Approximately 103,487 rentable square feet
Commencement Date ( <u>Section 3</u> ):	February 1, 2023
Expiration Date ( <u>Section 3</u> ):	January 31, 2028
Effective Date:	As defined in Section 24.22
Initial Term ( <u>Section 3</u> ):	The Commencement Date through the Expiration Date.
Extension Option ( <u>Section 3.4</u> ):	Tenant shall have one (1) renewal option to extend the Lease for five (5) years. The terms for the renewal option are per Section 3.4 of this Lease.
Base Rent ( <u>Section 4.1</u> ):	Initial annual Base Rent: \$6,685,260.20 (\$64.60 per sq. ft.)  Initial monthly payments of Base Rent: \$557,105.02 (\$5.38 per sq. ft.)

Base Rent Adjustment; Adjustment Dates ( <u>Section 4.2</u> ):	On the first and each subsequent anniversary of the Commencement Date during the Initial Term (“ <b>Adjustment Dates</b> ”), the Base Rent shall be adjusted to equal one hundred three percent (103%) of the Base Rent for the lease year immediately preceding the applicable Adjustment Date.
Base Year ( <u>Section 4.5</u> ):	2023
City’s Percentage Share ( <u>Section 4.4</u> ):	72.45% (based on the rentable square footage of the entire Building); see Section 4.4 regarding City’s Parcel A Percentage Share and City’s Real Estate Tax Share.
Condition of Premises:	The Premises will be delivered in its As-Is condition.
Use ( <u>Section 5.1</u> ):	City may use the Premises for general office uses consistent with a first-class office building in the Mid-Market and South of Market areas. In addition, City, permitted assignees and subtenants, shall also have the right to use the Premises for public programs if required by City’s Charter, Administrative Code, or Laws.
Tenant Improvement Allowance ( <u>Section 3.5</u> )	Landlord shall provide a Tenant Improvement Allowance equal to Fifteen Dollars (\$15.00) per rentable square foot or \$1,552,305.00.
Operating Costs & Real Estate Taxes:	Tenant shall be responsible for and pay for all utility and janitorial costs related to the Premises provided that Landlord shall be responsible for the cost of providing utility connections to the Building.
Electricity:	As set forth in Section 9.1.
Security:	Per the Lease.
Security Deposit:	None.
Assignment and Subletting:	Per the Lease.
Notice Address of Landlord ( <u>Section 24.1</u> ):	The Lighthouse Building LLC, c/o Kennedy-Wilson Properties, Ltd. 1 Sutter Street, Suite 225 San Francisco, CA 94104 Attn: Shayna Eskew
Landlord’s Key Contact:	David Harrison

Landlord Contact Telephone No.: (415) 990-2995

Tenant's Notice Address  
(Section 24.1): Real Estate Division  
25 Van Ness Avenue, Suite 400  
San Francisco, California 94102  
Attn: Director of Property  
Re: 1155 Market Street Lease

and to: Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682  
Attn: Real Estate & Finance Team  
Re: 1155 Market Street Lease  
Fax No.: (415) 554-4757

Email: Vincent.Brown@sfcityatty.org

Tenant's Key Contact: Jeff Suess

Tenant Contact Telephone No.: (415) 554-9873 or jeff.suess@sfgov.org

Tenant's Alternate Contact: Andrico Q. Penick

Alternate Contact Telephone No.: (415) 554-9860 or andrico.penick@sfgov.org

Brokers (Section 24.8): Mark Geisreiter  
Newmark  
One Sansome Street, Suite 4100  
San Francisco, CA 94104  
  
(415) 290-5797

Rent Payment Address (Section 4.1): The Lighthouse Building LLC,  
c/o Kennedy-Wilson Properties, Ltd.  
1 Sutter Street, Suite 225  
San Francisco, CA 94104  
Attn: Shayna Eskew

Account Name: The LightHouse Building LLC  
Bank Name: Wells Fargo Bank, N.A.  
Bank Address: 420 Montgomery Street,  
San Francisco, CA 94104  
Account Number: 4124726985  
ABA#: 121000248

## **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 and shown on the floor plan attached to this Lease as **Exhibit A** and incorporated herein by reference (the “**Premises**”). The Premises contain the rentable area and are located on the floor(s) of the Building specified. As used in the Lease, the term “rentable area” shall mean that measurement of interior floor area computed in accordance with the “Office Buildings: Standard Methods of Measurements” ANSI/BOMA Z65.1-2010, adopted by the Building Owners and Managers Association (BOMA). The Building, land upon which the Building is located and all other improvements on or appurtenances to such land are referred to collectively as the “**Property.**”

### **2.2 Common Areas**

City has the non-exclusive right to use, together with any other tenants in the Building, the lobbies, corridors, elevators, stairways, and other public areas of the Building and the Property (collectively, the “**Common Areas**”), and the non-exclusive right of access to and from the Premises by the main entrances to the Building and the Property. Landlord has provided City with keycards and sets of metal keys. The City shall pay for any additional keycards and metal keys. The City shall pay the actual replacement costs, without markup, of any keycards or metal keys lost or damaged by City or its employees and shall return all keycards and metal keys at the end of the Term.

### **2.3 Condition of the Premises on Delivery**

Tenant acknowledges and agrees that it has been occupying the Premises pursuant to the Original Lease, and that its occupancy of the Premises as of the Commencement Date is a continuation of such previous occupancy. Tenant is familiar with the condition of the Premises and accepts the Premises in its present “AS-IS” condition.

### **2.4 Disability Access**

For purposes of Section 1938(a) of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Premises have not recently undergone inspection by a Certified Access Specialist (CASp). As required by Section 1938(e) of the California Civil Code, Landlord hereby states as follows:

“A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making

any repairs necessary to correct violations of construction-related accessibility standards within the premises.”

In furtherance of the foregoing, Landlord and Tenant hereby agree as follows: (a) any CASp inspection requested by Tenant shall be conducted, at Tenant’s sole cost and expense, by a CASp approved in advance by Landlord, subject to Landlord’s reasonable rules and requirements; (b) such inspection shall be limited to the Premises and access to the Premises; (c) Tenant is not a Small Business and San Francisco Administrative Code section 38.5 does not apply to this Lease; and (d) Tenant, at its sole cost and expense, shall be responsible for making any improvements or repairs to correct violations of construction-related accessibility standards identified as a result of any such inspection by Tenant, which work shall be performed in accordance with the terms of the Lease.

Notwithstanding the foregoing or anything to the contrary set forth in the Lease, (i) if any disability access improvements or upgrades are triggered by tenant improvements or alterations selected or performed by or on behalf of Tenant, then Tenant shall be responsible for the cost of such improvements or upgrades, and (ii) Tenant hereby acknowledges that Tenant shall be solely responsible for compliance with applicable laws, regulations and ordinances (including with respect to any upgrades or modifications required by the ADA or any similar statutes) arising from or triggered by any tenant improvements, alterations or additions performed by or on behalf of Tenant.

## **2.5 Parking**

During the Term (as defined in Section 3.1 below), City shall have the right to rent up to fourteen (14) reserved parking stalls (the “**Stalls**”) in the Building parking garage (the “**Parking Structure**”) at the current monthly rate of \$250 per stall. Tenant shall pay the monthly rent for the Stalls concurrent with monthly Base Rent. Such monthly rate shall be subject to increase from time to time, as reasonably determined by Landlord, provided that any such increases shall not occur more than once per year nor result in a monthly rate that exceeds ninety-five percent (95%) of the average of the monthly parking rates being charged at the 1355 Market Street garage and the One South Van Ness garage at such time. Each Stall shall be rented on a month to month basis until cancelled on thirty (30) days prior written notice from Tenant to Landlord. If Tenant elects not to rent all or any portion of the Stalls allocated to Tenant hereunder, Landlord shall have the right to allow others to rent the unused Stalls and if Tenant later wishes to rent additional Stalls, Tenant shall deliver a written notice to Landlord of its desire to use such Stalls and such use shall be subject to availability, as determined by Landlord (or Landlord’s parking operator).

Stalls may be used by the employees, agents, contractors, customers and invitees of Tenant. Landlord shall have no obligation to monitor the use of the Parking Structure; provided, however, the entrance to the Parking Structure shall be through a card-key system or other access system implemented by Landlord. All parking shall be subject to any and all rules and regulations adopted by Landlord in its reasonable discretion from time to time, provided such rules and regulations are applied to all Parking Structure users. Only vehicles no larger than full size passenger automobiles, vans or pick-up trucks or standard business use vehicles (which do not require parking spaces larger than full size passenger automobiles) may be parked in the

Parking Structure. Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant's employees, agents, customers or invitees to be loaded, unloaded or parked in areas other than those designated by Landlord for such activities. A failure by Tenant or any of its employees, agents, customers or invitees to comply with the foregoing provisions shall afford Landlord the right, but not the obligation, without notice, in addition to any other rights and remedies available to Landlord, to remove and tow away the vehicles involved and to charge the cost to Tenant, which cost shall be immediately due and payable within ten (10) days of Landlord's delivery of an invoice for such cost to Tenant.

## **2.6 Restatement and Supersession.**

Landlord and Tenant hereby agree that this Lease shall amend, restate, supersede and replace the Original Lease in its entirety, and that the Original Lease shall have no further force or effect; provided, however, that any provision set forth in the Original Lease expressly stated to survive expiration or termination shall continue to survive.

## **3. TERM**

### **3.1 Term of Lease**

The Premises are leased for a term (the "**Term**") commencing on February 1, 2023 retroactive from the Effective Date. The Term will end on the Expiration Date specified in the Basic Lease Information, or the date that this Lease is earlier terminated under the provisions of this Lease, unless City extends the Term pursuant to Section 3.4 (Extension Option), below. The word "**Term**" as used herein shall refer to the Initial Term and the Extended Term if City properly and timely exercises the Extension Option as provided below.

### **3.2 Commencement Date and Expiration Date**

The dates that the Term commences and expires under this Lease are the "**Commencement Date**" and the "**Expiration Date**."

### **3.3 Intentionally Omitted**

### **3.4 Extension Option**

(a) Landlord grants City the right to extend the Term (the "**Extension Option**") for the additional term specified in the Basic Lease Information (the "**Extended Term**"). The Extended Term will be on all of the terms and conditions contained in this Lease.

(b) City may exercise the Extension Option, if at all, by giving written notice to Landlord no later than twelve (12) months and no earlier than eighteen (18) months prior to the expiration of the Initial Term. Landlord acknowledges and agrees that City's notice of its intent to exercise an Extension Option shall be subject to enactment of a resolution by the Board of Supervisors and the Mayor, in their respective sole and absolute discretion, approving and authorizing the same, within ninety (90) days after the date such notice of exercise is given, and, if such authorizing resolutions approving the exercise of an Extension Option are not issued and received by Landlord within such ninety (90) day period, then City's exercise of the Extension



Option shall be rendered null and void and City's rights under this Section 3.4 shall terminate and be of no further force or effect.

(c) The Extension Option is personal to City and may not be assigned, voluntarily or involuntarily, separate from or as part of the Lease. At Landlord's option, all rights of City under this Section shall terminate and be of no force or effect if any of the following individual events occur or any combination thereof occur: (1) City is in monetary or other material default beyond any applicable notice and cure period on the date Landlord receives a notice exercising the Extension Option; and/or (2) City has assigned its rights and obligations under all or part of the Lease or City has subleased all or part of the Premises in a transfer (except with respect to subleases permitted under this Lease without Landlord's consent); and/or (3) City has failed to exercise properly the Extension Option in a timely manner in accordance with the provisions of this Section; and/or (4) City no longer has possession of the entire Premises pursuant to the Lease (except with respect to subleases permitted under this Lease without Landlord's consent), or if the Lease has been terminated earlier, pursuant to the terms and provisions of the Lease. Time is of the essence with respect to each and every time period described in this Section 3.4.

### **3.5 Tenant Improvement Allowance**

(a) Landlord shall provide a one-time Tenant Improvement Allowance equal to Fifteen Dollars (\$15.00) per rentable square foot of the Premises or \$1,552,305.00 (the "**Tenant Improvement Allowance**"). Tenant may apply the Tenant Improvement Allowance towards costs of improvements to the Premises, including architectural fees, engineering fees, and construction supervision costs, or Base Rent; provided, that any portion of the Tenant Improvement Allowance applied to Base Rent shall be discounted by five percent (5%), in which case Tenant shall forfeit such discounted portion of the Tenant Improvement Allowance. There shall be a minimum of \$98,505 (\$15.00 per rentable square foot x 6,567 RSF) spent on tenant improvements to the Premises ("**Tenant Improvements**"). Tenant shall be responsible for all of the Tenant Improvement costs that exceed the Tenant Improvement Allowance, which shall be treated as Additional Services under Section 4.13 and paid for by Tenant accordingly.

(b) Landlord shall be responsible for moving any furniture and equipment in the Premises to the extent reasonably necessary for Landlord to perform the Tenant Improvements; provided, however, that City shall be responsible for the cost of such temporary move which may be paid from the Tenant Improvement Allowance.

(c) In the performance of any portion of the Tenant Improvements, Landlord shall (i) perform, or cause the Tenant Improvements to be performed, in a workmanlike manner that reasonably minimizes interference with City's use of the Premises, (ii) comply with all applicable Laws, (iii) provide City with no less than five (5) business days' prior notice of the planned date and time of entry to the Premises to commence such work, and (iv) diligently pursue the Tenant Improvements to completion.

(d) City acknowledges and agrees that the Tenant Improvements will be done by Landlord in the Premises during the period of City's occupancy of the Premises; provided, however, that the completion of such work therein shall not affect City's obligation to pay Base

Rent and all additional sums required to be paid by City to Landlord under the Lease and to perform all of City's covenants and obligations under the Lease; provided, further that, to the extent Landlord's performance of the Tenant Improvements prevents City from using any portion of the Premises for three (3) or more consecutive business days, then Base Rent shall be proportionately abated during such period of interference based upon the portion of the Premises City is unable to use. Except as otherwise set forth in the foregoing sentence, City (i) agrees that City shall have no right or claim to any abatement, offset or other deduction of the amount of Rent payable by City for the Premises due to the performance of the Tenant Improvements by Landlord or its agents pursuant to this Section 3.5, (ii) grants Landlord access to any and all of the Premises reasonably necessary to perform the work to be performed by Landlord pursuant to this Section 3.5, (iii) waives any rights or claims City may have at law or in equity with respect to any interference with City's conduct of its operations in and about the Premises during the pendency of the Tenant Improvements to be performed by Landlord pursuant to this Section 3.5, but not including any damage to the Premises or City's personal property caused by the gross negligence or willful misconduct of Landlord or its agents, and (iv) agrees not to interfere, and not to allow any of City's representatives to unreasonably interfere, with Landlord and its contractors, representatives and consultants in the performance of the Tenant Improvements to be performed by Landlord pursuant to this Section 3.5.

#### 4. RENT

##### 4.1 Base Rent

City will pay to Landlord the annual Base Rent specified in the Basic Lease Information (the "**Base Rent**") commencing on the Commencement Date. The Base Rent is payable via wire transfer (or any other electric payment service accepted by Landlord during the Term) in equal monthly payments at the address specified for Landlord in the Basic Lease Information, or other place as Landlord may designate in writing on not less than thirty (30) days' advance notice. City will pay the Base Rent monthly within ten (10) days after invoice from Landlord and without any deductions or setoff except as otherwise provided in this Lease. If the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for the fractional month will be prorated based on a thirty (30)-day month.

City shall be entitled to a rent credit for any overpayments of rent made by City during the period from February 1, 2023 through the date this Lease is fully executed. In addition, City shall be entitled to a rent credit for any Operating Costs charged by Landlord and paid by Tenant during the period from February 1, 2023 through the date this Lease is fully executed. These rent credits may only be used by City to offset rents due and for no other purpose. These rent credits are not subject to discount and cannot be merged with the Tenant Improvement Allowance described in Section 3.5 above. Within thirty (30) days after the date this Lease is fully executed, Landlord shall submit in writing to the City, its calculations of the rent credit as a result of overpayment and the rent credit will be applied to the next month's rent. If the rent credit is not exhausted in the first month to which it is applied, the remaining balance of the rent credit shall be applied to subsequent months until exhausted.

As of the Commencement Date and thereafter during the Term, Tenant shall pay monthly Base Rent in accordance with the following schedule:

<b>Period</b>	<b>Annual Base Rent/Sq. Ft.</b>	<b>Annual Base Rent</b>	<b>Monthly Base Rent</b>
February 1, 2023 – January 31, 2024	\$64.60	\$6,685,260.20	\$557,105.02
February 1, 2024 – January 31, 2025	\$66.54	\$6,886,024.98	\$573,835.42
February 1, 2025 – January 31, 2026	\$68.54	\$7,092,998.98	\$591,083.25
February 1, 2026 – January 31, 2027	\$70.60	\$7,306,182.20	\$608,848.52
February 1, 2027 – January 31, 2028	\$72.72	\$7,525,574.64	\$627,131.22

#### **4.2 Adjustments in Base Rent**

On each date specified in the Basic Lease Information for the adjustment of Base Rent during the Initial Term (an “**Adjustment Date**”), the Base Rent payable under Section 4.1 (Base Rent) will be adjusted as follows, as reflected in the above Base Rent schedule:

On each Adjustment Date, the Base Rent for the following twelve-month period will be adjusted to equal one hundred three percent (103%) of the Base Rent for the lease year preceding the Adjustment Date.

#### **4.3 Determination of Base Rent for the Extended Term**

(a) At the commencement of the Extended Term, the Base Rent will be adjusted to equal 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 (taking into account any improvements or improvement allowance Landlord agrees to provide at City’s request) (“**Comparable Space**”) situated within the Mid-Market and South of Market areas of San Francisco (“**Reference Area**”); provided, however, in no event will the Base Rent be reduced below the Base Rent for the twelve (12)-month period before the Extended Term. As used in this Section, “**prevailing market rate**” means the base rent for Comparable Space, taking into account the variations between this Lease and the leases of Comparable Space with respect to (i) rental structure, including rental rates per rentable square foot (including type, gross or net, and if gross, adjusting for the base year or expense stop), and escalation provisions (ii) floor location and size of the premises covered by leases of the Comparable Space, (iii) the duration of the Extended Term under this Lease and the term of the leases for Comparable Space, and (iv) free rent and any other tenant concessions given under the leases for Comparable Space.

(b) Within thirty (30) days after City’s exercise of the Extension Option, Landlord will notify City of Landlord’s determination of the prevailing market rate for the Premises, together with reasonable supporting documentation. If City disputes Landlord’s determination of the prevailing market rate, City will notify Landlord within fourteen (14) days after Landlord’s notice to City of the prevailing market rate and the dispute will be resolved as follows:

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

(ii) If within that thirty (30)-day period Landlord and City cannot agree on the prevailing market rate, then each will select one appraiser to determine the prevailing market rate. Within thirty (30) days after the expiration of the thirty (30)-day consultation period, each party will cause its appraiser to prepare and complete an appraisal report determining the prevailing market rate and concurrently submit the reports to Landlord and City.

(iii) If only one appraisal report is submitted within that thirty (30)-day period, then the prevailing market rate determined in that appraisal report will be used to establish the Base Rent for the Extended Term. If both appraisal reports are submitted within the thirty (30)-day period, and if the prevailing market rates determined in the two appraisal reports differ by less than ten percent (10%) of the higher of the two, then the average of the two will be the prevailing market rate. If the prevailing market rates in the two appraisal reports differ by more than ten percent (10%) of the higher of the two, then the two appraisers will immediately select a third appraiser. Within ten (10) days after selection, the third appraiser will determine which of the first two appraisal reports specified a value closest to the actual fair market value, which will be the prevailing market rate. The determination of the third appraiser will be final and binding on the parties.

(iv) All appraisers must be "MAI" designated members of the Appraisal Institute with not less than five (5) years' recent experience appraising leases of commercial properties similar to the Premises in the Reference Area. Landlord and City will pay the cost of the appraiser it selects and one-half of the cost of the third appraiser.

#### **4.4 Additional Charges**

City will pay to Landlord any charges or other amounts required under this Lease as additional rent ("**Additional Charges**"), including the charges for City's Percentage Share of Real Estate Taxes and Operating Costs, as provided below. All Additional Charges are payable to Landlord concurrently with monthly Base Rent 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 as "**Rent**."

#### **4.5 Definitions**

"**Base Year**" means the year specified in the Basic Lease Information.

"**City's Percentage Share**" means the percentage specified in the Basic Lease Information.

"**Expense Year**" means each calendar year commencing January 1st of each year during the Term, including any partial year in which this Lease commences; provided that Landlord, on advance written notice to City, may change the Expense Year to any other twelve (12)

consecutive month period and, in the event of a change, City's Percentage Share of Building Operating Expense will be equitably adjusted for the Expense Years involved in the change. Expense Year does not include the Base Year.

**"Real Estate Taxes"** means all taxes, assessments and charges levied upon or with respect to the entire Property, except that, at such time as taxes, assessments and charges are levied separately upon or with respect to Parcel A, Real Estate Taxes means all taxes, assessments and charges levied solely upon or with respect to Parcel A.

**"Tax Year"** means each calendar year during the Term, including any partial year during which this Lease may commence; provided that Landlord, upon notice to City, may change the Tax Year from time to time to any other twelve (12) consecutive month period and, in the event of any such change, City's Real Estate Tax Share shall be equitably adjusted for the Tax Year involved in any such change. Tax Year shall not include the Base Year.

**"Operating Costs"** means all fees, costs and expenses incurred by Landlord (or incurred by the Building Association (as defined in the CC&Rs) and payable by Landlord under the CC&Rs) in connection with managing, operating, maintaining, repairing and replacing the Premises, the Building, Parcel A, and the Property, as applicable, as needed to comply with Landlord's obligations under this Lease or to maintain and operate Parcel A and the Building in a condition and manner comparable to other first-class office buildings in the vicinity of the Building, including, but not limited to: (1) the cost of air conditioning electricity, steam, water heating, mechanical, telephone ventilating escalator and elevator systems and all other utilities, (2) the cost of repairs and replacements to the Premises, Building, Parcel A, and the Property and all labor and material costs related thereto, and the cost of general maintenance, cleaning and service contracts and the cost of all supplies, tools and equipment required in connection therewith, (3) the cost incurred by Landlord or the Building Association for all insurance carried on the Building, Parcel A, and Property (4) wages salaries, payroll taxes and other labor costs and employee benefits relating to employees of Landlord the Building Association, or their respective agents, engaged in the operation repair, or maintenance of the Building, Parcel A, and the Property, allocated in proportion to the percentage of such person's working time actually spent working in connection with the Building, Parcel A, and Property, (5) reasonable management fees, (6) fees, charges and other costs of all independent contractors engaged by Landlord or by the Building Association, allocated in proportion to the percentage of such person's working time actually spent working in connection with the Building, Parcel A, and Property, (7) accounting and legal expenses (8) depreciation on personal property, including, without limitation, carpeting in public corridors and Common Areas and window coverings provided by Landlord or by the Building Association, (9) the fair market rental value of offices in the Building for the property manager, (10) the cost of capital improvements made to the Building after the Commencement Date as a labor-saving or energy saving device or to effect other economies in the operation or maintenance of the Building and which benefit the Premises, or are made to the Building or Parcel A after the Commencement Date and are required under any governmental law or regulation that was not applicable to the Building or Parcel A at the time that permits for the construction thereof were obtained but excluding any fines or penalties arising from Landlord's or the Building Association's deliberate or negligent violation of such law, rule or regulation, and except to the extent such improvements are attributable to or are made for the primary benefit of a Building tenant or occupant other than City, and (11) any other

expenses reasonably incurred in connection with the management, operation, maintenance, repair or replacement of the Building, Parcel A and Property (other than Real Estate Taxes, utilities, and any services for which Landlord is separately and directly reimbursed by City or other tenants in the Building) which would, under standard commercial real estate accounting principles consistently applied, be considered an operating expense. With respect to the costs of items included in Operating Costs under (10) and all fees, costs and expenses of replacements of capital items included in Operating Costs, such costs and such fees, costs and expenses shall be amortized over the useful life thereof, together with interest on the unamortized balance at a rate per annum equal to four (4) percentage points over the Five Year Treasury Rate charged at the time such item is constructed, but not more than the maximum rate permitted by law at the time such item is constructed.

In the event that in the Base Year for Operating Costs or in any Expense Year the Building is less than ninety-five percent (95%) occupied, the Operating Costs shall be appropriately adjusted to reflect a ninety-five percent (95%) occupancy level. Notwithstanding anything to the contrary set forth in this Lease, (i) when calculating Operating Costs for the Base Year, Operating Costs shall exclude one-time costs or fees incurred in the Base Year only, including those attributable to market-wide labor-rate increases or other extraordinary circumstances, including, but not limited to, boycotts and strikes, and costs relating to capital improvements or expenditures, (ii) Landlord agrees that in no event shall Landlord and the Building Association, collectively, recapture more than one hundred percent (100%) of the Operating Costs in any Expense Year; and (iii) Operating Costs for any Expense Year (whether incurred by Landlord or the Building Association, as applicable) shall exclude the items described on **Exhibit C** "Exclusions from Operating Costs", attached hereto and incorporated into this Lease by this reference, and the costs incurred by Landlord or the Building Association with respect to any Extended Term Work.

**"Building Operating Expenses"** means the Operating Costs equitably allocable to the Building as a whole.

**"City's Parcel A Percentage Share"** means ninety-nine and 88/100 percent (99.88%), which percentage reflects the ratio that the rentable square footage of the Premises bears to the total rentable square footage of Parcel A.

**"City's Real Estate Tax Share"** means ninety-nine and 88/100 percent (99.88%), which percentage reflects the ratio that the rentable square footage of the Premises bears to the total rentable square footage of Parcel A.

**"Parcel A"** means the vertical airspace parcel that consists of the land underlying the Building, the basement and garage area of the Building, and the lower eight (8) floors of the Building, extending around and above Parcel B, Parcel C, and Parcel D (which contains the upper three (3) floors: floors nine, ten and eleven) to the roof of the Building and the airspace above the roof of the Building to infinity.

**"Parcel A Operating Costs"** means the Operating Costs equitably allocable to Parcel A (72.535% of the Building Operating Expenses and 100% of Operating Costs equitably allocable only to Parcel A, if any).

#### 4.6 Payment of City's Percentage Share of Operating Costs

(a) Beginning February 1, 2024, and continuing during the Term, City shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of City's Parcel A Percentage Share of the amount, if any, by which Parcel A Operating Costs for each Expense Year exceeds the Base Year Operating Costs for Parcel A. City shall make such payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City. Landlord may revise such estimates of Parcel A Operating Costs from time to time and City shall thereafter make payments on the basis of such revised estimates, provided that no such revisions shall be retroactive and Landlord may not make any such revisions more than twice in any given Expense Year and no such revision may be made any earlier than four (4) months subsequent to the prior estimate for such Expense Year.

(b) With reasonable promptness not to exceed one hundred twenty (120) days after the expiration of each Expense Year, Landlord shall furnish City with a statement (herein called "**Landlord's Expense Statement**"), prepared by an agent of Landlord, setting forth in reasonable detail the Parcel A Operating Costs for such Expense Year and City's Parcel A Percentage Share thereof. If City's Parcel A Percentage Share of the actual Parcel A Operating Costs for such Expense Year exceeds the estimated Parcel A Operating Costs paid by City for such Expense Year, City shall pay to Landlord (whether or not this Lease has terminated) the difference between the amount of estimated Parcel A Operating Costs paid by City and City's Parcel A Percentage Share of the actual Parcel A Operating Costs within thirty (30) days after the receipt of Landlord's Expense Statement. If the total amount paid by City for any such City's Parcel A Percentage Share of Parcel A Operating Costs exceeds City's Parcel A Percentage Share of the actual Parcel A Operating Costs for such Expense Year, such excess shall be credited against the next installments of Parcel A Operating Costs due from City to Landlord hereunder, or refunded to City, at City's option. This credit shall specifically include City's Parcel A Percentage Share of any Parcel A Operating Costs actually paid by City to Landlord during the Base Year while the parties were negotiating this Lease, but shall specifically exclude City's payment of utility and janitorial costs relating to the Premises.

#### 4.7 Payment of City's Percentage Share of Real Estate Taxes

(a) Beginning February 1, 2024, and continuing during the Term, City shall pay to Landlord, as Additional Charges, Real Estate Taxes allocable to Parcel A in accordance with the following:

(i) City shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of City's Real Estate Tax Share of the amount (the "**Tax Excess**"), if any, by which (A) the Real Estate Taxes that are allocable to Parcel A for the particular Tax Year exceed (B) the Real Estate Taxes that are allocable to Parcel A for the Base Year (the "**Base Tax Amount**"); provided, however, that the Base Tax Amount shall be reduced to take into account any decreases in Real Estate Taxes obtained in connection with a reassessment of Parcel A that decreases Real Estate Taxes for Parcel A. City shall make such payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City. Landlord shall furnish City, as a component of Landlord's Expense Statement, the amount of Real Estate Taxes that are allocable to Parcel A for such Tax Year, the Tax Excess for such Tax Year and City's

Real Estate Tax Share thereof. If City's Real Estate Tax Share of the actual Tax Excess for a particular Tax Year exceeds the estimated amount paid by City for such Tax Year, City shall pay to Landlord (whether or not this Lease has terminated) the amount of such deficiency within thirty (30) days after the receipt of Landlord's Expense Statement. If the City's payments of the estimated City's Real Estate Tax Share of the Tax Excess for a particular Tax Year exceeds the actual amount of City's Real Estate Tax Share of the Tax Excess for such Tax Year, such excess shall be credited against the next installments of City's Real Estate Tax Share of the Tax Excess due from City hereunder; provided, however, that Landlord shall refund any excess resulting from the last Tax Year of the Term to City at the time Landlord delivers the Landlord's Expense Statement for the last Lease Year.

(ii) Notwithstanding anything to the contrary in subparagraph (b)(i) above, if there shall occur a Reassessment Increase (as defined below), then the City's payment of City's Real Estate Tax Share of such Reassessment Increase shall be suspended during the period ("**Suspension Period**") that is twenty-four (24) months immediately following the Reassessment Increase or the remaining balance of the Term, whichever is shorter. City shall pay Landlord the full amount of City's Real Estate Tax Share of the Reassessment Increase accumulated during any such Suspension Period (the "**Accumulated Amount**") over a period (the "**Payment Period**") that is the shorter to occur of the six (6) year period immediately following the termination of such Suspension Period or the period between the termination of such Suspension Period and the expiration of the Lease. The total Accumulated Amount shall be amortized on a straight-line basis over the Payment Period, bearing interest at eight percent (8%), compounded annually, with City making monthly payments to Landlord of such amortized amount throughout such Payment Period; provided, however, that City shall have the right, at its sole option, to pay the Accumulated Amount in full at any time prior to or during the Payment Period. If, after the Reassessment Increase has initially been determined, there shall occur an increase or decrease therein, whether by reason of contest, error, or otherwise, the Accumulated Amount and the City's corresponding payments shall be retroactively adjusted by the parties. City's right to suspend its payment of City's Real Estate Tax Share of any Reassessment Increase pursuant to this subparagraph may be exercised by City throughout the Term each time there is an Reassessment Increase. For purposes hereof, a "**Reassessment Increase**" means an increase in Real Estate Taxes relating to Parcel A based upon an increase in assessed value of Parcel A arising from a sale or transfer of Parcel A.

#### **4.8 Proration**

If the Commencement Date or Expiration Date occurred on a date other than the first or last day of a Tax Year or Expense Year, then City's Percentage Share of Building Operating Expenses and City's Parcel A Percentage Share of Parcel A Operating Costs, and City's Real Estate Tax Share for the Tax Year or Expense Year in which the Commencement Date or Expiration Date occurs, will be prorated based on a three hundred sixty-five (365)-day year.

#### **4.9 Audits**

After not less than five (5) business days' notice to Landlord, City may audit the books and records of the Building related to Operating Costs and Real Estate Taxes. If the audit discloses any discrepancies that would result in a reduction of City's Percentage Share of



Building Operating Expenses and City's Parcel A Percentage Share of Parcel A Operating Costs for any Expense Year, Landlord will immediately refund to City the amount of any overpayment by City. City will pay the cost of the audit, but if an audit discloses any discrepancies that result in a reduction of City's Percentage Share of Building Operating Expenses and/or City's Parcel A Percentage Share of Parcel A Operating Costs and/or City's Real Estate Tax Share by three percent (3%) or more for any Expense Year or Tax Year, then Landlord will pay the costs of the audit.

#### **4.10 Records**

Landlord will maintain at the Property or at its offices in San Francisco in a safe, complete, and organized manner all of its records related to this Lease, Real Estate Taxes, Operating Costs, and any other charges paid by City under this Lease, for at least three (3) years after the Expiration Date or earlier termination of the Term. Landlord will maintain the records on a current basis and in sufficient detail to facilitate adequate review and audit. All books and records will be available for inspection, copying, and audit by City and its representatives, at City's expense, subject to the provisions of Section 4.9 (Audits) above.

#### **4.11 Payments by City**

Landlord acknowledges that City cannot make any payments to Landlord unless Landlord is qualified as an approved vendor in City's financial and payment system. Therefore, City will not be in default of any monetary obligation under this Lease and no interest or late charge will apply, if Landlord is not an approved vendor with City. More information about being an approved vendor with City is available at <https://sfcitypartner.sfgov.org/Vendor/BecomeSupplier>. All Rent that has accrued while Landlord was not an approved vendor will be payable within twenty (20) after City receives Landlord's written notice and the Contract Monitoring Division confirms that Landlord has been approved as a City vendor.

#### **4.12 Landlord's Compliance with City Business and Tax Regulations Code**

Landlord acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to Landlord under this Lease is withheld as a result of Landlord's delinquency in the payment of any amounts it is required to pay the City under the San Francisco Business and Tax Regulations Code (which delinquency is beyond all applicable notice periods and which payment is not the subject of a protest proceeding), then City will not be in breach or default under this Lease, and the Treasurer and Tax Collector will authorize release of any payments withheld under this paragraph to Landlord, without interest, late fees, penalties, or other charges, upon Landlord coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

#### 4.13 Additional Services

City may request that Landlord provide or arrange for additional services for the Premises, including but not limited to, tenant improvements which Landlord may elect to provide or arrange in its reasonable discretion. If Landlord elects to provide the requested additional services then City shall approve the cost and scope of those services in advance, and City will pay Landlord as Additional Charges the cost of those services plus a five percent (5%) administrative fee. City will pay for the cost of the additional services and the administrative fee with the next monthly payment of Base Rent; provided, however, that City may elect to provide any deposit or other prepayment that City determines is appropriate given the nature of the requested services. Any additional terms for the additional services will be memorialized by a written agreement, which, upon execution by Landlord and City, will be considered a part of this Lease.

#### 4.14 Late Charges

If any installment of Rent or any other sum due from City shall not be received by Landlord or Landlord's designee by the due date therefor, then City shall pay to Landlord a late charge equal to ten percent (10%) of the amount due. The late charge shall be deemed Additional Rent and the right to require it shall be in addition to all of Landlord's other rights and remedies hereunder, at law and/or in equity and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner.

### 5. USE

#### 5.1 Permitted Use

City may use the Premises for general office uses consistent with a first-class office building and any other uses specified in the Basic Lease Information, and for no other use without Landlord's prior written consent, which may not be unreasonably withheld, conditioned, or delayed. The parties acknowledge that a portion of the Premises may be used by the San Francisco Police Department and the Department of Emergency Management for general office use in connection with the City's effort to address homelessness and the drug addiction crisis. Notwithstanding the foregoing acknowledgment, City expressly agrees that the Premises shall not be used for any of the following purposes: (i) drug counseling or treatment; (ii) the detention of criminals; (iii) parole or probation programs, counseling or meetings; (iv) medical clinics, mental health programs or other medical services; or (v) detention of any persons who are under active criminal investigation. No guns, other than service weapons carried by sworn Police officers, may be brought onto the Premises.

#### 5.2 Observance of Rules and Regulations

City will comply with the rules and regulations for Parcel A, that are applicable to the Premises, and are attached to this Lease as **Exhibit D** (the "**Rules and Regulations**"), but the provisions of this Lease will govern over any conflicting Rules and Regulations. Landlord may make reasonable changes to the Rules and Regulations, but all changes must be applicable to Parcel A and, at all times that Landlord is the owner of Parcel B, Parcel B tenants and the changes may not **(a)** reduce Landlord's obligations under the Lease, **(b)** conflict with the

provisions of this Lease, (c) materially increase City's burdens or obligations, (d) impose a charge on City for services that this Lease expressly states are to be provided to City at no charge, or (e) materially adversely affect any permitted use of the Premises. The changes permitted under this Section will be binding on City within a reasonable implementation period after delivery of Landlord's written notice of the changes to City. Landlord will administer the Rules and Regulations in a fair and nondiscriminatory manner and use reasonable efforts to cause other Parcel A and, at all times that Landlord is the owner of Parcel B, Parcel B tenants to comply with them. At all times that Landlord is the owner of Parcel B, Landlord will notify City of any waiver of or special dispensation under the Rules and Regulations granted by Landlord to Parcel B tenants and on request, City will be entitled to the same waiver or special dispensation. City will also comply with all recorded covenants, conditions and restrictions and all ground leases now or hereafter affecting the Property; provided, however, that any recorded covenants, conditions and restrictions and all ground leases now or hereafter affecting the Property entered into after the Effective Date shall not materially interfere with City's rights under this Lease.

### **5.3 Interference with Access**

Landlord will provide to City uninterrupted access to Parcel A and the Premises twenty-four (24) hours per day, seven (7) days per week 52 weeks per year to the maximum extent reasonably possible, including during any power outages affecting the Premises or any portion of the Building; but Landlord may interrupt City's access to the Premises or the Building if there is an immediate threat that will render the Premises, the Common Areas, or any other portion of the Building unsafe for human occupancy. If City's use of any of the Premises or access to the Premises is prevented because the Premises, the Common Areas, or any other portion of the Building is 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 under this Lease, then Landlord will promptly and diligently undertake all reasonable steps necessary to correct the condition. If the condition continues for three (3) or more consecutive business days, is within Landlord's reasonable control to cure, and prevents City's ability to carry on its business in the Premises, then the Rent will be abated based on the extent to which City is prevented from using the Premises for the conduct of its business. Nothing in this Section will limit City's rights with respect to any disruption due to casualty under Section 12 (Damage and Destruction).

City agrees that Landlord shall not be liable for damages, by abatement of Rent or otherwise, for failure to provide or diminution of normal access to the Premises to the extent such failure or diminution results from the act or default of City or matters otherwise beyond Landlord's reasonable control to cure; and such failures or diminution that are beyond Landlord's reasonable control to cure shall never be deemed to constitute an eviction or disturbance of City's use and possession of the Premises or relieve City from paying Rent or performing any of its obligations under this Lease.

## **6. LEASEHOLD IMPROVEMENTS**

### **6.1 Intentionally Omitted**

### **6.2 Intentionally Omitted**

### 6.3 Installation of Equipment and Telecommunications

(a) City shall have the sole right to use the existing small cooling tower (Baltimore Air cool unit, model number VT0-065/J) and two associated condenser pumps (each Paco units, model number I 0-30707) located on the roof of the Building (collectively, the “**Existing Equipment**”) and to keep the Existing Equipment at its current location at the Property throughout the Term. City shall have the non-exclusive right, at City’s sole expense, to install additional communications and other equipment on the roof (the “**Communication Equipment**”) and secure fiber through the Building basement wall into the Muni underground transit or vaults adjacent to the Property, provided that Landlord reasonably determines that such additional equipment will not interfere with the Landlord’s operations or telecommunications or other equipment presently installed on the Building roof or the existing rights of other tenants or third parties to use the roof or basement of the Building. The size, number and locations of such additional equipment and wiring shall be determined during space planning and detailing and shall be subject to Landlord’s reasonable approval, with the understanding that Landlord is entitled to reserve a proportionate amount of rooftop space for future tenants and space for use by Landlord and third parties. City will be responsible, at its sole cost, for the installation, maintenance and removal of any such additional communications or other equipment installed by or for City. City will be responsible, at its sole cost, for the repair and restoration of all damage to the Building and/or Premises to the extent arising in connection therewith.

(b) Installation of any Communication Equipment contemplated in this Section 6.3 shall be conducted by licensed contractors approved by Landlord. If any roof penetration is required, unless Landlord elects to perform such penetrations at City’s sole cost and expense, City shall retain Landlord’s designated roofing contractor to make any necessary penetrations and associated repairs to the roof in order to preserve Landlord’s roof warranty. All plans and specifications for the Communication Equipment shall be subject to Landlord’s prior review and approval and the prior review and approval of all other tenants or occupants of the Building maintaining or operating rooftop equipment and related equipment at the Building. Upon Landlord’s request, City shall prepare and submit a detailed set of plans and specifications for the proposed Communication Equipment, methods of installation and proposed locations thereof to all tenants and occupants having a right to review City’s proposed Communication Equipment. City, at City’s sole cost and expense, shall be responsible for any modifications to the rooftop, risers, utility areas or other facilities or portions of the Building which may be necessary to accommodate the Communication Equipment. It is expressly understood that Landlord retains the right to use the roof of the Building for any purpose whatsoever (including granting rights to third parties to utilize any portion of the roof not utilized by City). For the purposes of determining City’s obligations with respect to its use of the roof of the Building herein provided, all of the provisions of the Lease relating to compliance with requirements as to insurance, indemnity, and compliance with laws shall apply to the installation, use and maintenance of the Communication Equipment. Landlord shall not have any obligations with respect to the Communication Equipment. Landlord makes no representation that the Communication Equipment will function properly and City agrees that Landlord shall not be liable to City therefor. City shall (i) be solely responsible for any damage caused as a result of the Communication Equipment, except to the extent caused by the gross negligence or willful misconduct of Landlord or its agents or invitees, and (ii) promptly pay any tax, license or permit fees charged pursuant to any Laws in connection with the installation, maintenance or use of the

Communication Equipment and comply with all laws pertaining to the use of the Communication Equipment. All Communication Equipment shall be properly screened from view for aesthetic reasons, and must not be visible from street level. Any Communication Equipment on the roof may not protrude above a height equal to the highest point of the Building structure. City, at City's sole cost and expense, shall install and maintain such fencing and other protective equipment and/or visual screening on or about the Communication Equipment as Landlord may reasonably determine.

(c) Landlord and City acknowledge that the installation of telecommunications, data, and computer cabling facilities and equipment, if any, is the responsibility of the City. Landlord will furnish access to City and its consultants and contractors to the main communications service serving the floor(s) on which the Premises are located and all other parts of the Building where access is needed for proper installation of the facilities and equipment including wiring. City will have the right to enter the Premises and the other portions of the Building at reasonable times during construction of any leasehold improvements at the Premises, if any, (the "**Leasehold Improvements**") in order to install the facilities and equipment. City and Landlord will use their good faith efforts to coordinate any all activities to allow the Leasehold Improvements and the installation of the facilities and equipment to be completed in a timely and cost-effective manner.

#### **6.4 Construction of Improvements that Disturb or Remove Exterior Paint**

Landlord, on behalf of itself and its successors, assigns, and Agents, will comply with all requirements of the San Francisco Building Code Chapter 34 and all other applicable local, state, and federal laws, including the California and United States Occupational and Health Safety Acts and their implementing regulations, when the work or alteration disturbs or removes exterior or interior lead-based or "presumed" lead-based paint (as defined below). Landlord and its Agents must 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 under San Francisco Building Code Chapter 34 does not constitute notification to City as Tenant under this Lease and similarly that notice under this Lease does not constitute notice under San Francisco Building Code Chapter 34. Further, Landlord and its Agents, when disturbing or removing exterior or interior lead-based or presumed lead-based paint, will 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 will comply with the requirements of California Code of Regulations Title 17 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 San Francisco Building Code Chapter 34, demonstrates an absence of lead-based paint on the interior or exterior surfaces of the buildings. Under this Section, lead-based paint is "disturbed or removed" if the work or alteration involves any action that creates friction,

pressure, heat, or a chemical reaction on 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 may not make or permit any alterations, installations, additions, or improvements (collectively, “**Alterations**”) to the Premises without first obtaining Landlord’s written consent, which Landlord will not unreasonably withhold or delay. Installation of furnishings, fixtures, equipment, or decorative improvements that do not affect the Building Systems (as defined in Section 8.1 below) or structural integrity of the Building or require permits or roof penetrations, and the repainting and re-carpeting of the Premises (collectively, the “**Decorative Work**”) do not constitute Alterations and do not require Landlord’s consent, provided that City shall notify Landlord in advance of any such Decorative Work. Any Alterations permitted under this Lease will be made at City’s cost in compliance with applicable Laws (as defined in Section 10.1 (Landlord’s Compliance with Laws)) and Tenant shall pay Landlord a supervision fee of five percent (5%) of the cost of the Alterations. Without cost to itself, Landlord will cooperate with City in securing building and other permits and authorizations needed for any permitted Alterations. City will not be required to remove any Alterations on the expiration or sooner termination of this Lease unless Landlord notifies City in writing at the time Landlord approves the Alterations that they must be removed, including any removal notifications provided by Landlord under the Original Lease. City shall first notify Landlord at least fifteen (15) days prior to commencing any Alterations so that Landlord may post a notice of non-responsibility on the Premises.

### **7.2 Title to Improvements**

Except for City’s Personal Property (as defined in the next Section) 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. Furthermore, Landlord may require that City remove any Alterations (including any cabling and wiring) upon the expiration or early termination of the Lease Term, and repair any damage to the Premises and Building caused by such removal; provided Landlord shall advise City at the time of granting consent if Landlord requires such Alterations to be removed at the expiration or earlier termination of the Lease.

### **7.3 City’s Personal Property**

(a) All furniture, furnishings, equipment, trade fixtures, and articles of movable personal property installed in the Premises by or for City and that can be removed without structural damage to the Premises (collectively, “**City’s Personal Property**”) are and will remain City’s property.

(b) At any time during the Term, City may remove any of City’s Personal Property, and City will repair any damage to the Premises resulting from that removal. On the expiration or earlier termination of this Lease, City will remove City’s Personal Property from

the Premises in accordance with Section 20 (Surrender of Premises). 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 ("**Secured Personal Property**"). Landlord recognizes the rights of any supplier, lessor, or lender who has an interest in any items of Secured Personal Property to enter the Premises and remove that Secured Personal Property at any time during the Term or within fifteen (15) days after the Expiration Date. On City's reasonable request, Landlord will execute and deliver any document required by any supplier, lessor, or lender in connection with the installation of any items of Secured Personal Property in the Premises, under which Landlord waives any rights it may have or acquire with respect to the Secured Personal Property, so long as the supplier, equipment supplier, lessor, or lender agrees that it **(i)** will remove the Secured Personal Property from the Premises within fifteen (15) days after the Expiration Date (and if it does not remove the Secured Personal Property within that time the equipment supplier, lessor, or lender will have waived any rights it may have had to the Secured Personal Property), and **(ii)** will repair any damage caused by the removal of the Secured Personal Property.

#### **7.4 Alteration by Landlord**

Landlord shall use, and shall cause the Building Association to use, commercially reasonable efforts to minimize interference with or disruption to City's use and occupancy of, and access to, the Premises during any alterations, installations, additions or improvements to Parcel A performed by Landlord or by the Building Association, including without limitation any leasehold improvement work performed by Landlord for other tenants in Parcel A.

### **8. REPAIRS AND MAINTENANCE**

#### **8.1 Landlord's Repairs**

At its cost, Landlord will repair and maintain the exterior and structural portions of the Building in first-class condition, including, the roof, foundation, bearing and exterior walls, and subflooring, and the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security, and other mechanical, electrical, and communications systems of the Building to the extent not exclusively serving the Premises (collectively, the "**Building Systems**") and the Common Areas. Notwithstanding the foregoing, to the extent that such maintenance and repairs are caused in part or in whole by the act, neglect, fault of or omission of any duty by City, its agents, servants, employees or invitees, City shall pay to Landlord as additional rent, the reasonable cost of such maintenance and repairs. Without limiting the foregoing, Landlord shall maintain the Building, or cause the Building to be maintained, in a condition that is comparable to other first-class office buildings in the vicinity of the Building, and shall provide, or cause to be provided, exterior graffiti removal with reasonable frequency.

#### **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 any Leasehold Improvements, and Landlord's repair and maintenance obligations under this Lease, City will repair and maintain at its cost the interior portions of the Premises and all Building

Systems exclusively serving the Premises and will keep the same in good working order and in a safe and sanitary condition, except for ordinary wear and tear and damage by casualty or condemnation. City will make any required repairs and replacements to the interior of the Premises or Building Systems exclusively serving the Premises that Landlord specifies in writing **(a)** at City's cost, **(b)** by contractors or mechanics selected by City and reasonably approved by Landlord, **(c)** so that the interior portions of the Premises or applicable Building Systems will be at least substantially equal in quality, value, and utility to the original work or installation before the damage, **(d)** 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 **(e)** in compliance with all applicable Laws, including any applicable contracting requirements under City's Charter and Administrative Code, provided however, that, at Landlord's option, or if City fails to make such repairs, Landlord may, but need not, make such repairs and replacements after providing City with at least five (5) business days' prior written notice of such Landlord election, and City shall pay Landlord the cost thereof, including a percentage of the cost thereof (to be uniformly established for the Building) sufficient to reimburse Landlord for all overhead, general conditions, fees and other costs or expenses arising from Landlord's involvement with such repairs and replacements forthwith upon being billed for same. At all times during the Term, promptly after City's reasonable notice, Landlord will provide City and its Agents with access to those portions of Parcel A that are necessary to maintain or repair the telecommunications and data and computer cabling facilities and equipment installed by City, subject to the Rules and Regulations.

### **8.3 Liens**

City will keep the Premises free from liens arising out of any work performed, material furnished, or obligations incurred by City during the Term. Landlord may post on the Premises any notices permitted or required by Laws or that are needed for the protection of Landlord, the Premises, or the Building and/or Parcel A, from mechanics' and material suppliers' liens. City will give Landlord at least fifteen (15) days' prior written notice of commencement of any repair or construction by City on the Premises. In case of any such lien attaching or notice of any lien, City covenants and agrees to cause it to be immediately released and removed of record or to provide a bond for the removal of such lien. Notwithstanding anything to the contrary set forth in this Lease, if any such lien is not released and removed, or bonded, on or before the date notice of such lien is delivered by Landlord to City, Landlord, at its sole option, after providing at least five (5) days' prior written notice to City, may immediately take all action necessary to release and remove such lien, without any duty to investigate the validity thereof, and all sums, costs and expenses, including reasonable attorneys' fees and costs, incurred by Landlord in connection with such lien shall be deemed Additional Rent under this Lease and shall immediately be due and payable by City.

## **9. UTILITIES AND SERVICES**

### **9.1 Landlord's Provision of Utilities**

**(a)** Subject to the last sentence of this Section 9.1(a), Landlord will furnish the following utilities and services to the Premises: **(i)** heating, air conditioning, and ventilation in amounts standard for first-class office buildings in the vicinity of the Building, during the period



from 7:30 a.m. to 5:00 p.m., Monday through Friday, except holidays generally recognized in San Francisco; **(ii)** electric current in amounts required for normal lighting and for the operation of personal computers and other normal office machines and equipment, on a twenty-four (24) hours-a-day, three hundred sixty-five (365) days-a-year basis (“**Daily Basis**”); **(iii)** elevator service on a Daily Basis; and **(iv)** water for lavatory, kitchen, and drinking purposes on a Daily Basis. During the Term, Landlord will provide freight elevator service on City’s reasonable request. Without limiting Landlord’s obligations under this Section, Landlord will furnish all utilities and services required under this Lease in a manner consistent with utilities and services normally provided in other first-class buildings similar to the Building in the San Francisco Mid-Market District. City shall procure and pay for all utilities (including telephone/data connections to be installed, if at all) at City’s sole expense, provided that Landlord shall be responsible for the cost of providing utility connections to the Building. City’s costs to procure and pay for utilities pursuant to the foregoing sentence shall not be a component of Operating Costs.

**(b)** City receives a discounted electricity rate from Pacific Gas and Electric Corporation (“**PG&E**”) through the San Francisco Public Utility Commission for municipal uses. Landlord has vertically subdivided the Property into Parcel A, a portion of which is leased by the City, as described in this Lease, and Parcel B, Parcel C, and Parcel D which is owned and occupied by Lighthouse for the Blind and Visually Impaired. During the term of the Lease, to the extent not already installed, Landlord may be required to install submeters to the floors in Parcel B, Parcel C, and Parcel D of the Property (the “**Non-City Floors**”) in order to segregate the PG&E electricity charges for the Premises from the PG&E electricity charges to Landlord for the Non-City Floors. If PG&E determines all electricity it provides to the Property shall be charged at market rate, instead of providing electricity to the Property at City’s municipal rate, City shall have the right, at no cost to Landlord, to work directly with PG&E to resolve such matter. At a future date, Tenant may require Landlord to initiate PG&E electrical service to the Non-City Floors.

**(c)** At any time during the Term that City provides electrical service to Non-City Floors, Landlord shall reimburse Tenant the approximate value of the electrical service being provided by the City to the Non-City Floors on a monthly basis, at the monthly value reasonably and mutually determined by Landlord and City after taking into account, and offsetting, any services provided to City by Landlord for which City does not reimburse Landlord (the “**Electrical Reimbursement**”). Tenant shall receive the Electrical Reimbursement in the form of a Base Rent credit, payment by Landlord, or in-kind service provided to Tenant by Landlord. The form of reimbursement shall be determined by Tenant with consent from Landlord whose consent shall not be unreasonably withheld, conditioned or delayed.

## **9.2 Services**

### **(a) Janitorial Service**

Landlord shall furnish janitorial services for the Premises in a manner consistent with janitorial services normally provided in other first class buildings similar to the Building in the San Francisco Mid-Market District. City shall reimburse Landlord the cost of any janitorial services provided by Landlord for the Premises within thirty (30) days after City’s receipt of an

invoice therefor; provided, however, that Landlord may elect to include the billing of such janitorial services in Landlord's billing of Operating Costs in which event City shall be responsible for 100% of such costs (without regard to the Base Year).

#### **(b) Security Service**

Landlord shall furnish security services as follows:

SECURITY GUARDS: Sufficient number of security guards as Landlord shall reasonably determine at 1155 Market Street, San Francisco, CA on a 24 hours a day, 7 days a week, 52 weeks a year basis.

#### **9.3 Conservation**

Landlord may establish reasonable measures to conserve energy and water, including automatic light shut off after hours and efficient lighting forms, so long as these measures do not materially and adversely interfere with City's use of the Premises.

#### **9.4 Disruption in Essential Utilities or Services**

If any failure, stoppage, or interruption of any utilities or services to be furnished by Landlord occurs, City will immediately notify Landlord of the failure, stoppage, or interruption; and Landlord shall diligently attempt to restore service as promptly as possible; and keep City apprised of its efforts. If Landlord is unable to supply any of the Building's sanitary, electrical, heating, air conditioning, water, elevator, fire protection and security, audio, video or electronic communications, hazard detection and alarm, or other essential services serving the Premises (collectively, "**Essential Services**") and that inability of Landlord prevents City from carrying on its business in the Premises for three (3) or more consecutive business days if the failure is within Landlord's reasonable control or a period of twenty (20) or more consecutive calendar days if such failure is not within Landlord's reasonable control, then the Base Rent will be proportionately abated during such period of interruption based the portion of the Premises that City is unable to use as a result thereof. The abatement or right to provide the Essential Services and offset against Rent will continue until the Essential Services have been restored so that the lack of any remaining Essential Services no longer materially impairs City's ability to carry on its business in the Premises. Landlord will use its commercially reasonable efforts to restore disrupted Essential Services as soon as possible. City will not be entitled to any abatement of Rent or right to terminate if Landlord's inability to supply Essential Services to City is due solely to the acts or omissions or negligence of City and its Agents.

#### **9.6 Overstandard City Use**

If City uses water or heat or air conditioning in excess of that supplied by Landlord pursuant to this Lease, or if City's consumption of electricity shall exceed two (2) watts connected load per rentable square foot of the Premises, calculated on an monthly basis for the hours described above, City shall pay to Landlord, within thirty (30) days after billing (with reasonable documentation) and as Additional Rent, the cost of such excess consumption, the cost of the installation, operation, and maintenance of equipment which is installed in order to supply

such excess consumption, and the cost of the increased wear and tear on existing equipment caused by such excess consumption.

## **10. COMPLIANCE WITH LAWS; PREMISES CONDITION**

### **10.1 Landlord's Compliance with Laws; Premises Condition; Indemnity**

Except as expressly set forth in this Lease, Landlord shall not be obligation to provide or pay for any improvement, remodeling or refurbishment work or services related to the improvement, remodeling or refurbishment of the Premises, and City shall accept the Premises in its "AS IS" condition on the Commencement Date. Subject to City's obligation under Section 8.2 (City's Repairs) above, and other terms of this Lease, Landlord will at all times during the Term maintain (or cause to be maintained), at its cost, the Property, Building, Parcel A, Common Areas, and the Building Systems 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.

### **10.2 City's Compliance with Laws; Indemnity**

City will use and maintain the Premises during the Term in compliance with applicable Laws, except that City will not be required to make any structural alterations, additions, or other modifications in order to comply with applicable Laws unless the modifications are necessary solely because of any Alterations to the Premises made by City under Section 7 (Alterations) and the modifications are not otherwise Landlord's responsibility under this Lease or arising due to City's use of the Premises for any non-office purposes. City will 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. Without limiting Section 16.1 (City's Indemnity), City will 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 will 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 and/or Parcel A or any property located in the Building and/or Parcel A, **(b)** result in a refusal by casualty insurance companies of good standing to insure the Building and/or Parcel A or property in the Building and/or Parcel A in amounts reasonably satisfactory to Landlord or the holder of any mortgage or deed of trust encumbering the Building and/or Parcel A, **(c)** cause an increase in the casualty insurance premium for the Building and/or Parcel A unless City agrees to pay the increase, or **(d)** subject Landlord to any liability or responsibility for injury to any person or property solely because of the business operation conducted by City in the Premises; provided, however, Landlord will provide City with reasonable prior written notice of any applicable insurance requirements and no insurance requirements will materially and adversely interfere with City's normal business in the Premises.

## 11. SUBORDINATION

(a) Subject to subsection (b) below, this Lease is 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 later be executed affecting Landlord’s interest in the Property (or any portion of it), 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 be executed by Landlord at any time in any amount for which any part of the Property, any ground lease, or underlying lease, or Landlord’s interest or estate in them is subject. But, if the ground lessor, mortgagee, trustee, or holder of any mortgage or deed of trust (each an “**Encumbrancer**”) elects to have City’s interest in this Lease be superior to its Encumbrance, then, on City’s receipt of a notice from the Encumbrancer, this Lease will be deemed superior, whether this Lease was executed before or after the date of the Encumbrance or the date of its recording. The provisions of this subsection (a) are self-operative and no further instrument will be required. At Landlord’s request, however, City will enter into a subordination, nondisturbance, and attornment agreement (“**SNDA**”) with Encumbrancer in a form reasonably acceptable to City and Encumbrancer evidencing the subordination or superiority of this Lease. City’s covenant under this subsection (a) to subordinate this Lease to any Encumbrance is conditioned on each senior instrument containing the commitments in subsection (b) below.

(b) If 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 if any ground lease or underlying lease to which this Lease is subordinate is terminated, then this Lease will not be barred, terminated, cut off, or foreclosed and the rights and possession of City under this Lease will not be disturbed unless City is in default in the payment of rental or other sums due hereunder or otherwise in default under the terms of this Lease. City will attorn to and become the tenant of the successor-in-interest to Landlord, provided that City has received proper written notice of the succession and the name and address of the successor landlord. The provisions of this Section 11 are self-operative and no further instrument will be required. Landlord agrees, however, upon request by City and in a form reasonably acceptable to City and Encumbrancer to cause any Encumbrancer to execute an SNDA evidencing the foregoing non-disturbance provisions together with the priority or subordination of this Lease with respect to any such Encumbrance.

## 12. DAMAGE AND DESTRUCTION

(a) If the Premises, the Building, or any Building Systems are damaged by fire or other casualty, Landlord will repair the same without delay (and if Landlord is then carrying insurance on the Leasehold Improvements or if, at its sole option, City makes sufficient funds available to Landlord, Landlord will also repair the Leasehold Improvements) so long as the repairs can be made under applicable Laws within sixty (60) days after Landlord obtains all necessary permits but not later than one hundred eighty (180) days after the date of the damage (the “**Repair Period**”). If Landlord is obligated to repair as provided above, then this Lease will remain in full force and effect, except that City will be entitled to an equitable abatement of Rent until the Premises while such repairs are being made. The abatement in Rent will be based on the extent to which the damage, the making of the repairs prevents City from operating its business from the Premises. Landlord’s repairs will not include, and the Rent will 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.

**(b)** Within sixty (60) days after the date of the damage, Landlord will notify City whether, in Landlord's reasonable judgment made in good faith, the repairs can be made within the Repair Period. If the repairs cannot be made within the Repair Period, then either party may terminate this Lease by giving written notice to the other given within thirty (30) days after the date of Landlord's notice. The termination date will be the date specified in the termination notice, which date may be not less than thirty (30) or more than sixty (60) days after Landlord's notice. If either party elects to terminate this Lease, then the Rent will be reduced by a proportionate amount based on the extent to which the damage prevents from operating its business in the Premises, and City will pay the reduced Rent up to the date of termination. Landlord will refund to City any Rent previously paid for any period after the date of termination.

**(c)** Notwithstanding the foregoing, if the Premises or Building are damaged or destroyed by reason of any casualty, and the damage or destruction is not fully covered by insurance proceeds payable under the insurance policies Landlord is required to carry under this Lease (excluding any deductible, for which Landlord is solely responsible), or the holder of any first priority mortgage on the Property shall require that all such insurance proceeds or any substantial portion thereof be used to retire the mortgage debt, then Landlord may terminate this Lease by written notice to City within the later of sixty (60) days after the date of such casualty or thirty (30) days after the date Landlord receives written notice that the damage is not covered by insurance. If Landlord does not elect to terminate this Lease, then subsections (a) and (b) will apply.

**(d)** If during the last six (6) months of the Term there is substantial damage that Landlord would be required to repair under this Section, then within thirty (30) days after the date of the damage Landlord or City may, each at its option, terminate this Lease as of the date the damage occurred by giving written notice to the other party of its election to do so; provided, however, Landlord may terminate this Lease only if it would take more than thirty (30) days to repair the damage.

**(e)** The parties intend that the provisions of this Section fully govern their rights and obligations in the event of damage or destruction. Accordingly, Landlord and City each 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 now or later in effect, to the extent those rights are inconsistent with the provisions of this Section.

## **13. EMINENT DOMAIN**

### **13.1 Definitions**

“**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.

“**Date of Taking**” means the earlier of **(a)** the date on which title to the portion of the Property taken passes to and vests in the condemnor or **(b)** the date on which City is dispossessed.

“**Award**” means all compensation, sums, or anything of value paid, awarded or received for a Taking, whether under any 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 the Building or any interest in this Lease, the rights and obligations of the parties will be determined under this Section. City and Landlord intend that the provisions of this Section govern fully in the event of a Taking and accordingly, Landlord and City each waives 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 later in effect.

### **13.3 Total Taking; Automatic Termination**

If there is a total Taking of the Premises, then this Lease will 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 will 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 or access to the Premises, **(ii)** the condition rendering the Premises untenable or unsuitable or that materially adversely affects City’s normal operations or limits access to the Premises either is not curable or is curable but Landlord is unwilling or unable to cure the condition, and **(iii)** City elects to terminate.

**(b)** If a partial Taking of a substantial portion of the Building occurs, but subsection (a) above does not apply, then within thirty (30) days after the Date of Taking either City or Landlord may terminate this Lease by written notice to the other, provided that, as a condition to City’s right to terminate, the portion of the Building taken must, 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 or access to the Premises.

**(c)** If either party elects to terminate this Lease under this Section, then this Lease will terminate on the later of the thirtieth (30<sup>th</sup>) day after the written notice is given or the Date of Taking.

### **13.5 Termination of Lease; Rent and Award**

On termination of this Lease in its entirety under Section 13.3 (Total Taking; Automatic Termination) or under Section 13.4 (Partial Taking; Election to Terminate), then: **(a)** City's obligation to pay Rent will continue up until the date of termination and then will cease, and **(b)** Landlord will be entitled to the entire Award, except that City will 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.

### **13.6 Partial Taking; Continuation of Lease**

If there is a partial Taking of the Premises and this Lease is not terminated in its entirety under Section 13.4 (Partial Taking; Election to Terminate) above, then this Lease will terminate as to the portion of the Premises taken, but will remain in effect as to the portion not taken, and the rights and obligations of the parties will be as follows: **(a)** Rent will 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 before the Date of Taking, and **(b)** Landlord will be entitled to the entire Award in connection therewith, provided that City will 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 of the Premises occurs for sixty (60) consecutive days or fewer, this Lease will remain unaffected by the temporary Taking, and City will continue to pay Rent and to perform all of the terms, conditions, and covenants of this Lease. In the event of a temporary Taking, City will 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**

City shall have the right to sublease all or part of the Premises, or assign all or any portion of City's interest in the Lease, to any third party (each, a "**Transfer**") during the Term with Landlord's prior written consent, which shall not be unreasonably withheld or delayed. If any Transfer results in City receiving sublease or assignment payments that exceed the total Rent payable for such period (or the amount thereof proportionate to the portion of the Premises subject to such sublease or assignment), City shall deliver sixty percent (60%) of such excess amount, less any brokers' commissions, attorneys' fees, or leasehold improvement costs incurred by City in connection with a Transfer (provided leasehold improvements have been approved in advance by Landlord) with respect to such Transfer, to Landlord. Notwithstanding the foregoing, Transfers shall not include the use of all or any part of the Premises by (i) any City departments, commissions or agencies, or (ii) any vendors or contractors of City, or any non-profit organizations providing services to the public or City, without separately demising such space from City and without compensation being paid by such occupants to City for use of such space (including, but not limited to, use of a portion of the Premises at no cost by American Legion Department of California) (collectively, "**Approved Parties**"). Except as otherwise provided in

this Section, 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.

Notwithstanding anything to the contrary contained in this Section 14, Landlord shall have the option, by giving written notice to City within thirty (30) days after receipt of any request for a Transfer of either (a) fifty percent (50%) or more of the Premises or (b) for a term of fifty percent (50%) or more of the then remaining Term, to recapture the Premises. Such recapture notice shall cancel and terminate this Lease with respect to the Premises as of the date stated in the Landlord's notice exercising its recapture rights and Landlord and City will enter into an amendment confirming such terms. If Landlord consents to a Transfer, (i) the terms and conditions of this Lease shall in no way be deemed to have been waived or modified, (ii) such consent shall not be deemed consent to any further Transfer by either City or a transferee, (iii) City shall deliver to Landlord, promptly after execution, an original executed copy of all documentation pertaining to the Transfer in form reasonably acceptable to Landlord, and (iv) no Transfer relating to this Lease or agreement entered into with respect thereto, whether with or without Landlord's consent, shall relieve City from liability under this Lease. Landlord or its authorized representatives shall have the right at all reasonable times to audit the books, records and papers of City relating to any Transfer, and shall have the right to make copies thereof.

## **15. DEFAULT; REMEDIES**

### **15.1 Events of Default by City**

Any of the following will constitute an “**Event of Default**” by City:

(a) After Landlord is qualified as an approved vendor as provided in Section 4.11 (Payments by City) above, City fails to make any timely payment of Rent and to cure the nonpayment within five (5) days after receipt of written notice of nonpayment from Landlord.

(b) City's abandons the Premises (within the meaning and under the requirements of California Civil Code Section 1951.3).

(c) City's failure to perform any other of its covenants or obligations under this Lease (not involving the payment of money or a default under Sections 19 or 24.13 of the Lease) and failure to cure the non-performance within thirty (30) days of the date of receipt of Landlord's notice of the failure, provided that if more than thirty (30) days are reasonably required for the cure, no Event of Default will occur if City commences the cure within the thirty (30)-day period and diligently prosecutes the cure to completion.

### **15.2 Landlord's Remedies**

On the occurrence of any Event of Default by City, Landlord will have all rights and remedies available under law or granted pursuant to this Lease, including the following:

(a) The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including 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 under subsection (b) of 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), at its sole option, City may cure the default at Landlord's expense if the default continues after thirty (30) days after the date City gives written notice to Landlord of City's intention to perform the cure. However, if a default occurs and Landlord cannot with due diligence cure the default within the thirty (30)-day period, then the thirty (30)-day period will be extended if, promptly on receipt of City's notice, Landlord advises City of Landlord's intention to take all steps required to cure the default, and Landlord promptly commences the cure and diligently prosecutes the cure to completion.

If City performs its right to cure any Landlord default pursuant to this Section, then City will perform such cure (i) in compliance with all applicable Laws and requirements to which Landlord would be subject under this Lease (if Landlord were performing such cure), (ii) in a good workmanlike manner using Building standard materials, if applicable, (iii) without unreasonably interfering with the rights of other tenants of the Building, and (iv) in compliance with the terms and provisions of Section 7 hereof, as applicable. City will promptly assign to Landlord any warranties or guaranties received by City in respect of any cure. If City so performs its cure rights hereunder, the full amount of the fair and reasonable costs and expenses incurred by City shall be owing by Landlord to City, and Landlord shall pay to City the full undisputed amount thereof within sixty (60) days of Landlord's receipt of City's written demand therefor together with reasonable evidence verifying the amount of such costs and expenses.

## **16. INDEMNITIES**

### **16.1 City's Indemnity**

City will indemnify, defend, and hold harmless ("**Indemnify**") Landlord and its Agents from and against any and all claims, losses, damages, costs, and expenses, including 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 will not be obligated to Indemnify Landlord or its Agents to the extent any Claim arises out of the gross negligence or willful misconduct of Landlord or its Agents. In any action or proceeding brought against Landlord or its Agents because of a Claim Indemnified by City under this Section, at its sole option, City may elect to defend the Claim by attorneys in City's Office of the City Attorney, by other attorneys selected by City, or both. City

will have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that Landlord will have the right, but not the obligation, to participate in the defense of the Claim at its sole cost. In addition to the foregoing, City hereby assumes all risk of damage to property and injury to persons, in, on, or about the Premises from any cause whatsoever (other than as a result of any breach of Landlord's obligations under this Lease or the negligent acts or omissions of Landlord or its Agents) and agrees that Landlord and its Agents shall not be liable for, and are hereby released from any responsibility for, any damage to property or injury to persons or resulting from the loss of use thereof, which damage or injury is sustained by City or by other persons claiming through City. City's obligations under this Section will survive the termination of the Lease.

## **16.2 Landlord's Indemnity**

Landlord will Indemnify City and its Agents against any and all Claims incurred as a result of the gross negligence or willful misconduct of Landlord or its Agents ; provided, however, Landlord will 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 or any loss or damage to City's property to the extent City has waived such loss pursuant to Section 17.3 below. In any action or proceeding brought against City or its Agents because of a Claim Indemnified by Landlord under this Section, at its sole option, Landlord may elect to defend the Claim by attorneys selected by Landlord. Landlord will have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that City will have the right, but not the obligation, to participate in the defense of any Claim at its sole cost. Landlord's obligations under this Section will survive the termination of this Lease.

## **17. INSURANCE**

### **17.1 City's Self-Insurance**

(a) Landlord acknowledges that City maintains a program of self-insurance and City is not 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.

(b) If City assigns all or any portion of its interest in this Lease, or sublets all or any portion of the Premises, to any party other than any Approved Parties, such assignee or sublessee shall carry the following policies of insurance at its sole cost during the remainder of the Term:

(i) 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).

(ii) Worker's Compensation Insurance with Employer's Liability Limits not less than One Million Dollars (\$1,000,000) each accident.

**(iii)** Business automobile liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles, as applicable, if such assignee or sublessee uses automobiles in connection with its use of the Premises.

**(iv)** All risk property insurance covering the full replacement cost of City's property and improvements installed or placed in the Premises by City.

**(v)** Loss-of-income, business interruption and extra-expense insurance, in such amounts as will reimburse City for direct or indirect loss of earnings for a period of twelve (12) months and attributable to all perils commonly insured against by prudent tenants or attributable to prevention of access to the Premises or to the Building as a result of such perils.

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

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

**(e)** All liability insurance policies to be carried by an assignee or sublessee shall be endorsed to provide the following:

**(i)** Name as additional insured the Landlord, its officers and employees and the beneficiary of the first-priority deed of trust secured by the Property.

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

**(f)** Each insurance policy required to be carried by an assignee or sublessee pursuant to this Section shall be issued by an insurance company licensed in the State of California and with a general policyholders' rating of "A-" or better and a financial size ranking of "Class VIII" or higher in the most recent edition of Best's Insurance Guide.

**(g)** All insurance policies required to be carried by an assignee or sublessee pursuant to this Section shall be endorsed to provide thirty (30) days' prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to both such assignee or sublessee and Landlord.

(h) Any assignee or sublessee required to carry insurance pursuant to this Section shall deliver to Landlord certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to Landlord, evidencing the coverage required hereunder.

## **17.2 Landlord's Insurance**

(a) At all times during the Term, Landlord shall keep the Parcel A (excluding the land upon which it is located), and shall cause the Building Association to keep the Building, 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. Upon City's request, Landlord will provide to City a certificate of insurance issued by the insurance carrier, evidencing the required insurance. The certificate must 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 written notice to City.

(b) In addition, subject to reimbursement by City as a component of Operating Costs, Landlord will procure and keep in effect at all times during the Term insurance as follows: (i) 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 (ii) at all times that Landlord has any employees, worker's compensation insurance in the amounts required by applicable Laws and employer's liability with limits not less than One Million Dollars (\$1,000,000) each accident. All insurance policies required by this Lease to be maintained by Landlord must be endorsed to provide for thirty (30) days' prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to Landlord and City (or, if such endorsement is not available from the insurer, Landlord will provide such notice to City).

(c) Landlord will maintain such umbrella policy and additional coverage as it reasonably determines necessary or as required by any Encumbrancer. Further, Landlord may adjust the coverages and minimums set forth in this Section 17.2 from time to time, provided the same are generally consistent with the coverages and amounts of insurance carried by similarly situated landlords and properties.

## **17.3 Waiver of Subrogation**

Notwithstanding anything to the contrary in this Lease, Landlord waives any right of recovery against City for any loss or damage sustained by Landlord relating to Parcel A or the Property or any portion thereof, or any operations or contents in Parcel A, whether or not the loss is caused by City's fault or negligence, to the extent the loss or damage is covered by Landlord insurance that is required under this Lease or is otherwise actually recovered from valid and collectible insurance covering Landlord. Landlord will obtain a waiver of subrogation

endorsement from applicable insurance carriers issuing policies relating to Parcel A or the Property, but Landlord's failure to do so will not affect the above waiver. If City self-insures any of the risks to which coverage would otherwise be required under Section 17.1(b)(i)-(iv) or Section 17.1(c)-(h) above, City's self-insurance protection shall be deemed to include (and City's self-insurance shall be deemed to include) the waivers of subrogation and the additional insured status mentioned above. Furthermore, the self-insurance protection shall be equivalent to the coverage required under Section 17.1(b)(i)-(iv) or Section 17.1(c)-(h) above, and City shall not be relieved from the indemnification obligations of this Lease.

## **18. ACCESS BY LANDLORD**

Landlord reserves for itself and any of its designated Agents the right to enter the Premises at all reasonable times and, except in cases of emergency (in which event Landlord will give any reasonable notice), after giving City at least twenty four (24) hours' advance written or oral notice (except in the event of an emergency, for which no notice shall be required), to **(a)** inspect the Premises, **(b)** supply any service to be provided by Landlord under this Lease, **(c)** show the Premises to any prospective purchasers or mortgagees at any time during the Term and, during the last twelve (12) months of the Term, tenants, **(d)** post notices of non-responsibility, and **(e)** alter, improve, or repair the Premises and any portion of the Building, and, for that purpose, Landlord may erect, use, and maintain necessary structures in and through the Premises where reasonably required by the work to be performed, provided that the entrance to the Premises may not be blocked. Landlord may not interfere with City's use of the Premises.

## **19. ESTOPPEL CERTIFICATES**

From time to time during the Term, by not less than thirty (30) days' prior written notice to the other party, either party may request the other party to execute, acknowledge, and deliver to the persons or entities designated by the 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 (with the Leasehold Improvements and the Tenant Improvements) to Landlord in good order and condition, ordinary wear and tear and damage by fire or other casualty excepted, and City shall have removed from the Premises all of City's Personal Property, City's telecommunications, data and computer facilities, the Existing Equipment, and Alterations (including those made under the Original Lease), unless Landlord has previously specified in writing that such items may remain at the Premises. City shall repair or pay the cost of repairing any damage to the Premises, Parcel A, or the Building resulting from such removal. City's obligations under this Section shall survive the expiration or earlier termination of the Lease. Notwithstanding the foregoing, (i) Landlord shall advise City at the time of approval of the construction drawings of any requested Alterations that City shall be required to remove upon the expiration or earlier termination of the Lease and (ii) Landlord shall advise City in writing at least thirty (30) days prior to expiration of

the Term whether City shall be required to remove the Existing Equipment on surrender of the Premises.

## 21. HAZARDOUS MATERIALS

### 21.1 Definitions

As used in this Lease, the following terms are defined below:

“**Environmental Laws**” means any Law relating to industrial hygiene, environmental conditions, or Hazardous Material, whether now in effect or later adopted.

“**Hazardous Material**” means 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 any material or substance defined as a “hazardous substance,” or “pollutant” or “contaminant” under 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 under California Health & Safety Code Section 25316; any “hazardous waste” listed under California Health & Safety Code Section 25140; any asbestos and asbestos containing materials whether or not those 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.

“**Release**” when used with respect to Hazardous Material includes 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 Intentionally Deleted

### 21.3 Exculpation of City

City shall not be liable to Landlord for nor otherwise obligated to Landlord under any provision of the Lease with respect to the following: (i) any claim, remediation, obligation, investigation, liability, cause of action, attorneys’ and experts’ fee or cost, consultants’ cost, loss, penalty, judgment or damage (collectively, “**Hazardous Materials Costs**”) resulting from any Hazardous Materials introduced or released in, on or about the Premises prior to November 9, 2012 (*i.e.*, the date of the Initial Lease); or (ii) any Hazardous Materials Costs resulting from any Hazardous Materials introduced or released in, on or about the Premises after November 9, 2012 to the extent not released, directly or indirectly, by City or City’s Agents from and after November 9, 2012; or (iii) the removal, investigation, monitoring or remediation of any Hazardous Material introduced or released in, on or about the Premises released by any source, including third parties, other than City or City’s Agents from and after November 9, 2012; provided, however, City shall be fully liable for and otherwise obligated to Landlord under the provisions of this Lease for all Hazardous Materials Costs to the extent (a) City or any of City’s Agents introduces or releases such Hazardous Materials or exacerbates the conditions caused by

such previously-released Hazardous Materials (unless Landlord had prior knowledge of such previously-released Hazardous Materials and failed to disclose the presence thereof to City), or (b) City and/or City's Agents allows or permits persons over which City or any of City's Agents has control, and/or for which City or any of City's Agents are legally responsible for, to cause such Hazardous Materials to be introduced or released in, on, under, through or about any portion of the Premises from and after November 9, 2012, or (c) City and/or any of City's Agents does not take all reasonably appropriate actions to prevent such persons over which City or any of City's Agents has control and/or for which City or any of City's Agents are legally responsible from introducing or releasing the Hazardous Materials in, on, under, through or about any portion of the Premises from and after November 9, 2012.

#### **21.4 City's Covenants**

Neither City nor its Agents will cause or permit any Hazardous Material to be brought on, 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.

#### **21.5 City's Environmental Indemnity**

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

### **22. Intentionally Omitted**

### **23. CITY PROVISIONS**

#### **23.1 MacBride Principles - Northern Ireland**

The provisions of San Francisco Administrative Code Section 12F are incorporated into this Lease by this reference and made part of this Lease. Landlord confirms that Landlord has read and understood that City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

#### **23.2 Controller's Certification of Funds**

The terms of this Lease are governed by and subject to the budgetary and fiscal provisions of City's Charter. Notwithstanding anything to the contrary contained in this Lease, there will be no obligation for the payment or expenditure of money by City under this Lease unless the Controller of the City and County of San Francisco first certifies, under 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 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. City will use its reasonable efforts to give Landlord reasonable advance notice of the termination.

### **23.3 Prevailing Wages and Working Conditions**

Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code section 23.61. With respect to any improvements to the Premises provided by Landlord under this Lease, Landlord will require its Contractors and Subcontractors performing **(i)** labor at the Premises 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 **(A)** pay workers performing the work not less than the Prevailing Rate of Wages, **(B)** provide the same hours, working conditions, and benefits as in each case are provided for similar work performed in San Francisco County, and **(C)** employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, “**Prevailing Wage Requirements**”). Landlord will cooperate with City, at no cost to Landlord, in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

With respect to any improvements to the Premises provided by Landlord under this Lease, Landlord will 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. With respect to any improvements to the Premises provided by Landlord under this Lease, each Construction Contract must 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 will constitute a material breach of this Lease. A Contractor’s or Subcontractor’s failure to comply with this Section will enable City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party.

### **23.4 Non Discrimination in City Contracts and Benefits Ordinance**

#### **(a) Covenant Not to Discriminate**

In the performance of this Lease, Landlord will not to discriminate against any employee of Landlord, any City employee working with Landlord, any 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 those protected classes, or in retaliation for opposition to discrimination against those classes.

**(b) Subcontracts**

Landlord will include in all subcontracts relating to the Premises a non-discrimination clause applicable to the subcontractor in substantially the form of subsection (a) above. In addition, Landlord will incorporate by reference in all subcontracts the provisions of San Francisco Administrative Code Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 and require all subcontractors to comply with those provisions. Landlord's failure to comply with the obligations in this subsection will 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, on real property owned by City, or where the work is being performed for City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of the employees, where the domestic partnership has been registered with a governmental entity under state or local law authorizing that registration, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2(b).

**(d) CMD Form**

As a condition to this Lease, Landlord will 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 represents that before execution of the Lease: **(i)** Landlord executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and **(ii)** the CMD approved the form.

**(e) Incorporation of Administrative Code Provisions by Reference**

The provisions of San Francisco Administrative Code Chapters 12B and 12C relating to non-discrimination by parties contracting for the lease of property to City are incorporated into this Section by reference and made a part of this Lease as though fully set forth. Landlord will comply fully with and be bound by all of the provisions that apply to this Lease under Administrative Code Chapters 12B and 12C, including the remedies provided in those Chapters. Without limiting the foregoing, Landlord understands that under San Francisco Administrative Code Section 12B.2(h) a penalty of Fifty Dollars (\$50) for each person for each calendar day during which that 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.

### **23.5 Tropical Hardwood and Virgin Redwood Ban**

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

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

(c) If Landlord fails to comply in good faith with any of the provisions of San Francisco Environment Code Chapter 8, Landlord will 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 will be payable to the City and County of San Francisco on demand and may be set off against any monies due to Landlord from any contract with City.

### **23.6 Bicycle Parking Facilities**

San Francisco Planning Code (the "**Planning Code**") Article 1.5, Section 155.3 requires that bicycle parking must be provided at City-leased buildings at no cost to Landlord. During the Term, City will have the right to install and maintain, at no cost to Landlord, eighteen (18) Class 1 Bicycle Parking Spaces (as defined in the Planning Code) in the Building locations depicted on the attached **Exhibit F**.

### **23.7 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 those code sections.

### **23.8 Sunshine Ordinance**

In accordance with San Francisco Administrative Code Section 67.24(e), 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 on request.

### **23.9 Conflicts of Interest**

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

### **23.10 Notification of Prohibition on Contributions**

By executing this Lease, Landlord acknowledges its obligations under Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who leases, or seeks to lease, to or from any department of the City any land or building from making any campaign contribution to **(a)** a City elected official if the lease must be approved by that official, **(b)** a candidate for that City elective office, or **(c)** a committee controlled by that elected official or a candidate for that office, at any time from the submission of a proposal for the lease until the later of either the termination of negotiations for the lease or twelve (12) months after the date the City approves the lease. Landlord acknowledges that the foregoing restriction applies only if the lease or a combination or series of leases or other contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars (\$100,000) or more. Landlord further acknowledges that **(i)** the prohibition on contributions applies to each prospective party to the lease; any person with an ownership interest of more than 10 percent (10%) in Landlord; any subcontractor listed in the lease; and any committee that is sponsored or controlled by Landlord; and **(ii)** within thirty (30) days of the submission of a proposal for the Lease, the City department with whom Landlord is leasing is obligated to submit to the Ethics Commission the parties to the lease and any subcontractor. Additionally, Landlord certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the lease, and has provided the names of the persons required to be informed to the City department with whom it is leasing.

### **23.11 Preservative-Treated Wood Containing Arsenic**

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 Environment Code Section 1304. The term "preservative-treated wood containing arsenic" means wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including 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" means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

## **24. GENERALLY APPLICABLE PROVISIONS**

### **24.1 Notices**

Except as otherwise specifically provided in this Lease, any notice given under this Lease must be in writing and given by delivering the notice 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 City'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)** any other address designated by as either Landlord or City as its new address for notices by notice given to the other in accordance with this Section. A properly addressed notice transmitted by one of the foregoing methods will be deemed received upon confirmed delivery, attempted delivery, or rejected delivery. For convenience of the parties, copies of notices may also be given by email to the email address number set forth in the Basic Lease Information or any other email address as may be provided from time to time, but, neither party may give official or binding notice by email.

### **24.2 No Implied Waiver**

No failure by either party to insist on the strict performance of any obligation of the other party under this Lease or to exercise any right, power, or remedy after a breach of this Lease will constitute a waiver of any breach or of term, covenant, or condition. No acceptance of full or partial Rent by Landlord while City is in default will constitute a waiver of the default by Landlord. No express written waiver of any default or the performance of any provision if this Lease will affect any other default or performance, or cover any other period of time, other than the default, performance, or time specified in the express waiver. One or more written waivers of a default or the performance of any provision of this Lease will 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 will not relieve the other party of any obligation to secure the consent to any other or future instance under the terms of the Lease.

### **24.3 Amendments**

The terms and provisions of this Lease may only be changed, waived, discharged, or terminated by a written instrument signed by both parties. No waiver of any breach will affect or alter this Lease, and each and every term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach. Whenever this Lease requires or permits City's consent or approval, the Director of Property, or his or her designee, will be authorized to provide the consent or approval, except as otherwise provided by applicable Law, including the Charter of the City and County of San Francisco. City's agreement to any amendments or modifications to this Lease (including the exhibits) may be made on 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 (Permitted Use), and **(e)** any other amendment or modification that materially increases City's liabilities or financial obligations under this Lease will also require the approval of City's Board of Supervisors.

#### **24.4 Authority**

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

#### **24.5 Parties and Their Agents; Approvals**

If applicable, the word “**Landlord**” will include the plural as well as the singular. The term “**Agents**” when used with respect to either party includes the agents, employees, officers, and contractors of the party, and the term “**Invitees**” when used with respect to City will 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, including City’s exercise of any option, must 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.

#### **24.6 Interpretation of Lease**

The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and will 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 in this Lease, wherever Landlord or City is required or requested to give its consent or approval to any matter or action by the other, the consent or approval will not be unreasonably withheld or delayed and the reasons for disapproval of consent will be stated in reasonable detail in writing. Provisions in this Lease relating to number of days will be calendar days, unless otherwise specified. If the last day of any period to give notice, reply to a notice, or to take any other action occurs on a Saturday, Sunday, or a bank or City holiday, then the last day for taking the action or giving or replying to the notice will be the next succeeding business day. The words “**include**” or “**including**” or similar words will not be construed to limit any general term, statement, or other matter in this Lease or any of its attached exhibits, whether or not language of non-limitation, such as “without limitation” or similar words, are used.

#### **24.7 Successors and Assigns**

Subject to the provisions of Section 14 (Assignment and Subletting), the terms, covenants, and conditions contained in this Lease will bind and inure to the benefit of Landlord and City and, except as otherwise provided in this Lease, their personal representatives and successors and assigns. There are no third-party beneficiaries to this Lease.

#### **24.8 Brokers**

Neither party has had any contact or dealings or communications regarding leasing the Premises 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 of the Premises, except for the broker, if any, identified in the Basic Lease Information. That broker’s commission is Landlord’s sole

responsibility under a separate written agreement between Landlord and the broker, and City has no liability for that commission. If any other broker or finder perfects a claim for a commission or finder's fee based on any contact, dealings, or communication, the party through whom the broker or finder makes his claim will be responsible for the commission or fee and will Indemnify the other party from any and all Claims incurred by the indemnified party. The provisions of this Section will survive any termination of this Lease.

#### **24.9 Severability**

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

#### **24.10 Governing Law**

This Lease will be construed and enforced in accordance with the laws of the State of California. Any legal suit, action, or proceeding arising out of or relating to this Lease shall be instituted in the Superior Court for the City and County of San Francisco, and each party agrees to the exclusive jurisdiction of such court in any such suit, action, or proceeding (excluding bankruptcy matters). The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim that any suit, action, or proceeding brought in San Francisco Superior Court relating to this Lease has been brought in an inconvenient forum.

#### **24.11 Entire Agreement; Incorporation of Exhibits**

The parties intend that this Lease (including all of the attached exhibits, which are made a part of this Lease by this reference) are the final expression of their agreement with respect to the lease of the Premises 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 will constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts and changes) may be introduced in any judicial, administrative, or other legal proceeding involving this Lease.

#### **24.12 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 non-prevailing party in such dispute 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 the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years

of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" shall also include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

### **24.13 Holding Over**

If City holds over in possession of the Premises after the expiration of the Term with Landlord's consent, that holding over will not be deemed to extend the Term or renew this Lease, and City's tenancy will continue as a tenancy at sufferance only, until the tenancy is terminated by either party at any time by giving written notice of termination to the other party. Such tenancy will be on all the terms and conditions of this Lease, except that the Base Rent payable by City during the period of holding over will be one hundred forty percent (140%) of the monthly Base Rent in effect during the last month of the Term of this Lease, and the tenancy will otherwise be on the terms and conditions contained in this Lease. The provisions of this Section 24.13 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If City fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, City shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding City founded upon such failure to surrender, and any lost profits to Landlord resulting therefrom.

### **24.14 Cumulative Remedies**

All rights and remedies of either party set forth in this Lease are cumulative, except as otherwise specifically provided in this Lease.

### **24.15 Time of Essence**

Time is of the essence for all provisions of this Lease.

### **24.16 Survival of Indemnities**

Termination of this Lease will not affect the right of either party to enforce any indemnities and representations and warranties given or made to the other party, and it will not affect any provision of this Lease that expressly states it will survive termination. 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 that actually or potentially falls within the indemnity provision even if the claim is or may be groundless, fraudulent, or false, and the obligation to defend arises at the time the claim is tendered to the indemnitor by the indemnitee and continues at all times until resolved.

#### **24.17 Signs**

City may erect or post exterior signs on or about the Premises with Landlord's prior approval and subject to Landlord's Building standard sign program. Landlord reserves the right to review and approve the placement, design, and plan for before erecting or posting any sign, which review and approval will not be unreasonably withheld or delayed. Interior signs not visible from the exterior of the Premises are permitted as provided under Article 7 (Alterations).

#### **24.18 Quiet Enjoyment and Title**

Landlord covenants and represents that it has full right, power, and authority to grant the leasehold estate as provided in this Lease, and covenants that City, on paying the Rent and performing the covenants contained in this Lease, will peaceably and quietly have, hold, and enjoy the Premises and all appurtenances during the Term 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.

#### **24.19 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 under this Lease includes all rights to receive and enjoy all services, facilities, and amenities of the Premises and Parcel A as provided in this Lease. If any of the services, facilities, or amenities are terminated, or materially limited or restricted because of any such case or proceeding, or for any other reason, City may **(a)** contract directly with any third-party provider of those services, facilities, or amenities, and **(b)** offset against the Rent all reasonable costs and expenses incurred by City in obtaining those services, facilities, or amenities.

#### **24.20 Transfer of Landlord's Interest**

Landlord shall have the right to transfer its interest in the Property, Parcel A, the Building, or this Lease without the consent or approval of City. In the event of any such transfer of this Lease, 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, provided that the transferee agrees to assume Landlord's obligations under the Lease in writing and the transferee acquires fee ownership in Parcel A at the time of such assumption and release.

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

Notwithstanding anything to the contrary in this Lease, no elected or appointed board, commission, member, officer, employee, or other Agent of City will be personally liable to Landlord, its successors, or its assigns for any City default or breach or for any amount that may become due to Landlord or its successors or assigns, or for any obligation of City under this Lease.



#### **24.22 Counterparts**

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

#### **24.23 Effective Date**

This Lease will become effective retroactive to February 1, 2023 on the date that (a) City's Mayor and Board of Supervisors, at 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 Landlord and City.

#### **24.24 Certification by Landlord**

Landlord acknowledges and agrees that funds used by City to pay Rent under this Lease may be from a federal funding source, and that to the extent City uses federal funds, Landlord, by executing this Lease, hereby certifies to City 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. If Landlord or any of its officers or members have been suspended, disbarred, disciplined, or prohibited from contracting with any governmental agency, it will immediately notify City of that fact and the reasons for the suspension, disbarment, discipline, or prohibition together with any relevant facts or information requested by City. If there is any suspension, disbarment, discipline, or prohibition that may result in the termination or suspension of this Lease, City may terminate this Lease on written notice to Landlord. Landlord acknowledges that this certification is a material term of this Lease.

#### **24.25 Acceptance of Lease by City**

If City does not deliver a fully executed copy of this Lease to Landlord within the sixty (60) day period immediately following Landlord's execution of this Lease, Landlord shall have the option, at its sole discretion, to rescind the Lease and declare it to be null and void.

#### **24.26 Memorandum of Lease**

Concurrently with the execution of this Lease, Landlord and City shall execute the memorandum of lease in the form attached hereto as Exhibit I (the "**Memorandum of Lease**"), and City shall cause the Memorandum of Lease to be recorded in the Official Records of the City and County of San Francisco at City's sole cost. Within two (2) business days after the expiration or earlier termination of the Lease, City shall execute, acknowledge and deliver a quitclaim of leasehold interest, and Landlord may cause, at Landlord's sole cost, the leasehold quitclaim to be recorded in the Official Records of the City and County of San Francisco.

#### **24.27 Building Association Obligation**

To the extent that Landlord's obligations in the following sections of this Lease related to the Building as a whole, the Building Systems, the Common Areas, or those portions of the Property other than Parcel A, Landlord will cause the Building Association (as defined in the

CC&Rs) to perform such obligations under the CC&Rs: Section 8.1 [Landlord Repairs], Section 9.2 [Services], Section 9.4 [Disruption in Essential Utilities or Services], 10.1 [Premises Condition and Landlord's Compliance with Laws; Indemnity], Section 12 [Damage and Destruction], Section 13 [Eminent Domain], Section 24.17 [Signs], Section 23.7 [Resource Efficient City Buildings], and Section 24.31 [Landlord's Construction].

#### **24.28 Criminal History in Hiring and Employment Decisions**

Unless exempt, Landlord agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; "Chapter 12T"), which are hereby incorporated as may be amended from time to time, with respect to applicants and employees of Landlord who would be or are performing work at the Premises. Landlord's failure to comply with the obligations in this Section shall constitute a material breach of this Lease.

#### **24.29 Landlord Exculpation**

It is expressly understood and agreed that notwithstanding anything in this Lease to the contrary, and notwithstanding any applicable law to the contrary, the liability of Landlord hereunder (including any successor landlord) and any recourse by City against Landlord shall be limited solely and exclusively to an amount which is equal to the ownership interest of Landlord in the Property (including any proceeds thereof), and neither Landlord, nor any of Landlord's Agents shall have any personal liability therefor, and City hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under City.

#### **24.30 Force Majeure**

Any material prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent (subject to any applicable Rent abatement) and other charges to be paid by City pursuant to this Lease (collectively, the "**Force Majeure**"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure.

#### **24.31 Cooperative Drafting**

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

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD ACKNOWLEDGES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS LEASE UNLESS 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 ON ADOPTION OF THAT RESOLUTION, AND THIS LEASE WILL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE, AT 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}

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

LANDLORD:

THE LIGHTHOUSE BUILDING LLC,  
a Delaware limited liability company

By: BLIND HOLDINGS LLC,  
a Delaware limited liability company  
Its Member

By: 1155 MARKET LLC,  
a Delaware limited liability company, Its  
Managing Member

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

David C. Harrison  
Title: Manager

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

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

ANDRICO Q. PENICK  
Director of Property

Pursuant to the authority granted to the  
Director of Property under San Francisco  
Administrative Code Section 23.26

APPROVED AS TO FORM:

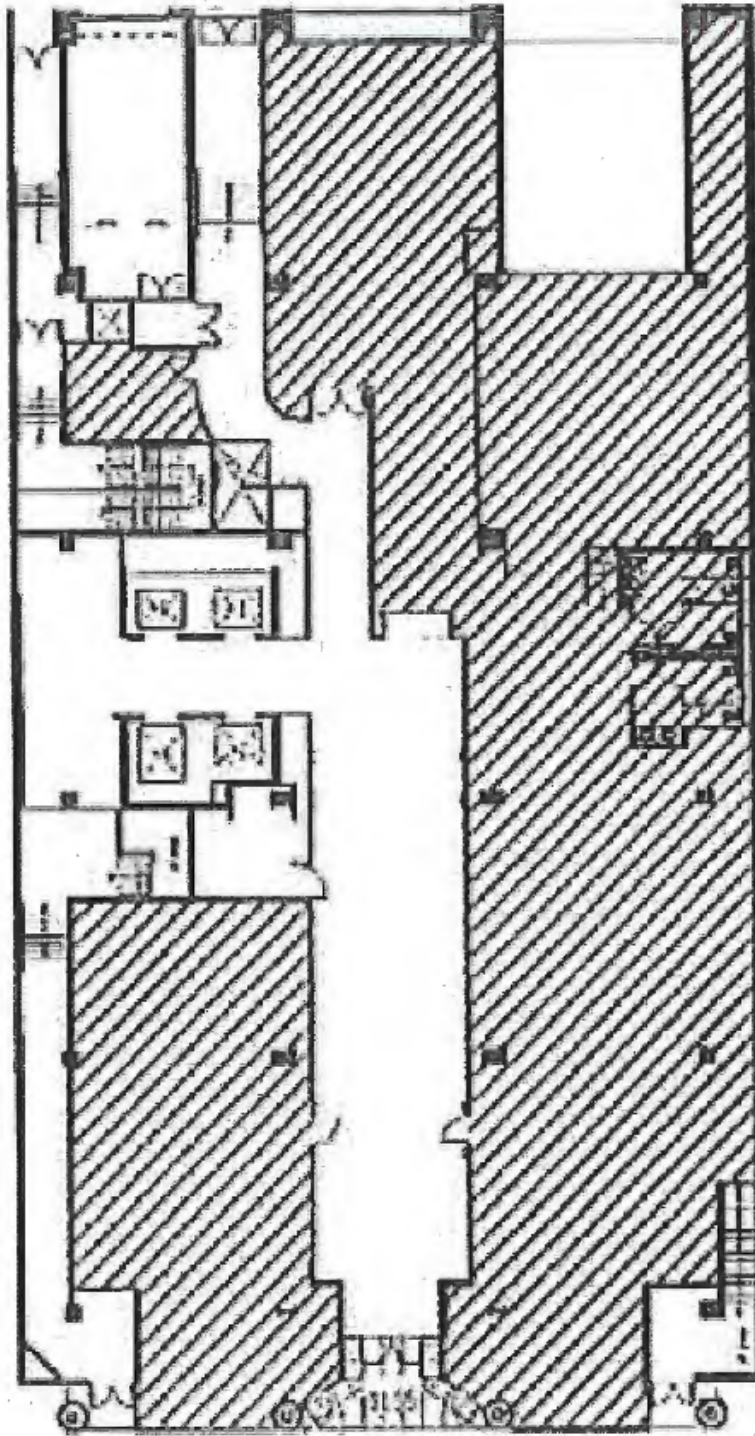
DAVID CHIU, City Attorney

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

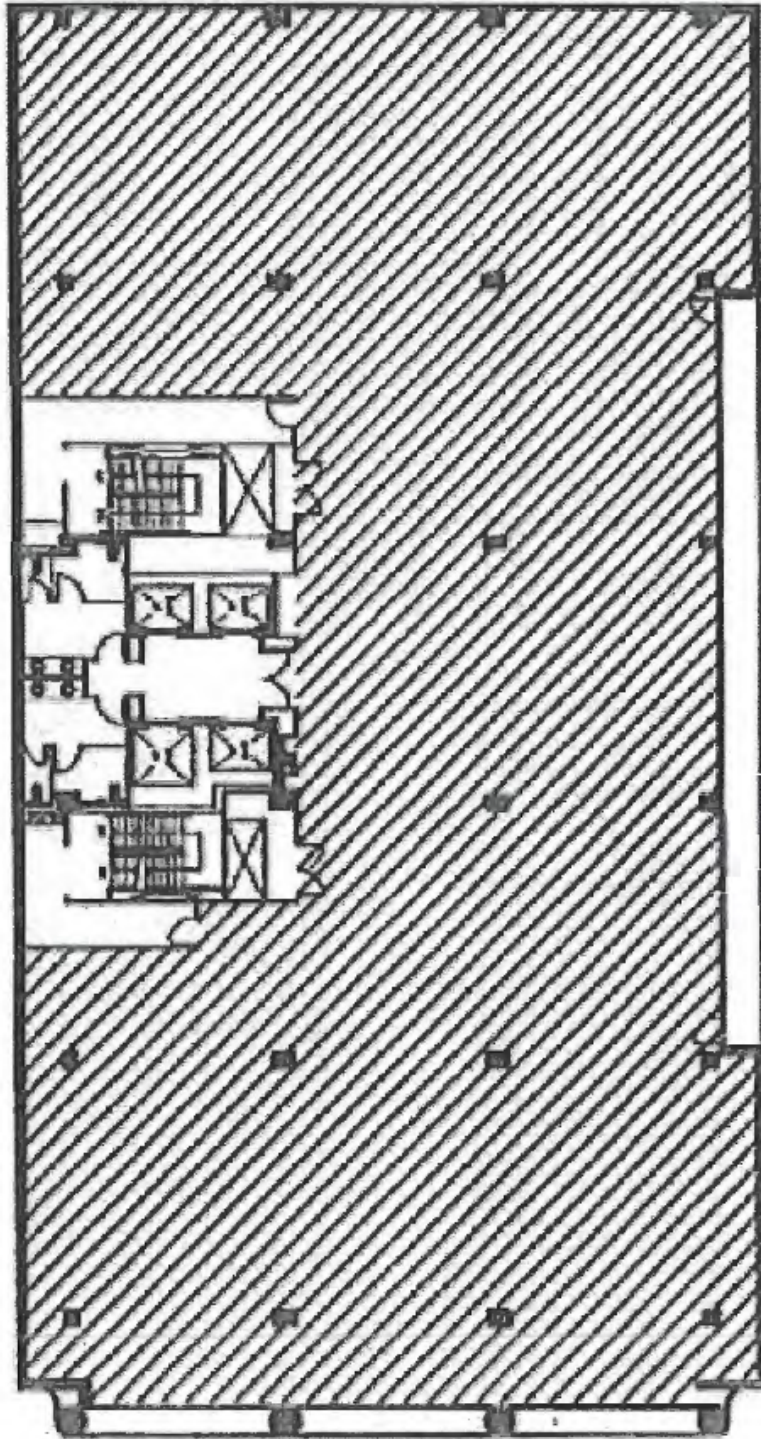
Deputy City Attorney

EXHIBIT A

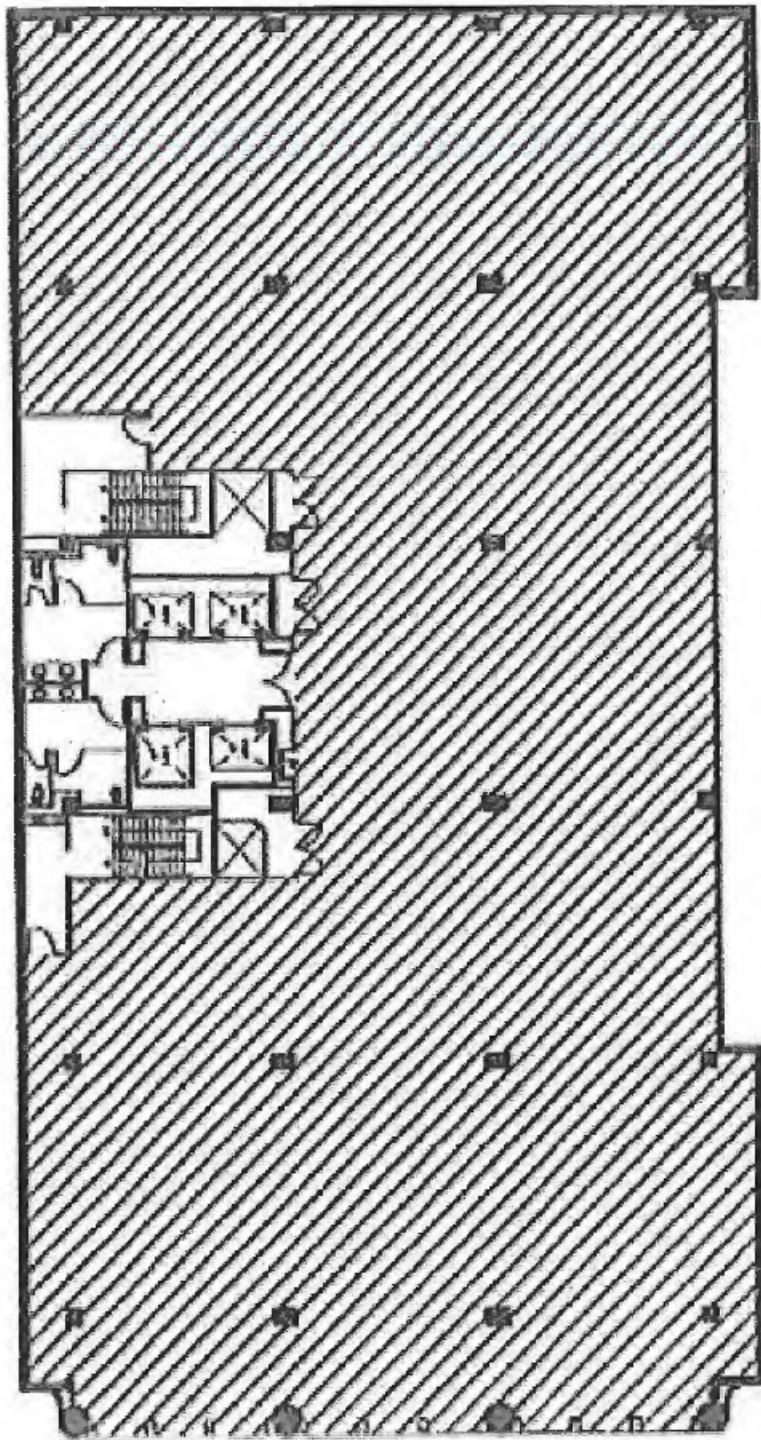
Floor Plan of Premises



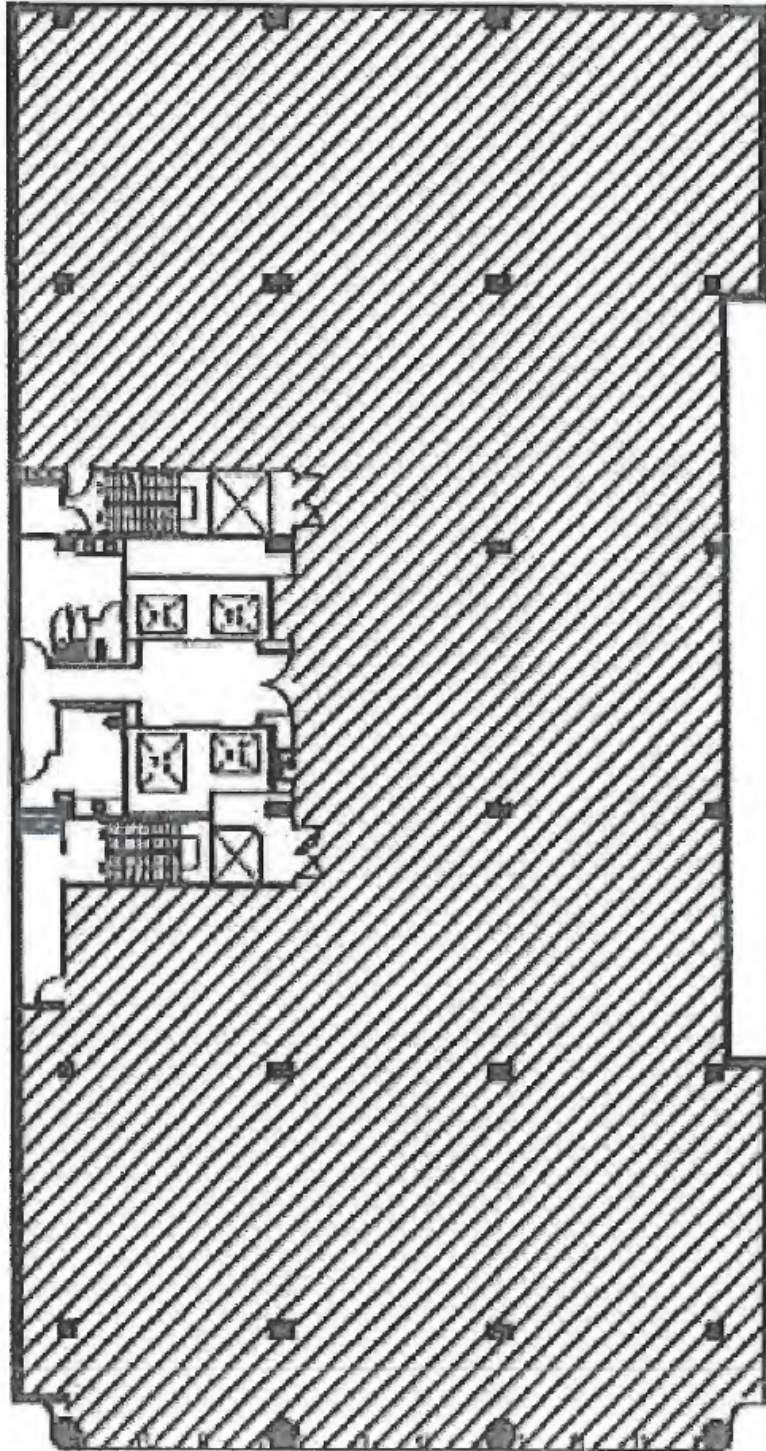
FLOOR 1



FLOOR 2

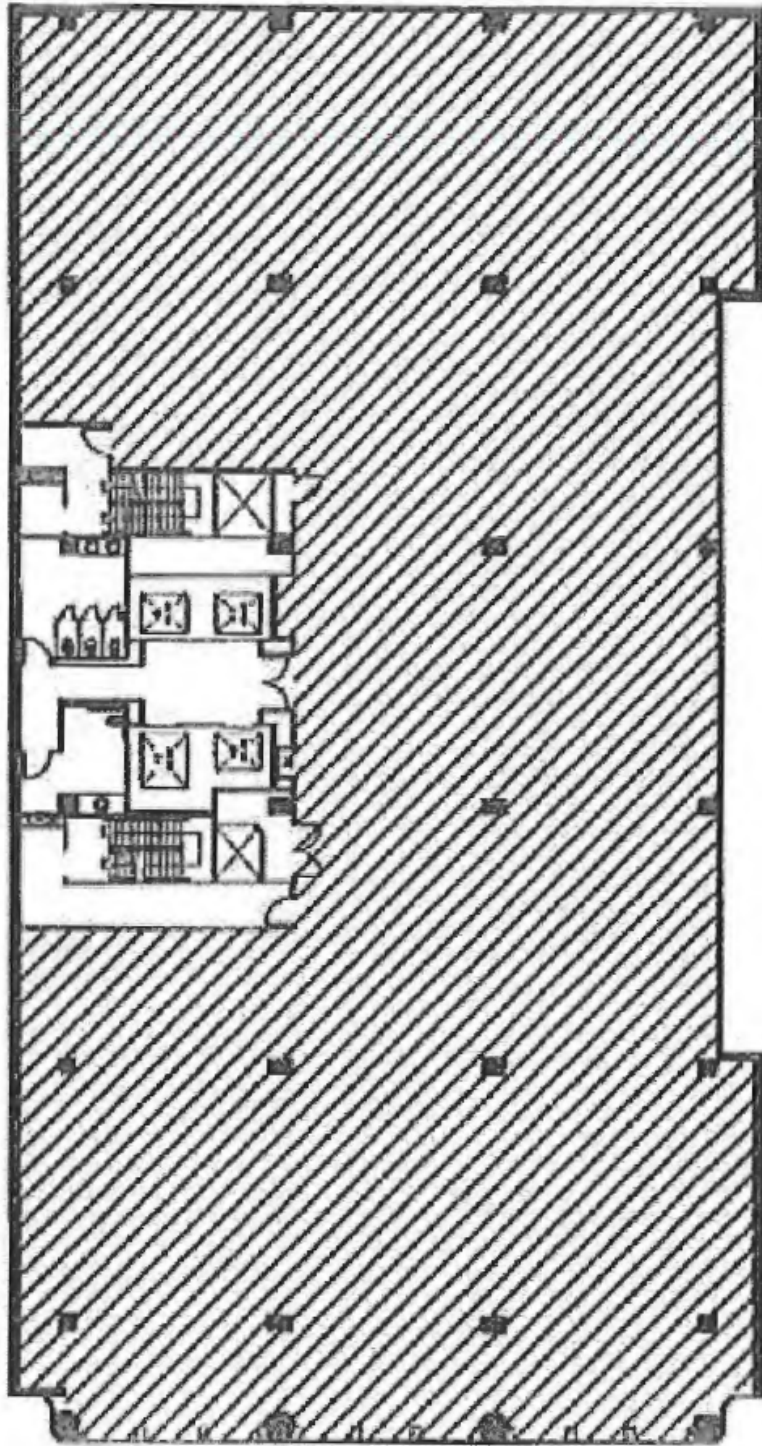


FLOOR 3

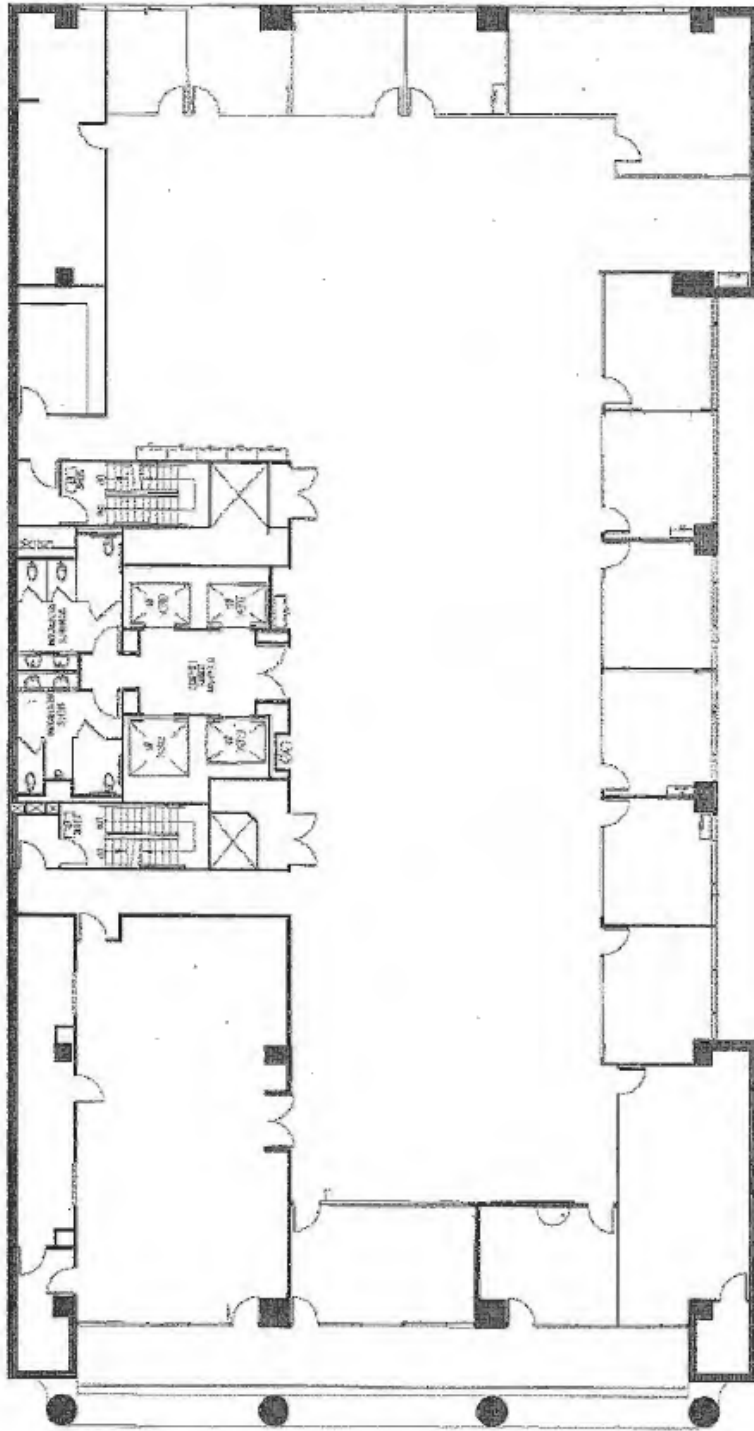


FLOOR 4

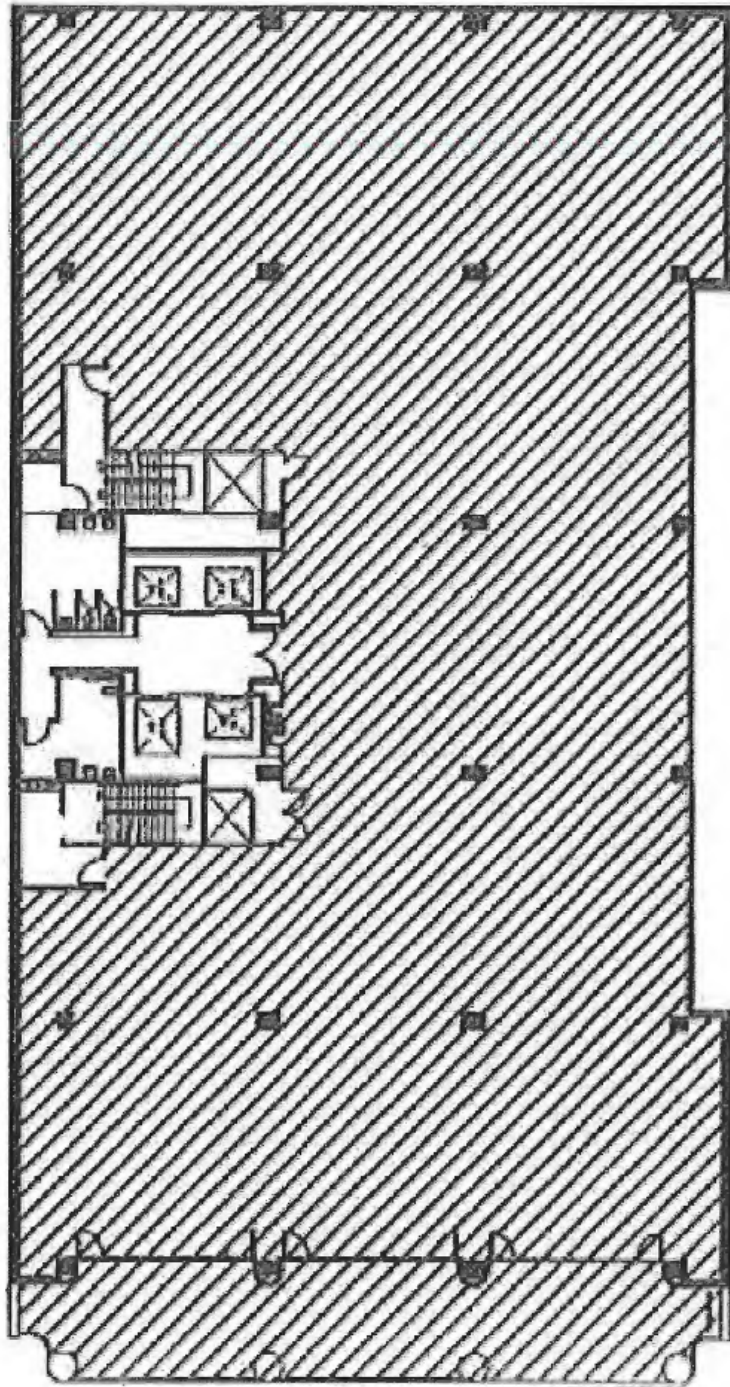




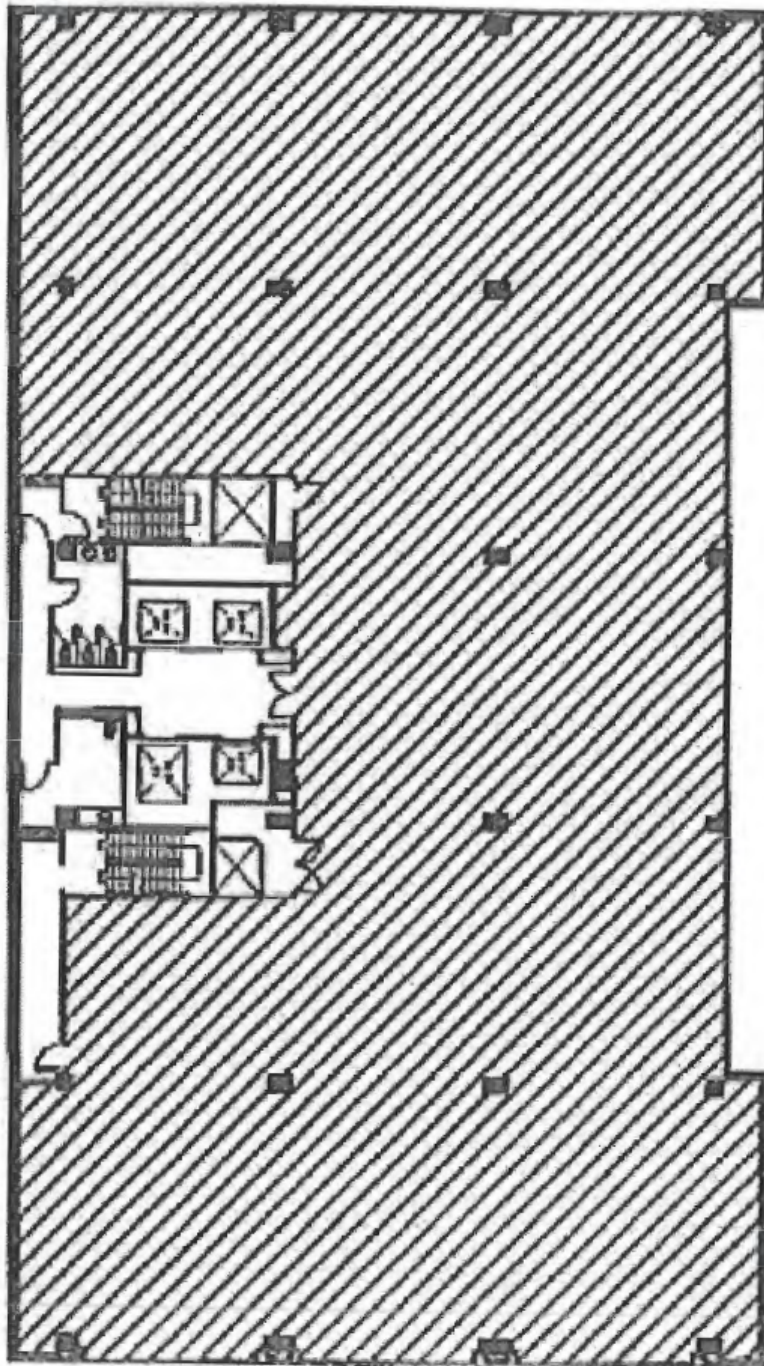
FLOOR 5



FLOOR 6



FLOOR 7



FLOOR 8

**EXHIBIT B**

**NOTICE OF COMMENCEMENT DATE**

[Date]

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

RE: Acknowledgement of Commencement Date, Lease Between THE LIGHTHOUSE BUILDING LLC, a Delaware limited liability company (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for premises known as \_\_\_\_\_ located at \_\_\_\_\_

Dear Mr. Penick:

This letter confirms that for all purposes of the Lease, the Commencement Date (as defined in Section 3.2 of the Lease) is February 1, 2023.

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

Very truly yours,

THE LIGHTHOUSE BUILDING LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Accepted and Agreed:

By: \_\_\_\_\_  
Andrico Q. Penick  
Director of Property

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

## EXHIBIT C

### EXCLUSIONS FROM OPERATING COSTS

1. Costs of capital repairs, capital improvements and equipment, except for those within the definition of “Operating Costs”;
2. Rentals and other related expenses for items (except when needed in connection with normal repairs and maintenance of permanent systems) which if purchased rather than rented, would constitute a capital improvement which is specifically excluded in item 1 above (excluding, however, equipment not affixed to the Building and/or Parcel A which is used in providing janitorial or similar services);
3. Costs incurred by Landlord for the repair of damage to the Building and/or Parcel A, to the extent that Landlord is reimbursed by insurance proceeds (excluding any deductible) and costs occasioned by the exercise of the right of eminent domain;
4. Costs, including, without limitation, permit, license and inspection costs, incurred with respect to the installation of improvements made for other tenants or occupants of the Building and/or Parcel A or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for other tenants or occupants in the Building and/or Parcel A;
5. Depreciation, amortization and interest payments, except to the extent provided within the definition of “Operating Costs” and except on materials, tools, supplies and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party where such depreciation, amortization and interest payments would otherwise have been included in the charge for such third party’s services, all as determined in accordance with commercial real estate accounting principles, consistently applied, and when depreciation or amortization is permitted or required, the item shall be amortized over its reasonably anticipated useful life (as reasonably determined by Landlord);
6. Leasing commissions, attorneys’ and other professionals’ fees, space planning costs and all other costs and expenses in connection with negotiations with present or prospective tenants or other occupants in the Building or any present or future ground lessors or holders of any mortgages or other encumbrances affecting any of the Building and/or Parcel A or the defense of Landlord’s title to the Building and/or Parcel A or the real property on which it is located;
7. Expenses in connection with services or other benefits which are not offered to City or for which City is charged directly but which are provided to another tenant or occupant of the Building and/or Parcel A;
8. Costs incurred by Landlord due to violation by Landlord or any other tenant or occupant of the Building and/or Parcel A of applicable laws, rules or regulations, the terms and conditions of any lease, ground lease, mortgage or deed of trust, or other covenants, conditions or restrictions encumbering the Building and/or Parcel A or the real property on which it is located;

9. Overhead and profit increments paid to Landlord or to subsidiaries or affiliates of Landlord, or to any party as a result of a non-competitive selection process, for management, or other services, supplies or materials, to the extent the same exceed the costs of such goods and/or services rendered by unaffiliated third parties on a competitive, arms-length basis;

10. Any ground lease rental or rental under any other underlying leases;

11. Except as specifically permitted by the definition of "Operating Costs", interest, principal, points and fees on debts or amortization on any mortgage, deed of trust or any other debt instrument encumbering any of the Building and/or Parcel A or the real property on which it is located;

12. Any compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord or in the parking garage in the Building;

13. All items and services for which City or any other tenant or occupant of the Building and/or Parcel A separately reimburses Landlord (other than through such tenant's or occupant's proportionate share of operating expenses), or which Landlord provides selectively to one or more other tenants or occupants without reimbursement, or which are not provided in reasonable proportion to the space leased by City but which Landlord provides to another tenant or other occupant of the Building and/or Parcel A;

14. Advertising or promotional expenditures, and the costs of acquiring and installing signs in or on any of the Building identifying the owner of the Building or exclusively identifying any other tenant or occupant of the Building;

15. Electric power costs for which any tenant or occupant directly contracts with the local public service company (provided that the charge for such services shall be computed for purposes of the gross-up provision of the Lease (i.e., expenses to be grossed up to reflect full occupancy of the Building) to reflect an average charge for power costs);

16. Intentionally deleted;

17. Costs incurred in connection with upgrading the Building to comply with disabled access, life, fire and safety codes and costs incurred in connection with upgrading the Building to comply with the Americans with Disabilities Act of 1990 and Title 24 of the California Code of Regulations (or its successor), the San Francisco Sprinkler Ordinance and the San Francisco Unreinforced Masonry Building Ordinance all to the extent such laws, regulations, ordinances and codes are in effect and interpreted prior to the date of this Lease;

18. Tax penalties incurred solely as a result of Landlord's negligence, inability or unwillingness to make payments when due;

19. Costs arising from the presence of Hazardous Material in or about the Building and/or Parcel A including, without limitation, groundwater or soil conditions, except if such Hazardous Material costs are the responsibility of Tenant as provided in this Lease;

20. Landlord's charitable or political contributions;

21. To the extent the following costs arise during any applicable warranty periods, costs as a result of repairs of latent defects in the Building core and shell or improvements installed by Landlord or in the Building Systems, and any costs incurred by Landlord in the event any portion of the Building is made untenantable by fire or other casualty required to be insured against pursuant to the terms of the Lease;

22. Capital costs for sculpture, paintings or other objects of art;

23. Costs (including, without limitation, all attorneys' fees and costs of settlement, judgments and payments in lieu thereof) arising from claims, disputes or potential disputes, including, without limitation, tax disputes where the tenants of the Building and/or Parcel A would receive benefits if Landlord prevails) in connection with potential or actual claims, litigation or arbitrations pertaining to Landlord or the Building and/or Parcel A;

24. All direct cost of refinancing, selling, exchanging or otherwise transferring ownership of the Building and/or Parcel A or the real property on which it is located or any interest therein or portion thereof, including broker commissions, attorney's fees and closing costs;

25. Reserves for bad debts, rent loss, capital items or further Operating Costs (except for current year anticipated expenses); and

26. Landlord's general corporate overhead and general and administrative expenses not related to the operation or management of the Building and/or Parcel A.



## EXHIBIT D

### BUILDING RULES AND REGULATIONS

The following rules and regulations shall apply to the Premises, Parcel A, the Building and the Project:

1. Sidewalks, doorways, vestibules, halls, stairways, elevators and other similar areas shall not be obstructed by tenants or used by any tenant for purposes other than ingress and egress to and from their respective leased premises and for going from one to another part of the Building. The halls, passages, exits, entrances, elevators and stairways are not open to the general public, but are open, subject to reasonable regulation, to Tenant's business invitees. Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation and interest of the Building and its tenants; provided that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal or unlawful activities.

2. Plumbing, fixtures and appliances shall be used only for the purposes for which designed, and no sweepings, rubbish, rags or other unsuitable material shall be thrown or deposited therein. Damage resulting to any such fixtures or appliances from misuse by a tenant or its agents, employees or invitees, shall be paid by such tenant.

3. Movement in or out of the Building of furniture or office equipment, or dispatch or receipt by tenants of any bulky material, merchandise or materials which require use of elevators or stairways, or movement through the Building entrances or lobby shall be conducted under Landlord's supervision at such times and in such a manner and pursuant to such scheduling procedures as Landlord may reasonably establish from time to time. Tenant's initial move in and subsequent deliveries of bulky items, such as furniture and safes shall, unless otherwise agreed in writing by Landlord, be made during the hours of 6:00 p.m. to 6:00 a.m. or on Saturday or Sunday. Each tenant assumes all risks of and shall be liable for all damage to articles moved and injury to persons or public engaged or not engaged in such movement, including equipment, property and personnel of Landlord if damaged or injured as a result of acts in connection with carrying out this service for such tenant.

4. Landlord may prescribe weight limitations and determine the locations for safes and other heavy equipment or items, which shall in all cases be placed in the Building so as to distribute weight in a manner acceptable to Landlord which may include the use of such supporting devices as Landlord may require. All damages to the Building caused by the installation or removal of any property of a tenant, or done by a tenant's property while in the Building, shall be repaired at the expense of such tenant.

5. Corridor doors, when not in use, shall be kept closed. Nothing shall be swept or thrown into the corridors, halls, elevator shafts or stairways. No birds or animals (other than guide animals) shall be brought into or kept in, on or about any tenant's leased premises. No portion of any tenant's leased premises shall at any time be used or occupied as sleeping or lodging quarters.

6. Tenant shall not make or permit any vibration or improper, objectionable or unpleasant noises or odors in the Building or otherwise interfere in any way with other tenants or persons having business with them.

7. No machinery of any kind (other than normal office equipment) shall be operated by any tenant in its leased premises without Landlord's prior written consent, nor shall any tenant use or keep in the Building any flammable or explosive fluid or substance (other than typical office supplies (e.g., photocopier toner) used in compliance with all Laws).

8. Landlord will not be responsible for lost or stolen personal property, money or jewelry from tenant's leased premises or public or common areas regardless of whether such loss occurs when the area is locked against entry or not.

9. The Premises shall not be used for manufacturing of any kind, nor shall the Premises be used for any improper, immoral or objectionable purpose. No cooking shall be done or permitted on the Premises without Landlord's consent, except that use by Tenant of Underwriter's Laboratory approved equipment for brewing coffee, tea, hot chocolate and similar beverages or use of microwave ovens for employee use shall be permitted, provided that such equipment and use is in accordance with all applicable federal, state and local laws, codes, ordinances, rules and regulations.

10. No vending or dispensing machines of any kind may be maintained in any leased premises without the prior written permission of Landlord, other than those used solely for Tenant's employees.

11. Tenant shall not conduct any activity on or about the Premises or the Building that is disreputable or which may draw pickets, demonstrators, or the like.

12. No tenant may enter into phone rooms, electrical rooms, mechanical rooms, or other service areas of the Building unless accompanied by Landlord or the Building manager.

13. Canvassing, soliciting or peddling in or about the Project is prohibited and Tenant shall cooperate to prevent same.

14. Tenant shall store all its trash and garbage within its Premises or in other facilities provided by Landlord. Tenant shall not place in any trash box or receptacle any material which cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with directions issued from time to time by Landlord. Tenant shall comply with the Building's recycling program in effect from time to time,

15. Tenant shall not use in the Premises any hand truck except those equipped with rubber tires and side guards or such other material-handling equipment as Landlord may approve.

16. Tenant shall not place anything against or near the glass storefront or glass doors or windows which may appear unsightly from outside the Premises.

17. The directory of the Building will be provided exclusively for the display of the name and location of tenants only, and Landlord reserves the right to exclude any other names therefrom.

18. Tenant shall not permit its employees, invitees or guests to smoke in the Premises or the lobbies, passages, corridors, elevators, vending rooms, rest rooms, stairways or any other area shared in common with other tenants to the Building, nor shall the tenant permit its employees, invitees or guests to loiter at the Premises entrance or the Building entrances for the purposes of smoking. Landlord may, but shall not be required to, designate an area for smoking outside the Building.

19. Landlord reserves the right, exercisable without notice and without liability to Tenant, to change the name and street address of the Building and/or Parcel A.

20. Landlord reserves the right to exclude from the office portion of the Building during non-Normal Business Hours, or such other hours as may be established from time to time by Landlord, and on Saturdays, Sundays and Holidays, any person unless that person is known to the person or employee in charge of the Building and has a pass or is properly identified. Tenant shall be responsible for all persons for whom it requests passes and shall be liable to Landlord for all acts of such persons. Landlord reserves the right to exclude or expel from the Building and/or Parcel A any person who, in Landlord's judgment, is intoxicated or under the influence of liquor or drugs or who is in violation of any of the Rules and Regulations of the Building. Landlord shall not be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. Landlord reserves the right to prevent access in the Building in case of invasion, mob, riot, public excitement or other commotion by closing the doors or by other appropriate action.

21. All incoming mail and package deliveries shall be received at the area in the Building designated by Landlord for such purposes and distributed through means established by Landlord. No messenger or other delivery personnel shall be permitted to enter into any area of the Building other than the area designated by Landlord for the pick-up and receipt of such deliveries.

22. Tenant shall not install any radio or television antenna, loudspeaker or other devices on the roof or exterior walls of the Premises. Tenant shall not interfere with radio or television broadcasting or reception from or in the Building or elsewhere.

23. Tenant shall not mark, drive nails, screw or drill into the partitions, woodwork or plaster or in any way deface the Premises or any part thereof, except in accordance with the provisions of the Lease pertaining to alterations. Landlord reserves the right to direct electricians as to where and how telephone wires are to be introduced to the Premises. Tenant shall not cut or bore holes for wires. Tenant shall not affix any floor covering to the floor of the Premises in any manner except as approved by Landlord. Tenant shall repair any damage resulting from noncompliance with this rule.

24. Neither Tenant nor its employees, agents, contractors, licensees, or invitees (other than law enforcement personnel) shall bring any firearm, whether loaded or unloaded, into the Premises or the Building at any time.

25. Tenant's requirements will be attended to only upon appropriate application to Landlord's management office by an authorized individual. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instructions from Landlord, and no employee of Landlord will admit any person (Tenant or otherwise) to any office or retail space without specific instructions from Landlord.

26. Landlord may waive any one or more of these Rules and Regulations for the benefit of Tenant or any other tenant, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of Tenant or any other tenant, nor prevent Landlord from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Building.

27. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements and conditions of Tenant's Lease of its Premises in the Building.

28. Landlord reserves the right to make such other and reasonable Rules and Regulations as, in its judgment, may from time to time be needed for safety and security, for care and cleanliness of the Building and/or Parcel A and for the preservation of good order therein. Tenant agrees to abide by all such Rules and Regulations hereinabove stated and any additional rules and regulations which are adopted.

29. Tenant shall be responsible for the observance of all of the foregoing rules by Tenant's employees, agents, clients, customers, invitees and guests.

**EXHIBIT E**

**Intentionally Omitted**

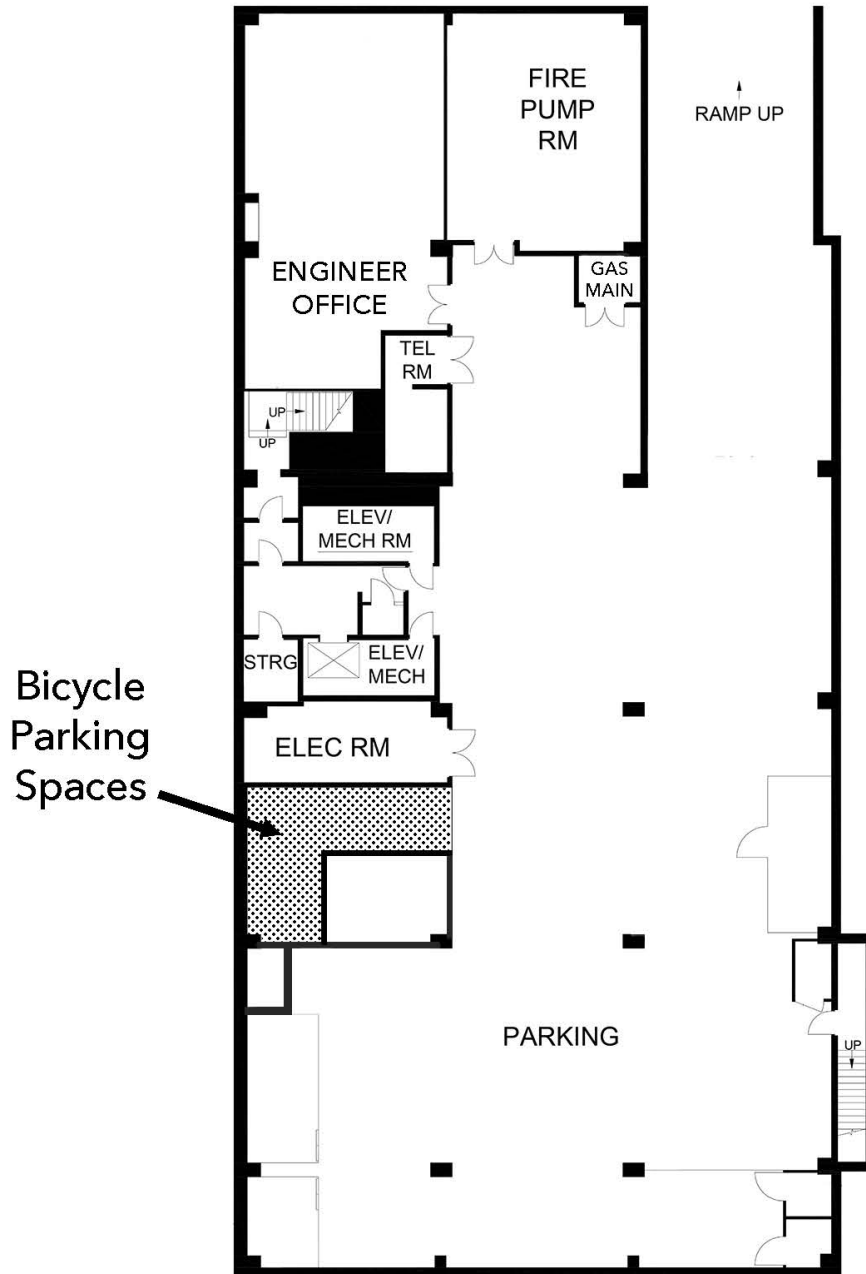
**EXHIBIT F**

**BICYCLE PARKING SPACES**

[Attached]

# EXHIBIT F

## BASEMENT LEVEL



**EXHIBIT G**

**Intentionally Omitted**



**EXHIBIT H**

**Intentionally Omitted**

**EXHIBIT I**

**FORM OF MEMORANDUM OF LEASE**

**[OPTIONAL]**

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

Exempt from recording fees under Government Code  
Section 27383.

Documentary Transfer Tax: NONE – Exempt under San  
Francisco Business and Tax Regulations Code Section  
1105

[Address]  
Block [ ], Lot [ ]

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

**MEMORANDUM OF LEASE<sup>1</sup>**

This Memorandum of Lease (“**Memorandum**”), dated for reference purposes as of \_\_\_\_\_, 20\_\_, is by and between THE LIGHTHOUSE BUILDING LLC, a Delaware limited liability company (“**Landlord**”), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**City**”).

**Recitals**

A. Landlord and City have entered into that certain Lease, dated \_\_\_\_\_, 20\_\_ (the “**Lease**”), under which Landlord leased to City and City leased from Landlord the real property more particularly described in the attached **Exhibit A** (the “**Property**”).

B. Landlord and City desire to execute this Memorandum to provide constructive notice of the Lease to all third parties.

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

1. **Term.** Under the terms of the Lease, Landlord leased the Property to City for a term commencing on the date Landlord delivers possession of the Property to City as set forth in the Lease. The Term of the Lease will expire on the date that is \_\_\_\_\_ ( ) years after \_\_\_\_\_

<sup>1</sup> NTD: parties to file quitclaim for original memorandum of lease.

the Commencement Date (as defined in the Lease), subject to \_\_\_\_\_ option to extend (subject to the terms and conditions of the Lease), unless earlier terminated in accordance with the terms of the Lease.

2. Lease Terms. Landlord leases the Premises to City on the terms and conditions of the Lease, which are incorporated into this Memorandum by reference as if they were fully set forth in this Memorandum; the rights and obligations of Landlord and Tenant are contained in the Lease. This Memorandum does not and will not be deemed to modify, alter, or amend the Lease in any way. If any conflict exists between the terms of the Lease and this Memorandum, the terms of the Lease will govern. Except as otherwise defined in this Memorandum, capitalized terms have the meanings given them in the Lease.

3. Successors and Assigns. This Memorandum and the Lease bind and will inure to the benefit of the parties and their respective heirs, successors, and assigns, subject, 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 written above.

LANDLORD:

THE LIGHTHOUSE BUILDING LLC,  
a Delaware limited liability company

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

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

ANDRICO Q. PENICK  
Director of Property

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

State of California                    )  
  ) ss  
County of \_\_\_\_\_)

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

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

WITNESS my hand and official seal.

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

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

State of California                    )  
  ) ss  
County of \_\_\_\_\_)

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

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

WITNESS my hand and official seal.

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

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

State of California                    )  
  ) ss  
County of \_\_\_\_\_)

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

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

WITNESS my hand and official seal.

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



August 22, 2023

Office of the Clerk of the Board of Supervisors  
City Hall, Room 244  
1 Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: Introduction of Resolution Approving a Retroactive Amended and Restated Office Lease at 1155 Market Street

Dear Madame Clerk:

Attached for introduction is a proposed resolution authorizing a retroactive Amended and Restated Office Lease for 1155 Market Street for a new term of five (5) years, for use as office space by multiple City Departments.

The City has leased office space at 1155 Market for over 10 years and occupies approximately 103,487 rentable square feet (the "Premises"). The previous lease was entered into on November 9, 2012, has been amended four times and expired on January 31, 2023. The City timely exercised its Notice of Option to Extend the lease on January 24, 2022. However, due to extensive negotiations regarding the fair market rent rate, the proposed new Amended and Restated Lease was not signed by the landlord until August 7, 2023. As this is an extension of the previous lease, the City is bound by the terms of the original lease with the exception of the length of the extension and the rental rate. The parties agreed that the term of the lease be retroactive back to February 1, 2023 so that, if the new lease is approved, the City can take advantage of the negotiated rent rate as of that date.

The Real Estate Division negotiated the following terms:

o Rent:

<b>Period</b>	<b>Annual Rate per Rentable Square Foot</b>	<b>Base Monthly Rent</b>
February 1, 2023 – January 31, 2024	\$64.60	\$557,105.02
February 1, 2024 – January 31, 2025	\$66.54	\$573,835.42
February 1, 2025 – January 31, 2026	\$68.54	\$591,083.25
February 1, 2026 – January 31, 2027	\$70.60	\$608,848.52
February 1, 2027 – January 31, 2028	\$72.72	\$627,131.22

- o Rent Rate: \$64.60 psf per year
- o Rent Escalation: 3% per year
- o Term: Five (5) years retroactive from February 1, 2023 – January 31, 2028
- o Option to Extend: City has one additional 5 year extension option.
- o Premises: 103,487 rentable square feet (Floors 1 – 8, inclusively).
- o Landlord Concessions: Tenant Improvement allowance of \$15.00 psf or \$1,552,305.00
- o Base Year: 2023. The City will continue to pay the standard increases in operating expenses over a new Base Year of 2023.

The fair market rent has been appraised by MAI appraisal Nick Michael and Vathana Duong of Colliers International dated December 19, 2022. The appraisal review by MAI appraiser Ron Blum is pending. Please note that the Landlord did not accept the City's appraised value. RED followed its standard process for price reconciliation which required the Landlord to obtain its own appraisal. Since the difference in value between the two appraisals was 10% or less, the parties split the difference to come to the agreed price of \$64.60 psf.

The Premises provide nine (9) different City Departments with office space in close proximity to City Hall in the Civic Center area and is convenient to public transit. If you have any questions regarding this lease amendment, please feel free to contact me at 554-9860.

Sincerely,



Andrico Q. Penick  
Director of Property





## San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102

Phone: 415.252.3100 . Fax: 415.252.3112

[ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org) . [www.sfethics.org](http://www.sfethics.org)

Received On:

File #: 230915

Bid/RFP #:

### Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

#### 1. FILING INFORMATION

<b>TYPE OF FILING</b>	<b>DATE OF ORIGINAL FILING (for amendment only)</b>
Original	
<b>AMENDMENT DESCRIPTION – Explain reason for amendment</b>	

#### 2. CITY ELECTIVE OFFICE OR BOARD

<b>OFFICE OR BOARD</b>	<b>NAME OF CITY ELECTIVE OFFICER</b>
Board of Supervisors	Members

#### 3. FILER'S CONTACT

<b>NAME OF FILER'S CONTACT</b>	<b>TELEPHONE NUMBER</b>
Angela Calvillo	415-554-5184
<b>FULL DEPARTMENT NAME</b>	<b>EMAIL</b>
office of the clerk of the Board	Board.of.Supervisors@sfgov.org

#### 4. CONTRACTING DEPARTMENT CONTACT

<b>NAME OF DEPARTMENTAL CONTACT</b>	<b>DEPARTMENT CONTACT TELEPHONE NUMBER</b>
Andrico Q. Penick	415-554-9850
<b>FULL DEPARTMENT NAME</b>	<b>DEPARTMENT CONTACT EMAIL</b>
ADM                      RED	realstateadmin@sfgov.org

5. CONTRACTOR	
<b>NAME OF CONTRACTOR</b> The Lighthouse Building, LLC	<b>TELEPHONE NUMBER</b> 415-788-2996
<b>STREET ADDRESS (including City, State and Zip Code)</b> 235 Montgomery St #1202, San Francisco, CA 94118	<b>EMAIL</b>

6. CONTRACT		
<b>DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)</b>	<b>ORIGINAL BID/RFP NUMBER</b>	<b>FILE NUMBER (If applicable)</b> 230915
<b>DESCRIPTION OF AMOUNT OF CONTRACT</b> rent rate \$64.60 psf at 3% escalation per year		
<b>NATURE OF THE CONTRACT (Please describe)</b> Five year term with one five-year extension for use as office space by multiple City Departments.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

**9. AFFILIATES AND SUBCONTRACTORS**

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Blind Holdings, LLC		Other Principal Officer
2	1155 Market LLC		Other Principal Officer
3	Harrison (1155 Market LLC)	David	Other Principal Officer
4	Paget (1155 Market LLC)	Ian	Other Principal Officer
5	The Lighthouse for the Blind and visually Impaired		Shareholder
6	Giovinazzo (Lighthouse)	Sharon	CEO
7	Knapik (Lighthouse)	Michelle	CFO
8	Cox (Lighthouse)	W. Brandon	COO
9	Sacks (Lighthouse)	Sharon	Other Principal Officer
10	Asuncion (Lighthouse)	Jennison Mark	Other Principal Officer
11	Allen (Lighthouse)	Laura	Other Principal Officer
12	Chan (Lighthouse)	Joseph K	Other Principal Officer
13	Fleet (Lighthouse)	Chancey	Other Principal Officer
14	Barrios (Lighthouse)	Janette	Board of Directors
15	Bezdikian (Lighthouse)	Leon	Board of Directors
16	Cohen (Lighthouse)	Jan	Board of Directors
17	Dadlani (Lighthouse)	Johnny K.	Board of Directors
18	Dellar (Lighthouse)	Michael	Board of Directors
19	Hooper (Lighthouse)	Dana	Board of Directors

**9. AFFILIATES AND SUBCONTRACTORS**

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
20	Mah (Lighthouse)	Eric	Board of Directors
21	Nunez (Lighthouse)	Michael	Board of Directors
22	Oatts (Lighthouse)	Julius	Board of Directors
23	Olague (Lighthouse)	Danise	Board of Directors
24	Siu (Lighthouse)	Yue-Ting	Board of Directors
25	Webster (Lighthouse)	Kathryn	Board of Directors
26	Yoon (Lighthouse)	Chris	Board of Directors
27			
28			
29			
30			
31			
32			
33			
34			
35			
36			
37			
38			

**9. AFFILIATES AND SUBCONTRACTORS**

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
39			
40			
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			

Check this box if you need to include additional names. Please submit a separate form with complete information. Select “Supplemental” for filing type.

**10. VERIFICATION**

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

**I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

<p><b>SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK</b></p>  <p>BOS Clerk of the Board</p>	<p><b>DATE SIGNED</b></p>
---	---------------------------

**From:** [Chin, Susanna \(ADM\)](#)  
**To:** [BOS Legislation, \(BOS\)](#)  
**Cc:** [Penick, Andrico](#); [Gorham, Claudia \(ADM\)](#)  
**Subject:** Legislative Package for 1155 Market Street  
**Date:** Monday, August 28, 2023 10:27:44 AM  
**Attachments:** [1155 Market Lease Agreement \(LL exec 8-22-23\).pdf](#)  
[1155 Market Resolution 08-24-23.doc](#)  
[1155 Market Transmittal Letter 08-22-23.pdf](#)  
[1155 Market reso approval.pdf](#)  
[Form 126 - 1155 Market 2023.pdf](#)

---

Good morning BOS Legislation:

Please find the attached legislative package 1155 Market Street for 9/5 introduction.

Thank you,

Susy Chin (*She/Her/Hers*)  
Executive Secretary  
Real Estate Division, City & County of San Francisco  
25 Van Ness Ave, Suite 400 San Francisco, CA 94102  
Tel: 415 554 9850 (*main*) | 415-554-9870 (*direct*)  
[susanna.chin@sfgov.org](mailto:susanna.chin@sfgov.org)  
*\*\*in office Mon-Wed*