File No. 250853 **Committee Item No.** 3
Board Item No. 17

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget and Finance Committee **Date** September 10, 2025
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Completed by: Brent Jalipa **Date** September 4, 2025
Completed by: Brent Jalipa **Date** September 11, 2025

[Lease Amendment - YMCA SF - Building 49 - 701 Illinois Street - Crane Cove Park - Rent Credit $156,000]

Resolution approving and authorizing the execution, delivery, and performance of the First Amendment to Port Lease No. 17134 for Building 49, located at 701 Illinois Street within Crane Cove Park between the Port of San Francisco and the Young Men's Christian Association of San Francisco (YMCA SF) to eliminate the provision which would reduce by $6,000 the amount of rent credits that are intended to offset operation and maintenance costs associated with the public restrooms; and provide $150,000 in new rent credits to partially offset unexpected costs related to improving the structural condition of Building 49, effective upon the later of Port's execution of the First Amendment or October 1, 2025; and authorizing the Executive Director of the Port to enter into any additions, amendments or other modifications that do not materially increase obligations or liabilities of the City or Port and are necessary or advisable to complete the transactions which this Resolution contemplates and effectuate the purpose and intent of this Resolution.

WHEREAS, California Statutes of 1968, Chapter 1333 (as amended, the "Burton Act") and Charter, Sections 4.114 and B3.581 empower the San Francisco Port Commission ("Port" or "Port Commission") with the power and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port Commission jurisdiction in the City and County of San Francisco; and

WHEREAS, On April 25, 2023, the Port Commission adopted Resolution No. 23-20 authorizing Port staff to execute Lease No. 16997 ("Original Lease") with the Young Men's Christian Association of San Francisco (the "YMCA SF") for the development and use of

Building 49 located at 701 Illinois Street within Crane Cove Park following approval of the by the Board of Supervisors, which approval occurred on June 27, 2023, pursuant to Resolution No. 344-23, and in such Resolutions, the Port Commission and the Board of Supervisors each also adopted environmental findings regarding the Original Lease, copies of which are on file with the Clerk of the Board of Supervisors in Board File No. 230541; and

WHEREAS, Shortly after execution of the Original Lease, the YMCA SF's further due diligence investigation of the existing building conditions during final design process revealed significant unforeseen costs and risks with regards to planned structural and seismic upgrades; and

WHEREAS, The Port and YMCA SF entered into a second round of negotiations in an effort to incorporate changes to the original lease terms that were viewed as necessary to bring the project back into financial feasibility; and

WHEREAS, On January 23, 2024, the Port Commission adopted Resolution No. 24-01, which authorized execution of Amended and Restated Lease L-17134 that amended and restated the Original Lease (the "Lease", or "Amended and Restated Lease") following consideration and approval of the Lease by the Board of Supervisors as required by Charter, Section 9.118, which Lease the Board of Supervisors approved on February 27, 2024, pursuant to Resolution 94-24; and

WHEREAS, The Port Commission and the Board of Supervisors each adopted environmental findings regarding the Original Lease in Resolutions Nos. 23-20 and 344-23, respectively, and such findings are hereby incorporated into this Resolution; and

WHEREAS, The new Dogpatch YMCA of Crane Cove Park, along with a water recreation outfitter operated under a sublease agreement by Dogpatch Paddle, LLC, opened for business in February 2025; and

WHEREAS, With the successful completion of the rehabilitation of Building 49, the YMCA SF has delivered on its commitment to providing significant community benefits satisfying one of the Port's objectives for this site; and

WHEREAS, Port staff recommends approval of an amendment to the Lease (the "First Amendment") with the Young Men's Christian Association of San Francisco, which would do the following: 1) eliminate the provision which would reduce by $6,000 the amount of rent credits that are intended to offset the YMCA SF's operation and maintenance costs associated with public restrooms within its leased premises; and 2) provide $150,000 in new rent credits to partially offset unexpected costs related to improving the structural condition of Building 49; and

WHEREAS, On July 8, 2025, the Port Commission adopted Resolution No. 25-38 which authorized the Port Executive Director to execute the First Amendment if the same is approved by the Board of Supervisors and to enter into any additions, amendments or other modifications to the Lease and the First Amendment that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port and do not materially increase the obligations or liabilities of the Port or materially decrease the public benefits accruing to the Port, a copy of such Resolution is on file with the Clerk of the Board of Supervisors in File No. 250853; and

WHEREAS, The proposed changes in the First Amendment exceed the authority granted by the Board of Supervisors to the Port's Executive Director under Resolution No. 94-24, and the Port is therefore seeking approval by Board of Supervisors of the First Amendment; and

WHEREAS, Key terms of the First Amendment are further described in the Port staff report to the Port Commission dated July 3, 2025, and the draft First Amendment, both of

which are on file with the Clerk of the Board of Supervisors in File No. 250853; now, therefore, be it

RESOLVED, That the Board of Supervisors hereby approves the First Amendment and authorizes the Executive Director of the Port, or her designee, to execute First Amendment in a form approved by the City Attorney and in substantially the same form on file with the Clerk of the Board of Supervisors in File No. 250853; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Port Executive Director to enter into any additions, amendments, or other modifications to the Lease that the Port Executive Director, in consultation with the City Attorney, determines, when taken as a whole, to be in the best interest of the Port, do not materially increase the obligations or liabilities of the City or the Port or materially reduce the benefits to the City or the Port, and are necessary or advisable to complete the transactions which this Resolution contemplates and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Port Executive Director of such documents; and, be it

FURTHER RESOLVED, That within thirty (30) days of the First Amendment being fully amended and executed by all parties, the Port shall provide a copy of the First Amendment to the Clerk of the Board for inclusion into the official file.

FIRST AMENDMENT TO
LEASE NO. L-17134

This First Amendment to Lease No. L-17134 (this "**Amendment**"), dated for reference purposes only as of September 1, 2025, is by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation ("**City**"), operating through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), as landlord, and **THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO**, a California not-for profit corporation ("**Tenant**"), as tenant.

RECITALS

A. Port and Tenant entered into Port Lease No. L-17134 ("**Existing Lease**"), dated March 15, 2024, for that certain real property located at 701 Illinois Street within Crane Cove Park ("**Building**"), in the City and County of San Francisco, State of California (Port Commission Resolution 24-01 and Board of Supervisors Resolution 0093-24). Tenant's Dogpatch YMCA of Crane Cove opened to the public in February 2025.

B. Port and Tenant wish to amend the Existing Lease to: 1) provide $150,000 of rent credits to partially offset Tenant's unexpected costs related to improving the structural condition of Building; and 2) eliminate the provision contained in the Basic Lease Information which stipulates that the amount of the Restroom Rent Credits be reduced by $175 per day (up to a maximum of $6,000) for each day that the Public Restrooms remain closed to the public beyond the Restroom Opening Date.

C. This Amendment will make other conforming changes and update City requirements as applicable.

The Existing Lease and this Amendment shall collectively be referred to as the "**Lease**". All capitalized terms used herein but not otherwise defined shall have the meanings given to them in the Existing Lease.

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, Port and Tenant hereby amend the Existing Lease as follows:

AGREEMENT

1. **Recitals**. The foregoing recitals are true and correct and are incorporated herein by this reference as if fully set forth herein.

2. **Lease Compliance**. Except as explicitly provided in this Amendment, this Amendment does not excuse, waive, suspend or modify any provision or obligation of Tenant under the Existing Lease. Tenant shall comply with all terms and conditions of the Existing Lease as modified by this Amendment. Tenant acknowledges and agrees that compliance with the Existing Lease is a material condition of this Amendment and that Port would not have agreed to this Amendment absent such terms.

3. **Basic Lease Information.**

   a. **Seismic Project Rent Credits**. The Basic Lease Information shall, by this Amendment, be deemed amended to include the following:

      "Seismic Project Rent Credits: Subject to the provisions contained in Lease Section 5.11, Port shall provide $150,000 of rent credits to be applied against all rent due beginning on the later of the date the Amendment is fully executed, or October 1, 2025, until such rent credits are fully exhausted."

   b. **Restroom Rent Credits.** The following sub-paragraph from the Basic Lease Information shall, by this Amendment, be deemed null and void:

"Obligation Regarding Public Restrooms: (ii) the Restroom Rent Credit will be reduced by $175.00 for each day after the Restroom Opening Date until the Restrooms are opened to the public (subject to temporary closures, as permitted under this Lease), up to a maximum reduction of $6000.

4. Port and City Requirements

Section 34 of the Lease is hereby amended as follows:

34. CITY AND PORT REQUIREMENTS.

The San Francisco Municipal Codes (available at www.sfgov.org) and City and Port policies described or referenced in this Lease are incorporated by reference as though fully set forth in this Lease. The descriptions below are not comprehensive but are provided for notice purposes only; Tenant is charged with full knowledge of each such ordinance and policy and any related implementing regulations as they may be amended from time to time. Tenant understands and agrees that its failure to comply with any provision of this Lease relating to any such code provision shall be deemed a material breach of this Lease and may give rise to penalties under the applicable ordinance. Capitalized or highlighted terms used in this Section and not defined in this Lease shall have the meanings ascribed to them in the cited ordinance.

34.1. Nondiscrimination.

(a) Covenant Not to Discriminate. In the performance of this Lease, Tenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under Articles 131 or 132 of Division II of the San Francisco Labor and Employment Code (formerly Chapter 12B and 12C of the San Francisco Administrative Code) or in retaliation for opposition to any practices forbidden under Articles 131 or 132 of Division II of the Labor and Employment Code against any employee of Tenant, any City and County employee working with Tenant, any applicant for employment with Tenant, or any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant in the City and County of San Francisco.

(b) Subleases and Other Contracts. Tenant shall include in all subleases and other contracts relating to the Premises a non-discrimination clause applicable to such subtenant or other contractor in substantially the form of Section 1.1(a) above. In addition, Tenant shall incorporate by reference in all subleases and other contracts the provisions of Sections 131.2(a), 131.2(c) – (k), and 132.3 of the Labor and Employment Code (formerly, sections 12B.2 (a), 12B.2(c) - (k) and 12C.3 of the Administrative Code) and shall require all subtenants and other contractors to comply with such provisions.

(c) Nondiscrimination in Benefits. Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City, 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 (collectively "**Core Benefits**") as well as any benefits other than the Core Benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local Law authorizing such registration, subject to the conditions set forth in Section 131.2 of the Labor and Employment Code.

(d) CMD Form. On or prior to the Lease Commencement Date, Tenant shall

execute and deliver to Port the "Nondiscrimination in Contracts and Benefits" form approved by the CMD.

(e) Penalties. Tenant understands that pursuant to Section 131.2(h) of the Labor and Employment Code, a penalty of $50.00 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

34.2. ***Requiring Health Benefits for Covered Employees***. Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care document1
Accountability Ordinance (HCAO), as set forth in Labor and Employment Code Division II, Article 121 (formerly Administrative Code Chapter 12Q).

(a) For each Covered Employee Tenant shall provide the appropriate health benefit set forth in Section 121.3 of the HCAO.

(b) Notwithstanding the above, if Tenant meets the requirements of a "small business" by the City pursuant to Section 121.3(e) of the HCAO, it shall have no obligation to comply with Section 1.2(a) above.

(c) If, within 30 days after receiving written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period, Tenant fails to commence efforts to cure within such period, or thereafter fails to diligently pursue such cure to completion, the City shall have the remedies set forth in Section 121.5(f). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(d) Any Sublease or Contract regarding services to be performed on the Premises entered into by Tenant shall require the Subtenant or Contractor and Subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in Article 121 of Division II of the Labor and Employment Code. Tenant shall notify the Office of Labor Standards Enforcement ("**OLSE**") when it enters into such a Sublease or Contract and shall certify to OLSE that it has notified the Subtenant or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Subtenant or Contractor through written agreement with such Subtenant or Contractor. Tenant shall be responsible for ensuring compliance with the HCAO for each Subtenant, Contractor and Subcontractor performing services on the Premises. If any Subtenant, Contractor or Subcontractor fails to comply, the City may pursue the remedies set forth in Section 121.5 of the Labor and Employment Code against Tenant based on the Subtenant's, Contractor's, or Subcontractor's failure to comply, provided that OLSE has first provided Tenant with notice and an opportunity to cure the violation.

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

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

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

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

(i) Within ten (10) business days of any request, Tenant shall provide the City with access to pertinent records relating to any Tenant's compliance with the HCAO. In addition, the City and its agents may conduct random audits of Tenant at any time during the Term. Tenant agrees to cooperate with City in connection with any such audit.

(j) If a Contractor or Subcontractor is exempt from the HCAO because the amount payable to such Contractor or Subcontractor under all of its contracts with the City or relating to City-owned property is less than $25,000.00 (or $50,000.00 for nonprofits) in that fiscal year, but such Contractor or Subcontractor later enters into one or more agreements with the City or relating to City-owned property that cause the payments to such Contractor or Subcontractor to equal or exceed $75,000.00 in that fiscal year, then all of the Contractor's or document1
Subcontractor's contracts with the City and relating to City-owned property shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements to equal or exceed $75,000.00 in the fiscal year.

34.3. ***First Source Hiring***. The City has adopted a First Source Hiring Program (San Francisco Administrative Code Sections 83.1 et seq.) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions as those terms are defined by the ordinance. Tenant acknowledges receiving and reviewing the First Source Hiring Program materials and requirements and agrees to comply with all requirements of the ordinance as implemented by Port and/or City, including without limitation, notification of vacancies throughout the Term and entering into a First Source Hiring Agreement, if applicable. Tenant acknowledges and agrees that it may be subject to monetary penalties for failure to comply with the ordinance or a First Source Hiring Agreement and that such non-compliance shall be a default of this Lease.

34.4. ***Local Business Enterprises***. The Port Commission encourages the participation of local business enterprises ("**LBEs**") in Tenant's operations. Tenant agrees to consult with CMD to determine appropriate methods for promoting participation by LBEs. Architecture, Engineering, Laboratory Services (Materials Testing), Trucking and Hauling, and Security Guard Services are categories of services that may provide opportunities for certified LBE participation. City maintains a list of certified LBEs at: https://sfgov.org/cmd/LBEcertification-0.

34.5. ***Indoor Air Quality***. Tenant agrees to comply with Section 711(g) of the Environment Code and any additional regulations adopted by the Director of the Department of the Environment pursuant to Environment Code Section 703(b) relating to construction and maintenance protocols to address indoor air quality.

34.6. ***Prohibition Against Tobacco Advertising; Prohibition Against Tobacco Product Sales, Manufacture, and Distribution***. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. In addition, Tenant acknowledges and agrees that no Sales, Manufacture, or Distribution of Tobacco Products (as such capitalized terms are defined in Health Code Section 19K.1) is allowed on the Premises and such prohibition must be included in all subleases or other agreements allowing use of the Premises. The prohibition against Sales, Manufacture, or Distribution of Tobacco Products does not apply to persons who are affiliated with an accredited academic institution where the Sale, Manufacture, and/or Distribution of Tobacco Products is conducted as part of academic research.

34.7. ***Prohibition of Alcoholic Beverages Advertising***. Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "**alcoholic beverage**" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

34.8. ***Graffiti Removal***. Tenant agrees to remove all graffiti from the Premises, including from the exterior of the Facility if included within the Premises, within forty-eight (48) hours of the earlier of Tenant's: (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a tenant to breach any lease or other agreement that it may have concerning its use of the real property. "**Graffiti**" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and that is visible from the public right-of-way, but does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of this Lease or the Port Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (Calif. Civil Code §§ 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

34.9. ***Restrictions on the Use of Pesticides.*** Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or “IPM Ordinance”) describes an integrated pest management (“IPM”) policy to be implemented by all City departments. Tenant shall not use or apply or allow the use or application of any pesticides on the Premises, and shall not contract with any party to provide pest abatement or control services to the Premises, without first receiving City’s written approval of an integrated pest management plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the term of this Lease, (ii) describes the steps Tenant will take to meet the City’s IPM Policy described in Section 300 of the IPM Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the Tenant’s primary IPM contact person with the City. Tenant shall comply, and shall require all of Tenant’s contractors to comply, with the IPM plan approved by the City and shall comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Tenant were a City department. Among other matters, such provisions of the IPM Ordinance: (a) provide for the use of pesticides only as a last resort, (b) prohibit the use or application of pesticides on property owned by the City, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City’s Department of the Environment), (c) impose certain notice requirements, and (d) require Tenant to keep certain records and to report to City all pesticide use by Tenant’s staff or contractors. If Tenant or Tenant’s contractor will

apply pesticides to outdoor areas, Tenant must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation and any such pesticide application shall be made only by or under the supervision of a person holding a valid Qualified Applicator certificate or Qualified Applicator license under state law. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, http://sfenvironment.org/ipm.

34.10. ***MacBride Principles Northern.*** Port and the City urge companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. Port and the City urge San Francisco companies to do business with corporations that abide by the MacBride Principles.

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

34.12. ***Preservative-Treated Wood Containing Arsenic***. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Tenant 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 Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

34.13. ***Notification of Limitations on Contributions***. If this Lease is subject to the approval by City's Board of Supervisors, Mayor, or other elected official, the provisions of this Section 1.13 shall apply. Through its execution of this Lease, Tenant acknowledges its obligations under Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve (12) months after the date the contract is approved. Tenant

acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars ($100,000) or more. Tenant further acknowledges that, if applicable, (i) the prohibition on contributions applies to each Tenant; each member of Tenant's board of directors, and Tenant's principal officers, including its chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten (10%) percent in Tenant; and any subcontractor listed in the Tenant's bid or contract; and (ii) within thirty (30) days of the submission of a proposal for the contract, the Port is obligated to submit to the Ethics Commission the parties to the Lease and any subtenant(s). Additionally, Tenant certifies that if this Section 1.13 applies, Tenant has informed each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 by the time it submitted a proposal for the contract and has provided to City the names of the persons required to be informed.

34.14. ***Sunshine Ordinance***. In accordance with Section 67.24(e) of the Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between Port 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 which is covered by this Section will be made available to the public upon request.

34.15. ***Conflicts of Interest***. Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Article III, Chapter 2 of Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the California Government Code, and certifies that it does not know of any facts which would constitute a violation of these provisions, and agrees that if Tenant becomes aware of any such fact during the Term, Tenant shall immediately notify the Port.

34.16. ***Drug-Free Workplace***. Tenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101 et seq.), the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City or Port premises.

34.17. ***Prevailing Wages and Working Conditions***. Tenant shall comply with all applicable prevailing wage requirements, including but not limited to any such requirements in the California Labor Code, the City and County of San Francisco Charter or the City and County of San Francisco Municipal Code. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Labor and Employment Code Division II, Articles 101, 103 and 104 (formerly Administrative Code Section 23.61). Tenant shall require its contractors and subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction to: (A) pay workers performing such work not less than the highest 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 Labor and Employment Code Division II, Articles 101, 103 and 104 (collectively,

“**Prevailing Wage Requirements**”). Tenant agrees to cooperate with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Prevailing Wage Requirements. Tenant shall include and shall require its subtenants, and 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 Labor and Employment Code Division II, Articles 101, 103 and 104. Each such Construction Contract shall name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any contractor or subcontractor in accordance with San Francisco Labor and Employment Code Division II, Articles 101, 103 and 104. Tenant’s failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A contractor’s or subcontractor’s failure to comply with this Section will enable the City to seek any remedy provided by Law, including those specified in San Francisco Labor and Employment Code Division II, Articles 101, 103 and 104 against the breaching party.
Tenant shall also pay, and shall require its subtenants, and contractors and subcontractors (regardless of tier) to pay, the Prevailing Rate of Wage for the following activities on the Premises as set forth in and to the extent required by San Francisco Labor and Employment Code Division II, Article 102 (formerly Administrative Code Chapter 21C): a Public Off -Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 102.3), a Show (as defined in Section 102.4), a Special Event (as defined in Section 102.8), Broadcast Services (as defined in Section 102.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 102.10), and Security Guard Services for Events (as defined in Section 102.11).

34.18. ***Local Hire***. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Labor and Employment Code Division II, Articles 101 and 108 (formerly Administrative Code Section 23.62) (the "**Local Hiring Requirements**"). Tenant Improvements and Alterations under this Lease are subject to the Local Hiring Requirements unless the cost for such work is (i) estimated to be less than the Threshold Amount (as defined in San Francisco Administrative Code Section 6.1) per building permit; (ii) is in connection with the set-up, execution and strike of special events of three (3) or fewer days costing in excess of the Threshold Amount; or (iii) meets any of the other exemptions in the Local Hiring Requirements. Tenant agrees that it will comply with the Local Hiring Requirements to the extent applicable. Before starting any Tenant Improvements or Alterations, Tenant shall contact City’s Office of Economic Workforce and Development ("**OEWD**") to determine whether the work is a Covered Project subject to the Local Hiring Requirements. Tenant shall include, and shall require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Labor and Employment Code Division II, Articles 101 and 108. Each such contract shall name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Tenant shall cooperate, and require its subtenants to cooperate, with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Tenant’s failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A contractor’s or subcontractor’s failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Labor and Employment Code Division II, Articles 101 and 108 against the breaching party.

34.19. ***Public Transit Information***. Tenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Facility and encouraging use of such facilities, all at Tenant's sole expense.

34.20. ***Food Service and Packaging Waste Reduction Ordinance***. Tenant agrees to comply fully with and be bound by all of the provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. By entering into this Lease, Tenant agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Tenant agrees that the sum of one hundred dollars ($100.00) liquidated damages for the first breach, two hundred dollars ($200.00) liquidated damages for the second breach in the same year, and five hundred dollars ($500.00) liquidated damages for-subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Lease was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Tenant's failure to comply with this provision.

34.21. ***San Francisco Bottled Water Ordinance***. Tenant is subject to all applicable provisions of Environment Code Chapter 24 (which are hereby incorporated) prohibiting the sale or distribution of drinking water specified containers at City-permitted events held on the Premises with attendance of more than 100 people, except as otherwise set forth in Environmental Code Chapter 24.

34.22. ***Consideration Of Criminal History In Hiring And Employment Decisions***.

(a) Tenant agrees to comply with and be bound by all of the provisions of San Francisco Labor and Employment Code Division II, Article 142 (formerly Administrative Code Chapter 12T) (Criminal History in Hiring and Employment Decisions; "**Article 142**"), which are hereby incorporated, including the remedies and implementing regulations as may be amended from time to time, with respect to applicants and employees of Tenant who would be or are performing work at the Premises.

(b) Tenant shall incorporate by reference the provisions of Article 142 in all subleases of some or all of the Premises, and shall require all subtenants to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Tenant and subtenants shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is document1
undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Tenant and subtenants shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in

subsection (c) above. Tenant and subtenants shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Tenant and subtenants shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Article 142.

(f) Tenant and subtenants shall post the notice prepared by OLSE, available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Tenant and subtenants understand and agree that upon any failure to comply with the requirements of Article 142, the City shall have the right to pursue any rights or remedies available under Article 142 or this Lease, including but not limited to a penalty of $50 for a second violation and $100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Lease.

If Tenant has any questions about the applicability of Article 142, it may contact Port for additional information. Port may consult with the Director of the City's Office of Contract Administration who may also grant a waiver, as set forth in Section 142.8.

34.23. ***Working with Minors.*** In accordance with California Public Resources Code Section 5164, if Tenant, or any Subtenant, is providing services at a City park, playground, recreational center or beach, Tenant shall not hire, and shall prevent its Subtenants from hiring, any person for employment or a volunteer position in a position having supervisory or disciplinary authority over a minor if that person has been convicted of any offense listed in Public Resources Code Section 5164. In addition, if Tenant, or any Subtenant, is providing services to the City involving the supervision or discipline of minors or where Tenant, or any Subtenant, will be working with minors in an unaccompanied setting on more than an incidental or occasional basis, Tenant and any Subtenant shall comply with any and all applicable requirements under federal or state law mandating criminal history screening for such positions and/or prohibiting employment of certain persons including but not limited to California Penal Code Section 290.95. In the event of a conflict between this Section and Section 34.22 (Consideration of Criminal History in Hiring and Employment Decisions) of this Lease, this Section shall control.

34.24 ***Southern Waterfront Community Benefits and Beautification Policy***. The Port's "Policy for Southern Waterfront Community Benefits and Beautification" identifies beautification and related projects in the Southern Waterfront (from Mariposa Street in the north to India Basin) that require funding. Under this policy, Tenant shall provide community benefits and beautification measures in consideration for the use of the Premises. Examples of desired benefits include: (i) beautification, greening and maintenance of any outer edges of and entrances to the Premises; (ii) creation and implementation of a Community Outreach and Good Neighbor Policy to guide Tenant's interaction with Port, neighbors, visitors and users; (iii) use or support of job training and placement organizations serving southeast San Francisco; (iv) commitment to engage in operational practices that are sensitive to the environment and the neighboring community by reducing engine emissions consistent with the City's Clean Air Program, and use

of machines at the Premises that are low-emission diesel equipment and utilize biodiesel or other reduced particulate emission fuels; (v) commitment to use low impact design and other "green" strategies when installing or replacing stormwater infrastructure; (vi) employment at the Premises of a large percentage of managers and other staff who live in the local neighborhood or community; (vii) use of truckers that are certified by the CMD as "**Local Business Enterprises**" under the City's Local Business Enterprise and Non-Discrimination Ordinance (SF Administrative Code Chapter 14B, as amended); and (viii) use of businesses that are located within the Potrero Hill and Bayview Hunters Point neighborhoods. Tenant agrees to provide Port with documents and records regarding these activities upon Port's request.

34.25. ***Vending Machines; Nutritional Standards and Calorie Labeling Requirements; Offerings***. Tenant shall not install or permit any vending machine on the Premises without the prior written consent of Port. Any permitted vending machine must comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code section 4.9- 1(c), as may be amended from time to time (the "**Nutritional Standards Requirements**"). Tenant agrees to incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section shall be deemed a material breach of this Lease. Without limiting Port's other rights and remedies under this Lease, Port shall have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements. In addition, any Restaurant including any employee eating establishment located on the Premises is encouraged to ensure that at least twenty-five percent (25%) of Meals (as capitalized terms are defined in San Francisco Administrative Code section 4.9-1) offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code section 4.9-1(e), as may be amended.

34.25. ***Tenant's Compliance with City Business and Tax Regulations Code***. Tenant 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 Port is required to make to Tenant under this Lease is withheld, then Port 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 Section 1.25 to Tenant, without interest, late fees, penalties, or other charges, upon Tenant coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

34.26. ***Consideration of Salary History***. Tenant shall comply with San Francisco Labor and Employment Code Division II, Article 141 (formerly Administrative Code Chapter 12K), the Consideration of Salary History Ordinance or "Pay Parity Act." For each employment application to Tenant for work that relates to this Lease or for work to be performed in the City or on City property, Tenant is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant. Tenant shall not (1) ask such applicants about their current or past salary or (2) disclose a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Tenant is subject to the enforcement and penalty provisions in Article 141. Information about Article 141 is available on the web at https://sfgov.org/olse/considerationsalary-history.

34.27. ***Employee Signature Authorization Ordinance***. The City has adopted an Employee Signature Authorization Ordinance (S.F. Admin Code Sections 23.50-23.56). That ordinance requires employers of employees in hotel or restaurant projects on public property with fifty (50) or more employees (whether full-time or part-time) to enter into a "card check" agreement with a labor union regarding the preference of employees to be represented by a labor union to act as their exclusive bargaining representative. Tenant shall comply with the requirements of such ordinance, if applicable, including, without limitation, any requirements in the ordinance with respect to its Subtenants or operators.

5. **Rights Are Cumulative.** The liability of Tenant and all rights, powers, and remedies of Port under this Agreement shall be cumulative and not alternative, and such rights, powers, and remedies given to Port by law or in equity.

6. **Authority**. If Tenant signs as a corporation or a partnership, each of the persons executing this Amendment on behalf of Tenant does hereby covenant and warrant that Tenant is at the time of execution and at all times while the Lease is in effect will continue to be: (1) a duly authorized and existing entity, (2) qualified to do business in California; and that Tenant has full right and authority to enter into this Amendment, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon Port's request, Tenant shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties, and covenants.

7. **Full Force and Effect**. Except as specifically amended herein, the terms and conditions of the Lease shall remain in full force and effect.

8. **Entire Agreement**. This Amendment contains all of the representations and the entire agreement between the parties with respect to the subject matter of this Amendment. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to the subject matter of this Amendment are superseded in their entirety by this Amendment. No prior drafts of this Amendment or changes between those drafts and the executed version of this Amendment shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider such drafts in interpreting this Amendment.

9. **Miscellaneous**. This Amendment shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto. This Amendment will be interpreted to achieve the intents and purposes of the parties, without any presumption against the party responsible for drafting any part of this Amendment. The terms of this Amendment are contractual and not a mere recital. The liability of and all rights, powers, and remedies of the parties under this Amendment shall be cumulative and not alternative. Each party acknowledges that the other party has made no representations, express or implied, to induce that party to enter into this Amendment, other than as expressly set forth herein. This Amendment is made for the purpose of setting forth certain rights and obligations of Tenant and the Port, and no other person shall have any rights hereunder or by reason hereof as a third-party beneficiary or otherwise. This Amendment may be executed in counterparts with the same force and effect as if the parties had executed one instrument, and each such counterpart shall constitute an original hereof. No provision of this Amendment that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions hereof are hereby declared to be severable. Time is of the essence of this Amendment. Neither this Amendment nor any of the terms hereof may be amended or modified except by a written instrument signed by all the parties hereto.

10. **Subject to Approvals**. Tenant acknowledges and agrees that no officer or employee of City has authority to commit City to this Amendment unless and until the Port Commission and Board of Supervisors have approved this Amendment and authorized the transactions contemplated hereby. Therefore, any obligations or liabilities of Port hereunder are contingent upon such applicable approvals, and this Amendment will be null and void if the Port Commission and Board of Supervisors do not approve this Amendment, in their sole discretion.

11. <u>Effective Date</u>. This Amendment is effective upon the later of Port's execution as indicated below or October 1, 2025. The Parties agree that Port has no obligation to execute this Amendment until the following conditions precedent have occurred (i) Tenant has executed this Amendment; and (ii) the Port Commission and Board of Supervisors have approved this Amendment.

[Remainder of this page left intentionally blank]

IN WITNESS WHEREOF, Port and Tenant execute this Amendment at San Francisco, California, as of the last date set forth below.

PORT: **CITY AND COUNTY OF SAN FRANCISCO**,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Scott Landsittel
Deputy Director, Real Estate and Development

Date Signed: _____

TENANT: **THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO**, a California not-for profit corporation,

By: _____
Name: _____
Title: _____

Date Signed: _____

By: _____
Name: _____
Title: _____

Date Signed: _____

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: _____
Name: Grace Park
Deputy City Attorney

Amendment Prepared By: Jamie Hurley, Development Projects Manager _____(initial)

Port Commission Reso. No. 25-XX

First Amendment to Port Lease L-17134 with the YMCA of San Francisco

Board of Supervisors

Budget and Finance

September 10, 2025

Presented By: Wyatt Donnelly-Landolt

Real Estate & Development

PORT OF SAN FRANCISCO

Dogpatch YMCA at Crane Cove opened in February 2025

Dogpatch YMCA of Crane Cove Project

- The new “Dogpatch YMCA of Crane Cove”, along with a water recreation facility operated by their primary subtenant Dogpatch Paddle, opened for business in February 2025
  - Master Tenant: YMCA SF (4,068 square feet): Community Wellness Facility
  - Subtenant A: Dogpatch Paddle (2,210 square feet): Retail/Aquatics Center
  - Subtenant B: TBD (480 square feet): Retail Food and Beverage

- The YMCA SF faced significant challenges to successfully rehabilitate and repurpose Building 49, including improving the building’s structural integrity and seismic resiliency in the face of adverse existing building/site conditions

Proposed Changes to the Lease

Lease Term	Existing	Proposed
Seismic Rent Credits	None	$150,000 (of $407,000 total increase in structural improvement costs)
Restroom Rent Credits $2,000 per month for YMCA to operate and maintain public restrooms	Reduced by $6,000 (i.e. 3 months) due to delay in opening public restrooms	Leaves all Restroom Rent Credits Intact

PORT OF SAN FRANCISCO

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CITY AND COUNTY OF SAN FRANCISCO
LONDON N. BREED, MAYOR

LEASE NO. L-16997

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO
OPERATING BY AND THROUGH THE
SAN FRANCISCO PORT COMMISSION

AND
YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION

CRANE COVE PARK BUILDING 49

JULY 14, 2023

ELAINE FORBES
EXECUTIVE DIRECTOR

SAN FRANCISCO PORT COMMISSION

KIMBERLY BRANDON, PRESIDENT
WILLIE ADAMS, VICE PRESIDENT
GAIL GILMAN, COMMISSIONER
ED HARRINGTON, COMMISSIONER
STEVEN LEE, COMMISSIONER

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BASIC LEASE INFORMATION
LEASE AGREEMENT

Lease Date:	July 14, 2023
Lease Number:	**L-16997**
Landlord or Port:	**CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**
Landlord's Address:	Port of San Francisco Pier 1 San Francisco, California 94111 Attention: Deputy Director, Real Estate and Development Telephone: (415) 274-0400 Facsimile: (415) 274-0494
Tenant:	**YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO**, a California Nonprofit Public Benefit Corporation
Tenant's Main Contact Person and Mailing Address:	Jamie Bruning-Miles, President and CEO YMCA of San Francisco 169 Steuart St. San Francisco, CA 94105 Telephone: (415) 777-9622 Cell: (415) 932-9990 Email: JBruning-Miles@ymcasf.org
Tenant's Billing Contact and Address:	Mittie Grigsby, CFO YMCA of San Francisco 169 Steuart Street San Francisco, CA 94105 Telephone: (415) 777-9622 Cell: (510) 566-1215 Email: Mgrigsby@ymcasf.org
Tenant's Emergency Contact and Address:	Chris McComic, VP YMCA of San Francisco 169 Steuart Street San Francisco, CA 94105 Telephone: (415) 777-9622 Cell: (415) 688-9726 Email: Cmccomic@ymcasf.org

Tenant's Insurance Contact and Address (not broker):	Jackie O'Brien YMCA of San Francisco 169 Steuart Street San Francisco, CA 94105 Telephone: (415) 777-9622 Cell: (617) 990-2757 Email: JObrien@ymcasf.org
Contact Information for Tenant's Agent for Service of Process:	CT Corp 330 N. Brand Blvd. Glendale, CA 91023-2366
Premises:	The Premises is comprised of Building 49 (the "**Building**"), the existing improvements thereon of approximately 8,000 square feet with a rentable area of approximately Six Thousand Eight Hundred Seventeen (6,817) square feet, located within Crane Cove Park (the "**Park**"), in the City and County of San Francisco as more particularly shown on ***Exhibit A*** attached hereto, and all Improvements hereafter constructed in, on or around the Building. The address of Building 49 is 701 Illinois Street San Francisco, California 94107
Effective Date; Commencement Date; Rent Commencement Date; Expiration Date; Initial Term:	August 1, 2023 (the "**Commencement Date**" or the "**Effective Date**"). Provided that there is no existing Event of Default, Rent shall be abated during construction of the Initial Improvements (as defined below) starting on the Commencement Date until the earlier of (i) the date Port issues a Temporary Certificate of Occupancy related to the Initial Improvements; or (ii) Three Hundred Thirty (330) days after the Commencement Date ("**Construction Term**"). Tenant shall pay Base Rent payments starting on the earlier of the date Port issues a Temporary Certificate of Occupancy related to the Initial Improvements or the Three Hundred Thirtieth (330th) day after the Commencement Date regardless of the status of completion of the Initial Improvements ("**Rent Commencement Date**"). Notwithstanding the foregoing, and subject to compliance with the terms and conditions of the Work Letter, Tenant must pay rent in the amount required by the then-current Port Commission-adopted parameter rates for any uses in the Building other than construction during the Construction Term. This Lease shall expire on the date that is the last day of the tenth (10th) year after the Rent Commencement Date ("**Expiration Date**"). The "**Initial Term**" shall be from the Rent Commencement Date to the Expiration Date. Notwithstanding anything to the contrary in this Lease, if, despite Tenant's commercially reasonable efforts, the Building Permit for the Initial Improvements has not been issued and Finally Approved on or before the date that is 330 days after the Commencement Date

	("**Upset Date**") for any reason whatsoever, then Tenant may terminate this Lease by written notice to Port given within five (5) business days of the Upset Date. The termination notice shall immediately terminate this Lease as of the date of such notice; shall automatically terminate any other use agreements, including any licenses then in effect between the parties for the Building or the Park; and shall be irrevocable. Port shall return any unused portion of the Security Deposit as provided in ***Section 9***. Except for provisions that survive the expiration or earlier termination of this Lease, the parties shall have no further obligations under this Lease as of the date of Tenant's notice. Promptly following each of the actual Effective Date, Commencement Date and Rent Commencement Date, Port and Tenant shall execute a Memorandum substantially in the form attached hereto as ***Exhibit B***, confirming the actual Effective Date, Commencement Date, Rent Commencement Date, Upset Date, and Expiration Date, but either party's failure to do so shall not affect the commencement or expiration of the Term or the actual Rent Commencement Date.
Permitted Use:	Operation of a wellness center featuring fitness and wellness programming and classes and community events; an aquatics center which includes sales, rentals and lessons related to human-powered vessels such as kayaks and stand-up paddleboards; and a food and beverage concession. The Permitted Uses are more fully described in the Operations Plan.
Subtenant Space:	There shall be two (2) spaces in the Building designated for Subtenants as more particularly shown on ***Exhibit A*** attached hereto, as follows: (1) "**Sublease Premises A"**: of approximately 2,289 square feet located in the eastern area of the Building to be used as an aquatics center; and (2) "**Sublease Premises B"*:*** of approximately 455 square feet located in the southwestern area of the Building to be used for retail food and beverage operations.
Initial Subtenants: *Dogpatch Paddle and Daily Driver:*	As of the Effective Date, Port consents to the following Subleases on the terms and conditions of the Port's Consents attached hereto as follows: (1) For Sublease Premises A: A Sublease to Dogpatch Paddle, LLC. Port's Consent is attached as ***Exhibit C*** (the "**Dogpatch Paddle Sublease"**); and (2) For Sublease Premises B: A Sublease to Daily Driver LLC. Port's Consent is attached as ***Exhibit D*** (the "**Daily Driver Sublease"**). Further subleasing is subject to the provisions of ***Section 23.5***.
Initial Term Monthly Base Rent and Annual Adjustments:	Tenant is responsible for the payment of Rent. Tenant shall pay monthly base rent in an amount equal to Seven Thousand Seven Hundred Thirty Four Dollars and Fifteen Cents($7,734.15)

("**Monthly Base Rent**"). Base Rent is based on a blended rate of $1.1345/square foot ("**Blended Monthly Base Rent**").

On each Anniversary Date during the Initial Term, Monthly Base Rent (including the Monthly Base Rent Allocation for each Subtenant as defined below) will increase by three percent (3%) (regardless of the CPI) (the "**Annual Adjustment**").

The table below sets out the Base Rent payable in each Lease Year inclusive of each Annual Adjustment.

Lease Year	Annual Base Rent	Monthly Base Rent
1	$92,809.80	$7,734.15
2	$95,594.09	$7,966.17
3	$98,461.92	$8,205.16
4	$101,415.77	$8,451.31
5	$104,458.25	$8,704.85
6	$107,591.99	$8,966.00
7	$110,819.75	$9,234.98
8	$114,144.35	$9,512.03
9	$117,568.68	$9,797.39
10	$121,095.74	$10,091.31

Percentage Rent; Participation Rent:

In addition to the Monthly Base Rent, in any month in which the amount under clause (i) below exceeds the Monthly Base Rent Allocation as further described in ***Section 5.2***, Tenant shall pay to Port, as calculated on a monthly basis and paid quarterly, for each for-profit Tenant (for example, a Transferee that is a for-profit entity) and Subtenant, the difference between: (i) six percent (6%) of Gross Revenues generated by that Subtenant; and (ii) the respective monthly Base Rent allocation as shown below, subject to adjustments ("**Monthly Base Rent Allocation**") (collectively, "**Percentage Rent**").

Initial Monthly Base Rent Allocation for Sublease Premises A: $2,918.48

Initial Monthly Base Rent Allocation for Sublease Premises B: $1,353.63

The Restroom Rent Credit, as defined below, shall not be taken into account when calculating Percentage Rent. There shall be no deductions from Percentage Rent for costs associated with subletting, including for broker commissions, attorneys' fees or costs for improvements, fixtures or equipment.

In the event that Tenant seeks consent to amend a Sublease or enter a new Sublease with sublease base rent in excess of the then-current Monthly Base Rent Allocation (including as a result of increased square footage in the sublease), then, in addition to the monthly Base Rent and Percentage Rent, Tenant shall pay to Port, as Additional Rent, fifty percent (50%) of such rent or other sums paid or payable to Tenant under such Sublease as rent (excluding utility pass-through costs, a commercially reasonable property

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	management fee, and the like) (allocated on a square footage basis in the case of increased square footage) in excess of the then-current Monthly Base Rent Allocation ("**Participation Rent"**) as further described in ***Section 5.3.*** Participation Rent shall be in addition to Base Rent and Percentage Rent and shall not be taken into account when calculating Percentage Rent. Further, Tenant agrees that as a condition of Port's consent to a Sublease or Transfer to a tenant or Subtenant with a substantially different business model (such as alcohol sales) or if Tenant becomes a for-profit entity, Port may elect to increase the monthly Percentage Rent amount above six-percent (6%) or require Tenant to pay Percentage Rent in a commercially reasonable amount consistent with other Port tenants with similar operations, as determined by Port in its reasonable discretion.
Extension Options:	Subject to the terms and conditions described below and in ***Section 7***, Tenant shall have: (i) four (4) options to extend the term for a period of five (5) years each; (ii) followed by two (2) options to extend the term for a period of two (2) years each. Each extension option and each extension term, whether for five (5) or two (2) years, is referred to in this Lease as an "**Extension Option**" and an "**Extension Term.**" Tenant may exercise an Extension Option by providing Port with written notice to exercise an Extension Option (each an "**Option Notice**") no less than Three Hundred Sixty-Fifty (365) days prior to the relevant expiration date (each an "**Option Notice Deadline**"), except in the case of the two (2) year Extension Options, in which case the Option Notice shall be given no less than six (6) months prior to the relevant expiration date and such 6-month date shall be the Option Notice Deadline. Tenant may include in the Option Notice, a request to continue to use the Interim Power Line during the applicable Extension Term. Port will include in its written confirmation of the Extension Term Rent whether Tenant may access the Interim Power Line during the applicable Extension Term. If Port's written confirmation is silent on whether Tenant may use the Interim Power Line, then it will be deemed as if the Interim Power Line is unavailable for Tenant's use during the applicable Extension Term. If Port confirms, or is deemed to have confirmed, that the Interim Power Line is unavailable for Tenant's use during the applicable Extension Term, then Tenant may revoke its Option Notice upon written notice to Port given within ninety (90) days after Port's confirmation or deemed confirmation. If Port confirms that the Interim Power Line is available for Tenant's use but only for a portion of the applicable Extension Term or such use is subject to a new limitation (e.g., available but at a lesser capacity), then Tenant may elect to revoke its Option Notice entirely or revoke and provide a modified Option Notice for an Extension Term that is only for the period of availability or only for such period of time as the Interim Power Line is available without being subject to the new limitation. Tenant shall provide such

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	revocation (or revocation and modified Option Notice) within ninety (90) days after receipt of Port's confirmation.
Rent During an Extension Term:	On the commencement date of an Extension Term (if any) and on each Anniversary Date of an Extension Term, Monthly Base Rent shall be increased by an amount equal to the product obtained by multiplying the average of any annual (over-the-year) changes in the CPI for the five (5) years immediately preceding the Option Notice Deadline by the Monthly Base Rent, but subject to a minimum for such average of one percent (1%) and maximum of such average of four percent (4%) (the "**Extension Term Annual Adjustment**"). For the final two, 2-year options, the Extension Term Annual Adjustment will be calculated in the same manner and subject to the same minimum and maximum, except that the average of any changes in the CPI for the two years preceding the Option Notice Deadline will be used. For any Extension Term for which Tenant has given an Option Notice, no later than the date that is Two Hundred Seventy (270) days (or ninety (90) days in the case of the 2-year options) prior to the commencement date of the relevant Extension Term, Tenant shall provide a calculation showing the applicable Extension Term Annual Adjustment and resulting Base Rent (including to the Monthly Base Rent Allocation for any Subtenants) and Restroom Rent Credit, for Port's review and written confirmation, which Port will provide within thirty (30) days after receipt. Port will include in its written notice whether Tenant may access the Interim Power Line during the applicable Extension Term. If Port's written notice is silent on whether Tenant may use the Interim Power Line, then it will be deemed as if the Interim Power Line is unavailable for Tenant's use during the applicable Extension Term. Tenant shall have the right to revoke, or revoke, modify and re-submit, its Option Notice as set forth above in the "**Extension Option**" section of this Basic Lease Information. The parties agree that such calculation is a straightforward and objective process; however, if Port rejects Tenant's calculation, then Port shall provide a written explanation of why it disagrees and shall provide its own calculation. The parties shall negotiate in good faith and use commercially reasonable efforts to reach agreement on the applicable Extension Term Annual Adjustment within sixty (60) days after the expiration of the 30-day period, including the schedule for Tenant to make payment of any amounts due or receive a credit for any overpayment. For illustrative purposes only: If the Rent Commencement Date is November 1, 2023, then the first Extension Term will commence on November 1, 2033 and the Option Notice Deadline is October 31, 2032 and Tenant will perform the calculations in the following manner and submit to Port no later than January 4, 2033.

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	October 2027 – October 2028: 6.3%* October 2028 – October 2029: 5.6% October 2029 – October 2030: 6.4% October 2030 – October 2031: 0.6% October 2031 – October 2032: 3.8% Total: 21.5% Annual Average: 4.3% Extension Term Annual Adjustment: 4.0% (capped) *The percentage represents the annual (over-the-year) percentage change in the CPI measured based on the CPI publication date closest to the adjustment date. If CPI is published on a bimonthly basis, the calculation will be made using the most current CPI numbers published previous to the start and end dates of the relevant 12-month calculation period. For example, if the calculation requires numbers published in September and CPI is not published in that month but is published in August, then the calculation will be performed using the August CPIs immediately preceding the applicable Septembers of the 12 month determination period (e.g., August 2027 and 2028)).
Security Deposit:	Fifteen Thousand Four Hundred Sixty-Eight Dollars and 30/100 ($15,468.30)
Initial Improvements:	Tenant must Complete the following Initial Improvements as more fully described in the Scope of Development attached to the Work Letter (***Exhibit E***): (1) tenant improvements generally including (A) improvements necessary for Tenant to operate fitness areas, group exercise spaces, restrooms and an office area, (B) infrastructure improvements to Sublease Premises B to support cooking, cleaning, refrigeration and food delivery at a retail coffee/bagel shop, (C) infrastructure improvements to Sublease Premises A to support operation of, and storage in, a water sports retail shop and aquatics center, including drainage for rinsing of human-powered watercraft, (D) electrical, IT, HVAC, water and sewer facilities, including a new topping slab and radiant heat, and (E) improvements to the exterior of the Building, including store front egress doors, window glazing, roll up access doors, repaired siding, connections between exterior and interior slabs, paint and exterior signage and lighting ("**Initial Tenant Improvements**"); and (2) seismic improvements and structural upgrades generally including lateral bracing, vertical bracing and roof truss bracing between existing steel Building structures (the "**Seismic Project**"; together with the Initial Tenant Improvements, , the "**Initial Improvements**"). The Initial Improvements shall be constructed at Tenant's sole cost and expense and in accordance with the Work Letter and ***Section 14*** below.

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	Tenant agrees that it will invest a minimum of Five Million dollars ($5,000,000) in hard and soft costs in the Initial Tenant Improvements including for the fees and costs of design professionals, engineers, and construction management; internal management costs; landscaping and planters; costs of obtaining LEED or similar green building or environmental certifications; costs of complying with applicable Laws; inspection and testing (such as geotechnical, lead paint and asbestos testing); surveying costs; legal fees; building permit fees; insurance premiums and costs; costs of signage; costs of built in or fixed personal property, such as a lobby desk and built-in cabinets and lockers; kitchen equipment; water fountains; and security services and systems. Tenant must Complete the Initial Improvements no later than the Initial Improvements Completion Date as set forth in the Work Letter. Tenant's Completion of the Initial Improvements by the Initial Improvements Completion Date is material consideration for this Lease and Port would not have entered into this Lease absent such terms. Subject to the conditions of ***Section 5.11***, Tenant shall be entitled to a rent credit not to exceed the lesser of: (i) fifty percent (50%) of the Tenant's actual total cost for the Seismic Project or (ii) Five Hundred Thousand Dollars ($500,000) ("**Seismic Project Rent Credit**") to be taken on a monthly basis against one hundred percent (100%) of Rent commencing upon Completion of the Seismic Project until the earlier to occur of the events described in ***Section 5.11(a)(iii)***. Except for the Seismic Project Rent Credits as explicitly provided for in this Lease, Tenant understands and agrees that it will not receive or seek additional rent credits or other compensation or consideration for any improvements including without limitation the Initial Improvements and agrees that it will not seek additional term for the purpose of amortizing any improvements.
Park License:	In connection with this Lease, the parties are entering into a license agreement attached hereto as ***Exhibit F*** (the **"License"**).
Operations Plan:	All Permitted Uses must be performed in compliance with the attached Operations Plan (***Exhibit G***), as approved by the Port and amended from time to time as necessary. The Operations Plan is supplemental to the Lease; in the event of any conflict or inconsistency between the Lease and the Operations Plan, the Lease will control unless explicitly provided otherwise in this Lease. Tenant must prepare and maintain the Operations Plan to document procedures consistent with Laws, industry standards, best management practices and good housekeeping under this Lease and the License. The Operations Plan must address the following operations and components by Tenant and any Subtenants on or about the Premises or License Area as defined in the License (***Exhibit F***): (A) Hours of Operation, Security, Staffing and Safety Plan;

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	(B) List of required and obtained Regulatory Approvals; (C) Fitness class and aquatic activities safety measures (e.g., participant safety gear; participant/instructor ratio; instructor qualifications); (D) Reporting Accidents; (E) Noise Control; (F) Equipment Washing Protocols (G) Park Usage Areas (including paths of travel for staff and patrons). Failure to comply with the Operations Plan after notice and an opportunity to cure as provided in ***Section 26*** is a material breach of this Lease. Port and Tenant may, from time to time, review the Operations Plan and make recommendations for revisions. All revisions to the Operations Plan, whether initiated by Port or Tenant, are subject to Port and Tenant approval, each in its reasonable discretion.
Obligations Regarding Public Restrooms:	Except as explicitly provided by this Section, all terms, conditions, obligations and liabilities of this Lease apply to the public restrooms ("**Restrooms**"). In addition, specifically, commencing within five (5) days after Tenant commences operations in the Building, Tenant must : (i) regularly clean, stock, and equip the Restrooms so that the Restrooms remain useable during their hours of operation; (ii) maintain clearly visible signage that the Restrooms are open to the public; (iii) ensure Restrooms are open from 9:00 a.m. – 6:00 p.m. Monday through Friday, 9:00 a.m. – 5:00 p.m. on weekends, and 9:00 a.m. – 2:00 p.m. on holidays (other than holidays when Tenant is not open at the Premises); (iv) provide Port with at least fifteen (15) days prior written notice of its intention to close the Restrooms to the public for any period longer than necessary to address any health or safety concerns or to perform routine maintenance and repair and obtain Port's written consent to do so prior to closing the Restrooms. Subject to ***Section 14.11***, Tenant may install signage in the Restrooms that Tenant considers necessary or appropriate to limit Tenant's liability for their use. Tenant's obligations with respect to the Restrooms are material and Port would not have entered into this Lease absent such terms. Starting on the day that Tenant notifies Port that Tenant commenced operations in the Building, and provided that Tenant complies with these provisions and subject to the terms and conditions of ***Section 5.11(b)***, Port will contribute financially to the cost of capital expenses and repairs for the Restrooms by providing a monthly rent credit of Two Thousand dollars ($2,000) against Base Rent, which amount shall be adjusted annually by the Annual Adjustment or the Extension Term Annual Adjustment as the case may be ("**Restroom Rent Credit**"). The Parties agree that the Restroom Rent Credit as established in this Lease is reasonable irrespective of whether Tenant's costs increase or decrease over the Term.

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Additional Prohibited Uses:	In addition to, and without limiting, the Prohibited Uses specified in ***Section 10.2*** below, the following are prohibited: (a) No discharges to the Bay; (b) Use of the Premises for operation of a night club, underage parties, raves, pay at the door events or other similar activities. Port shall have all remedies set forth in this Lease, and at law or equity in the event Tenant performs any of the Prohibited Uses.
Maintenance and Repair:	Tenant is solely responsible for maintenance and repair of the Premises including without limitation, the Building and all Building Systems including the structure, substructure, roof, core, shell, Utilities and other infrastructure, windows and interiors. Port will have no maintenance or repair obligations with respect to the Premises or the Interim Power Line.
Utilities; Services:	Port and Tenant acknowledge that as of the Effective Date, the electricity to the Premises is by means of a power line from outside the Premises ("**Interim Power Line**"). The location of the Interim Power Line is generally depicted on the attached ***Exhibit A*** and originates from areas outside the Premises and within Port's jurisdiction. Tenant has been unable to determine the financial feasibility of designing and constructing a direct connection from the Premises to an electrical power distribution line ("**Direct Power Connection**") for the Permitted Uses before the Effective Date. Subject to the terms and conditions set forth herein, without limiting Tenant's obligations under ***Section 15.1***, Port agrees that Tenant may connect to the Interim Power Line in order to connect to and receive electrical power supplied by the SFPUC (i) while Tenant diligently works to determine the financial feasibility of a Direct Power Connection, (ii) if applicable, if Tenant concludes the Direct Power Connection is financially feasible, during construction of the Direct Power Connection until it is able to receive SFPUC electrical power , and (iii) if applicable, after Tenant reasonably concludes that a Direct Power Connection is financially infeasible. If Tenant reasonably concludes that a Direct Power Connection is financially infeasible, Tenant will promptly provide notice of such conclusion to Port, along with evidence to support such conclusion. The Parties agree that it will be reasonable for Tenant to conclude that a Direct Power Connection is financially infeasible if the cost to Tenant of such connection exceeds $150,000. Reasonable evidence supporting such cost calculation shall constitute sufficient evidence to support such conclusion. Tenant will cease use of the Interim Power Line once a Direct Power Connection is constructed and SFPUC electrical power flows through the Direct Power Connection to the Premises. Tenant must contract directly with SFPUC and install a separate meter or sub-meter for the actual supply and metering of all electrical power to and at the Premises. Port has no obligation to

	pay for or reimburse any party, for any electrical power (including any infrastructure) supplied to or used at the Premises. Tenant agrees and acknowledges that (i) if it elects to connect to the Interim Power Line, it will connect to the Interim Power Line in its as-is condition, (ii) the current as-is condition of the Interim Power Line is capable of carrying an adequate supply of electricity for the Permitted Use ("**Power Baseline**"), and (iii) Port has no obligation to maintain, repair, or replace the Interim Power Line at any time during the Term. Port has made no representation or warranty about the condition or life-span of the Interim Power Line, the feasibility of Tenant using the Interim Power Line for the Permitted Uses throughout the Term, or whether the Power Baseline is sufficient for the Permitted Uses. Notwithstanding the foregoing, during the period when there is no Direct Power Connection, if all of the Premises is without electrical power due solely to the inability of the Interim Power Line to carry electricity (as opposed to the SFPUC's inability to supply electricity) to the Premises in the amount of the Power Baseline, then Tenant will notify Port. If, within thirty (30) days after receipt by Port of such notice, Port has not restored or repaired the Interim Power Line such that it is once again capable of carrying electricity in the amount of the Power Baseline to the Premises, then, from and after such date, all of base Rent shall be abated until the date that is three (3) days after the date on which the Interim Power Line is once again capable of carrying the Power Baseline to the Premises provided Tenant also proportionately reduces the base rent for its Subtenants for the period of Tenant's Rent abatement. The Parties further acknowledge that any Rent abatement will have no effect on the application of the Restroom Rent Credit or any other rent credit other than the Seismic Rent Credit, which application of the Seismic Rent Credit shall be tolled during the period the base Rent is abated. If, notwithstanding the inability of the Interim Power Line to carry the Power Baseline, Tenant or any subtenants determine that they are able to use part of the Premises (e.g., by using mobile generators), then if the Power Baseline is not restored within thirty (30) days after receipt by Port of Tenant's notice that only a portion of the Power Baseline is being met, Port may, in its sole discretion provide a partial abatement of Rent based on the partial use of the Premises contemplated in the notice. Provided Tenant has made the determination (and the Port has concurred) that the Direct Power Connection is financially infeasible in accordance with the foregoing provisions in this "**Utilities; Services**" section of the Basic Lease Information and Tenant has been using the Interim Power Line but the Interim Power Line has not been able to carry the Power Baseline, if Port is unable to complete the restoration or repair of the Interim Power Line sufficient to allow it to carry the Power Baseline within two hundred seventy (270) days after the date of the cessation, then Tenant may terminate the Lease without penalty by giving Port not less than ninety (90) days' prior written notice. Other than the Rent abatement and termination right without penalty permitted under

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	this section of the Basic Lease Information, Tenant's release of Claims set forth in ***Sections 22.4 and 22.5*** includes the release of all Claims related to the inability of the Interim Power Line to carry the Power Baseline. For the avoidance of doubt, Tenant shall not be entitled to any Rent abatement if the Interim Power Line ceases to carry electricity as a result of (a) a failure of equipment owned or leased by Tenant or SFPUC, (b) a failure by Tenant to pay SFPUC, (c) an outage at SFPUC, or (d) a SFPUC act, omission, negligence or failure. Commencing on the Rent Commencement Date, as compensation to Port for Tenant's use of the Interim Power Line, Tenant will pay monthly to Port a "Capacity Charge" in the amount of One Thousand Three Hundred Sixty-Three and 40/100 Dollars ($1,363.40)(which is equal to $0.20 per rentable square foot of the Premises (6,817 x $0.20 = $1,363.40 per month)). Tenant will pay the Capacity Charge as and when Monthly Base Rent is due. On each Anniversary Date during the Initial Term, the Capacity Charge will increase annually by three percent (3%). On the commencement date of an Extension Term (if any) and on each Anniversary Date of an Extension Term, the Capacity Charge will be increased by the same percentage as Monthly Base Rent is increased following calculation of the Extension Term Annual Adjustment. If at any time the Interim Power Line is no longer able to carry the Power Baseline to the Premises and such inability is not the result of (a) a failure of equipment owned or leased by Tenant or a failure by Tenant to pay SFPUC or (b) an outage at SFPUC, then the Capacity Charge shall be abated from and after such date until the date that is three (3) days after the date on which the Interim Power Line is once again capable of carrying the Power Baseline to the Premises (and provided that Tenant provides a similar abatement to any subtenants if applicable). At any time during the Term (including any Extension Term) on not less than thirty (30) days prior written notice, Tenant may terminate use of the Interim Power Line, whereupon Tenant shall cease using such connection and shall no longer be obligated to pay the Capacity Charge. If the date this Lease terminates or the day before the date Tenant no longer requires use of or has use of the Interim Power Line occurs on a date other than the last day of a calendar month, then any payment of the Capacity Charge shall be pro-rated based on the number of days in such month, and Port shall refund any overpayment to Tenant within thirty (30) days after the applicable date. Except as set forth above in this section of the BLI, Tenant's sole responsibility, as further described in ***Section 15.*** Port makes no representation regarding the availability of existing or new Utilities or capacity for the use of the Premises. Port will cooperate with Tenant at no cost to Port to obtain necessary Utilities.
Development Project:	Events in the Park, including general public events, special events, activation, vending programs, and other uses, including potential

	future improvements to the Park; redevelopment of the Kneass Building.
Port's Participation in Transfer Proceeds:	As detailed in ***Sections 23.3*** and ***23.4***, Tenant and all subsequent assignees must pay to Port twelve percent (12%) of Tenant's Net Sale Proceeds or Net Financing Proceeds from each Transfer concurrently with and as a condition to the Transfer closing ("**Transfer Participation Rent**").
Facility Conditions Reports:	No later than the date that is six (6) months prior to the fifth (5th) Anniversary Date of this Lease and no later than the date that is six (6) months prior to the relevant expiration date during any Extension Term, Tenant, at its sole cost, shall assess the Building's structural elements and key Building Systems (including without limitation, the roof, substructure, HVAC system, Restrooms and fire protection systems) and provide a report in a form acceptable to Port prepared by qualified, California registered structural engineer, including, at a minimum, the following: (i) a narrative description of the current conditions and expected useful life of each element; (ii) relevant photographs; (iii) a list of the immediate and longer term maintenance, repair and replacement needs and estimated cost to address them; (iv) recommendations for further investigation by engineers or construction specialists; and (v) an explanation of cost estimating methodologies and assumptions ("**Facility Conditions Report**"). In addition, Tenant must provide a Facility Conditions Report as reasonably requested by Port as to any element of the Building or Building Systems.
Construction Warranties:	Notwithstanding any other provision of this Lease, Tenant shall not take any action that might impair the construction and associated manufacturing warranties listed in ***Schedule 5*** ("**Construction Warranties**") associated with Port's recent construction work at the Building or Port's ability to enforce the Construction Warranties, including without limitation, in performing Tenant's maintenance and repair obligations under this Lease. Tenant represents and warrants to Port that Tenant has received and reviewed the Construction Warranties listed in ***Schedule 5***. Port and Tenant agree to cooperate as needed in order to enforce the Construction Warranties. At Tenant's request, Port will use commercially reasonable efforts to cause the applicable contractor or subcontractor to perform its obligations under the applicable Construction Warranty including assignment of the warranty to Tenant (if requested by Tenant and at Tenant's sole cost and expense and by a commercially reasonable form of assignment and assumption agreement with respect to any such warranty(ies)).
*California Environmental Quality Act; Mitigation Measures and Reporting Program ("**MMRP**"):*	In order to mitigate any potential significant environmental impacts, Tenant agrees that its development and operation will be in accordance with the MMRP attached as ***Exhibit H*** and fully incorporated herein. Tenant is responsible for implementation and compliance with all required measures relating to Tenant's activities. As appropriate, in addition, Tenant will incorporate the

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	MMRP into any contract for the development and/or operation of the Premises. Failure to comply with the requirements of the MMRP Section shall be a default of this Lease; provided that, for any requirement for which Port is the enforcing agency, Port will provide notice and an opportunity to cure as provided in ***Section 26.***
Diversity, Equity & Inclusion Plan:	Tenant on behalf of itself, its Subtenants and any Transferees, acknowledges the importance of furthering the values of diversity, equity, and inclusion. Tenant agrees to abide by the "**DEI Plan**" generally described in ***Exhibit L*** attached hereto, which may be reasonably amended, updated, and clarified by Tenant from time to time at its own initiative or at Port's suggestion. Tenant will promptly provide Port with a copy of any amended DEI Plan.
Prior Licenses:	The Parties agree that as of the Commencement Date, License 16931, dated June 3, 2022 for reference purposes , and License 16906, dated April 27, 2022 for reference purposes (the "**Prior Licenses"**) between Tenant and Port expired by their terms. The Parties shall continue to be liable for any obligations under the Prior Licenses which have accrued prior to the date of termination and any obligations which by their terms survive the termination or expiration of the Prior Licenses.
Lease Prepared By:	James Hurley, Development Project Manager

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LEASE AGREEMENT

This Lease Agreement, dated for reference purposes only as of the Lease Date set forth in the Basic Lease Information, is by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation ("**City**"), operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), as landlord, and the Tenant identified in the Basic Lease Information ("**Tenant**"). The basic lease information (the "**Basic Lease Information**"), the exhibits, schedule and this Lease Agreement are and shall be construed as a single instrument and are referred to herein as this "**Lease**". In the event of any conflict or inconsistency between the Basic Lease Information and this Lease Agreement, the Basic Lease Information will control.

1. DEMISE.

In consideration for the rents and all other charges and payments payable by Tenant, and for the agreements, terms and conditions to be performed by Tenant in this Lease, Port does hereby lease to Tenant, and Tenant does hereby hire and take from Port, the Premises upon the agreements, terms and conditions of this Lease for the Term hereinafter stated.

2. DEFINITIONS.

Definitions used in this Lease are found in the specified locations in this Lease or are set forth below. Definitions that are not capitalized below are not capitalized when used in this Lease.

"**ACMs**" means asbestos-containing materials ("**ACMs**") as defined in the Cal-OSHA General Industry Safety Order for Asbestos.

"**Additional Rent**" means all taxes, assessments, insurance premiums, operating and maintenance charges, fees, costs, expenses, liabilities and obligations of every description which Tenant assumes or is obligated to pay or discharge pursuant to this Lease, together with every fine, penalty, interest or other charge which may be added for non-payment or late payment, whether payable to Port or to other persons, parties or entities designated herein.

"**Adjusted Basis**" means the amount of the Certified Construction Costs of the Initial Improvements or Subsequent Alterations that constitute capital improvements to the extent unamortized on a Sale Closing date. If Tenant Completed the Initial Improvements and any Subsequent Alterations that constitute capital improvements, Tenant's Adjusted Basis for such improvements may be deducted if Tenant previously complied with ***Section 23.3(c)***.

"**Agents**" when used with reference to either party to this Lease or any other person means the commissioners, officers, directors, employees, agents, and contractors of the party or other person, and their respective heirs, legal representatives, successors, and assigns.

"**All-gender toilet facility**" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures.

"**Alterations**" means any alterations, installations, improvements, or additions to any Improvements or to the Premises and includes Subsequent Alterations.

"**Anniversary Date**" means the first and each subsequent anniversary of the Rent Commencement Date and the first and each subsequent anniversary of the commencement date of an Extension Term as the case may be.

"Annual Adjustment" is defined in the Basic Lease Information.

"**Annual Statement**" is defined in ***Section 5.2(a)***.

"Arbitration Notice" is defined in ***Section 20.8(b)***.

"Arbitrator" is defined in ***Section 20.8(b)***.

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"**Assignment**" means a proposed or actual Transfer of Tenant's rights, title, and interest in all or any part of the Premises under a contractual assignment or an assignment by operation of Law.

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

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

"**BCDC**" means the San Francisco Bay Conservation and Development Commission.

"**Blended Monthly Base Rent**" is defined in the Basic Lease Information.

"**Books and Records**" means all of Tenant's or a Subtenant's, as applicable, books, records, and accounting reports or statements relating to its business operations under this Lease or a Sublease, and the operation and maintenance of the Premises or subleased premises including construction activities, including cash journals, rent rolls, general ledgers, income statements, bank statements, income tax schedules relating to the Premises or subleased premises and any other bookkeeping documents used in Tenant's or a Subtenant's business operations on the Premises or subleased premises, whether maintained by Tenant, a Subtenant or a third-party contractor.

"**Building"** is defined in the Basic Lease Information.

"Building Permit for the Initial Improvements" means the permit issued by Port pursuant to the Port Building Code permitting construction of the Initial Improvements.

"**Building Systems**" means the plumbing, electrical, fire protection, life safety, security and other mechanical, electrical, and communications systems of the Building and includes Utilities.

"**business day**" means any weekday during which businesses are generally open for business, excluding local, state, and federal holidays observed by Port.

"**CMD**" means the Contract Monitoring Division of the City's General Services Agency.

"**Cal-OSHA**" means the Division of Occupational Safety and Health of the California Department of Industrial Relations.

"**Cash Consideration**" means cash or its equivalent in immediately available funds.

"**Casualty**" is defined in ***Section 20.1(a)***.

"Casualty Notice" is defined in ***Section 20.1(b)***.

"**CEQA**" means the California Environmental Quality Act.

"**Certified**" means a written representation by a manager of the entity whose financial statements or costs reports are the subject to the Certification who is authorized and competent to make such a representation that, to the certifying party's knowledge based on reasonably diligent inquiry, the information submitted is current, accurate, and complete.

"**Certificate of Final Completion and Occupancy**" is provided by the Port's Chief Harbor Engineer or his or her designee through a signature on the back bottom of a permit card after all special inspections have been completed and a final affidavit has been issued by all necessary special inspections testing agencies as required by the Port Building Code.

"**Certified Construction Costs**" are Construction Costs that Port has approved through the procedures described in ***Section 23.3(e)***.

"Change in Laws" is defined in ***Section 11.2.***

"**Changes**" is defined in ***Section 12.2***.

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"CHE" is defined in ***Section 16.***

"CHE Determination" is defined in ***Section 16.***

"**City**" means the City and County of San Francisco, a municipal corporation.

"**Claims**" means all liabilities, injuries, losses, costs, claims, demands, rights, causes of action, judgments, settlements, damages, liens, fines, penalties and expenses, including without limitation, direct and vicarious liability of any kind for money damages, compensation, penalties, liens, fines, interest, attorneys' fees, costs, equitable relief, mandamus relief, specific performance, or any other relief.

"**Class Life**" means thirty-four (34) years (in recognition that Tenant is not subject to the classification of and amortization period applicable to the Initial Improvements under Internal Revenue Code section 168(e)).

"**Commencement Date**" is defined in the Basic Lease Information.

"**Commission**" means the San Francisco Port Commission.

"**Completion**" in reference to the Initial Improvements is defined in the Work Letter; "**Completion**" in reference to any Subsequent Alteration means the issuance of a Final Certificate of Completion and Occupancy.

"**Concession**" is defined in ***Section 36.16 below***.

"**Condemnation**" means the taking of all or any part of any property, or the right of possession thereof, for any public or quasi-public purpose by any lawful governmental power or authority, by exercise of the right of eminent domain, condemnation, inverse condemnation, or appropriation. Condemnation may occur pursuant to the recording of a final order of condemnation, or by a voluntary sale of all or any part of any property to any Person having the power of eminent domain (or to a designee of any such Person), provided that the property or such part thereof is then under the threat of condemnation or such sale occurs by way of settlement of a condemnation action.

"**Condemnation Date**" means the earlier of: (a) the date when the right of possession of the condemned property is taken by the condemning authority; or (b) the date when title to the condemned property (or any part thereof) vests in the condemning authority.

"Condemned Land Value" is defined in ***Section 21.4(b)***.

"**Construction Costs**" means actual costs paid by Tenant for all categories of costs for the Initial Improvements or Subsequent Alterations as the case may be, without interest, and subject to the limitations set forth in the Work Letter as to the Initial Improvements, and amortized on a straight line basis over the Class Life of the Initial Improvements or Subsequent Alterations as the case may be, at an annual interest rate of eight percent (8%).

"**Construction Costs Report**" means a report Certified by a financial officer of Tenant or other accountant retained by Tenant prepared in accordance with sound accounting principles consistently applied specifying the Class Life of and verifying Tenant's actual Construction Costs for the Initial Improvements or Subsequent Alterations as the case may be, accompanied by copies of documentation substantiating all expenditures, such as: (a) executed contracts; (b) invoices for labor, services, goods, and materials, bills of lading, and other bills or receipts marked "Paid" or similarly indicating payment in full; (c) canceled checks or other written evidence of payment; and (d) other documents reasonably requested by Port.

"**Construction Term**" is defined in the Basic Lease Information.

"**Consumer Price Index**" or "**CPI**" means the Consumer Price Index for All Urban Consumers for the San Francisco-Oakland- Hayward area (1982-84=100)(Series Id: CUURS49BSA0), published by the United States Department of Labor, Bureau of Labor

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Statistics. If the Index is changed so that the base year differs from that used as of the date most immediately preceding the prior Anniversary Date, the Index will be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued during the Term, such other government index or computation with which it is replaced will be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued; provided, however, if there is no replacement government index or computation, then Port will select another similar published index, generally reflective of increases in the cost of living, in order to obtain substantially the same result as would be obtained if the Index had not been discontinued.

"**Control**" means the direct or indirect ownership of: (a) fifty percent (50%) or more of each class of equity interests in the entity; or (b) fifty percent (50%) or more of each class of interests that have the right to nominate, vote for, or otherwise select the members of the governing body that directs or causes the direction of substantially all of the management and policies of the entity or otherwise has the right to direct or cause the direction of substantially all of the management and policies of the entity.

"**Costs of Sale**" means the following costs, but only to the extent Tenant actually incurred them in connection with a Sale: (a) reasonable (as determined by the Port in its reasonable discretion) brokerage commissions; (b) customary closing fees and costs, including title insurance premiums, survey fees, escrow fees, recording charges, and transfer taxes; (c) reasonable attorneys' fees; and (d) new tenant improvements made solely in connection with the Transfer and performed in compliance with ***Section 14***. Costs of Transfer exclude rents, taxes, or other income or expense items customarily prorated in connection with sales of real property.

"**CPA**" means an independent certified public accounting firm acceptable to Port in its reasonable discretion.

"Daily Driver Sublease" is defined in the Basic Lease Information.

"**Disability Laws**" means the Americans with Disabilities Act, a federal law codified at 42 U.S.C. §§ 12101 et seq., including, but not limited to, Title III thereof, and all regulations and guidelines related thereto ("**ADA**"), together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, including all requirements of Title 24 of the State of California, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented.

"Disputed Amount" is defined in ***Section 20.8(a)***.

"**disturbed or removed**" is defined in ***Section 14.7*** .

"Dogpatch Paddle Sublease" is defined in the Basic Lease Information.

"Early Termination Date" is defined in ***Section 11.2.***

"Early Termination Notice" is defined in ***Section 11.2.***

"**Effective Date**" is defined in the Basic Lease Information.

"**Encroachment Area**" is defined in ***Section 3.3***.

"**Encroachment Area Charge**" is defined in ***Section 3.3***.

"**Environmental Laws**" means any Laws relating to Hazardous Material (including its Handling, Release, or Remediation) or to human health and safety, industrial hygiene, or environmental conditions in the environment, including structures, soil, air, bay water, and groundwater, and any environmental mitigation measure each to the extent adopted under Environmental Laws affecting any portion of the Premises. Environmental Laws include the Risk Management Plan for Pier 70 (Treadwell & Rollo, 7/25/13) as amended and as interpreted by Regulatory Agencies with jurisdiction ("**RMP**").

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"**Environmental Regulatory Action**" when used with respect to Hazardous Materials means any inquiry, Investigation, enforcement, Remediation, agreement, order, consent decree, compromise, or other action that is threatened, instituted, filed, or completed by an Environmental Regulatory Agency in relation to a Release of Hazardous Materials, including both administrative and judicial proceedings.

"**Environmental Regulatory Agency**" means the United States Environmental Protection Agency, OSHA, any California Environmental Protection Agency board, department, or office, including the Department of Toxic Substances Control and the San Francisco Bay Regional Water Quality Control Board, Cal-OSHA, the Bay Area Air Quality Management District, the San Francisco Department of Public Health, the San Francisco Fire Department, the San Francisco Public Utilities Commission, Port, or any other Regulatory Agency now or later authorized to regulate Hazardous Materials.

"**Environmental Regulatory Approval**" means any approval, license, registration, permit, or other authorization required or issued by any Environmental Regulatory Agency, including any hazardous waste generator identification numbers relating to operations on the Premises and any closure permit.

"Estimator" is defined in ***Section 20.8(a)***.

"**Event of Default**" is defined in ***Section 26***.

"**Exacerbate"** or "**Exacerbating"** when used with respect to Hazardous Materials means any act or omission that increases the quantity or concentration of Hazardous Materials in the affected area, causes the increased migration of a plume of Hazardous Materials in soil, groundwater, or bay water, causes a Release of Hazardous Materials that had been contained until the act or omission, or otherwise requires Investigation or Remediation that would not have been required but for the act or omission. Exacerbate also includes the disturbance, removal or generation of Hazardous Materials in the course of Tenant's operations, Investigations, maintenance, repair, Improvements and Alterations under this Lease. "**Exacerbation**" has a correlating meaning.

"**Expiration Date**" means the date on which the Term expires as specified in the Basic Lease Information or the last date of a relevant Extension Term, if any.

"**Extension Option**" is defined in the Basic Lease Information.

"**Extension Term**" is defined in the Basic Lease Information.

"**Extension Term Anniversary Date**" means the first and each subsequent anniversary of the commencement date of an Extension Term.

"Extension Term Annual Adjustment" is defined in the in the Basic Lease Information.

"**Exterior Improvements**" means any improvements, furnishings, fixtures, or equipment including any mechanical equipment, photovoltaic panels, satellite dishes, antennae or other communication equipment, public art, statues, bollards, flower baskets, benches, tables, chairs, umbrellas, heaters, railings, gates, trash receptacles, cleats, signs, kiosks, flagpoles, canopies, awnings, landscaping, planter boxes, light poles, lighting fixtures, fountains, ticket booths, bicycle racks, plaques, markers, tents, other street furniture, paint, paving or other surface treatments.

"**Facility Conditions Report**" is defined in the Basic Lease Information.

"**Finally Approved**" means that all applicable appeal periods for the filing of any administrative or judicial appeal challenging the issuance or effectiveness of the (i) approval of the Lease by the Port Commission or San Francisco Board of Supervisors or (ii) issuance of the Building Permit for the Initial Improvements shall have expired and no such appeal shall have been filed, or if such an administrative or judicial appeal is filed, the Lease or Building Permit

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for the Initial Improvements shall have been upheld by a final decision in each such appeal without material adverse effect on the applicable approval and the final judgment, order or ruling upholding the applicable approval has been entered.

"**financial statements**" mean a current balance sheet and profit and loss statements that have been prepared and reviewed or examined by the management of the entity to which such statements relate.

"**Financing"** means a Transfer affecting ownership of the beneficial interests in or business assets of Tenant including without limitation through a mortgage, deed of trust, or similar security instrument using Tenant's leasehold interest in the Premises or this Lease as collateral.

"**Financing Closing**" means the date that a Financing closes through close of escrow or otherwise.

"**Financing Reinvestment**" means any portion of Gross Financing Proceeds that are dedicated to be used for the benefit of the Building, including such proceeds that are designated for investment in building improvements or resiliency improvements, as approved by Port.

"Flood Protection Measures" is defined in ***Section 16.***

"**Force Majeure**" means events that cause delays due to causes beyond a party's control and not caused by the acts or omissions of such party (excluding, in any case, Tenant's performance of the payment of money required under the terms of this Lease), including: acts of nature or of the public enemy; war; invasion; insurrection; riots; any general moratorium in the issuance of Regulatory Approvals (but in the absence of such a moratorium, acts of the government relating to issuance of building permits or other Regulatory Approvals are governed by Section 12); fires; floods; tidal waves; epidemics; pandemics; quarantine restrictions; freight embargoes; earthquakes; unusually severe weather (but only if such unusually severe weather causes actual delays); delays of contractors or subcontractors due to any of the foregoing causes; the unanticipated presence of Hazardous Materials or other concealed conditions on the Premises that would not have reasonably been discovered through due diligence and that would actually delay or materially and adversely impair or delay Tenant's ability to construct the Initial Improvements; archeological finds on the Premises; strikes and substantial interruption of work because of labor disputes (excluding strikes and labor disputes directly related to any contracts between Tenant and its contractors or work performed on behalf of Tenant); inability to obtain materials or reasonably acceptable substitute materials (provided that Tenant has ordered such materials on a timely basis and Tenant is not otherwise at fault for such inability to obtain materials). The following are excluded from the definition of Force Majeure: (1) Tenant's failure to secure anticipated financing for the Initial Improvements unless caused by a direct result of some other event of Force Majeure; (2) sea level rise; and (3) any event that does not cause an actual delay.

"**goodwill**" means the value assigned to Tenant's intangible business assets in connection with a Transfer, but only if the Transferee will continue to operate substantially the same operation or use that Tenant operated at the Premises and Port reasonably agrees with the valuation.

"**Gross Financing Proceeds**" means all sums actually disbursed in connection with a financing or refinancing.

"**Gross Revenues**" means the following: all payments, revenues, fees, or amounts received by Subtenant or by any other party for the account of Tenant or a Subtenant from any Person for any Person's use or occupancy of any portion of the Premises (excluding security or other deposits to be returned to such Person upon the termination of such use or occupancy), or from any other sales, advertising, concessions, licensing, or programming generated from the Premises. Without limiting the foregoing, "**Gross Revenue**" also includes any and all payments

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made to Tenant from its or a Subtenant's business interruption or delayed opening insurance proceed to the extent such payments are made to compensate for lost revenue. "**Gross Revenue**" does not include any of the following: (i) proceeds from any Sale or Financing, or (ii) proceeds from any Condemnation; (iii) insurance proceeds arising from a Casualty at the Premises.

Except as specified below, Gross Revenues shall be determined without reserve or deduction for failure or inability to collect (including, without limitation, spillage and waste) and without deduction or allowance for cost of goods sold or other costs, charges or expenses of purchasing or selling incurred by Tenant or a Subtenant. No value added tax, no franchise or capital stock tax and no income, gross receipts or similar tax based upon income, profits or gross receipts as such shall be deducted from Gross Revenues.

The following shall be excluded from Gross Revenues, provided that Tenant provides to Port separate records to support the exclusions and separate notations are made for same on Tenant's Quarterly and Annual Statements: (i) the amount of any refund made or credit allowed due to a bona fide complaint from a customer concerning the quality of food, beverages, merchandise, or service by Tenant or a Subtenant; (ii) sales by redemption of gift certificates or like vouchers, but only to the extent previously reported as part of Gross Revenues; and (iii) sums collected for any tax or imposition imposed directly upon Tenant or a Subtenant under any governmental authority, but only if stated separately from the selling price of the goods or merchandise, or services, and collected from customers and such amounts are in fact paid to the appropriate governmental entities for which they are collected. As used in this definition, references to "Tenant" shall mean any Tenant that is a for-profit entity.

"**Gross Sale Proceeds**" means all consideration in any form directly or indirectly received by or for the account of the Tenant in connection with a Sale, including: (a) Cash Consideration; (b) the principal amount of any loan by Tenant to the Transferee to finance the Sale; and (c) the fair market value of any other non-cash consideration representing a portion of the purchase price.

"**Habitual Late Payer**" means Tenant has received at least two (2) notices of monetary default within a twelve (12) month period.

"**Handle**" or "**Handling**" means to use, generate, process, manufacture, produce, package, treat, transport, store, emit, discharge, or dispose of a Hazardous Material.

"**Hard costs**" is defined in ***Section 13.3 below***.

"**Hazardous Material**" means any substance, waste, or material that is now or in the future designated by any Regulatory Agency to be capable of posing a present or potential risk of injury to human health or safety, the environment, or property. This definition includes anything designated or defined in any Environmental Law as hazardous, hazardous substance, hazardous waste, toxic, pollutant, or contaminant; any asbestos, ACM and presumed asbestos-containing materials ("**PACMs**") (as such terms are defined in Cal-OSHA General Industry Safety Order for Asbestos), whether or not part of the structure of any existing Improvements on the Premises, any Improvements to be constructed on the Premises by or on behalf of Tenant, or occurring in nature; and other naturally-occurring substances such as petroleum, including crude oil or any fraction, and natural gas or natural gas liquids.

"**Hazardous Material Claim**" means any Environmental Regulatory Action or any Claim made or threatened by any third party against the Indemnified Parties or the Premises, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence or Release of any Hazardous Materials, including, without limitation, claims or losses based in common law. Hazardous Material Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Premises, or other Port property, the loss or restriction of the use or any amenity of the Premises, or other Port property, and attorneys' fees and consultants' fees and experts' fees and costs.

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"**Hazardous Material Condition**" means the presence, Release, or threatened Release of Hazardous Materials in, on, or about the Premises, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees use during Tenant's occupancy of the Premises.

"**HEPA**" is defined in ***Section 14.7***.

"Historic Fabric" means the distinctive architectural design of any materials, features, or finishes of the Building and considered important in defining a building's historical character, as described in the Historic Resource Evaluation, Crane Cove Park, San Francisco, California, prepared for Port of San Francisco, prepared by Architectural Resources Group, San Francisco, California, revised August 2015, and attached to the Historic Resource Evaluation Response, San Francisco Planning Department, Case No. 2015-001314ENV, dated September 15, 2015.

"**Improvements**" means any and all buildings, structures, fixtures or other improvements constructed or installed on the Premises, including those constructed by or on behalf of Tenant pursuant to this Lease (including, without limitation, the Initial Improvements, Subsequent Alterations, any trailers, signs, roads, trails, driveways, parking areas, curbs, walks, fences, walls, stairs, poles, plantings and landscaping).

"**Improvements Pertaining to the Realty**" means machinery or equipment installed for use on the property that cannot be removed without a substantial economic loss or without substantial damage to the property on which it is installed, regardless of the method of installation. In determining whether particular property can be removed "without a substantial economic loss," the value of the machinery or equipment in place and considered as part of the realty should be compared with its value if it were removed and sold.

"**Indemnified Parties**" is defined in ***Section 22.1 below***.

"**Indemnify**" means to indemnify, protect, defend, and hold harmless forever. "**Indemnification**" and "**Indemnity**" have correlating meanings.

"**Initial Improvements**" means the improvements more particularly described in the Basic Lease Information and Scope of Development attached as Attachment 1 to the Work Letter.

"Initial Improvements Completion Date" is defined in Work Letter.

"**Interest Rate**" means ten percent (10%) per year or, if a higher rate is legally permissible, the highest rate an individual is permitted to charge under Law.

"**Interim Power Line**" is defined in the "**Utilities; Services**" section of the Basic Lease Information.

"**Investigate**" or "**Investigation**" when used with reference to Hazardous Materials means any activity undertaken to determine and characterize the nature and extent of Hazardous Materials that have been, are being, or are threatened to be Released in, on, under or about the Premises, other Port property, or the environment, and includes, without limitation, preparation and publication of site history, sampling, and monitoring reports, performing equipment and facility testing such as testing the integrity of secondary containment and above and underground tanks, and sampling and analysis of environmental conditions before, during, and after Remediation begins and continuing until the appropriate Environmental Regulatory Agency has issued a no further action letter, lifted a clean-up order, or taken similar action.

"**Invitees**" means Tenant's clients, customers, invitees, patrons, guests, members, licensees, permittees, concessionaires, assignees, subtenants, and any other person whose rights arise through them.

"**Late Charge**" means a fee equal to the higher of (a) five percent (5%) of all Rent or any portion thereof that remains unpaid following the date it is due (or with respect to a failure by Tenant to deliver the Quarterly Percentage Rent Statement or Annual Statement to Port on the

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due date, five percent (5%) of Percentage Rent due for the period of the Quarterly Percentage Rent Statement or Annual Statement), or (b) fifty dollars ($50.00).

"**Law"** means any present or future law, statute, ordinance, code, resolution, rule, regulation, judicial decision, requirement, proclamation, order, decree, the Waterfront Land Use Plan and any successor land use plan, and Regulatory Approval of any Regulatory Agency with jurisdiction over any portion of the Premises, including Regulatory Approvals issued to Port which require Tenant's compliance, and any and all recorded and legally valid covenants, conditions, and restrictions affecting any portion of the Premises, whether in effect when this Lease is executed or at any later time and whether or not within the present contemplation of the parties, as amended from time to time; provided that each of the foregoing has the force of law and applies non-discriminatorily to Tenant or the Premises.

"**Lease**" is defined in the preamble to this Lease.

"**Lease Quarter**" means a calendar quarter or portion thereof starting on the Rent Commencement Date.

"**Lease Year**" means each year of the Term starting on the Rent Commencement Date.

"**Leasehold Estate**" means Tenant's leasehold estate created by this Lease.

"License" is defined in the Basic Lease Information.

"**License Area**" is defined in the Basic Lease Information.

"Major Casualty" is defined in ***Section 20.4(a)***.

"Monthly Base Rent Allocation" is defined in the Basic Lease Information.

"Monthly Percentage Rent Statement" is defined in ***Section 5.2.***

"Net Awards and Payments" is defined in ***Section 21.4***.

"**Net Financing Proceeds**" means Gross Financing Proceeds after subtracting the following items, as applicable: (i) amounts necessary (a) to pay all actual lenders' costs of such Financing paid by Tenant including application fees, closing costs, points, and other customary lenders' fees such as lenders' attorneys' fees and costs and title insurance costs paid at close of escrow; and (b) to pay down the amount of outstanding indebtedness by an amount, if any, desired by Tenant or required by any lender; (ii) any Financing Reinvestment; (iii) all of Tenant's reasonable and documented cash equivalent costs of the Initial Improvements and any Subsequent Alterations that were not paid with outstanding indebtedness; and (iv) to pay Tenant's costs including reasonable attorneys' fees and costs associated with the Financing.

"**Net Sale Proceeds"** means Gross Sale Proceeds less Costs of Sale and goodwill. If Tenant made Initial Improvements or Subsequent Alterations that constitute capital improvements at the Premises, Tenant's Adjusted Basis may be deducted if Tenant previously complied with ***Section 23.3(c)***.

"**Notice to Cease Prohibited Use**" is defined in ***Section 10.3 below***.

"**Notice of Request to Sublease**" is defined in ***Section 23.5(b)*** .

"**Notice to Vacate**" is defined in ***Section 3.3***.

"**OEWD**" means the City's Office of Economic Workforce and Development.

"**Official Records**" means the official records of the City and County of San Francisco.

"Operations Plan" is attached as ***Exhibit G*** to this Lease.

"**Option Notice**" is defined in the Basic Lease Information.

"**Option Notice Deadline**" is defined in the Basic Lease Information.

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"**OSHA**" means the United States Occupational Safety and Health Administration.

"**Park**" is defined in the Basic Lease Information.

"Partial Condemnation" is defined in ***Section 21.3(b)***.

"**Participation Rent**" is defined in the Basic Lease Information.

"**Party**" means Port or Tenant, as a party to this Lease; Parties means both Port and Tenant, as Parties to this Lease.

"Percentage Rent" is defined in the Basic Lease Information.

"Permitted Use" and variations thereof is defined in the Basic Lease Information.

"**Permitted Mortgagee**" means a mortgagee approved by Port under the terms and conditions of ***Section 23.1.***

"**Person**" means any natural person, corporation, limited liability entity, partnership, joint venture, or governmental or other political subdivision or agency.

"**Port**" means the San Francisco Port Commission.

"**Port program or project**" means any development, removal or renovation, by public and/or private parties, of a building, pier or seawall lot in, on or in the vicinity of the Premises (including, but not limited to any Development Project described in the Basic Lease Information) and the Seawall Earthquake Safety Program.

"**Port representative**" means Port, a City auditor, or any auditor or representative designated by Port.

"**Port Work**" is defined in ***Section 14.12***.

"Port's Financing Participation" means the amount due to Port in connection with a Financing as described in ***Section 23.4***.

"**Port's Sale Participation**" means the amount due to Port in connection with a Sale as described in ***Section 23.3***.

"**Power Baseline**" is defined in the "**Utilities; Services**" section of the Basic Lease Information.

"**Premises**" means the real property described in ***Section 3.1*** and depicted on ***Exhibit A***.

"Prior Licenses" is defined in the Basic Lease Information.

"**Prevailing party**" is defined in ***Section 28.1 below***.

"**Prohibited Use(s)**" is defined in ***Section 10.2 below***.

"**Public Trust**" is defined in ***Section 6.3.***

"Quarterly Percentage Rent Statement" is defined in ***Section 5.2.***

"**Regulatory Agency**" means the municipal, county, regional, state, or federal government and their bureaus, agencies, departments, divisions, courts, commissions, boards, officers, or other officials, including BCDC, any Environmental Regulatory Agency, Port (in its regulatory capacity), other departments, offices, and commissions of the City and County of San Francisco (each in its regulatory capacity), Port's Chief Harbor Engineer, the State Lands Commission, the Army Corps of Engineers, the United States Department of Labor, the United States Department of Transportation, or any other governmental agency each to the extent now or later having jurisdiction over Port property.

"**Regulatory Approval**" means any authorization, approval, license, registration, or permit required or issued by any Regulatory Agency.

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"**Rehabilitate**" and "**Rehabilitation**" means the repair or alteration of an historic building that does not damage or destroy the Historic Fabric.

"**Release**" when used with respect to Hazardous Materials means any actual or imminent spilling, introduction, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the Premises, other Port property, or the environment.

"**Remediate**" or "**Remediation**" when used with respect to Hazardous Materials means to clean up, abate, contain, treat, stabilize, monitor, remediate, remedy, remove, or otherwise control Hazardous Materials, or to restore the affected area to the standard required by the applicable Environmental Regulatory Agency in accordance with applicable Environmental Laws and any additional Port requirements. "**Remediation**" also includes the creation of a remedial work plan to be approved by the appropriate Environmental Regulatory Agency when required.

"**Rent**" means the Base Rent, Percentage Rent, Participation Rent, Transfer Participation Rent, Additional Rent and all other sums payable by Tenant to Port hereunder, including, without limitation, any Late Charge and any interest.

"**Restoration**" and "**Restore**" means the restoration, replacement, renovation, reconstruction, repair, or rebuilding of the Improvements (or the relevant portion thereof) in accordance with all Laws (including the Secretary's Standards and any conditions or requirements resulting from review under the California Environmental Quality Act) then applicable. All Restoration shall be conducted in accordance with the provisions of ***Section 14.2*** (Subsequent Alteration). **"Restored"** has a correlative meaning.

"Restoration Cost" is defined in ***Section 20.8(a)***.

"**Rules and Regulations**" means any reasonable or typical landlord requirements or restrictions applicable to the Premises, as may be amended from time to time.

"**Sale**" means Tenant's Transfer of its entire interest in this Lease or the entire leasehold estate, including the sale to any other Person or entity.

"**saltwater immersion**" is defined in ***Section 34.12***.

"**Scope of Development**" means the Scope of Development attached to the Work Letter (***Exhibit E***) as Attachment 1.

"**Secretary's Standards**" is defined in ***Section 14.3(d) below***.

"**Security Deposit**" means the amount specified in the Basic Lease Information and as further described in ***Section 9 below***.

"**SHPO**" means the State's Historic Preservation Officer.

"**Sublease**" means the following events or proposed events: (a) a proposed or actual sublease, sublicense or agreement of similar effect with a subtenant, sublicensee, manager, vendor, concessionaire, for all or any part of the Premises as defined in a lease or similar agreement that has a term of more than thirty (30) days; (b) any person other than Tenant uses, occupies or claims a right of possession to any part of the Premises; or (c) any further sublease, sublicense or agreement of similar effect with a subtenant of any of its interest in its sublease or premises.

"Sublease Premises A" is defined in the Basic Lease Information.

"Sublease Premises B" is defined in the Basic Lease Information.

"Subletting Expenses" as pertains only to the calculation of Participation Rent, means verifiable and reasonable expenses such as brokerage commissions and attorney fees incurred in

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connection with a Sublease and the costs of any new tenant improvements for which Tenant is responsible under the Sublease.

"**Subtenant**" is a person with a Sublease.

"**Subsequent Alteration**" means all alterations, installations, Improvements, repairs to and reconstruction, replacement, addition, expansion, restoration, alteration or modification of any Improvements, or any construction of additional Improvements, following Completion of the Initial Improvements pursuant to the Work Letter.

"Substantial Condemnation" is defined in ***Section 21.3(a)***.

"Subtenant's Property" means all furniture, trade fixtures, office equipment, fitness equipment, and articles of property included therein and any Improvements or Alterations constructed on or affixed to the Premises by or on behalf of a Subtenant.

"**SWPPP**" is defined in ***Section 18.8(a) below***.

"**Temporary Certificate of Occupancy**" may be issued by the Port's Chief Harbor Engineer or his or her designee only if requested by Tenant and the Building or a portion of the Building is approved for occupancy prior to issuance of the Certificate of Final Completion and Occupancy.

"**Tenant**" means the party identified as Tenant in the Basic Lease Information.

"**Tenant's Property**" means all furniture, trade fixtures, office equipment, and articles of property included therein and any Improvements or Alterations constructed on or affixed to the Premises by Tenant and Subtenant's Property.

"**Term"** is the Construction Term, the Initial Term and any Extension Term.

"Termination Fee" is defined in ***Section 11.2.***

"Threat Determination" is defined in ***Section 16.***

"Threat Determination Notice" is defined in ***Section 16.***

"Total Condemnation" is defined in ***Section 21.2***.

"**trade fixtures**" means those items of personalty, furniture, equipment, machinery used in trade by Tenant or a Subtenant which are customarily removed without damage to the Premises at the end of a lease term in the ordinary course of businesses of the type operated by Tenant or any Subtenant at the Premises.

"**Transfer**" means any of the following events or proposed events, whether voluntary, involuntary, or by operation of Law: (a) any sale, assignment, encumbrance (other than in connection with a Financing), or other transfer of any of Tenant's interest in this Lease or in the Premises (other than a Sublease or Financing); (b) any Person other than Tenant occupies or claims a right of possession to any part of the Premises other than under a Sublease; (c) if Tenant is a corporation, limited liability company, partnership or similar entity and is not traded on a nationally recognized security exchange, any change in Control of Tenant (including without limitation a dissolution, merger, consolidation, transfer or sale); or (d) any interest of any assignee, or other Transferee of Tenant's interest in the Lease or premises is sold, assigned, encumbered, or otherwise Transferred (other than a Sublease). For the purpose of this Lease, references to "this Lease" and "the Premises" in the context of a Transfer mean this Lease and the Premises to the extent Tenant's leasehold interest is affected by a Transfer.

"**Transfer Agreement**" means all document(s) effecting or evidencing Tenant's proposed sale, assignment, encumbrance, or other Transfer.

"**Transfer Closing**" means the date that any Sale closes.

"**Transfer Date**" means the effective date of a Transfer including a Sale Closing or Financing Closing.

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"**Transfer Notice**" means Tenant's prior written notice to Port of an intent to Transfer, specifying: (a) the Transferee's name, address, other contact information, and, if the Transferee is not a natural Person, its form of organization and the identity of each Person with Control of the Transferee; (b) the proposed Transfer Date and a full description of the Transfer Terms; (c) a description of the Transferee's proposed use of the Premises, including any required or desired Alterations or Improvements to the Premises that the Transferee may undertake in order to facilitate its proposed use; and (d) a list of the Transferee's personal, business, and credit references.

"**Transfer Participation Rent**" is defined in the Basic Lease Information and includes Port's Sale Participation and Port's Financing Participation.

"**Transfer Terms**" means the terms and conditions in the proposed or final Transfer Agreement, as appropriate in context.

"**Transferee**" means the Person to which Tenant makes or proposes to make a Transfer.

"Uninsured Casualty" is defined in ***Section 20.4(a)***.

"**Upset Date**" is defined in the Basic Lease Information.

"**Utilities**" means electricity, water, gas, heat, sewers, oil, telecommunication services and all other Utilities.

"**WDAC**" means the Waterfront Design Advisory Committee authorized under Planning Code Section 240, whose members are appointed by the City and Port, and that is advisory to the Port Commission and to the City's Planning Commission.

"**Waiving Party**" is defined in ***Section 19.5 below***.

"**Work**" when used in reference to construction is defined in ***Section 14.3(c) below***.

"**worth at the time of award**" is defined in ***Section 27.10*** .

3. PREMISES; AS-IS CONDITION.

3.1. ***Premises***. Subject to the provisions of this Lease, Port hereby leases to Tenant, and Tenant hereby leases from Port, the Premises identified in the Basic Lease Information. The Premises has the address and contains the square footage specified in the Basic Lease Information. The location and dimensions of the Premises are depicted on ***Exhibit A*** attached hereto and incorporated herein by reference. Port and Tenant agree and acknowledge that any statement of rentable or usable (if applicable) square footage set forth in this Lease is an approximation which Port and Tenant agree is reasonable and that the usable square footage of the Premises may be less than the rentable square footage of the Premises.

3.2. ***Accessibility Inspection Disclosure***.

California law requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("**CASp**") to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is hereby advised that the Premises has not been inspected by a CASp and Port shall have no liability or responsibility to make any repairs or modifications to the Premises in order to comply with accessibility standards. The following disclosure is required by law:

"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

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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."

3.3. ***San Francisco Disability Access Disclosures***. Tenant is hereby advised that the Premises may not currently meet all applicable construction-related accessibility standards, including standards for public restrooms and ground floor entrances and exits. Tenant understands and agrees that Tenant may be subject to legal and financial liabilities if the Premises does not comply with applicable federal and state disability access Laws. As further set forth in ***Section 11*** (Compliance with Laws), Tenant further understands and agrees that it is Tenant's obligation, at no cost to Port, to cause the Premises, and Tenant's use thereof to be conducted in compliance with the Disability Laws and any other federal or state disability access Laws. Tenant shall notify Port if it is making any Alterations or Improvements to the Premises that might impact accessibility standards required under federal and state disability access Laws.

3.4. ***No Right to Encroach***.

(a) If Tenant (including, its Agents, Invitees, successors and assigns) uses or occupies space outside the Premises other than use in a manner allowable by the general public in a public space without the prior written consent of Port (the "**Encroachment Area"**), then upon written notice from Port ("**Notice to Vacate"**), Tenant shall immediately vacate such Encroachment Area and pay as Additional Rent for each day Tenant used, occupied, uses or occupies such Encroachment Area, an amount equal to the rentable square footage of the Encroachment Area, multiplied by the higher of the (i) highest rental rate then approved by the San Francisco Port Commission for the Premises, or (ii) then current fair market rent for such Encroachment Area, as reasonably determined by Port (the "**Encroachment Area Charge"**). If Tenant uses or occupies such Encroachment Area for a fractional month, then the Encroachment Area Charge for such period shall be prorated based on a thirty (30) day month. In no event shall acceptance by Port of the Encroachment Area Charge be deemed a consent by Port to the use or occupancy of the Encroachment Area by Tenant, its Agents, Invitees, successors or assigns, or a waiver (or be deemed as a waiver) by Port of any and all other rights and remedies of Port under this Lease (including Tenant's obligation to Indemnify Port as set forth in ***Section 3.4(c)***, at law or in equity.

(b) In addition, Tenant shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00) upon delivery of the initial Notice to Vacate plus the actual cost associated with a survey of the Encroachment Area. In the event Port determines during subsequent inspection(s) that Tenant has failed to vacate the Encroachment Area, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300.00) for each additional Notice to Vacate, if applicable, delivered by Port to Tenant following each inspection. The parties agree that the charges associated with each inspection of the Encroachment Area, delivery of each Notice to Vacate and survey of the Encroachment Area represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises, issuance of each Notice to Vacate and survey of the Encroachment Area. Tenant's failure to comply with the applicable Notice to Vacate and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this Lease, at law or in equity.

(c) In addition to Port's rights and remedies under this Section, the terms and conditions of the indemnity and exculpation provision set forth in ***Section 22*** (Indemnity and Exculpation) shall also apply to Tenant's (including, its Agents, Invitees, successors and assigns) use and occupancy of the Encroachment Area as if the Premises originally included the Encroachment Area, and Tenant shall additionally Indemnify Port from and against any and all loss or liability resulting from delay by Tenant in surrendering the Encroachment Area including, without limitation, any loss or liability resulting from any Claims against Port made by any tenant or prospective tenant founded on or resulting from such delay and losses to Port due to

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lost opportunities to lease any portion of the Encroachment Area to any such tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

(d) All amounts set forth in this Section shall be due within three (3) business days following the applicable Notice to Vacate and/or separate invoice relating to the actual cost associated with a survey of the Encroachment Area. By signing this Lease, each party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

3.5. ***Proximity of Development Project***. Tenant acknowledges that during the Term, a Port program or project and/or the Development Project(s) described in the Basic Lease Information, if any, is scheduled to be, or may be, conducted in the vicinity of the Premises. Tenant is aware that such project(s) and the activities associated with such projects will generate certain adverse impacts which may result in some inconvenience to or disturbance of Tenant. Impacts may include, but are not limited to, increased vehicle and truck traffic, traffic delays and re-routing, loss of street and public parking, dust, dirt, construction noise and visual obstructions. Tenant hereby waives any and all Claims against Port, City and their Agents arising out of such inconvenience or disturbance. To the extent a Port program or project or Development Project is undertaken by Port, Port shall use commercially reasonable efforts to conduct any of the foregoing activities in a manner that, to the extent reasonably practicable, will minimize inconvenience or disturbance to Tenant, but Port will have no obligation to minimize inconvenience or disturbance to Tenant if a Port program or project Development Project is necessary, in Port's sole and absolute discretion, to maintain Port property in a safe, hazard-free condition.

3.6. ***No Light, Air or View Easement***. This Lease does not include an air, light, or view easement. Any diminution or shutting off of light, air or view by any structure which may be erected on lands near or adjacent to the Premises or by any vessels berthed near the Premises shall in no way affect this Lease or impose any liability on Port, entitle Tenant to any reduction of Base Rent or Additional Rent, or affect this Lease in any way or Tenant's obligations hereunder.

3.7. ***Unique Nature of Premises***. Tenant acknowledges that: (a) the Premises is located along the waterfront; (b) Port's regular maintenance may involve activities, such as pile driving, that create noise and other effects not normally encountered in locations elsewhere in San Francisco due to the waterfront location of the Premises; and (c) there is a risk that all or a portion of the Premises will be inundated with water due to floods or sea level rise.

3.8. ***As-Is Condition***. Tenant acknowledges and agrees that Tenant is familiar with the Premises, the Premises is being leased and accepted in their "as-is" condition, without any improvements or alterations by Port, without representation or warranty of any kind, and subject to all applicable Laws governing their use, occupancy and possession. Tenant represents and warrants to Port that Tenant has received and reviewed the FEMA disclosure notice attached as ***Schedule 2*** and a copy of the report(s), if any, relating to the substructure and/or structure of the Building, as further described in ***Schedule 3*** attached hereto. Tenant further represents and warrants to Port that Tenant has investigated and inspected, either independently or through agents of Tenant's own choosing, the condition of the Premises and the suitability of the Premises for Tenant's business and intended use. Tenant acknowledges and agrees that neither Port nor any of its agents have made, and Port hereby disclaims, any representations or warranties, express or implied, concerning the rentable area of the Premises, the physical or environmental condition of the Premises, the present or future suitability of the Premises for Tenant's business, or any other matter whatsoever relating to the Premises, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

3.9. ***Release and Waiver***. As part of its agreement to accept the Premises in their "**As Is With All Faults**" condition, Tenant, on behalf of itself and its successors and assigns, will be deemed to waive any right to recover from, and forever release, acquit and discharge, Port and

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the other Indemnified Parties of and from any and all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, that Tenant may now have or that may arise on account of or in any way be connected with (i) the physical, geotechnical or environmental condition in, on, under, above, or about the Premises, including any Hazardous Materials in, on, under, above or about the Premises (including soil and groundwater conditions), (ii) the suitability of the Premises for the development of the Improvements and the Permitted Uses, (iii) any Laws applicable thereto, including Environmental Laws as of the Effective Date, (iv) damages by death of or injury to any Person, or to property of any kind whatsoever and to whomever belonging, and (v) goodwill, or business opportunities arising at any time and from any cause in, on, around, under, and pertaining to the Premises, including all claims arising from the joint, concurrent, active or passive negligence of any of Indemnified Parties, but excluding any intentionally harmful acts committed solely by Port or City.

3.10. ***Port's Rights Regarding Premises***. Port shall have the full right and authority to make, revoke, impose, and amend any Rules and Regulations pertaining to and reasonably necessary for the proper use, operation and maintenance of the Premises and Tenant agrees to be bound by any such Rules and Regulations upon prior written notice by Port. Tenant also acknowledges that Port's exercise of any of its rights regarding the Premises and other Port property in the vicinity of the Premises will not entitle Tenant to any abatement or diminution of Rent.

4. TERM.

4.1. ***Term***. The Term of this Lease includes the Construction Term, Initial Term and any Extension Term as defined in this Lease.

4.2. ***Delivery***. If Port is unable to deliver possession of the Premises to Tenant on or before the Commencement Date, then the validity of this Lease shall not be affected thereby and Port shall not be liable to Tenant for any Claims resulting therefrom, and Tenant waives all provisions of any Laws to the contrary. In such case, the Term and regular payments of Rent shall not commence until Port delivers possession of the Premises. Notwithstanding anything to the contrary above, if Port's inability to deliver possession of the Premises on the estimated Commencement Date results from Tenant's or its Agents' acts or omissions, then Base Rent and Additional Rent payable by Tenant hereunder shall commence on the date when Port would have delivered possession of the Premises but for such acts or omissions.

4.3. ***Waiver of Relocation Benefits***. To the extent allowed by applicable Law, Tenant hereby waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code §§ 7260 et seq., or under any similar law, statute or ordinance now or hereafter in effect, except as specifically provided in this Lease.

5. RENT.

Tenant shall pay to Port, in the manner herein described, the following Rent:

5.1. ***Base Rent; Annual Base Rent Adjustment***. Throughout the Initial Term and any Extension Term, Tenant shall pay to Port the Base Rent set forth in the Basic Lease Information. Base Rent shall not be reduced due to subtenant vacancies. Tenant shall make the first payment of Base Rent from no later than the Rent Commencement Date and thereafter shall pay the Base Rent, in advance, on or before the first day of each calendar month throughout the Initial Term and during any Extension Term. If the Expiration Date is other than the last day of the month, the Base Rent for that month shall be apportioned based on a thirty (30) day month.

5.2. ***Percentage Rent***. As described in the Basic Lease Information and subject to Port's consent to each Sublease as required in ***Section 23.5***, Tenant agrees to pay to Port, in addition to the monthly Base Rent payable by Tenant pursuant to ***Section 5.1***, a monthly Percentage Rent in the amount described in the Basic Lease Information in the following manner:

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(a) Percentage Rent shall be calculated monthly and shall be paid by Tenant quarterly for each Lease Quarter within thirty (30) days after the end of the prior Lease Quarter, except that in the event this Lease expires or terminates on a day other than the last day of a Lease Quarter, Percentage Rent for such Lease Quarter shall be paid within thirty (30) days after such expiration or termination date. On the date Percentage Rent is determined and due, Tenant shall furnish a complete statement (the "**Quarterly Percentage Rent Statement**") in a form approved by Port. In addition, Tenant shall furnish to Port, within sixty (60) days after the expiration of each applicable Subtenant's fiscal year as stated in the relevant Sublease, a complete statement, showing the computation of the Percentage Rent for the immediately preceding Lease Year ("**Annual Statement**") in a form approved by Port. The Annual Statement is for verification and certification of Quarterly Percentage Rent Statements only and shall not result in any averaging of monthly Percentage Rent. Each Quarterly Percentage Rent Statement and Annual Statement shall set forth in reasonable detail Gross Revenues for such immediately preceding Lease Quarter or Lease Year, as applicable, including an itemized list of any and all deductions or exclusions from Gross Revenues that Tenant may claim and which are expressly permitted under this Lease, and a computation of the Percentage Rent for the immediately preceding Lease Quarter or Lease Year, as applicable.

(b) Each Quarterly Percentage Rent Statement and Annual Statement shall be Certified. Tenant must submit payment of the balance owing together with any Annual Statement showing that Tenant has underpaid Percentage Rent. At Port's option, overpayments may be refunded to Tenant, applied to any other amount then due under the Lease and unpaid, or applied to Rent due at the first opportunity following Tenant's delivery of any Annual Statement showing an overpayment.

(c) If Tenant fails to (i) pay the Percentage Rent on the date due as provided above; (ii) submit the Quarterly Percentage Rent Statement therewith (even if the statement indicates that Percentage Rent is not due); or (iii) fails to submit the Annual Statement, such failure in each instance shall be subject to a Late Charge. Tenant shall also pay any costs including attorneys' fees reasonably incurred by Port by reason of such failure. Additionally, if Tenant fails to deliver any Quarterly Percentage Rent Statement or Annual Statement within the time period set forth in this ***Section 5.2*** (irrespective of whether any Percentage Rent is actually paid or due to Port) and such failure continues for thirty (30) days after the date Tenant receives (or refuses receipt of) written notice of such failure from Port, Port shall have the right, among its other remedies under this Lease, to employ a CPA to make such examination of Tenant's Books and Records (and the Books and Records of any other occupant of the Premises) as may be necessary to certify the amount of Percentage Rent due under this Lease for the period in question and the certification so made shall be binding upon Tenant and Tenant shall promptly pay to Port the total reasonable cost of the examination, together with the full amount of Percentage Rent due and payable for the period in question, including any Late Charge. Tenant acknowledges that late submittal of the Quarterly Percentage Rent and Annual Statements and late payment of Percentage Rent will cause Port increased costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. The parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the cost that Port will incur by reason of Tenant's lateness.

(d) Acceptance by Port of any monies paid to Port by Tenant as Percentage Rent as shown by any Quarterly Percentage Rent Statement or Annual Statement, shall not be an admission of the accuracy of said Quarterly Percentage Rent Statement or Annual Statement or the amount of such Percentage Rent payment.

(e) Tenant agrees to submit Quarterly Percentage Rent Statements on a monthly basis if requested by Port with no less than twelve (12) months prior written notice, in which case, all references in this Lease to Quarterly Percentage Rent Statements will be changed to "Monthly Percentage Rent Statements" and all requirements pertaining to Quarterly Percentage Rent Statements shall apply to Monthly Percentage Rent Statements.

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5.3. ***Participation Rent***. As described in the Basic Lease Information and subject to Port's consent to each Sublease as required in ***Section 23.5***, Tenant agrees to pay to Port, in addition to the monthly Base Rent payable by Tenant pursuant to ***Section 5.1***, and the Percentage Rent pursuant to ***Section 5.2***, Tenant agrees to pay to Port immediately upon receipt all Participation Rent, less Subletting Expenses in the amounts and manner approved by Port in its reasonable discretion, as Additional Rent.

5.4. ***Books and Records***. Tenant agrees that the business of Subtenants upon the Premises shall be operated with a non-resettable register and so that a duplicate dated sales slip or such other recording method reasonably acceptable to Port shall be issued with each sale, whether for cash, credit or exchange. Furthermore, Tenant shall keep (and shall cause its Subtenants and assignees to keep) at the Premises or at a convenient location in San Francisco at all times during the Term complete and accurate Books and Records that contain all information required to permit Port to verify Gross Revenues and deductions and exclusions therefrom that are in accordance with this Lease and with generally accepted accounting practices consistently applied with respect to all operations of the business to be conducted in or from the Premises and shall retain such Books and Records until the later of (i) four (4) years after the end of each Lease Year to which such Books and Records apply or, (ii) if an audit is commenced or if a controversy should arise between the parties hereto regarding the Percentage Rent payable hereunder, until such audit or controversy is concluded even if such audit period extends beyond the expiration or earlier termination of the Lease (the "**Audit Period**").

5.5. ***Audit***.

(a) Tenant on its own behalf and on behalf of its Subtenants agrees to make all Books and Records available to Port, or to any City auditor, or to any auditor or representative designated by Port or City (hereinafter collectively referred to as "**Port Representative"**), upon no less than thirty (30) business days prior written notice to Tenant, for the purpose of examining said Books and Records to determine the accuracy of Tenant's reporting of Percentage Rent for a period not to exceed the Audit Period after a Percentage Statement is delivered to the Port. Tenant shall cooperate with the Port Representative during the course of any audit, provided however, such audit shall occur at Tenant's business office, or at such other location in San Francisco where the Books and Records are kept, and no books or records shall be removed by Port Representative without the prior express written consent of Tenant (provided, however, copies may be made by the Port Representative on site), and once commenced, with Tenant's cooperation, such audit shall be diligently pursued to completion by Port within a reasonable time of its commencement, provided that Tenant makes available to the Port Representative all the relevant Books and Records in a timely manner. If an audit is made of Tenant's Books and Records and Port claims that errors or omissions have occurred, the Books and Records shall be retained by Tenant and made available to the Port Representative until those matters are expeditiously resolved with Tenant's cooperation. If Tenant operates the Premises through one or more Subtenants or Agents (other than Port), Tenant shall require each such Subtenant or Agent to provide the Port with the foregoing audit right with respect to its Books and Records. Upon completion of the audit, Port shall promptly deliver a copy of the audit report to Tenant.

(b) If an audit reveals that Tenant has understated Gross Revenues for said audit period, Tenant shall pay Port, promptly upon demand, the difference between the amount Tenant has paid and the amount it should have paid to Port, plus interest at the Interest Rate from the date of the error in the payment. If an audit reveals that Tenant has overstated Gross Revenues for said audit period, Tenant shall be entitled to a credit against rent for either Base Rent or Percentage Rent next owed equal to the difference between the amount Tenant has paid and the amount it should have paid to Port. If Tenant understates Gross Revenues for any audit period by three percent (3%) or more (subject to a minimum understatement of five thousand dollars ($5,000), increased annually by three percent (3%)), Tenant shall pay the cost of the

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audit. A second understatement within any three (3) Lease Year period of the first such understatement shall be considered an Event of Default.

5.6. ***Default Interest***. Any Rent, if not paid within five (5) days following the due date and any other payment due under this Lease not paid by the applicable due date, shall bear interest from the due date until paid at the Interest Rate. However, interest shall not be payable on Late Charges incurred by Tenant nor on other amounts to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Tenant. Tenant shall also pay any costs, including attorneys' fees incurred by Port by reason of Tenant's failure to pay Rent or other amounts when due under this Lease.

5.7. ***Late Charges/Habitual Late Payer***. Tenant acknowledges that late payment by Tenant to Port of Rent or other sums due under this Lease will cause Port increased costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Accordingly, if Tenant fails to pay Rent on the date due, such failure shall be subject to a Late Charge at Port's discretion; provided that such Late Charge shall be imposed with respect to the first two (2) occurrences of such a delinquency in any twelve (12)-month period only if Tenant fails to cure such delinquency within five (5) days after written notice from Landlord thereof. Tenant shall also pay any costs including attorneys' fees incurred by Port by reason of Tenant's failure to timely pay Rent. Additionally, in the event Tenant is notified by Port that Tenant is considered to be a Habitual Late Payer, Tenant shall pay, as Additional Rent, an amount equal to Fifty Dollars ($50.00) (as such amount may be adjusted from time to time by the Port Commission) upon written notification from Port of Tenant's Habitual Late Payer status. The parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the cost that Port will incur by reason of any late payment. Such charges may be assessed without notice and cure periods and regardless of whether such late payment results in an Event of Default. Payment of the amounts under this Section shall not excuse or cure any default by Tenant.

5.8. ***Returned Checks***. If any check for a payment for any Lease obligation is returned without payment for any reason, Tenant shall pay, as Additional Rent, an amount equal to Fifty Dollars ($50.00) (as such amount may be adjusted from time to time by the Port Commission) and the outstanding payment shall be subject to a Late Charge as well as interest at the Interest Rate.

5.9. ***Net Lease***. It is the purpose of this Lease and intent of Port and Tenant that all Rent shall be absolutely net to Port, so that this Lease shall yield to Port the full amount of the Rent at all times during the Term, without deduction, abatement or offset. Except as otherwise expressly set forth in this Lease, under no circumstances, whether now existing or hereafter arising, and whether or not beyond the present contemplation of the Parties shall Port be expected or required to incur any expense or make any payment of any kind with respect to this Lease or Tenant's use or occupancy of the Premises, including any Improvements. Without limiting the foregoing, but except as expressly provided to the contrary in this Lease, Tenant shall be solely responsible for paying each item of cost or expense of every kind and nature whatsoever, the payment of which Port would otherwise be or become liable by reason of Port's estate or interests in the Premises and any Improvements, any rights or interests of Port in or under this Lease, or the ownership, leasing, operation, management, maintenance, repair, rebuilding, remodeling, renovation, use or occupancy of the Premises, any Improvements, or any portion thereof. No occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant from its liability to pay all of the sums required by any of the provisions of this Lease, or shall otherwise relieve Tenant from any of its obligations under this Lease, or shall give Tenant any right to terminate this Lease in whole or in part, except as otherwise expressly provided in this Lease. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease or to receive any abatement, diminution, reduction or suspension of

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payment of such sums, on account of any such occurrence or situation, provided that such waiver shall not affect or impair any right or remedy expressly provided Tenant under this Lease.

5.10. ***Additional Charges***. Without limiting Port's other rights and remedies set forth in this Lease, at law or in equity, in the event Tenant fails to submit to the appropriate party, on a timely basis, the items identified in ***Sections: 15*** (Utilities), ***18.3*** (Tenant's Environmental Condition Notification Requirements), ***18.8*** (Storm Water Pollution Prevention), ***34.1(d)*** (CMD Form), and ***38*** (Estoppel Certificate) or to provide evidence of the required insurance coverage described in ***Section 19 below***, then within twenty (20) days after written notice from Port of such failure, Tenant shall pay, as Additional Rent, an amount equaling One Hundred Dollars ($100.00). In the event Tenant fails to provide the necessary document within the time period set forth in the initial notice (which shall not be less than fifteen (15) days under this Lease) and Port delivers to Tenant additional written notice requesting such document, then Tenant shall pay to Port, as Additional Rent, an amount equaling One Hundred Fifty Dollars ($150.00) for each additional written notice Port delivers to Tenant requesting such document. The parties agree that the charges set forth in this ***Section 5.10*** represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Tenant's failure to provide the documents identified in this ***Section 5.10*** and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this Lease, at law or in equity. By signing this Lease, each party specifically confirms the accuracy of the statements made in this ***Section 5.10*** and the reasonableness of the amount of the charges described in this ***Section 5.10***.

5.11. ***Rent Credits; Seismic Project Rent Credits.***

(a) Seismic Project Rent Credits. Tenant shall be entitled to the Seismic Project Rent Credit as provided in the Basic Lease Information subject to the following conditions.

(i) Within ninety (90) days after Completion of the Seismic Project, Tenant shall deliver to Port an itemized statement of the actual costs expended by Tenant on the Seismic Project, accompanied by documentation reasonably satisfactory to Port evidencing all said expenditures. Such appropriate proofs of expenditure shall include, without limitation, (i) copies of canceled checks, (ii) copies of executed contracts, (iii) invoices for labor services and/or materials marked "Paid"; or otherwise evidenced as having been paid; bills of lading marked "Paid"; other bills, contracts and receipts for goods, materials and/or services marked "Paid", (iv) and such other proofs of expenditure as may be reasonably approved by Port, and (v) unconditional lien waivers from all the general contractors and all subcontractors and suppliers for the particular items of the Seismic Project covered by the rent credit request. All such proofs of expenditure must be attributable directly to work or materials performed, constructed or installed in connection with the Seismic Project. Costs expended for the Seismic Project that are eligible for rent credits shall not include any items other than those specified in the Work Letter and shall not include items related to the Initial Tenant Improvements or any other items nor any fees, exactions, impositions, or similar charges imposed as a condition to permit approval. Notwithstanding anything to the contrary in this Lease, fees paid for the Building Permit for the Initial Improvements apportioned to the Seismic Project are eligible for rent credits. To the extent Tenant (through its employees, contractors, or any party in which Tenant has a direct financial interest) performs any of the work, the costs for such labor shall be no more than the commercially reasonable, market-rate labor charges typically charged for such work by parties in an arms-length transaction. In no event shall maintenance, repair and/or replacement costs be eligible for rent credits. During construction of the Seismic Project, Tenant may submit interim statements with the foregoing information for Port's review and approval in order to expedite the initiation of the rent credits. Within ninety (90) days of receipt of the final statement and based upon said statement and accompanying documentation which substantiate the actual costs expended, Port in its reasonable discretion shall determine in writing the costs eligible for rent credits and Tenant may apply such rent credits in accordance with this Section.

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(ii) Notwithstanding any other provision of this Lease, the determination of Completion of the Seismic Project is independent of the determination of Completion of the Initial Tenant Improvements for purposes of eligibility for and application of the Seismic Rent Credits.

(iii) In the event all or any portion of the Seismic Project Rent Credit available to Tenant exceeds such monthly installment of Rent due, the remaining portion of the Seismic Rent Credit shall be carried forward to the next installment of monthly Rent until the earlier to occur of (i) the rent credit being fully applied, (ii) the expiration or earlier termination of this Lease excluding any holdover period (with or without Port consent), or (iii) if an Event of Default occurs, then following the cure of such Event of Default.

(b) Conditions for All Rent Credits, including Seismic Project Rent Credits.

(i) Tenant agrees and acknowledges that any right or claim Tenant may have to any rent credit that has not yet been actually applied against Rent shall, upon the earlier to occur of (i) Tenant's failure to submit to Port within ninety (90) days adequate evidence of expenditures (if submission is required under this Lease); or (ii) the expiration or earlier termination of this Lease, be immediately terminated, without notice, and Port shall have no liability or obligation to pay or credit Tenant all or any portion of the unused rent credit.

(ii) Rent credits cannot be applied retroactively.

(iii) Notwithstanding anything to the contrary contained herein, in no event shall Tenant receive any rent credit during any existing Event of Default. Upon the occurrence of an Event of Default during the period Tenant is eligible for rent credits, Tenant's right to receive any rent credit shall cease and shall not be reinstated until the Event of Default is cured. If an Event of Default occurs on a day other than the first day of the calendar month or an Event of Default is cured on a day other than the last day of the calendar month, Base Rent due to Port shall be apportioned based on a thirty (30) day month. In no event shall the cessation in the application of any rent credit extend the rent credit period or amount.

6. TENANT'S MANAGEMENT AND OPERATING COVENANTS.

6.1. ***Operating Standards/Covenants***. Tenant will maintain and operate the Premises, or cause the Premises to be maintained and operated, in a manner consistent with (i) the maintenance and operation of other YMCA of San Francisco locations in San Francisco, California or, if YMCA of San Francisco is no longer the Tenant, then consistent with the maintenance and operation of similar fitness facilities in San Francisco and (ii) with respect to all other uses, consistent with the maintenance and operation of a similar first-class development of the same or similar use located in the Dogpatch neighborhood of San Francisco, and in, in all cases, in accordance with this Lease. Tenant is exclusively responsible, at no cost to Port, for the management and operation of the Premises. In connection with managing and operating the Premises, Tenant will provide (or require Subtenants or others to provide), services as necessary and appropriate for the use of the Improvements, including (a) repair and maintenance of the Improvements, as more fully described in ***Section 13***; (b) utility and telecommunications (including internet/Wi-Fi) services; and (c) cleaning, janitorial, pest extermination, recycling, composting, and trash and garbage removal.

6.2. ***Continuous Operations***. Tenant shall use commercially reasonable efforts to ensure that all of the Premises are used continuously during the opening hours set forth in this Lease including in the Operations Plan and shall not allow any portion of the Premises to remain unoccupied or unused without the prior written consent of Port, which consent may be withheld in Port's reasonable discretion. Notwithstanding the foregoing, the Port shall not withhold its consent to any cessation of operations of any portion of the Premises for any reasonably necessary time period due to the following causes or in the following circumstances: (a) if the Premises or a portion thereof becomes untenantable due to fire or other Casualty, (b) as may be necessary in connection with performing Improvements, Alterations or major maintenance

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activities that materially impact the ability to use the Premises or a portion thereof, (c) while conducting periodic inventory of Tenant's goods and merchandise, or (d) during re-subtenanting. Notwithstanding anything to the contrary, the Restrooms shall remain open on the terms and conditions stated in the Basic Lease Information at any time that Tenant is operating at the Premises.

6.3. ***Subleasing Program***. Consistent with the purpose of this Lease to support maritime recreation and promote public access to the Bay and shoreline, Tenant will make every reasonable effort to obtain and retain desirable Subtenants that are consistent with the tidelands public trust for commerce, navigation and fisheries, including the statutory trust imposed by the Burton Act as set forth in the Burton Act. ("**Public Trust**"). In the event of vacant subleasable space, Tenant shall first market to Public Trust-consistent users offering similar retail goods and services as the original Subtenants (i.e. aquatics center; food and beverage). Nothing in this section is intended to require Tenant to enter into any Sublease that represents a below market rate or that will materially reduce the economic return to Tenant from the Sublease or require Tenant to enter into an agreement with someone that is not otherwise qualified. Tenant agrees to meet with Port from time to time, and, to consider in good faith whether to implement such steps as the Port may recommend to increase usage for Public Trust-related uses. In the event of any subtenant vacancies, Tenant will provide Port with quarterly reports on the status of its subleasing efforts (the **"Leasing Activity Report"**) and maintain accurate records as to space leased, optioned, and available to lease to ensure the best placement of tenants taking into consideration options to extend and to expand. The Leasing Activity Report is due by the twentieth (20th) day of each Lease Quarter for the immediately preceding quarter and will be submitted concurrently with the applicable Quarterly Percentage Rent Statement.

6.4. ***Restaurant/Retail Businesses Open to the General Public***. Any restaurant and/or retail operation (other than trade-only showrooms) on the Premises must be open to the general public and operated in a manner consistent with ***Section 6.1*** and ***Section 10*** and the Operations Plan.

6.5. ***Flags***. Throughout the Term, a Port flag will fly on the Building. At Port's sole cost, Port will provide the Port flag to Tenant and will promptly replace worn Port flags. Tenant will promptly, at no charge, install, raise, lower, and remove Port flags at Port's request. The dimensions of Port flags will be similar to the dimensions of Port flags flown on the roofs of Port buildings. Tenant also may fly other flags on the Building, provided that such other flags, other than the flags of the United States and the State of California, must be placed beneath the Port flag and Port must first reasonably approve the dimensions, color, text, design, and materials for each flag. If Port determines that Tenant's response to Port's request to raise or lower Port flags is inadequate, then at Port's election, Port may exercise its rights to access the Flagpoles as further described in ***Section 29*** .

If Port does not provide a replacement flag to replace a worn Port flag, then Tenant shall provide Port with notice requesting that a replacement flag be provided (**"Replacement Notice"**). If Port reasonably believes the flag in question is not worn sufficiently enough to warrant its replacement, Port shall notify Tenant within five (5) days following receipt of the Replacement Notice, and such flag shall remain in place and not be replaced. If Port has not timely notified Tenant that Port disputes the need to replace the flag and if Port does not provide Tenant with a replacement flag within thirty (30) days following the Replacement Notice, then Tenant shall deliver to Port a second notice, which notice shall include a statement in bold, all caps, and underlined that if Port does not provide Tenant with a replacement flag within ten (10) days of such second notice, then Tenant shall have the right to remove the worn flag. If Port does not provide Tenant with a replacement flag within five (5) days of such second notice, then Tenant shall have the right to remove the worn flag; provided, however, if Port notifies Tenant that Port cannot provide Tenant with a replacement flag due to unavailability of a replacement flag, Tenant shall not remove the worn flag until Port is able to obtain a replacement flag, but in no

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event shall Tenant be obligated to fly a worn flag more than sixty (60) days from delivery of the first Replacement Notice from Tenant.

6.6. ***Exterior Improvements***. Tenant will not install any Exterior Improvements without Port's prior consent. Tenant will provide to Port the size, height, design, color, dimensions, text (if any), materials, location, and method of installation of the Exterior Improvements to enable Port to evaluate the proposed Exterior Improvement. Within thirty (30) days following Port's receipt of the proposed Exterior Improvement, Port will notify Tenant if Port requires the proposed Exterior Improvement to be reviewed by the WDAC or another Port advisory body, in Port's sole discretion, and Tenant will incorporate Port's requested changes, if any, into the proposed Exterior Improvement so long as such changes do not materially increase Tenant's cost or materially delay installation of the proposed Exterior Improvement. Construction of the Exterior Improvements will be in accordance with ***Section 14***.

7. EXTENSION OPTIONS.

7.1. ***Options to Extend Term***. Provided that (i) Tenant has invested a minimum of $5,000,000 in the Initial Improvements by the Initial Improvements Completion Date (as may be extended as provided in the Work Letter) as set forth in a summary that Tenant provides to Port of the amounts Tenant has spent, along with reasonably satisfactory evidence of Tenant's payment of such amounts) and (ii) Tenant provides a timely Option Notice, Tenant shall have the Extension Options described in the Basic Lease Information. Any Option Notice by Tenant shall be irrevocable by Tenant. The lease for an Extension Term shall cover the entire Premises and shall be upon all of the terms, covenants and conditions of this Lease, except that the Expiration Date shall mean the last day of the Extension Term.

If any Event of Default by Tenant is outstanding either at the time of Tenant's Option Notice or at any time prior to the first day of an Extension Term and remains uncured after notice and the expiration of all applicable cure periods, then Port may elect by written notice to Tenant to reject Tenant's exercise of the Extension Option, whereupon the Extension Option shall be null and void. If Tenant fails to exercise any Extension Option or Port rejects Tenant's exercise of any Extension Option in accordance with this Section, then all successive Extension Options shall be null and void and this Lease will terminate as of the original or relevant Expiration Date. The Parties acknowledge and agree that the prerequisite conditions to Tenant's extension option right set forth for in this Section are a material part of the bargained-for consideration under this Lease.

7.2. ***Rent During Extension Term(s)***. During any Extension Term, Tenant shall pay to Port the Base Rent set forth in the Basic Lease Information as adjusted on each Extension Term Anniversary Date by the Extension Term Annual Adjustment as provided in the Basic Lease Information. Percentage Rent, Participation Rent and Transfer Participation Rent will remain the same during any Extension Term.

7.3. ***Other Terms***. The lease for an Extension Term shall cover the entire Premises and shall be upon all of the terms, covenants and conditions of this Lease, except that the Expiration Date shall mean the last day of the Extension Term.

8. TAXES AND ASSESSMENTS.

8.1. ***Payment of Taxes***. During the Term, Tenant agrees to pay, when due, to the proper authority any and all real and personal property taxes, general and special assessments, real property transfer taxes, license fees, permit fees and all other governmental charges of any kind or nature whatsoever, including without limitation all penalties and interest thereon, levied or assessed on Tenant's Property, the leasehold or subleasehold estate or Tenant's use of the Premises, or any transfer of a leasehold interest or subleasehold interest in the Premises (including but not limited to the transfer of the leasehold interest in the Premises pursuant to the Lease) whether in effect at the time this Lease is entered into or which become effective thereafter, and all taxes levied or assessed on the possession, use or occupancy, as distinguished

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from the ownership, of the Premises. Tenant further recognizes and agrees that its leasehold interest may be subject to the payment of special taxes, including without limitation a levy of special taxes to finance energy efficiency, water conservation, water pollution control and similar improvements under the Special Tax Financing Law in Chapter 43 Article X of the Administrative Code. Tenant shall not permit any of the above taxes, assessments or other charges to become a defaulted lien on the Premises or the Improvements thereon; provided, however, that in the event any such tax, assessment or similar charge is payable in installments, Tenant may make, or cause to be made, payment in installments; and provided, further, that Tenant may, through such proceeding as Tenant considers necessary or appropriate, contest the legal validity or the amount of any tax, assessment or similar charge so long as such assessment or charge does not become a defaulted lien. In the event of any such dispute, Tenant shall Indemnify Port, City, and their Agents from and against all Claims resulting therefrom.

8.2. ***Possessory Interest Tax***. Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest. Tenant further recognizes and understands that any sublease or assignment permitted under this Lease and any exercise of any option to renew or other extension of this Lease may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Tenant agrees to pay taxes of any kind, including, but not limited to, possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Tenant's usage of the Premises that may be imposed upon Tenant by Law, all of which shall be paid when the same become due and payable and before delinquency. Tenant agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Tenant, if so desiring, may have reasonable opportunity to contest the validity of the same. San Francisco Administrative Code Sections 23.38 and 23.39 (or any successor statute) require that certain information relating to the creation, renewal, extension, assignment, sublease, or other transfer of this Lease be reported to the County Assessor within sixty (60) days after any such transaction. Accordingly, Tenant must provide a copy of this Lease to the County Assessor not later than sixty (60) days after the Effective Date, and any failure of Tenant to timely provide a copy of this Lease to the County Assessor will be a default under this Lease. Tenant will also timely provide any information that Port or City may request to ensure compliance with this or any other reporting requirement.

9. SECURITY DEPOSIT.

Tenant shall pay to Port upon execution of this Lease, the Security Deposit, in cash, in the sum specified in the Basic Lease Information, as security for the faithful performance by Tenant of all terms, covenants and conditions of this Lease. At all times, the Security Deposit shall equal the amount that is twice the current Monthly Base Rent and Tenant shall increase the amount of the Security Deposit on the same date that any increase in Base Rent is first due, including with respect to any Annual Adjustment and upon the commencement date of any Extension Term to maintain such ratio.

Tenant agrees that Port may (but shall not be required to) apply the Security Deposit in whole or in part to (a) pay any sum due to Port under this Lease; (b) compensate Port for any expense incurred or damage caused by Tenant, its Agents or Invitees; (c) cure any default by Tenant; or (d) cure, or attempt to cure, any failure of Tenant to perform any other covenant, term or condition contained herein. Tenant shall immediately upon demand pay Port a sum equal to the portion of the Security Deposit expended or applied by Port. Port shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to any interest on the Security Deposit. Nothing contained in this Section shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this Lease or provided by law or equity.

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Tenant hereby waives the provisions of California Civil Code Section 1950.7 and/or any successor statute, it being expressly agreed that Port may apply all or any portion of the Security Deposit in payment of any and all sums reasonably necessary to compensate Port for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Tenant or any Agent or Invitee of Tenant, and that following a default by Tenant, all or any portion of the Security Deposit may be retained by Port following a termination of this Lease and applied to future damages, including damages for future Rent, pending determination of the same.

10. USE OF THE PREMISES.

10.1. ***Permitted Use***. The Premises shall be used and occupied only for the Permitted Use specified in the Basic Lease Information and for no other purpose.

10.2. ***Prohibited Use***. Tenant agrees that the following activities, by way of example only and without limitation, (in each instance, a "**Prohibited Use"** and collectively, "**Prohibited Uses**"), are inconsistent with this Lease, are strictly prohibited and are considered Prohibited Uses:

(a) any activity, or the maintaining of any object, which will in any way materially increase the existing rate of, or cause a cancellation of, any fire or other insurance policy covering the Premises, any part thereof or any of its contents;

(b) any activity or object which will exceed load restrictions, if any, or cause damage to the Premises;

(c) any activity which constitutes waste or nuisance, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any objectionable odors, noises or lights onto adjacent properties or the use of loudspeakers or sound or light apparatus which can be heard or seen outside the Premises in a manner inconsistent with Laws;

(d) any activity which will in any way injure, obstruct or interfere with the rights of other users or of owners, users, or occupants of adjacent properties, including, but not limited to, rights of ingress and egress;

(e) use of the Premises for residential, sleeping or personal living quarters and/or "Live/Work" space;

(f) any auction, distress, fire, bankruptcy or going out of business sale on the Premises without the prior written consent of Port, which consent may be granted, conditioned, or withheld in the sole and absolute discretion of Port;

(g) any vehicle and equipment maintenance, including but not limited to, fueling, changing oil, transmission or other automotive fluids;

(h) the storage of any and all excavated materials, including but not limited to, dirt, concrete, sand, asphalt, and pipes;

(i) except during periods of permitted construction, the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials;

(j) except as provided in the Operations Plan, the washing of any vehicles, vessels or equipment; or

(k) other Prohibited Uses identified in the Basic Lease Information, if any.

10.3. ***Notice of Prohibited Use Charge***. In the event Port determines after inspection that Prohibited Uses are occurring, then Tenant shall cease the Prohibited Use and shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00) upon delivery of written notice to Tenant to cease the Prohibited Use ("**Notice to Cease Prohibited Use**"). In the event Port determines in subsequent inspection(s) that Tenant has not ceased the Prohibited Use, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars

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($300.00) for each additional Notice to Cease Prohibited Use delivered to Tenant. The parties agree that the charges associated with each inspection and delivery of the Notice to Cease Prohibited Use, if applicable, represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection and Tenant's failure to comply with the applicable Notice to Cease Prohibited Use and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this Lease, at law or in equity. By signing this Lease, each party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

11. COMPLIANCE WITH LAWS; CHANGE IN LAWS.

11.1. ***Compliance with Laws***. Tenant, at Tenant's sole cost and expense, promptly shall comply with all Laws relating to or affecting the condition, use or occupancy of the Premises and shall comply with all Laws relating to Tenant's specific use of the Premises and all Rules and Regulations, if any, in effect either at the time of execution of this Lease or which may hereafter be in effect at any time during the Term, whether or not the same are now contemplated by the parties. Tenant further understands and agrees that it is Tenant's obligation, at Tenant's sole cost and expense, to cause the Premises including the activities and operations conducted thereon, to be in compliance with the Disability Laws. Tenant shall be solely responsible for conducting its own independent investigation of this matter and for ensuring that the design of all Alterations and Improvements strictly complies with all requirements of the Disability Laws. If Tenant's use or occupancy of the Premises triggers a requirement to remove barriers or perform other work to any Port property outside of the Premises to comply with the Disability Laws, then, Tenant will perform the work at Tenant's sole cost and expense.

The parties acknowledge and agree that Tenant's obligation to comply with all Laws as provided herein is a material part of the bargained for consideration under this Lease. Tenant's obligation under this ***Section 11*** shall include, without limitation, the responsibility of Tenant to make substantial or structural repairs and Alterations to the Premises, regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or Port, the degree to which the curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular Laws involved, and whether the Laws involved are related to Tenant's particular use of the Premises. Any Alteration or Improvements made by or on behalf of Tenant pursuant to the provisions of this ***Section 11*** shall comply with the provisions of ***Section 14***. Except as otherwise expressly set forth in this Lease, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant of its obligations hereunder, nor give Tenant any right to terminate this Lease in whole or in part or to seek redress against Port, except to the extent Tenant may have remedies against Port pursuant to this Lease or applicable Law. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel Port to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

11.2. ***Change in Laws.*** Notwithstanding ***Section 11.1***, if, during an Extension Term, an existing Law is amended or a new Law is enacted (regardless of its effective or implementation date) for reasons unrelated to: (i) Tenant's violation of any Laws; (ii) an unpermitted use, Prohibited Use or change in Permitted Uses; (iii) a Law affecting the License Area or the Park (unless such Law materially and adversely affects access to the Premises); or (iv) temporary health protection measures during a pandemic or other health emergency, and such amended or new Law is effective during the Extension Term, would require Tenant to comply during the Extension Term and either (x) materially impacts Tenant's ability to operate the Premises as generally contemplated under the Lease; or (y) would present a demonstrable financial hardship to Tenant if Tenant had to comply with amended or new Law (each a "**Change in Law**"), then

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Tenant may terminate this Lease; provided that there is no existing Event of Default (as further described in ***Section 11.2(c)***) and in accordance with the following:

(a) Within four months after the date on which a Change in Law becomes effective (e.g., becomes law following expiration of any time period in which to challenge such law or if challenged, following the final, unappealable judgment upholding such law, as opposed to the deadline under such Change in Law by which Tenant must comply with the Change in Law), Tenant must provide written notice to Port ("**Early Termination Notice**") with the following information:

(i) details about how Tenant anticipates such change will materially impact Tenant's ability to operate the Premises as generally contemplated under the Lease;

(ii) an analysis of the costs associated with the Change in Laws and the financial hardship to Tenant;

(iii) Tenant's intention to terminate the Lease as of the date specified in the notice ("**Early Termination Date**"), which shall not be less than one hundred eighty (180) days from the date of Tenant's Early Termination Notice unless: (1) the Change in Law requires Tenant to achieve compliance in less than 180 days, in which case, Tenant shall propose an earlier termination date; (2) if the Change in Law is a new or updated life safety requirement and Tenant reasonably anticipates that the failure to comply therewith would materially impact Tenant's continuous use of the Premises (or a material portion thereof) for the Permitted Uses, starting at any time earlier than 180 days and continuing for the remainder of the Term, then (x) the 180-day notice period shall not apply and, at Tenant's election, the Early Termination Date may be a date sooner than 180 days, and (y) Tenant shall implement such temporary safeguards as Tenant reasonably believes are necessary to address any imminent threat to life or property that the life safety non-compliance under the Change in Law may present; or (3) if the date by which Tenant needs to commence the work necessary in order to be in compliance with the Change in Law by the required deadline is more than one hundred eighty (180) days from the date of Tenant's Early Termination Notice, then Tenant's Early Termination Date shall not be earlier than the date that is one hundred eighty (180) days prior to the date on which Tenant needs to commence the compliance work; and

(iv) the amount of the termination fee which shall be fifty percent (50%) of the Base Rent payable (excluding any then-applicable rent credits) from the termination date to the last day of the Extension Term ("**Termination Fee**").

(b) Within ninety (90) days (or such shorter period as may be necessary under sub-clauses (1) or (2) of ***Section 11.2(a)(iii)***)of Tenant's Early Termination Notice, Port shall either (i) accept Tenant's Early Termination Notice in which case, Tenant shall promptly pay the Termination Fee and this Lease will expire on the Early Termination Date without further action by the parties or (ii) object in writing stating the basis of its objection (which shall only be based on the criteria in this ***Section 11.2*** including without limitation the Early Termination Date or the calculation of the Termination Fee). If Port states an objection, Port and Tenant will work in good faith to resolve such objection within a reasonable time period, and Tenant may resubmit its Early Termination Notice, subject again to Port's acceptance.

(c) If any Event of Default by Tenant is outstanding either at the time of Tenant's Early Termination Notice or at any time prior to Early Termination Date and remains uncured after notice and the expiration of all applicable cure periods, then Port may reject Tenant's Early Termination Notice. The Parties acknowledge and agree that the termination right provided by this ***Section 11.2*** provides an extraordinary remedy for Tenant, will be interpreted narrowly and that the prerequisite conditions to Tenant's termination right as set forth for in this Section are a material part of the bargained-for consideration for this termination right.

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12. PORT ACTING AS OWNER OF PROPERTY; REGULATORY APPROVALS; COMPLIANCE WITH CITY'S RISK MANAGER'S REQUIREMENTS.

12.1. ***Port Acting as Owner of Property***. Tenant understands and agrees that Port is entering into this Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a Regulatory Agency of the City with certain police powers. By entering into this Lease, Port is in no way modifying or limiting the obligation of Tenant to obtain any required Regulatory Approvals from Regulatory Agencies, and to cause the Premises to be used and occupied in accordance with all Laws and required Regulatory Approvals. Examples of Port actions as a Regulatory Agency include Port issuance of building, encroachment and other construction-related permits, and the Chief Harbor Engineer's actions to protect public health and safety.

12.2. ***Regulatory Approvals***. Tenant understands that Tenant's operations on the Premises, changes in use, or Improvements or Alterations to the Premises (individually and collectively, "**Changes"**) may require Regulatory Approvals, including Regulatory Approvals issued by Port in its capacity as a Regulatory Agency.

Tenant shall be solely responsible for obtaining any Regulatory Approvals, and Tenant shall not seek any Regulatory Approval without first obtaining the prior written approval of Port. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne solely and exclusively by Tenant. Tenant shall be solely responsible for complying with any and all conditions imposed by Regulatory Agencies as part of a Regulatory Approval; provided, however, Tenant shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit or other entitlement from any Regulatory Agency (other than Port), if the Port is required to be a co-permittee under such permit or other entitlement, or if the conditions or restrictions it would impose on the project could affect future use or occupancy of the Premises or Port's interest therein or would create obligations on the part of Port (whether on or off of the Premises) to perform or observe, unless in each instance Port has previously approved such conditions in writing, in Port's sole and absolute discretion.

Any fines or penalties imposed as a result of the failure of Tenant to comply with the terms and conditions of any Regulatory Approval shall be promptly paid and discharged by Tenant, and Port shall have no liability, monetary or otherwise, for any fines and penalties. To the fullest extent permitted by Law, Tenant agrees to Indemnify City, Port and their Agents from and against any Claim which City or Port may incur as a result of Tenant's failure to obtain or comply with the terms and conditions of any Regulatory Approval.

Without limiting the terms and conditions of ***Sections 12.1*** and ***12.2***, by signing this Lease, Tenant agrees and acknowledges that (i) Port has made no representation or warranty that Regulatory Approvals to allow for the Changes, if any, can be obtained, (ii) although Port is an agency of the City, Port has no authority or influence over any Regulatory Agency responsible for the issuance of such required Regulatory Approvals, (iii) Port is entering into this Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a Regulatory Agency of the City with certain police powers, and (iv) Tenant is solely responsible for obtaining any and all required Regulatory Approvals in connection with any Changes. Accordingly, Tenant understands that there is no guarantee, nor a presumption, that any required Regulatory Approvals will be issued by the appropriate Regulatory Agency and Port's status as an agency of the City shall in no way limit the obligation of Tenant to obtain approvals from any Regulatory Agencies (including Port) that have jurisdiction over the Premises. Tenant hereby releases and discharges Port from any liability relating to the failure of any Regulatory Agency (including Port) from issuing any required Regulatory Approval.

12.3. ***Compliance with City's Risk Manager's Requirements***. Tenant shall faithfully observe, at no cost to Port, any and all requirements of City's Risk Manager with respect to Tenant's use and occupancy of the Premises, so long as such requirements do not unreasonably

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interfere with Tenant's or Subtenants' use of the Premises or are otherwise connected with standard prudent commercial practices of other landlords.

13. MAINTENANCE AND REPAIRS.

13.1. ***Tenant Maintenance and Repair Obligations***. Unless otherwise set forth in the Basic Lease Information, Tenant shall at all times during the Term, starting on the Commencement Date, or upon use of the Premises by Tenant under a Prior License to the extent required under the Prior License, and at its sole cost and expense, maintain, repair and replace in good and working order, condition and repair the Premises and all Improvements and Alterations thereon, including, but not limited to, glazing. Port shall not be obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the Premises nor to any Improvements or Alterations now or hereafter located thereon. Tenant hereby waives all rights to make repairs at Port's expense under Sections 1932(1), 1941 and 1942 of the California Civil Code or under any similar Law now or hereafter in effect. Notwithstanding any maintenance obligations of Port that may be set forth in the Basic Lease Information, in the event that Tenant, its Agents or Invitees cause any damage to the Premises or any other property within Port's jurisdiction, Tenant shall be responsible for repair and Port may repair the same at Tenant's sole cost and expense and Tenant shall immediately reimburse Port therefor.

Tenant shall not make, nor cause or suffer to be made, any repairs or other work for which a permit is required by any applicable building code, standard or regulation, including, without limitation, the Port Building Code or of any rule or regulation of Port without first obtaining Port's prior written consent (provided that, no consent shall be required for any minor or routine repairs to the Initial Improvements or any Subsequent Alterations for which Port consent was previously obtained) and a permit therefor.

In the event that damage or deterioration to the Premises or any portion thereof which is Tenant's obligation to maintain results in the same not meeting the standard of maintenance required by Port for such uses as Tenant is making of the Premises, then Tenant shall have the independent responsibility for, and shall promptly undertake, maintenance or repair of the Premises and complete the same with due diligence.

13.2. ***Port's Right to Inspect***. Without limiting ***Section 29 below***, Port may make periodic inspections of the Premises and may advise Tenant when maintenance or repair of the Premises is required, but such right of inspection shall not relieve Tenant of its independent responsibility to maintain such Premises and Improvements in a condition as good as, or better than, their condition at the Commencement Date, excepting ordinary wear and tear.

13.3. ***Port's Right to Repair***. In the event Tenant fails to maintain the Premises in accordance with this Lease or Tenant fails to promptly repair any damage to the Premises or the Building Systems caused by Tenant or its Agents within the cure period provided by this Lease, but in no event for more than thirty (30) days after Port's written notice to Tenant, then Port may repair the same at Tenant's sole cost and expense and Tenant shall immediately reimburse Port therefor. If the cost (including, but not limited to, salaries of Port staff and attorneys' fees) of any such repairs or replacements made at Tenant's expense is in excess of Two Thousand Dollars ($2,000) (increased annually by three percent (3%)), then Tenant shall pay to Port an administrative fee equal to ten percent (10%) of the total "**Hard costs**" of the work. "**Hard costs**" shall include the cost of materials and installation, but shall exclude any costs associated with design, such as architectural fees. With respect to any work where the total hard costs of such work are less than Two Thousand Dollars ($2,000), Tenant shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200).

In addition, upon delivery of the initial notice relating to Tenant's failure to maintain the Premises in accordance with ***Section 13*** ("**Maintenance Notice"**), Tenant shall pay, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00). In the event Port determines during subsequent inspection(s) that Tenant has failed to maintain the Premises in accordance with

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Section 13, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300) for each additional Maintenance Notice, if applicable, delivered by Port to Tenant following each inspection. By signing this Lease, each party specifically agrees that the charges associated with each inspection of the Premises and delivery of each Maintenance Notice represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises and issuance of each Maintenance Notice. Tenant's failure to comply with the applicable Maintenance Notice and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this Lease, at law or in equity. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Maintenance Notice.

For purposes of this Lease, the term "**ordinary wear and tear"** shall not include any deterioration in the condition or diminution of the value of any portion of the Premises in any manner whatsoever related directly or indirectly to Tenant's failure to comply with the terms and conditions of this Lease.

13.4. ***Acts of Nature***. Nothing contained herein shall require Port to repair or replace the Premises or the Improvements thereon as a result of damage caused by acts of war, earthquake, tidal wave or other acts of nature, except that this provision shall not affect any obligation to make repairs to the Premises pursuant to ***Section 20*** in the event of any damage or destruction of the Premises.

14. IMPROVEMENTS.

14.1. ***Initial Improvements***. Tenant will construct the Initial Improvements in accordance with, and subject to all the terms, covenants, conditions, and restrictions of this Lease including the Work Letter. Port, in its proprietary capacity, has consented to the Initial Improvements.

14.2. ***Subsequent Alteration***.

(a) Tenant shall not make nor cause or suffer to be made, any Subsequent Alteration to the Premises (i) without the prior written consent of Port, which consent shall not be unreasonably withheld; provided, however, that Port shall have the right in its sole and absolute discretion to consent or to withhold its consent to any Alterations or Improvements which affect the structural portions of the Premises, the Building or Building Systems, and (ii) until Tenant shall have procured and paid for all Port and other Regulatory Approvals of the various Regulatory Agencies having jurisdiction over the Premises, including, but not limited to, any building or similar permits required by Port or its Chief Harbor Engineer in the exercise of its jurisdiction with respect to the Premises.

(b) At least thirty (30) days before commencing any Subsequent Alterations, Tenant shall notify Port. Tenant's notice shall be accompanied by final construction documents for the Subsequent Alterations, if applicable. Port shall have the right to object to any of the Subsequent Alterations within sixty (60) days after receipt of notice from Tenant. Port's failure to notify Tenant of Port's consent within the 60-day period shall be deemed Port's disapproval of the Subsequent Alterations.

(c) As a condition to giving consent to any Subsequent Alteration the estimated cost of which (per project) is reasonably expected to exceed $1,000,000 (increased annually by three percent (3%)), Port may require Tenant to provide Port, at Tenant's sole cost and expense, one or more financial guarantees, each in a form and issued by a bank or surety acceptable to Port, such as: (i) a standby letter of credit or bond; and/or (ii) a payment and performance bond from Tenant's contractors naming Port as co-obligee, each in a principal amount up to one hundred ten percent (110%) but not less than one hundred percent (100%) of the estimated costs of the Subsequent Alteration, to ensure Port against any liability for mechanics' and materialmen's liens, stop notices, and to ensure Completion of work.

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(d) None of the following will constitute Subsequent Alterations requiring Port's consent, unless the installation will affect the Building Systems or the structure of the Building: (i) the installation, repair, or replacement of furnishings, fixtures, equipment, or decorative improvements within the interior of the Building that does not materially affect the Historic Fabric of the Building and otherwise complies with the Secretary's Standards, (ii) recarpeting, repainting, altering the wall coverings or window treatments, or similar alterations within the interior of the Building that do not materially affect the Historic Fabric of the Building and otherwise complies with the Secretary's Standards.

14.3. ***Construction Requirements***. All Alterations and Improvements to the Premises made by or on behalf of Tenant shall be subject to the following conditions, which Tenant covenants faithfully to perform:

(a) All Alterations and Improvements shall be performed in a good and workmanlike manner in accordance with plans and specifications previously approved by Port in writing and in compliance with the applicable building, zoning and other applicable Laws, including, but not limited to, compliance with Disability Laws, and in compliance with the terms of and conditions imposed in any Regulatory Approval or any permit or authorization for the Premises.

(b) All Alterations and Improvements shall be performed at the sole cost and expense of Tenant, with reasonable dispatch and prosecuted to Completion, and only by duly licensed and bonded contractors or mechanics, and subject to any conditions that Port may reasonably impose.

(c) Tenant, while performing any Subsequent Alteration or maintenance or repair of the Improvements (for purposes of this Section only, "**Work"**), shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining portions of the Premises and Improvements and the surrounding property, or the risk of injury to members of the public, caused by or resulting from the performance of its Work. Tenant shall undertake commercially reasonably measures to minimize damage, disruption or inconvenience caused by the Work and make adequate provision for the safety and convenience of all persons affected by the Work.

(d) At the Completion of any Work described in this Section, Tenant shall furnish to Port one reproducible "as built" drawing of all Alterations and Improvements made in the Premises. If Tenant fails to provide such as-built drawings to Port within sixty (60) days after Completion, Port, after giving notice to Tenant shall have the right, but not the obligation, to cause the preparation by an architect of Port's choice of "as-built" drawings, at Tenant's sole cost, to be paid by Tenant to Port within thirty (30) days after Port's request therefor.

14.4. ***Construction***.

(a) Construction Standards. All Improvements and Alterations will be accomplished diligently to Completion and in accordance with good construction and engineering practices and applicable Laws and will be consistent with the Secretary's Standards and the historic register status of the Premises. Tenant must make adequate provision for the safety of all persons affected by the Construction, and Tenant will undertake commercially reasonable measures in accordance with good construction practices to: (i) minimize damage, disruption, or inconvenience caused by the Construction (including to areas adjoining portions of Improvements and the surrounding property), (ii) minimize the risk of injury or damage to the Premises and the surrounding property, or the risk of injury or death to members of the public and (iii) make adequate provision for the safety of all Persons affected by any construction activities. Dust, noise and other effects of such work will be controlled in accordance with any applicable dust control ordinance and other effects of the Construction must be controlled using commercially reasonable methods customarily used to control deleterious effects associated with construction projects in populated or developed urban areas.

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(b) Reports and Information. During periods of Construction, Tenant shall submit to Port written progress reports when and as reasonably requested by Port.

(c) Construction Fencing and Barriers. Tenant shall provide appropriate construction barriers, construction signs and a project sign or banner, and shall post the signs on the Premises during the period of construction to the extent reasonably necessary to minimize the risk of hazardous construction conditions. Tenant will obtain a building permit from Port before the placement of any construction fencing, signage and/or barriers.

14.5. ***Port of San Francisco Union Iron Works Historic District***. Tenant expressly acknowledges that the Building is a contributing resource to the Port of San Francisco Union Iron Works Historic District at Pier 70 which is listed on the National Register of Historic Places. Accordingly, all interior and exterior Alterations (including but not limited to, any repair, alteration, improvement, or construction to the interior or exterior of the Building) are subject to review by Port for consistency with the design policies and criteria set forth in the Waterfront Land Use Plan, Design and Access Element, the Secretary of the Interior's Standards for the Treatment of Historic Properties, which are published by the National Park Service and posted on its website at http://www.nps.gov/history/hps/tps/Standards/index.htm (the "**Secretary's Standards"**) and summarized in the attached ***Exhibit I***. Tenant expressly agrees to comply with the Secretary's Standards for all current and future interior and exterior repair, alteration, improvement or construction.

14.6. ***Asbestos-containing Materials.*** Without limiting ***Section 18 below*** (Hazardous Materials), in the event that asbestos-containing materials ("**ACM"**) are determined to exist in or about the Premises, Tenant shall ensure that all Alterations and Improvements and any asbestos related work, as further defined in California Health & Safety Code Section 25914.1(b), is performed in compliance with all Laws relating to asbestos, including but not limited to, Cal-OSHA regulations found in Title 8 of the California Code of Regulations, Sections 1502 and 1529. Additionally, Tenant shall distribute notifications to all employees and contractors as required pursuant to California Health & Safety Code Sections 25915 et seq. informing them of the existence of ACM and that moving, drilling, boring, or otherwise disturbing ACM may present a health risk and should not be attempted by an unqualified employee. No Alterations or Improvements affecting ACM-containing areas or any asbestos related work shall be performed without Port's prior written consent in each instance.

14.7. ***Lead-Based Paint***. Tenant, on behalf of itself and its Agents or Invitees, shall comply with all requirements of the Port Building Code, Section 3424, and all other Laws, including, without limitation, the California and United States Occupational Health and Safety Acts and their implementing regulations, when the work of Alterations or Improvements disturbs or removes lead-based or presumed lead-based paint (as described below). Tenant and its Agents or Invitees shall give to Port three (3) business days prior written notice of any disturbance or removal of lead-based or presumed lead-based paint. Further, Tenant and its Agents or Invitees, when disturbing or removing lead-based or presumed lead-based paint, shall not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding or grinding without containment barriers or a High Efficiency Particulate Air filter ("**HEPA"**) local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers, without Port's prior written consent; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool, without Port's prior written consent; and (e) heat guns operating above 1,100 degrees Fahrenheit. Paint on the interior and exterior of buildings built before December 31, 1978, is presumed to be lead-based paint unless lead-based paint testing, as defined in Section 3424 of the Port Building Code, demonstrates an absence of lead-based paint on the surfaces of such buildings. Under this ***Section 14***, lead-based paint is "**disturbed or removed**" if the work of Alterations or Improvements involves any action that creates friction, pressure, heat or a chemical reaction upon any lead-based or presumed lead-based paint on an interior or exterior surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface.

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14.8. ***Title to Improvements; Removal of Improvements***. Provided that no Event of Default then exists, Tenant shall not be obligated to remove at the end of the Term, (a) any of the Initial Improvements that are listed on ***Attachment 3*** to the Work Letter, (b) any Subsequent Alteration where Port has agreed in writing (in the form of Schedule 6 or its written equivalent) that the applicable Subsequent Alteration may remain on the Premises at the end of the Term in the form of Schedule 6 or its written equivalent, or (c) Tenant's replacement of any of the items listed in the immediately foregoing sub-clauses (a) and (b) in connection with Tenant's obligation to maintain and repair as further described in ***Section 13.1***. During the Term, without limiting Tenant's obligations to maintain, repair and replace the Premises, Tenant will own the Initial Improvements, Subsequent Alterations and all Tenant's Property (except for any Subtenant's Property, which shall be owned by the applicable Subtenant). Tenant has the right at any time during the Term to remove Tenant's Property from the Premises; provided, however, that if the removal of Tenant's Property causes damage to the Premises, Tenant shall promptly cause the repair of such damage at no cost to Port. Unless Port has agreed that Tenant's Improvements and Alterations may remain on the Premises in the form of ***Schedule 6*** or its written equivalent and other than as set forth on Attachment 3 to the Work Letter, prior to the Expiration Date or earlier termination of this Lease, Tenant, at its own expense, must remove all Improvements and Alterations it constructed from the Premises in accordance with ***Section 30***. Any such removal is subject to the requirements of this Section, including the requirement to obtain a Port building or similar permit. Tenant shall promptly repair, at its own expense, in good and workmanlike fashion any damage occasioned thereby. If Tenant fails to complete any required demolition or removal on or before the expiration or earlier termination of this Lease, Port may perform such removal or demolition at Tenant's expense, and Tenant shall reimburse Port within three (3) business days after demand therefor. At the expiration or earlier termination of this Lease, title to any Improvements or Alterations that are allowed to remain on the Premises will vest in Port without further action of any party, and without compensation or payment to Tenant.

14.9. ***Removal of Non-Permitted Improvements***. If Tenant constructs any Alterations or Improvements without Port's prior written consent or without complying with this Section, then, in addition to any other remedy available to Port, Port may require Tenant to remove, at Tenant's expense, any or all such Alterations or Improvements and to promptly repair, at Tenant's expense and in good workmanlike fashion, any damage occasioned thereby. Tenant shall pay to Port all special inspection fees as set forth in any applicable building code, standard or regulation, including, without limitation, the Port Building Code, for inspection of work performed without required permits. The foregoing obligation of Tenant to reimburse Port for all cost and expenses incurred by Port in connection with Tenant's failure to comply with the provisions of this Section shall survive the expiration or earlier termination of this Lease.

14.10. ***All-Gender Toilet Facilities***. If applicable, Tenant shall comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of any new building on City-owned land and within existing buildings leased by the City, including the Premises, where extensive renovations are made. An "**all-gender toilet facility**" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and "**extensive renovations**" means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by this section. If Tenant has any question about applicability or compliance, Tenant should contact the Port's Property Manager for guidance.

14.11. ***Signs***. Tenant shall not install business signage, awnings or other exterior decoration or notices on the Premises without Port's prior written consent. Any sign that Tenant is permitted to place, construct or maintain on the Premises shall comply with all Laws relating thereto, including but not limited to, Port's Sign Guidelines, as revised by Port from time to time, and building permit requirements, and Tenant shall obtain all Regulatory Approvals required by such Laws. Port makes no representation with respect to Tenant's ability to obtain such

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Regulatory Approval. Tenant, at its sole cost and expense, shall remove all signs placed by it on the Premises at the expiration or earlier termination of this Lease.

14.12. ***Port's Alterations***. Port reserves the right at any time to make Alterations, additions, repairs, deletions or improvements to the Building, Building Systems, or adjacent Port property ("**Port Work**"). Port shall use commercially reasonable efforts to conduct any of the foregoing activities in a manner that, to the extent reasonably practicable, will minimize inconvenience or disturbance to Tenant; Port will have no obligation to minimize inconvenience or disturbance to Tenant for Port Work when the Port Work is necessary, in Port's sole and absolute discretion, to maintain Port property in a safe, hazard-free condition. In no event will inconvenience or disturbance caused by Port Work constitute an actual or constructive eviction of Tenant, entitle Tenant to any abatement or diminution of Rent, or otherwise relieve Tenant from any of its obligations under this Lease. Tenant hereby waives any and all Claims against Port, City and their Agents arising out of any inconvenience or disturbance occasioned by Port Work.

15. UTILITIES.

15.1. ***Utility Services***. Subject to the terms in the Basic Lease Information regarding the Interim Power Line and the Capacity Charges, Tenant, at its sole expense, must (i) arrange for the provision and construction of all on-site and off-site utilities necessary to construct, operate and use the Premises, (ii) be responsible for contracting with, and obtaining, all necessary utility and other services, as may be necessary and appropriate for the uses (it being acknowledged that City (including its San Francisco Public Utilities Commission ("**SFPUC**")) is the sole and exclusive provider to the Premises of certain public utility services), and (iii) maintain and repair all utilities serving the Premises to the point provided by the respective utility service provider (whether on or off the Premises). Tenant agrees and acknowledges that Port, in its proprietary capacity as owner of the Premises and landlord under this Lease, will not provide any utility services to the Premises or any portion of the Premises. Tenant also must coordinate with the respective utility service provider with respect to the installation of utilities, including providing advance notice to appropriate parties of trenching requirements. Tenant will purchase all electrical service (to the extent not provided by a PV System, if any) for the Improvements and the Premises from SFPUC unless SFPUC first determines that such service is not feasible for the Premises.

Tenant will pay or cause to be paid when due, all deposits, charges, meter installation fees, connection fees and other costs for all public or private utility services at any time rendered to the Premises or any part of the Premises, and will do all other things required for the maintenance, repair, replacement, and continuance of all such services. Tenant agrees, with respect to any public utility services provided to the Premises by City, that no act or omission of City in its capacity as a provider of public utility services, shall abrogate, diminish, or otherwise affect the respective rights, obligations and liabilities of Tenant and Port under this Lease, or entitle Tenant to terminate this Lease or to claim any abatement or diminution of Rent. Further, Tenant covenants not to raise as a defense to its obligations under this Lease, or assert as a counterclaim or cross-claim in any litigation or arbitration between Tenant and Port relating to this Lease, any Claim arising from or in connection with City's provision (or failure to provide) public utility services, except to the extent to preserve its rights under this Lease that failure to raise such claim in connection with such litigation would result in a waiver of such claim. The foregoing shall not constitute a waiver by Tenant of any claim it may now or in the future have (or claim to have) against any such public utility provider relating to the provision of (or failure to provide) utilities to the Premises.

15.2. ***Photovoltaic Panels***. Tenant shall have the right but not the obligation to install or cause to be installed on the roof(s) of buildings a photovoltaic energy generation facility for the generation and delivery of electrical energy to the Premises and if excess energy is available, potentially to other sites (the "**PV System**"). Before commencing installation of a PV System,

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Tenant must obtain Port's consent and all required permits and Regulatory Approvals for the PV System, which may include, among other things, approval by SHPO and requirements to strengthen the roof of the applicable building(s). The design, construction and installation of any PV System will be done in accordance with ***Section 14.2***.

15.3. ***Energy Consumption Disclosure***. Tenant consents to Tenant's utility service providers disclosing energy use data for the Premises to City for use under California Public Resources Code Section 25402.10, as implemented under California Code of Regulations Sections 1680–1685, and San Francisco Environment Code Chapter 20, as each may be amended from time to time (**"Energy Consumption Reporting Laws"**), and for such data to be publicly disclosed under the Energy Consumption Reporting Laws.

15.4. ***Waiver***. Tenant waives any benefits of any applicable Law, including the provisions of California Civil Code Section 1932(1) permitting the termination of this Lease due to any interruption or failure of utility services. The foregoing shall not constitute a waiver by Tenant of any claim it may now or in the future have (or claim to have) against any public utility provider relating to the provision of (or failure to provide) utilities to the Premises.

16. FLOOD RISK AND SEA LEVEL RISE.

16.1. ***Sea Level Rise***. The City's current sea level rise capital planning guidance can be found at https://onesanfrancisco.org/sites/default/files/inline-files/San_Francisco%20SLR_Guidance%20SLRTC%20REV%20TO%20CPC%20Jan%202020.pdf (the "**SLR Guidance"**).

16.2. ***Flood Protection Measures***. In addition to Tenant's obligations to comply with Laws under ***Section 11*** (Compliance with Laws) and to repair and maintain the Premises (including, but not limited to the structure and substructure under ***Section 13*** (Maintenance and Repairs)), if, at any time during the Term of this Lease, and subject to compliance with CEQA , the Chief Harbor Engineer ("**CHE**") determines in his or her regulatory capacity in accordance with applicable Laws that there is a need for temporary public access closures, sandbagging or similar temporary measures to minimize the risks associated with flooding ("**Flood Protection Measures**") at the Premises or proximate to the Premises to protect the Premises from a significant risk of flooding or other damage resulting from climate change or sea level rise, in order to protect public health and safety ("**CHE Determination**"), Tenant shall be responsible at no cost to Port for permitting, constructing and implementing any such Flood Protection Measures in the manner described in this Section. Tenant understands and agrees that it will not receive or seek rent credits or other compensation or consideration for any Flood Protection Measures and agrees that it will not seek additional term for the purpose of amortizing the cost of any Flood Protection Measures. Port and Tenant agree that a CHE Determination under this ***Section 16*** shall not be a Condemnation for purposes of this Lease.

If Tenant fails to implement any required Flood Protection Measures within the time required in the CHE Determination, Port shall provide Tenant with thirty (30) days written notice and the right to cure such failure. If Tenant fails to cure within the 30-day period, Port shall have the right but not the obligation to implement the measure(s) on Tenant's behalf following an additional thirty (30) days' written notice of Port's intent to do so (unless Tenant's failure to cure gives rise to an emergency which creates an imminent danger to public health or safety as determined by the CHE) and Tenant shall reimburse Port for its actual costs as Additional Rent.

16.3. ***Required Flood Protection Improvements for Other Port Property***. If the CHE determines that there is a need to install flood protection measures within the Premises to protect other Port property, Tenant shall cooperate by providing access and other reasonably requested assistance at no cost to Port. Nothing in this ***Section 16*** shall imply any duty upon the part of Port to perform any work that under this Lease Tenant may be required to perform, nor to place upon Port any obligation, or liability, for the care, supervision or repair of Port property outside the Premises.

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16.4. ***Limitations; Waiver***.

(a) No occurrence or situation arising during the Term, nor any present or future Law or circumstance, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant of its obligations under this ***Section 16***, nor give Tenant any right to terminate this Lease in whole or in part or to otherwise seek redress against Port except with respect to Tenant's right to terminate under the terms and conditions specified in ***Section 11.2*** (Change in Laws), ***Section 20*** (Damage and Destruction) or ***Section 21*** (Condemnation). Without waiving the right to terminate as provided in ***Section 11.2*** (Change in Laws), ***Section 20*** (Damage and Destruction) or ***Section 21*** (Condemnation), Tenant waives any rights now or later conferred upon it by any existing or future Law to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel Port to make any repairs to comply with any such Laws or on account of any such occurrence or situation.

(b) If the CHE determines that there is a need for Flood Protection Measures, the rights and obligations of the Parties shall be as set forth in this ***Section 16***. Accordingly, Port and Tenant each waive the provisions of Sections 1932(2) and 1933(4) of the California Civil Code and Sections 1265.110, 1265.120, 1265.130, and 1265.140 of the California Code of Civil Procedure as such sections may from time to time be amended, replaced, or restated. Notwithstanding the prior sentence, Port and Tenant do not intend to waive their rights under ***Section 11.2*** (Change in Laws), ***Section 20*** (Damage and Destruction) or ***Section 21*** (Condemnation).

16.5. ***Additional Improvements To Address Sea Level Rise***. At any time during the Term, Port or Tenant may propose optional additional improvements to be performed by Tenant, at its option in Tenant's sole discretion and at its cost that (i) are beyond the scope of the potential Flood Protection Measures contemplated in this Section; and (ii) are not otherwise Tenant's obligation under this Lease (including under ***Section 11*** (Compliance with Laws) and ***Section 13*** (Maintenance and Repairs). Tenant acknowledges that additional Regulatory Approvals will be required for such improvements.

17. LIENS.

Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant or its Agents. In the event that Tenant shall not, within twenty (20) days following the imposition of any such lien, cause the same to be released of record, Port shall have, in addition to all other remedies provided by this Lease or by Law, the right but not the obligation to cause the same to be released by such means as it shall deem proper, including without limitation, payment of the claim giving rise to such lien. All sums paid by Port for such purpose, plus interest at the Interest Rate, and all reasonable expenses incurred by Port in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Port by Tenant upon demand. Port shall have the right to post on the Premises any notices that Port may deem proper for the protection of Port or the Premises, from mechanics' and materialmen's liens. Tenant shall give to Port at least fifteen (15) days' prior written notice of commencement of any Alteration, repair or construction on the Premises. Tenant agrees to Indemnify Port, City and their respective Agents from and against any Claims for mechanic's, materialmen's or other liens in connection with any Alterations, repairs or construction on the Premises, or materials furnished or obligations incurred by or for Tenant.

Without limiting the foregoing, Tenant shall not create, permit or suffer any liens or encumbrances affecting any portion of the Premises or Port's interest therein or under this Lease.

18. HAZARDOUS MATERIALS.

18.1. ***Requirements for Handling***. Subject to ***Section 18.2(b)***, neither Tenant nor its Agents or Invitees may Handle or permit any other person to Handle any Hazardous Material in, on, under or about the Premises, or other Port property, subject only to the following exceptions, provided that Handling is at all times in full compliance with all Environmental Laws: janitorial,

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disinfectant, pest control, office, and other supplies and equipment in amounts customarily used for the Permitted Uses and subject to the Operations Plan.

18.2. ***Tenant Responsibility***.

(a) Generally. Subject to ***Section 18.2(b)***, Tenant agrees to protect its Agents and Invitees in its operations on the Premises from hazards associated with Hazardous Materials in accordance with all Environmental Laws and also agrees, for itself and on behalf of its Agents and Invitees, that during its use and occupancy of the Premises, each of them:

(i) will not permit any Hazardous Materials to be present in, on, under or about the Premises, or other Port property except as permitted under ***Section 18.1;***

(ii) will not cause or permit any Hazardous Material Condition; and

(iii) will comply with all Environmental Laws relating to the Premises and any Hazardous Material Condition, and will not engage in or permit any activity at the Premises, other Port property, or in the operation of any vehicles or vessels used in connection with the Premises in violation of any Environmental Laws.

(b) Other Port Property. Port agrees that with respect to "other Port property" only (in other words, on Port property other than the Premises) as such term is used under ***Sections 18.1 and 18.2(a)***, (i) without limiting any other agreement Tenant may have with Port, Tenant has no obligations to or for Tenant's Invitees on other Port property, and (ii) Tenant's obligations with respect to Tenant's Agents on other Port property arise only to the extent such Agent is performing work on Tenant's behalf or otherwise acting on Tenant's behalf in furtherance of the Permitted Uses under this Lease.

18.3. ***Tenant's Environmental Condition Notification Requirements***.

(a) Tenant must notify Port immediately, orally or by other means that will transmit the earliest possible notice to Port staff, followed within twenty-four (24) hours by written notice, of and when Tenant learns or has reason to believe Hazardous Materials were Released or, except as allowed under ***Section 18.1***, Handled, in, on, or about the Premises, other Port property, or the environment, or from any vehicles or vessels that Tenant or its Agents or Invitees use during Tenant's occupancy of the Premises, whether or not the Release or Handling is in quantities that would be required under Environmental Laws to be reported to an Environmental Regulatory Agency.

(b) Tenant must notify Port immediately, orally or by other means that will transmit the earliest possible notice to Port staff, followed within twenty-four (24) hours by written notice, and contemporaneously provide Port with an electronic copy, of:

(i) Any notice of the Release or Handling of Hazardous Materials, in, on, or about the Premises, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises that Tenant or its Agents or Invitees provides to an Environmental Regulatory Agency;

(ii) Any notice of a violation, or a potential or alleged violation, of any Environmental Law that Tenant or its Agents or Invitees receives from any Environmental Regulatory Agency;

(iii) Any other Environmental Regulatory Action that is instituted or threatened by any Environmental Regulatory Agency against Tenant or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, or about the Premises, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises;

(iv) Any Hazardous Material Claim that is instituted or threatened by any third party against Tenant or its Agents or Invitees and that relates to the Release or

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Handling of Hazardous Materials, in, on, or about the Premises, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises; and

(v) Any notice of the termination, expiration, or substantial amendment of any Environmental Regulatory Approval needed by Tenant or its Agents or Invitees for their operations at the Premises.

(c) Tenant must notify Port of any meeting, whether conducted face-to-face or telephonically, between Tenant and any Environmental Regulatory Agency regarding an Environmental Regulatory Action. Port will be entitled to participate in any such meetings at its sole election.

(d) Tenant must notify Port of any Environmental Regulatory Agency's issuance of an Environmental Regulatory Approval. Tenant's notice to Port must state the issuing entity, the Environmental Regulatory Approval identification number, and the date of issuance and expiration of the Environmental Regulatory Approval. In addition, Tenant must provide Port with a list of any plan or procedure required to be prepared and/or filed with any Environmental Regulatory Agency for operations on the Premises, including a "Spill Prevention Control and Countermeasure Plan." Tenant must provide Port with copies of any of the documents within the scope of this section upon Port's request.

(e) Tenant must provide Port with copies of all communications with Environmental Regulatory Agencies and all non-privileged communications with other persons regarding potential or actual Hazardous Material Claims arising from Tenant's or its Agents' or Invitees' operations at the Premises. Upon Port's request, Tenant must provide Port with a log of all communications withheld under a claim of privilege that specifies the parties to and subject of each withheld communication.

(f) Port may from time to time request, and Tenant will be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being Handled in a manner that complies with all Environmental Laws.

18.4. ***Requirement to Remediate***.

(a) Tenant's Remediation obligations under this subsection are subject to ***Sections 18.4(b)*** and ***18.4(c)***.

(i) After notifying Port in accordance with ***Section 18.3(a)***, Tenant must Remediate at its sole cost in compliance with all Environmental Laws and this Lease, any Hazardous Material Condition occurring during the Term or while Tenant or its Agents or Invitees otherwise occupy any part of the Premises. Tenant must obtain Port's approval of a Remediation work plan, whether or not required under Environmental Laws, then begin Remediation actions immediately following Port's approval of the work plan and continue diligently until Remediation is complete, as determined by Port, in its sole discretion.

(ii) In addition to its obligations under clause (i), before this Lease terminates for any reason, Tenant must Remediate at its sole cost in compliance with all Environmental Laws and this Lease: (A) any Hazardous Material Condition caused by Tenant's or its Agents' or Invitees' Handling Hazardous Materials during the Term; and (B) any Hazardous Material Condition discovered during Tenant's occupancy that any Regulatory Agency requires to be Remediated if Remediation would not have been required but for Tenant's use of or Changes to the Premises.

(iii) If Environmental Laws governing Remediation require a remedial action plan, Tenant must provide a draft of its plan to Port for comment and approval before submittal to the appropriate Environmental Regulatory Agency, and a copy of the final plan as submitted.

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(iv) In all situations relating to Handling or Remediating Hazardous Materials, Tenant must take all actions that are reasonably necessary in Port's sole judgment to protect the value of the Premises , such as obtaining Environmental Regulatory Approvals related to Hazardous Materials and taking measures to remedy any deterioration in the condition or diminution of the value of any portion of the Premises in any manner related directly or indirectly to Hazardous Materials.

(b) Unless Tenant or its Agents or Invitees Exacerbate the Hazardous Material Condition, and subject further to ***Section 18.4(c)***, Tenant will not be obligated to Remediate any Hazardous Material Condition: (i) caused solely by City, Port, or their Agents during Tenant's occupancy of the Premises; or (ii) arising before the Commencement Date or the date of Tenant's first use of the Premises under the Prior Licenses, whichever is earlier.

(c) Tenant will not be obligated to Remediate any Hazardous Material Condition on other Port property (in other words, on Port property other than the Premises) (i) caused by Tenant's Agent's acts, omissions or negligence on other Port Property, unless at the time such Hazardous Material Condition was caused or Exacerbated, such Agent was performing work directly or indirectly on Tenant's behalf or otherwise acting directly or indirectly on Tenant's behalf in furtherance of the Permitted Uses under this Lease; or (ii) caused by Tenant's Invitee's acts, omissions or negligence on other Port Property.

18.5. ***Port's Right to Audit***. Port will have the right, but not the obligation, to inspect and audit the Premises for any Hazardous Materials, including the right to Investigate, at reasonable times under ***Section 29*** (Port's Entry on Premises). Port's failure to inspect or obtain samples or to detect conditions attributable to Tenant's operations if an inspection is conducted may not be deemed to be a release of any liability for any Hazardous Materials subsequently determined to be Tenant's responsibility under this Lease.

18.6. ***Notification of Asbestos***. Port hereby notifies Tenant, in accordance with the OSHA Asbestos Rule (1995), 59 Fed. Reg. 40964, 29 CFR §§ 1910.1001, 1926.1101 (as amended, clarified and corrected) (OSHA Asbestos Rule); California Health and Safety Code §§ 25915-259.7 and Cal-OSHA General Industry Safety Order for Asbestos, 8 CCR § 5208, of the presence of asbestos-containing materials ("**ACMs"**) and/or presumed asbestos-containing materials ("**PACMs**") (as such terms are defined in Cal-OSHA General Industry Safety Order for Asbestos), in the locations identified in the summary/table, if any, set forth in ***Schedule 4*** attached hereto.

This notification by Port is made pursuant to a building inspection survey(s), if any, performed by Port or its contractors qualified to perform an asbestos building survey identified in the summary/table, if any, set forth in ***Schedule 4*** attached hereto. Such survey(s), monitoring data and other information are kept at Port of San Francisco, Pier 1, San Francisco, California, 94111 and are available for inspection upon request.

Tenant hereby acknowledges receipt of the notification specified in the first paragraph of ***Section 18.6*** hereof and the notice or report attached as ***Schedule 4*** hereto and understands, after having consulted its legal counsel, that it must make its employees and contractors aware of the presence of ACMs and/or PACMs in or about the Premises in order to avoid or minimize any damage to or disturbance of such ACMs and/or PACMs. Tenant further acknowledges its obligations under Cal-OSHA General Industry Safety Order for Asbestos to provide information to its employees and contractors regarding the presence of ACMs and PACMs at the Premises and to provide a training program for its employees that conforms with 8 CCR § 5208(j)(7)(C).

Tenant agrees that its waiver of Claims set forth in ***Section 22*** (Indemnity and Exculpation) is given with full knowledge of the presence, or possibility, of asbestos in or about the Premises and the potential consequences of such fact. Tenant is aware that the presence, or possibility, of asbestos in or about the Premises may limit Tenant's ability to construct Improvements and Alterations to the Premises without Tenant first performing abatement of such

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asbestos. The presence of asbestos in the Premises and the removal or non-removal by Port of all or a portion of the asbestos, shall not, however, (i) entitle Tenant to any Claim, (ii) relieve Tenant of any of its obligations hereunder, including without limitation the obligation to pay Rent, or (iii) constitute or be construed as a constructive or other eviction of Tenant.

Notwithstanding any other provisions of this Lease, Tenant agrees to Indemnify Port for Tenant's acts or omissions that result in (1) asbestos-related enforcement actions, including both administrative or judicial proceedings, and (2) any Claims arising from an alleged violation of Cal-OSHA General Industry Safety Order for Asbestos and/or exposures to asbestos.

18.7. ***Notification of Lead***. Port hereby notifies Tenant of the potential presence of lead-containing and presumed lead-containing materials in the Premises. Disturbance or removal of lead is regulated by, among other Laws, 29 CFR §§ 1910.1025, 1926.62; California Health & Safety Code §§ 105185-105197 and 105250-105257; Cal-OSHA Construction Safety Order for Lead, Title 8 CCR § 1532.1; Title 17 CCR Chapter 8; and Port Building Code § 3424.

Tenant agrees that its waiver of Claims set forth in ***Section 22*** (Indemnity and Exculpation) is given with full knowledge of the presence, or possibility, of lead in or about the Premises and the potential consequences of such fact. Tenant is aware that the presence, or possibility, of lead in or about the Premises may limit Tenant's ability to perform any Improvements or Alterations to the Premises without Tenant first performing abatement of such lead. The presence of lead in the Premises and the removal or non-removal by Port of all or a portion of the lead, whether in the Premises, shall not, however, (i) entitle Tenant to any Claim, (ii) relieve Tenant of any of its obligations hereunder, including without limitation the obligation to pay Rent, or (iii) constitute or be construed as a constructive or other eviction of Tenant. Notwithstanding any other provisions of this Lease, Tenant agrees to Indemnify Port for its acts or omissions that result in (1) lead-related enforcement actions, including both administrative or judicial proceedings, and (2) any Claims arising from an alleged violation of Cal-OSHA Construction Safety Order for Lead and/or exposures to lead.

18.8. ***Storm Water Pollution Prevention***.

(a) Tenant must comply with the applicable provisions of the Statewide General Permit for Discharge of Industrial Storm Water issued by the State Water Resources Control Board, including filing a Notice of Intent to be covered, developing and implementing a site-specific Storm Water Pollution Prevention Plan ("**SWPPP**"), and conducting storm water monitoring and reporting. Tenant's SWPPP and a copy of a Notice of Intent for Tenant's Premises must be submitted to Port's Real Estate Division before beginning operations on the Premises.

(b) Post-Construction Requirements. In addition to requiring compliance with the permit requirements under Subsection (a), Tenant shall comply with the post-construction stormwater control provisions of the Statewide General Permit for Discharge of Stormwater from Small Municipalities and the San Francisco Stormwater Management Requirements and Design Guidelines, subject to review and permitting by the Port.

18.9. ***Presence of Hazardous Materials***. California Law requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, Tenant is hereby advised that Hazardous Materials (as herein defined) may be present on or near the Premises, including, but not limited to, vehicle fluids, janitorial products, tobacco smoke, and building materials containing chemicals, such as asbestos, naturally-occurring radionuclides, lead and formaldehyde. Further, the following known Hazardous Materials are present on the property: , naturally occurring asbestos, contamination commonly found in fill, petroleum contamination, lead-based paint, etc. and the Hazardous Materials described in the reports listed in ***Schedule 4***, copies of which have been delivered to or made available to Tenant. By execution of this Lease, Tenant acknowledges that the notice set forth in this section satisfies the requirements of California Health and Safety Code Section 25359.7 and related Laws. Tenant

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must disclose the information contained in this ***Section 18.9*** to any subtenant, licensee, transferee, or assignee of Tenant's interest in this Lease. Tenant also acknowledges its own obligations pursuant to California Health and Safety Code Section 25359.7 as well as the penalties that apply for failure to meet such obligations.

18.10. ***Survival***. Tenant's obligations under ***Section 18*** shall survive the expiration or earlier termination of this Lease.

For purposes of this ***Section 18***, the term "**Commencement Date**" shall mean the commencement date of the Prior Licenses.

19. INSURANCE.

19.1. ***Required Insurance Coverage***. Tenant, at its sole cost and expense, shall maintain, or cause to be maintained, throughout the Term, starting on the earlier of Tenant's occupancy under this Lease or the Commencement Date, the following insurance:

(a) Builders Risk Insurance. At all times during construction before Completion of the Initial Improvements, and during any period of Subsequent Alteration costing more than Five Hundred Thousand Dollars ($500,000) (increased annually by three percent (3%)), Tenant shall maintain, or require to be maintained, on a form reasonably approved by Port, builders risk insurance (or its equivalent for any Subsequent Alteration, which may include coverage under a property insurance program as referenced under ***Section 19.1(b)***)in the amount equal to the 100% replacement cost value of any existing structures being Rehabilitated or Restored, and 100% of all new construction, including all materials and equipment to be used/incorporated on or about the Premises, and in transit or storage off-site, against all risk or "special form" hazards, and earthquake and flood insurance (subject to ***Section 19.1(b)***) including risks from any and all testing of any equipment, including as named insureds, Port and Tenant, with any deductible not to exceed Two Hundred Fifty Thousand ($250,000) (except as to earthquake and flood insurance for which the deductible will be in accordance with the requirements of ***Section 19.1(b)***). Such builders risk insurance also shall extend to cover soft costs and loss of business income for any delayed completion period as caused by any of the perils or hazards set forth in and required to be insured pursuant to ***Section 19.1(a)***, for a delay period of not less than two (2) years with a limit of not less than One Million Dollars ($1,000,000). If available at commercially reasonable rates, such builders risk insurance also shall extend to cover the peril of terrorism.

(b) Property Insurance; Earthquake and Flood Insurance.

(1) Upon Completion of the Initial Improvements, and upon Completion of Subsequent Alteration of any additional Improvements, Tenant will maintain all risk property insurance policies, in an amount not less than 100% of the then-current full replacement cost of the Premises, including the Building and any Improvements thereon, foundations, pilings, excavations, and footings, including soft costs and increased cost of construction and demolition of damaged and undamaged structures due to the enforcement of Laws, (with any deductible not to exceed Two Hundred Fifty Thousand Dollars ($250,000). Such property insurance shall name Port as loss payee as its interest may appear. If available at commercially reasonable rates, such insurance shall extend to cover the peril of terrorism.

(2) Earthquake Insurance.

(A) During construction of the Initial Improvements, earthquake insurance will be in an amount equal to at least the lesser of (i) the Probable Maximum Loss to the Initial Improvements or, (ii) the maximum amount that is available at commercially reasonable rates from recognized insurance carriers (with a deductible of up to but not to exceed ten percent (10%) of the then-current, full replacement cost of the Initial Improvements without sublimits for excavations and footings; provided that earthquake coverage is available at commercially reasonable rates, except that a greater deductible will be permitted to the extent that such coverage is not available from recognized insurance carriers or at commercially

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reasonable rates). **"Probable Maximum Loss"** means the scenario upper loss (SUL) estimate of damage that may occur to the structures with a ninety percent (90%) confidence of non-exceedance as a result of an earthquake with a return period of 224 years as determined before Completion of the Initial Improvements and thereafter not less frequently than every ten (10) years by a consultant chosen and paid for by Tenant who is reasonably satisfactory to Port; and

(B) From and after the issuance of a Certificate of Final Completion and Occupancy for the Building, earthquake insurance will be in an amount equal to at least the lesser of (i) the Probable Maximum Loss to the Improvements, or (ii) the amount that is available at commercially reasonable rates from recognized insurance carriers, in each case, with a deductible of up to but not to exceed an amount that is necessary to make such earthquake insurance available at a commercially reasonable rate.

(3) Flood Insurance.

(A) During construction of the Initial Improvements, flood insurance will be in an amount, to the extent available at commercially reasonable rates from recognized insurance carriers (or through the NFIP if available) equal to the maximum amount of the then-current, full replacement cost of the Initial Improvements (including building code upgrade coverage and without any deduction being made for depreciation), with a deductible of up to but not to exceed ten percent (10%), except that a greater deductible will be permitted to the extent that flood coverage is not available from recognized insurance carriers (or through the NFIP) at commercially reasonable rates; and

(B) From and after the issuance of a Certificate of Final Completion and Occupancy for the Building, flood insurance will be in an amount equal to at least the amount available at commercially reasonable rates from recognized insurance carriers or through the NFIP, with a deductible of up to but not to exceed an amount that is necessary to make flood insurance available at commercially reasonable rates.

(4) Exceptions for Earthquake and Flood Insurance. If Tenant determines that earthquake or flood insurance should not be carried on the Improvements because it is not (or no longer) available at commercially reasonable rates (or through the NFIP for flood insurance) or, in Tenant's reasonable business judgment, is imprudent, then Tenant will request in writing Port's consent to the absence or deletion thereof. Any request for Port's consent required under this Section will include with such request evidence supporting Tenant's determination of commercial unreasonableness or imprudence as to the applicable coverage. Such evidence may include quotes, declinations, and notices of cancellation or non-renewal from leading insurance companies for the required coverage, percentage of overall operating expenses attributable thereto, and then current industry practice for comparable mixed-use/retail/office projects in San Francisco. Port will approve or disapprove the absence or deletion of earthquake or flood insurance within forty-five (45) days after Tenant's request. If Port disapproves such request, Port will state the basis for its disapproval. If Tenant elects not to carry or to discontinue such coverage with Port's approval, and Port later determines that due to changes in the industry or other changed circumstances, earthquake insurance or flood insurance, as applicable, has become commercially available at reasonable rates, then Port may notify Tenant thereof, and Tenant will add such coverage to its policy as soon as reasonably practicable thereafter.

(c) Commercial General Liability Insurance. Tenant will maintain, or require to be maintained "**Commercial General Liability**" insurance with coverage at least as broad as Insurance Services Office form CG 00 01 10 93 (or its replacement) insuring against claims for bodily injury (including death), property damage, personal injury and advertising injury, including coverage for premises operations, blanket contractual liability (to the extent possible under the above-referenced policy form or under a separate policy form) that includes coverage extending to the Indemnity in ***Section 22***, broad form property damage, explosion, collapse and underground hazards, independent contractors, products and completed operations, with such

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insurance to afford protection in an amount not less than Ten Million Dollars ($10,000,000) per occurrence and annual aggregate, and Ten Million Dollars ($10,000,000) products and completed operations aggregate, and deleting any exclusions for care, custody and control of real property. In addition, if Tenant has (or is required under Laws to have) a liquor license and is selling or distributing alcoholic beverages on the Premises, then Tenant will maintain or require to be maintained liquor liability coverage with limits not less than Three Million Dollars ($3,000,000) and Tenant will require any Subtenant or operator who has (or is required under Laws to have) a liquor license and who is selling or distributing alcoholic beverages on the Premises, to maintain such coverage. If applicable, then comprehensive or commercial general liability insurance must include Food Products Liability Insurance with limits not less than One Million Dollars ($1,000,000) each occurrence.

(d) Workers' Compensation Insurance. During any period in which Tenant has employees, as defined in the California Labor Code, Tenant will maintain or require to be maintained policies of workers' compensation insurance providing statutory limits, including employer's liability coverage with limits not less than One Million Dollars ($1,000,000) each accident, disease or illness.

(e) Personal Property Insurance. Tenant, at its sole cost and expense, shall procure and maintain on all of Tenant's Property and Alterations, in, on, or about the Premises, and shall require each of its Subtenants to procure and maintain, personal property insurance on an all risk form, excluding earthquake and flood, in an amount not less than full replacement value or a stated value, at Tenant's sole discretion, for the replacement of Tenant's Property/Subtenant's Property. In addition to the foregoing, Port may, in its sole discretion, insure any personal property leased to Tenant by Port pursuant to this Lease in such amounts as Port deems reasonably appropriate and Tenant shall have no interest in the proceeds of such personal property insurance. Port shall have no responsibility or obligation to maintain insurance or replace Tenant's Property or Subtenant's Property, Alterations, or any Improvements regardless of cause of loss.

(f) Boiler and Machinery Insurance. Tenant will maintain, or require to be maintained, boiler and machinery insurance covering damage to or loss or destruction of machinery and equipment, whether integrated into or independent from the structure, located in, on, under, around, or about the Premises that is used by Tenant for heating, ventilating, air-conditioning, power generation and similar purposes, in an amount not less than one hundred percent (100%) of the actual replacement value of such machinery and equipment.

(g) Business Automobile Insurance. Tenant will maintain, or require to be maintained, policies of business automobile liability insurance covering all owned, non-owned or hired motor vehicles (including electric carts) to be used by Tenant and its Agents in connection with Tenant's use and occupancy of the Premises, affording protection for bodily injury (including death) and property damage in the form of Combined Single Limit Bodily Injury and Property Damage policy with limits of not less than Five Million Dollars ($5,000,000) per accident and annual aggregate.

(h) Business Income Insurance. From and after the issuance of a Certificate of Final Completion and Occupancy, Tenant will maintain business income insurance, including loss of rents and extra expense caused by any of the perils or hazards set forth in and required to be insured pursuant to ***Section 19.1(b)*** covering an interruption period of not less than two (2) years, with a limit of not less than twenty-four (24) months' of Gross Revenues.

(i) Contractor's Pollution Legal Liability Insurance. Tenant will cause to be maintained during the period of construction of the Initial Improvements and during any periods of Subsequent Alteration, Contractor's Pollution Legal Liability Insurance for any and all Claims caused by pollution conditions, that are sudden, accidental or gradual, resulting from the contractor's operations, or for which contractor is legally liable, in connection with the construction of the Initial Improvements or Subsequent Alteration, whether such operations be

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by Tenant or Tenant's contractors, subcontractors, consultants or suppliers of the contractor. The foregoing policy will contain minimum liability limits of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) in the aggregate with a deductible not to exceed Two Hundred Fifty Thousand Dollars ($250,000). The foregoing policy will at a minimum contain coverage for or be specifically endorsed to include coverage for pollution conditions resulting in, arising from or in connection with: (i) bodily injury (including death), property damage and environmental cleanup costs (on-site and off-site) resulting from construction of the Initial Improvements or any Subsequent Alteration; (ii) the use or operation of motor vehicles (whether owned, non-owned or leased) in connection with construction of the Initial Improvements or any Subsequent Alteration, including transportation of any Hazardous Materials to or from the project site, including any interim or temporary storage or transfer sites (such transportation coverage will also include loading/unloading of materials); (iii) claims by third parties (other than a disposal site owner) for bodily injury or property damage arising from any disposal location or facility, both final and temporary, to which any waste that is generated in connection with the construction of the Initial Improvements or any Subsequent Alteration under this Lease or in connection with any Remediation obligation of Tenant pursuant to ***Section 18*** is delivered; all such disposal locations/facilities, both final and temporary, will be scheduled to the foregoing policy as Non-Owned Disposal Sites for coverage under such policy. The foregoing policy will be written on an occurrence form and be in effect during the construction periods described above, or, if not available on an occurrence form, then on a claims-made form. If the foregoing policy is written on a claims made form, then the foregoing policy will be maintained for, or contain an extended reporting period of, at least five (5) years. The foregoing policy definition of "Covered Operations" or any other such designation of services or operations performed by Tenant's contractors must include all work or services performed by Tenant's contractors and their respective subcontractors, consultants, or suppliers.

(j) Professional Liability. Tenant will maintain or require to be maintained, professional liability (errors and omissions) insurance, with limits not less than Five Million Dollars ($5,000,000) each claim and annual aggregate, with respect to all professional services, including architectural, engineering, geotechnical, and environmental, reasonably necessary or incidental to the construction of the Initial Improvements and any Subsequent Alteration with any deductible not to exceed Fifty Thousand Dollars ($50,000) each claim (the **"lead policy"**). Notwithstanding the foregoing, however, Tenant may elect, instead of obtaining the foregoing coverages in this ***Section 19.1(j)***, to require that any architects, contractors and sub-contractors performing professional services in connection with the Initial Improvements or any Subsequent Alteration carry professional liability insurance (errors and omissions) in an amount not less than Five Million Dollars ($5,000,000) each claim and annual aggregate with any deductible not to exceed Fifty Thousand Dollars ($50,000). Such insurance will provide coverage during the period when such professional services are performed and for a period of (A) three (3) years after issuance of a Certificate of Final Completion and Occupancy for the Initial Improvements and (B) five (5) years for any Subsequent Alteration. With respect to Subsequent Alteration, Tenant will require that any architect, contractor or subcontractor performing professional services in connection with such Subsequent Alteration, carry professional liability insurance (errors and omissions) in an amount not less than One Million Dollars ($1,000,000) each claim and annual aggregate with any deductible not to exceed Twenty Five Thousand Dollars ($25,000).

(k) Crime policy. Crime policy or fidelity bond covering Tenant's officers and employees against dishonesty with respect to funds provided by Port, in the amount of Seventy Five Thousand Dollars ($75,000) each loss, with any deductible not to exceed Fifty Thousand Dollars ($50,000) each loss.

(l) Special Events/Participants. Tenant, at its sole cost and expense, shall procure and maintain Special Events/Participants Liability (GL) coverage insurance acceptable to Port, with limits not less than One Million Dollars ($1,000,000.00).

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(m) Abuse and Molestation. Abuse and molestation coverage with minimum limits of $2,000,000 per occurrence and $4,000,000 in the aggregate. Coverage may be held as a separate policy or included by endorsement in the Commercial General Liability or Errors and Omissions policy.

(n) Other Coverage. Not more often than every year and upon not less than sixty (60) days prior written notice, Port may require Tenant to increase the insurance limits set forth above or to provide other coverage and/or different coverage amounts as may be required by Law, the City's Risk Manager or as is generally required by commercial owners of buildings similar in size, character, age and location as the Premises with respect to risks comparable to those associated with the use of the Premises.

19.2. ***Claims-Made Policies***. If any of the insurance required in ***Section 19.1 above*** is provided under a claims-made form of policy, Tenant shall maintain such coverage continuously throughout the Term and without lapse for a period of three (3) years beyond the termination of this Lease, to the effect that should occurrences during the Term give rise to claims made after termination of this Lease, such claims shall be covered by such claims-made policies.

19.3. ***Annual Aggregate Limits***. If any of the insurance required in ***Section 19.1 above*** is provided under a form of coverage which includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be double the occurrence limits specified herein.

19.4. ***Payment of Premiums***. Tenant shall pay the premiums for maintaining all required insurance.

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

19.6. ***General Insurance Matters***.

(a) All liability insurance policies required to be maintained by Tenant hereunder shall contain a cross-liability clause, shall name as additional insureds by written endorsement the "**CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO PORT COMMISSION AND THEIR COMMISSIONERS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS**," shall be primary and non-contributory to any other insurance available to the additional insureds with respect to claims arising under this Lease, and shall provide that such insurance applies separately to each insured against whom complaint is made or suit is brought except with respect to the limits of the company's liability.

(b) Tenant may satisfy the limits set forth in ***Section 19.1*** by any combination of primary and excess insurance policies. All insurance policies required to be maintained by Tenant hereunder shall be issued by an insurance company or companies reasonably acceptable to Port with an AM Best rating of not less than A-VIII and authorized to do business in the State of California. Tenant's compliance with this Section shall in no way relieve or decrease Tenant's liability under this Lease.

(c) Tenant shall provide thirty (30) days prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to Port.

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(d) Tenant shall deliver to Port certificates of insurance, additional insured policy endorsements and waiver of subrogation endorsements in a form satisfactory to and at the direction of Port, such as hard copy documentation or use of an internet-based insurance compliance tracking systems such as EXIGIS, evidencing the coverages required herein, together with evidence of payment of premiums, on or before the Commencement Date, and upon renewal of each policy not less than thirty (30) days before expiration of the term of the policy. If Port is using an internet-based insurance compliance tracking system, Tenant's broker shall complete the insurance questionnaire and submit all required documentation. Tenant shall, upon Port's request, promptly furnish Port with a complete copy of any insurance policy required hereunder.

20. DAMAGE OR DESTRUCTION

20.1. ***General; Notice; Waiver***.

(a) General. If at any time during the Term any damage or destruction occurs to all or any portion of the Premises from fire or other casualty (each a **"Casualty"**), the rights and obligations of the Parties shall be as set forth in this ***Section 20***.

(b) Notice. If there is any Casualty (i) which would materially impair use or operation of any material portion of the Improvements for their intended purpose for a period of thirty (30) days or longer, or (ii) the repair of which would exceed in an individual instance the amount of One Hundred Thousand Dollars ($100,000) (increased annually by three percent (3%)), or aggregate amount of Two Hundred Fifty Thousand Dollars ($250,000) (which amount includes both hard and soft costs of a Restoration, increased annually by three percent (3%)), Tenant shall promptly, but not more than ten (10) days after the occurrence of any such Casualty, give written notice thereof to Port describing with as much specificity as is reasonable, the nature and extent of the damage from such Casualty **("Casualty Notice")**.

(c) Waiver. The Parties intend that this Lease fully govern all of their rights and obligations in the event of any Casualty. Accordingly, Port and Tenant each hereby waive the provisions of Sections 1932(2), 1933(4), 1941 and 1942 of the California Civil Code, as such sections may from time to time be amended, replaced, or restated.

20.2. ***No Release of Tenant's Obligations***. Except as set forth in ***Section 20.4***, no damage to or destruction of the Premises or any part thereof from any Casualty event shall permit Tenant to surrender this Lease or relieve Tenant from any obligations, including the obligation to pay Rent. In the event of any damage or destruction to the Improvements that does not result in a termination of this Lease, and at all times before completion of Restoration, Tenant shall pay to Port all Rent at the times and in the manner described in this Lease. If this Lease shall not terminate pursuant to this ***Section 20***, proceeds of rental interruption or business interruption insurance shall be applied first to unpaid Rent due or coming due before completion of the Restoration and then to costs of Restoring the Premises with any remaining balance to be retained by Tenant. If this Lease shall terminate pursuant to this ***Section 20***, proceeds of rental interruption or business interruption insurance shall be applied first to unpaid Rent coming due before termination of this Lease and then such proceeds shall be distributed pursuant to ***Section 20.4(b).***

20.3. ***Tenant's Obligation to Restore***. Except in the event of an Uninsured Casualty or Major Casualty for which Tenant elects to terminate this Lease, under ***Section 20.4***, if all or any portion of the Improvements are damaged or destroyed by Casualty, Tenant shall promptly (allowing for securing necessary Regulatory Approvals), commence and diligently Restore the Improvements to the condition they were in immediately before such Casualty in accordance with then applicable Laws (including any required code upgrades, the Secretary's Standards and Port's Sign Guidelines), without regard to the amount or availability of insurance proceeds, subject to Force Majeure. All Restoration shall be performed in accordance with the procedures set forth in ***Section 14*** relating to Alterations and shall be at Tenant's sole expense. In

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connection with any Restoration, the Improvements may be redesigned, made larger or smaller, reconfigured, or otherwise modified, provided that the Improvements as so redesigned (i) are at least equivalent in quality, appearance, public safety, and durability to and in all respects consistent with the Building as improved with the Initial Improvements and any Subsequent Alterations prior to the Casualty subject to the Permitted Uses and (ii) allow the Permitted Uses to continue without material adverse effect on such uses.

20.4. ***Major Casualty or Uninsured Casualty***.

(a) Tenant's Election to Restore or Terminate. If an event of Major Casualty occurs at any time during the Term, or if a change in Laws has occurred which prohibits the Premises from being rebuilt for the Permitted Uses, or if an event of Uninsured Casualty occurs at any time during the Term (other than as set forth in ***Section 20.4(c)***), then within ninety (90) days following Tenant's delivery to Port of the Casualty Notice, Tenant shall notify Port of Tenant's election to: (1) commence and complete Restoration of the Improvements, or (2) terminate this Lease (subject to ***Section 20.4(b)***). All Restoration shall be in accordance with the procedures set forth in ***Section 14*** relating to Alterations and shall be at Tenant's sole expense, except as provided in ***Section 20.4(c)***.

"Major Casualty" means a Casualty event that (i) would require the expenditure of more than Two Million Dollars ($2,000,000) (increased annually by three percent (3%)), (ii) would require more than two hundred seventy (270) days inclusive of the time to obtain Regulatory Approvals) for completion of the Restoration, or (iii) would prohibit the Premises from being Restored to a design and condition (a) that is substantially similar to the Building (as improved by the construction of the Initial Improvements and any Subsequent Alterations) or (b) that allows for the Permitted Uses to continue without material adverse effect thereon.

"Uninsured Casualty" means any of the following: (i) a Casualty event occurring at any time during the Term for which the costs of Restoration (including the cost of any required code upgrades) are not insured or insurable under the policies of insurance that Tenant is required to carry under ***Section 19*** and such costs exceed Three Hundred Fifty Thousand Dollars ($350,000) (increased annually by three percent (3%)); or (ii) a Casualty event occurring at any time during the Term which is covered under Tenant's policies of insurance that Tenant is required to carry under ***Section 19*** but where the cost of Restoration (including the cost of any required code upgrades) will exceed the sum of (A) the net proceeds of any insurance payable, (B) the amount of any applicable policy deductibles, and (c) Three Hundred Fifty Thousand Dollars ($350,000) (increased annually by three percent (3%)). Any Casualty event not insured due to Tenant's failure to maintain the requisite insurance policies under ***Section 19*** shall not be considered an Uninsured Casualty. As to any Casualty caused by earthquake or flood, the amount of such policy deductible shall be deemed to be the lesser of the amount of the policy deductible for non-earthquake or flood damage under Tenant's property insurance policy maintained under ***Section 22*** as of the date of Casualty, or the actual amount of such policy deductible.

(b) Conditions to Termination. As a condition precedent to Tenant's right to terminate this Lease in accordance with ***Section 20.4(a)***, there shall be no uncured Tenant Event of Default and Tenant shall do all of the following:

(i) The Casualty Notice shall include the estimated cost of Restoration and with respect to the Uninsured Casualty only, the amount by which the estimated cost of Restoration (or time needed to Restore) exceeds insurance proceeds payable (or those insurance proceeds which would have been payable but for Tenant's failure to maintain insurance required to be maintained hereunder); and

(ii) Pay or cause to be paid the following amounts from all insurance proceeds arising from each Casualty promptly following receipt of such proceeds, in the following order of priority:

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(1) First, to Port (or Tenant, if such work is performed by, or on account of, Tenant at its cost) for the actual costs incurred for any work required to alleviate any conditions caused by such Casualty that could cause an immediate or imminent threat to the public safety and welfare or damage to the environment, including any demolition or hauling of rubble or debris;

(2) Second, to Port, for all accrued and unpaid amounts owed to Port, if any, by Tenant;

(3) Third, to each Permitted Mortgagee, in order of priority, a portion of the remaining casualty insurance proceeds arising out of or in connection with the Casualty causing such Major Damage or Uninsured Casualty in an amount not to exceed the aggregate amounts then owed to each such Permitted Mortgagee; and

(4) Fourth, to Port and Tenant as follows: the balance of the insurance proceeds shall be divided proportionately between Port, for the value of Port's reversionary interest in the Premises and the Improvements (in their condition immediately prior to the Casualty event), as of the date the Term would have expired but for the Casualty, and Tenant, for the value of the Improvements for the remaining unexpired portion of the Term (in their condition immediately prior to the Casualty event); and

(iii) Pay to Port any Rent due and payable as of the proposed termination date (to the extent any Rent due and payable remains unpaid after application of insurance proceeds pursuant to ***Section 20.4(b)(ii)(2)***; and

(iv) Upon termination in accordance with this ***Section 20***, Tenant shall deliver possession of the Premises to Port and quitclaim to Port all right, title and interest in the Premises and in any remaining Improvements.

(c) Port's Election Upon Notice of Termination. Notwithstanding ***Section 20.4(a)***, if Tenant elects to terminate this Lease solely due to an Uninsured Casualty, then within sixty (60) days after Port's receipt of the Casualty Notice, Port may elect by giving written notice to Tenant, to continue this Lease and pay the amount to Tenant by which the cost of Restoration will exceed the net proceeds of any insurance payable under the policies of insurance that Tenant is required to carry under ***Section 19*** (or which would have been payable but for Tenant's failure to maintain such insurance) by more than Three Hundred Fifty Thousand Dollars ($350,000) (increased annually by three percent (3%)). If Port elects to continue this Lease as set forth in this ***Section 20.4(c)***, then notwithstanding Tenant's election to terminate this Lease, this Lease shall not be terminated and Tenant shall be obligated to Restore the Premises in accordance with ***Section 20.3***.

20.5. ***Date and Effect of Termination***. If Tenant elects to terminate this Lease under ***Section 20.4(a)***, and Port elects not to continue this Lease under ***Section 20.4(c)***, then, on the date that Tenant shall have fully complied with all provisions of ***Section 20.4(b)*** to the reasonable satisfaction of Port, this Lease shall terminate. Upon such termination, the Parties shall be released thereby without further obligations to the other party as of the effective date of such termination; provided, however, that the Indemnification provisions and any other provisions that explicitly state they will survive expiration or earlier termination of this Lease shall survive any such termination. Any rights of Tenant or Port to receive insurance proceeds in accordance with the provisions of this Lease will survive the termination of this Lease.

20.6. ***Distribution Upon Lease Termination***. If Tenant is obligated to and fails to Restore the Improvements as provided herein and commits an Event of Default in failing to Restore the Improvements and this Lease is thereafter terminated due to such Event of Default, all insurance proceeds held by Port, Tenant and any Permitted Mortgagee, or not yet collected, shall be paid to and retained by Port, subject to the rights of Permitted Mortgagees, if any.

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20.7. ***Use of Insurance Proceeds***. Except in the event of termination of this Lease in accordance with ***Section 20.4***, all all-risk coverage insurance proceeds, earthquake and flood proceeds, boiler and machinery insurance proceeds, and any other insurance proceeds paid to Tenant by reason of Casualty (other than business or rental interruption insurance), must be used by Tenant for Restoration of the Premises.

20.8. ***Arbitration of Disputes***.

(a) Estimators. In the event Port and Tenant cannot mutually agree upon the cost of Restoration (the "**Disputed Amount"**), such dispute shall be determined in the manner provided in this ***Section 20.8***. Either party may invoke the provisions of this ***Section 20.8*** at any time there is a Disputed Amount by delivering written notice to the other party **("Arbitration Notice"**). Within twenty (20) days after receipt of the Arbitration Notice, each party shall designate, by written notice to the other party, a professional cost estimator having at least ten (10) years' experience in estimating construction costs of major construction projects in the City, and who is competent, licensed, disinterested and independent **("Estimator")**. Each Estimator shall make an independent determination of the Disputed Amount, in accordance with the provisions hereof. The Estimators may share and have access to objective information in preparing their estimates, but they will otherwise act independently. Each Estimator shall complete, sign and submit its written estimate of the cost of Restoration **("Restoration Cost")** within fifteen (15) days after the appointment of the last Estimator unless the parties agree to permit a longer period of time. If the higher estimate of the Restoration Cost is not more than ten percent (10%) of the lower estimate, the Restoration Cost shall be determined for purposes of this Lease to equal the average of the two (2) determinations. If a party fails to designate an Estimator within the twenty (20) day period, then the determination made by the sole Estimator shall control.

(b) Arbitration. If the higher estimate of the Restoration Cost is more than ten percent (10%) of the lower estimate, the parties shall agree upon and appoint a third Estimator (the **"Arbitrator"**) within thirty (30) days after the first two (2) determinations have been submitted to the parties. The Arbitrator shall have the minimum qualifications set forth in ***Section 20.8(a)***, and also shall have experience acting as an arbitrator of disputes involving construction costs or construction disputes. If the parties do not appoint the Arbitrator within such thirty (30) day period, then either party may apply to the American Arbitration Association, or any similar provider of professional commercial arbitration services, for appointment in accordance with the rules and procedures of such organization of an independent arbitrator meeting the foregoing qualifications. The Arbitrator shall consider the estimates submitted by the Estimators as well as any other relevant written evidence that the parties may choose to submit. If a party chooses to submit any such evidence, it shall deliver a complete and accurate copy to the other party at the same time it submits the same to the Arbitrator. Neither party shall conduct ex parte communications with the Arbitrator regarding the subject matter of the Arbitration. Within fifteen (15) business days after his or her appointment, the Arbitrator shall select one of the estimates as the more accurate estimate of the Restoration Cost. The determination of the Arbitrator shall be limited solely to the issue of deciding which of the estimates is closest to the actual Restoration Cost. The Arbitrator shall have no right to propose a middle ground or to modify either of the two (2) estimates.

(c) Conclusive Determination. Except as provided in California Code of Civil Procedure Section 1286.2 (as the same may be amended from time to time), the determination by the Estimators, or if applicable, the Arbitrator shall be conclusive, final and binding on the Parties. Neither the Estimators, or if applicable, the Arbitrator shall have any power to modify any of the provisions of this Lease. Subject to the provisions of this ***Section 20.8***, the parties will cooperate to provide all appropriate information to the Estimators and if applicable, the Arbitrator. The Estimators, and if applicable, the Arbitrator will each report their respective determinations in writing, supported by the reasons for the determination.

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(d) Conduct of Arbitration Proceeding. Any arbitration proceeding conducted pursuant to this ***Section 20.8*** shall be subject to California Code of Civil Procedure Sections 1280 to 1294.2 (but excluding Section 1283.05 with respect to discovery), or successor Laws then in effect relating to arbitration generally. Any such proceeding shall be conducted in the City.

(e) Fees and Costs; Waiver. Each party shall bear the fees, costs and expenses of the Estimator it selects. The parties shall share the fees, costs and expenses of the Arbitrator and the costs and expenses of the arbitration proceeding equally. The parties waive any claims against the Estimator appointed by the other party, and against the Arbitrator, for negligence, malpractice, or similar claims in the performance of the estimates or arbitration contemplated by this ***Section 20.8***.

(f) Arbitration of Disputes. With respect to the arbitration provided for in this ***Section 20.8***, the Parties agree as follows:

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISIONS IN THIS LEASE DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR BY JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT TO NEUTRAL ARBITRATION DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION.

Port's Initials KB DS Tenant's Initials JBM DS

Any judgment upon the award rendered by the arbitration may be entered in any court having jurisdiction of such arbitration in accordance with the terms of this Lease. This arbitration provision does not affect the rights of either party to seek confirmation, correction or vacation of the arbitration award pursuant to California Code of Civil Procedure Sections 1285 et seq.

21. CONDEMNATION.

21.1. *General; Notice; Waiver*.

(a) General. If, at any time during the Term, there is any Condemnation of all or any part of the Premises, the rights and obligations of the Parties shall be determined pursuant to this ***Section 21***.

(b) Notice. In case of the commencement of any proceedings or negotiations which might result in a Condemnation of all or any portion of the Premises during the Term, the party learning of such proceedings shall promptly give written notice of such proceedings or negotiations to the other party. Such notice shall describe with as much specificity as is reasonable, the nature and extent of such Condemnation or the nature of such proceedings or negotiations and of the Condemnation that might result therefrom, as the case may be.

(c) Waiver. Except as otherwise provided in this ***Section 21***, the Parties intend that the provisions of this Lease shall govern their respective rights and obligations in the event

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of a Condemnation. Accordingly, but without limiting any right to terminate this Lease in accordance with this ***Section 21***, Tenant waives any right to terminate this Lease upon the occurrence of a Partial Condemnation under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure, as such sections may from time to time be amended, replaced or restated.

21.2. ***Total Condemnation***. If there is a Condemnation of the entire Premises or Tenant's leasehold interest therein (a "**Total Condemnation"**), this Lease shall terminate as of the Condemnation Date. Upon such termination, except as otherwise set forth in this Lease, the Parties shall be released without further obligations to the other party as of the Condemnation Date, subject to the payment to Port of accrued and unpaid Rent, up to the Condemnation Date.

21.3. ***Substantial Condemnation; Partial Condemnation; Rent Abatement***. If there is a Condemnation of any portion but less than all of the Premises, the rights and obligations of the Parties shall be as follows:

(a) Substantial Condemnation. If there is a Substantial Condemnation, this Lease shall terminate at Tenant's option (which shall be exercised, if at all, at any time within ninety (90) days after the Condemnation Date by delivering written notice of termination to Port) in accordance with this ***Section 21.3(a)***. "**Substantial Condemnation"** means a Condemnation of (A) less than the entire Premises which renders the Premises untenantable, unsuitable or economically unfeasible for the Permitted Uses as reasonably determined by Tenant or (B) property located outside the Premises that substantially and materially eliminates access to the Premises where no alternative access can be constructed or made available, as reasonable determined by Port. Notwithstanding the foregoing, Tenant shall have no right to terminate this Lease under this ***Section 21.3(a)*** if (1) the Condemnation is for less than one year (unless such Condemnation occurs during the last five (5) years of the Term), or (2) Tenant reasonably anticipates (i) based upon a schedule of performance for such Restoration prepared by Tenant in consultation with a licensed general construction contractor that at the time of completion of the Restoration, less than five (5) years would remain in the Term) and (ii) the cost of such Restoration is more than at least Three Hundred Fifty Thousand Dollars ($350,000) (increased annually by three percent (3%)), unless Port (in its sole and absolute discretion and without any obligation to do so) gives written notice to Tenant within thirty (30) days (subject to extension as provided below) after receipt of Tenant's termination notice that Port agrees, at its cost and expense, to pay any amount by which the cost of such Restoration exceeds by at least Three Hundred Fifty Thousand Dollars ($350,000) (increased annually by three percent (3%)). In either such case, this Lease shall not terminate, and, upon a determination that this Lease shall continue based on amount of the Award, Tenant shall perform such Restoration, subject to the provisions of ***Section 14***. Port's right to exercise the option described in clause (2) above shall be conditioned upon Port and Tenant reaching an agreement, with respect to the schedule for performance of required work, on the timing of payments of Port's contribution to the costs of such work (to the extent not available from Port's share of the Award), and any other related issues which may be necessary or appropriate for resolution in connection with such work and the payment for such work. If no satisfactory agreement is reached within such period, Port shall have no right to exercise such right, and such Condemnation shall be deemed a Substantial Condemnation for which Tenant may terminate this Lease.

(b) Partial Condemnation. If there is a Condemnation of any portion of the Premises which does not result in a termination of this Lease under ***Sections 21.2*** or 21.3(a) (a "**Partial Condemnation"**), this Lease shall terminate only as to the portion of the Premises taken in such Partial Condemnation effective as of the Condemnation Date and this Lease shall remain in full force and effect as to the portion of the Premises remaining immediately after such Condemnation. Tenant shall promptly commence and complete any necessary Restoration of the remaining portion of the Premises, at no cost to Port. Any such Restoration shall be performed in accordance with the provisions of ***Section 14***.

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(c) Rent Abatement. In the case of a Partial Condemnation, or in the case of a Substantial Condemnation which does not result in a termination of this Lease, the Base Rent payable from the Condemnation Date shall be equitably reduced in the proportion that the gross square footage of the Premises which is taken in such Partial or Substantial Condemnation, as applicable, bears to the aggregate gross square footage of the Premises immediately prior to such Partial or Substantial Condemnation, as applicable.

21.4. ***Awards***. Except as provided in ***Sections 21.5*** and ***21.6***, Awards and other payments to either Port or Tenant on account of a Condemnation, less costs, fees and expenses of either Port or Tenant (including reasonable Attorneys' Fees and Costs) incurred in the collection thereof **("Net Awards and Payments")** shall be allocated between Port and Tenant as follows:

(a) In the event of a Partial Condemnation, first, to pay costs of Restoration, in which case, the portion of the Net Awards and Payments allocable to Restoration shall be payable to Tenant and any Permitted Mortgagee;

(b) Second, to Port for the value of the condemned land only, subject to the particular uses of the Premises existing immediately prior to the Condemnation Date, and without reference to, or inclusion of, Port's reversionary interest in the value of the Improvements (the "**Condemned Land Value"**);

(c) Third, to Port for any accrued and unpaid Rent owed by Tenant to Port for periods prior to the Condemnation Date;

(d) Fourth, to each Permitted Mortgagee, if any, in order of priority, for payment of all outstanding amounts of the loan secured by such mortgage, together with its reasonable out of pocket expenses and charges in collecting the Net Awards and Payments, including without limitation, its reasonable attorneys' fees incurred in the Condemnation;

(e) Fifth, to Tenant in an amount equal to the value of Tenant's leasehold interest in this Lease, not including the value of the Improvements on the Premises, for the remaining unexpired portion of the Term; and

(f) Sixth, the balance of the Net Awards and Payment shall be divided proportionately between Port, for the value of Port's reversionary interest in the Improvements (based on the date the Term would have expired but for the event of Condemnation), and Tenant, for the value of the Improvements for the remaining unexpired portion of the Term.

(g) Notwithstanding anything to the contrary set forth in this ***Section 21.4***, any portion of the Net Awards and Payments which has been specifically designated by the condemning authority or in the judgment of any court to be payable to Port or Tenant on account of any interest in the Premises or the Improvements separate and apart from the Condemned Land Value, the value of Port's reversionary interest in the Improvements, Tenant's leasehold interest in this Lease, or the value of the Improvements on the Premises for the remaining unexpired portion of the Term, shall be paid to Port or Tenant, as applicable, as so designated by the condemning authority or judgment.

21.5. ***Temporary Condemnation***. If there is a Condemnation of all or any portion of the Premises for a temporary period lasting less than the remaining Term, other than in connection with a Substantial Condemnation, this Lease shall remain in full force and effect, there shall be no abatement of Rent, and the entire Award shall be payable to Tenant.

21.6. ***Relocation Benefits, Personal Property***. Notwithstanding ***Section 21.4***, Port shall not be entitled to any portion of any Net Awards and Payments payable in connection with the Condemnation of the personal property of Tenant or any of its Subtenants.

22. INDEMNITY AND EXCULPATION.

22.1. ***General Indemnity***. Tenant shall Indemnify Port, City, including, but not limited to, all of their respective boards, commissions, departments, agencies, and other subdivisions,

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and their respective Agents (collectively, "**Indemnified Parties"**) from, and shall defend them, without cost to the Indemnified Parties, against any and all Claims arising directly or indirectly out of: (a) any accident, injury to or death of any person, including any Agents and/or Invitees of Tenant, or loss or damage to or destruction of any property occurring in, on or about the Premises, or any other Port property, from any cause whatsoever, or (b) any default by Tenant in the observance or performance of any of the terms, covenants or conditions of this Lease, including the provisions of ***Section 23***, or (c) the use, occupancy, manner of use or occupancy, or condition of the Premises or the activities therein by Tenant, its Agents, or Invitees, or (d) any construction or other work undertaken by Tenant on the Premises whether before or during the Term, or (e) any acts, omissions or negligence of Tenant, its Agents or Invitees, in, on or about the Premises, or any other Port property.

22.2. ***Hazardous Materials Indemnity***.

(a) In addition to its obligations under ***Section 22.1***, subject to ***Section 22.2(b)***, Tenant, for itself and on behalf of its Agents and Invitees, agrees to Indemnify the Indemnified Parties from any and all Hazardous Material Claims that arise as a result of: (i) any Hazardous Material Condition, and (ii) Tenant's Exacerbation of any Hazardous Material Condition.

(b) Unless Tenant or its Agents or Invitees Exacerbate a Hazardous Material Condition, Tenant's Indemnity obligations under this Lease do not include any Hazardous Material Claims that arise as a result of a Hazardous Material Condition: (i) caused solely by City, Port, or their Agents during Tenant's its Agents or Invitees occupancy of the Premises; (ii) arising before the Commencement Date or the date of Tenant's first use of the Premises under the Prior Licenses, whichever is earlier; (3) caused by Tenant's Agent's acts, omissions or negligence on other Port Property (in other words, on Port property other than the Premises), unless such Agent was performing work on Tenant's behalf or otherwise acting on Tenant's behalf in furtherance of the Permitted Uses under this Lease; or (4) caused by Tenant's Invitee's acts, omissions or negligence on other Port Property (in other words, on Port property other than the Premises).

(c) Tenant's obligation to Indemnify the Indemnified Parties includes: (i) costs incurred in connection with any Investigation or Remediation requested by Port or required by any Environmental Regulatory Agency and to restore the affected area to its condition before the Release; (ii) damages for diminution in the value of the Premises; (iii) damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises; (iv) damages arising from any adverse impact on marketing the space; (v) sums paid in settlement of Claims, Hazardous Material Claims, Environmental Regulatory Actions, including fines and penalties; (vi) natural resource damages; and (vii) attorneys' fees, consultant fees, expert fees, court costs, and all other litigation, administrative or other judicial or quasi-judicial proceeding expenses. If Port pays any costs within the scope of this section, Tenant must reimburse Port for Port's costs, plus interest at the Interest Rate from the date Port incurs each cost until paid, within three (3) business days after Port's payment demand. Tenant's obligations hereunder shall survive the expiration or earlier termination of this Lease.

22.3. ***Scope of Indemnities***. The Indemnification obligations of Tenant set forth in this Lease shall be enforceable regardless of the joint or concurrent, active or passive negligence of the Indemnified Parties, and regardless of whether liability without fault is imposed or sought to be imposed on the Indemnified Parties. The Indemnification obligations of Tenant set forth in this Lease shall be enforceable except to the extent that such Indemnity is void or otherwise unenforceable under applicable Law in effect on, or validly retroactive to, the date of this Lease. Except as specifically provided otherwise, the Indemnification obligations of Tenant set forth in this Lease shall exclude Claims resulting solely from the willful misconduct or gross negligence of the Indemnified Parties.

In addition to Tenant's obligation to Indemnify the Indemnified Parties, Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to

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defend the Indemnified Parties from any Claim which actually or potentially falls within the Indemnification obligations of Tenant set forth in this Lease, even if the allegations are or may be groundless, false or fraudulent. This Indemnification by Tenant shall begin from the first notice that any claim or demand is or may be made and shall continue at all times thereafter.

Port agrees that Tenant's Indemnity for Claims that arise out of any Tenant's Invitee's acts, omissions or negligence on "other Port property" as set forth above in ***Section 22.1*** applies only if such Claims (i) arise directly or indirectly out of Tenant's Invitee's acts, omissions or negligence, and (ii) such act, omission or negligence occurred in, on, under, or about the Premises.

Port agrees that Tenant's Indemnity for Claims that arise out of any Tenant's Agent's acts, omissions or negligence on "other Port property" as set forth above in ***Section 22.1*** applies only if such Claims (i) arise directly or indirectly out of Tenant's Agent's acts, omissions or negligence, and (ii) such act, omission or negligence occurred while such Agent was performing work on Tenant's behalf or otherwise acting on Tenant's behalf in furtherance of the Permitted Uses under this Lease.

22.4. ***Exculpation and Waiver***. To the fullest extent permitted by law, Tenant, as a material part of the consideration to be rendered to Port, hereby waives any and all Claims, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, but excluding any Claims caused solely by the Indemnified Parties' willful misconduct or gross negligence. The Indemnified Parties shall not be responsible for or liable to Tenant, and Tenant hereby assumes the risk of, and waives and releases the Indemnified Parties from all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, for any injury, loss or damage to any person or property in or about the Premises by or from any cause whatsoever including, without limitation, (i) any act or omission of persons occupying adjoining premises or any part of the adjacent to or connected with the Premises, (ii) theft, (iii) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (iv) stopped, leaking or defective Building Systems, (v) Building defects, (vi) damages to goods, wares, goodwill, merchandise, equipment or business opportunities, (vii) Claims by persons in, upon or about the Premises, or any other Port property for any cause arising at any time, (viii) alleged facts or circumstances of the process or negotiations leading to this Lease prior to the Commencement Date, (ix) inability to use all or any portion of the Premises due to sea level rise, and (x) any other acts, omissions or causes to the fullest extent permitted by law.

Tenant understands and expressly accepts and assumes the risk that any facts concerning the Claims released in this Lease might be found later to be other than or different from the facts now believed to be true, and agrees that the releases in this Lease shall remain effective. Therefore, with respect to the Claims released in this Lease, Tenant waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows:

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

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JBM

Tenant's Initials	*Tenant's Initials*

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Tenant specifically acknowledges and confirms the validity of the release made above and the fact that Tenant was represented by counsel who explained the consequences of the release at the time this Lease was made, or that Tenant had the opportunity to consult with counsel, but declined to do so.

22.5. ***Survival***. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

23. TRANSFERS AND SUBLEASING.

23.1. ***Financing***. Except with Port's express prior written consent, in its reasonable discretion, Tenant shall not (i) engage in any Financing or other transaction creating any mortgage, deed of trust or similar security instrument upon Tenant's leasehold interest in the Premises or Tenant's interest in the Improvements under this Lease; or (ii) place or suffer to be placed upon Tenant's leasehold interest in the Premises or interest in the Improvements any lien or other encumbrance. Under no circumstance whatsoever shall Tenant place or suffer to be placed any lien or encumbrance on Port's fee interest in the land in connection with any Financing permitted hereunder, or otherwise. Port shall not subordinate its interest in the Premises, nor its right to receive Rent, to any Permitted Mortgagee of Tenant. Any mortgage, deed of trust, or similar security instrument, encumbrance or lien not permitted by Port shall be deemed to be a violation of this covenant on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

23.2. ***Transfer***.

(a) Tenant must obtain Port's prior written consent to any Transfer, which Port will not withhold unreasonably.

(i) Tenant agrees that any of the following will be a reasonable basis for Port to withhold its consent: (1) at the time Tenant requests Port's consent, an Event of Default, or an event that with notice or the passage of time or both would constitute an Event of Default if not cured, has occurred and remains uncured; (2) the Transfer is by a Transferee of Tenant; (3) the Transferee's financial condition is or may become insufficient to support all of the then-remaining financial and other obligations of this Lease; (4) the Transferee's intended use of the Premises is inconsistent with this Lease or otherwise will affect any City or Port interest materially and adversely; (5) the nature of the Transferee's use of the Premises would involve a materially increased risk of the Handling or Release of Hazardous Materials or of fire or other casualty; (6) the business reputation or character of the Transferee is not reasonably acceptable to Port; (7) the Transferee is not likely to conduct a business in the Premises of a quality substantially equal to Tenant's or otherwise reasonably acceptable to Port; or (8) the Transfer does not reflect an arm's length transaction.

(ii) Tenant also agrees that Port will have the right to impose reasonable conditions to a requested consent to a Transfer, which may include: (1) requiring the Transferee to assume all of Tenant's obligations under this Lease; and (2) giving Port the right to terminate without notice all of Tenant's then-existing Subleases if this Lease is terminated before the existing Subleases expire.

(b) At least one hundred twenty (120) days before any Transfer, Tenant must give Port a Transfer Notice and the following: (i) Certified financial statements for the three (3) years before the Transfer Date (or each year of the proposed Transferee's existence, if shorter) for the Transferee and for any other Person who will be liable for Tenant's obligations under this Lease; (ii) Tenant's current Certified financial statements; (iii) a copy of the proposed Transfer Agreement; and (iii) the Transferee's completed pre-screening and leasing application. In addition, Tenant must provide: (1) any other information, documentation, or evidence that Port reasonably requests to enable Port to evaluate the Transfer and the Transferee; and (2) if any of the Transfer Terms are modified before the Transfer Date, a new Transfer Notice and all relevant

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documentation for any modified Transfer Terms. Tenant's Transfer Notice will not be complete until Tenant has provided Port with all information required under this Subsection.

For up to thirty (30) days after receipt of the complete Transfer Notice, Port will have the right to take an assignment from Tenant of the interest that Tenant proposes to Transfer on the same terms and conditions as stated in the Transfer Agreement, and, if exercised, Tenant shall be released from all further obligations under this Lease with respect to such interest (except for obligations that survive lease expiration).

(c) Unless the Transfer requires Port Commission and/or Board of Supervisors review and/or approval (as determined by Port in its sole discretion), Port will use commercially reasonable efforts to respond to the Transfer request no later than sixty (60) days after receipt of Tenant's complete Transfer Notice. If the Transfer requires Port Commission and/or Board of Supervisors review and/or approval, Port will use commercially reasonable efforts to respond to the Transfer request no later than ninety (90) days after receipt of Tenant's complete Transfer Notice. Port's failure to respond within the applicable period shall constitute Port's denial of consent. If Port does not consent to the Transfer, Port shall set forth its reasons for withholding consent upon Tenant's request. If Port consents to the Transfer, Tenant must close the Transfer on the Transfer Terms stated in the Transfer Notice within ninety (90) days after Port notifies Tenant of Port's consent. If the Transfer Agreement does not close within the 90-day period, then Port's consent will expire, unless Tenant gives Port a new Transfer Notice, in which case Port again will be entitled to exercise any of the options under this Section.

(d) Any Transfer that does not comply with this Section fully will constitute an incurable Event of Default and will be void as to Port and this Lease. Port's consent to one Transfer will have no effect with respect to any other Transfer.

(e) Transfer Agreement Requirements. Any Transfer Agreement must include the provisions set forth below.

(i) The Transferee's express assumption of, and acknowledgement and agreement that the Transferee will be jointly and severally liable for, all of Tenant's obligations under this Lease, subject to any agreement between Port and Tenant to release Tenant from any obligations and liabilities accruing after the effective date of the Transfer;

(ii) The Indemnification clause and waiver of claims provisions in ***Section 22*** (Indemnity and Exculpation);

(iii) Insurance provisions requiring that all of the Transferee's liability and other insurance policies name "*The City and County of San Francisco, the San Francisco Port Commission, and their commissioners, officers, agents, employees, and representatives*" as additional insureds and acknowledging Port's right to demand increased coverage to amounts customarily required by other San Francisco landlords for premises where business activities similar to the Transferee's are conducted;

(iv) A provision stating that if this Lease is terminated for any reason, the Transferee's right to possession under the Transfer Agreement will terminate;

(v) A provision under which the Transferee expressly waives any and all relocation assistance and benefits in connection with this Lease to the extent permitted by applicable Laws; and

(vi) A provision under which the Transferee expressly agrees to report the transfer to the County Assessor in accordance with ***Section 8.1*** of this Lease.

23.3. ***Port's Participation in Sale Proceeds***. In addition to all requirements of ***Section 23.2***, the following provisions apply to any Sale.

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(a) Tenant and all subsequent assignees must pay to Port twelve percent (12%) of Tenant's Net Sale Proceeds from each Sale as Port's Sale Participation, concurrently with and as a condition to the Sale Closing.

(b) As soon as available after Port consents to a Sale, Tenant must deliver to Port an estimated closing statement that includes Tenant's best estimate of: (i) Gross Sale Proceeds; (ii) Costs of Sale; (iii) Net Sale Proceeds; and (iv) Port's Sale Participation. The closing statement must be updated and delivered to Port the business day before the Sale Closing. If an escrow account is not established for the Sale, the final closing statement must be Certified and state any variances from the estimated closing statement in form and content reasonably acceptable to Port. If escrow is opened for the Sale, Port's Sale Participation will be distributed through escrow. If no escrow is opened for the Sale, Port's Sale Participation will be paid upon the Sale Closing. Within forty-five (45) days after any Sale Closing such Sale, transferor Tenant will submit to Port a Certified statement prepared by a financial officer or other accountant employed or retained by transferor Tenant in accordance with sound accounting principles consistently applied, confirming the actual amounts under (i) – (iv). At Port's option, any overpayments may be either refunded to transferor Tenant or applied to any other amount then due and unpaid or credited against Rent due. The statements delivered to Port under this Section are subject to the audit provisions of ***Section 23.7*** for determination of the accuracy of Tenant's reporting of the Port's share of Sale Proceeds.

(c) Port may reference in any estoppel certificate or other representation requested from Port that payment to Port of Port's Sale Participation is a material obligation under the Lease, due and owing upon the closing of any Sale hereunder, provided, however, failure to reference such obligation will in no way negate Tenant's obligation to pay, and Port's right to receive, Port's Sale Participation.

(d) Tenant's obligation to pay Port's Sale Participation will survive the Sale Closing and the expiration or termination of this Lease.

(e) If Tenant Completed the Initial Improvements or any Subsequent Alterations that constitute capital improvements, Net Sale Proceeds will be reduced by Tenant's Adjusted Basis, but only if Port previously approved Tenant's Certified Construction Costs as follows. Within ninety (90) days after Completion of the Initial Improvements or any Subsequent Alterations, Tenant must deliver to Port a Certified Construction Costs Report in form and content acceptable to Port in its reasonable discretion. If Port requests, the report must be accompanied by a CPA's agreed-upon procedures report prepared in accordance with AICPA standards for compliance attestation specifying Port as an intended user, in which case Tenant shall have until the date that is one hundred twenty (120) days after the end of Tenant's fiscal year to provide the Construction Costs Report. Port will notify Tenant in writing whether Port agrees or disagrees with Tenant's Construction Costs Report (including whether Port agrees that Subsequent Alterations constitute capital improvements) within ninety (90) days after receiving it. Port will have the right to inspect Tenant's Books and Records for the Construction Costs Report. Tenant must keep accurate Books and Records of all Construction until the later of two (2) years after Tenant's submission of any Construction Costs Report or six (6) months after any dispute regarding the Construction Costs has been resolved. Tenant's failure to submit a Construction Costs Report as and when required under this Section will be deemed a waiver of its right to make a reduction to Net Sale Proceeds.

The following example is provided for illustrative purposes only:

Gross Sale Proceeds:	$7,000,000
Costs of Sale:	$(500,000)
Tenant's Adjusted Basis	$(5,000,000)
Net Sale Proceeds before distribution:	$1,500,000
Port's Sale Participation @12% of adjusted Net Sale Proceeds:	$180,000

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23.4. ***Port's Participation in Financing Proceeds***. In addition to all requirements of ***Section 23.1***, the following provisions apply to any Financing.

(a) Tenant and all subsequent assignees must pay to Port twelve percent (12%) of Tenant's Net Financing Proceeds from each Financing as Port's Financing Participation, concurrently with and as a condition to the Financing Closing.

(b) As soon as available after Port consents to a Financing, Tenant must deliver to Port an estimated closing statement that includes Tenant's best estimate of: (i) Gross Financing Proceeds; (ii) Net Financing Proceeds; and (iii) Port's Financing Participation. The closing statement must be updated and delivered to Port the business day before the Financing Closing. If an escrow account is not established for the Financing, the final closing statement must be Certified by a financial officer or other accountant employed or retained by Tenant and state any variances from the estimated closing statement in form and content reasonably acceptable to Port. If escrow is opened for the Financing, Port's Financing Participation will be distributed through escrow. If no escrow is opened for the Financing, Port's Financing Participation will be paid upon the Financing Closing. Within forty-five (45) days after any Financing Closing such Financing, Tenant will submit to Port a Certified statement prepared by a financial officer or other accountant employed or retained by Tenant in accordance with sound accounting principles consistently applied, confirming the actual amounts under (i) – (iii). At Port's option, any overpayments may be either refunded to Tenant or applied to any other amount then due and unpaid or credited against Rent due. The statements delivered to Port under this Section are subject to the audit provisions of ***Section 23.7*** for determination of the accuracy of Tenant's reporting of the Port's share of Financing Proceeds.

(c) Port may reference in any estoppel certificate or other representation requested from Port that payment to Port of Port's Financing Participation is a material obligation under the Lease, due and owing upon the closing of any Financing hereunder, provided, however, failure to reference such obligation will in no way negate Tenant's obligation to pay, and Port's right to receive, Port's Financing Participation.

(d) Tenant's obligation to pay Port's Financing Participation will survive the Financing Closing and the expiration or termination of this Lease.

The following example is provided for illustrative purposes only:

Gross Financing Proceeds:	$7,000,000)
Financing Costs:	$(500,000)
Amount of outstanding indebtedness repaid:	$0
Cost of Improvements not financed	$(5,500,000)
Financing Reinvestment:	$(750,000)
Net Financing Proceeds retained by Tenant:	$250,000
Port's Financing Participation @ 12%:	$30,000

23.5. ***Subleasing by Tenant***.

(a) Subleases. Tenant will not Sublease any portion of the Premises without the prior written consent of Port which will not be unreasonably withheld. All Subleases must be in full compliance with all of the terms and provisions of this ***Section 23.5***. A Sublease without Port's consent will be voidable by Port, in its sole discretion. Nothing in this Lease is intended to restrict or prohibit Tenant and its Subtenants from allocating costs associated with this Lease in any manner they see fit; provided however, that unless explicitly authorized under this Lease, such allocations to do not affect the amount of Rent due to Port.

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(b) Request for Sublease. Tenant must give Port as much prior written notice as reasonably possible, but not less than thirty (30) days before it intends to enter into a proposed Sublease (herein "**Notice of Request to Sublease**") and provide Port with the following information in writing: (a) the name, address, legal composition and ownership of the proposed Subtenant, (b) reasonably adequate evidence that the proposed Subtenant's financial condition and prospects are sufficient to support all of the financial and other obligations of the proposed Sublease, (c) a full description of the terms and conditions of the proposed Sublease, including the proposed commencement date, a description of the proposed use and the material terms, including all payments to be made or other consideration to be given in connection with the Sublease, and copies of any and all proposed agreements concerning the proposed Sublease, and (d) a list of any Regulatory Approvals needed and the status of such Regulatory Approvals. Until such time as Tenant has provided to Port all information set forth hereinabove, Tenant's Notice of Request to Sublease will not be deemed to have been given. Tenant will immediately notify Port of any modifications to the proposed terms of the Sublease. Port will use reasonable efforts to respond to the Transfer request no later than thirty (30) days after receipt of Tenant's complete Transfer Notice.

(c) Port's Options. Upon receiving a Notice of Request to Sublease, Port will have the right to either (A) consent to the proposed Sublease, which consent shall not be unreasonably withheld, subject to any reasonable conditions upon such Sublease or (B) deny its consent to the proposed Sublease on the following reasonable grounds: (1) at the time Tenant requests Port's consent, an Event of Default, or an event that with notice or the passage of time or both would constitute an Event of Default if not cured, has occurred and remains uncured; (2) that the proposed Subtenant's financial condition and prospects are or could become insufficient to support all of the financial and other obligations of the proposed Sublease; (3) that the use to which the Premises will be put by the proposed Subtenant is inconsistent with the terms of this Lease or otherwise will affect any City or Port interest materially and adversely; (4) the business reputation or character of the proposed Subtenant is not reasonably acceptable to Port or the proposed Subtenant is not likely to conduct a business in the Premises of a quality substantially equal to Tenant's (or a prior Subtenant's) or otherwise reasonably acceptable to Port; (5) that the nature of the proposed Subtenant's intended or likely use of the Premises would involve an unmitigated risk of the Handling, Release or mishandling of Hazardous Materials and Port reasonably believes that the measures proposed by Subtenant are insufficient to mitigate the risk of Handling or Release of Hazardous Materials by Subtenant, or otherwise materially increase the risk of fire or other casualty; (6) that the Sublease rental rate does not reflect an arm's length transaction; (7) failure of the Sublease to contain provisions specified in this Lease.

(d) Required Provisions in Subleases. Each and every Sublease must contain all the following provisions:

(i) the Sublease is subject to and subordinate to this Lease;

(ii) the Indemnification clause and waiver of claims provisions in ***Section 22*** (Indemnity and Exculpation) as to the subleased premises and Subtenant's activities;

(iii) insurance provisions requiring that all of the Subtenant's liability and other insurance policies name "*The City and County of San Francisco, the San Francisco Port Commission, and their commissioners, officers, agents, employees, and representatives*" as additional insureds and acknowledging Port's right to demand increased coverage to amounts customarily required by other San Francisco landlords for premises where business activities similar to the Subtenant's are conducted;

(iv) an express waiver of any and all relocation assistance and benefits in connection with this Lease to the extent permitted by applicable Laws;

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(v) a requirement that the Subtenant must pay the rent and other sums due under the Sublease directly to Port upon receiving Port's written notice that an Event of Default has occurred, a copy of which Port will deliver to Tenant;

(vi) a prohibition on assignment or further subleasing, in whole or in part, without Port's consent, which may be given or withheld in Port's sole discretion;

(vii) a provision similar to ***Section 29*** (Port's Entry) requiring Subtenant to permit Port to enter its subleased space for the purposes specified in that Section; and

(viii) a provision similar to ***Section 38*** (Tenant Estoppel) requiring Subtenant, from time to time, to provide Port an estoppel certificate substantially similar to the form attached hereto as ***Exhibit J.***

(e) Any Sublease that does not comply with this Section fully including without limitation Tenant's failure to seek or obtain Port's consent when such consent is required, will constitute an incurable Event of Default and will be void as to Port and this Lease. Port's consent to one Sublease will have no effect with respect to any other Sublease.

(f) Copy of Executed Sublease. Tenant shall provide Port a true and complete copy of each executed Sublease within thirty (30) days after the execution thereof. Each executed Sublease must contain substantially the same (or more favorable to the landlord) business terms as set forth in the applicable Notice of Request to Sublease.

23.6. ***Notice to Port***. In addition to the obligations under ***Section 8.1***, within thirty (30) days of entering into any agreement under which Tenant grants any person the right to occupy or use any portion of the Premises for any period of time, (other than pursuant to a membership agreement or day use pass or as a patron of Tenant or any Subtenant), including without limitation, any assignment, sublease, license, permit, concession or vendor agreement or other agreement or renewal thereof, Tenant shall provide written notice to Port and Assessor and a copy of such agreement, regardless of whether Port consent is required under this Lease for such agreement. Tenant agrees to provide such further information as may be requested by City or Port to enable compliance with reporting obligations under state Law and San Francisco Administration Code Sections 23.38 and 23.39 (or any successor ordinance).

23.7. ***Audit***. Tenant agrees to make its Books and Records available to, and cooperate with, any Port representative for the purpose of conducting an audit of the accuracy of Tenant's financial reporting on a Transfer or Sublease until the later of (i) four (4) years after the end of each Lease Year to which such records apply or, (ii) if an audit is commenced or if a controversy should arise between the parties as to the accuracy of Tenant's financial reporting on the Transfer or Sublease, until such audit or controversy is concluded. If an audit reveals that Tenant has overstated any costs in connection with a Transfer, Tenant must pay Port promptly upon demand the difference between the amount Tenant deducted and the amount it should have deducted, plus interest at the Interest Rate from the Transfer Date until paid.

23.8. ***Acknowledgement***. Tenant acknowledges and agrees that Port's rights with respect to Transfers and Subleasing are reasonable limitations for purposes of California Civil Code Section 1951.4 and waives any Claims arising from Port's actions under this ***Section 23***.

24. APPROVALS BY PORT; FEES FOR REVIEW.

24.1. ***Approvals by Port***. Port's Executive Director, or his or her designee, is authorized to execute on behalf of Port any closing or similar documents and any contracts, agreements, memoranda, or similar documents with State, regional, or local authorities or other Persons that are necessary or proper to achieve the purposes and objectives of this Lease and that do not materially increase the obligations of Port under this Lease, if the Executive Director determines, after consultation with, and approval as to form by, the City Attorney, that the document is necessary or proper and in Port's best interests. The Executive Director's signature

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on any such documents will be conclusive evidence of such a determination by him or her. Wherever this Lease requires or permits the giving by Port of its consent or approval, or whenever an amendment, waiver, notice, or other instrument or document is to be executed by or on behalf of Port, the Executive Director, or his or her designee, will be authorized to execute such instrument on behalf of Port, except as otherwise provided by applicable Law, including the City's Charter.

24.2. ***Fees for Review***. Within ten (10) days after Port's written request, Tenant will pay Port, as Additional Rent, Port's reasonable costs, including Attorneys' Fees and Costs, consultant's costs, and costs for Port staff time, incurred in connection with the review, investigation, processing, documentation, and/or approval of any proposed Transfer, Sublease, non-disturbance agreement, mortgage confirmation statement, mortgage, refinancing certificate, or Subsequent Alteration. Tenant will pay such costs regardless of whether or not Port consents to such proposal.

25. NO MERGER OF TITLE.

There will be no merger of the Leasehold Estate with the fee estate in the Premises by reason of the fact that the same Person may own or hold (a) the Leasehold Estate or any interest in such Leasehold Estate, and (b) any interest in such fee estate. No such merger will occur unless and until all Persons having any interest in the Leasehold Estate and the fee estate in the Premises will join in and record a written instrument effecting such merger.

26. DEFAULT BY TENANT.

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

(a) failure to pay to Port any Rent or other sum payable hereunder when due, and such default continues for a period of three (3) days following written notice from Port. Notwithstanding the foregoing, (i) Port shall not be required to provide such notice more than twice during any 12-month period, and any such failure by Tenant after Tenant has received two (2) such notices in such 12-month period shall constitute an Event of Default by Tenant hereunder without any further action by Port or opportunity of Tenant to cure except as may be required by Section 1161 of the California Code of Civil Procedure, and (ii) Tenant shall not be in default for failure to pay any Percentage Rent if such failure is solely due to the applicable Subtenant's failure to pay such amount to Tenant or provide the information necessary to calculate the Percentage Rent, provided that, in each case: (A) failure to pay Percentage Rent and failure to provide the information necessary for Tenant to calculate Percentage Rent is a default of the relevant Sublease; (B) Tenant is using demonstrable, commercially reasonable efforts to enforce the Subtenant's performance of such obligations including but not limited to enforcing the Sublease through notices of default and termination; and (C) the subject Percentage Rent is paid no later than ninety (90) days from the original due date; or

(b) failure by Tenant to deliver the Quarterly Percentage Rent Statement or Annual Statement when due and such default continues for a period of thirty (30)days following written notice from Port. Notwithstanding the foregoing, (i) Port shall not be required to provide such notice more than twice during any twelve (12) month period, and any such failure by Tenant after Tenant has received two (2) such notices in such twelve (12) month period shall, at the option of Port, constitute an Event of Default by Tenant hereunder without any further action by Port (including, but not limited to, notice to Tenant of such failure) or opportunity of Tenant to cure except as may be required by Section 1161 of the California Code of Civil Procedure and (ii) Tenant shall not be in default for failure to deliver the Quarterly Percentage Rent Statement or Annual Statement when due if such failure is solely due to the applicable Subtenant's failure to deliver the Quarterly Percentage Rent Statement or Annual Statement when due or provide the information necessary to prepare the applicable statements, provided that, in each case: (A) failure to deliver the statements is solely due to the applicable Subtenant's failure to deliver

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the relevant statement or to provide the information necessary to prepare the applicable statements; (B) Tenant is using demonstrable, commercially reasonable efforts to enforce the Subtenant's performance of such obligations including but not limited to enforcing the Sublease through notices of default and termination; and (C) the subject statements are submitted no later than one hundred twenty(120) days from the original due date; or

(c) a second understatement by Tenant of Gross Revenues for any audit period by five percent (5%) or more within any three (3) Lease Year period of the first such understatement; or

(d) failure to comply with Tenant's covenants set forth in ***Section 6.2*** (Continuous Operations), as determined by Port in its reasonable discretion and such failure continues for a period of fifteen (15) days following written notice from Port; or

(e) abandonment or vacation of the Premises by Tenant; or

(f) failure to use the Premises solely for the Permitted Use, failure to comply with the provisions of ***Section 18*** (Hazardous Materials) or failure to comply with the provisions of the Operations Plan, in each case in a manner that presents a health, safety, welfare or environmental risk or hazard, as determined by Port in its sole and absolute discretion and such failure continues for a period of twenty-four (24) hours following written notice from Port; in all other circumstances, such failure shall be cured within ten (10) days following written notice from Port; or

(g) failure by Tenant to execute and deliver to Port an estoppel certificate within the time period and in the manner required by ***Section 38 below***, and Tenant's failure to cure the foregoing default within five (5) business days following written notice from Port; or

(h) a Transfer or Sublease, or attempted Transfer or Sublease, of this Lease or the Premises by Tenant contrary to the provisions of ***Section 23 above***; or

(i) failure by Tenant or Tenant's broker as applicable to provide evidence of insurance coverage complying with the provisions of ***Section 19 above***, failure to maintain any insurance required to be maintained by Tenant pursuant to this Lease, or if any such insurance shall be canceled or terminated or shall expire or be reduced or materially changed, except as permitted in this Lease, and Tenant's or Tenant's broker's failure to deliver evidence of such coverage or failure to reinstate such coverage, all within five (5) business days following written notice from Port; or

(j) failure by Tenant to discharge any lien or encumbrance placed on the Premises or any part thereof in violation of this Lease within ten (10) days after the date such lien or encumbrance is filed or recorded against the Premises or any part thereof, or if Tenant has no knowledge of such lien, then Tenant shall discharge such lien or encumbrance within fifteen (15) days following Tenant's knowledge of such lien or encumbrance; or

(k) failure by Tenant to observe, keep or perform any of the other terms, covenants, agreements or conditions contained in this Lease and required to be observed or performed by Tenant and not specifically enumerated in this ***Section 26***, and such failure continues for a period of fifteen (15) days after written notice by Port, provided that if such default is not capable of cure within such fifteen (15) day period, Tenant shall have a reasonable period to complete such cure if Tenant promptly undertakes action to cure such default within such fifteen (15) day period and thereafter diligently prosecutes the same to Completion within sixty (60) days after the receipt of notice of default from Port. Port shall not be required to provide such notice more than twice in any twelve (12) month period with respect to any material non-monetary defaults and after the second notice in any calendar year, any subsequent failure by Tenant during such twelve (12) month period shall automatically constitute an Event of Default hereunder; or

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(l) Tenant shall become bankrupt or insolvent or make a transfer in fraud of creditors, or make an assignment for the benefit of creditors, or bring or have brought against Tenant any action or proceedings of any kind under any provision of the U.S. Bankruptcy Code or under any other insolvency, bankruptcy or reorganization act and, in the event such proceedings are involuntary, Tenant is not discharged from the same within sixty (60) days thereafter; or

(m)a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within sixty (60) days; or

(n) this Lease or any estate of Tenant under this Lease shall be levied upon by any attachment or execution and such attachment is not stayed or lifted within sixty (60) days; or

(o) An uncured default by Tenant under the terms of the License; or

(p) without limiting the provisions of ***Subsection 26(f)*** or lengthening the cure period under that subsection, failure by Tenant to comply with Laws and Tenant's failure to cure the foregoing default within forty-eight (48) hours following written notice from Port.

27. PORT'S REMEDIES.

27.1. ***Port's Remedies Generally***. Upon the occurrence and during the continuance of an Event of Default (but without obligation on the part of Port following the occurrence of an Event of Default to accept a cure of such Event of Default other than as required by Law or by this Lease), Port has all rights and remedies provided in this Lease or available at Law or in equity (including the right to seek injunctive relief or an order for specific performance, where appropriate). All of Port's rights and remedies are cumulative, and except as may be otherwise provided by applicable Law, the exercise of any one or more rights will not preclude the exercise of any other.

27.2. ***Right to Keep Lease in Effect***.

(a) Continuation of Lease. Port has the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations) under which Port may continue this Lease in full force and effect. In the event Port elects this remedy, Port has the right to enforce by suit or otherwise, all covenants and conditions hereof to be performed or complied with by Tenant and exercise all of Port's rights, including the right to collect Rent when due. Tenant will be liable immediately to Port for all reasonable costs Port incurs exercising its remedies under this ***Section 27***, including reasonable Attorneys' Fees and Costs, brokers' fees or commissions, expenses of remodeling the Premises required by the reletting and similar costs.

(b) No Termination Without Notice. No act by Port allowed by this ***Section 27.2***, nor any appointment of a receiver upon Port's initiative to protect its interest under this Lease, nor any withholding of consent to a Transfer or termination of a Transfer in accordance herewith, will terminate this Lease, unless and until Port notifies Tenant in writing that Port elects to terminate this Lease.

27.3. ***Right to Terminate Lease***. Port may terminate this Lease at any time after the occurrence of (and during the continuation of) an Event of a Default by giving written notice of such termination. Termination of this Lease will occur on the date set forth in such notice. Acts of maintenance or preservation, and any appointment of a receiver upon Port's initiative to protect its interest hereunder will not in any such instance constitute a termination of Tenant's right to possession. No act by Port other than giving notice of termination to Tenant in writing will terminate this Lease. Upon termination of this Lease, Port has the right to recover from Tenant all sums allowed under California Civil Code Section 1951.2, including the following:

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(a) The worth at the time of award of the unpaid Rent that had been earned at the time of termination of this Lease; plus

(b) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; plus

(c) 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 the loss of Rent that Tenant proves could have been reasonably avoided; plus

(d) Any other amount necessary to compensate Port for all detriment proximately caused by the Event of Default, or which in the ordinary course of things would be likely to result therefrom.

"**The worth at the time of award**" as used in ***Sections 27.3(a)*** and ***27.3(b)*** will be computed by allowing interest at a rate per annum equal to the Interest Rate. "**The worth at the time of award**" as used in ***Section 27.3(c)*** will be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

27.4. ***Interest***. Rent not paid when due will bear interest at the Interest Rate from the date due until paid.

27.5. ***Continuation of Subleases and Other Agreements***. Port has the right, at its sole option, to assume any and all Subleases and agreements by Tenant for the maintenance or operation of the Premises. Tenant hereby further covenants that, upon request of Port following an Event of Default and termination of Tenant's interest in this Lease, Tenant will execute, acknowledge, and deliver to Port such further instruments as may be necessary or desirable to vest or confirm or ratify vesting in Port the then existing Subleases and other agreements then in force, as above specified.

27.6. ***Appointment of Receiver***. From and after an Event of Default, Port has the right to have a receiver appointed to collect Rent and conduct Tenant's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself will constitute an election by Port to terminate this Lease.

27.7. ***Waiver of Redemption***. Tenant hereby waives, for itself and all Persons claiming by and under Tenant, redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other pertinent present or future Law, in the event Tenant is evicted or Port takes possession of the Premises by reason of any Event of Default.

27.8. ***No Accord and Satisfaction***. No payment by Tenant or receipt by Port of an amount less than the Rent due under this Lease shall be deemed to be other than "on account" of the earliest Rent due; nor shall any endorsement or statement on any check or payment, or letter accompanying such check or payment, be deemed an accord and satisfaction. Port may accept any such partial payment or tender without prejudice to its right to recover the balance of any amount due and to pursue any other remedy herein provided at Law or in equity.

27.9. ***Port's Right to Cure Tenant's Default***. Port, at any time after the occurrence of an Event of Default may, at its sole option, cure the default at Tenant's cost. If Port undertakes any act to cure or attempt to cure such default that requires the payment of any sums, or otherwise incurs any costs, damages, or liabilities (including without limitation, attorneys' fees), all such sums, costs, damages or liabilities paid by Port shall be due immediately from Tenant to Port at the time the sum is paid, and if paid by Tenant at a later date shall bear interest at the lesser of the Interest Rate or the maximum non-usurious rate Port is permitted by Law to charge from the date such sum is paid by Port until Port is reimbursed by Tenant.

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27.10. ***Remedies Not Exclusive***. The remedies set forth in this Section are not exclusive; they are cumulative and in addition to any and all other rights or remedies of Port now or later allowed by other terms and provisions of this Lease, Law or in equity. Tenant's obligations under this Section will survive any termination of this Lease.

28. LITIGATION EXPENSES; ATTORNEYS' FEES.

28.1. ***Litigation Expenses***. The Prevailing party in any action or proceeding (including any cross-complaint, counterclaim, or bankruptcy proceeding) against the other party by reason of a claimed default, or otherwise arising out of a party's performance or alleged non-performance under this Lease, shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "**Prevailing party"** within the meaning of this Section shall include, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense.

28.2. ***Appeals***. Attorneys' fees under this Section shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal.

28.3. ***City Attorney***. For purposes of this Lease, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

29. PORT'S ENTRY ON PREMISES.

29.1. ***Entry for Inspection***. Port and its authorized Agents shall have the right to enter the Premises upon reasonable prior notice at any time during normal business hours of generally recognized business days, provided that Tenant or Tenant's Agents are present on the Premises (except in the event of an emergency), for the purpose of inspecting the Premises to determine whether the Premises is in good condition and whether Tenant is complying with its obligations under this Lease.

29.2. ***General Entry***. In addition to its rights pursuant to ***Section 29.1***, Port and its authorized Agents shall have the right to enter the Premises at all reasonable times and upon reasonable notice for any of the following purposes:

(a) To perform any necessary maintenance, repairs or restoration to the Premises, or to perform any services that Port has the right or obligation to perform;

(b) To serve, post, or keep posted any notices required or allowed under the provisions of this Lease;

(c) To post "**For Sale"** signs at any time during the Term; to post "**For Lease"** signs during the last six (6) months of the Term or during any period in which there is an Event of Default;

(d) On an occasional basis, at all reasonable times after giving Tenant reasonable advance written or oral notice, to show the Premises to prospective tenants or other interested parties;

(e) If any excavation or other construction is undertaken or is about to be undertaken on any property or street adjacent to the Premises, to shore the foundations, footings or walls of the Premises and to erect scaffolding and protective barricades around and about the Premises as reasonably necessary in connection with such activities (but not so as to prevent or unreasonably restrict entry to the Premises), and to do any other act or thing necessary for the safety or preservation of the Premises during such excavation or other construction; or

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(f) To obtain environmental samples and perform equipment and facility testing.

29.3. ***Emergency Entry***. Port may enter the Premises at any time, without notice, in the event of an emergency. Port shall have the right to use any and all means which Port may deem proper in such an emergency in order to obtain entry to the Premises. Entry to the Premises by these means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion of the Premises.

29.4. ***No Liability***. Port shall not be liable in any manner, and Tenant hereby waives any Claim for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in Rent, arising out of Port's entry onto the Premises as provided in this Section or performance of any necessary or required work on the Premises, or on account of bringing necessary materials, supplies and equipment into or through the Premises during the course thereof, except damage resulting solely from the willful misconduct or gross negligence of Port or its authorized representatives.

29.5. ***Nondisturbance***. Port shall comply with Tenant's reasonable security measures and shall use commercially reasonable efforts to conduct its activities on the Premises as allowed in this Section in a manner which, to the extent reasonably practicable, will minimize annoyance or disturbance to Tenant.

30. SURRENDER AND QUITCLAIM.

30.1. ***Surrender***. Upon expiration or earlier termination of this Lease, Tenant shall surrender to Port the Premises in good order, condition, and repair (except for ordinary wear and tear occurring after the last necessary maintenance made by Tenant and except for destruction or condemnation as described in ***Sections 20 and 21*** hereof). Ordinary wear and tear shall not include any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Lease. On or before the expiration or earlier termination of this Lease, Tenant at its sole cost shall remove from the Premises, and repair any damage caused by removal of, Tenant's Property, including any signage, and all Alterations and Improvements required to be removed as provided in ***Section 14.8***. The Premises shall be surrendered clean, free of debris, waste, and Hazardous Materials that Tenant is required to remove under this Lease, and free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this Lease and any other encumbrances created by Port. Except for those Alterations and Improvements required to be removed as provided in ***Section 14.8***, Alterations and Improvements shall remain in the Premises as Port property.

If the Premises is not surrendered at the end of the Term or sooner termination of this Lease and in accordance with the provisions of this ***Section 30*** and ***Section 14.8***, Tenant shall continue to be responsible for the payment of Rent (as the same may be increased pursuant to ***Section 31.2 or 31.3 below*** as applicable) until the Premises is surrendered in accordance with these Sections, and Tenant shall Indemnify Port from and against any and all loss or liability resulting from delay by Tenant in so surrendering the Premises including, without limitation, any costs of Port to obtain possession of the Premises; any loss or liability resulting from any Claim against Port made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each instance, reasonable attorneys' fees and costs.

No act or conduct of Port, including, but not limited to, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the Term. Only a written notice from Port to Tenant confirming termination of this Lease and surrender of the Premises by Tenant shall constitute acceptance of the surrender of the Premises and accomplish a termination of this Lease.

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30.2. ***Abandoned Property***. Any items, including Tenant's Property, not removed by Tenant as required herein shall be deemed abandoned. Port may retain, store, remove, and sell or otherwise dispose of abandoned Tenant's Property, and Tenant, on its own behalf and for any Subtenant, waives all Claims against Port for any damages resulting from Port's retention, removal and disposition of such property; provided, however, that Tenant shall be liable to Port for all costs incurred in storing, removing and disposing of abandoned Tenant's Property and repairing any damage to the Premises resulting from such removal. Tenant agrees that Port may elect to sell abandoned Tenant's Property and offset against the sales proceeds Port's storage, removal, and disposition costs without notice to Tenant or otherwise according to the procedures set forth in California Civil Code Section 1993 et seq., the benefits of which Tenant waives.

30.3. ***Quitclaim***. Upon the expiration or earlier termination of this Lease, the Premises shall automatically, and without further act or conveyance on the part of Tenant or Port, become the property of Port, free and clear of all liens and without payment therefore by Port and shall be surrendered to Port upon such date. Upon or at any time after the expiration or earlier termination of this Lease, if requested by Port, Tenant shall promptly deliver to Port, without charge, a quitclaim deed to the Premises and any other instrument reasonably requested by Port to evidence or otherwise effect the termination of Tenant's leasehold interest hereunder and to effect such transfer or vesting of title to the Premises or any portion that Port agrees are to remain part of the Premises.

30.4. ***Survival***. Tenant's obligation under this ***Section 30*** shall survive the expiration or earlier termination of this Lease.

31. HOLDING OVER.

31.1. ***Terms of Holdover Tenancy***. Any holding over after the expiration of the Term shall not constitute a renewal of this Lease, but shall be deemed a month-to-month tenancy upon the terms, conditions, and covenants of this Lease, except as provided in this Section. Either party may cancel the month-to-month tenancy upon thirty (30) days written notice to the other party. Tenant shall Indemnify Port from and against any and all loss or liability resulting from Tenant's delay in surrendering the Premises including, without limitation, any loss or liability resulting from any claim against Port made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

31.2. ***With Consent***. If Tenant holds over with the prior written consent of Port, monthly Base Rent shall be equal to one hundred fifty percent (150%) of the monthly Base Rent payable in the month immediately preceding the expiration of this Lease; provided that if both Tenant and Port desire to enter into a new lease or extend the existing term of this Lease but have not yet executed such new lease or extension solely due to Port's delay to produce such document, then the monthly Base Rent during such holdover period shall be equal to the greater of: (a) the Base Rent payable in the month immediately preceding the expiration of this Lease, or (b) the then current rate for the Premises approved by the Port Commission, together with any monthly charge of Additional Rent payable under this Lease.

31.3. ***Without Consent***. If Tenant holds over without the prior written consent of Port, monthly Base Rent shall equal two hundred percent (200%) of the monthly Base Rent payable in the month immediately preceding the expiration of this Lease.

32. REPRESENTATIONS AND WARRANTIES.

Tenant represents, warrants and covenants to Port as follows, as of the Effective Date and as of the Commencement Date:

(a) Valid Existence; Good Standing. Tenant is a non-profit public benefit corporation duly incorporated and validly existing under the laws of the State of California.

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Tenant has the requisite power and authority to own its property and conduct its business as presently conducted. Tenant is in good standing in the State of California.

(b) Authority. Tenant has the requisite power and authority to execute and deliver this Lease and the agreements contemplated hereby and to carry out and perform all of the terms and covenants of this Lease and the agreements contemplated to be performed by Tenant.

(c) No Limitation on Ability to Perform. Neither Tenant's articles of organization or operating agreement, nor any applicable Law, prohibit Tenant's entry into this Lease or its performance under this Lease. No consent, authorization, or approval of, and no notice to or filing with, any governmental authority, Regulatory Agency or other Person is required for the due execution and delivery of this Lease by Tenant and Tenant's performance hereunder, except for consents, authorizations, and approvals that have already been obtained, notices that have already been given, and filings that have already been made. There are no undischarged judgments pending against Tenant, and Tenant has not received notice of the filing of any pending suit or proceedings against Tenant before any court, Regulatory Agency, or arbitrator, that might materially adversely affect the enforceability of this Lease or the business, operations, assets, or condition of Tenant.

(d) Valid Execution. The execution and delivery of this Lease and the performance by Tenant under this Lease have been duly and validly authorized. When executed and delivered by Port and Tenant, this Lease will be a legal, valid, and binding obligation of Tenant.

(e) Defaults. The execution, delivery, and performance of this Lease (i) do not and will not violate or result in a violation of, contravene, or conflict with, or constitute a default by Tenant under (1) any agreement, document, or instrument to which Tenant is a party or by which Tenant is bound, (2) any Law applicable to Tenant or its business, or (3) the articles of organization or the operating agreement of Tenant, and (ii) do not result in the creation or imposition of any lien or other encumbrance upon the assets of Tenant, except as contemplated hereby.

(f) Financial Matters. Tenant is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money. Tenant has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code. There has been no event that has materially adversely affected Tenant's ability to meet its Lease obligations. To the best of Tenant's knowledge, no involuntary petition naming Tenant as debtor has been filed under any chapter of the U.S. Bankruptcy Code.

Tenant's representations and warranties in this Lease will survive any termination of this Lease.

33. MINERAL RESERVATION.

The State of California ("**State**"), pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Premises and Tenant acknowledges such reserved rights including necessary ingress and egress rights. In no event shall Port be liable to Tenant for any Claims arising from the State's exercise of its rights nor shall such action entitle Tenant to any abatement or diminution of Rent or otherwise relieve Tenant from any of its obligations under this Lease.

34. CITY AND PORT REQUIREMENTS.

The San Francisco Municipal Codes (available at www.sfgov.org) and City and Port policies described or referenced in this Lease are incorporated by reference as though fully set forth in this Lease. The descriptions below are not comprehensive but are provided for notice purposes only; Tenant is charged with full knowledge of each such ordinance and policy and any

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related implementing regulations as they may be amended from time to time. Tenant understands and agrees that its failure to comply with any provision of this Lease relating to any such code provision shall be deemed a material breach of this Lease and may give rise to penalties under the applicable ordinance. Capitalized or highlighted terms used in this Section and not defined in this Lease shall have the meanings ascribed to them in the cited ordinance.

34.1. ***Nondiscrimination***.

(a) Covenant Not to Discriminate. In the performance of this Lease, Tenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under Chapter 12B or 12C of the San Francisco Administrative Code or in retaliation for opposition to any practices forbidden under Chapter 12B or 12C of the Administrative Code against any employee of Tenant, any City and County employee working with Tenant, any applicant for employment with Tenant, or any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant in the City and County of San Francisco.

(b) Subleases and Other Contracts. Tenant shall include in all subleases and other contracts relating to the Premises a non-discrimination clause applicable to such subtenant or other contractor in substantially the form of ***Section 34.1(a)***. In addition, Tenant shall incorporate by reference in all subleases and other contracts the provisions of Sections 12B.2 (a), 12B.2 (c)-(k) and 12C.3 of the Administrative Code and shall require all subtenants and other contractors to comply with such provisions.

(c) Nondiscrimination in Benefits. Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City, 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 (collectively "**Core Benefits"**) as well as any benefits other than the Core Benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local Law authorizing such registration, subject to the conditions set forth in Section 12B.2 of the Administrative Code.

(d) CMD Form. On or prior to the Lease Effective Date, Tenant shall execute and deliver to Port the "Nondiscrimination in Contracts and Benefits" form approved by the CMD.

(e) Penalties. Tenant understands that pursuant to Section 12B.2(h) of the Administrative Code, a penalty of $50.00 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

34.2. ***Requiring Health Benefits for Covered Employees***. Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in Administrative Code Chapter 12Q (Chapter 12Q).

(a) For each Covered Employee Tenant shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO.

(b) Notwithstanding the above, if Tenant meets the requirements of a "small business" by the City pursuant to Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with this Section.

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

(d) Any Sublease or Contract regarding services to be performed on the Premises entered into by Tenant shall require the Subtenant or Contractor and Subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in Chapter 12Q of the Administrative Code. Tenant shall notify the Office of Labor Standards Enforcement ("**OLSE**") when it enters into such a Sublease or Contract and shall certify to OLSE that it has notified the Subtenant or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Subtenant or Contractor through written agreement with such Subtenant or Contractor. Tenant shall be responsible for ensuring compliance with the HCAO for each Subtenant, Contractor and Subcontractor performing services on the Premises. If any Subtenant, Contractor or Subcontractor fails to comply, the City may pursue the remedies set forth in Section 12Q.5 of the Administrative Code against Tenant based on the Subtenant's, Contractor's, or Subcontractor's failure to comply, provided that OLSE has first provided Tenant with notice and an opportunity to cure the violation.

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

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

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

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

(i) Within ten (10) business days of any request, Tenant shall provide the City with access to pertinent records relating to any Tenant's compliance with the HCAO. In addition, the City and its agents may conduct random audits of Tenant at any time during the Term. Tenant agrees to cooperate with City in connection with any such audit.

(j) If a Contractor or Subcontractor is exempt from the HCAO because the amount payable to such Contractor or Subcontractor under all of its contracts with the City or relating to City-owned property is less than $25,000.00 (or $50,000.00 for nonprofits) in that fiscal year, but such Contractor or Subcontractor later enters into one or more agreements with the City or relating to City-owned property that cause the payments to such Contractor or Subcontractor to equal or exceed $75,000.00 in that fiscal year, then all of the Contractor's or Subcontractor's contracts with the City and relating to City-owned property shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements to equal or exceed $75,000.00 in the fiscal year.

34.3. ***First Source Hiring***. The City has adopted a First Source Hiring Program (San Francisco Administrative Code Sections 83.1 et seq.) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions as those terms are defined by the ordinance. Tenant acknowledges receiving and reviewing the First Source Hiring Program materials and

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requirements and agrees to comply with all requirements of the ordinance as implemented by Port and/or City, including without limitation, notification of vacancies throughout the Term and entering into a First Source Hiring Agreement, if applicable. Tenant acknowledges and agrees that it may be subject to monetary penalties for failure to comply with the ordinance or a First Source Hiring Agreement and that such non-compliance shall be a default of this Lease.

34.4. ***Local Business Enterprises***. The Port Commission encourages the participation of local business enterprises (**"LBEs"**) in Tenant's operations. Tenant agrees to consult with CMD to determine appropriate methods for promoting participation by LBEs. Architecture, Engineering, Laboratory Services (Materials Testing), Trucking and Hauling, and Security Guard Services are categories of services that may provide opportunities for certified LBE participation. City maintains a list of certified LBEs at: https://sfgov.org/cmd/LBE-certification-0.

34.5. ***Indoor Air Quality***. Tenant agrees to comply with Section 711(g) of the Environment Code and any additional regulations adopted by the Director of the Department of the Environment pursuant to Environment Code Section 703(b) relating to construction and maintenance protocols to address indoor air quality.

34.6. ***Prohibition Against Tobacco Advertising; Prohibition Against Tobacco Product Sales, Manufacture, and Distribution***. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. In addition, Tenant acknowledges and agrees that no Sales, Manufacture, or Distribution of Tobacco Products (as such capitalized terms are defined in Health Code Section 19K.1) is allowed on the Premises and such prohibition must be included in all subleases or other agreements allowing use of the Premises. The prohibition against Sales, Manufacture, or Distribution of Tobacco Products does not apply to persons who are affiliated with an accredited academic institution where the Sale, Manufacture, and/or Distribution of Tobacco Products is conducted as part of academic research.

34.7. ***Prohibition of Alcoholic Beverages Advertising***. Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "**alcoholic beverage**" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

34.8. ***Graffiti Removal***. Tenant agrees to remove all graffiti from the Premises, including from the exterior of the Premises if included within the Premises, within forty-eight (48) hours of the earlier of Tenant's: (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a tenant to breach any lease or other agreement that it may have concerning its use of the real property. "**Graffiti**" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and that is visible from the public right-of-way, but does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of this Lease or the Port Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California

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Art Preservation Act (Calif. Civil Code §§ 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

34.9. ***Restrictions on the Use of Pesticides***. Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "**IPM Ordinance**") describes an integrated pest management ("**IPM**") policy to be implemented by all City departments. Tenant shall not use or apply or allow the use or application of any pesticides on the Premises, and shall not contract with any party to provide pest abatement or control services to the Premises, without first receiving City's written approval of an integrated pest management plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the term of this Lease, (ii) describes the steps Tenant will take to meet the City's IPM Policy described in Section 300 of the IPM Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the Tenant's primary IPM contact person with the City. Tenant shall comply, and shall require all of Tenant's contractors to comply, with the IPM plan approved by the City and shall comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Tenant were a City department. Among other matters, such provisions of the IPM Ordinance: (a) provide for the use of pesticides only as a last resort, (b) prohibit the use or application of pesticides on property owned by the City, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (c) impose certain notice requirements, and (d) require Tenant to keep certain records and to report to City all pesticide use by Tenant's staff or contractors. If Tenant or Tenant's contractor will apply pesticides to outdoor areas, Tenant must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation and any such pesticide application shall be made only by or under the supervision of a person holding a valid Qualified Applicator certificate or Qualified Applicator license under state law. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, http://sfenvironment.org/ipm.

34.10. ***MacBride Principles Northern Ireland***. Port and the City urge companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. Port and the City urge San Francisco companies to do business with corporations that abide by the MacBride Principles.

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

34.12. ***Preservative-Treated Wood Containing Arsenic***. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Tenant may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the

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Department of Environment. This provision does not preclude Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

34.13. ***Notification of Limitations on Contributions***. If this Lease is subject to the approval by City's Board of Supervisors, Mayor, or other elected official, the provisions of this Section shall apply. Through its execution of this Lease, Tenant acknowledges its obligations under Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve (12) months after the date the contract is approved. Tenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars ($100,000) or more. Tenant further acknowledges that, if applicable, (i) the prohibition on contributions applies to each Tenant; each member of Tenant's board of directors, and Tenant's principal officers, including its chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten (10%) percent in Tenant; and any subcontractor listed in the Tenant's bid or contract; and (ii) within thirty (30) days of the submission of a proposal for the contract, the Port is obligated to submit to the Ethics Commission the parties to the Lease and any subtenant(s). Additionally, Tenant certifies that if this ***Section 34.13*** applies, Tenant has informed each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 by the time it submitted a proposal for the contract and has provided to City the names of the persons required to be informed.

34.14. ***Sunshine Ordinance***. In accordance with Section 67.24(e) of the Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between Port 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 which is covered by this Section will be made available to the public upon request.

34.15. ***Conflicts of Interest***. Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Article III, Chapter 2 of Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the California Government Code, and certifies that it does not know of any facts which would constitute a violation of these provisions, and agrees that if Tenant becomes aware of any such fact during the Term, Tenant shall immediately notify the Port.

34.16. ***Drug-Free Workplace***. Tenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101 et seq.), the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City or Port premises.

34.17. ***Prevailing Wages and Working Conditions***. Tenant shall comply with all applicable prevailing wage requirements, including but not limited to any such requirements in the California Labor Code, the City and County of San Francisco Charter or the City and County of San Francisco Municipal Code. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.61.

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Tenant shall require its contractors and subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction to: (A) pay workers performing such work not less than the highest 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**"). Tenant agrees to cooperate with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Prevailing Wage Requirements.

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

Tenant shall also pay, and shall require its subtenants, and contractors and subcontractors (regardless of tier) to pay, the Prevailing Rate of Wage for the following activities on the Premises as set forth in and to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Special Event (as defined in Section 21C.8), Broadcast Services (as defined in Section 21C.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 21C.10), and Security Guard Services for Events (as defined in Section 21C.11).

34.18. ***Local Hire***. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.62 (the "**Local Hiring Requirements**"). Tenant Improvements and Alterations under this Lease are subject to the Local Hiring Requirements unless the cost for such work is (i) estimated to be less than $750,000 per building permit; (ii) is in connection with the set-up, execution and strike of special events of three (3) or fewer days costing in excess of the Threshold Amount; or (iii) meets any of the other exemptions in the Local Hiring Requirements. For Covered Projects estimated to cost more than $1,000,000, the Prime Contractor shall prepare and submit to Port and OEWD for approval a local hiring plan ("**Local Hiring Plan**"). The Local Hiring Plan is attached hereto as ***Exhibit K***. The Local Hiring Plan shall be a written plan for implementation of the Local Hiring Requirements, including an approximate time frame for hiring decisions of Subcontractors, a description of the hiring processes to be utilized by Subcontractors, an estimate of numbers of Targeted Workers needed from various referral sources, qualifications needed for such Targeted Workers, and a recruitment plan detailing an outreach strategy for candidates representative of local demographics. Tenant agrees that it will comply with the Local Hiring Requirements to the extent applicable. Before starting any Tenant Improvements or Alterations, Tenant shall contact OEWD to determine whether the work is a Covered Project subject to the Local Hiring Requirements.

Tenant shall include, and shall require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each such contract shall name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the

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Local Hiring Requirements, including the right to file charges and seek penalties. Tenant shall cooperate, and require its subtenants to cooperate, with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Tenant's failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A contractor's or subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

34.19. ***Public Transit Information***. Tenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Premises and encouraging use of such facilities, all at Tenant's sole expense.

34.20. ***Food Service and Packaging Waste Reduction Ordinance***. Tenant agrees to comply fully with and be bound by all of the provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. By entering into this Lease, Tenant agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Tenant agrees that the sum of one hundred dollars ($100.00) liquidated damages for the first breach, two hundred dollars ($200.00) liquidated damages for the second breach in the same year, and five hundred dollars ($500.00) liquidated damages for-subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Lease was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Tenant's failure to comply with this provision.

34.21. ***San Francisco Bottled Water Ordinance***. Tenant is subject to all applicable provisions of Environment Code Chapter 24 (which are hereby incorporated) prohibiting the sale or distribution of drinking water specified containers at City-permitted events held on the Premises with attendance of more than 100 people, except as otherwise set forth in Environmental Code Chapter 24.

34.22. ***Consideration Of Criminal History In Hiring And Employment Decisions***.

(a) Tenant 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, including the remedies and implementing regulations as may be amended from time to time, with respect to applicants and employees of Tenant who would be or are performing work at the Premises.

(b) Tenant shall incorporate by reference the provisions of Chapter 12T in all subleases of some or all of the Premises, and shall require all subtenants to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Tenant and subtenants shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Tenant and subtenants shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or

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details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Tenant and subtenants shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Tenant and subtenants shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Tenant and subtenants shall post the notice prepared by OLSE, available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Tenant and subtenants understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T or this Lease, including but not limited to a penalty of $50 for a second violation and $100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Lease.

(h) If Tenant has any questions about the applicability of Chapter 12T, it may contact Port for additional information. Port may consult with the Director of the City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

34.23. ***Working with Minors***. In accordance with California Public Resources Code Section 5164, if Tenant, or any Subtenant, is providing services at a City park, playground, recreational center or beach, Tenant shall not hire, and shall prevent its Subtenants from hiring, any person for employment or a volunteer position in a position having supervisory or disciplinary authority over a minor if that person has been convicted of any offense listed in Public Resources Code Section 5164. In addition, if Tenant, or any Subtenant, is providing services to the City involving the supervision or discipline of minors or where Tenant, or any Subtenant, will be working with minors in an unaccompanied setting on more than an incidental or occasional basis, Tenant and any Subtenant shall comply with any and all applicable requirements under federal or state law mandating criminal history screening for such positions and/or prohibiting employment of certain persons including but not limited to California Penal Code Section 290.95. In the event of a conflict between this Section and ***Section 34.22*** (Consideration of Criminal History in Hiring and Employment Decisions) of this Lease, this Section shall control.

34.24. ***Southern Waterfront Community Benefits and Beautification Policy***. The Port's "Policy for Southern Waterfront Community Benefits and Beautification" identifies beautification and related projects in the Southern Waterfront (from Mariposa Street in the north to India Basin) that require funding. Under this policy, Tenant shall provide community benefits and beautification measures in consideration for the use of the Premises. Examples of desired benefits include: (i) beautification, greening and maintenance of any outer edges of and entrances to the Premises; (ii) creation and implementation of a Community Outreach and Good Neighbor Policy to guide Tenant's interaction with Port, neighbors, visitors and users; (iii) use or support of job training and placement organizations serving southeast San Francisco; (iv) commitment to engage in operational practices that are sensitive to the environment and the neighboring community by reducing engine emissions consistent with the City's Clean Air Program, and use of machines at the Premises that are low-emission diesel equipment and utilize biodiesel or other reduced particulate emission fuels; (v) commitment to use low impact design and other "green" strategies when installing or replacing stormwater infrastructure; (vi) employment at the Premises of a large percentage of managers and other staff who live in the local neighborhood or

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community; (vii) use of truckers that are certified by the CMD as "**Local Business Enterprises**" under the City's Local Business Enterprise and Non-Discrimination Ordinance (SF Administrative Code Chapter 14B, as amended); and (viii) use of businesses that are located within the Potrero Hill and Bayview Hunters Point neighborhoods. Tenant agrees to provide Port with documents and records regarding these activities upon Port's request.

34.25. ***Vending Machines; Nutritional Standards and Calorie Labeling Requirements; Offerings***. Tenant shall not install or permit any vending machine on the Premises without the prior written consent of Port. Any permitted vending machine must comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code section 4.9- 1(c), as may be amended from time to time (the "**Nutritional Standards Requirements**"). Tenant agrees to incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section shall be deemed a material breach of this Lease. Without limiting Port's other rights and remedies under this Lease, Port shall have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements. In addition, any Restaurant including any employee eating establishment located on the Premises is encouraged to ensure that at least twenty-five percent (25%) of Meals (as capitalized terms are defined in San Francisco Administrative Code section 4.9-1) offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code section 4.9-1(e), as may be amended.

34.26. ***Tenant's Compliance with City Business and Tax Regulations Code.*** Tenant 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 Port is required to make to Tenant under this Lease is withheld, then Port 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 ***Section 34.26*** to Tenant, without interest, late fees, penalties, or other charges, upon Tenant coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

34.27. ***Consideration of Salary History***. Tenant shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." For each employment application to Tenant for work that relates to this Lease or for work to be performed in the City or on City property, Tenant is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant. Tenant shall not (1) ask such applicants about their current or past salary or (2) disclose a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Tenant is subject to the enforcement and penalty provisions in Chapter 12K. Information about Chapter 12K is available on the web at https://sfgov.org/olse/consideration-salary-history.

34.28. ***Employee Signature Authorization Ordinance***. The City has adopted an Employee Signature Authorization Ordinance (S.F. Admin Code Sections 23.50-23.56). That ordinance requires employers of employees in hotel or restaurant projects on public property with fifty (50) or more employees (whether full-time or part-time) to enter into a "**card check"** agreement with a labor union regarding the preference of employees to be represented by a labor union to act as their exclusive bargaining representative. Tenant shall comply with the requirements of such ordinance, if applicable, including, without limitation, any requirements in the ordinance with respect to its Subtenants or operators.

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35. NOTICES.

Except as otherwise expressly provided in this Lease or by Law, all notices (including notice of consent or non-consent) required or permitted by this Lease or by Law must be in writing and be delivered by: (a) hand delivery; (b) first class United States mail, postage prepaid; or (c) overnight delivery by a nationally recognized courier or the United State Postal Service, delivery charges prepaid. Notices to a party must be delivered to that party's mailing address in the Basic Lease Information, unless superseded by a notice of a change in that party's mailing address for notices, given to the other party in the manner provided above, or by information provided by Tenant in Tenant's written response to Port's written request for such information.

All notices under this Lease shall be deemed to be duly delivered: (a) on the date personal delivery actually occurs; (b) if mailed, on the business day following the business day deposited in the United States mail or, if mailed return receipt requested, on the date of delivery or on which delivery is refused as shown on the return receipt; or (c) the business day after the business day deposited for overnight delivery.

Notices may not be given by facsimile or electronic mail, but either party may deliver a courtesy copy of a notice by facsimile or electronic mail.

36. MISCELLANEOUS PROVISIONS.

36.1. ***California Law; Venue***. This Lease is governed by, and shall be construed and interpreted in accordance with, the Laws of the State of California and City's Charter. 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. The parties also unconditionally and irrevocably waive any right to remove any such suit, action, or proceeding to federal court.

36.2. ***Entire Agreement***. This Lease contains all of the representations and the entire agreement between the parties with respect to the subject matter of this Lease. Any prior correspondence, memoranda, agreements, warranties, or representations, whether written or oral, relating to such subject matter are superseded in total by this Lease. No prior drafts of this Lease or changes from those drafts to the executed version of this Lease shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this Lease.

36.3. ***Amendments***. No amendment of this Lease or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

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

36.5. ***Interpretation of Lease***.

(a) References in this Lease to Tenant's acts or omissions will mean acts or omissions by Tenant and its Agents and Invitees unless the context requires or specifically stated otherwise.

(b) Whenever an exhibit or schedule is referenced, it means an attachment to this Lease unless otherwise specifically identified. All exhibits and schedules are incorporated in this Lease by reference.

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(c) Whenever a section, article or paragraph is referenced, it refers to this Lease unless otherwise specifically provided. 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 must be disregarded in the construction and interpretation of this Lease. Wherever reference is made to any provision, term, or matter "in this Lease," "herein" or "hereof" or words of similar import, the reference will be deemed to refer to any reasonably related provisions of this Lease in the context of the reference, unless the reference refers solely to a specific numbered or lettered article, section, subdivision, or paragraph of this Lease.

(d) References to all Laws, including specific statutes, relating to the rights and obligations of either party mean the Laws in effect on the effective date of this Lease and as they are amended, replaced, supplemented, clarified, corrected, or superseded at any time during the Term or while any obligations under this Lease are outstanding, whether or not foreseen or contemplated by the parties. References to specific code sections mean San Francisco ordinances unless otherwise specified.

(e) The terms "include," "included," "including" and "such as" or words of similar import when following any general term, statement, or matter may not be construed to limit the term, statement, or matter to the specific items or matters, whether or not language of non-limitation is used, but will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of the term, statement, or matter, and will be deemed to be followed by the phrase "without limitation" or "but not limited to."

(f) This Lease has been negotiated at arm's length between persons sophisticated and knowledgeable in the matters addressed. In addition, each party has been represented by experienced and knowledgeable legal counsel, or has had the opportunity to consult with counsel. Accordingly, the provisions of this Lease must be construed as a whole according to their common meaning in order to achieve the intents and purposes of the parties, without any presumption (including a presumption under California Civil Code § 1654) against the party responsible for drafting any part of this Lease.

(g) The party on which any obligation is imposed in this Lease will be solely responsible for paying all costs and expenses incurred in performing the obligation, unless the provision imposing the obligation specifically provides otherwise.

(h) Whenever required by the context, the singular includes the plural and vice versa, the masculine gender includes the feminine or neuter genders and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of "waive" applies to "waiver," "waivers," "waived," "waiving," etc.).

(i) References to days mean calendar days unless otherwise specified, provided that if the last day on which a party must give notice, respond to a notice, or take any other action under this Lease occurs on a day that is not a business day, the date by which the act must be performed will be extended to the next business day.

36.6. ***Successors***. The terms, covenants, agreements and conditions set forth in this Lease shall bind and inure to the benefit of Port and Tenant and, except as otherwise provided herein, their personal representatives and successors and assigns.

36.7. ***Real Estate Broker's Fees***. Port will not pay, nor will Port be liable or responsible for, any finder's or broker's fee in connection with this Lease. Tenant agrees to Indemnify Port from any Claims, including attorneys' fees, incurred by Port in connection with any such Claim or Claims of any person(s), finder(s), or broker(s) to a commission in connection with this Lease.

36.8. ***Counterparts***. For convenience, the signatures of the parties to this Lease may be executed and acknowledged on separate pages which, when attached to this Lease, shall constitute one complete Lease. This Lease may be executed in any number of counterparts each

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of which shall be deemed to be an original and all of which shall constitute one and the same Lease.

36.9. ***Authority***. If Tenant signs as a corporation or a partnership, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is at the time of execution and at all times while this Lease is in effect will continue to be: (1) a duly authorized and existing entity, (2) qualified to do business in California; and that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon Port's request, Tenant shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties, and covenants.

36.10. ***No Implied Waiver***. No failure by either party to insist upon the strict performance of any obligation of the other party under this Lease or to exercise any right, power or remedy under this Lease, irrespective of the length of time for which such failure continues (including Port's acceptance of full or partial Rent from Tenant) shall constitute a waiver of any breach or of either party's rights to demand strict compliance with any Lease term, covenant or condition. Port's consent to or approval of any act by Tenant requiring Port's consent or approval shall not be deemed to waive or render unnecessary Port's consent to or approval of any subsequent act by Tenant. Any waiver by either party must be in writing and shall not be a waiver of any other default (including any future default) concerning the same or any other provision of this Lease.

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

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

36.13. ***Survival of Indemnities***. Termination or expiration of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, the ability to collect any sums due, nor shall it affect any provision of this Lease that expressly states it shall survive termination or expiration hereof.

36.14. ***Relationship of the Parties***. Port is not, and none of the provisions in this Lease shall be deemed to render Port, a partner in Tenant's business, or joint venturer or member in any joint enterprise with Tenant. Neither party shall act as the agent of the other party in any respect hereunder. This Lease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

36.15. ***No Recording***. Tenant shall not record this Lease or any memorandum hereof in the Official Records.

36.16. ***Additional Written Agreement Required***. Tenant expressly agrees and acknowledges that no officer, director, or employee of Port or City is authorized to offer or promise, nor is Port or the City required to honor, any offered or promised rent credit, concession, abatement, or any other form of monetary consideration (individually and collectively, "**Concession"**) without a written agreement executed by the Executive Director of Port or his or her designee authorizing such Concession and, if applicable, certification of the Concession from the City's Controller.

36.17. ***Force Majeure***. Except as specified in this ***Section 36.17***, for all purposes of this Lease, a party whose performance of its obligations hereunder is hindered or affected by events of Force Majeure shall not be considered in breach of or in default of its obligations hereunder resulting from Force Majeure effective upon the other party's receipt of written notice describing with reasonable particularity the facts and circumstances constituting Force Majeure and citing this ***Section 36.17***, and performance of the Lease obligation shall be extended on a day for day

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basis (unless the parties mutually agree to a longer time frame in writing) during the Force Majeure event. The provisions of this ***Section 36.17*** shall not apply to Tenant's obligation to pay Rent and shall not extend the Initial Improvements Completion Date.

37. LIMITATION ON DAMAGES.

37.1. ***No Recourse Beyond Value of Premises***. Notwithstanding anything to the contrary contained in this Lease, Tenant agrees that Tenant will have no recourse with respect to, and Port shall not be liable for, any obligation of Port under this Lease, or for any claim based upon this Lease, except to the extent of the fair market value of Port's fee interest in the Premises (as encumbered by this Lease). Tenant shall look solely to the fair market value of Port's fee interest in the Premises for the recovery of any judgment or award. By Tenant's execution and delivery hereof and as part of the consideration for Port's obligations hereunder, Tenant expressly waives all other liability. Before filing suit for an alleged default by Port, Tenant shall give Port notice and reasonable time to cure the alleged default.

37.2. ***Non-Liability of City Officials, Employees and Agents***. No elective or appointive board, commission, member, officer, employee or other Agent of City and/or Port shall be personally liable to Tenant, its successors and assigns, in the event of any default or breach by City and/or Port or for any amount which may become due to Tenant, its successors and assigns, or for any obligation of City and/or Port under this Lease. Under no circumstances shall Port, City, or their respective Agents be liable under any circumstances for any consequential, incidental or punitive damages.

37.3. ***Limitation on Port's Liability Upon Transfer***. In the event of any transfer of Port's interest in and to the Premises, Port (and in case of any subsequent transfers, the then transferor), subject to the provisions hereof, will be automatically relieved from and after the date of such transfer of all liability with regard to the performance of any covenants or obligations contained in this Lease thereafter to be performed on the part of Port, but not from liability incurred by Port (or such transferor, as the case may be) on account of covenants or obligations to be performed by Port (or such transferor, as the case may be) hereunder before the date of such transfer.

38. TENANT ESTOPPEL CERTIFICATES.

Tenant, at any time and from time to time upon not less than ten (10) days' prior notice from Port, shall execute and deliver to Port or to any party designated by Port a certificate in substantially the same form as that attached to this Lease as ***Exhibit J***. Upon Tenant's request, Port shall execute and deliver to Tenant or to any party designated by Tenant a certificate stating to Port's actual knowledge (a) that this Lease is modified or unmodified and in full force and effect, (b) the dates, if any, to which Rent and other sums payable hereunder have been paid, (c) whether or not, without investigation, there are then existing any defaults under this Lease (and if so, specifying the same) and (d) any other matter actually known to Port, directly related to this Lease and reasonably requested by the requesting party. In addition, if requested, Port shall attach to such certificate a copy of this Lease and any amendments thereto, and include in such certificate a statement by Port that, to the best of its knowledge, such attachment is a true, correct and complete copy of this Lease, including all modifications thereto.

39. APPROVAL OF BOARD OF SUPERVISORS.

Notwithstanding anything to the contrary contained in this Lease, Tenant acknowledges and agrees that no officer or employee of City has authority to commit City to this Lease unless and until City's Board of Supervisors shall have duly adopted a resolution approving this Lease and authorizing the transactions contemplated hereby. Therefore, any obligations or liabilities of City hereunder are contingent upon adoption of such a resolution, and this Lease shall be null and void if City's mayor and the Board of Supervisors do not approve this Lease, in their respective sole discretion. Approval of this Lease by any department, commission or agency of

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City shall not be deemed to imply that such resolution will be enacted, nor will any such approval create any binding obligations on City.

[*Remainder of this page left intentionally blank.*]

IN WITNESS WHEREOF, PORT and TENANT execute this Lease as of the last date set forth below.

PORT: **CITY AND COUNTY OF SAN FRANCISCO**,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

DocuSigned by:
By: Kimberley Beal
4548012EFD51409...
Kimberley Beal
Acting Deputy Director, Real Estate and Development

Date Signed: 7/28/2023

TENANT: **YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION**

DocuSigned by:
By: Jamie Bruning-Miles
ECE973A3448C4B9...
Jamie Bruning-Miles, President and CEO

Date Signed: 7/27/2023

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

DocuSigned by:
By: Grace Park
08E8ABF41E3F40D...
Grace Park, Deputy City Attorney

Lease Prepared By: James Hurley, Development Project Manager Initials: DS JH

Port Commission Resolution: 23-20
Board of Supervisors Resolution: 344-23

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EXHIBIT A

DESCRIPTION OF PREMISES

[Attachment on following page]

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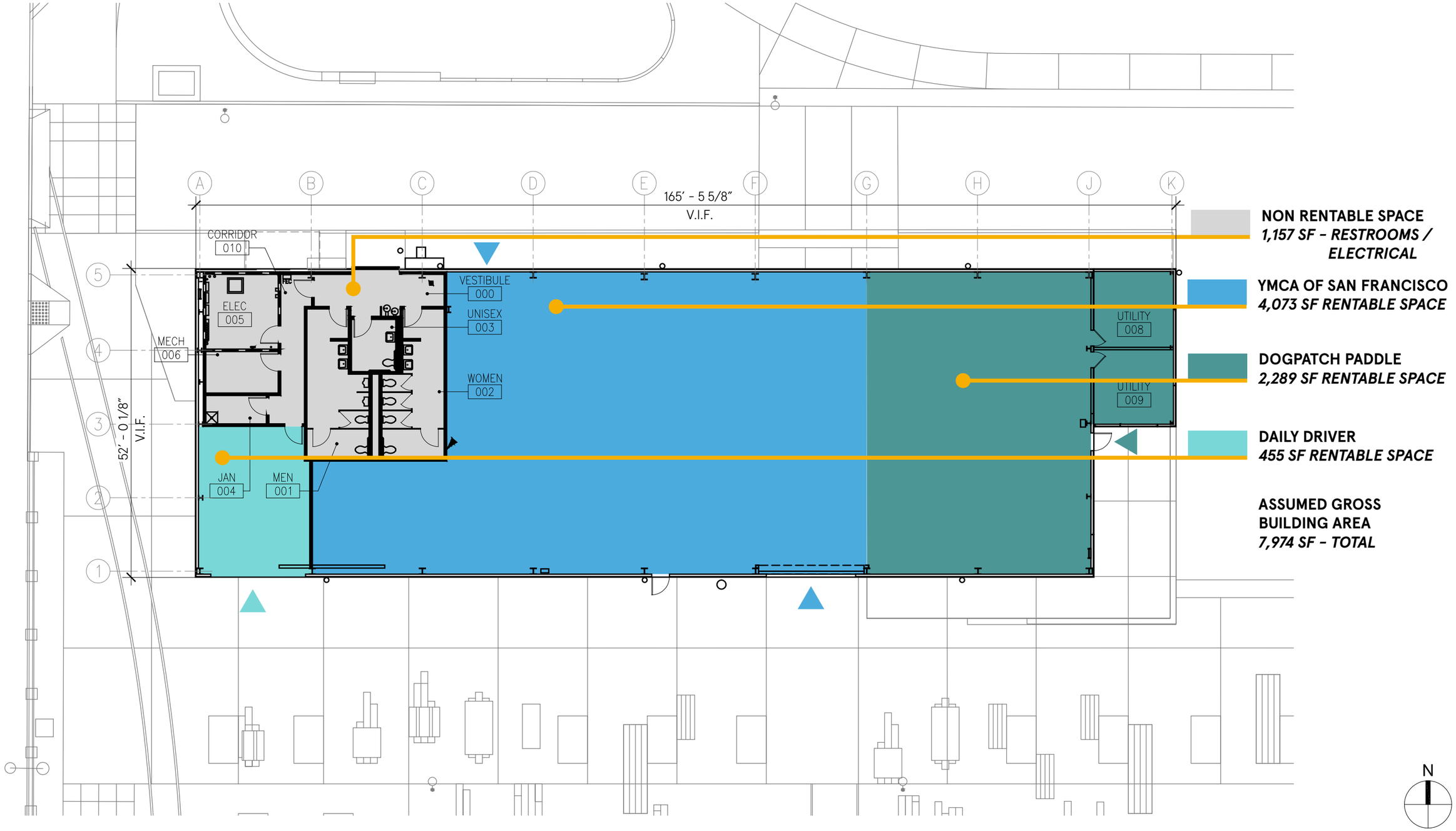

SCALE: 1/16" = 1' - 0"

PROPOSED FLOOR PLAN DIAGRAM
CRANE COVE PARK - BUILDING 49

A1
04/08/2022

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EXHIBIT B

EFFECTIVE DATE; COMMENCEMENT DATE; RENT COMMENCEMENT DATE; UPSET DATE AND EXPIRATION DATE MEMORANDUM

Landlord: **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**

Tenant:

Lease Number:

Lease Date:

Premises: [_____, Suite _____]
San Francisco, California

The Effective Date of the Lease is _____, 2023. The Commencement Date of the Lease is hereby established as _____, 20___ , the Rent Commencement Date of the Lease is hereby established as _____, 20___; the Upset Date is hereby established as _____, 20___ , the Anniversary Date is hereby established as _____, 20__; and the Expiration Date as _____ , 20___.

PORT: **CITY AND COUNTY OF SAN FRANCISCO**,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Kimberley Beal
Acting Deputy Director, Real Estate and Development

Date Signed: _____

Tenant:

By: _____
Name: _____
Title: _____

Date Signed: _____

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EXHIBIT C

DOGPATCH PADDLE
CONSENT TO SUBLEASE

This Consent to Sublease and Sublicense (this "**Consent**") is made as of _____, 2023, by and among the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation (the "**City**") operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), **YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION** ("**Master Tenant**") and **DOGPATCH PADDLE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY** ("**Subtenant**").

RECITALS

A. On October 26, 2021, the Port Commission authorized lease negotiations with Master Tenant who was the highest scoring respondent to the Port's Building 49 Request for Proposals (see Port Commission Resolution 21-46). Master Tenant's proposal included Subtenant, a human powered boating business/club as a partner. Port and Master Tenant entered into that certain Lease No. L-16997 dated as of _____ for reference purposes (the "**Master Lease**") for Building 49 located within Crane Cove Park in San Francisco, California ("**Existing Premises**"), as more particularly described in the Master Lease (see Port Commission Resolution xx-xx; Board of Supervisors Resolution xx-xx). Port and Master Tenant concurrently entered into Port License 17011 to allow related uses in Crane Cove Park ("**License**").

B. Master Tenant desires to sublease a portion of the Existing Premises, known as Sublease Premises A, as further described in ***Exhibit 1*** attached hereto (the "**Subleased Premises**") to Subtenant and Subtenant desires to sublease from Master Tenant the Subleased Premises (the "**Sublease**"). In addition, Master Tenant desires to grant Subtenant a sublicense to use the License Area as defined in the License ("**Sublicense**"). Subtenant has provided Port an estoppel certificate in the form attached to the Master Lease.

C. Master Tenant has requested that Port consent to the Sublease and Sublicense, and Port has agreed to consent to the Sublease and Sublicense to be concurrent with the Master Lease and License, on the terms and conditions set forth herein. Port's consent to the Sublease and Sublicense includes Port's consent to Subtenant's Operations Plan, if any, which shall be incorporated into Tenant's Operations Plan under the Master Lease for the duration of the Sublease and Sublicense for the convenience of Port, Master Tenant and Subtenant.

D. NOW, THEREFORE, in consideration of the foregoing, and in consideration of the mutual agreements and covenants hereinafter set forth, Port, Master Tenant and Subtenant agree as follows:

1. Master Lease and License.

The Sublease and Sublicense shall be subject and subordinate to the Master Lease and License and to all of their respective terms, covenants, conditions, provisions and agreements. Master Tenant and Subtenant represent and warrant to Port that (a) the copy of the Sublease and Sublicense attached hereto as ***Exhibit 2*** are true, complete and correct and constitute the entire agreement between the parties, and (b) neither the Sublease nor the Sublicense shall be modified, terminated or amended without prior thirty (30) days written notice to Port. The Subtenant shall be bound by all of the terms, covenants, conditions, provisions and agreements of the Master Lease and License. None of Sublease, Sublicense or this Consent shall be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Master Lease or License.

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2. Automatic Termination.

The term of the Sublease and Sublicense shall automatically terminate upon the termination of the Master Lease for any reason whatsoever, including, without limitation, the termination of the Master Lease prior to the expiration of the term thereof pursuant to a written agreement between Port and Master Tenant.

3. No Release or Waiver.

None of the Sublease, the Sublicense or this Consent shall: (a) release or discharge the Master Tenant from any liability, whether past, present or future, under the Master Lease or License; or (b) be construed to waive any breach by Master Tenant of the Master Lease or License, or any of Port's rights as the landlord thereunder, or to enlarge or increase Port's obligations thereunder. Master Tenant and Subtenant shall be and continue to be liable for the payment of all bills rendered by Port, if any, for charges incurred by the Subtenant for services and materials supplied to the Subleased Premises or License Area.

4. No Further Consent.

None of the Sublease, the Sublicense or this Consent shall: (a) operate as a consent or approval by Port to any of the terms, covenants, conditions, provisions or agreements of the Sublease or License, and Port shall not be bound thereby, or (b) be construed as a consent by Port to any further subletting or sublicensing either by Master Tenant or by the Subtenant or to any assignment by Master Tenant of the Master Lease or License , or assignment by the Subtenant of the Sublease or Sublicense, it being clearly understood that this Consent shall not in any way be construed to relieve Master Tenant or Subtenant of the obligation to obtain Port's prior written consent to any further subletting or assignment.

5. Assignment of Rent.

In the event of an Event of Default by Master Tenant under the Master Lease, the rent due from the Subtenant under the Sublease shall be deemed assigned to Port, and Port shall have the right, at any time, upon such Event of Default at Port's option, to give notice of such assignment to the Subtenant, whereupon Subtenant shall pay all rent thereafter becoming due and payable directly to Port. Port shall credit Master Tenant with any rent received by Port, but the acceptance of any payment on account of rent from the Subtenant shall not release Master Tenant from any liability under the Master Lease. Any payment of rent from the Subtenant directly to Port, or any other action by Subtenant, regardless of the circumstances or reasons therefor, shall in no manner whatsoever be deemed an attornment by the Subtenant to Port in the absence of a specific written agreement signed by Port to such effect. Port in its sole and absolute discretion may at any time after an Event of Default by Master Tenant under the Master Lease, elect to have Subtenant either attorn to Port or vacate the Subleased Premises, by giving written notice to Subtenant. If Port elects to have Subtenant attorn to Port, such notice shall state that Port is assuming Master Tenant's position under the Sublease and that Subtenant shall attorn to Port and be bound to Port under all the terms, covenants and conditions of the Sublease for the balance of the Sublease term and any extensions or renewals thereof which may then or later be in effect, all with the same force and effect as if Subtenant had been the original tenant for the Subleased Premises under the Master Lease. Any attornment shall be effective and self-operative without the execution of any further instruments. Master Tenant waives and releases any claim in the event that Subtenant makes payment directly to Port and shall hold Subtenant harmless therefor.

6. Rent.

Port's consent to the Sublease is conditioned on Master Tenant paying Percentage Rent to Port as defined and in the manner described in the Master Lease.

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7. No Representation or Warranty by Port.

Nothing contained herein shall operate as a representation or warranty by Port of any nature whatsoever.

8. Indemnity and Exculpation.

Notwithstanding any provision to the contrary in the Sublease or License, as between Port and Subtenant, Subtenant agrees and acknowledges to be bound by the indemnification and exculpation provisions of the Master Lease and License, all with the same force and effect as if Subtenant had been the original tenant for the Subleased Premises under the Master Lease and the original licensee under the License. The obligation of Subtenant under this ***Section 8*** shall survive any termination or expiration of the Sublease, Sublicense, Master Lease or License.

9. Waiver of Relocation.

To the extent allowed by applicable Law, Master Tenant and Subtenant hereby waive any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code §§ 7260 et seq., or under any similar law, statute or ordinance now or hereafter in effect.

10. Insurance.

Notwithstanding any provision to the contrary in the Sublease, Subtenant shall, at Subtenant's expense, with respect to the Subleased Premises and License Area secure and keep in force during the term of the Sublease and Sublicense such insurance as required by the Sublease or Sublicense. Such liability policy or policies of insurance shall name as additional insureds by written endorsement "**THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, AGENTS, EMPLOYEES, AND REPRESENTATIVES.**" A certificate evidencing such insurance shall be delivered to Port promptly after the date hereof. Subtenant additionally acknowledges Port's absolute right to demand increased coverage to amounts consistent with the type of Subtenant's business activities on the Subleased Premises or License Area.

11. Miscellaneous.

(a) This Consent may be executed in counterparts.

(b) This Consent shall be governed by and construed in accordance with the laws of the State of California. In the event of a conflict between the terms and provisions of this Consent and the Sublease or the License, this Consent shall control. Terms not defined in this Consent shall have the same meanings as in the Master Lease or License as the case may be.

(c) The terms and provisions of this Consent shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(d) If any one or more provisions in this Consent shall be invalid, illegal or unenforceable for any reason, the remaining provisions contained herein shall not in any way be affected or impaired thereby.

(e) This Consent may not be modified or amended except by a writing executed by all parties to the Consent.

(f) Port and Subtenant hereby mutually waive any claim against the other and its agents for any loss or damage to any of their property located on or about the Subleased Premises, the Building or the License Area that is caused by or results from perils covered by property insurance carried by the respective parties, to the extent of the proceeds of such insurance actually received with respect to such loss or damage, whether due to the negligence of the other party or its agent(s). Each party shall immediately notify its insurer, in writing, of these mutual waivers and have their insurance policies endorsed to prevent the invalidation of the insurance coverage because of these waivers.

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12. Effective Date.

The Effective Date of this Consent is the Effective Date of the Master Lease.

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The execution of this Consent by Master Tenant and Subtenant shall evidence Master Tenant's and Subtenant's joint and several confirmation of the foregoing conditions, and of their agreement to be bound thereby and shall constitute Subtenant's acknowledgement that it has received a copy of the Master Lease.

Landlord: **CITY AND COUNTY OF SAN FRANCISCO**
operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Name: _____
Title: _____

MASTER TENANT: **YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Subtenant: **DOGPATCH PADDLE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY,**

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: _____
_____, Deputy City Attorney

Prepared By: James Hurley, Development Project Manager Initials: _____

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EXHIBIT 1

DOGPATCH PADDLE
DESCRIPTION OF SUBLEASED PREMISES

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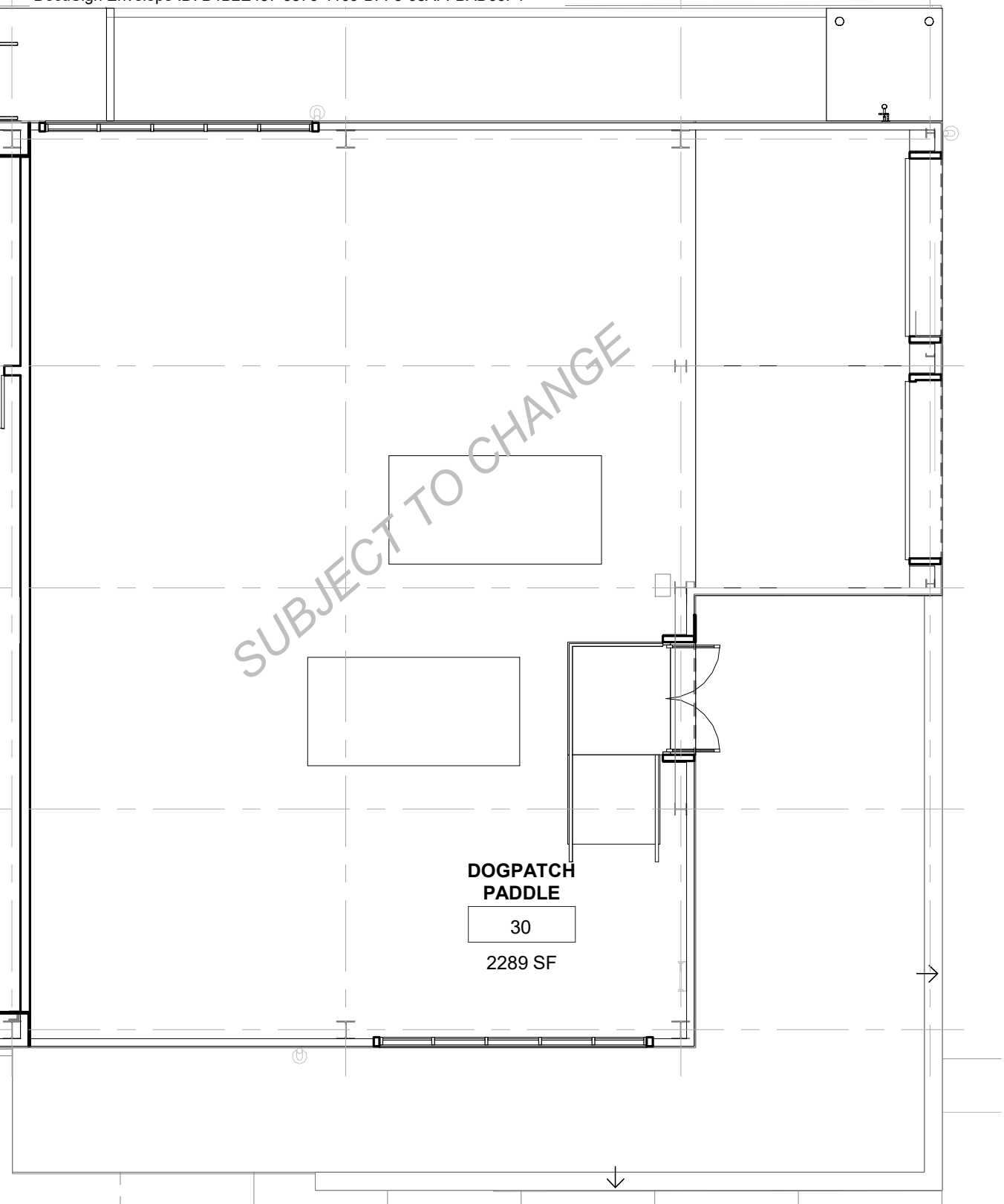

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EXHIBIT 2
COPY OF DOGPATCH PADDLE SUBLEASE

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BUILDING 49 SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (this "**Sublease**") is made and entered into as of April 19, 2023 (the "**Execution Date**") by and between **Young Men's Christian Association of San Francisco, a** California non-profit public benefit corporation ("**Sublandlord**") and Dogpatch Paddle LLC, a California Limited Liability Company ("**Subtenant**").

WHEREAS, City and County of San Francisco, a municipal corporation (the "**City**"), operating by and through the San Francisco Port Commission ("**Port**"), as landlord, and Sublandlord, as Tenant, are parties to that certain Lease dated as of_____, 2023 (the "**Master Lease**") by and between the Port and Sublandlord; and

WHEREAS, pursuant to the Master Lease, the Port leases to Sublandlord and Sublandlord leases from the Port certain premises (the "**Master Lease Premises**") comprised of Building 49 (the "**Building**") (known as 701 Illinois Street, San Francisco, CA), and all improvements thereon, of approximately 8,000 square feet with a rentable area of approximately 6,817 square feet located within Crane Cove Park (the "**Park**") in the City and County of San Francisco. A copy of the Master Lease, as applicable to Subtenant, is attached hereto as **Exhibit A** and made a part hereof; and

WHEREAS, Sublandlord wishes to sublease to Subtenant and Subtenant wishes to sublease from Sublandlord a portion of the Master Lease Premises upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually covenant and agree as follows:

1. Basic Provisions.

1.1 Sublease Premises: The "Sublease Premises" under this Sublease consists of approximately 2,289 rentable square feet shown on **Exhibit B** attached hereto. The parties agree that the designated square footage is an approximation and is reasonable.

1.2 Sublease Effective Date; Sublease Commencement Date: The Sublease Effective Date is the latest of: (i) the Execution Date; (ii) the "Effective Date" identified in the Master Lease; and (iii) the date on which Sublandlord has received Port's written consent to this Sublease and any items related to this Sublease for which Port's consent is required. The Sublease Commencement Date is the "Commencement Date" under the Master Lease.

1.3 Sublease Expiration Date: The Sublease Expiration Date is the last day of the tenth (10th) year after the Sublease Rent Commencement Date (defined below).

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1.4 Sublease Rent Commencement Date: The Sublease Rent Commencement Date is the "Rent Commencement Date" under the Master Lease. Notwithstanding the foregoing, Subtenant shall pay rent in the amount required by the then-current Port Commission-adopted parameter rates for any Subtenant uses in the Building other than construction during the "Construction Term."

1.5 Base Rent: Commencing on the Sublease Rent Commencement Date, Subtenant shall pay base rent for the Sublease Premises in accordance with the following schedule ("**Base Rent**" or "**Monthly Base Rent**"):

Period	Monthly Base Rent
Sublease Rent Commencement Date – Month 12	$ 2,918.48
Month 13 – Month 24	$ 3,006.03
Month 25 – Month 36	$ 3,096.21
Month 37 – Month 48	$ 3,189.10
Month 49 – Month 60	$ 3,284.77
Month 61 – Month 72	$ 3,383.31
Month 73 – Month 84	$ 3,484.81
Month 85 – Month 96	$ 3,589.36
Month 97 – Month 108	$ 3,697.04
Month 109 – Month 120	$ 3,807.95

1.6 Percentage Rent: In addition to the Monthly Base Rent, in any month in which the amount under (i) below exceeds the Monthly Base Rent, Subtenant shall pay to Sublandlord, as calculated on a monthly basis and paid quarterly (unless Port requires monthly payments as provided in Section 5.2(e) of the Master Lease), the difference between: (i) six percent (6%) of Gross Revenues generated by Subtenant; and (ii) the Monthly Base Rent ("**Percentage Rent**").

1.7 Subtenant Permitted Use: As provided by the terms of the Master Lease, an aquatics center which includes sales, rentals and lessons related to human-powered vessels such as kayaks and stand-up paddleboards. Subtenant Permitted Uses may be more fully described in the Subtenant Operations Plan, as approved by Port and Sublandlord.

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1.8	Subtenant's Trade Name:	Dogpatch Paddle
1.9	Subtenant's Fiscal Year:	Calendar Year
1.10	Subtenant's Address:	Dogpatch Paddle LLC 550 18th Street, #407 San Francisco, CA 94107 Attention: Adam Zolot
1.10	Sublandlord's Address:	YMCA of San Francisco 169 Steuart Street San Francisco, CA 94105 Attention: Jamie Bruning-Miles, President and CEO With a copy to: YMCA of San Francisco 169 Steuart Street San Francisco, CA 94105 Attention: Mittie Grigsby, CFO

1.11 Security Deposit: Two (2) months' Monthly Base Rent, escalated annually in the same percentage as Monthly Base Rent, as described in Section 9 of the Master Lease, to be deposited with Sublandlord upon execution of this Sublease.

2. Definitions: Each of the terms identified in Section 1 of this Sublease has the meaning given in such Section. Other capitalized words and phrases for which no definition is given in this Sublease shall have the meanings given them in the Master Lease (in some cases, these terms defined in the Master Lease are denoted by bold lettering). Unless otherwise indicated, all section references are to the sections of this Sublease**.**

3. Demise of Sublease Premises; Representations.

3.1 General Demise. As of the Sublease Effective Date, Sublandlord subleases the Sublease Premises to Subtenant, and Subtenant subleases the Sublease Premises from

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Sublandlord, subject to the specific effective dates and terms and conditions of this Sublease.

3.2 Representations. Subtenant represents and warrants to Sublandlord that: (a) Subtenant is familiar with the provisions of the Master Lease insofar as it pertains to the Sublease Premises and Subtenant's use and occupation thereof under this Sublease; (b) Subtenant has the right and power to execute and deliver this Sublease and to perform its obligations hereunder; (c) the person or persons executing this Sublease for Subtenant are fully authorized to so act and no consent, authorization or other action is required to bind Subtenant to this Sublease; (d) Subtenant is duly organized and in good standing in the State of California; (e) there are no undischarged judgments pending against Subtenant, and Subtenant has not received notice of the filing of any pending suit or proceedings against Subtenant except as disclosed in writing to Sublandlord; (f) the delivery, and performance of this Sublease will not conflict with any instrument by which Subtenant is bound or any law applicable to Subtenant; and (g) Subtenant is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money. Subtenant's representations and warranties in this Sublease will survive any termination of this Sublease.

4. Sublease Term.

4.1 Sublease Term. The term of this Sublease (the "**Sublease Term**") shall begin on the Sublease Commencement Date and end on the Sublease Expiration Date, unless sooner terminated earlier in accordance with the terms of this Sublease. Promptly following a written request therefor, Subtenant agrees to execute a certificate prepared by Sublandlord setting forth the actual Sublease Effective Date, Sublease Commencement Date, Sublease Rent Commencement Date and/or Sublease Expiration Date and other confirmations reasonably requested by Sublandlord. In the event Subtenant fails to execute such certificate within five (5) business days following delivery thereof to Subtenant, Subtenant shall be deemed to have approved all of the matters set forth in such certificate and such certificate shall be fully binding on Subtenant notwithstanding anything to the contrary herein.

4.2 Termination. The Sublease Term shall end on the Sublease Expiration Date. However, this Sublease may be terminated prior to the Sublease Expiration Date if the Master Lease is terminated for any cause whatsoever (and Port does not require Subtenant to attorn to Port) or if this Sublease is terminated as otherwise provided for herein. Subtenant shall have no option to extend the Sublease Term or elect an early termination of the Sublease Term except as expressly set forth herein.

4.3 Extension Options. Subject to any required prior approval of Port, and provided (i) this Sublease and the Master Lease are in full force and effect; (ii) Sublandlord has exercised rights to extend the term of the Master Lease; (ii) Subtenant is not in breach or default under any of the terms and conditions of this Sublease at any time from the Sublandlord Extension Notice until the beginning of the Extension Term; and (iii) Subtenant, at the time of notification and extension, is conducting regular, active, ongoing business in, and is in occupancy of the entire Sublease Premises (and occupancy by a subtenant, licensee or other party permitted or suffered by Subtenant shall not satisfy such condition even if permitted under this Sublease), then

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Subtenant shall have options to extend (each, an "**Extension Option**") this Sublease for the extension term exercised by Sublandlord under the Master Lease (each, an "**Extension Term**"), on the terms and conditions set forth in a notice from Sublandlord given between Three Hundred Sixty-Five (365) and Two Hundred Seventy (270) days prior to the then expiration date of this Sublease, except that in the case of any extension terms under the Master Lease shorter than five (5) years, such notice shall be given between six (6) and four (4) months prior to the then expiration date of this Sublease ("**Sublandlord Extension Notice**").

(a) If Subtenant elects to exercise an Extension Option, then Subtenant shall provide Sublandlord with written notice of exercise and acceptance of the terms and conditions of the Sublandlord Extension Notice no later than thirty (30) days after receipt of the Sublandlord Extension Notice.

(b) If Subtenant fails to validly exercise any Extension Option, Subtenant shall have no further right to extend the Sublease Term.

(c) The Extension Options are not transferable, and no assignee or sublessee will have any rights to exercise the Extension Options.

(d) If, for any reason, the Master Lease is not extended for an Extension Term, even after a Sublandlord Extension Notice has been given, any Subtenant exercise of an Extension Option shall become void and the Sublease Term shall not be extended.

5. Rent.

5.1 Rent Defined. The rent payable by Subtenant for the Sublease Premises shall consist of the Monthly Base Rent, Percentage Rent, and any other sums payable by Subtenant under this Sublease (collectively referred to as "**Rent**"). Subtenant's covenant to pay Rent shall be independent of every other covenant in this Sublease. Subtenant shall make all payments due to Sublandlord pursuant to this Sublease as directed by Sublandlord. However, at Port's election, Subtenant shall pay Rent directly to Port upon receiving Port's written notice that an Event of Default has occurred under the Master Lease.

5.2 Monthly Base Rent. Beginning on the Rent Commencement Date and continuing thereafter on the first (1st) day of each calendar month during the Sublease Term, the Monthly Base Rent specified in Section 1 shall be payable by Subtenant to Sublandlord in advance, and without notice, demand, deduction or offset. The parties shall agree on an automatic or other payment mechanism that shall guarantee timely payment of the Monthly Base Rent.

5.3 Applicability of Rent Credits. Subtenant agrees that it shall not be entitled to any portion of a rent credit or other accommodation that may be given by Port to Sublandlord in connection with Sublandlord's performance of improvements under the Master Lease or otherwise.

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5.4 Percentage Rent. Beginning on the Rent Commencement Date and continuing thereafter, Subtenant agrees to pay to Sublandlord, in addition to the Monthly Base Rent, Percentage Rent in an amount set forth in Section 1. The determination of Percentage Rent shall be subject to and in accordance with the terms and conditions of Sections 5.2, 5.4 and 5.5 of the Master Lease, substituting in each case Subtenant for Tenant and Sublandlord for Port, except that each of the time periods for delivery of payment or statements provided for in such Sections 5.2, 5.4, and 5.5 shall be shortened by ten (10) days with respect to Subtenant's performance in order to enable Sublandlord to receive such items from Subtenant and comply with its obligations under the Master Lease. (See also Section 18.8 below.) Subtenant further acknowledges and agrees that certifications may be required directly to Port or both Port and Sublandlord and that each of Sublandlord and Port may have the right to audit Subtenant's Books and Records. Subtenant shall be responsible for all costs and expenses incurred by Sublandlord due to Sublandlord's obligation to cause compliance by Subtenant with the Percentage Rent obligations, including Late Charges, audit fees and attorneys' fees referenced therein.

5.5 Additional Rent. Subtenant will pay its allocable share (or separate assessable amount) of any property, possessory interest or similar taxes or fees related to the Sublease Premises (allocated according to the method of calculation, e.g., fair market rent for the Sublease Premises) and will be responsible for preparing and filing any returns or documents necessary for purposes of compliance with possessory interest or other taxes. Subtenant acknowledges that it will be necessary to furnish a copy of this Sublease to the County Assessor. Such taxes and fees shall be paid directly to the assessing authority, if permitted by such authority. Subtenant shall pay all taxes on personal property, equipment and fixtures located in or about the Sublease Premises during the Sublease Term, whether or not owned by Subtenant.

5.6 Late Payments. All Rent shall be paid to Sublandlord or to such other person or such other place as Sublandlord may from time to time designate in writing. If any Rent is not paid when due, Subtenant acknowledges that Sublandlord will incur costs or penalties to Port and additional administrative expenses and costs which are difficult or economically impractical to ascertain and, accordingly, Subtenant shall pay Sublandlord, as a reasonable approximation of such additional administrative expenses and costs, an administrative charge equal to percent (10%) of the delinquent amount, which amount shall be payable for each thirty (30) days (or portion thereof) such payment is overdue. Neither demand for nor receipt of any late charge called for under this Sublease shall (i) operate to waive any default by Subtenant or provide a substitute for Subtenant's full and timely performance of the obligation to pay Rent, or (ii) limit the exercise of any other right or remedy Sublandlord may have under this Sublease in case of Subtenant's default.

6. Initial Improvements.

6.1 Sublandlord Initial Improvements. Prior to the Sublease Rent Commencement Date, Sublandlord will cause to be performed and will pay for the work with respect to the Sublease Premises designated as Sublandlord Improvements on **Exhibit C** attached hereto (the "**Sublandlord Initial Improvements**").

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6.2 Subtenant Initial Improvements. Prior to the Sublease Rent Commencement Date, Subtenant, at Subtenant's sole cost and expense, shall cause the work designated as Subtenant Improvements on **Exhibit C** attached hereto (the "**Subtenant Initial Improvements**") to be **Completed** in accordance with, and subject to all the terms, covenants, conditions and restrictions of this Sublease and the Master Lease (including, as applicable, the **Work Letter** attached to the Master Lease). Without limiting the foregoing, Subtenant shall be responsible for paying all permit costs, fees and other expenses incurred in connection with completion of the Subtenant Initial Improvements in accordance with the foregoing standards.

(a) Subtenant will furnish design concepts to Sublandlord for Sublandlord's approval and Sublandlord and Port shall have the right to approve all construction related to the Subtenant Initial Improvements. Any modifications of the Subtenant Initial Improvements are subject to the approval of Sublandlord and Port. Construction and installation of the Subtenant Initial Improvements, and any other work or deliveries on the part of Subtenant, shall be coordinated with the work of the Sublandlord Initial Improvements and any other work in the Building so as to mutually expedite construction and avoid interference with the overall Building project.

(b) Notwithstanding the foregoing provisions, the date for completion of the Sublandlord Initial Improvements shall be extended if completion is delayed by circumstances beyond the reasonable control of Sublandlord. As provided in the Master Lease, in the event the Subtenant Initial Improvements are not Completed by the Sublease Rent Commencement Date, payment of Rent shall nevertheless commence, and Subtenant shall be responsible for any penalties Port elects to impose upon Sublandlord as a result of such delay pursuant to the terms of the Master Lease.

7. Possession and Use.

7.1 As-Is; Possession. Except for the work with respect to the Sublandlord Initial Improvements, as modified by the Subtenant Initial Improvements, Sublandlord subleases the Sublease Premises to Subtenant, and Subtenant accepts the Sublease Premises strictly in their present "as-is" and "with all faults" condition. Sublandlord has no other obligation to prepare, modify or alter the Sublease Premises or to pay to Subtenant any refurbishment or tenant improvement allowance or reimburse Subtenant for the cost of any preparation, modification, or alteration of the Sublease Premises performed by or on behalf of Subtenant. As of the Sublease Commencement Date and the date of completion of the Sublandlord Initial Improvements, Subtenant acknowledges that it will have had full opportunity to inspect the condition of the Sublease Premises and all **Laws** relating to its use and condition. Subtenant is not relying, whether on the Sublease Commencement Date or otherwise, on any statement, representation or warranty made by or for Sublandlord with respect to the Sublease Premises or such Laws. Subtenant, by taking possession or commencing use of the Sublease Premises, conclusively acknowledges the Sublease Premises to be in good order and repair and in a tenantable condition and acceptable for its intended use. Subtenant may not use or occupy any portion of the Sublease Premises prior to issuance of a Temporary Certificate of Occupancy

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applicable to the Sublease Premises except as may be authorized in writing by Port and Sublandlord.

7.2 Use. The Sublease Premises shall be used and occupied solely for Subtenant's Permitted Uses as specified in Section 1 hereof.

(a) All Subtenant Permitted Uses must be performed in compliance with the initial Operations Plan separately approved by Sublandlord and Port (the "**Subtenant Operations Plan**"), as amended from time to time as necessary. Subtenant must prepare and maintain the Subtenant Operations Plan to document procedures consistent with Laws, industry standards, best management practices and good housekeeping. The Subtenant Operations Plan must address the following operations and components by Subtenant on or about the Sublease Premises and the **License Area (**to the extent permitted under the Sublicense referenced in Section 9 below):

(i) Hours of Operation, Security, Staffing and Safety Plan;

(ii) List of required and obtained Regulatory Approvals;

(iii) Aquatic activities safety measures (e.g., participant safety gear; participant/instructor ratio; instructor qualifications);

(iv) Reporting Accidents;

(v) Noise Control;

(vi) Equipment Washing Protocols;

(vii) Park Usage Areas (including paths of travel for staff and patrons) .

(b) Failure to comply with the Subtenant Operations Plan is a material breach of this Sublease, subject to cure as provided in Section 17.1(j) and (k). Port and Sublandlord may, from time to time, review the Subtenant Operations Plan and make recommendations for revisions. All revisions to the Subtenant Operations Plan are subject to Sublandlord and Port approval. Sublandlord and Subtenant shall work together in good faith and Sublandlord shall oversee any interpretive features or visual representations for the Sublease Premises visible from the Premises leased by Sublandlord or the exterior of the Premises.

(c) Subtenant's business in the Sublease Premises shall be conducted only under the Trade Name specified in Section 1. Subtenant shall keep the Sublease Premises open for business according to the minimum operating hours set forth in the Subtenant Operations Plan. As provided in the Subtenant Operations Plan and Section 6.2 of the Master Lease, Subtenant shall operate its business continuously, actively and diligently in a good faith manner.

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(d) Without limiting the foregoing, Subtenant's use shall also comply with and be limited by all relevant provisions of the Master Lease, including without limitation those with respect to any "Port program or project", "Port Work," "Development Projects", Sections 3.4, 6.1 (which requires, among other things, that Subtenant conduct operations at the Sublease Premises consistent with the maintenance and operation of a first-class mixed-use office/light industrial/commercial and/or retail development located in the Dogpatch neighborhood of San Francisco), 6.4 (Public Use) and 10, and all applicable Laws and Rules and Regulations. To the extent allowed by applicable Law, Subtenant hereby waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code §§ 7260 et seq., or under any similar law, statute or ordinance now or hereafter in effect.

7.3 Prohibited Uses.

(a) Subtenant agrees that the following activities, by way of example only and without limitation, and any other use that is not a Subtenant Permitted Use (in each instance, a "**Prohibited Use**" and collectively, "**Prohibited Uses**"), are inconsistent with this Sublease and the Master Lease, are strictly prohibited and are considered Prohibited Uses:

(i) any activity, or the maintaining of any object, which is not within the Subtenant Permitted Uses;

(ii) any activity, or the maintaining of any object, which will in any way increase the existing rate of, affect or cause a cancellation of, any fire or other insurance policy covering the Premises, any part thereof or any of its contents;

(iii) any activity or object which will exceed load restrictions, if any, or cause damage to the Premises;

(iv) any activity which constitutes waste or nuisance, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any objectionable odors, noises or lights onto adjacent properties, or the use of loudspeakers or sound or light apparatus which can be heard or seen outside the Sublease Premises;

(v) any activity which will in any way injure, obstruct or interfere with the rights of other users or of owners, users, or occupants of adjacent properties, including, but not limited to, rights of ingress and egress;

(vi) use of the Sublease Premises for residential, sleeping or personal living quarters and/or "Live/Work" space;

(vii) any auction, distress, fire, bankruptcy or going out of business sale on the Premises without the prior written consent of Port, which consent may be granted, conditioned, or withheld in the sole and absolute discretion of Port;

(viii) any vehicle and equipment maintenance, including but not limited to, fueling, changing oil, transmission or other automotive fluids;

(ix) the storage of any and all excavated materials, including but not limited to, dirt, concrete, sand, asphalt, and pipes;

(x) except during periods of permitted construction, the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials; or

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(xi) except as provided in a Subtenant Operations Plan, the washing of any vehicles, vessels or equipment.

(b) In addition to, and without limiting, the Prohibited Uses specified above, the following are prohibited:

(i) No discharges to the Bay;

(ii) operation of a night club, underage parties, raves, pay at the door events or other similar activities; and

(iii) any uses inconsistent with reasonable requirements or restrictions Port may impose from time to time.

7.4 Sublandlord's Entry Right. In addition to Port's rights of entry set forth in the Master Lease, including, without limitation, Section 29 of the Master Lease, Sublandlord may enter any part of the Sublease Premises at all reasonable hours, following reasonable prior notice (or in any emergency or suspected emergency, at any hour and without prior notice). Subject to Port's rights under the Master Lease and except in the case of an emergency, Sublandlord shall use commercially reasonable efforts not to unreasonably interfere with Subtenant's use of the Sublease Premises for Subtenant's Permitted Use in connection with such entries.

8. Services, Maintenance And Repair Obligations.

8.1 Utilities and Maintenance Costs. Subtenant shall pay all charges for all Utilities to be furnished on, in or to the Sublease Premises or to be used by Subtenant, including an electric capacity charge from Port as well as costs of electric service from SFPUC. To the extent such Utilities are not separately metered or sub-metered, Subtenant shall pay its proportionate share of Utilities costs as calculated by Sublandlord. For any sub-metered Utilities, Subtenant shall pay to Sublandlord the costs allocable to the Sublease Premises according to the amounts registered on any submeter. Subtenant shall obtain and pay for any other operation, maintenance or other services or Subtenant requirements for the Sublease Premises. To the extent that other normal operating or maintenance expenses are incurred by Sublandlord for the Building, including the mechanical area or the restrooms in the Building, Subtenant shall pay to Sublandlord its proportionate share (based on rentable square feet) of such expenses. All costs for which Subtenant is responsible under this Section 8.1 shall be paid within five (5) days after invoice from Sublandlord. Subtenant shall pay its proportionate share of any Flood Protection Measures required under the Master Lease (*e.g.*, under Section 16.2 of the Master Lease).

8.2 Limitation on Sublandlord's Obligations. Sublandlord shall have no responsibility for or be liable to Subtenant for any default, failure or delay on the part of Port in the performance or observance by Port of any of its obligations under the Master Lease or for any other action or inaction by Port under the Master Lease, nor shall such default, action or inaction by Port affect this Sublease or waive or defer the performance of any of Subtenant's obligations under this Sublease, including without limitation the obligation to pay Rent; and Subtenant

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hereby expressly waives the provisions of any statute, ordinance or judicial decision, now or hereafter in effect, which would give Subtenant the right to make repairs at the expense of Sublandlord or Port, or to claim any actual or constructive eviction by virtue of any interruption in access, services or utilities to, or any failure to make repairs in or to, the Sublease Premises or the Building including without limitation any rights under California Civil Code Sections 1932(1) and 1931(2), 1933(4), 1941 or 1942. Sublandlord will have no obligation to Subtenant to maintain or repair the Sublease Premises or with respect to the continuing availability of Utilities in the Sublease Premises.

8.3 Maintenance and Repair of Sublease Premises. Subtenant shall be responsible to make and pay for repair and maintenance of the Sublease Premises, and any repair or maintenance resulting from work performed or required by Subtenant, such as any ancillary infrastructure required to be installed for Subtenant. Such maintenance and repair shall be consistent with the requirements in the Subtenant Operations Plan and Subtenant Permitted Uses and the terms of the Master Lease. Within five (5) days after Sublandlord's request, Subtenant shall supply such information regarding the Sublease Premises as may be necessary for Sublandlord to comply with Sublandlord's obligations under the Master Lease, such as for "Facility Conditions Reports". Subtenant will not take any action that might impair the Construction Warranties or other warranties for the Building, as described by Sublandlord. Subtenant shall independently obtain and pay for waste removal, pest extermination, custodial/janitorial and any internet services for the Sublease Premises, and shall perform any maintenance, repairs and replacements that Sublandlord is required to perform under the Master Lease with respect to the Sublease Premises, including without limitation under Section 6.1 of the Master Lease. Sublandlord shall have no responsibility for obtaining or paying for any services to the Premises not specified in this Sublease or to perform any obligations of Port or of an owner or manager of real property. In the event Subtenant fails to maintain the Sublease Premises in accordance with this Sublease or Subtenant fails to promptly repair any damage to the Sublease Premises caused by Subtenant or its Agents or Invitees, Sublandlord may repair the same at Subtenant's sole cost and expense and Subtenant shall immediately reimburse Sublandlord therefor.

8.4 Compliance with Laws. Without limiting Subtenant's obligations as incorporated from the Master Lease, Subtenant shall comply with all Environmental Laws, other Laws, the MMRP, and restrictions of all insurance bodies and their fire prevention engineers at any time in force, applicable to the use, condition, occupancy or modification of the Sublease Premises, including without limitation, all Laws promulgated or applicable as a result of the Americans with Disabilities Act. Without limiting the generality of the foregoing, Subtenant shall be responsible for all modifications (including structural modifications) to the Sublease Premises or Master Lease Premises triggered or required as a result of Subtenant's particular use or modification of or improvements or alterations to the Sublease Premises. All provisions of the Master Lease relating to Sublandlord's use of or liability arising from Hazardous Materials or environmental impacts are hereby incorporated herein, with the term "Subtenant" substituted for Tenant, including without limitation Article 18. The disclosure by Port under Section 18.9 of the Master Lease is hereby incorporated by reference in this Sublease and its terms accepted by Subtenant.

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Subtenant shall not bring upon the Sublease Premises or use the Sublease Premises or permit the Sublease Premises or any portion thereof to be used for the sale or distribution of alcoholic beverages or the growing, manufacturing, administration, distribution (including without limitation, any retail sales), possession, use or consumption of any cannabis, marijuana or cannabinoid product or compound, regardless of the legality or illegality of the same.

8.5 Accessibility Standards. Sublandlord has been advised by Port and hereby advises Subtenant that the Building may not currently meet all applicable accessibility standards, including standards for public restrooms and ground floor entrances and exits. Subtenant understands and agrees that Subtenant may be subject to legal and financial liabilities if the Sublease Premises does not comply with applicable federal and state disability access Laws. Subtenant further understands and agrees that it is Subtenant's obligation, at no cost to Port or Sublandlord, to cause the Sublease Premises, and Subtenant's use thereof, to comply with the Disability Laws and any other federal or state disability access Laws. Subtenant shall notify Sublandlord and Port if it is making any Alterations or Improvements to the Sublease Premises that might impact accessibility standards required under federal and state disability access Laws.

Pursuant to California Civil Code Section 1938, Sublandlord has been notified by Port that as of the date of this Sublease, the Sublease Premises has not undergone inspection by a "Certified Access Specialist" to determine whether the Sublease Premises meet all applicable construction-related accessibility standards under California Civil Code Section 55.53. Sublandlord hereby discloses pursuant to California Civil Code Section 1938 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 Subtenant 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." Sublandlord and Subtenant hereby acknowledge and agree that in the event that Subtenant elects to perform a CASp inspection of the Sublease Premises, such CASp inspection shall be performed at Subtenant's sole cost and expense and Subtenant shall be solely responsible for the cost of any repairs, upgrades, alterations and/or modifications to the Sublease Premises necessary to correct any such violations of construction-related accessibility standards identified by such CASp inspection as required by law, which repairs, upgrades, alterations and/or modifications may, at Sublandlord's or Port's option, be performed by Sublandlord or Port at Subtenant's expense, payable as additional rent within five (5) days following Sublandlord's demand.

8.6 Security Services. Subtenant will secure the Sublease Premises (as may be further described in the Master Lease) and will obtain and pay for any security services deemed necessary by Subtenant. Sublandlord shall be under no obligation to implement security measures or take any actions to prevent threat of property loss or damage, bodily injury, or business interruption. Neither Sublandlord nor any Sublandlord Parties (defined below in Section

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10.3) shall have any liability to Subtenant or any Subtenant Parties for the adequacy of security services provided by Port or Sublandlord (if any).

8.7 Reporting Accidents. Subtenant shall notify Sublandlord and Master Landlord in writing of any incident or accident of which Subtenant becomes aware involving significant personal injury or personal property damage that occurs in the Sublease Premises or the Park during Subtenant's operations. Such notice shall be given within twenty-four (24) hours after Subtenant learns of said incident or accident. Failure to timely report such incidents or accidents shall constitute a material default under this Sublease.

9. Sublicense. Simultaneously with execution of this Lease, Subtenant and Sublandlord shall execute a Sublicense in a form approved by Sublandlord and Port that allows for Subtenant to use, on a non-exclusive and revocable (by Port) basis, certain portions of the Park defined in the Sublicense as the Sublicense Area.

10. Subtenant's Insurance and Indemnity.

10.1 Insurance Coverage.

Commencing on the earlier of the Sublease Commencement Date or any use or occupancy of the Sublease Premises by Subtenant, and continuing during the Sublease Term (or any later occupancy by Subtenant), in lieu of complying with all insurance coverage requirements of Section 19.1 of the Master Lease, Subtenant shall procure and maintain at all times, at its own cost and expense, the insurance specified on **Exhibit D** attached hereto. Except to the extent modified by the provisions of **Exhibit D**, Subtenant shall otherwise comply with the provisions of Section 19 of the Master Lease pertaining to the forms and content of insurance policies and endorsements, and certificates and notices relating thereto, including the provisions of Section 19.6. Subtenant shall furnish to Sublandlord a certificate of Subtenant's insurance required under this Section 10.1 on or before the Sublease Commencement Date. In the event Subtenant does not maintain said insurance, Sublandlord may, in its sole discretion and without waiving any other remedies hereunder, procure said insurance and Subtenant shall pay to Sublandlord as Rent the cost of said insurance plus a ten percent (10%) administrative fee. Subtenant acknowledges the Port's right to demand increased coverage to amounts customarily required by other San Francisco landlords for premises where business activities similar to the Subtenant's are conducted.

10.2 Subrogation. Each party hereby waives claims against the other for damage to property owned by the waiving party where such damage is covered under any policy of property insurance maintained, so long as such waiver does not invalidate or adversely affect the waiving party's property insurance; and each party shall obtain from its insurance carrier a waiver of its right of subrogation. Subtenant agrees to obtain, for the benefit of Port, Sublandlord, and the Sublandlord Parties such waivers of subrogation rights from its insurer as are required of Sublandlord, as Tenant, under the Master Lease. Subtenant hereby waives claims against Port, Sublandlord and the Sublandlord Parties for death, injury, loss or damage of every kind and

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nature, if and to the extent that Sublandlord, as Tenant, waives or releases such claims against Port under the Master Lease.

10.3 Exculpation; Indemnity. To the fullest extent permitted by law, Subtenant waives all claims against Sublandlord, its officers, directors, shareholders, employees, volunteers, agents and representatives (collectively, the "**Sublandlord Parties**") for economic damages, damage to any property or injury or death of any person in, on or about the Sublease Premises, the Park or other Port property arising at any time or from any cause other than to the extent resulting from the gross negligence or willful misconduct of Sublandlord and not insured or required to be insured by Subtenant under this Sublease. Subtenant agrees to pay and to protect, defend, indemnify and hold Sublandlord and the Sublandlord Parties harmless from all claims, losses, damages, liabilities and expenses, including reasonable attorneys' fees and costs (collectively, "**Claims**") which Sublandlord may incur, or for which Sublandlord may be liable to Port, arising from or related to (a) the use, modification or occupancy of the Sublease Premises, the Park or other Port property during the Sublease Term; (b) the acts or omissions of Subtenant or any of Subtenant's agents, employees, contractors, **Invitees**, sub-subtenants, assignees, licensees, transferees or representatives (collectively, the "**Subtenant Parties**"); (c) Subtenant's breach of this Sublease or the non-performance, non-observance or non-payment of any of Sublandlord's obligations under the Master Lease that is the result of any default or failure of performance by Subtenant under this Sublease or that, as a result of this Sublease, became an obligation of Subtenant, together with every fine, penalty, interest or other charge that may be added for Subtenant's non-payment or late payment, whether payable to Port or to other persons, parties or entities designated herein; and (d) any other acts or events occurring in or about the Sublease Premises during the Sublease Term, which are the subject matter of any indemnity or hold harmless of Sublandlord, as Tenant, to Port under the Master Lease. Subtenant's obligations to protect, defend, indemnify and hold harmless Sublandlord under this Section are in no way conditioned upon either (i) Subtenant's or any Subtenant Parties' acts or omissions being a cause of any underlying claim, demand, action, loss or damage, or (ii) Sublandlord or any Subtenant Parties' being free of negligence or wrongful conduct in connection therewith; provided, however, that Subtenant shall not be required to indemnify or hold Sublandlord and the Sublandlord Parties harmless to the extent it is established that Sublandlord's gross negligence or willful misconduct is the cause of any claim, demand, action, liability, expenses, loss or damage and such claim, demand, liability, expense, loss or damage is not insured or required to be insured by Subtenant under this Sublease. Notwithstanding any other term or provision of this Sublease, under no circumstances shall Sublandlord or any Sublandlord Parties be liable for (i) any Claims or other liability incurred in connection with a failure of Port or its partners, members, shareholders, directors, agents, officers, employees, contractors, successors and /or assigns to perform or cause to be performed Port's obligations under the Master Lease, (ii) any Claims arising as a result of actions taken or not taken by Sublandlord due to performance by Sublandlord under the Master Lease, or (iii) lost revenues, lost profit or other consequential, special, indirect or punitive damages arising in connection with this Sublease or the Sublease Premises for any reason. Subtenant's indemnity obligations set forth herein or elsewhere in this Sublease and the terms of this Section shall survive the expiration or earlier termination of this Sublease.

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11. Assignment or Subletting.

11.1 Generally. Independent of and in addition to any provisions of the Master Lease, other than as expressly provided below, except with the prior written consent of Sublandlord and Port, which consent may be withheld in their sole discretion, Subtenant shall not voluntarily, involuntarily or by operation of law (a) assign, convey or mortgage this Sublease or any interest under it; (b) allow any assignment or transfer thereof or any lien upon Subtenant's interest by operation of law; (c) further sublet the Sublease Premises or any part thereof; (d) permit the occupancy of the Sublease Premises or any part thereof by anyone other than Subtenant; or (e) if Subtenant is a corporation, partnership, limited liability company, limited liability partnership, trust, association or other business entity (other than a corporation whose stock is publicly traded), permit, directly or indirectly, the transfer of any ownership interest in Subtenant so as to result in a change in **Control** of Subtenant, or a transfer of all or substantially all of the assets of Subtenant (collectively, a "**Transfer**").

11.2 Notice and Consent. Subtenant shall provide Sublandlord with not less than sixty (60) days prior written notice of a proposed Transfer. With any request for consent to a Transfer, Subtenant will submit a copy of the proposed Transfer document to Sublandlord and notify Sublandlord of the proposed effective date of the Transfer, the name of the proposed transferee (accompanied by detailed evidence of the nature, character, ownership, business, and financial condition of the transferee and its business), all terms and conditions (including detail regarding the proposed uses, rental and other consideration) of or relating to the Transfer and a description of any proposed alterations. Sublandlord shall use reasonable efforts to grant or deny its consent to the proposed Transfer within forty-five (45) days following submission of Subtenant's request accompanied by the information required herein; Sublandlord's failure to grant or deny its consent within such forty-five (45) day period shall be deemed to be Sublandlord's denial of such consent. Consent by Sublandlord to any Transfer shall not be a waiver of Sublandlord's rights as to any subsequent Transfer. Any approved Transfer shall be expressly subject to the terms and conditions of the Master Lease not previously waived or consented to as part of this Sublease, including the necessity to procure Port's consent and the provisions required in any Sublease.

Within ten (10) days after written request, Subtenant will pay Sublandlord, as additional Rent, Sublandlord's and Port's reasonable costs, including attorneys' fees and costs, consultant's costs, and costs for Port staff time, incurred in connection with the review, investigation, processing, documentation, and/or approval of any proposed Transfer. To the extent permitted to be deducted as Subletting Expenses under the Master Lease, such costs paid by Subtenant may be deducted when calculating the Excess Consideration payable under Section 11.5 below. Subtenant will pay such costs regardless of whether Port or Sublandlord consents to such proposal.

Subtenant acknowledges and agrees that as a condition of Port's consent to a Transfer to a Subtenant with a substantially different business model (such as alcohol sales), Port may elect to increase the monthly Percentage Rent amount above six-percent (6%) or require payment of Percentage Rent in a commercially reasonable amount consistent with other Port tenants with similar operations, as determined by Port in its reasonable discretion.

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11.3 Payments. Upon any default while a Transfer is in effect, Sublandlord may collect directly from the transferee all sums becoming due to Subtenant under the Transfer and apply this amount against any sums due Sublandlord by Subtenant, and Subtenant hereby authorizes and directs any transferee to make payments directly to Sublandlord upon notice from Sublandlord. No direct collection by Sublandlord from any transferee shall constitute a novation or release of Subtenant, a consent to the Transfer or a waiver of the covenant prohibiting Transfers. Sublandlord, as Subtenant's agent, may endorse any check, draft or other instrument payable to Subtenant for sums due under a Transfer, and apply the proceeds in accordance with this Sublease; this agency is coupled with an interest and is irrevocable. In the event that Subtenant shall request Sublandlord's consent to a Transfer, Subtenant shall pay Sublandlord's processing costs and attorneys' fees and costs incurred in reviewing such request, including any fees due under the Master Lease, together with the fees and costs of Port in accordance with the terms of the Master Lease.

11.4 Sublandlord's Recapture Right. Notwithstanding anything to the contrary contained in this Sublease, if Subtenant shall request approval to Transfer any portion of the Sublease Premises then Sublandlord shall have the option, by giving written notice to Subtenant within thirty (30) days after receipt of any request for consent to such Transfer, to recapture the Sublease Premises subject to such request. Such recapture notice by Sublandlord shall cancel and terminate this Sublease as of the effective date of the proposed Transfer set forth in the request for consent, but Subtenant shall remain responsible for any obligations accrued prior to the date of Transfer.

11.5 Excess Consideration. If the consideration Subtenant receives for any Transfer (including key money and bonus money and any payment in excess of fair market value for services or assets provided or transferred in connection with the Transfer) exceeds the Base Rent and Percentage Rent payable under this Sublease for the same period and portion of the Sublease Premises, then the excess shall be immediately due and payable by Subtenant to Sublandlord as additional Rent under this Sublease. Subtenant shall allow Sublandlord and Port to review and audit Subtenant's Books and Records that are applicable to the payment of such additional Rent for the purpose of verifying Subtenant's calculation of additional Rent payable to Sublandlord and shall maintain such Books and Records for the period required by the Master Lease.

11.6 Other Transfer Terms. No permitted assignment shall be effective, and no permitted sublease shall commence unless and until any default by Subtenant hereunder has been cured. No assignment or subletting shall relieve Subtenant from Subtenant's obligations and agreements under this Sublease, and Subtenant shall continue to be liable as a principal and not as a guarantor or surety, to the same extent as though no assignment or subletting had been made. Subtenant hereby waives the provisions of Section 1995.310 of the California Civil Code, or any similar or successor Laws, now or hereinafter in effect, and all other remedies, including, without limitation, any right at law or equity to terminate this Sublease, on its own behalf and, to the extent permitted under all applicable Laws, on behalf of the proposed transferee. Any attempted Transfer in violation of this Section is voidable by Sublandlord.

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12. Alterations.

12.1 Other Alterations. Subtenant shall not make any **Alterations** (including any **Exterior Improvements**) to or outside the Sublease Premises (including the installation of any wiring or cabling within the Sublease Premises) if to do so would constitute a default under the Master Lease (without regard to any requirement of notice or cure period), and in any event will not perform any Alterations without the prior written consent of Sublandlord and Port. If Subtenant's proposed Alterations would not constitute a default under the Master Lease and are approved by Port to the extent such approval is required pursuant to the Master Lease, Sublandlord's consent thereto shall not be unreasonably withheld, and if Sublandlord consents thereto, Sublandlord shall use reasonable efforts to obtain the consent of Port if such consent is required under the Master Lease. If Alterations by Subtenant are permitted or consented to, Subtenant shall comply with all of the covenants and obligations of Sublandlord, as Tenant, contained in the Master Lease pertaining to the installation and removal of such Alterations. In addition, Subtenant shall indemnify, defend, protect and hold Sublandlord and the Sublandlord Parties harmless from and against any and all claims arising out of the installation, use and removal of Alterations by or on behalf of Subtenant.

12.2 Removal; Restoration. Notwithstanding anything to the contrary contained in this Sublease or the Master Lease, Subtenant shall remove any Alterations to the Sublease Premises upon the Expiration Date or earlier termination of this Sublease and perform any repairs and restoration required if (i) Sublandlord notifies Subtenant prior to the Expiration Date that Subtenant will be obligated to remove the same upon the Expiration Date or earlier termination of this Sublease, or (ii) Port requires such removal and restoration.

13. Casualty or Condemnation. In the event of a fire or other casualty affecting the Building or the Sublease Premises, or of a **Condemnation** of all or a part of the Building or the Sublease Premises under the power of eminent domain, Subtenant shall have no right to terminate this Sublease. If the Master Lease imposes on Sublandlord the obligation to repair or restore the Premises or the Building, including any leasehold improvements or alterations, Sublandlord also will repair the Sublandlord Initial Improvements and Subtenant Initial Improvements to the extent of available insurance proceeds allocable thereto, and Subtenant shall be responsible for repair or restoration of any other leasehold improvements or Alterations within the Sublease Premises to the extent these improvements or Alterations were made by or for the benefit of Subtenant.

14. Surrender.

14.1 Generally. On the Expiration Date, or upon the earlier termination of this Sublease or of Subtenant's right to possession of the Sublease Premises, Subtenant will at once vacate, surrender and deliver up the Sublease Premises, together with all improvements thereon, to Sublandlord in good condition and repair, reasonable wear and tear and casualty excepted. Conditions existing because of Subtenant's failure to perform maintenance, repairs or replacements as required of Subtenant under this Sublease shall not be deemed "reasonable wear and tear." Subtenant shall surrender to Sublandlord all keys and other access control

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devices to the Sublease Premises and make known to Sublandlord the combination of all combination locks that Subtenant is permitted to leave on the Sublease Premises.

14.2 Restoration of Alterations. All **Subtenant's Property** not removed shall become a part of and shall remain upon the Sublease Premises upon any termination, without compensation, allowance or credit to Subtenant. Notwithstanding the foregoing, if Subtenant is obligated to remove any Subtenant's Property pursuant to other provisions of this Sublease, then Subtenant shall remove such Subtenant's Property and shall restore the applicable portions of the Sublease Premises to the condition existing prior to the performance of the applicable Subtenant's Property, reasonable wear and tear excepted. Subtenant shall repair any damage occasioned by such removal or restoration. If Subtenant does not complete such removal or restoration in accordance with this Sublease, Sublandlord may remove the same (and repair any damage occasioned thereby), and dispose thereof, or at its election, warehouse the same. Subtenant shall pay the costs of such removal, repair, restoration and warehousing, plus an administrative fee equal to ten percent (10%) of such costs, on demand.

14.3 Trade Fixtures. On or before the Sublease Expiration Date, or upon the earlier termination of the Sublease or of Subtenant's right to possession of the Sublease Premises, Subtenant shall remove Subtenant's **trade fixtures**, and shall repair any injury or damage to the Sublease Premises that may result from such removal, and shall restore the Sublease Premises to the same condition as prior to the installation thereof. If Subtenant does not remove Subtenant's trade fixtures from the Sublease Premises on or before the Expiration Date or the earlier termination of Subtenant's right to possession, Sublandlord may, at its option, remove the same (and repair any damage occasioned thereby and restore the Sublease Premises as aforesaid) and dispose thereof or warehouse the same, and Subtenant shall pay the cost of such removal, repair, restoration or warehousing, plus as administrative fee equal to ten percent (10%) of such costs, to Sublandlord on demand, or Sublandlord may treat said trade fixtures as having been conveyed to Sublandlord with this Sublease acting as a bill of sale therefor, without further payment or credit by Sublandlord to Subtenant.

15. Holding Over.

15.1 No Right to Hold Over. Subtenant has no right to occupy the Sublease Premises or any portion thereof after the Sublease Expiration Date or after any earlier termination of this Sublease or of Subtenant's right to possession hereunder. In the event Subtenant or any party claiming by, through or under Subtenant so holds over, then Subtenant shall be deemed a tenant at sufferance and Sublandlord may exercise any and all remedies available to it at law or in equity to recover possession of the Sublease Premises, and to recover damages, including without limitation, all damages (consequential or direct) payable by Sublandlord to Port by reason of such holdover (which will include without limitation any escalated "holdover" rent payable by Sublandlord under the Master Lease).

15.2 Holdover Rate. Without limiting Sublandlord's rights under Section 13.1, for each and every month or partial month that Subtenant or any party claiming by, through or under Subtenant remains in occupancy of all or any portion of the Sublease Premises after the Sublease

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Expiration Date or after the earlier termination of this Sublease or of Subtenant's right to possession, Subtenant shall pay, as minimum damages and not as a penalty, monthly rental at a rate equal to the greater of (i) twice the rate of Rent payable by Subtenant hereunder immediately prior to the Sublease Expiration Date or the earlier termination of this Sublease or of Subtenant's right to possession and (ii) the escalated "holdover" rent payable by Sublandlord under the Master Lease as a result of Subtenant's holdover. The acceptance by Sublandlord of any lesser sum shall be construed as payment on account and not in satisfaction of damages for such holding over.

16. Encumbering Title.

16.1 Prohibition. Subtenant shall not do any act which in any way encumbers the title of Port in and to the Building nor shall the interest or estate of Port or Sublandlord be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by Subtenant, or by reason of any other act or omission of Subtenant. Any claim to, or lien upon, the Sublease Premises or the Building arising from any act or omission of Subtenant shall accrue only against the estate of Subtenant and shall be subject and subordinate to the paramount title and rights of Port and the Sublandlord.

16.2 Liens. Without limiting the generality of Section 16.1, Subtenant shall not permit the Sublease Premises or the Building to become subject to any mechanics', laborers' or materialmen's lien on account of labor or material furnished to Subtenant or claimed to have been furnished to Subtenant in connection with work of any character performed or claimed to have been performed on the Sublease Premises by, or at the direction or sufferance of, Subtenant. Sublandlord may cause such liens to be released by any means it deems proper, including payment, at Subtenant's expense and without affecting Sublandlord's rights.

17. Subtenant's Default.

17.1 Definition. Any one or more of following events shall be considered a "**Default**" by Subtenant, as such term is used in this Sublease:

(a) Subtenant shall be adjudged an involuntary bankrupt, or a decree or order approving, as properly filed, a petition or answer filed against Subtenant asking reorganization of Subtenant under the Federal bankruptcy laws as now or hereafter amended, or under the laws of any state, shall be entered, and any such decree or judgment or order shall not have been vacated or stayed or set aside within thirty (30) days from the date of the entry or granting thereof; or

(b) Subtenant shall file, or admit the jurisdiction of the court and the material allegations contained in, any petition in bankruptcy, or any petition pursuant or purporting to be pursuant to the Federal Bankruptcy laws now or hereafter amended, or Subtenant shall institute any proceedings for relief of Subtenant under any bankruptcy or insolvency laws or any laws relating to the relief of debtors, readjustment of indebtedness, re-organization, arrangements, composition or extension; or

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(c) Subtenant shall make any assignment for the benefit of creditors or shall apply for or consent to the appointment of a receiver for Subtenant or any of the property of Subtenant; or

(d) The Sublease Premises are levied on by any attachment or execution resulting from the debts of Subtenant; or

(e) A decree or order appointing a receiver of the property of Subtenant shall be made and such decree or order shall not have been vacated, stayed or set aside within thirty (30) days from the date of entry or granting thereof; or

(f) Subtenant shall vacate or abandon or fail to continuously occupy the Sublease Premises during the Sublease Term or conduct or attempt to conduct a Transfer other than in strict accordance with Section 11 hereof; or

(g) Subtenant fails to make any payment of Rent required to be made by Subtenant as and when such payment is due, understates Gross Revenues for any accounting period by more than five percent (5%), fails to make its Books and Records available in accordance with the Master Lease, or fails to make the certifications required under the Master Lease; or

(h) Subtenant fails to secure insurance or to provide proper evidence of insurance as set forth in Section 10 of this Sublease or fails to keep the Sublease Premises or the Building free of lien claims as set forth in this Sublease; or

(i) Subtenant, by its act or omission, causes an event or condition under the Master Lease which either is an immediate default thereunder or, subject only to the delivery of any required notice or passage of any cure or grace period, would constitute a default thereunder; or

(j) Subtenant fails to use the Sublease Premises solely for the Subtenant Permitted Use, fails to comply with the provisions of ***Section 18*** (Hazardous Materials) of the Master Lease as incorporated herein, or fails to comply with the provisions of the Subtenant Operations Plan, in each case in a manner that presents a health, safety, welfare or environmental risk or hazard, as determined by Port in its sole and absolute discretion and such failure continues for a period of twenty-four (24) hours following written notice from Port; or

(k) Subtenant fails to fulfill, keep, observe or perform any of the other covenants and obligations herein contained to be fulfilled, kept, observed and performed by Subtenant, and such failure continues for more than five (5) days after notice thereof in writing to Subtenant; or

(l) A default occurs under the Sublicense that is not cured within any period for cure provided therein.

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17.2 Remedies. Upon the occurrence of any one or more Defaults, Sublandlord may exercise any remedy against, and recover such amounts from, Subtenant as Port may exercise or be entitled to for default by Tenant under the Master Lease as if Sublandlord were the Port and Subtenant were Tenant, which provisions of the Master Lease are hereby incorporated herein by reference. In addition, if Subtenant shall default under any of the terms or provisions of this Sublease on Subtenant's part to be performed, and Subtenant shall not have commenced diligently to cure any such default that is capable of cure within five (5) days after notice thereof to Subtenant (except in the case of what Sublandlord reasonably believes to be an emergency situation in which case no such notice need be given), Sublandlord may, in addition to any other remedy provided in this Sublease, by law or otherwise, cure such default and the cost thereof, together with interest thereon from the date incurred until paid at the maximum rate permitted under applicable law, shall be payable by Subtenant within ten (10) days after demand therefor, and in the event Subtenant fails to pay the same, Sublandlord may recover such costs, including interest, attorney's fees and disbursements and court costs, as additional rent, in an action brought against Subtenant. Each and every right and remedy of Sublandlord under this Sublease shall be cumulative and in addition to every other right and remedy herein contained or now or hereafter existing at law or in equity, by statute or otherwise.

17.3 Security Deposit. Sublandlord shall have the right to hold and apply the security deposit described in Section 1 on the same terms as set forth in Section 9 of the Master Lease, substituting Sublandlord for Port and Subtenant for Tenant thereunder.

18. Provisions Regarding Master Lease.

18.1 Subject to Master Lease. This Sublease and all rights of the parties hereunder are subject and subordinate to the Master Lease. The parties hereby acknowledge, each to the other, that it is not practical in this Sublease to enumerate all of the rights and obligations of the various parties under the Master Lease and specifically to allocate those rights and obligations in this Sublease. Accordingly, in order to afford to Subtenant the benefits of this Sublease and of those provisions of the Master Lease which by their nature are intended to benefit the party in possession of the Sublease Premises, and in order to protect Sublandlord against a default by Subtenant which might cause a default by Sublandlord under the Master Lease, Sublandlord and Subtenant covenant and agree as set forth in this Section 18.

18.2 Relationship with Master Lease. Subtenant's estate shall in all respects be limited to, and be construed in a fashion consistent with, the estate granted to Sublandlord by Port. Subtenant shall stand in the place of Sublandlord and shall defend, indemnify and hold Sublandlord harmless with respect to all covenants, warranties, obligations, and payments made by Sublandlord under or required of Sublandlord by the Master Lease with respect to the Sublease Premises. In the event Sublandlord is prevented from performing any of its obligations under this Sublease by a breach by Port of a term of the Master Lease, then Sublandlord's sole obligation in regard to its obligation under this Sublease shall be to use reasonable efforts in diligently pursuing the correction or cure by Port of Port's breach (provided, however,

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Sublandlord shall have no obligation to sue the Port on Subtenant's behalf or to terminate the Master Lease as a result of or in connection with any such breach by Port).

18.3 Incorporation of Master Lease. Except as expressly excluded or otherwise modified herein, and for purposes of incorporation thereof into this Sublease, the provisions of the Master Lease are hereby expressly incorporated into this Sublease with the term "Sublandlord" substituted for Landlord and the term "Subtenant" substituted for Tenant and the term "Sublease" substituted for Lease. Without limiting the generality of the foregoing, Port requires incorporation in subleases of certain provisions of and obligations under the Master Lease, including those detailed in Section 34: "**City and Port Requirements**" and Section 23.5(d): "**Required Provisions in Subleases**", and, accordingly, all such provisions are incorporated by reference herein, and Subtenant acknowledges and agrees to be bound by and perform all such provisions and obligations, even if such provisions do not apply to Sublandlord due to the nature of its activities or business (e.g., those relating to serving food or beverages, advertising of products).

18.4 Subtenant's Performance. Except as otherwise expressly provided in this Sublease, Subtenant shall perform all affirmative covenants and shall refrain from performing any act which is prohibited by the negative covenants of the Master Lease, where the obligation to perform or refrain from performing is by its nature imposed upon the party in possession of the Sublease Premises. If practicable, and except for different time periods set forth herein, Subtenant shall perform affirmative covenants which are also covenants of Sublandlord under the Master Lease at least five (5) days prior to the date when Sublandlord's performance is required under the Master Lease.

18.5 Termination of Master Lease. The parties agree that: (a) if the Master Lease should terminate prior to the Expiration Date for any reason, then Sublandlord shall have no liability to Subtenant; and (b) to the extent the Master Lease grants Sublandlord any discretionary right to terminate the Master Lease, whether due to casualty, Condemnation, by election by Sublandlord or otherwise, Sublandlord shall be entitled to exercise or not exercise such right in its sole and absolute discretion and without liability to Subtenant. If Sublandlord and Port agree to terminate the Master Lease, Sublandlord will give Subtenant notice no later than execution of such agreement. Provided that Subtenant remains in occupancy of the Sublease Premises and is not in default under this Sublease, Sublandlord shall make all reasonable efforts to give Subtenant notice of any such termination at least ninety (90) days prior the Master Lease termination date unless termination results from a casualty, Condemnation or other circumstance for which such advance notice is not reasonably feasible.

Upon any termination of the Master Lease and this Sublease, the parties shall have no further rights or obligations under this Sublease except pursuant to those provisions that expressly survive the expiration or earlier termination of this Sublease. In the event of termination, reentry or dispossession by Port under the Master Lease, Port may, at its option, take over all of the right, title and interest of Sublandlord under this Sublease, and Subtenant shall, at Port's option, attorn to Port pursuant to the then executory provisions of this Sublease.

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18.6 Incorporation of Release and Indemnity Provisions. Any non-liability, release, indemnity or hold harmless provision in the Master Lease for the benefit of Port shall be deemed to apply under this Sublease and inure to the benefit of both Sublandlord and Port.

18.7 Consents. If Subtenant desires to take any action that requires the consent of Port under the terms of the Master Lease, then, notwithstanding anything to the contrary herein: (a) except as otherwise expressly provided in this Sublease, Sublandlord, independently, shall have the same rights of approval or disapproval as Port has under the Master Lease; (b) Subtenant shall not take any such action until it obtains the consent of both Sublandlord and Port; and (c) Subtenant shall request that Sublandlord obtain Port's consent on Subtenant's behalf and Sublandlord shall use commercially reasonable efforts to obtain such consent. Subtenant shall pay all reasonable costs (including attorneys' fees) reasonably incurred by Sublandlord in seeking or procuring Port's consent. Any approval or consent required of Sublandlord conclusively shall be deemed reasonably withheld if approval or consent also is required of the Port, and Port fails to give Port's approval or consent.

18.8 Submissions. In all provisions of the Master Lease requiring Tenant to submit, exhibit to, supply or provide Port with evidence, certificates, or any other matter or thing, Subtenant shall be required to submit, exhibit to, supply or provide, as the case may be, the same to Sublandlord. Specifically, and without limiting the foregoing, Subtenant shall initially supply all matters relating to Percentage Rent required under Section 5 of the Master Lease to Sublandlord, and Sublandlord shall have the same rights to examine Subtenant's Books and Records and require Certifications with respect to Percentage Rent as does Port under the Master Lease. In any such instance, Sublandlord shall determine if such evidence, certificate or other matter or thing shall be satisfactory. All time periods for the Port to respond or perform under the Master Lease shall, as applicable to Sublandlord, be extended by an additional five (5) business days. All terms applicable to time periods for Sublandlord, as tenant under the Master Lease, to perform or respond shall, as applicable to Subtenant, be shortened by five (5) days, or, in the case of Percentage Rent submissions described in Section 5.4 hereof, ten (10) days, except that in the event the time period is five (5) days or less, the time period for performance by Subtenant shall be two (2) days.

18.8 Transfers. In the event of any assignment or transfer of the Sublandlord's interest under this Sublease, Sublandlord shall be and hereby is entirely relieved of all covenants and obligations of Sublandlord hereunder accruing subsequent to the date of the transfer, and it shall be deemed and construed, without further agreement between the parties hereto, that any transferee has assumed and shall carry out all covenants and obligations thereafter to be performed by Sublandlord hereunder.

18.9 Conflict with Master Lease. As between Sublandlord and Subtenant, in the event of a conflict between the provisions of the Master Lease incorporated into this Sublease and the provisions of this Sublease, the provisions of this Sublease shall control.

18.10 Estoppels. Subtenant, at any time and from time to time upon not less than five (5) days' prior notice from Sublandlord, shall execute and deliver to Sublandlord, Port or to any

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party designated by Sublandlord or Port a certificate in substantially the same form as that attached to the Master Lease as "**Exhibit J**." If Subtenant shall fail to provide such certificate within such five (5) day period, such failure shall, at Sublandlord's or Port's election, constitute a default under this Sublease, and Subtenant shall be deemed to have admitted the accuracy of any information supplied by Sublandlord or Port to a prospective purchaser or mortgagee.

19. Port's Consent.

19.1 Requirement for Consent. This Sublease and the obligations of the parties hereunder are expressly conditioned upon Sublandlord obtaining prior written consent hereto by Port in form and content reasonably acceptable to Sublandlord. Simultaneously with execution of this Sublease, Subtenant shall execute and deliver to Subtenant and Port a form of Consent to Sublease required by Port and attached to the Master Lease as "**Exhibit C"**. Subtenant shall promptly deliver to Sublandlord any information reasonably requested by Port with respect to the nature and operation of Subtenant's business and/or the financial condition of Subtenant. Subtenant shall also provide such further information as may be requested by the City or Port to enable compliance with reporting obligations under state Law and San Francisco Administration Code Sections 23.38 and 23.39 (or any successor ordinance). In the event that, for any reason, the consent of Port to this Sublease is not obtained within sixty (60) days after the Execution Date, then either party may terminate this Sublease by giving the other party written notice thereof, in which event this Sublease shall terminate and neither party shall have any obligation hereunder.

19.2 Agreements for Port's Benefit. Sublandlord and Subtenant hereby agree, for the benefit of Port, that this Sublease and Port's consent hereto shall not (a) create privity of contract between Port and Subtenant; (b) be deemed to have amended the Master Lease in any regard (unless Port shall have expressly agreed writing to such amendment); or (c) be construed as a waiver of Port's right to consent to any assignment of the Master Lease by Sublandlord or any further subletting of the Sublease Premises, or as a waiver of Port's right to consent to any assignment by Subtenant of this Sublease or any further subletting of the Sublease Premises or any part thereof.

20. Notices.

20.1 Generally. All notices which may or are required to be given by either party to the other shall be in writing and shall be deemed given (i) if personally delivered, when received or refused (provided that any notice so delivered on a weekend or holiday will be deemed given on the next-succeeding business day), or (ii) if sent by United States mail, postage prepaid, on the business day after the business day of mailing, or (iii) if sent by a nationally recognized overnight commercial courier service providing receipted delivery, on the business day immediately following delivery to the courier, in any such case (a) if to Subtenant, addressed to Subtenant at the addresses specified in Section 1.9 or at such other place as Subtenant may from time to time designate by notice in writing to Sublandlord or (b) if for Sublandlord, addressed to Sublandlord at the address specified in Section 1.10 or at such other place as Sublandlord may from time to time designate by notice in writing to Subtenant. Each party agrees promptly to deliver to the

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other party a copy of any notice, demand, request, consent or approval received from Port that affects the rights or obligations under this Sublease.

20.2 Default Notices. Any notice delivered by Sublandlord in connection with, or as a precondition to, a Default by Subtenant shall be in lieu of and not in addition to any notice to pay rent or notice to perform any covenant required under law.

21. Miscellaneous.

21.1 Brokers. Each party warrants to the other that it has had no dealings with any broker or agent in connection with this Sublease.

21.2 Attorneys' Fees. The Prevailing party in any action or proceeding (including any cross-complaint, counterclaim, or bankruptcy proceeding) against the other party by reason of a claimed default, or otherwise arising out of a party's performance or alleged non-performance under this Sublease, shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "**Prevailing party"** within the meaning of this Section shall include, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense.

21.3 Entire Agreement. This Sublease is the entire agreement between the parties regarding its subject matter and supersedes any prior oral or written agreements among them regarding the subject matter contained herein. Subtenant shall continue to be liable for any obligations under the Sublicense dated June 6, 2022 under Port License 16931, dated June 3, 2022 which have accrued prior to the date of termination and any obligations which by their terms survive the termination or expiration of the such Sublicense.

21.4 Waiver. No waiver of any provision of this Sublease or consent to any action shall constitute a waiver of any other provision of this Sublease or consent to any other action. No waiver or consent shall constitute a continuing waiver or consent, or commit a party to provide a future waiver, unless such provision is expressly set forth in writing.

21.5 Interpretation. The terms of this Sublease have been negotiated by the parties hereto and the language used in this Sublease shall be deemed to be the language chosen by the parties hereto to express their mutual intent. The parties acknowledge and agree that each party and its counsel have reviewed and revised this Sublease and that no rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Sublease.

21.6 Amendment. This Sublease is subject to amendment only by a writing that makes reference to this Sublease and is signed by all parties hereto.

21.7 Signage. Subject to the terms and conditions of the Master Lease, including without limitation those relating to **Historic Fabric**, and only to the extent that Port consents thereto, Subtenant shall have the right to install at its sole cost and expense, signage on the

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Sublease Premises. Without limiting the foregoing, Sublandlord and Port shall have the right to review and approve the place, number, size, color and style of such signage.

21.8 Diversity, Equity and Inclusion. Subtenant, on behalf of itself and any Transferees, acknowledges the importance of furthering the values of diversity, equity, and inclusion. Tenant agrees to abide by the "**DEI Plan**" generally described in **Exhibit L** attached to the Master Lease, which may be reasonably amended, updated, and clarified from time to time by Port or the parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, Sublandlord and Subtenant have executed this Sublease effective as of the Execution Date, intending to be bound hereby.

SUBLANDLORD:

YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, a California nonprofit public benefit corporation

By: Jamie Bruning-Miles (Apr 26, 2023 16:22 PDT)
Name: Jamie Bruning-Miles
Its: President and CEO

SUBTENANT:

DOGPATCH PADDLE LLC, a California limited liability company

By: Adam Zolot (Apr 21, 2023 11:25 PDT)
Name: Adam Zolot
Its: Owner

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EXHIBIT A

MASTER LEASE

[To be attached]

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EXHIBIT B

SUBLEASE PREMISES

[ATTACHED HERETO]

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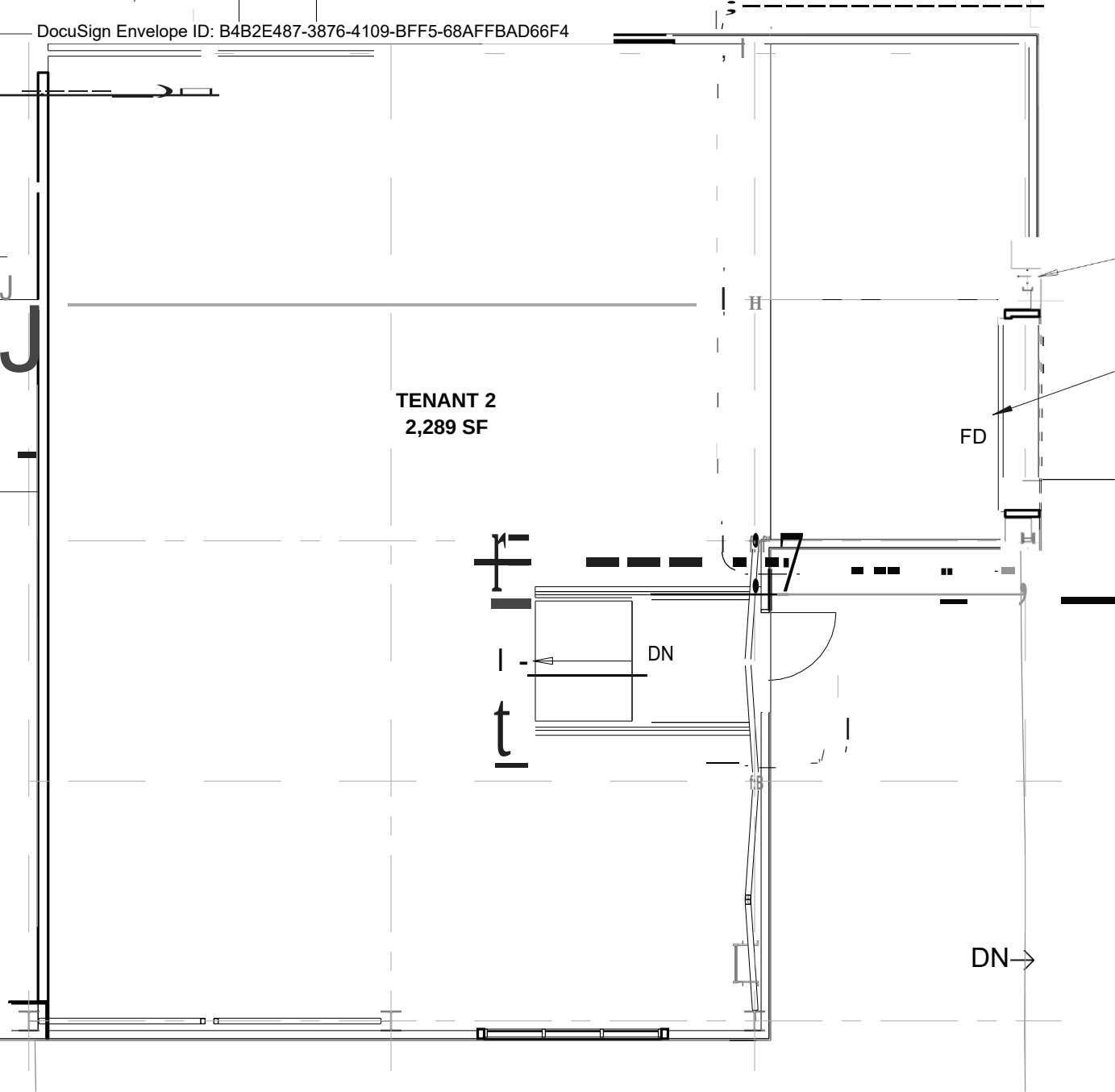

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EXHIBIT C

SUBLANDLORD INITIAL IMPROVEMENTS

[ATTACHED HERETO]

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Dogpatch Paddle - Building 49 TI Scope

Warm Shell	Scope of Work		Notes
Architectural - WS			
	Coiling Door @ East Facade	Incl. in Y Core/Shell	Port of SF has allowed for one coiling door facing east.
	Storefront Windows	Incl. in Y Core/Shell	Provide North/South Façade storefront windows
	Storefront Entrance	Incl. in Y Core/Shell	Provide single door retail entrance onto plinth.
	Demising Wall	Incl. in Y Core/Shell	Will not meet roofline.
	Concrete Flooring	Incl. in Y Core/Shell	Topping slab provided. (not to ext. grade)
	Paint/Powerwash	Incl. in Y Core/Shell	Touch up/Cleaning of interior and exterior walls
	Accessibility	Incl. in Y Core/Shell	Accessible retail entrance. (req. to meet code)
Electrical - WS			
	Interior Lighting	Incl. in Y Core/Shell	Lighting provided in storage/retail area
	Rental Shack Interior Lights	Incl. in Y Core/Shell	Lighting provided in "Rental Shack"
	Exterior Lights	Incl. in Y Core/Shell	Exterior Lights located in code required egress/ingress points
	Telecom Rough In	Incl. in Y Core/Shell	Comcast will be used by YMCA
	Sub-Panel	Incl. in Y Core/Shell	Attached to demising wall. Includes stub outs for subtenant TI. Submetered
Plumbing - WS			
	Hose-Bibb	Incl. in Y Core/Shell	Provided in Rental Shack. Submetered
	Floor Drain	Incl. in Y Core/Shell	Provided in Rental shack, connects to ext. storm drain (No chemicals allowed)
Mechanical - WS			
	5' Electrical Heaters	Incl. in Y Core/Shell	Coordinate with DPP on locations

[redacted]

DPP TI Costs	
Design/Permitting	Built-in Furniture (Cash Wrap)
Perimeter Outlets/Connections	Interior Walls
Recessed Outlets/Connections	Signage
Additional Lighting	Security/Communications
Additional Hose-Bibbs	Window Coverings
Additional Drainage	Paint (interior only)
Storage Systems (Racks)	Any improvements not provided in Core and Shell

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EXHIBIT D

INSURANCE COVERAGE

[ATTACHED HERETO]

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EXHIBIT D
SUBTENANT INSURANCE REQUIREMENTS

1. MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

a. **Commercial General Liability (CGL)**: Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, with limits not less than One Million Dollars ($1,000,000.00) per occurrence with a combined single limit including bodily injury, property damage, contractual liability, independent contractors, products and completed operations, and personal & advertising injury. CGL policy must not contain any exclusions for special events/participants liability. If CGL policy contains exclusions, a separate participant accident/event policy will be required. If applicable, the CGL policy must include Food Products Liability Insurance with limits not less than One Million Dollars ($1,000,000) per occurrence.

b. **Automobile Liability**: ISO Form Number CA 00 01 covering any auto (Code 1), or if Subtenant has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than One Million Dollars ($1,000,000) per accident for bodily injury and property damage.

c. **Workers' Compensation/Employer's Liability**: Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than One Million Dollars ($1,000,000) per accident for bodily injury or disease. Such Workers' Compensation insurance should be supplemented by United States Longshore and Harbor Workers Compensation and Marine Employer's Liability insurance where appropriate to the operations of Subtenant.

d. **[DPP only: Sexual Abuse or Molestation (SAM) Liability:** If the work will include contact with minors, and the CGL policy referenced above is not endorsed to include affirmative coverage for sexual abuse or molestation, Subtenant shall obtain and maintain a policy covering Sexual Abuse and Molestation with a limit no less than One Million Dollars ($1,000,000) per occurrence or claim.]

e. **Property Insurance:** In lieu of Subtenant obtaining property insurance with respect to the Sublease Premises, Sublandlord will obtain property insurance for the entire Premises, and the costs thereof shall be allocated among Sublandlord and Subtenants according to relative square footage. Subtenant shall obtain and pay for any additional insurance deemed necessary for risk of loss to Subtenant's Property.

f. **Business Income/Gross Revenue:** Business income loss and extra expense coverage appropriate to Subtenant's business operations, covering an interruption period of not less than two (2) years, with a limit of not less than twenty-four (24) months of Gross Revenues.

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g. **Excess/Umbrella Liability:** providing limits of no less than Three Million Dollars ($3,000,000) above the Subtenant's General Liability, Auto, SAM and Employer's Liability coverages required.

Subtenant may satisfy the insurance limits set forth above by any combination of primary and excess insurance policies. If Subtenant maintains broader coverage and/or higher limits than the minimums shown above, Sublandlord requires and shall be entitled to the broader coverage and/or the higher limits maintained by Subtenant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Sublandlord.

2. Other Insurance Provisions

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

a. **Additional Insured Status:** The YMCA of San Francisco, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Subtenant including materials, parts, or equipment furnished in connection with such work or operations. In addition, The City and County Of San Francisco, and The San Francisco Port Commission and their respective Officers, Directors, Employees and Agents shall be added as additional insureds. General liability coverage can be provided in the form of an endorsement to the Subtenant's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used). The additional insured coverage shall not include any special limitations on the scope of protection afforded to Sublandlord or any of the other Additional Insureds.

b. **Primary Coverage:** For any claims related to this contract, Subtenant's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the YMCA of San Francisco, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the YMCA of San Francisco, its officers, officials, employees, or volunteers shall be excess of Subtenant's insurance and shall not contribute with it.

c. **Loss Payee:** Policies shall name Sublandlord and the other parties defined in the Master Lease as Loss Payee, as their interests may appear.

d. **Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to Sublandlord.

e. **Waiver of Subrogation:** Subtenant hereby grants to Sublandlord and the Additional Insureds a waiver of any right to subrogation which any insurer of said Subtenant may acquire against Sublandlord and the Additional Insureds by virtue of the payment of any loss under such insurance. Subtenant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless

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of whether or not Sublandlord and the Additional Insureds has received a waiver of subrogation endorsement from the insurer.

f. **Self-Insured Retentions:** Self-insured retentions must be declared to and approved by Sublandlord. Sublandlord may require the Subtenant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Sublandlord.

g. **Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VIII, unless otherwise acceptable to Sublandlord.

h. **Verification of Coverage:** Subtenant shall furnish Sublandlord with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Sublandlord prior to the Sublease Commencement Date. However, failure to obtain the required documents prior to the Sublease Commencement Date shall not waive Subtenant's obligation to provide them. Thereafter, executed copies of renewal policies thereof shall be delivered to Sublandlord within thirty (30) days prior to the expiration of the term of each such policy. Sublandlord reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

i. **Contractors:** Subtenant shall require and verify that all contractors working under Subtenant maintain insurance meeting all requirements stated herein (except the requirement for SAM Liability if the contractor will not be working with minors), and Subtenant shall ensure that all additional insureds identified above shall be named on contractors' insurance.

j. **Change of Risks or Circumstances:** Port and Sublandlord reserve the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, market conditions, economic circumstances or other special circumstances in Sublandlord's and Port's sole discretion.

Port YMCA Sublease Form DPP - FINAL (CLEAN) 041923

Final Audit Report 2023-04-26

Created:	2023-04-19
By:	Nicolas Vargas (NVargas@ymcasf.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA7GdGa5vPkZHJbN9iipzuKwdFpW1ILltd

"Port YMCA Sublease Form DPP - FINAL (CLEAN) 041923" History

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Signer adam@dogpatchpaddle.com entered name at signing as Adam Zolot
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Agreement completed.
2023-04-26 - 11:22:03 PM GMT

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EXHIBIT D

DAILY DRIVER
CONSENT TO SUBLEASE

This Consent to Sublease (this "**Consent**") is made as of _____, 2023, by and among the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation (the "**City**") operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), **YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION** ("**Master Tenant**") and **DAILY DRIVER LLC, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY** ("**Subtenant**").

RECITALS

A. On October 26, 2021, the Port Commission authorized lease negotiations with Master Tenant who was the highest scoring respondent to the Port's Building 49 Request for Proposals (see Port Commission Resolution 21-46). Master Tenant's proposal included Subtenant, a community-oriented, female-owned food and beverage business specializing in bagels and house-made butter and cream cheese as a partner. Port and Master Tenant entered into that certain Lease No. L-16997 dated as of _____ for reference purposes (the "**Master Lease**") for Building 49 located within Crane Cove Park in San Francisco, California ("**Existing Premises**"), as more particularly described in the Master Lease (see Port Commission Resolution xx-xx; Board of Supervisors Resolution xx-xx).

B. Master Tenant desires to sublease a portion of the Existing Premises, known as Sublease Premises B, as further described in ***Exhibit 1*** attached hereto (the "**Subleased Premises")** to Subtenant and Subtenant desires to sublease from Master Tenant the Subleased Premises (the "**Sublease**"). Subtenant has provided Port an estoppel certificate in the form attached to the Master Lease.

C. Master Tenant has requested that Port consent to the Sublease, and Port has agreed to consent to the Sublease to be concurrent with the Master Lease, on the terms and conditions set forth herein. Port's consent to the Sublease includes Port's consent to Subtenant's Operations Plan, if any, which shall be incorporated into Tenant's Operations Plan under the Master Lease for the duration of the Sublease for the convenience of Port, Master Tenant and Subtenant.

D. NOW, THEREFORE, in consideration of the foregoing, and in consideration of the mutual agreements and covenants hereinafter set forth, Port, Master Tenant and Subtenant agree as follows:

1. Master Lease.

The Sublease shall be subject and subordinate to the Master Lease and to all of its terms, covenants, conditions, provisions and agreements. Master Tenant and Subtenant represent and warrant to Port that (a) the copy of the Sublease attached hereto as ***Exhibit 2*** is true, complete and correct and constitutes the entire agreement between the parties, and (b) the Sublease shall not be modified, terminated or amended without prior thirty (30) days written notice to Port. The Subtenant shall be bound by all of the terms, covenants, conditions, provisions and agreements of the Master Lease. Neither the Sublease nor this Consent shall be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Master Lease.

2. Automatic Termination.

The term of the Sublease shall automatically terminate upon the termination of the Master Lease for any reason whatsoever, including, without limitation, the termination of the

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Master Lease prior to the expiration of the term thereof pursuant to a written agreement between Port and Master Tenant.

3. No Release or Waiver.

Neither the Sublease nor this Consent shall: (a) release or discharge the Master Tenant from any liability, whether past, present or future, under the Master Lease; or (b) be construed to waive any breach by Master Tenant of the Master Lease, or any of Port's rights as the landlord thereunder, or to enlarge or increase Port's obligations thereunder. Master Tenant and Subtenant shall be and continue to be liable for the payment of all bills rendered by Port, if any, for charges incurred by the Subtenant for services and materials supplied to the Subleased Premises.

4. No Further Consent.

Neither the Sublease nor this Consent shall: (a) operate as a consent or approval by Port to any of the terms, covenants, conditions, provisions or agreements of the Sublease, and Port shall not be bound thereby, or (b) be construed as a consent by Port to any further subletting either by Master Tenant or by the Subtenant or to any assignment by Master Tenant of the Master Lease, or assignment by the Subtenant of the Sublease, it being clearly understood that this Consent shall not in any way be construed to relieve Master Tenant or Subtenant of the obligation to obtain Port's prior written consent to any further subletting or assignment.

5. Assignment of Rent.

In the event of an Event of Default by Master Tenant under the Master Lease, the rent due from the Subtenant under the Sublease shall be deemed assigned to Port, and Port shall have the right, at any time, upon such Event of Default at Port's option, to give notice of such assignment to the Subtenant, whereupon Subtenant shall pay all rent thereafter becoming due and payable directly to Port. Port shall credit Master Tenant with any rent received by Port, but the acceptance of any payment on account of rent from the Subtenant shall not release Master Tenant from any liability under the Master Lease. Any payment of rent from the Subtenant directly to Port, or any other action by Subtenant, regardless of the circumstances or reasons therefor, shall in no manner whatsoever be deemed an attornment by the Subtenant to Port in the absence of a specific written agreement signed by Port to such effect. Port in its sole and absolute discretion may at any time after an Event of Default by Master Tenant under the Master Lease, elect to have Subtenant either attorn to Port or vacate the Subleased Premises, by giving written notice to Subtenant. If Port elects to have Subtenant attorn to Port, such notice shall state that Port is assuming Master Tenant's position under the Sublease and that Subtenant shall attorn to Port and be bound to Port under all the terms, covenants and conditions of the Sublease for the balance of the Sublease term and any extensions or renewals thereof which may then or later be in effect, all with the same force and effect as if Subtenant had been the original tenant for the Subleased Premises under the Master Lease. Any attornment shall be effective and self-operative without the execution of any further instruments. Master Tenant waives and releases any claim in the event that Subtenant makes payment directly to Port and shall hold Subtenant harmless therefor.

6. Rent.

Port's consent to the Sublease is conditioned on Master Tenant paying Percentage Rent to Port as defined and in the manner described in the Master Lease. No Representation or Warranty by Port.

Nothing contained herein shall operate as a representation or warranty by Port of any nature whatsoever.

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7. Indemnity and Exculpation.

Notwithstanding any provision to the contrary in the Sublease, as between Port and Subtenant, Subtenant agrees and acknowledges to be bound by the indemnification and exculpation provisions of the Master Lease, all with the same force and effect as if Subtenant had been the original tenant for the Subleased Premises under the Master Lease. The obligation of Subtenant under this ***Section 8*** shall survive any termination or expiration of the Sublease or the Master Lease.

8. Waiver of Relocation.

To the extent allowed by applicable Law, Master Tenant and Subtenant hereby waive any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code §§ 7260 et seq., or under any similar law, statute or ordinance now or hereafter in effect.

9. Insurance.

Notwithstanding any provision to the contrary in the Sublease, Subtenant shall, at Subtenant's expense, with respect to the Subleased Premises, secure and keep in force during the term of the Sublease such insurance as required under the Sublease. Such liability policy or policies of insurance shall name as additional insureds by written endorsement "**THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, AGENTS, EMPLOYEES, AND REPRESENTATIVES.**" A certificate evidencing such insurance shall be delivered to Port promptly after the date hereof. Subtenant additionally acknowledges Port's absolute right to demand increased coverage to amounts consistent with the type of Subtenant's business activities on the Subleased Premises.

10. Miscellaneous.

(a) This Consent may be executed in counterparts.

(b) This Consent shall be governed by and construed in accordance with the laws of the State of California. In the event of a conflict between the terms and provisions of this Consent and the Sublease, this Consent shall control. Terms not defined in this Consent shall have the same meanings as in the Master Lease.

(c) The terms and provisions of this Consent shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(d) If any one or more provisions in this Consent shall be invalid, illegal or unenforceable for any reason, the remaining provisions contained herein shall not in any way be affected or impaired thereby.

(e) This Consent may not be modified or amended except by a writing executed by all parties to the Consent.

(f) Port and Subtenant hereby mutually waive any claim against the other and its agents for any loss or damage to any of their property located on or about the Subleased Premises and the Building that is caused by or results from perils covered by property insurance carried by the respective parties, to the extent of the proceeds of such insurance actually received with respect to such loss or damage, whether due to the negligence of the other party or its agent(s). Each party shall immediately notify its insurer, in writing, of these mutual waivers and have their insurance policies endorsed to prevent the invalidation of the insurance coverage because of these waivers.

11. Effective Date.

The Effective Date of this Consent is the Effective Date of the Master Lease.

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The execution of this Consent by Master Tenant and Subtenant shall evidence Master Tenant's and Subtenant's joint and several confirmation of the foregoing conditions, and of their agreement to be bound thereby and shall constitute Subtenant's acknowledgement that it has received a copy of the Master Lease.

Landlord: **CITY AND COUNTY OF SAN FRANCISCO**
operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Name: _____
Title: _____

MASTER TENANT: **YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Subtenant: **DAILY DRIVER LLC, A CALIFORNIA LIMITED LIABILITY COMPANY,**

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: _____
_____, Deputy City Attorney

Prepared By: James Hurley, Development Project Manager Initials:_____

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EXHIBIT 1

DAILY DRIVER
DESCRIPTION OF SUBLEASED PREMISES

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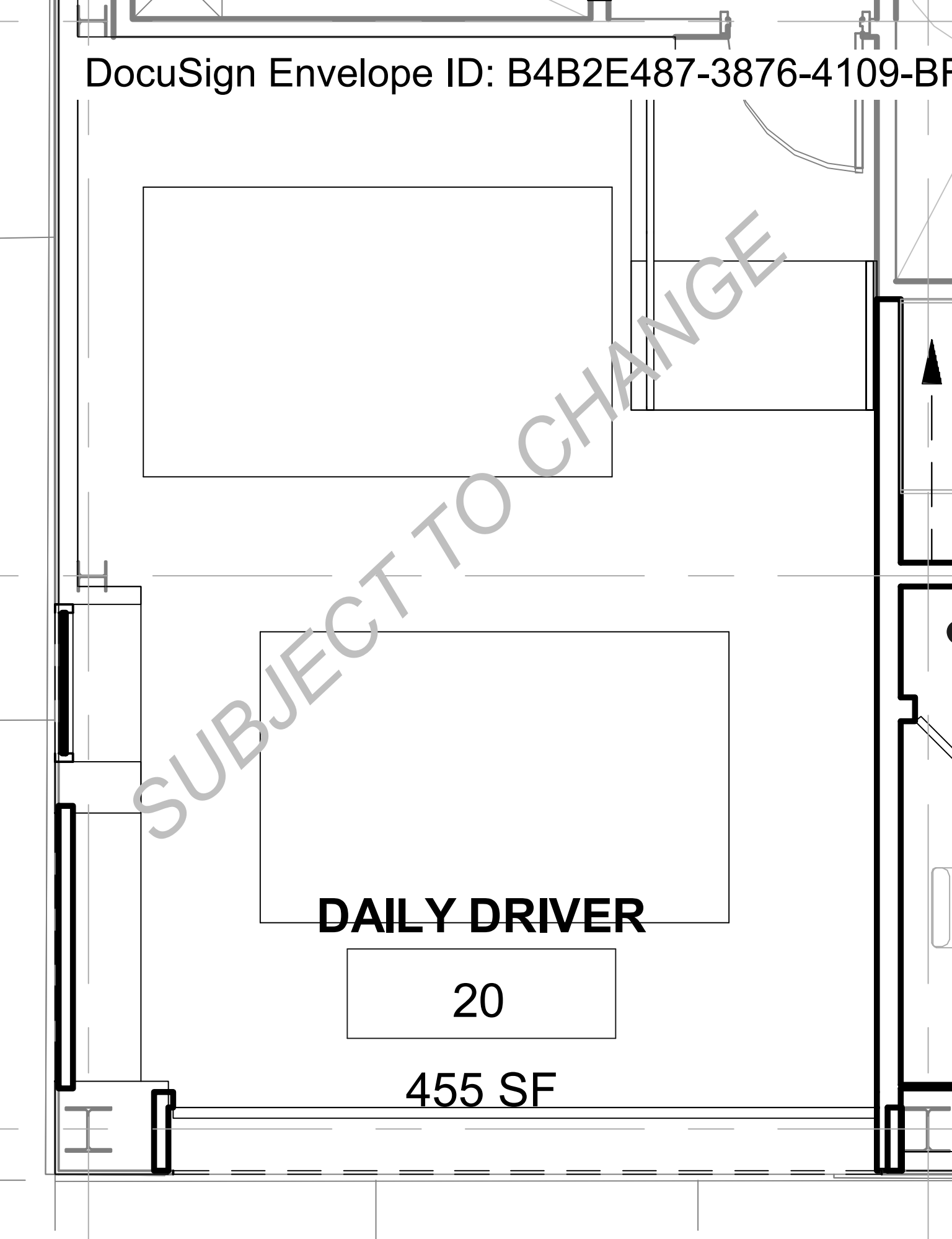

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EXHIBIT 2
COPY OF DAILY DRIVER SUBLEASE

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BUILDING 49 SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (this "**Sublease**") is made and entered into as of April 19, 2023 (the "**Execution Date**") by and between **Young Men's Christian Association of San Francisco, a** California non-profit public benefit corporation ("**Sublandlord**") and **Daily Driver, LLC,** a California limited liability company ("**Subtenant**").

WHEREAS, City and County of San Francisco, a municipal corporation (the "**City**"), operating by and through the San Francisco Port Commission ("**Port**"), as landlord, and Sublandlord, as Tenant, are parties to that certain Lease dated as of_____, 2023 (the "**Master Lease**") by and between the Port and Sublandlord; and

WHEREAS, pursuant to the Master Lease, the Port leases to Sublandlord and Sublandlord leases from the Port certain premises (the "**Master Lease Premises**") comprised of Building 49 (the "**Building**") (known as 701 Illinois Street, San Francisco, CA), and all improvements thereon, of approximately 8,000 square feet with a rentable area of approximately 6,817 square feet located within Crane Cove Park (the "**Park**") in the City and County of San Francisco. A copy of the Master Lease, as applicable to Subtenant, is attached hereto as **Exhibit A** and made a part hereof; and

WHEREAS, Sublandlord wishes to sublease to Subtenant and Subtenant wishes to sublease from Sublandlord a portion of the Master Lease Premises upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually covenant and agree as follows:

1. Basic Provisions.

1.1 Sublease Premises: The "Sublease Premises" under this Sublease consists of approximately 455 rentable square feet shown on **Exhibit B** attached hereto. The parties agree that the designated square footage is an approximation and is reasonable.

1.2 Sublease Effective Date; Sublease Commencement Date: The Sublease Effective Date is the latest of: (i) the Execution Date; (ii) the "Effective Date" identified in the Master Lease; and (iii) the date on which Sublandlord has received Port's written consent to this Sublease and any items related to this Sublease for which Port's consent is required. The Sublease Commencement Date is the "Commencement Date" under the Master Lease.

1.3 Sublease Expiration Date: The Sublease Expiration Date is the last day of the tenth (10th) year after the Sublease Rent Commencement Date (defined below).

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1.4 Sublease Rent Commencement Date: The Sublease Rent Commencement Date is the "Rent Commencement Date" under the Master Lease. Notwithstanding the foregoing, Subtenant shall pay rent in the amount required by the then-current Port Commission-adopted parameter rates for any Subtenant uses in the Building other than construction during the "Construction Term."

1.5 Base Rent: Commencing on the Sublease Rent Commencement Date, Subtenant shall pay base rent for the Sublease Premises in accordance with the following schedule ("**Base Rent**" or "**Monthly Base Rent**"):

Period	Monthly Base Rent
Sublease Rent Commencement Date – Month 12	$ 1,353.63
Month 13 – Month 24	$ 1,394.23
Month 25 – Month 36	$ 1,436.06
Month 37 – Month 48	$ 1,479.14
Month 49 – Month 60	$ 1,523.52
Month 61 – Month 72	$ 1,569.22
Month 73 – Month 84	$ 1,616.30
Month 85 – Month 96	$ 1,664.79
Month 97 – Month 108	$ 1,714.73
Month 109 – Month 120	$ 1,766.17

1.6 Percentage Rent: In addition to the Monthly Base Rent, in any month in which the amount under (i) below exceeds the Monthly Base Rent, Subtenant shall pay to Sublandlord, as calculated on a monthly basis and paid quarterly (unless Port requires monthly payments as provided in Section 5.2(e) of the Master Lease), the difference between: (i) six percent (6%) of Gross Revenues generated by Subtenant; and (ii) the Monthly Base Rent ("**Percentage Rent**").

1.7 Subtenant Permitted Use: Operation of a food and beverage concession.

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1.8 Subtenant's Trade Name: Daily Driver

1.9 Subtenant's Fiscal Year: _____

1.10 Subtenant's Address: Daily Driver, LLC
2535 3rd Street

San Francisco, CA 94107

Attention: Tamara Hicks

1.10 Sublandlord's Address: YMCA of San Francisco
169 Steuart Street
San Francisco, CA 94105

Attention: Jamie Bruning-Miles, President and CEO

With a copy to:

YMCA of San Francisco
169 Steuart Street
San Francisco, CA 94105

Attention: Mittie Grigsby, CFO

1.11 Security Deposit: Two (2) months' Monthly Base Rent, escalated annually in the same percentage as Monthly Base Rent, as described in Section 9 of the Master Lease, to be deposited with Sublandlord upon execution of this Sublease.

2. Definitions: Each of the terms identified in Section 1 of this Sublease has the meaning given in such Section. Other capitalized words and phrases for which no definition is given in this Sublease shall have the meanings given them in the Master Lease (in some cases, these terms defined in the Master Lease are denoted by bold lettering). Unless otherwise indicated, all section references are to the sections of this Sublease**.**

3. Demise of Sublease Premises; Representations.

3.1 General Demise. As of the Sublease Effective Date, Sublandlord subleases the Sublease Premises to Subtenant, and Subtenant subleases the Sublease Premises from Sublandlord, subject to the specific effective dates and terms and conditions of this Sublease.

3.2 Representations. Subtenant represents and warrants to Sublandlord that:
(a) Subtenant is familiar with the provisions of the Master Lease insofar as it pertains to the Sublease Premises and Subtenant's use and occupation thereof under this Sublease;

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(b) Subtenant has the right and power to execute and deliver this Sublease and to perform its obligations hereunder; (c) the person or persons executing this Sublease for Subtenant are fully authorized to so act and no consent, authorization or other action is required to bind Subtenant to this Sublease; (d) Subtenant is duly organized and in good standing in the State of California; (e) there are no undischarged judgments pending against Subtenant, and Subtenant has not received notice of the filing of any pending suit or proceedings against Subtenant except as disclosed in writing to Sublandlord; (f) the delivery, and performance of this Sublease will not conflict with any instrument by which Subtenant is bound or any law applicable to Subtenant; and (g) Subtenant is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money. Subtenant's representations and warranties in this Sublease will survive any termination of this Sublease.

4. Sublease Term.

4.1 Sublease Term. The term of this Sublease (the "**Sublease Term**") shall begin on the Sublease Commencement Date and end on the Sublease Expiration Date, unless sooner terminated earlier in accordance with the terms of this Sublease. Promptly following a written request therefor, Subtenant agrees to execute a certificate prepared by Sublandlord setting forth the actual Sublease Effective Date, Sublease Commencement Date, Sublease Rent Commencement Date and/or Sublease Expiration Date and other confirmations reasonably requested by Sublandlord. In the event Subtenant fails to execute such certificate within five (5) business days following delivery thereof to Subtenant, Subtenant shall be deemed to have approved all of the matters set forth in such certificate and such certificate shall be fully binding on Subtenant notwithstanding anything to the contrary herein.

4.2 Termination. The Sublease Term shall end on the Sublease Expiration Date. However, this Sublease may be terminated prior to the Sublease Expiration Date if the Master Lease is terminated for any cause whatsoever (and Port does not require Subtenant to attorn to Port) or if this Sublease is terminated as otherwise provided for herein. Subtenant shall have no option to extend the Sublease Term or elect an early termination of the Sublease Term except as expressly set forth herein.

4.3 Extension Options. Subject to any required prior approval of Port, and provided (i) this Sublease and the Master Lease are in full force and effect; (ii) Sublandlord has exercised rights to extend the term of the Master Lease; (ii) Subtenant is not in breach or default under any of the terms and conditions of this Sublease at any time from the Sublandlord Extension Notice until the beginning of the Extension Term; and (iii) Subtenant, at the time of notification and extension, is conducting regular, active, ongoing business in, and is in occupancy of the entire Sublease Premises (and occupancy by a subtenant, licensee or other party permitted or suffered by Subtenant shall not satisfy such condition even if permitted under this Sublease), then Subtenant shall have options to extend (each, an "**Extension Option**") this Sublease for the extension term exercised by Sublandlord under the Master Lease (each, an "**Extension Term**"), on the terms and conditions set forth in a notice from Sublandlord given between Three Hundred Sixty-Five (365) and Two Hundred Seventy (270) days prior to the then expiration date of this

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Sublease, except that in the case of any extension terms under the Master Lease shorter than five (5) years, such notice shall be given between six (6) and four (4) months prior to the then expiration date of this Sublease ("**Sublandlord Extension Notice**").

(a) If Subtenant elects to exercise an Extension Option, then Subtenant shall provide Sublandlord with written notice of exercise and acceptance of the terms and conditions of the Sublandlord Extension Notice no later than thirty (30) days after receipt of the Sublandlord Extension Notice.

(b) If Subtenant fails to validly exercise any Extension Option, Subtenant shall have no further right to extend the Sublease Term.

(c) The Extension Options are not transferable, and no assignee or sublessee will have any rights to exercise the Extension Options.

(d) If, for any reason, the Master Lease is not extended for an Extension Term, even after a Sublandlord Extension Notice has been given, any Subtenant exercise of an Extension Option shall become void and the Sublease Term shall not be extended.

5. Rent.

5.1 Rent Defined. The rent payable by Subtenant for the Sublease Premises shall consist of the Monthly Base Rent, Percentage Rent, and any other sums payable by Subtenant under this Sublease (collectively referred to as "**Rent**"). Subtenant's covenant to pay Rent shall be independent of every other covenant in this Sublease. Subtenant shall make all payments due to Sublandlord pursuant to this Sublease as directed by Sublandlord. However, at Port's election, Subtenant shall pay Rent directly to Port upon receiving Port's written notice that an Event of Default has occurred under the Master Lease.

5.2 Monthly Base Rent. Beginning on the Rent Commencement Date and continuing thereafter on the first (1st) day of each calendar month during the Sublease Term, the Monthly Base Rent specified in Section 1 shall be payable by Subtenant to Sublandlord in advance, and without notice, demand, deduction or offset. The parties shall agree on an automatic or other payment mechanism that shall guarantee timely payment of the Monthly Base Rent.

5.3 Applicability of Rent Credits. Subtenant agrees that it shall not be entitled to any portion of a rent credit or other accommodation that may be given by Port to Sublandlord in connection with Sublandlord's performance of improvements under the Master Lease or otherwise.

5.4 Percentage Rent. Beginning on the Rent Commencement Date and continuing thereafter, Subtenant agrees to pay to Sublandlord, in addition to the Monthly Base Rent, Percentage Rent in an amount set forth in Section 1. The determination of Percentage Rent shall be subject to and in accordance with the terms and conditions of Sections 5.2, 5.4 and 5.5 of the Master Lease, except that each of the time periods for delivery of payment or statements

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provided for in such Sections 5.2, 5.4, and 5.5 shall be shortened by ten (10) days with respect to Subtenant's performance in order to enable Sublandlord to receive such items from Subtenant and comply with its obligations under the Master Lease. (See also Section 18.8 below.) Subtenant further acknowledges and agrees that certifications may be required directly to Port or both Port and Sublandlord and that each of Sublandlord and Port may have the right to audit Subtenant's Books and Records. Subtenant shall be responsible for all costs and expenses incurred by Sublandlord due to Sublandlord's obligation to cause compliance by Subtenant with the Percentage Rent obligations, including Late Charges, audit fees and attorneys' fees referenced therein.

5.5 Additional Rent. Subtenant will pay its allocable share (or separate assessable amount) of any property, possessory interest or similar taxes or fees related to the Sublease Premises (allocated according to the method of calculation, e.g., fair market rent for the Sublease Premises) and will be responsible for preparing and filing any returns or documents necessary for purposes of compliance with possessory interest or other taxes. Subtenant acknowledges that it will be necessary to furnish a copy of this Sublease to the County Assessor. Such taxes and fees shall be paid directly to the assessing authority, if permitted by such authority. Without limiting the foregoing, throughout the Sublease Term, Subtenant also shall pay within five (5) days after written notice and as additional Rent hereunder, the following amounts payable with respect to the Sublease Premises, as further provided in Sections 8.1 and 8.2 of the Master Lease: (a) all taxes, assessments, insurance premiums, operating and maintenance charges, fees, costs, expenses, liabilities and obligations of every description which Sublandlord assumed or is obligated to pay or discharge pursuant to the Master Lease or otherwise, together with every fine, penalty, interest or other charge which may be added for non-payment or late payment, whether payable to Port or to other persons, parties or entities designated herein;
(b) reimbursement to Port or Sublandlord for taxes on personal property, equipment and fixtures located in or about the Sublease Premises during the Sublease Term, whether or not owned by Subtenant; (c) any damage to the Premises, the Park or other Port property resulting from the act or omission of Subtenant or Subtenant's agents, employees, contractors, **Invitees**, sub-subtenants, assignees, licensees, transferees or representatives (collectively, the "**Subtenant Parties**"); (d) any damages or costs incurred by Sublandlord due to a breach or default under the Master Lease that is the result of any default or failure of performance by Subtenant under this Sublease; and (e) any other costs or expenses payable by Subtenant to Sublandlord under this Sublease.

5.6 Late Payments. All Rent shall be paid to Sublandlord or to such other person or such other place as Sublandlord may from time to time designate in writing. If any Rent is not paid when due, Subtenant acknowledges that Sublandlord will incur costs or penalties to Port and additional administrative expenses and costs which are difficult or economically impractical to ascertain and, accordingly, Subtenant shall pay Sublandlord, as a reasonable approximation of such additional administrative expenses and costs, an administrative charge equal to ten percent (10%) of the delinquent amount, which amount shall be payable for each thirty (30) days (or portion thereof) such payment is overdue. Neither demand for nor receipt of any late charge called for under this Sublease shall (i) operate to waive any default by Subtenant or provide a

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substitute for Subtenant's full and timely performance of the obligation to pay Rent, or (ii) limit the exercise of any other right or remedy Sublandlord may have under this Sublease in case of Subtenant's default.

6. Initial Improvements.

6.1 Sublandlord Initial Improvements. Prior to the Sublease Rent Commencement Date, Sublandlord will cause to be performed and will pay for the work with respect to the Sublease Premises designated as Sublandlord Improvements on **Exhibit C** attached hereto (the "**Sublandlord Initial Improvements**").

6.2 Subtenant Initial Improvements. Prior to the Sublease Rent Commencement Date, Subtenant, at Subtenant's sole cost and expense, shall cause the work designated as Subtenant Initial Improvements on **Exhibit C** attached hereto (the "**Subtenant Initial Improvements**") to be **Completed** in accordance with, and subject to all the terms, covenants, conditions and restrictions of this Sublease and the Master Lease (including, as applicable, the **Work Letter** attached to the Master Lease). Without limiting the foregoing, Subtenant shall be responsible for paying all permit costs, fees and other expenses incurred in connection with completion of the Subtenant Initial Improvements in accordance with the foregoing standards.

(a) Subtenant will furnish design concepts to Sublandlord for Sublandlord's approval and Sublandlord and Port shall have the right to approve all construction related to the Subtenant Initial Improvements. Any modifications of the Subtenant Initial Improvements are subject to the approval of Sublandlord and Port. Construction and installation of the Subtenant Initial Improvements, and any other work or deliveries on the part of Subtenant, shall be coordinated with the work of the Sublandlord Initial Improvements and any other work in the Building so as to mutually expedite construction and avoid interference with the overall Building project.

(b) Notwithstanding the foregoing provisions, the date for completion of the Sublandlord Initial Improvements shall be extended if completion is delayed by circumstances beyond the reasonable control of Sublandlord. As provided in the Master Lease, in the event the Subtenant Initial Improvements are not Completed by the Sublease Rent Commencement Date, payment of Rent shall nevertheless commence, and Subtenant shall be responsible for any penalties Port elects to impose upon Sublandlord as a result of such delay pursuant to the terms of the Master Lease.

7. Possession and Use.

7.1 As-Is; Possession. Except for the work with respect to the Sublandlord Initial Improvements, as modified by the Subtenant Initial Improvements, Sublandlord subleases the Sublease Premises to Subtenant, and Subtenant accepts the Sublease Premises strictly in their present "as-is" and "with all faults" condition. Sublandlord has no other obligation to prepare, modify or alter the Sublease Premises or to pay to Subtenant any refurbishment or tenant improvement allowance or reimburse Subtenant for the cost of any preparation, modification,

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or alteration of the Sublease Premises performed by or on behalf of Subtenant. As of the Sublease Commencement Date and the date of completion of the Sublandlord Initial Improvements, Subtenant acknowledges that it will have had full opportunity to inspect the condition of the Sublease Premises and all **Laws** relating to its use and condition. Subtenant is not relying, whether on the Sublease Commencement Date or otherwise, on any statement, representation or warranty made by or for Sublandlord with respect to the Sublease Premises or such Laws. Subtenant, by taking possession or commencing use of the Sublease Premises, conclusively acknowledges the Sublease Premises to be in good order and repair and in a tenantable condition and acceptable for its intended use. Subtenant may not use or occupy any portion of the Sublease Premises prior to issuance of a Temporary Certificate of Occupancy applicable to the Sublease Premises except as may be authorized in writing by Port and Sublandlord.

7.2 Use. The Sublease Premises shall be used and occupied solely for Subtenant's Permitted Uses as specified in Section 1 hereof.

(a) All Subtenant Permitted Uses must be performed in compliance with the initial Operations Plan separately approved by Sublandlord and Port (the "**Subtenant Operations Plan**"), as amended from time to time as necessary. Subtenant must prepare and maintain the Subtenant Operations Plan to document procedures consistent with Laws, industry standards, best management practices and good housekeeping. The Subtenant Operations Plan must address the following operations and components:

(i) Hours of Operation, Security, Staffing and Safety Plan;

(ii) List of required and obtained Regulatory Approvals;

(iii) Aquatic activities safety measures (e.g., participant safety gear; participant/instructor ratio; instructor qualifications);

(iv) Reporting Accidents;

(v) Noise Control;

(vi) Equipment Washing Protocols;

(vii) Park Usage Areas (including paths of travel for staff and patrons).

(b) Failure to comply with the Subtenant Operations Plan is a material breach of this Sublease. Port and Sublandlord may, from time to time, review the Subtenant Operations Plan and make recommendations for revisions. All revisions to the Subtenant Operations Plan are subject to Sublandlord and Port approval. Sublandlord and Subtenant shall work together in good faith and Sublandlord shall oversee any interpretive features or visual representations for

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the Sublease Premises visible from the Premises leased by Sublandlord or the exterior of the Premises.

(c) Subtenant's business in the Sublease Premises shall be conducted only under the Trade Name specified in Section 1. Subtenant shall keep the Sublease Premises open for business according to the minimum operating hours set forth in the Subtenant Operations Plan. As provided in the Subtenant Operations Plan and Section 6.2 of the Master Lease, Subtenant shall operate its business continuously, actively and diligently in a good faith manner.

(d) Without limiting the foregoing, Subtenant's use shall also comply with and be limited by all relevant provisions of the Master Lease, including without limitation those with respect to any "Port program or project", "Port Work," "Development Projects", Sections 3.4, 6.1 (which requires, among other things, that Subtenant conduct operations at the Sublease Premises consistent with the maintenance and operation of a first-class mixed-use office/light industrial/commercial and/or retail development located in the Dogpatch neighborhood of San Francisco), 6.4 (Public Use) and 10, and all applicable Laws and Rules and Regulations. To the extent allowed by applicable Law, Subtenant hereby waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code §§ 7260 et seq., or under any similar law, statute or ordinance now or hereafter in effect.

7.3 Prohibited Uses.

(a) Subtenant agrees that the following activities, by way of example only and without limitation, and any other use that is not a Subtenant Permitted Use (in each instance, a "**Prohibited Use**" and collectively, "**Prohibited Uses**"), are inconsistent with this Sublease and the Master Lease, are strictly prohibited and are considered Prohibited Uses:

(i) any activity, or the maintaining of any object, which is not within the Subtenant Permitted Uses;

(ii) any activity, or the maintaining of any object, which will in any way increase the existing rate of, affect or cause a cancellation of, any fire or other insurance policy covering the Premises, any part thereof or any of its contents;

(iii) any activity or object which will exceed load restrictions, if any, or cause damage to the Premises;

(iv) any activity which constitutes waste or nuisance, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any objectionable odors, noises or lights onto adjacent properties, or the use of loudspeakers or sound or light apparatus which can be heard or seen outside the Sublease Premises;

(v) any activity which will in any way injure, obstruct or interfere with the rights of other users or of owners, users, or occupants of adjacent properties, including, but not limited to, rights of ingress and egress;

(vi) use of the Sublease Premises for residential, sleeping or personal living quarters and/or "Live/Work" space;

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(vii) any auction, distress, fire, bankruptcy or going out of business sale on the Premises without the prior written consent of Port, which consent may be granted, conditioned, or withheld in the sole and absolute discretion of Port;

(viii) any vehicle and equipment maintenance, including but not limited to, fueling, changing oil, transmission or other automotive fluids;

(ix) the storage of any and all excavated materials, including but not limited to, dirt, concrete, sand, asphalt, and pipes;

(x) except during periods of permitted construction, the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials; or

(xi) except as provided in a Subtenant Operations Plan, the washing of any vehicles, vessels or equipment.

(b) In addition to, and without limiting, the Prohibited Uses specified above, the following are prohibited:

(i) No discharges to the Bay;

(ii) operation of a night club, underage parties, raves, pay at the door events or other similar activities; and

(iii) any uses inconsistent with reasonable requirements or restrictions Port may impose from time to time.

7.4 Sublandlord's Entry Right. In addition to Port's rights of entry set forth in the Master Lease, including, without limitation, Section 29 of the Master Lease, Sublandlord may enter any part of the Sublease Premises at all reasonable hours, following reasonable prior notice (or in any emergency or suspected emergency, at any hour and without prior notice). Subject to Port's rights under the Master Lease and except in the case of an emergency, Sublandlord shall use commercially reasonable efforts not to unreasonably interfere with Subtenant's use of the Sublease Premises for Subtenant's Permitted Use in connection with such entries.

8. Services, Maintenance And Repair Obligations.

8.1 Utilities and Maintenance Costs. Subtenant shall pay all charges for all Utilities to be furnished on, in or to the Sublease Premises or to be used by Subtenant. To the extent such Utilities are not separately metered or sub-metered, Subtenant shall pay its proportionate share of Utilities costs as calculated by Sublandlord. For any sub-metered Utilities, Subtenant shall pay to Sublandlord the costs allocable to the Sublease Premises according to the amounts registered on any submeter. Subtenant shall pay to Sublandlord its proportionate share (based on rentable square feet) of the costs of any janitorial, security and other normal operation and maintenance of the Building as a whole and compliance with Master Lease obligations and Rules and Regulations with respect to such operation and maintenance, including the public restrooms and mechanical area, as well as any costs of maintaining or repairing the Building that arise due to the actions of Subtenant or the Subtenant Parties, from time to time within five (5) days after invoice from Sublandlord. Notwithstanding the foregoing provisions, Subtenant shall not be

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responsible for paying a share of Sublandlord's costs of operating and maintaining the interior of Sublandlord's portion of the Building or costs exclusively relating to the part of the Building occupied by Sublandlord or another Subtenant. Subtenant shall pay its proportionate share of any Flood Protection Measures required under the Master Lease (*e.g.*, under Section 16.2 of the Master Lease).

8.2 Limitation on Sublandlord's Obligations. Sublandlord shall have no responsibility for or be liable to Subtenant for any default, failure or delay on the part of Port in the performance or observance by Port of any of its obligations under the Master Lease or for any other action or inaction by Port under the Master Lease, nor shall such default, action or inaction by Port affect this Sublease or waive or defer the performance of any of Subtenant's obligations under this Sublease, including without limitation the obligation to pay Rent; and Subtenant hereby expressly waives the provisions of any statute, ordinance or judicial decision, now or hereafter in effect, which would give Subtenant the right to make repairs at the expense of Sublandlord or Port, or to claim any actual or constructive eviction by virtue of any interruption in access, services or utilities to, or any failure to make repairs in or to, the Sublease Premises or the Building including without limitation any rights under California Civil Code Sections 1932(1) and 1931(2), 1933(4), 1941 or 1942. Sublandlord will have no obligation to Subtenant to maintain or repair the Sublease Premises or with respect to the continuing availability of Utilities in the Sublease Premises.

8.3 Maintenance and Repair of Sublease Premises. Subtenant shall be responsible to make and pay for repair and maintenance of the Sublease Premises, and any repair or maintenance resulting from work performed or required by Subtenant, such as any ancillary infrastructure required to be installed for Subtenant. Such maintenance and repair shall be consistent with the requirements in the Subtenant Operations Plan and Subtenant Permitted Uses and the terms of the Master Lease. Within five (5) days after Sublandlord's request, Subtenant shall supply such information regarding the Sublease Premises as may be necessary for Sublandlord to comply with Sublandlord's obligations under the Master Lease, such as for "Facility Conditions Reports". Subtenant will not take any action that might impair the Construction Warranties or other warranties for the Building, as described by Sublandlord. Subtenant shall independently obtain and pay for waste removal, pest extermination, custodial/janitorial and any internet services for the Sublease Premises, and shall perform any maintenance, repairs and replacements that Sublandlord is required to perform under the Master Lease with respect to the Sublease Premises, including without limitation under Section 6.1 of the Master Lease. Sublandlord shall have no responsibility for obtaining or paying for any services to the Premises not specified in this Sublease or to perform any obligations of Port or of an owner or manager of real property. In the event Subtenant fails to maintain the Sublease Premises in accordance with this Sublease or Subtenant fails to promptly repair any damage to the Sublease Premises caused by Subtenant or its Agents or Invitees, Sublandlord may repair the same at Subtenant's sole cost and expense and Subtenant shall immediately reimburse Sublandlord therefor.

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8.4 Compliance with Laws. Without limiting Subtenant's obligations as incorporated from the Master Lease, Subtenant shall comply with all Environmental Laws, other Laws, the MMRP, and restrictions of all insurance bodies and their fire prevention engineers at any time in force, applicable to the use, condition, occupancy or modification of the Sublease Premises, including without limitation, all Laws promulgated or applicable as a result of the Americans with Disabilities Act. Without limiting the generality of the foregoing, Subtenant shall be responsible for all modifications (including structural modifications) to the Sublease Premises or Master Lease Premises triggered or required as a result of Subtenant's particular use or modification of or improvements or alterations to the Sublease Premises. All provisions of the Master Lease relating to Sublandlord's use of or liability arising from Hazardous Materials or environmental impacts are hereby incorporated herein, with the term "Subtenant" substituted for Tenant, including without limitation Article 18. The disclosure by Port under Section 18.9 of the Master Lease is hereby incorporated by reference in this Sublease and its terms accepted by Subtenant. Subtenant shall not bring upon the Sublease Premises or use the Sublease Premises or permit the Sublease Premises or any portion thereof to be used for the sale or distribution of alcoholic beverages or the growing, manufacturing, administration, distribution (including without limitation, any retail sales), possession, use or consumption of any cannabis, marijuana or cannabinoid product or compound, regardless of the legality or illegality of the same.

8.5 Accessibility Standards. Sublandlord has been advised by Port and hereby advises Subtenant that the Building may not currently meet all applicable accessibility standards, including standards for public restrooms and ground floor entrances and exits. Subtenant understands and agrees that Subtenant may be subject to legal and financial liabilities if the Sublease Premises does not comply with applicable federal and state disability access Laws. Subtenant further understands and agrees that it is Subtenant's obligation, at no cost to Port or Sublandlord, to cause the Sublease Premises, and Subtenant's use thereof, to comply with the Disability Laws and any other federal or state disability access Laws. Subtenant shall notify Sublandlord and Port if it is making any Alterations or Improvements to the Sublease Premises that might impact accessibility standards required under federal and state disability access Laws.

Pursuant to California Civil Code Section 1938, Sublandlord has been notified by Port that as of the date of this Sublease, the Sublease Premises has not undergone inspection by a "Certified Access Specialist" to determine whether the Sublease Premises meet all applicable construction-related accessibility standards under California Civil Code Section 55.53. Sublandlord hereby discloses pursuant to California Civil Code Section 1938 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 Subtenant 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." Sublandlord and Subtenant hereby acknowledge and agree that in the event that Subtenant elects to perform a CASp

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inspection of the Sublease Premises, such CASp inspection shall be performed at Subtenant's sole cost and expense and Subtenant shall be solely responsible for the cost of any repairs, upgrades, alterations and/or modifications to the Sublease Premises necessary to correct any such violations of construction-related accessibility standards identified by such CASp inspection as required by law, which repairs, upgrades, alterations and/or modifications may, at Sublandlord's or Port's option, be performed by Sublandlord or Port at Subtenant's expense, payable as additional rent within five (5) days following Sublandlord's demand.

8.6 Security Services. Subtenant will secure the Sublease Premises (as may be further described in the Master Lease) and will obtain and pay for any security services deemed necessary by Subtenant. Sublandlord shall be under no obligation to implement security measures or take any actions to prevent threat of property loss or damage, bodily injury, or business interruption. Neither Sublandlord nor any Sublandlord Parties (defined below in Section 10.3) shall have any liability to Subtenant or any Subtenant Parties for the adequacy of security services provided by Port or Sublandlord (if any).

8.7 Reporting Accidents. Subtenant shall notify Sublandlord and Master Landlord in writing of any incident or accident of which Subtenant becomes aware involving significant personal injury or personal property damage that occurs in the Sublease Premises or the Park during Subtenant's operations. Such notice shall be given within twenty-four (24) hours after Subtenant learns of said incident or accident. Failure to timely report such incidents or accidents shall constitute a material default under this Sublease.9. [**Intentionally Deleted**]

10. Subtenant's Insurance and Indemnity.

10.1 Insurance Coverage.

Commencing on the earlier of the Sublease Commencement Date or any use or occupancy of the Sublease Premises by Subtenant, and continuing during the Sublease Term (or any later occupancy by Subtenant), in lieu of complying with all insurance coverage requirements of Section 19.1 of the Master Lease, Subtenant shall procure and maintain at all times, at its own cost and expense, the insurance specified on **Exhibit D** attached hereto. Except to the extent modified by the provisions of **Exhibit D**, Subtenant shall otherwise comply with the provisions of Section 19 of the Master Lease pertaining to the forms and content of insurance policies and endorsements, and certificates and notices relating thereto, including the provisions of Section 19.6. Subtenant shall furnish to Sublandlord a certificate of Subtenant's insurance required under this Section 10.1 on or before the Sublease Commencement Date. In the event Subtenant does not maintain said insurance, Sublandlord may, in its sole discretion and without waiving any other remedies hereunder, procure said insurance and Subtenant shall pay to Sublandlord as Rent the cost of said insurance plus a ten percent (10%) administrative fee. Subtenant acknowledges the Port's right to demand increased coverage to amounts customarily required by other San Francisco landlords for premises where business activities similar to the Subtenant's are conducted.

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10.2 Subrogation. Each party hereby waives claims against the other for damage to property owned by the waiving party where such damage is covered under any policy of property insurance maintained, so long as such waiver does not invalidate or adversely affect the waiving party's property insurance; and each party shall obtain from its insurance carrier a waiver of its right of subrogation. Subtenant agrees to obtain, for the benefit of Port, Sublandlord, and the Sublandlord Parties such waivers of subrogation rights from its insurer as are required of Sublandlord, as Tenant, under the Master Lease. Subtenant hereby waives claims against Port, Sublandlord and the Sublandlord Parties for death, injury, loss or damage of every kind and nature, if and to the extent that Sublandlord, as Tenant, waives or releases such claims against Port under the Master Lease.

10.3 Exculpation; Indemnity. To the fullest extent permitted by law, Subtenant waives all claims against Sublandlord, its officers, directors, shareholders, employees, volunteers, agents and representatives (collectively, the "**Sublandlord Parties**") for economic damages, damage to any property or injury or death of any person in, on or about the Sublease Premises, the Park or other Port property arising at any time or from any cause other than to the extent resulting from the gross negligence or willful misconduct of Sublandlord and not insured or required to be insured by Subtenant under this Sublease. Subtenant agrees to protect, defend, indemnify and hold Sublandlord and the Sublandlord Parties harmless from all claims, losses, damages, liabilities and expenses, including reasonable attorneys' fees and costs (collectively, "**Claims**") which Sublandlord may incur, or for which Sublandlord may be liable to Port, arising from or related to (a) the use, modification or occupancy of the Sublease Premises, the Park or other Port property during the Sublease Term, (b) the acts or omissions of Subtenant or any Subtenant Parties, (c) Subtenant's breach of this Sublease or the non-performance, non-observance or non-payment of any of Sublandlord's obligations under the Master Lease that, as a result of this Sublease, became an obligation of Subtenant, and (d) any other acts or events occurring in or about the Sublease Premises during the Sublease Term, which are the subject matter of any indemnity or hold harmless of Sublandlord, as Tenant, to Port under the Master Lease. Subtenant's obligations to protect, defend, indemnify and hold harmless Sublandlord under this Section are in no way conditioned upon either (i) Subtenant's or any Subtenant Parties' acts or omissions being a cause of any underlying claim, demand, action, loss or damage, or (ii) Sublandlord or any Subtenant Parties' being free of negligence or wrongful conduct in connection therewith; provided, however, that Subtenant shall not be required to indemnify or hold Sublandlord and the Sublandlord Parties harmless to the extent it is established that Sublandlord's gross negligence or willful misconduct is the cause of any claim, demand, action, liability, expenses, loss or damage and such claim, demand, liability, expense, loss or damage is not insured or required to be insured by Subtenant under this Sublease. Notwithstanding any other term or provision of this Sublease, under no circumstances shall Sublandlord or any Sublandlord Parties be liable for (i) any Claims or other liability incurred in connection with a failure of Port or its partners, members, shareholders, directors, agents, officers, employees, contractors, successors and /or assigns to perform or cause to be performed Port's obligations under the Master Lease, (ii) any Claims arising as a result of actions taken or not taken by Sublandlord due to performance by Sublandlord under the Master Lease, or (iii) lost revenues, lost profit or other consequential, special, indirect or punitive damages arising in connection with this Sublease or the Sublease

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Premises for any reason. Subtenant's indemnity obligations set forth herein or elsewhere in this Sublease and the terms of this Section shall survive the expiration or earlier termination of this Sublease.

11. Assignment or Subletting.

11.1 Generally. Independent of and in addition to any provisions of the Master Lease, other than as expressly provided below, except with the prior written consent of Sublandlord and Port, which consent may be withheld in their sole discretion, Subtenant shall not voluntarily, involuntarily or by operation of law (a) assign, convey or mortgage this Sublease or any interest under it; (b) allow any assignment or transfer thereof or any lien upon Subtenant's interest by operation of law; (c) further sublet the Sublease Premises or any part thereof; (d) permit the occupancy of the Sublease Premises or any part thereof by anyone other than Subtenant; or (e) if Subtenant is a corporation, partnership, limited liability company, limited liability partnership, trust, association or other business entity (other than a corporation whose stock is publicly traded), permit, directly or indirectly, the transfer of any ownership interest in Subtenant so as to result in a change in **Control** of Subtenant, or a transfer of all or substantially all of the assets of Subtenant (collectively, a "**Transfer**").

11.2 Notice and Consent. Subtenant shall provide Sublandlord with not less than sixty (60) days prior written notice of a proposed Transfer. With any request for consent to a Transfer, Subtenant will submit a copy of the proposed Transfer document to Sublandlord and notify Sublandlord of the proposed effective date of the Transfer, the name of the proposed transferee (accompanied by detailed evidence of the nature, character, ownership, business, and financial condition of the transferee and its business), all terms and conditions (including detail regarding the proposed uses, rental and other consideration) of or relating to the Transfer and a description of any proposed alterations. Sublandlord shall grant or deny its consent to the proposed Transfer within thirty (30) days following submission of Subtenant's request accompanied by the information required herein; Sublandlord's failure to grant or deny its consent within such thirty (30) day period shall be deemed to be Sublandlord's denial of such consent. Consent by Sublandlord to any Transfer shall not be a waiver of Sublandlord's rights as to any subsequent Transfer. Any approved Transfer shall be expressly subject to the terms and conditions of the Master Lease not previously waived or consented to as part of this Sublease, including the necessity to procure Port's consent and the provisions required in any Sublease.

Within ten (10) days after written request, Subtenant will pay Sublandlord, as additional Rent, Sublandlord's and Port's reasonable costs, including attorneys' fees and costs, consultant's costs, and costs for Port staff time, incurred in connection with the review, investigation, processing, documentation, and/or approval of any proposed Transfer. To the extent permitted to be deducted as Subletting Expenses under the Master Lease, such costs paid by Subtenant may be deducted when calculating the Excess Consideration payable under Section 11.5 below. Subtenant will pay such costs regardless of whether Port or Sublandlord consents to such proposal.

Subtenant acknowledges and agrees that as a condition of Port's consent to a Transfer to a Subtenant with a substantially different business model (such as alcohol sales), Port may elect to increase the monthly Percentage Rent amount above six-percent (6%) or require payment of

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Percentage Rent in a commercially reasonable amount consistent with other Port tenants with similar operations, as determined by Port in its reasonable discretion.

11.3 Payments. Upon any default while a Transfer is in effect, Sublandlord may collect directly from the transferee all sums becoming due to Subtenant under the Transfer and apply this amount against any sums due Sublandlord by Subtenant, and Subtenant hereby authorizes and directs any transferee to make payments directly to Sublandlord upon notice from Sublandlord. No direct collection by Sublandlord from any transferee shall constitute a novation or release of Subtenant, a consent to the Transfer or a waiver of the covenant prohibiting Transfers. Sublandlord, as Subtenant's agent, may endorse any check, draft or other instrument payable to Subtenant for sums due under a Transfer, and apply the proceeds in accordance with this Sublease; this agency is coupled with an interest and is irrevocable. In the event that Subtenant shall request Sublandlord's consent to a Transfer, Subtenant shall pay Sublandlord's processing costs and attorneys' fees and costs incurred in reviewing such request, including any fees due under the Master Lease, together with the fees and costs of Port in accordance with the terms of the Master Lease.

11.4 Sublandlord's Recapture Right. Notwithstanding anything to the contrary contained in this Sublease, if Subtenant shall request approval to Transfer any portion of the Sublease Premises then Sublandlord shall have the option, by giving written notice to Subtenant within thirty (30) days after receipt of any request for consent to such Transfer, to recapture the Sublease Premises subject to such request. Such recapture notice by Sublandlord shall cancel and terminate this Sublease as of the effective date of the proposed Transfer set forth in the request for consent, but Subtenant shall remain responsible for any obligations accrued prior to the date of Transfer.

11.5 Excess Consideration. If the consideration Subtenant receives for any Transfer (including key money and bonus money and any payment in excess of fair market value for services or assets provided or transferred in connection with the Transfer) exceeds the Base Rent and Percentage Rent payable under this Sublease for the same period and portion of the Sublease Premises, then the excess shall be immediately due and payable by Subtenant to Sublandlord as additional Rent under this Sublease. Subtenant shall allow Sublandlord and Port to review and audit Subtenant's Books and Records that are applicable to the payment of such additional Rent for the purpose of verifying Subtenant's calculation of additional Rent payable to Sublandlord and shall maintain such Books and Records for the period required by the Master Lease.

11.6 Other Transfer Terms. No permitted assignment shall be effective, and no permitted sublease shall commence unless and until any default by Subtenant hereunder has been cured. No assignment or subletting shall relieve Subtenant from Subtenant's obligations and agreements under this Sublease, and Subtenant shall continue to be liable as a principal and not as a guarantor or surety, to the same extent as though no assignment or subletting had been made. Subtenant hereby waives the provisions of Section 1995.310 of the California Civil Code, or any similar or successor Laws, now or hereinafter in effect, and all other remedies, including,

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without limitation, any right at law or equity to terminate this Sublease, on its own behalf and, to the extent permitted under all applicable Laws, on behalf of the proposed transferee. Any attempted Transfer in violation of this Section is voidable by Sublandlord.

12. Alterations.

12.1 Other Alterations. Subtenant shall not make any **Alterations** (including any **Exterior Improvements**) to or outside the Sublease Premises (including the installation of any wiring or cabling within the Sublease Premises) if to do so would constitute a default under the Master Lease (without regard to any requirement of notice or cure period), and in any event will not perform any Alterations without the prior written consent of Sublandlord and Port. If Subtenant's proposed Alterations would not constitute a default under the Master Lease and are approved by Port to the extent such approval is required pursuant to the Master Lease, Sublandlord's consent thereto shall not be unreasonably withheld, and if Sublandlord consents thereto, Sublandlord shall use reasonable efforts to obtain the consent of Port if such consent is required under the Master Lease. If Alterations by Subtenant are permitted or consented to, Subtenant shall comply with all of the covenants and obligations of Sublandlord, as Tenant, contained in the Master Lease pertaining to the installation and removal of such Alterations. In addition, Subtenant shall indemnify, defend, protect and hold Sublandlord and the Sublandlord Parties harmless from and against any and all claims arising out of the installation, use and removal of Alterations by or on behalf of Subtenant.

12.2 Removal; Restoration. Notwithstanding anything to the contrary contained in this Sublease or the Master Lease, Subtenant shall remove any Alterations to the Sublease Premises upon the Expiration Date or earlier termination of this Sublease and perform any repairs and restoration required if (i) Sublandlord notifies Subtenant prior to the Expiration Date that Subtenant will be obligated to remove the same upon the Expiration Date or earlier termination of this Sublease, or (ii) Port requires such removal and restoration.

13. Casualty or Condemnation. In the event of a fire or other casualty affecting the Building or the Sublease Premises, or of a **Condemnation** of all or a part of the Building or the Sublease Premises under the power of eminent domain, Subtenant shall have no right to terminate this Sublease. If the Master Lease imposes on Sublandlord the obligation to repair or restore the Premises or the Building, including any leasehold improvements or alterations, Sublandlord also will repair the Sublandlord Initial Improvements and Subtenant Initial Improvements to the extent of available insurance proceeds allocable thereto, and Subtenant shall be responsible for repair or restoration of any other leasehold improvements or Alterations within the Sublease Premises to the extent these improvements or Alterations were made by or for the benefit of Subtenant.

14. Surrender.

14.1 Generally. On the Expiration Date, or upon the earlier termination of this Sublease or of Subtenant's right to possession of the Sublease Premises, Subtenant will at once vacate, surrender and deliver up the Sublease Premises, together with all improvements thereon, to

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Sublandlord in good condition and repair, reasonable wear and tear and casualty excepted. Conditions existing because of Subtenant's failure to perform maintenance, repairs or replacements as required of Subtenant under this Sublease shall not be deemed "reasonable wear and tear." Subtenant shall surrender to Sublandlord all keys and other access control devices to the Sublease Premises and make known to Sublandlord the combination of all combination locks that Subtenant is permitted to leave on the Sublease Premises.

14.2 Restoration of Alterations. All **Subtenant's Property** not removed shall become a part of and shall remain upon the Sublease Premises upon any termination, without compensation, allowance or credit to Subtenant. Notwithstanding the foregoing, if Subtenant is obligated to remove any Subtenant's Property pursuant to other provisions of this Sublease, then Subtenant shall remove such Subtenant's Property and shall restore the applicable portions of the Sublease Premises to the condition existing prior to the performance of the applicable Subtenant's Property, reasonable wear and tear excepted. Subtenant shall repair any damage occasioned by such removal or restoration. If Subtenant does not complete such removal or restoration in accordance with this Sublease, Sublandlord may remove the same (and repair any damage occasioned thereby), and dispose thereof, or at its election, warehouse the same. Subtenant shall pay the costs of such removal, repair, restoration and warehousing, plus an administrative fee equal to ten percent (10%) of such costs, on demand.

14.3 Trade Fixtures. On or before the Sublease Expiration Date, or upon the earlier termination of the Sublease or of Subtenant's right to possession of the Sublease Premises, Subtenant shall remove Subtenant's **trade fixtures**, and shall repair any injury or damage to the Sublease Premises that may result from such removal, and shall restore the Sublease Premises to the same condition as prior to the installation thereof. If Subtenant does not remove Subtenant's trade fixtures from the Sublease Premises on or before the Expiration Date or the earlier termination of Subtenant's right to possession, Sublandlord may, at its option, remove the same (and repair any damage occasioned thereby and restore the Sublease Premises as aforesaid) and dispose thereof or warehouse the same, and Subtenant shall pay the cost of such removal, repair, restoration or warehousing, plus as administrative fee equal to ten percent (10%) of such costs, to Sublandlord on demand, or Sublandlord may treat said trade fixtures as having been conveyed to Sublandlord with this Sublease acting as a bill of sale therefor, without further payment or credit by Sublandlord to Subtenant.

15. Holding Over.

15.1 No Right to Hold Over. Subtenant has no right to occupy the Sublease Premises or any portion thereof after the Sublease Expiration Date or after any earlier termination of this Sublease or of Subtenant's right to possession hereunder. In the event Subtenant or any party claiming by, through or under Subtenant so holds over, then Subtenant shall be deemed a tenant at sufferance and Sublandlord may exercise any and all remedies available to it at law or in equity to recover possession of the Sublease Premises, and to recover damages, including without limitation, all damages (consequential or direct) payable by Sublandlord to Port by reason of such

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holdover (which will include without limitation any escalated "holdover" rent payable by Sublandlord under the Master Lease).

15.2 Holdover Rate. Without limiting Sublandlord's rights under Section 13.1, for each and every month or partial month that Subtenant or any party claiming by, through or under Subtenant remains in occupancy of all or any portion of the Sublease Premises after the Sublease Expiration Date or after the earlier termination of this Sublease or of Subtenant's right to possession, Subtenant shall pay, as minimum damages and not as a penalty, monthly rental at a rate equal to the greater of (i) twice the rate of Rent payable by Subtenant hereunder immediately prior to the Sublease Expiration Date or the earlier termination of this Sublease or of Subtenant's right to possession and (ii) the escalated "holdover" rent payable by Sublandlord under the Master Lease as a result of Subtenant's holdover. The acceptance by Sublandlord of any lesser sum shall be construed as payment on account and not in satisfaction of damages for such holding over.

16. Encumbering Title.

16.1 Prohibition. Subtenant shall not do any act which in any way encumbers the title of Port in and to the Building nor shall the interest or estate of Port or Sublandlord be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by Subtenant, or by reason of any other act or omission of Subtenant. Any claim to, or lien upon, the Sublease Premises or the Building arising from any act or omission of Subtenant shall accrue only against the estate of Subtenant and shall be subject and subordinate to the paramount title and rights of Port and the Sublandlord.

16.2 Liens. Without limiting the generality of Section 16.1, Subtenant shall not permit the Sublease Premises or the Building to become subject to any mechanics', laborers' or materialmen's lien on account of labor or material furnished to Subtenant or claimed to have been furnished to Subtenant in connection with work of any character performed or claimed to have been performed on the Sublease Premises by, or at the direction or sufferance of, Subtenant. Sublandlord may cause such liens to be released by any means it deems proper, including payment, at Subtenant's expense and without affecting Sublandlord's rights.

17. Subtenant's Default.

17.1 Definition. Any one or more of following events shall be considered a "**Default**" by Subtenant, as such term is used in this Sublease:

(a) Subtenant shall be adjudged an involuntary bankrupt, or a decree or order approving, as properly filed, a petition or answer filed against Subtenant asking reorganization of Subtenant under the Federal bankruptcy laws as now or hereafter amended, or under the laws of any state, shall be entered, and any such decree or judgment or order shall not have been vacated or stayed or set aside within thirty (30) days from the date of the entry or granting thereof; or

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(b) Subtenant shall file, or admit the jurisdiction of the court and the material allegations contained in, any petition in bankruptcy, or any petition pursuant or purporting to be pursuant to the Federal Bankruptcy laws now or hereafter amended, or Subtenant shall institute any proceedings for relief of Subtenant under any bankruptcy or insolvency laws or any laws relating to the relief of debtors, readjustment of indebtedness, re-organization, arrangements, composition or extension; or

(c) Subtenant shall make any assignment for the benefit of creditors or shall apply for or consent to the appointment of a receiver for Subtenant or any of the property of Subtenant; or

(d) The Sublease Premises are levied on by any attachment or execution resulting from the debts of Subtenant; or

(e) A decree or order appointing a receiver of the property of Subtenant shall be made and such decree or order shall not have been vacated, stayed or set aside within thirty (30) days from the date of entry or granting thereof; or

(f) Subtenant shall vacate or abandon or fail to continuously occupy the Sublease Premises during the Sublease Term or conduct or attempt to conduct a Transfer other than in strict accordance with Section 11 hereof; or

(g) Subtenant fails to make any payment of Rent required to be made by Subtenant as and when such payment is due, understates Gross Revenues for any accounting period by more than five percent (5%), fails to make its Books and Records available in accordance with the Master Lease, or fails to make the certifications required under the Master Lease; or

(h) Subtenant fails to secure insurance or to provide proper evidence of insurance as set forth in Section 10 of this Sublease or fails to keep the Sublease Premises or the Building free of lien claims as set forth in this Sublease; or

(i) Subtenant, by its act or omission, causes an event or condition under the Master Lease which either is an immediate default thereunder or, subject only to the delivery of any required notice or passage of any cure or grace period, would constitute a default thereunder; or

(j) Subtenant fails to use the Sublease Premises solely for the Subtenant Permitted Use, fails to comply with the provisions of Section 18 (Hazardous Materials) of the Master Lease as incorporated herein, or fails to comply with the provisions of the Subtenant Operations Plan, in each case in a manner that presents a health, safety, welfare or environmental risk or hazard, as determined by Port in its sole and absolute discretion and such failure continues for a period of twenty-four (24) hours following written notice from Port; or

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(k) Subtenant fails to fulfill, keep, observe or perform any of the other covenants and obligations herein contained to be fulfilled, kept, observed and performed by Subtenant, and such failure continues for more than five (5) days after notice thereof in writing to Subtenant.

17.2 Remedies. Upon the occurrence of any one or more Defaults, Sublandlord may exercise any remedy against, and recover such amounts from, Subtenant as Port may exercise or be entitled to for default by Tenant under the Master Lease as if Sublandlord were the Port and Subtenant were Tenant, which provisions of the Master Lease are hereby incorporated herein by reference. In addition, if Subtenant shall default under any of the terms or provisions of this Sublease on Subtenant's part to be performed, and Subtenant shall not have commenced diligently to cure any such default that is capable of cure within five (5) days after notice thereof to Subtenant (except in the case of what Sublandlord reasonably believes to be an emergency situation in which case no such notice need be given), Sublandlord may, in addition to any other remedy provided in this Sublease, by law or otherwise, cure such default and the cost thereof, together with interest thereon from the date incurred until paid at the maximum rate permitted under applicable law, shall be payable by Subtenant within ten (10) days after demand therefor, and in the event Subtenant fails to pay the same, Sublandlord may recover such costs, including interest, attorney's fees and disbursements and court costs, as additional rent, in an action brought against Subtenant. Each and every right and remedy of Sublandlord under this Sublease shall be cumulative and in addition to every other right and remedy herein contained or now or hereafter existing at law or in equity, by statute or otherwise.

17.3 Security Deposit. Sublandlord shall have the right to hold and apply the security deposit described in Section 1 on the same terms as set forth in Section 9 of the Master Lease, substituting Sublandlord for Port and Subtenant for Tenant thereunder.

18. Provisions Regarding Master Lease.

18.1 Subject to Master Lease. This Sublease and all rights of the parties hereunder are subject and subordinate to the Master Lease. The parties hereby acknowledge, each to the other, that it is not practical in this Sublease to enumerate all of the rights and obligations of the various parties under the Master Lease and specifically to allocate those rights and obligations in this Sublease. Accordingly, in order to afford to Subtenant the benefits of this Sublease and of those provisions of the Master Lease which by their nature are intended to benefit the party in possession of the Sublease Premises, and in order to protect Sublandlord against a default by Subtenant which might cause a default by Sublandlord under the Master Lease, Sublandlord and Subtenant covenant and agree as set forth in this Section 18.

18.2 Relationship with Master Lease. Subtenant's estate shall in all respects be limited to, and be construed in a fashion consistent with, the estate granted to Sublandlord by Port. Subtenant shall stand in the place of Sublandlord and shall defend, indemnify and hold Sublandlord harmless with respect to all covenants, warranties, obligations, and payments made

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by Sublandlord under or required of Sublandlord by the Master Lease with respect to the Sublease Premises. In the event Sublandlord is prevented from performing any of its obligations under this Sublease by a breach by Port of a term of the Master Lease, then Sublandlord's sole obligation in regard to its obligation under this Sublease shall be to use reasonable efforts in diligently pursuing the correction or cure by Port of Port's breach (provided, however, Sublandlord shall have no obligation to sue the Port on Subtenant's behalf or to terminate the Master Lease as a result of or in connection with any such breach by Port).

18.3 Incorporation of Master Lease. Except as expressly excluded or otherwise modified herein, and for purposes of incorporation thereof into this Sublease, the provisions of the Master Lease are hereby expressly incorporated into this Sublease with the term "Sublandlord" substituted for Landlord and the term "Subtenant" substituted for Tenant and the term "Sublease" substituted for Lease. Without limiting the generality of the foregoing, Port requires incorporation in subleases of certain provisions of and obligations under the Master Lease, including those detailed in Section 34: "**City and Port Requirements**" and Section 23.5(d): "**Required Provisions in Subleases**", and, accordingly, all such provisions are incorporated by reference herein, and Subtenant acknowledges and agrees to be bound by and perform all such provisions and obligations, even if such provisions do not apply to Sublandlord due to the nature of its activities or business (e.g., those relating to serving food or beverages, advertising of products).

18.4 Subtenant's Performance. Except as otherwise expressly provided in this Sublease, Subtenant shall perform all affirmative covenants and shall refrain from performing any act which is prohibited by the negative covenants of the Master Lease, where the obligation to perform or refrain from performing is by its nature imposed upon the party in possession of the Sublease Premises. If practicable, and except for different time periods set forth herein, Subtenant shall perform affirmative covenants which are also covenants of Sublandlord under the Master Lease at least five (5) days prior to the date when Sublandlord's performance is required under the Master Lease.

18.5 Termination of Master Lease. The parties agree that: (a) if the Master Lease should terminate prior to the Expiration Date for any reason, then Sublandlord shall have no liability to Subtenant; and (b) to the extent the Master Lease grants Sublandlord any discretionary right to terminate the Master Lease, whether due to casualty, condemnation, by election by Sublandlord or otherwise, Sublandlord shall be entitled to exercise or not exercise such right in its sole and absolute discretion and without liability to Subtenant. If Sublandlord and Port agree to terminate the Master Lease, Sublandlord will give Subtenant notice no later than execution of such agreement. Provided that Subtenant remains in occupancy of the Sublease Premises and is not in default under this Sublease, Sublandlord shall make all reasonable efforts to give Subtenant notice of any such termination at least ninety (90) days prior the Master Lease termination date unless termination results from a casualty, Condemnation or other circumstance for which such advance notice is not reasonably feasible.

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Upon any termination of the Master Lease and this Sublease, the parties shall have no further rights or obligations under this Sublease except pursuant to those provisions that expressly survive the expiration or earlier termination of this Sublease. In the event of termination, reentry or dispossession by Port under the Master Lease, Port may, at its option, take over all of the right, title and interest of Sublandlord under this Sublease, and Subtenant shall, at Port's option, attorn to Port pursuant to the then executory provisions of this Sublease.

18.6 Incorporation of Release and Indemnity Provisions. Any non-liability, release, indemnity or hold harmless provision in the Master Lease for the benefit of Port shall be deemed to apply under this Sublease and inure to the benefit of both Sublandlord and Port.

18.7 Consents. If Subtenant desires to take any action that requires the consent of Port under the terms of the Master Lease, then, notwithstanding anything to the contrary herein: (a) except as otherwise expressly provided in this Sublease, Sublandlord, independently, shall have the same rights of approval or disapproval as Port has under the Master Lease; (b) Subtenant shall not take any such action until it obtains the consent of both Sublandlord and Port; and (c) Subtenant shall request that Sublandlord obtain Port's consent on Subtenant's behalf and Sublandlord shall use commercially reasonable efforts to obtain such consent. Subtenant shall pay all reasonable costs (including attorneys' fees) reasonably incurred by Sublandlord in seeking or procuring Port's consent. Any approval or consent required of Sublandlord conclusively shall be deemed reasonably withheld if approval or consent also is required of the Port, and Port fails to give Port's approval or consent.

18.8 Submissions. In all provisions of the Master Lease requiring Tenant to submit, exhibit to, supply or provide Port with evidence, certificates, or any other matter or thing, Subtenant shall be required to submit, exhibit to, supply or provide, as the case may be, the same to Sublandlord. Specifically, and without limiting the foregoing, Subtenant shall initially supply all matters relating to Percentage Rent required under Section 5 of the Master Lease to Sublandlord, and Sublandlord shall have the same rights to examine Subtenant's Books and Records and require Certifications with respect to Percentage Rent as does Port under the Master Lease. In any such instance, Sublandlord shall determine if such evidence, certificate or other matter or thing shall be satisfactory. All time periods for the Port to respond or perform under the Master Lease shall, as applicable to Sublandlord, be extended by an additional five (5) business days. All terms applicable to time periods for Sublandlord, as tenant under the Master Lease, to perform or respond shall, as applicable to Subtenant, be shortened by five (5) days, or, in the case of Percentage Rent submissions described in Section 5.4 hereof, ten (10) days, except that in the event the time period is five (5) days or less, the time period for performance by Subtenant shall be two (2) days.

18.8 Transfers. In the event of any assignment or transfer of the Sublandlord's interest under this Sublease, Sublandlord shall be and hereby is entirely relieved of all covenants and obligations of Sublandlord hereunder accruing subsequent to the date of the transfer, and it shall be deemed and construed, without further agreement between the parties hereto, that any

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transferee has assumed and shall carry out all covenants and obligations thereafter to be performed by Sublandlord hereunder.

18.9 Conflict with Master Lease. As between Sublandlord and Subtenant, in the event of a conflict between the provisions of the Master Lease incorporated into this Sublease and the provisions of this Sublease, the provisions of this Sublease shall control.

18.10 Estoppels. Subtenant, at any time and from time to time upon not less than five (5) days' prior notice from Sublandlord, shall execute and deliver to Sublandlord, Port or to any party designated by Sublandlord or Port a certificate in substantially the same form as that attached to the Master Lease as "**Exhibit J**." If Subtenant shall fail to provide such certificate within such five (5) day period, such failure shall, at Sublandlord's or Port's election, constitute a default under this Sublease, and Subtenant shall be deemed to have admitted the accuracy of any information supplied by Sublandlord or Port to a prospective purchaser or mortgagee.

19. Port's Consent.

19.1 Requirement for Consent. This Sublease and the obligations of the parties hereunder are expressly conditioned upon Sublandlord obtaining prior written consent hereto by Port in form and content reasonably acceptable to Sublandlord. Simultaneously with execution of this Sublease Subtenant shall execute and deliver to Subtenant and Port a form of Consent to Sublease required by Port and attached to the Master Lease as "**Exhibit D"**. Subtenant shall promptly deliver to Sublandlord any information reasonably requested by Port with respect to the nature and operation of Subtenant's business and/or the financial condition of Subtenant. Subtenant shall also provide such further information as may be requested by the City or Port to enable compliance with reporting obligations under state Law and San Francisco Administration Code Sections 23.38 and 23.39 (or any successor ordinance). In the event that, for any reason, the consent of Port to this Sublease is not obtained within sixty (60) days after the Execution Date, then either party may terminate this Sublease by giving the other party written notice thereof, in which event this Sublease shall terminate and neither party shall have any obligation hereunder.

19.2 Agreements for Port's Benefit. Sublandlord and Subtenant hereby agree, for the benefit of Port, that this Sublease and Port's consent hereto shall not (a) create privity of contract between Port and Subtenant; (b) be deemed to have amended the Master Lease in any regard (unless Port shall have expressly agreed writing to such amendment); or (c) be construed as a waiver of Port's right to consent to any assignment of the Master Lease by Sublandlord or any further subletting of the Sublease Premises, or as a waiver of Port's right to consent to any assignment by Subtenant of this Sublease or any further subletting of the Sublease Premises or any part thereof.

20. Notices.

20.1 Generally. All notices which may or are required to be given by either party to the other shall be in writing and shall be deemed given (i) if personally delivered, when received or

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refused (provided that any notice so delivered on a weekend or holiday will be deemed given on the next-succeeding business day), or (ii) if sent by United States mail, postage prepaid, on the business day after the business day of mailing, or (iii) if sent by a nationally recognized overnight commercial courier service providing receipted delivery, on the business day immediately following delivery to the courier, in any such case (a) if to Subtenant, addressed to Subtenant at the addresses specified in Section 1.9 or at such other place as Subtenant may from time to time designate by notice in writing to Sublandlord or (b) if for Sublandlord, addressed to Sublandlord at the address specified in Section 1.10 or at such other place as Sublandlord may from time to time designate by notice in writing to Subtenant. Each party agrees promptly to deliver to the other party a copy of any notice, demand, request, consent or approval received from Port that affects the rights or obligations under this Sublease.

20.2 Default Notices. Any notice delivered by Sublandlord in connection with, or as a precondition to, a Default by Subtenant shall be in lieu of and not in addition to any notice to pay rent or notice to perform any covenant required under law.

21. Miscellaneous.

21.1 Brokers. Each party warrants to the other that it has had no dealings with any broker or agent in connection with this Sublease.

21.2 Attorneys' Fees. Subtenant shall pay to Sublandlord, upon demand, Sublandlord's reasonable attorneys' fees and court costs incurred by Sublandlord in enforcing this Sublease or due to a default by Subtenant, regardless of whether any legal action is commenced. In the event that any action is brought by either party to enforce the terms of this Sublease, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

21.3 Entire Agreement. This Sublease is the entire agreement between the parties regarding its subject matter and supersedes any prior oral or written agreements among them regarding the subject matter contained herein.

21.4 Waiver. No waiver of any provision of this Sublease or consent to any action shall constitute a waiver of any other provision of this Sublease or consent to any other action. No waiver or consent shall constitute a continuing waiver or consent, or commit a party to provide a future waiver, unless such provision is expressly set forth in writing.

21.5 Interpretation. The terms of this Sublease have been negotiated by the parties hereto and the language used in this Sublease shall be deemed to be the language chosen by the parties hereto to express their mutual intent. The parties acknowledge and agree that each party and its counsel have reviewed and revised this Sublease and that no rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Sublease.

21.6 Amendment. This Sublease is subject to amendment only by a writing that makes reference to this Sublease and is signed by all parties hereto.

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21.7 Signage. Subject to the terms and conditions of the Master Lease, including without limitation those relating to **Historic Fabric**, and only to the extent that Port consents thereto, Subtenant shall have the right to install at its sole cost and expense, signage on the Sublease Premises. Without limiting the foregoing, Sublandlord and Port shall have the right to review and approve the place, number, size, color and style of such signage.

21.8 Diversity, Equity and Inclusion. Subtenant, on behalf of itself and any Transferees, acknowledges the importance of furthering the values of diversity, equity, and inclusion. Tenant agrees to abide by the "**DEI Plan**" generally described in **Exhibit L** attached to the Master Lease, which may be reasonably amended, updated, and clarified from time to time by Port or the parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, Sublandlord and Subtenant have executed this Sublease effective as of the Execution Date, intending to be bound hereby.

SUBLANDLORD:

YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, a California nonprofit public benefit corporation

By: Jamie Bruning-Miles (Apr 26, 2023 16:21 PDT)

Jamie Bruning-Miles
President and CEO

SUBTENANT:

DAILY DRIVER, LLC, a California limited liability company

By: Tamara Hicks (Apr 20, 2023 08:03 PDT)

Tamara Hicks
Its: Managing Partner

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EXHIBIT A

MASTER LEASE

[To Be Attached]

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EXHIBIT B

SUBLEASE PREMISES

[ATTACHED HERETO]

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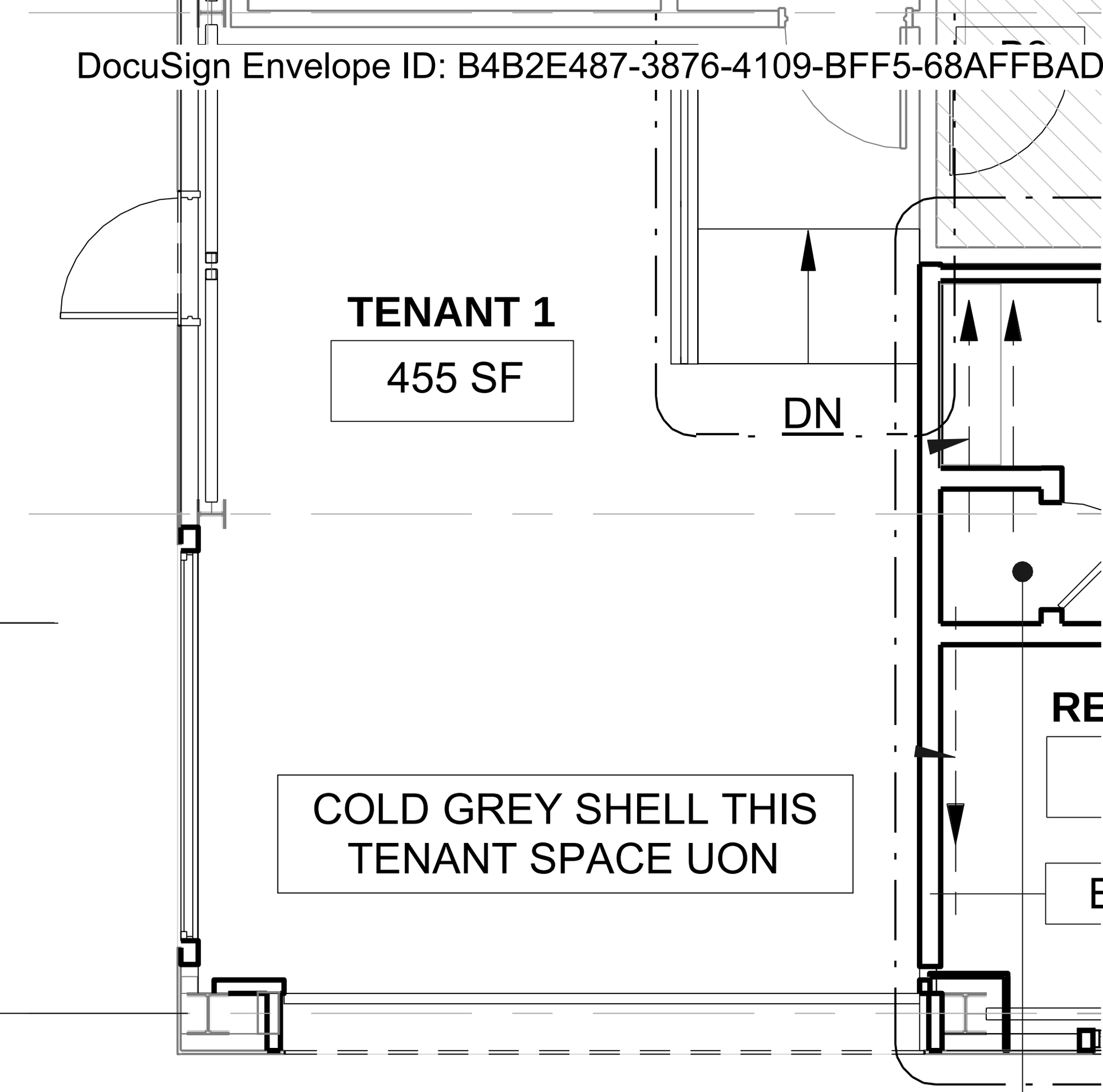

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EXHIBIT C

SUBLANDLORD INITIAL IMPROVEMENTS

[ATTACHED HERETO]

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Daily Driver - Building 49 TI Scope

Warm Shell	Scope of Work		Notes
Architectural - WS			
	Coiling Door @ South Facade	Incl. in Y Core/Shell	Coiling door placed in existing opening.
	Openings	Incl. in Y Core/Shell	Provide one operable "pick up" window on west façade.
	Single Exit Door	Incl. in Y Core/Shell	Provide single swinging door to space for code req. egress.
	Perimeter Walls	Incl. in Y Core/Shell	Walls to enclose DD space.
	Ceiling	Incl. in Y Core/Shell	Ceiling to enclose DD space.
	Concrete Flooring	Incl. in Y Core/Shell	Topping slab provided, will meet exterior grade to roll up door.
	Paint/Powerwash	Incl. in Y Core/Shell	Touch up/Cleaning of interior and exterior walls as needed. Interior walls remain unfinished.
	Accessibility	Incl. in Y Core/Shell	Accessible egress/ingress provided
Electrical - WS			
	Exterior Lights	Incl. in Y Core/Shell	Exterior Lights located in code required egress/ingress points
	Telecom Rough In	Incl. in Y Core/Shell	Comcast will be used by YMCA
	Sub-Panel	Incl. in Y Core/Shell	Fix to north interior wall. Includes stub outs for subtenant TI. Submetered
Plumbing - WS			
	Water Stub-Out	Incl. in Y Core/Shell	Provide on north wall. Coordinate w/ DD. Submetered.
	Sanitary Sewer Drain	Incl. in Y Core/Shell	Provide in coordinated location.
Mechanical - WS			
	5' Electrical Heaters	Incl. in Y Core/Shell	Coordinate with DD on locations

[redacted]

DD TI Costs	
Design/Permitting	Signage
Outlets/Connections	Security/Communications
Interior Lighting	Window Coverings
Interior Walls (Trash Room)	Paint (interior only)
Additional Plumbing Improvements	Any improvements not provided in Core and Shell
Commercial Kitchen Requirements	

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EXHIBIT D

INSURANCE COVERAGE

[TO BE ATTACHED]

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EXHIBIT D
SUBTENANT INSURANCE REQUIREMENTS

1. MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

a. **Commercial General Liability (CGL)**: Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, with limits not less than One Million Dollars ($1,000,000.00) per occurrence with a combined single limit including bodily injury, property damage, contractual liability, independent contractors, products and completed operations, and personal & advertising injury. CGL policy must not contain any exclusions for special events/participants liability. If CGL policy contains exclusions, a separate participant accident/event policy will be required. If applicable, the CGL policy must include Food Products Liability Insurance with limits not less than One Million Dollars ($1,000,000) per occurrence.

b. **Automobile Liability**: ISO Form Number CA 00 01 covering any auto (Code 1), or if Subtenant has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than One Million Dollars ($1,000,000) per accident for bodily injury and property damage.

c. **Workers' Compensation/Employer's Liability**: Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than One Million Dollars ($1,000,000) per accident for bodily injury or disease. Such Workers' Compensation insurance should be supplemented by United States Longshore and Harbor Workers Compensation and Marine Employer's Liability insurance where appropriate to the operations of Subtenant.

d. **[DPP only: Sexual Abuse or Molestation (SAM) Liability:** If the work will include contact with minors, and the CGL policy referenced above is not endorsed to include affirmative coverage for sexual abuse or molestation, Subtenant shall obtain and maintain a policy covering Sexual Abuse and Molestation with a limit no less than One Million Dollars ($1,000,000) per occurrence or claim.]

e. **Property Insurance:** In lieu of Subtenant obtaining property insurance with respect to the Sublease Premises, Sublandlord will obtain property insurance for the entire Premises, and the costs thereof shall be allocated among Sublandlord and Subtenants according to relative square footage. Subtenant shall obtain and pay for any additional insurance deemed necessary for risk of loss to Subtenant's Property.

f. **Business Income/Gross Revenue:** Business income loss and extra expense coverage appropriate to Subtenant's business operations, covering an interruption period of not less than two (2) years, with a limit of not less than twenty-four (24) months of Gross Revenues.

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g. **Excess/Umbrella Liability:** providing limits of no less than Three Million Dollars ($3,000,000) above the Subtenant's General Liability, Auto, SAM and Employer's Liability coverages required.

Subtenant may satisfy the insurance limits set forth above by any combination of primary and excess insurance policies. If Subtenant maintains broader coverage and/or higher limits than the minimums shown above, Sublandlord requires and shall be entitled to the broader coverage and/or the higher limits maintained by Subtenant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Sublandlord.

2. Other Insurance Provisions

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

a. **Additional Insured Status:** The YMCA of San Francisco, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Subtenant including materials, parts, or equipment furnished in connection with such work or operations. In addition, The City and County Of San Francisco, and The San Francisco Port Commission and their respective Officers, Directors, Employees and Agents shall be added as additional insureds. General liability coverage can be provided in the form of an endorsement to the Subtenant's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used). The additional insured coverage shall not include any special limitations on the scope of protection afforded to Sublandlord or any of the other Additional Insureds.

b. **Primary Coverage:** For any claims related to this contract, Subtenant's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the YMCA of San Francisco, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the YMCA of San Francisco, its officers, officials, employees, or volunteers shall be excess of Subtenant's insurance and shall not contribute with it.

c. **Loss Payee:** Policies shall name Sublandlord and the other parties defined in the Master Lease as Loss Payee, as their interests may appear.

d. **Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to Sublandlord.

e. **Waiver of Subrogation:** Subtenant hereby grants to Sublandlord and the Additional Insureds a waiver of any right to subrogation which any insurer of said Subtenant may acquire against Sublandlord and the Additional Insureds by virtue of the payment of any loss under such insurance. Subtenant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless

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of whether or not Sublandlord and the Additional Insureds has received a waiver of subrogation endorsement from the insurer.

f. **Self-Insured Retentions:** Self-insured retentions must be declared to and approved by Sublandlord. Sublandlord may require the Subtenant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Sublandlord.

g. **Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VIII, unless otherwise acceptable to Sublandlord.

h. **Verification of Coverage:** Subtenant shall furnish Sublandlord with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Sublandlord prior to the Sublease Commencement Date. However, failure to obtain the required documents prior to the Sublease Commencement Date shall not waive Subtenant's obligation to provide them. Thereafter, executed copies of renewal policies thereof shall be delivered to Sublandlord within thirty (30) days prior to the expiration of the term of each such policy. Sublandlord reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

i. **Contractors:** Subtenant shall require and verify that all contractors working under Subtenant maintain insurance meeting all requirements stated herein (except the requirement for SAM Liability if the contractor will not be working with minors), and Subtenant shall ensure that all additional insureds identified above shall be named on contractors' insurance.

j. **Change of Risks or Circumstances:** Port and Sublandlord reserve the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, market conditions, economic circumstances or other special circumstances in Sublandlord's and Port's sole discretion.

Port YMCA Sublease Form DD - FINAL (CLEAN) 041023

Final Audit Report 2023-04-26

Created:	2023-04-19
By:	Nicolas Vargas (NVargas@ymcasf.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAUZLukUBkYe_PKA7eGqOsw-REO1FT_8o5

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EXHIBIT E

WORK LETTER

This Work Letter sets forth Tenant's obligation to construct the Initial Improvements and shall be deemed part of the Lease. The Initial Improvements" include the Initial Tenant Improvements and the Seismic Project and are described in the Basic Lease Information and associated Port Building Permits and any amendments thereto.

1. General Terms

1.1. ***Definitions***. Initially capitalized terms used in this Work Letter have the meanings given them when first defined. Any initially capitalized words or acronyms used but not defined in this Work Letter shall have the same meanings as in the Lease.

1.2. ***Relationship between Work Letter and the Lease.*** This Work Letter governs Tenant's obligations to construct the Initial Improvements. This Work Letter addresses, among other matters, the scope of Tenant's obligations to design and construct the Initial Improvements, Tenant's obligations to obtain final approvals for the Initial Improvements, and the Schedule of Performance. Before the termination of this Work Letter, this Work Letter shall control in the event of any inconsistency between this Work Letter and the Lease. Upon expiry of this Work Letter, the Lease alone will govern the rights and obligations of the parties with respect to use and occupancy of the Premises.

1.3. ***Term.*** This Work Letter shall commence and become effective as of the Lease Effective Date and shall expire on the date Port issues a Certificate of Final Completion and Occupancy for the Initial Improvements, regardless of whether such date is before or after the Initial Improvements Completion Date as defined below.

1.4. ***Lease Provisions.*** The provisions of the Lease, except where clearly inconsistent or inapplicable to this Work Letter, are incorporated into this Work Letter.

1.5. ***Extensions by Port***. Upon the request of Tenant, Port's Executive Director may, by written instrument, extend the time for Tenant's performance of any term, covenant or condition of this Work Letter or permit the curing of any default of this Work Letter upon such terms and conditions as she or he determines appropriate, including but not limited to the time within which Tenant must perform such terms and/or conditions, provided, however, that any such extension or permissive curing of any particular default will not operate to relieve Tenant of its obligations to pay Rent or release any of Tenant's obligations nor constitute a waiver of Port's rights with respect to any other term, covenant or condition of this Work Letter or the Lease or any other default in, or breach of, the Work Letter or the Lease or otherwise effect the time with respect to the extended date or other dates for performance hereunder.

2. Construction Of The Initial Improvements

2.1.*Tenant's Construction Obligations*.

(a) Project Requirements. Tenant hereby agrees for itself, successors, and assignees, to Complete the construction of the Initial Improvements. Tenant shall Complete said construction free of claims, demands, actions and liens for labor, materials or equipment furnished for the construction, and in accordance with applicable requirements of (i) all Laws; (ii) this Work Letter, including the Scope of Development and Schematic Drawings; (iii) the Port Building Code as applicable; (iv) required Regulatory Approvals; (v) the Waterfront Land Use Plan or successor plan; (vi) the design approved by the Port and, if required, the Planning Commission, pursuant to Section 240 of the Planning Code; and (vii) the Lease. All such requirements are sometimes referred to collectively as the "**Project Requirements**."

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(b) Scope of Development; Schedule of Performance. Tenant shall use commercially reasonable efforts to construct or cause to be constructed the Initial Improvements on the Premises within the times and in the manner set forth in this Work Letter and the scope of development comprised of the Schematic Drawings, the Schedule of Performance, the preliminary plans and any narrative description (collectively, the "**Scope of Development"**) attached hereto as ***Attachment 1***. All construction with respect to the Initial Improvements shall be accomplished expeditiously, diligently and in accordance with good construction and engineering practices and applicable Laws. Tenant shall undertake commercially reasonable measures to minimize damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected by such work. Tenant, while performing any construction with respect to the Initial Improvements, shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining tenants, properties and improvements, or the risk of injury to members of the public, caused by or resulting from the performance of such construction.

(c) Costs; Private Development. Tenant shall bear all of the cost of construction of all Initial Improvements. Without limiting the foregoing, Tenant shall be responsible for performing all Premises preparation work necessary for construction of the Initial Improvements. Such preparation of the Premises shall include, among other things, asbestos and lead abatement investigation required for development or operation of the Initial Improvements, all structure and substructure work, disabled access improvements and public access improvements and tenant improvements.

2.2. ***Utilities***. Subject to the terms in the Basic Lease Information regarding the Interim Power Line and the Capacity Charges, Tenant, at its sole expense, shall arrange for the provision and construction of all on-Premises utilities necessary to use the Premises for the Permitted Use. Tenant and Port shall coordinate, if necessary, with respect to installation of any off-Premises utility infrastructure and design of the Initial Improvements, including providing advance notice of trenching requirements, and coordinate any modification of utilities to any adjacent Port tenants or uses.

2.3. ***Submittals after Completion.*** Tenant shall furnish Port both design/permit drawings in their finalized form and "As-Built" Drawings, specifications and surveys with respect to the Premises (core and shell, and tenant improvements) within sixty (60) days after Completion of the Initial Improvements. If Tenant fails to provide such surveys and as-built plans and specifications to Port within such period of time, Port after giving notice to Tenant shall have the right, but not the obligation, to cause the preparation by an architect of Port's choice of final surveys and as-built plans and specifications, at Tenant's sole cost, to be paid by Tenant to Port within thirty (30) days after Port's request therefor.

2.4. ***Insurance***.

(a) At all times during the construction of the Initial Improvements, in addition to the insurance required to be maintained by Tenant under ***Section 19*** of the Lease, Tenant shall require Tenant's contractor to maintain (a) commercial general liability insurance with limits of not less than Three Million Dollars ($3,000,000) combined single limit for bodily injury and property damage (including personal injury and death), and contractor's protective liability; and products and completed operations coverage in an amount not less than Five Hundred Thousand Dollars ($500,000) per incident, One Million Dollars ($1,000,000) in the aggregate;
(b) comprehensive automobile liability insurance with a policy limit of not less than One Million Dollars ($1,000,000) each accident for bodily injury and property damage, providing coverage at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, "**any auto"**, and insuring against all loss in connection with the ownership, maintenance and operation of automotive equipment that is owned, hired or non-owned;
(c) workers' compensation with statutory limits and employer's liability insurance with limits of

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not less than One Hundred Thousand Dollars ($100,000) per accident, Five Hundred Thousand Dollars ($500,000) aggregate disease coverage and One Hundred Thousand Dollars ($100,000) disease coverage per employee. Tenant shall cause Tenant's Agents (other than Tenant's contractor) to carry such insurance as shall be reasonably approved by Port taking into account the nature and scope of the work and industry custom and practice.

(b) In addition, Tenant shall carry "**Builder's All Risk**" insurance covering the construction of the Initial Improvements as set forth in ***Section 19*** of the Lease. The liability insurance shall be written on an "**occurrence"** basis and shall name Port as additional insureds (by endorsement reasonably acceptable to Port). Subject to Port's consent in its reasonable discretion, Tenant may elect to require that any architects, contractors and sub-contractors performing services in connection with the Initial Improvements, carry Builders Risk Insurance in the amounts and types of coverage stated herein and with the additional insureds named as required herein.

(c) All of the insurance required to be carried by Tenant or Tenant's Agents hereunder shall provide that it is primary insurance, and not excess over or contributory with any other valid, existing, and applicable insurance in force for or on behalf of Port, shall provide that Port shall receive thirty (30) days' written notice from the insurer prior to any cancellation or change of coverage, and shall be placed with companies which are rated A-VIII or better by Best's Insurance Guide and licensed to business in the State of California. All deductibles and self-insured retentions under Tenant's policies are subject to Port's reasonable approval, and all insurance, except workers' compensation, maintained by Tenant's Agents shall preclude subrogation claims by the insurer against anyone insured thereunder. Tenant's compliance with the provisions of this ***Section 2.4*** shall in no way limit Tenant's liability under any of the other provisions of this Work Letter or the Lease.

2.5. ***Performance Bond***. At least five (5) business days prior the start of construction, Tenant shall provide Port, at Tenant's sole cost and expense, (i) a corporate surety payment bond and a performance bond substantially in the form attached hereto as ***Attachment 2*** obtained by each of Tenant's contractors performing work on the Initial Improvements or, (ii) a financial guaranty, in a form approved by Port in its sole discretion, from a third party with liquid assets in an amount of no less than One Hundred Ten (110%) of the cost of the Initial Improvements. Each bond shall be in an amount equal to one hundred percent (110%) of the estimated costs of such work on the Initial Improvements. Each performance bond shall guarantee the contractor's faithful performance of its contract(s) with Tenant. Each payment bond shall guarantee the Contractor's payment of labor, materials, supplies and equipment used in the performance of its contract(s) with Tenant. The bonds are intended to help protect the Port against any liability for mechanics' and materialmen's liens, stop notices and to ensure completion of the work. Corporate sureties issuing these bonds shall be legally authorized to engage in the business of furnishing surety bonds in the State of California. All sureties shall have a current A.M. Best Rating not less than A-, VIII. Each corporate surety bond shall obligate the surety to Tenant and the City and County of San Francisco as co-obligees.

2.6. ***Compliance with Laws***. At its sole cost and expense, Tenant shall comply (taking into account any variances or other deviations properly approved) with: (i) all Laws; (ii) all Regulatory Approvals which place requirements on the Initial Improvements; (iii) all requirements of all policies of insurance which may be applicable to the Premises as to the Initial Improvements or Tenant's Property; and (iv) all other applicable Project Requirements. It is expressly understood and agreed that the performance required of Tenant by the preceding sentence shall include the obligation to make, at Tenant's sole cost and expense, all additions to, modifications of, and installations on the Premises which may be required by any Laws regulating the Premises or any insurance policies covering the Premises as to the Initial Improvements or Tenant's Property. Tenant shall, promptly upon request, provide Port with reasonable evidence of compliance with Tenant's obligations under this Section.

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2.7. ***Port and Other Governmental Permits***. Tenant has the sole responsibility, at its sole cost and expense, for obtaining all necessary permits for the Initial Improvements and shall make application for such permits directly to the applicable Regulatory Agency; provided, however, that where Port is required to act as a co-permittee for any permit Tenant shall apply for such permit in accordance with ***Section 12***.

2.8. ***Port Rights of Access***. Without limiting the rights of Port in its regulatory capacity, Port and its Agents will have the right of access to the Premises to the extent reasonably necessary to carry out the purposes of this Work Letter, including, but not limited to, the inspection of the work being performed in constructing the Initial Improvements upon reasonable prior written notice to Tenant during regular business hours; provided, however, Port shall take such reasonable action necessary to minimize any interference with Tenant's construction activities. Port will provide Tenant promptly upon request with a copy of any written reports prepared by Port or its Agents with respect to the Initial Improvements under any such inspection, subject to withholding documents otherwise privileged or confidential. Port disclaims any warranties, representations and statements made in any such reports, will have no liability or responsibility with respect to any such warranties, representations and statements, and will not be estopped from taking any action (including, but not limited to, later claiming that the construction of the Initial Improvements is defective, unauthorized or incomplete) nor be required to take any action as a result of any such inspection.

2.9. ***Construction Signs and Barriers***. Tenant shall provide appropriate construction barriers, construction signs and a project sign or banner, and shall post the signs on the Premises during the period of construction. Tenant will obtain a building permit from Port before the placement of any construction fencing, signage and/or barriers.

3. Preparation And Approval Of Plans

3.1. The Construction Documents.

(a) Definition of Construction Documents. The Construction Documents shall be as follows:

(i) "**Schematic Drawings**" for the Initial Improvements which shall generally include, without limitation, the following:

(1) Perspective drawings sufficient to illustrate the Initial Improvements.

(2) A site plan at appropriate scale showing relationships of the Initial Improvements with their respective uses, designating Public Access Areas, open spaces, walkways, buildings, loading areas, streets, parking, and adjacent uses. Adjacent existing and proposed streets, piers, arcades and structures should also be shown.

(3) Building plans, floor plans and elevations sufficient to describe the development proposal, the general architectural character, and the location and size of uses.

(4) Building sections showing height relationships of those areas noted above.

(ii) "**Preliminary Construction Documents"** in sufficient detail and completeness to show that the Initial Improvements and the construction thereof shall comply with the Project Requirements, and which shall generally include, without limitation:

(1) Premises plan(s) at appropriate scale showing the buildings, streets, boat docks, walkways, and other open spaces. All land uses shall be designated. All Premises development details and bounding streets, points of vehicular and pedestrian access shall be shown.

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(2) All building plans and elevations at appropriate scale.

(3) Building sections showing all typical cross sections at appropriate scale.

(4) Floor plans.

(5) Preliminary interior improvement plans.

(6) Plans for proposed Public Access Areas showing details including but not limited to, walls, fences, railings, benches, bicycle racks, street furniture, markers, plaques, models, paving, exterior lighting, signs, and trash containers.

(7) Outline specifications for materials, finishes and methods of construction.

(8) Interior and Exterior Signage Plans.

(9) Exterior lighting plans.

(10) Material and color samples.

(11) Roof plans showing all mechanical and other equipment.

(iii) "**Final Construction Documents"** which shall include all plans and specifications required under applicable codes to be submitted with an application for a Building Permit for the Initial Improvements.

(b) Exclusion. As used in this Work Letter "**Construction Documents"** do not mean any contracts between Tenant and any contractor, subcontractor, architect, engineer or consultant.

(c) In preparing the Construction Documents, Tenant shall use good faith efforts to include energy conservation and other green building improvement measures including but not limited to solar panels, energy efficient light fixtures; Energy Star appliances; recycling of demolition debris and use of recycled building materials; composting services for customers including in bathrooms (for paper towels).

3.2. ***Scope of Tenant Submissions of Construction Documents***. The following provisions apply to all stages of Tenant's submission of Construction Documents. Each of the Construction Document stages is intended to constitute a further development and refinement from the previous stage. The elements of the Preliminary Construction Documents requiring Port's approval shall be in substantial conformance with the Schematic Drawings and the Scope of Development, and shall incorporate conditions, modifications and changes specified by Port or required as a condition of Regulatory Approvals as approved by Port. Preliminary Construction Documents shall be in sufficient detail and completeness to show that the Initial Improvements and the construction of the Initial Improvements will be in compliance with the Project Requirements and matters previously approved. The Final Construction Documents shall be a final development of, and be based upon and conform to, the approved Preliminary Construction Documents. The elements of the Final Construction Documents requiring Port approval shall incorporate conditions, modifications and changes required by Port for the approval of the Preliminary Construction Documents. The Final Construction Documents shall include all drawings, specifications and documents necessary for the Initial Improvements to be constructed and completed in accordance with this Work Letter.

3.3. ***Construction Document Review Procedures***.

(a) Method of Port Action/Prior Approvals. Port shall approve, disapprove or approve conditionally the Construction Documents, in writing, in accordance with the Schedule of Performance, but, in any event, within ninety (90) days after submittal, so long as the applicable Construction Documents are properly submitted in accordance with the Schedule of

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Performance. If Port fails to either approve or disapprove within five (5) business days after Tenant's second written request made to Port after such ninety (90) day period, the applicable Construction Documents shall be deemed disapproved.

(b) Timing of Port Disapproval/ Conditional Approval and Tenant Resubmission. If Port disapproves of the Construction Documents in whole or in part, Port in the written disapproval shall state the reason or reasons and may recommend changes and make other recommendations. If Port conditionally approves the Construction Documents in whole or in part, the conditions shall be stated in writing and a time shall be stated for satisfying the conditions. Tenant shall make a resubmittal as expeditiously as possible. Tenant may continue making resubmissions until the approval of the submissions or the time specified in any conditional approval.

3.4.*Changes in Construction Documents.*

(a) Approval of Changes in Construction Documents. Tenant shall not make or cause to be made any material changes in any Port-approved Construction Documents without Port's express written approval in its reasonable discretion as provided in ***Section 3.4(b)*** below. Prior to making any changes that Tenant considers to be non-material to any Port-approved Construction Documents, including, without limitation, substituting materials which are the architectural equivalent as to aesthetic appearance, quality, color, design and texture, Tenant shall notify Port in writing. If Port in its reasonable discretion determines that such noticed changes are material, then such changes shall be subject to Port's approval under ***Section 3.4(b)***. Port's determination of whether such changes are material will be conclusive. Without otherwise limiting the requirements of this ***Section 3.4(a***), any changes that cost Five Thousand Dollars ($5,000.00) or less in the aggregate and that would not otherwise affect the structural elements of the Initial Improvements shall be presumed to be non-material changes.

(b) Response. Tenant shall request in writing Port's approval in connection with all material changes to the Construction Documents. Port shall give its approval or disapproval to Tenant in writing within thirty (30) days after receipt of Tenant's request. If Port disapproves, then it shall specify in writing the reasons for its disapproval. If Port fails to approve or disapprove within five (5) business days after Tenant's second written request made to Port after the thirty (30) day period, such changes will be deemed disapproved.

3.5. ***Progress Meetings/Consultation***. During the preparation of Construction Documents, Port staff and Tenant agree to hold regular progress meetings, as appropriate considering Tenant's Construction Document progress, to coordinate the preparation of, submission to, and review of Construction Documents by Port. Port staff and Tenant (and its applicable consultants) agree to communicate and consult informally as frequently as is reasonably necessary to assure that the formal submittal of any Construction Documents to Port can receive prompt and speedy consideration.

4. Completion of Construction

4.1. ***Completion of Construction***. Tenant shall commence, prosecute and use commercially reasonable efforts to Complete the Initial Improvements by the Initial Improvements Completion Date in accordance with the dates set forth in the Schedule of Performance. During construction of the Initial Improvements, Tenant shall submit written progress reports to Port, in form and detail as may be required reasonably by Port, but at least on a monthly basis.

4.2. ***Port's Remedy for Tenant's Failure to Timely Complete Construction***. In the event Tenant fails to complete the Initial Improvements in a manner sufficient to cause Port to determine the Initial Improvements to be Completed by the Initial Improvements Completion Date, Tenant shall pay to Port an amount equaling One Hundred Dollars ($100.00) per day commencing on the Completion Date and shall continue at such rate until Completion in addition to the Rent that would otherwise be payable for such period.

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THE PARTIES HAVE AGREED THAT PORT'S ACTUAL DAMAGES IN THE EVENT OF TENANT'S FAILURE TO COMPLETE CONSTRUCTION OF THE INITIAL IMPROVEMENTS BY THE INITIAL IMPROVEMENTS COMPLETION DATE WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THEY HAVE AGREED UPON THE SUM SPECIFIED ABOVE, AFTER NEGOTIATION, AS THEIR REASONABLE ESTIMATE OF PORT'S DAMAGES IN SUCH EVENT.

DS KB DS JBM

Tenant Initials *Port Initials*

5. Completion

5.1.*Completion*.

(a) Issuance Process.

(i) Before the Initial Improvements Completion Date, Tenant may not occupy the Premises except for construction purposes under this Work Letter or the Lease, unless Port consents to such use, a Temporary Certificate of Occupancy has been issued allowing such use and Tenant pays rent in the amount required by the then-current Port Commission-adopted parameter rates.

(ii) After the Initial Improvements Completion Date, Tenant may request a written determination of Completion for the Initial Improvements in writing. Port shall issue or provide Tenant with notice of Port's refusal to issue the written determination of Completion for the Initial Improvements within sixty (60) days of receipt of Tenant's request. If Port refuses to issue a determination of Completion, then it shall state the reasons why in its refusal notice.

(iii) Port's determination that the Initial Improvements have been Completed does not relieve Tenant or any other Person from any obligations to secure or comply with any Regulatory Approval of any agency (including Port) that may be required for the occupancy or operation of the Initial Improvements.

(b) ***Condition to Approval***. If there remain uncompleted (i) finishing details, minor omissions, decorations and mechanical adjustments of the type normally found on an architectural "**punch list**", (ii) landscaping, (iii) exterior finishes (to the extent Tenant can demonstrate to Port's reasonable satisfaction that such exterior finishes would be damaged during the course of later construction of Interior Improvements), or (iv) any other item that Port approves in writing in its sole and absolute discretion (collectively "**Deferred Items"**), Port may reasonably condition approval upon provision of security or other assurances in form, substance and amount satisfactory to Port that all the Deferred Items will be completed in a timely fashion. Such security may include a letter of credit (in a form and issued by an institution acceptable to Port) in the amount of one hundred ten percent (110%) of the cost of Completion of the Deferred Items as reasonably determined by Port. The obligations set forth in this subsection shall survive a termination of the Lease.

(c) ***Definition of Completion***. For purposes of this Work Letter and the Initial Improvements, "**Completion**" means completion by Tenant of all aspects of the Initial Improvements in accordance with the Project Requirements, and in compliance with all Regulatory Approvals needed for the occupancy and development of the Initial Improvements or provision of security reasonably satisfactory to Port for Deferred Items under ***Section 5.1(b)***, and issuance of a Certificate of Final Completion and Occupancy. The "**Initial Improvements Completion Date**" shall mean the earlier of (i) the date of the Certificate of Final Completion and Occupancy for the Initial Improvements or (ii) the date that is twenty-four (24) months after the date on which the Building Permit for the Initial Improvements was Finally Approved; provided,

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however, that the Port's Executive Director, in her or his reasonable discretion, may extend the 24-month deadline in writing following Tenant's written request and provided that Tenant is working diligently toward Completion of the Initial Improvements and provided further that any such extension will not operate to relieve Tenant of its obligations to pay Rent or release any of Tenant's obligations nor constitute a waiver of Port's rights with respect to any other term, covenant or condition of this Work Letter or the Lease or any other default in, or breach of, the Work Letter or the Lease or otherwise effect the time with respect to the extended date or other dates for performance hereunder. The Port's Executive Director's failure to issue an extension within ten (10) days after Tenant's notice requesting an extension shall be deemed a denial of the request.

6. Termination Of Lease

6.1. ***Plans and Data.*** If the Lease terminates as a result of an Event of Default by Tenant before Completion of the Initial Improvements, Tenant shall assign and deliver to Port (without cost to Port), without any warranty or representation from Tenant and subject to the terms of any design professional's, engineer's, consultant's, or contractors agreement with Tenant, any and all copies of reports in its possession regarding the Premises and all Construction Documents in the possession of or prepared for Tenant, for the contracting of the Initial Improvements within thirty (30) days after written demand from Port. Port may use said reports and Construction Documents for any purpose whatsoever relating to the Premises; provided, however, Port shall release Tenant and Tenant's contractor, architect, engineer, agents, employees and other consultants from any Claims arising out of Port's use of such reports and Construction Documents except to the extent such contractor, architect, engineer, agent, employee or other consultant is retained by Port to complete the Initial Improvements. Tenant shall include in all contracts and authorizations for services pertaining to the planning and design of the Initial Improvements an express agreement by the Person performing such services that Port may use such reports or Construction Documents as provided in this Section 6.1 without compensation or payment from Port in the event such reports or Construction Documents are delivered to Port under the provisions of this ***Section 6.1***, provided that Port agrees (i) not to remove the name of the preparer of such reports of Construction Documents without the preparer's written permission or (ii) to remove it at their written request.

6.2. ***Return of Premises***. If the Lease terminates pursuant to this ***Section 6***, Tenant shall, at its sole expense and as promptly as practicable, return the Premises to Port in a safe condition, and unless otherwise requested by Port, shall promptly remove all Improvements and Alterations, equipment, loose building materials and debris present at the Premises resulting from Tenant's construction activities. In the event that Tenant is required to return the Premises as aforesaid, Tenant shall obtain those permits customary and necessary to enter upon the Premises in order to complete such work and shall otherwise comply with applicable Law. In such event, Port shall cooperate with Tenant in Tenant's efforts to obtain such permits, provided that Port will not be required to expend any money or undertake any obligations in connection therewith. The provisions of this Section shall survive any termination of the Lease.

ATTACHMENTS

ATTACHMENT 1	**SCOPE OF DEVELOPMENT**
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ATTACHMENT 1

SCOPE OF DEVELOPMENT

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Attachment 1 - Scope of Development

PROJECT DESCRIPTION

Tenant improvements to Building 49 for increase the public use of Crane Cove Park. Master tenant (YMCA) to provide a wellness center for its members/public. Subtenant 1 (Daily Driver) to provide a food/beverage business to serve coffee/sandwiches/bagels to-go. Subtenant 2 (Dogpatch Paddle) to provide a water recreation business and run youth camp programming, rentals, and private events. This project is in relation to the RFP for Building 49 which was awarded to the YMCA of San Francisco and consists of a long-term lease with the Port of San Francisco. YMCA of SF to operate and maintain the public restrooms that were built in Building 49 by the Port of San Francisco.

SCOPE OF WORK

Core and shell improvements for three tenants include new storefront windows, entries, and overhead coiling doors. Tenant improvements for YMCA of SF include interior partition walls and finishes.

TENANT IMPROVEMENTS

AT TENANT 1 AND 2 SPACES, COLD GREY SHELL SHALL INCLUDE THE FOLLOWING:

1. FRAMED WALLS AND CEILING (IF APPLIES), NO FINISHES EXCEPT FOR INTERIOR FINISHES SURROUNDING STOREFRONT AT EXTERIOR WALLS.
2. OPENINGS AND DOORS AS INDICATED ON DWGS
3. TOPPING SLAB AS INDICATED ON DWGS
4. RADIANT FLOOR SLAB NOT INCLUDED.
5. PLUMBING AND ELECTRICAL CONNECTIONS TO BE STUBBED OUT AT PERIMETER OF SPACE
6. EGRESS LIGHTING PROVIDED AT REQUIRED EXITS.
7. ACCESSIBLE EGRESS/INGRESS FOR SPACE

CIVIL DETAILS

1. Drainage connections as needed for washdown of equipment from Dogpatch Paddle space
2. Utility connections for Fire Sprinklers
3. Any additional utility upgrades needed for service

ARCHITECTURAL DETAILS

<u>CONCRETE</u>

1. Provide concrete curbs at building perimeter for securing existing metal siding, see drawings for location and size.
2. Provide concrete curbs at shower stalls
3. Provide new concrete footings at demising walls and studio walls and other locations so noted in structural basis of design section.
4. Trench where required for new footings, plumbing, and electrical/data runs to floor boxes. Patch and repair to match adjacent.
5. Fill existing cracks in existing slab. See structural basis of design section.
6. Provide unbonded concrete topping slab for leveling the floor (where necessary) and for radiant flooring (where provided)

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a. Thickness of radiant topping slab (minimum - max)
    i. Minimum is 2-inches, with rigid insulation of 3-inch total 5-inch combined system; thickest tube will be 5/8-inch thick
    ii. Provide WWR at bottom of topping slab.
    iii. Maximum thickness of concrete is 3-inch for sizing standard system; making slab thicker will increase size of tubing and amount of water in system
    iv. Minimum rigid insulation is 1.5-inch polyurethane, will be increased as necessary (tapered) to create level surface for topping slab
b. Control joints max. 6’ o.c. and at all changes in elevation.
c. Allow for movement and expansion joints in topping slab and radiant floor tubing system. Crane Cove soils experiences on-going settlement.
d. Where exposed and as scheduled, grind and polish topping slab to a Class A cream finish and Level 2 Satin honed gloss.

METALS

1. Provide metal handrails at interior ramps, walkways, and stairs
2. Provide equipment (mechanical) screens at ductwork and equipment visible on top of the restroom and studio room “roof” areas (inclusion pending mechanical design)
3. All partitions and framing to be metal stud framing.
4. Use G60 metal stud framing, track and backing plates and ceiling framing at showers.

WOODS AND PLASTICS

1. Breakroom: custom plastic laminate-faced casework with base and upper cabinets.
2. Breakroom: open shelves as indicated

OPENINGS

1. Provide factory pre-primed A90 galvanized hollow metal doors and frames at restrooms, to be field painted with epoxy
2. Provide HM door to public restroom hallway from YMCA space.
3. Provide HM frames at all interior wood doors
4. Provide stainless steel hardware for all new doors
5. Provide panic hardware at door to public restroom

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1. Provide interior wood doors with full lite at Office and Studio: straight grain hardwood veneer, factory stained and finished
2. Provide interior flush wood doors at Accessible Changing Room, Storage and Breakroom, straight grain hardwood veneer, factory stained and finished.
3. Provide tempered glass panel where occurs.
4. Provide SS hardware for all new doors and privacy latches at restroom/showers and changing areas

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1. Provide one 10' overhead coiling doors with Powderguard Max finish (standard color)

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2. Provide one 16'1"W x 19'1"H overhead coiling door with Powerguard Max finish (standard color). Product TBD AmericanDoor Roll Up Door Man Door, Overhead Door Corp, or Wanye Dalton commercial Doors
3. Provide Motorized Operating Hardware, tracks and support.

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1. Kawneer thermal windows and storefront;
2. Dark Anodized finish.
3. Awning window with crank operation and screens
4. 1” insulated low e clear glass and tempered as indicated
5. Provide panic hardware with Bronze finish.

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1. See storefront and window sections for glazing associated with those openings
2. Provide full height mirrors at Free Weights and Studio walls. Product TBD
3. Provide frameless mirrors at restrooms over the lavatory. Product TBD
4. Provide 3x6’ frameless mirror at accessible changing room. Product TBD
5. Provide tempered glass panels at full lite in Studio and Office doors. Product TBD

<u>FINISHES</u>

1. Provide plaster ceiling at All Gender restroom/shower rooms
    a. Backer board: Durock or equal
    b. STO Corporation Stolit Acrylic Finish
    c. Provide all components of manufacturer’s system
3. Ceiling framing G90 galvanized metal stud framing

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1. Provide 5/8” thick type X gypsum board throughout.
2. Provide moisture and mold resistant gypsum board in Break Room kitchenette area and toilet rooms
3. Cement backer board for tile at showers.
4. Quietrock EZ-SNAP Type X gypsum board at Studio walls and YMCA side of demising wall at Tenant 1.

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1. Provide new ceramic tile at all gender restroom and shower rooms, both walls and floors (over radiant sub floor)
    a. Floor tile at shower stall: 1x1 mosaic porcelain with double grit for slip resistance
    b. Floor tile at restrooms and lavatory: 1x2 mosaic porcelain with double grid for slip resistance
    c. Wall tile: Glazed porcelain tile 12x24 with bullnosed corners and cove base as indicated.

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1. Above reception desk at Lobby: Wood grille ceiling with acoustic batt above and integrated recessed lighting;
    a. 1200-series by 9Wood

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1. Weight area: Mondo Sport Impact; 10 mm rubber sport flooring specifically designed for free weight room use

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1. Studio floor: Robbins 2 1/8” Bio-cushion classic for dance with Northern hard maple 25/32” x 2” blind nailed. Clear sport flooring finish (3 coats) with
2. Vented rubber cove base

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1. Provide sound-control mineral wool batt insulation between metal studs at Studio partitions, restroom/shower rooms and demising walls. Thickness as required to fill wall cavity.

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1. Quilted studio blanket acoustic insulation at high wall and roof as indicated, mechanically fastened
2. Lamvin standard acoustic rigid panel wall-mounted at Studio as indicated, 1-inch thick

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1. Exterior steel handrail system to receive high-performance coating with primer, intermediate, and and finish coat. Finish coat by Tnemec, "Fluoronar, Series 1071V"
2. High-performance coating for exposed structural steel
3. See Finish Schedule in DWGS for additional information.

<u>SPECIALTIES</u>

1. Solid Phenolic Lockers, see drawings for count and location
    a. Day Use 36” tall x 15” wide x 15” deep (2 per tower) with overlapping “S” door design
    b. Rentable “Kit” lockers 12x12x 12 (6 per tower)
    c. Stainless steel hardware, door vents
    d. Colors selected from manufacturer’s colors expanded range of Wilsonart or sim
    e. Metal stud base with cove rubber base applied. Lockers anchored to partition or steel structure behind.

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1. Provide new toilet, soap and shower accessories for accessible toilet stall, showers and lavatory areas.
2. Accessible bench at locker – to match locker system

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1. Provide interior acrylic code required signage for room identification, accessibility and exiting.
2. For wayfinding, entry, and branding signage and elements see YMCA’s separate budget

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1. Fire extinguishers with semi-recessed cabinets.

<u>FURNISHINGS</u>

1. Owner provided FFE
2. Manual window coverings
3. Recessed entry mat at YMCA entrance
4. Exterior circular bicycle racks (2)

STRUCTURAL DETAILS

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THIS PROJECT INCLUDES VOLUNTARY SEISMIC RETROFIT WORK AND TENANT IMPROVEMENT WORK FOR CRANE COVE PARK BUILDING 49 OF A ONE-STORY STEEL FRAMED BUILDING AT 701 ILLINOIS STREET, SAN FRANCISCO, CA

THE RETROFIT IS IN COMPLIANCE WITH THE 2022 CALIFORNIA EXISTING BUILDING CODE (CEBC) & 2022 SAN FRANCISCO BUILDING CODE (SFBC) AND IT IS BASED ON A DEFICIENCY-BASED ASCE 41-17 TIER 2 EVALUATION.

THE STRUCTURAL WORK INCLUDES THE FOLLOWING:

A. NEW STEEL BRACED FRAMES ALONG BUILDING PERIMETER.
B. NEW COLLECTOR CONNECTIONS FOR BRACED FRAMES.
C. NEW STEEL ROOF TRUSS DIAPHRAGM STRENGTHENING
D. NEW FREE STANDING ROOM WITHIN THE EXISTING BUILDING, CONSISTING OF COLD-FORMED STEEL CONSTRUCTION, WITH PLYWOOD ROOF AND WALL
    1. SHEATHING.
E. NEW CANOPY AT NORTH ENTRY OF THE BUILDING, NEW CONCRETE RAMP WORK OVER (E)S.O.G. WITHIN THE BUILDING.

MECHANICAL DETAILS

1. Radiant flooring installed in YMCA tenant space
2. Split System Outdoor/Indoor Unit
3. Heat Pump for Radiant Heating
4. Exhaust Fans (3)
5. Supply Fans (2)
6. Large Interior Fans in YMCA Space (3)
7. Water Heater (1)
8. 20 GPM Pump for Radiant Flooring

PLUMBING DETAILS

1. Floor Cleanout
2. Hose Bibb at Dogpatch Paddle tenant space
3. Area Drain
4. Water Closet (ADA Compliant)
5. Lavatory
6. Sinks at new YMCA restroom and breakroom spaces
7. Shower (2) in new YMCA restroom space
8. Bottle filler/Water fountain in YMCA space

ELECTRICAL DETAILS

1. New lighting and branch circuiting to existing panel
2. Maintain some of the existing power and signal outlets and provided additional new power branch circuiting and raceway systems as required to new power and signal outlets

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ATTACHMENT 2

FORM OF PERFORMANCE BOND & PAYMENT (LABOR AND MATERIAL) BOND

KNOW ALL MEN BY THESE PRESENTS, that WHEREAS, the Port of San Francisco on behalf of City and County of San Francisco, State of California, has awarded to:

_____

hereinafter designated as the "Principal", a Lease by Port Commission Resolution No. xx-xx, adopted on xxx, xx, xxxx for:

Lease No. L-16997 (the "Contract")

WHEREAS, said Principal is required under the terms of said Contract to furnish a Bond for the faithful performance of certain improvements under said Contract; and to furnish a separate Bond for the payment of any materials, provisions, or other supplies, used in, upon, for or about the performance of the Work contracted to be done;

NOW, THEREFORE, we the Principal and

_____

as Surety, are firmly bound unto the City and County of San Francisco in the penal sum of

(PERFORMANCE BOND) _____ and (PAYMENT BOND) _____

lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents for the penal sum for a performance bond and an equal and separate penal sum for a separate payment bond. The conditions of this obligation is such that if the said principal does well and faithfully performs all the conditions and covenants of said Contract, according to the true intent and meaning thereof, upon its part to be kept and performed, then the above obligation is to be null and void, otherwise to remain in full force and effect.

(PERFORMANCE BOND)

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said Contract, including the provisions for liquidated damages in the said Contract, any changes, additions or alterations thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City and County of San Francisco, its officers and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

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(PAYMENT BOND)

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said principal, its heirs, executors, administrators, successors or assigns, or its subcontractors, shall fail to pay (i) any of the persons named in California Civil Code Section 9100 for any materials, provisions, or other supplies used in, upon, for or about the performance of work under the Contract, or for any work or labor performed under the Contract; or (ii) amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the Contract; or (iii) for any amounts required to be deducted, withheld, and paid over to the State of California Employment Development Department from the wages of employees of Principal and subcontractors pursuant to Section 13020 of the California Unemployment Insurance Code with respect to such work or labor, that Surety will pay for the same in an amount not exceeding the sum specified in this Bond. In the event that suit is brought upon this Payment Bond, the parties not prevailing in such suit shall pay reasonable attorney's fees and costs incurred by the prevailing parties in such suit.

This Payment Bond shall inure to the benefit of any of the persons named in California Civil Code Section 9100 as to give a right of action to such persons or their assigns in any suit brought against this Bond.

Should the condition of this Payment Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

Surety, for value received, hereby expressly agrees that no change, extension of time, modification, alteration or addition to the undertakings, covenants, terms, conditions and agreements of the Contract, or to the work to be performed thereunder, or to the Specifications accompanying the same, and no inadvertent overpayment of progress payments, shall in any way affect its obligations on these Bonds; and it does hereby waive notice of any such change, extension of time, modification, alteration or addition to the undertakings, covenants, terms, conditions and agreements of the Contract, or to the Work to be performed thereunder, or to the Specifications, or of any inadvertent overpayment of progress payments.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their seal this ____day of _____, 20___, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Approved as to form:
David Chiu
City Attorney

By: _____
Deputy City Attorney

_____
Principal

By: _____

_____
Surety

By: _____

END OF DOCUMENT

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ATTACHMENT 3 INITIAL IMPROVEMENTS THAT DO NOT NEED TO BE REMOVED FROM THE PREMISES

Subject to Section 14.8 of the Lease, the following table lists Initial Improvements that can remain at the Premises or that must be removed (unless otherwise requested by Port) at the end of the lease term.

Area of Improvement	Description (if needed)	Status	
		Can Remain	To be Removed Unless Otherwise Requested by Port
Mechanical Infrastructure and Equipment	The new HVAC systems are connected throughout Building 49 across the tenant spaces. This includes radiant flooring system and electrical heating components.	X	
Electrical Infrastructure and Equipment		X	
Plumbing Infrastructure and Equipment		X	
Seismic Improvements	All new structural improvements to the building envelope including any form of additional bracing, foundations, and interior walls that increase the life safety of the building.	X	
Openings	All new exterior windows, storefronts, and large coiling doors.	X	
Interior Walls	Offices, breakrooms, and miscellaneous interior walls and openings.		X
Interior Structural Walls	Interior structural walls that separate tenant spaces.	X	
Ceilings	Ceilings of tenant spaces. Includes food and beverage tenant area and auxiliary space in master tenant space.	X	
Additional Restrooms	New restroom and water closet facilities.	X	
FFE	All fixtures, furniture, and equipment throughout the building		X
Tile and Flooring	All tile and finished flooring material throughout the tenant spaces	X	
IT Low Voltage	All security and communications equipment.		X

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Fire Alarm Systems	All fire systems	**X**	
Signage	All tenant interior and exterior signage including code compliance signage.		**X**
Unrentable Space	All infrastructure, equipment, and fixtures including public restroom facilities.	**X**	
Paint	Tenant-specific painting of interior or exterior walls (e.g. business signage, murals)		**X**

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EXHIBIT F
CRANE COVE PARK LICENSE NO. 17011

[To Be Attached]

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PIER 1
SAN FRANCISCO, CA 94111

LICENSE TO USE PROPERTY
LICENSE NO. 17011

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO OPERATING BY AND THROUGH THE SAN FRANCISCO PORT COMMISSION

AND

YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION

JULY 14, 2023

CRANE COVE PARK

ELAINE FORBES
EXECUTIVE DIRECTOR

SAN FRANCISCO PORT COMMISSION

WILLIE ADAMS, PRESIDENT
KIMBERLY BRANDON, VICE PRESIDENT
JOHN L. BURTON, COMMISSIONER
GAIL GILMAN, COMMISSIONER
STEVEN LEE, COMMISSIONER

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EXHIBITS AND SCHEDULES

EXHIBIT 1 **LICENSE AREA**
EXHIBIT 2 **EFFECTIVE DATE, COMMENCEMENT DATE MEMORANDUM**
EXHIBIT 3 **BCDC PERMIT**

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BASIC LICENSE INFORMATION

License Date:	July 14, 2023
License Number:	**17011**
Port:	**CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**
Port's Address:	Port of San Francisco Pier 1 San Francisco, California 94111 Attention: Deputy Director, Real Estate and Development Telephone: (415) 274-0400 Facsimile: (415) 274-0494
Licensee:	**Young Men's Christian Association of San Francisco**, a California Nonprofit Public Benefit Corporation
Contact Information:	Licensee's Contact Information is provided in Lease No. L- 16997
License:	This License grants a revocable, personal, non-assignable, non-exclusive, and non-possessory privilege for the Licensee, in connection with Licensee's operations under Port Lease No. L- 16997 between Port as landlord and Licensee as tenant ("**Lease**") on a temporary basis only, to conduct the Permitted Activities in the License Area (defined below).
Sublicense:	Notwithstanding ***Section 3***, subject to Port's consent as provided under the Lease, Licensee may sublicense this License to its Subtenants under the Lease, as those terms are defined by the Lease.
License Area:	The "**License Area**" consists of undesignated outdoor "pod" space in Crane Cove Park in the City and County of San Francisco, State of California, as such License Area is further described in ***Exhibit 1*** attached hereto and made a part hereof, together with any and all improvements and alterations thereto which area(s) are not fixed, but will be located in suitable locations consistent with the terms and conditions of this License ("**Pods**"). Licensee shall have use of undesignated License Area space of up to 2,000 square feet consisting of up to 1,400 square feet in the Great Lawn or Slipway areas and, if needed by Licensee's subtenant for such subtenant's outdoor program, an additional 600 square feet of space in the Beach or North Lawn areas, as each area is approximately shown on ***Exhibit 1***. If Port reasonable determines that the use of such amount of square footage is materially affecting the general

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	public's use and enjoyment of Crane Cove Park, then Port may reduce the amount of the License Area square footage to not more than 1,400 square feet in the aggregate. Tenant may request to resume use of up to 2,000 square feet in the aggregate, and Port may either grant or deny Tenant's request in its reasonable discretion. Port, in its reasonable discretion, without liability to Licensee, shall have the right to permanently or temporarily close, revise or modify any portion of the License Area upon reasonable notice to Licensee and without amendment or modification of this License. Licensee shall comply with any such revisions or modifications and failure to do so will be a material default of this License. To the extent of such closure, revision or modification, Licensee's obligations shall terminate or be suspended (subject to any obligations that survive expiration or earlier termination of this License).
Term:	This License shall be effective on the effective date of the Lease ("**License Effective Date**"), shall commence on the date on which Licensee notifies Port in writing that Licensee (or a Sublicensee) elects to commence the Permitted Activities in the License Area, which date shall be no earlier than the commencement date of the Lease ("**License Commencement Date**"), and, unless earlier terminated in accordance with its terms and without limiting Port's right to terminate this License under ***Section 3***, shall be coterminous with the Lease, including any Extension Term or holdover period with Port's consent as provided in the Lease ("**License Expiration Date**") ("**Term")**. Promptly following each of the actual License Effective Date and License Commencement Date, Port and Licensee shall execute a Memorandum substantially in the form attached hereto as ***Exhibit 2***, confirming the actual dates, but either party's failure to do so shall not affect the commencement or expiration of the Term.
Monthly License Fee:	Provided there is no Event of Default of the Lease (as defined in the Lease), there shall be no fee under this License. Licensee agrees to pay for the fair market usage of the License Area as determined by Port during any period of an Event of Default under the Lease.
Permitted Activities:	The License Area shall be used solely for (i) staging and gathering for class/camp participants, including check-in stations; and (ii) exercise and instructional classes as further detailed in the Operations Plan and for no other purpose. Licensee acknowledges and agrees that Special Events are not permitted either under this License and that a separate agreement is needed for Special Events and that Port shall process Licensee's and its Sublicensees' requests for Special Events in the same manner as for all other applicants.

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Operations Plan:	All Permitted Activities must be performed in compliance with the Operations Plan attached to the Lease as Exhibit G and incorporated into this License. The Operations Plan is supplemental to the License; in the event of any conflict or inconsistency between the License and the Operations Plan, the License will control. Failure to comply with the Operations Plan after notice and an opportunity to cure as provided in ***Section 11*** is a material breach of this License.
Permitted Hours of Operation:	Daily (7 days/week), sunrise to sunset
Additional Requirements/Prohibitions:	In addition to, and without limiting, the Prohibited Uses specified in ***Section 7***, Licensee must comply with the following. (a) Licensee's operations shall not unreasonably interfere with or impede the use of Crane Cove Park by the public, other Port tenants, licensees or users or the Port, and Licensee's operations shall not interfere with the use of adjacent Port properties by their respective tenants, licensees and invitees. Licensee shall not place or allow to be placed furniture or equipment outside the License Area and no furniture or equipment may be left outside of Building 49 overnight. (b) To the extent that any portion of the License Area is within BCDC jurisdiction, Licensee activities must comply with BCDC permit, attached hereto as ***Exhibit 3***. (c) All uses must comply with the Port Code and applicable Crane Cove Park Rules and Regulations, once adopted by the Port Commission, and as amended from time to time. Non-compliance with the Port Code shall be deemed a material default of this License. (d) This License allows Licensee to conduct certain commercial activities in Crane Cove Park which are otherwise prohibited by the Port Code without permission of the Port; this License constitutes a permit, license or other permission as required by the Port Code. Unless specifically authorized by this License, Licensee may not conduct any activities prohibited by the Port Code. (e) Retail sales, including equipment rentals, sale of lessons; sale of food, drink, merchandise are prohibited. (f) Special Events are prohibited. (g) construction of any kind; as well as temporary installations, such as signage and tents, are prohibited absent Port's prior written approval and Regulatory Approvals. Port, in its proprietary capacity, has consented to the temporary

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	installations detailed in the Operations Plan as of the License Effective Date.
Cure Period:	Where Port elects to provide a cure period rather than exercise its right to revoke or terminate this License, the cure period shall be (i) Twenty Four (24) Hours following notice from Port for a failure to use the License Area in a manner that presents a health, safety, welfare or environmental risk or hazard, as determined by Port in its sole and absolute discretion; and (ii) within ten (10) days following written notice from Port in all other circumstances.
Signage:	Licensee shall not have the right to place, construct or maintain any business signage, awning or other exterior decoration or notices in or on the License Area without Port's prior written consent. Any sign that Licensee is permitted to place, construct or maintain on the License Area shall comply with all Laws relating thereto, including but not limited to Port's Sign Guidelines, the Port Code and the Port Building Code, as each may be revised from time to time, and Licensee shall obtain all Regulatory Approvals required by such Laws. All signage must be temporary and Licensee, at its sole cost and expense, shall remove all signs placed by it on the License Area at the expiration or earlier termination of this License.
Parking:	Drop-off only. Licensee acknowledges that this License does not include parking rights or spaces.
Security:	Licensee shall be solely responsible for any security services desired by Licensee for the License Area during Hours of Operation. Port shall have no obligation to provide security. Licensee shall have no obligation to provide security for the Building or License Areas. Licensee agrees that any loss, damage or theft from the License Area is not Port's responsibility.
Mutual Cooperation:	Licensee shall cooperate with Port, other licensees and users of the License Area and approaches thereto, and will not unreasonably interfere with their operations. Nothing in this License shall obligate Port to provide a Port representative at the License Area, nor shall such presence obligate Port, its officers, employees or agents to take any action whatsoever. Licensee agrees that Port, its officers, employees and agents shall not be responsible for regulating traffic at the License Area.
Reporting Accidents:	Licensee shall notify Port in writing of any incident or accident of which Licensee becomes aware involving significant personal injury or personal property damage which occurs in a License Area during Licensee's operations. Such notice shall be given within twenty-four (24) hours after Licensee learns of

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	said incident. Failure to timely report such incidents or accidents shall constitute a material default under this License.
License Prepared By:	James Hurley, Development Project Manager

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LICENSE TO USE PROPERTY

1. BASIC LICENSE INFORMATION.

This License to Use Property, dated for reference purposes only as of the License Date set forth in the Basic License Information, is by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation ("**City**"), operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), as licensor, and the party identified in the Basic License Information as licensee ("**Licensee**"). The Basic License Information that appears on the preceding pages and all Exhibits and Schedules attached hereto are hereby incorporated by reference into this License and shall be construed as a single instrument and referred to herein as this "**License**." In the event of any conflict or inconsistency between the Basic License Information and the License provisions, the Basic License Information will control.

2. GRANT OF LICENSE.

In consideration of the stated conditions and agreements, Port hereby grants permission to Licensee to carry on the Permitted Activities within the License Area described in the Basic License Information and ***Exhibit 1*** attached hereto.

3. TERM; REVOCABILITY.

This License is a revocable personal, non-assignable, non-exclusive and non-possessory privilege to enter and use the License Area for the Permitted Activities only on a temporary basis during the Term unless sooner terminated pursuant to the terms of this License.

3.1. Without limiting any of Port's rights hereunder, by initialing below, Licensee agrees and acknowledges that Port may, in its sole and absolute discretion, revoke or terminate this License at any time prior to the License Expiration Date, without cause and without obligation to pay any consideration to Licensee ("**Port's Termination Right**"). Failure of Licensee to initial below shall in no way affect or hinder Port's Termination Right. If Port exercises Port's Termination Right, all obligations of Licensee shall immediately terminate, except for those obligations that survive the expiration or earlier termination of this License.

Initials: _____
Licensee

3.2. Licensee may terminate this License at any time prior to the License Expiration Date upon prior written notice to Port.

4. SECURITY DEPOSIT.The Security Deposit provided under the Lease will serve as security for the faithful performance by Licensee of all terms, covenants and conditions of this License. Port and Licensee agree that the terms, conditions, rights, and obligations of the parties as set forth in Section 9 of the Lease apply to the parties respective rights and obligations (including without limitation, Licensee's waiver of provisions of California Civil Code Section 1950.7) with respect to the use of the Security Deposit under this License.

5. PERMITTED ACTIVITIES; SUITABILITY OF LICENSE AREA; PROHIBITED USES.

The License Area shall be used and occupied only for the Permitted Activities specified in the Basic License Information and for no other purpose. If the Basic License Information limits the times and location of the activities permitted hereunder, then Licensee shall not conduct the activity at times and locations other than at the times and locations hereinabove specified unless express prior written permission is granted by Port. Persons subject to this License must comply with the directions of the San Francisco Police Department and Fire Department in connection therewith.

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Licensee acknowledges that Port has made no representations or warranties concerning the License Area, including without limitation, the seismological condition thereof. By entering onto the License Area under this License, Licensee acknowledges its receipt of **Schedules 1** and **4** attached to the Lease regarding conditions on and about the License Area and shall be deemed to have inspected the License Area and accepted the License Area in its "As Is" condition and as being suitable for the conduct of Licensee's activity thereon as of the License Effective Date.

Licensee shall use the License Area solely for Permitted Activities and for no other purpose. Any other use in, on or around the License Area or surrounding or adjacent Port property shall be strictly prohibited, including, but not limited to, waste, nuisance or unreasonable annoyance to Port, its other licensees, tenants, or the owners or occupants of adjacent properties, interference with Port's use of its property, or obstruction of traffic (including, but not limited to, vehicular and pedestrian traffic) (each, a "**Prohibited Use"**).

In the event Port determines after inspection of the License Area that a Prohibited Use or Prohibited Uses are occurring in, on or around the License Area, then Licensee shall immediately cease the Prohibited Use(s) and shall pay to Port an additional charge in the amount of Three Hundred Dollars ($300) upon delivery of written notice to Licensee to cease the Prohibited Use ("**Notice to Cease Prohibited Use"**). In the event Port determines in subsequent inspection(s) of the License Area that Licensee has not ceased the Prohibited Use, then Licensee shall pay to Port an additional charge in the amount of Four Hundred Dollars ($400) for each additional Notice to Cease Prohibited Use delivered to Licensee. The parties agree that the charges associated with each inspection of the License Area and delivery of the Notice to Cease Prohibited Use, if applicable, represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the License Area and Licensee's failure to comply with the applicable Notice to Cease Prohibited Use and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this License, at law or in equity. By signing this License, each party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

6. COMPLIANCE WITH LAWS; REGULATORY APPROVAL; PORT ACTING AS OWNER OF PROPERTY.

6.1. ***Compliance With Laws***. Licensee, at Licensee's sole cost and expense, promptly shall comply with all Laws relating to or affecting the condition, use or occupancy of the License Area to the extent that such Laws are applicable to Licensee's or its Agents' or Invitees' acts or omissions on the License Area.

6.2. ***Regulatory Approval***. Licensee understands that Licensee's activity on the License Area may require Regulatory Approvals from Regulatory Agencies. Licensee shall be solely responsible for obtaining any such Regulatory Approvals, and Licensee shall not seek any Regulatory Approval without first obtaining the prior written approval of Port. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne solely and exclusively by Licensee. Licensee shall be solely responsible for complying with any and all conditions imposed by Regulatory Agencies as part of a Regulatory Approval; provided, however, Licensee shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit or other entitlement from any Regulatory Agency (other than Port), if the Port is required to be a co-permittee under such permit, or if the conditions or restrictions it would impose on Licensee's activities could affect use of the Park or use or occupancy of other areas controlled or owned by the Port or would create obligations on the part of the Port (whether on or off of the License Area) to perform or observe, unless in each instance the Port has previously approved such conditions in writing, in Port's sole and absolute discretion.

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Any fines or penalties imposed as a result of the failure of Licensee to comply with the terms and conditions of any Regulatory Approval shall be promptly paid and discharged by Licensee, and Port shall have no liability, monetary or otherwise, for the fines and penalties. To the fullest extent permitted by Law, Licensee agrees to Indemnify City, Port and their Agents from and against any loss, expense, cost, damage, attorneys' fees, penalties, claims or liabilities which City or Port may incur as a result of Licensee's failure to obtain or comply with the terms and conditions of any Regulatory Approval.

6.3. ***Port Acting As Owner of Property***. By signing this License, Licensee agrees and acknowledges that (i) Port has made no representation or warranty that any required Regulatory Approval can be obtained, (ii) although Port is an agency of City, Port has no authority or influence over any other Regulatory Agency responsible for the issuance of such required Regulatory Approvals, (iii) Port is entering into this License in its capacity as a landowner with a proprietary interest in the License Area and not as a Regulatory Agency of City with certain police powers, and (iv) Licensee is solely responsible for obtaining any and all required Regulatory Approvals in connection with the Permitted Activities on, in or around the License Area. Accordingly, Licensee understands that there is no guarantee, nor a presumption, that any required Regulatory Approval(s) will be issued by the appropriate Regulatory Agency and Port's status as an agency of City shall in no way limit the obligation of Licensee to obtain approvals from any Regulatory Agencies (including Port) which have jurisdiction over the License Area. Licensee hereby releases and discharges Port from any liability relating to the failure of any Regulatory Agency (including Port) from issuing any required Regulatory Approval.

6.4. ***Accessibility***. California Law requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("**CASp**") to determine whether the property meets all applicable construction-related accessibility requirements. The Law does not require landlords to have the inspections performed. Licensee is hereby advised that the License Area has not been inspected by a CASp and, except to the extent expressly set forth in this License, Port shall have no liability or responsibility to make any repairs or modifications to the License Area in order to comply with accessibility standards. The following disclosure is required by Law:

"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."

Further, Licensee understands and agrees that Licensee may be subject to legal and financial liabilities if its use of the License Area does not comply with applicable federal and state disability access Laws. As further set forth in this Section, Licensee further understands and agrees that it is Licensee's obligation, at no cost to Port, to cause Licensee's uses of the License Area to be conducted in compliance with applicable federal or state disability access Laws.

7. UTILITIES, SERVICES, MAINTENANCE AND REPAIR.

7.1. ***Utilities***. Port has no responsibility or liability of any kind with respect to any utilities that may be on, in or under the License Area. Licensee shall make arrangements and shall pay all charges for all Utilities to be furnished on, in or to the License Area to be used by Licensee. Licensee will procure all electricity for the License Area from the San Francisco Public Utilities Commission at rates to be determined by the SF Public Utilities Commission. If

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the SF Public Utilities Commission determines that it cannot feasibly provide service to Licensee, Licensee may seek another provider.

7.2. ***Services***. Port has no responsibility or liability of any kind with respect to the provision of any services to Licensee or on, in, or to the License Area. Licensee shall make arrangements and shall pay all charges for all services to be furnished on, in or to the License Area that may be required by Licensee, including, without limitation, security service, garbage and trash collection, janitorial service and extermination service.

7.3. ***Maintenance and Repair***. Licensee shall not be obligated to maintain the License Area or to make any improvements, capital repairs, replacement or renewals of any kind, nature or description, except to the extent of damage caused by Licensee, its Agents or Invitees, as described below. Port shall not be obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the License Area or to any improvements or alterations now or hereafter located thereon. In the event that Licensee or its Agents or Invitees cause any damage (excepting ordinary wear and tear) to and around the License Area or any other Port property, Licensee shall be responsible and Port may, at its sole and absolute discretion, elect to repair the same itself or require Licensee to repair the same, all at Licensee's sole cost and expense; provided, however, that Licensee shall not be responsible for any damage caused by its Agents or Invitees on other Port property (in other words, property other than the License Area and the Premises under the Lease) unless the Agent's or Invitee's acts, omissions or negligence that caused the damage are such that they also trigger Licensee's indemnity obligations under ***Section 12***. Upon receipt of any invoice from Port for costs incurred by Port related to any repair performed by Port in accordance with this Section, Licensee shall immediately reimburse Port therefor. This provision shall survive the expiration or earlier termination of this License.

8. TAXES AND ASSESSMENTS.

Licensee agrees to pay to the proper authority any and all taxes, assessments and similar charges on the License Area in effect at the time this License is entered into, or which become effective thereafter, including all taxes levied or assessed upon the possession, use, or occupancy, as distinguished from the ownership, of the License Area. Licensee, on behalf of itself and any permitted successors and assigns, recognizes and understands that this License may create a possessory interest subject to property taxation and that Licensee, and any permitted successor or assign may be subject to the payment of such taxes. Licensee, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or extend this License may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. San Francisco Administrative Code Sections 23.38 and 23.39 (or any successor statute) require that certain information relating to the creation, renewal, extension, assignment, sublicense, or other transfer of this License be reported to the County Assessor within sixty (60) days after any such transaction. Accordingly, Licensee must provide a copy of this License to the County Assessor not later than sixty (60) days after the Effective Date, and any failure of Licensee to timely provide a copy of this License to the County Assessor will be a default under this License. Licensee further agrees to provide such other information as may be requested by City or Port to enable City or Port to comply with any reporting requirements under applicable Law with respect to possessory interest. Licensee shall Indemnify Port, City and their Agents from and against any Claims resulting from any taxes and assessments related to this License.

9. INSURANCE. The insurance provisions set forth in Section 19 of the Lease are hereby incorporated in their entirety (except as set forth in the last sentence of this ***Section 9***), and Licensee shall maintain throughout the Term, at Licensee's expense, the insurance coverages for the License Area in the manner required and subject to the terms and conditions of Lease Section 19 provided that terms applicable to a lease, such as "Premises", "Lease", and "Tenant"

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will be replaced with terms applicable to a license, such as "License Area", "License", and "Licensee". Further, the Parties agree that Licensee has no obligation under this License to maintain the following coverages for the License Area: (i) Builders Risk Insurance, (ii) Earthquake and Flood Insurance, (iii) Boiler and Machinery Insurance, (iv) Contractor's Pollution Legal Liability Insurance, (v) Professional Liability, and (vi) Crime policy.

10. NOTICES.

Except as otherwise expressly provided in this License or by Law, all notices (including notice of consent or non-consent) required or permitted by this License or by Law must be in writing and be delivered by: (a) hand delivery; (b) first class United States mail, postage prepaid; or (c) overnight delivery by a nationally recognized courier or the United States Postal Service, delivery charges prepaid. Notices to a party must be delivered to that party's mailing address in the Basic License Information, unless superseded by a notice of a change in that party's mailing address for notices, given to the other party in the manner provided above, or by Licensee in Licensee's written response to Port's written request for such information.

All notices under this License shall be deemed to be duly delivered: (a) on the date personal delivery actually occurs; (b) if mailed, on the business day following the business day deposited in the United States mail or, if mailed return receipt requested, on the date of delivery or on which delivery is refused as shown on the return receipt; or (c) the business day after the business day deposited for overnight delivery.

Notices may not be given by facsimile or electronic mail, but either party may deliver a courtesy copy of a notice by facsimile or electronic mail.

11. DEFAULT BY LICENSEE; REMEDIES.

11.1. ***Event of Default***. The occurrence of any one or more of the following events shall constitute a default by Licensee:

(a) Failure by Licensee to pay when due any Fees and/or all other charges due hereunder; or

(b) Failure to perform any other provisions of this License (including of the Operations Plan), if the failure to perform is not cured within the Cure Period set forth in the Basic License Information after Port has given notice to Licensee; or

(c) An assignment, or attempted assignment, of this License by Licensee except in connection with a Port-approved Transfer as defined by the Lease; or

(d) An Event of Default under the terms of the Lease; or

(e) Either (i) the failure of Licensee to pay its debts as they become due, the written admission of Licensee of its inability to pay its debts, or a general assignment by Licensee for the benefit of creditors; or (ii) the filing by or against Licensee of any action seeking reorganization, arrangement, liquidation, or other relief under any Law relating to bankruptcy, insolvency, or reorganization or seeking the appointment of a trustee, receiver or liquidator of Licensee's or any substantial part of Licensee's assets; or (iii) the attachment, execution or other judicial seizure of substantially all of Licensee's interest in this License.

11.2. ***Port's Remedies***. Upon default by Licensee, Port shall, without further notice or demand of any kind to Licensee or to any other person, and in addition to any other remedy Port may have under this License and at law or in equity, have the ability to immediately terminate this License and Licensee's right to use the License Area. Upon notice of any such termination, Licensee shall immediately vacate and discontinue its use of the License Area and Port may take any and all action to enforce Licensee's obligations.

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12. INDEMNITY AND EXCULPATION.

12.1. ***General Indemnity***. Licensee shall Indemnify Port, City, including, but not limited to, all of their respective boards, commissions, departments, agencies, and other subdivisions, and their respective Agents (collectively, "**Indemnified Parties**") from, and shall defend them, without cost to the Indemnified Parties, against any and all Claims arising directly or indirectly out of: (a) any accident, injury to or death of any person, including any Agents and/or Invitees of Licensee, or loss or damage to or destruction of any property occurring in, on or about the License Area, or any other Port property, from Licensee's or its Agent's or Invitee's acts or omissions, or (b) any default by Licensee in the observance or performance of any of the terms, covenants or conditions of this License, or (c) the use, occupancy, manner of use or occupancy, or condition of the License Area or the activities therein by Licensee, its Agents, or Invitees, or (d) any construction or other work undertaken by Licensee on the License Area whether before or during the Term, or (e) any acts, omissions or negligence of Licensee, its Agents or Invitees, in, on or about the License Area, or any other Port property.

12.2. ***Hazardous Materials Indemnity***.

(a) In addition to its obligations under ***Section 12.1*** and subject to ***Section 12.2(b)***, Licensee, for itself and on behalf of its Agents and Invitees, agrees to Indemnify the Indemnified Parties from any and all Hazardous Material Claims that arise as a result of: (i) any Hazardous Material Condition, and (ii) Licensee's Exacerbation of any Hazardous Material Condition.

(b) Unless Licensee or its Agents or Invitees Exacerbate a Hazardous Material Condition, Licensee's Indemnity obligations under this License do not include any Hazardous Material Claims that arise as a result of a Hazardous Material Condition: (i) caused solely by City, Port, or their Agents during Licensee's, its Agent's or Invitee's use of the License Area; (ii) arising before the Commencement Date or the date of Licensee's first use of the License Area under the Prior Licenses, whichever is earlier; (iii) caused by Licensee's Agent's acts, omissions or negligence on other Port property (in other words, on Port property other than the License Area), unless such Agent was performing work on Licensee's behalf or otherwise acting on Licensee's behalf in furtherance of the Permitted Activities under this License; (iv) caused by Licensee's Invitee's acts, omissions or negligence on other Port property (in other words, on Port property other than the License Area); or (v) caused by Licensee's Invitee's acts, omissions or negligence at a time that is outside of the Hours of Operation unless there is a causal nexus between such Invitee's acts, omissions or negligence and the Invitee's relationship with Licensee.

(c) Licensee's obligation to Indemnify the Indemnified Parties under subsection (a) includes: (i) costs incurred in connection with any Investigation or Remediation requested by Port or required by any Environmental Regulatory Agency and to restore the affected area to its condition before the Release; (ii) damages for diminution in the value of the License Area; (iii) damages for the loss or restriction on use of rentable or usable space or of any amenity of the License Area; (iv) damages arising from any adverse impact on marketing the space; (v) sums paid in settlement of Claims, Hazardous Material Claims, Environmental Regulatory Actions, including fines and penalties; (vi) natural resource damages; and (vii) attorneys' fees, consultant fees, expert fees, court costs, and all other litigation, administrative or other judicial or quasi-judicial proceeding expenses. If Port pays any costs within the scope of this section, Licensee must reimburse Port for Port's costs, plus interest at the Interest Rate from the date Port incurs each cost until paid, within three (3) business days after Port's payment demand. Licensee's obligations hereunder shall survive the expiration or earlier termination of this License.

12.3. ***Scope of Indemnities***. The Indemnification obligations of Licensee set forth in this License shall be enforceable regardless of the joint or concurrent, active or passive negligence of the Indemnified Parties, and regardless of whether liability without fault is

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imposed or sought to be imposed on the Indemnified Parties. The Indemnification obligations of Licensee set forth in this License shall be enforceable except to the extent that such Indemnity is void or otherwise unenforceable under applicable Law in effect on, or validly retroactive to, the date of this License. Except as specifically provided otherwise, the Indemnification obligations of Licensee set forth in this License shall exclude Claims resulting solely from the willful misconduct or gross negligence of the Indemnified Parties.

In addition to Licensee's obligation to Indemnify the Indemnified Parties, Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the Indemnified Parties from any Claim which actually or potentially falls within the Indemnification obligations of Licensee set forth in this License, even if the allegations are or may be groundless, false or fraudulent. This Indemnification by Licensee shall begin from the first notice that any claim or demand is or may be made and shall continue at all times thereafter.

Port agrees that Licensee's Indemnity for Claims that arise out of any Licensee's Invitee's acts, omissions or negligence on "other Port property" as set forth above in ***Section 12.1*** applies only if such Claims (i) arise directly or indirectly out of Licensee's Invitee's acts, omissions or negligence, (ii) such act, omission or negligence occurred in, on, under, or about the License Area, and (iii) if such act, omission or negligence occurred outside of the Hours of Operation, there is a causal nexus between such Invitee's acts, omissions or negligence and the Invitee's relationship with Licensee.

Port agrees that Licensee's Indemnity for Claims that arise out of any Licensee's Agent's acts, omissions or negligence on "other Port property" as set forth above in ***Section 12.1*** applies only if such Claims (i) arise directly or indirectly out of Licensee's Agent's acts, omissions or negligence, and (ii) such act, omission or negligence occurred while such Agent was performing work on Licensee's behalf or otherwise acting on Licensee's behalf in furtherance of the Permitted Activities under this License.

12.4. ***Exculpation and Waiver***. To the fullest extent permitted by Law, Licensee, as a material part of the consideration to be rendered to Port, hereby waives any and all Claims, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, but excluding any Claims caused solely by the Indemnified Parties' willful misconduct or gross negligence. The Indemnified Parties shall not be responsible for or liable to Licensee, and Licensee hereby assumes the risk of, and waives and releases the Indemnified Parties from all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, for any injury, loss or damage to any person or property in or about the License Area by or from any cause whatsoever including, without limitation, (i) any act or omission of persons occupying or using adjoining areas, including without limitation, Port, (ii) theft, (iii) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (iv) stopped, leaking or defective Utilities, (v) damages to goods, wares, goodwill, merchandise, equipment or business opportunities, (vi) Claims by persons in, upon or about the License Area, or any other Port property for any cause arising at any time, (viii) alleged facts or circumstances of the process or negotiations leading to this License prior to the Commencement Date, (ix) inability to use all or any portion of the License Area due to sea level rise, and (x) any other acts, omissions or causes to the fullest extent permitted by Law.

Licensee understands and expressly accepts and assumes the risk that any facts concerning the Claims released in this License might be found later to be other than or different from the facts now believed to be true, and agrees that the releases in this License shall remain effective. Therefore, with respect to the Claims released in this License, Licensee waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows:

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

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MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

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Licensee's Initials

Licensee specifically acknowledges and confirms the validity of the release made above and the fact that Licensee was represented by counsel who explained the consequences of the release at the time this License was made, or that Licensee had the opportunity to consult with counsel, but declined to do so.

12.5. ***Survival***. The provisions of ***Section 12*** shall survive the expiration or earlier termination of this License.

13. HAZARDOUS MATERIALS.

13.1. ***Requirements for Handling***. Neither Licensee nor its Agents or Invitees may Handle or permit any other person to Handle any Hazardous Material in, on, under or about the License Area or any other Port property, subject only to the following exceptions, provided that Handling is at all times in full compliance with all Environmental Laws: janitorial, office and other supplies and equipment in amounts customarily used for the Permitted Activities and subject to the Operations Plan.

13.2. ***Licensee Responsibility***.

(a) Generally. Licensee agrees to protect its Agents and Invitees in its operations on the License Area from hazards associated with Hazardous Materials in accordance with all Environmental Laws and also agrees, for itself and on behalf of its Agents and Invitees, that during its use and occupancy of the License Area, each of them:

(i) will not permit any new Hazardous Materials to be present in, on, under or about the License Area, or other Port property except as permitted under ***Section 13.1*** (Requirements for Handling);

(ii) will not cause or permit any new Hazardous Material Condition; and

(iii) will comply with all Environmental Laws relating to Licensee's use of the License Area and any Hazardous Material Condition, and will not engage in or permit any activity at the License Area or any other Port property, or in the operation of any vehicles or vessels used in connection with the License Area in violation of any Environmental Laws.

(b) Other Port Property. Port agrees that with respect to "other Port property" only (in other words, on Port property other than the License Area) as such term is used under ***Sections 13.1 and 13.2(a)***, (i) without limiting any other agreement Licensee may have with Port, Licensee has no obligations to or for Licensee's Invitees on other Port property, and (ii) Licensee's obligations with respect to Licensee's Agents on other Port property arise only to the extent such Agent is performing work on Licensee's behalf or otherwise acting on Licensee's behalf in furtherance of the Permitted Activities under this License.

13.3. ***Licensee's Environmental Condition Notice Requirements***.

(a) Licensee must notify Port immediately, orally or by other means that will transmit the earliest possible notice to Port staff, followed within twenty-four (24) hours by written notice, of and when Licensee learns or has reason to believe Hazardous Materials were Released or, except as allowed under ***Section 13.1*** (Requirements for Handling), Handled, in, on, or about the License Area, any other Port property, or the environment or from any vehicles or vessels that Licensee, its Agents or Invitees use during Licensee's occupancy of the License

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Area, whether or not the Release or Handling is in quantities that would be required under Environmental Laws to be reported to an Environmental Regulatory Agency.

(b) Licensee must notify Port immediately, orally or by other means that will transmit the earliest possible notice to Port staff, followed within twenty-four (24) hours by written notice, and contemporaneously provide Port with an electronic copy, of:

(i) Any notice of the Release or Handling of Hazardous Materials, in, on, or about the License Area, any other Port property, or the environment, or from any vehicles or vessels Licensee or its Agents or Invitees uses during Licensee's occupancy of the License Area that Licensee or its Agents or Invitees provides to an Environmental Regulatory Agency;

(ii) Any notice of a violation, or a potential or alleged violation, of any Environmental Law that Licensee or its Agents or Invitees receives from any Environmental Regulatory Agency related to the License Area;

(iii) Any other Environmental Regulatory Action that is instituted or threatened by any Environmental Regulatory Agency against Licensee or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, or about the License Area, other Port property, or the environment, or from any vehicles or vessels Licensee or its Agents or Invitees use during Licensee's occupancy of the License Area;

(iv) Any Hazardous Materials Claim that is instituted or threatened by any third party against Licensee or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, or about the License Area, other Port property, or the environment, or from any vehicles or vessels that Licensee or its Agents or Invitees use during Licensee's occupancy of the License Area; and

(v) Any notice of the termination, expiration, or substantial amendment of any Environmental Regulatory Approval needed by Licensee or its Agents or Invitees for their operations at the License Area.

(c) Licensee must notify Port of any meeting, whether conducted face-to-face or telephonically, between Licensee and any Environmental Regulatory Agency regarding an Environmental Regulatory Action. Port will be entitled to participate in any such meetings at its sole election.

(d) Licensee must notify Port of any Environmental Regulatory Agency's issuance of an Environmental Regulatory Approval. Licensee's notice to Port must state the issuing entity, the Environmental Regulatory Approval identification number, and the date of issuance and expiration of the Environmental Regulatory Approval. In addition, Licensee must provide Port with a list of any Environmental Regulatory Approval, plan or procedure required to be prepared and/or filed with any Environmental Regulatory Agency for operations on the License Area, including a "Spill Prevention Control and Countermeasure Plan." Licensee must provide Port with copies of any of the documents within the scope of this Section upon Port's request.

(e) Licensee must provide Port with copies of all communications with Environmental Regulatory Agencies and all non-privileged communications with other persons regarding potential or actual Hazardous Materials Claims arising from Licensee's or its Agents' or Invitees' operations at the License Area. Upon Port's request, Licensee must provide Port with a log of all communications withheld under a claim of privilege that specifies the parties to and subject of each withheld communication.

(f) Port may from time to time request, and Licensee will be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being Handled in the License Area in a manner that complies with all Environmental Laws.

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13.4. ***Requirement to Remediate***.

(a) Licensee's Remediation obligations under this Subsection (a) are subject to ***Sections 13.4(b) and 13.4(c)***.

(i) After notifying Port in accordance with ***Section 13.3(a)*** (Licensee's Environmental Condition Notice Requirements), Licensee must Remediate at its sole cost in compliance with all Environmental Laws and this License, any Hazardous Material Condition occurring during the Term or while Licensee or its Agents or Invitees otherwise occupy any part of the License Area. Licensee must obtain Port's approval of a Remediation work plan, whether or not required under Environmental Laws, then begin Remediation actions immediately following Port's approval of the work plan and continue diligently until Remediation is complete, as determined by Port, in its sole discretion.

(ii) In addition to its obligations under clause (i), before this License terminates for any reason, Licensee must Remediate at its sole cost in compliance with all Environmental Laws and this License: (A) any Hazardous Material Condition caused by Licensee's or its Agents' or Invitees' Handling Hazardous Materials during the Term; and (B) any Hazardous Material Condition discovered during Licensee's occupancy that is required to be Remediated by any Regulatory Agency if Remediation would not have been required but for Licensee's use of the License Area.

(iii) If Environmental Laws require a Remediation action plan, Licensee must provide a draft of its plan to Port for comment and approval before submittal to the appropriate Environmental Regulatory Agency, and a copy of the final plan as submitted.

(iv) In all situations relating to Handling or Remediating Hazardous Materials, Licensee must take all actions that are reasonably necessary in Port's sole judgment to protect the value of the License Area, such as obtaining Environmental Regulatory Approvals related to Hazardous Materials and taking measures to remedy any deterioration in the condition or diminution of the value of any portion of the License Area in any manner related directly, or indirectly to Hazardous Materials.

(b) Unless Licensee or its Agents or Invitees Exacerbate the Hazardous Material Condition and subject further to ***Section 13.4(c)***, Licensee will not be obligated to Remediate any Hazardous Material Condition: (i) caused solely by City, Port, or their Agents during Licensee's occupancy of the License Area; or (ii) arising before the Commencement Date or the date of Licensee's first use of the License Area, whichever is earlier.

(c) Licensee will not be obligated to Remediate any Hazardous Material Condition on other Port property (in other words, on Port property other than the Premises) (i) caused by Licensee's Agent's acts, omissions or negligence on other Port Property, unless at the time such Hazardous Material Condition was caused or Exacerbated, such Agent was performing work directly or indirectly on Licensee's behalf or otherwise acting directly or indirectly on Licensee's behalf in furtherance of the Permitted Activities under this License; or (ii) caused by Licensee's Invitee's acts, omissions or negligence on other Port Property.

13.5. ***Port's Right to Audit***. Port will have the right, but not the obligation, to inspect and audit the License Area for any Hazardous Materials, including the right to Investigate, at reasonable times under ***Section 14*** (Port's Entry on License Area). Port's failure to inspect or obtain samples or to detect conditions attributable to Licensee's operations if an inspection is conducted may not be deemed to be a release of any liability for any Hazardous Materials subsequently determined to be Licensee's responsibility under this License.

13.6. ***Storm Water Pollution Prevention***.

(a) Licensee must comply with the applicable provisions of the Statewide General Permit for Discharge of Industrial Storm Water issued by the State Water Resources Control Board, including filing a Notice of Intent to be covered, developing and implementing a

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site-specific Storm Water Pollution Prevention Plan ("**SWPPP**"), and conducting storm water monitoring and reporting. If applicable, Licensee's SWPPP and a copy of a Notice of Intent for Licensee's License Area must be submitted to Port's Real Estate Division before beginning operations in the License Area.

(b) In addition to requiring compliance with the permit requirements under Subsection (a), Licensee shall comply with the post-construction stormwater control provisions of the Statewide General Permit for Discharge of Stormwater from Small Municipalities and the San Francisco Stormwater Management Requirements and Design Guidelines, subject to review and permitting by the Port.

13.7. ***Presence of Hazardous Materials***. California Law requires landlords to disclose the presence or potential presence of certain Hazardous Materials. Accordingly, Licensee is hereby advised that Hazardous Materials (as herein defined) may be present on or near the License Area, including, but not limited to vehicle fluids, janitorial products, tobacco smoke, and building materials containing chemicals, such as asbestos, naturally-occurring radionuclides, lead and formaldehyde. Further, the Hazardous Materials described in the reports listed in ***Schedule 4*** attached to the Lease , copies of which have been delivered to or made available to Licensee, are known to be present at or near the License Area. By execution of this License, Licensee acknowledges that the notice set forth in this Section satisfies the requirements of California Health and Safety Code Section 25359.7 and related Laws. Licensee must disclose the information contained in this Section to any sublicensee, licensee, transferee, or assignee of Licensee's interest in this License. Licensee also acknowledges its own obligations pursuant to California Health and Safety Code Section 25359.7 as well as the penalties that apply for failure to meet such obligations.

13.8. ***Survival***. Licensee's obligations under this ***Section 13*** (Hazardous Materials) shall survive the expiration or earlier termination of this License.

14. PORT'S ENTRY ON LICENSE AREA.

14.1. ***Entry for Inspection***. Port and its authorized Agents shall have the right to enter the License Area without notice at any time for the purpose of inspecting the License Area to determine whether the License Area is in good condition and whether Licensee is complying with its obligations under this License; to perform any necessary maintenance, repairs or restoration to the License Area; and to show the License Area to prospective licensees, tenants or other interested parties.

14.2. ***Emergency Entry***. Port may enter the License Area at any time, without notice, in the event of an emergency. Port shall have the right to use any and all means that Port may deem proper in such an emergency in order to obtain entry to the License Area. Entry to the License Area by any of these means, or otherwise, shall not under any circumstances be construed or deemed to be a breach of Licensee's rights under this License.

14.3. ***No Liability***. Port shall not be liable in any manner, and Licensee hereby waives any Claims for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in Fees due hereunder, arising out of Port's entry onto the License Area, or entry by the public (as Licensee has a non-exclusive right to use such License Area) onto the License Area.

15. SURRENDER.

Upon the expiration or earlier termination of this License, Licensee shall surrender to Port the License Area and any pre-existing alterations and improvements without damage or deterioration caused by Licensee's Permitted Activities or failure to perform all of its obligations under this License. The License Area shall be surrendered clean, free of debris, waste, and with respect to Hazardous Materials, in accordance with Licensee's obligations under ***Section 13***. On or before the expiration or earlier termination hereof, Licensee shall remove all of its personal

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property and, unless Port directs otherwise, any alterations and improvements that Licensee has installed with Port's consent, and perform all restoration made necessary by the removal of Licensee's personal property.

Without any prior notice, Port may elect to retain or dispose of Licensee's personal property and any alterations and improvements that Licensee has installed with or without Port's consent that Licensee does not remove from the License Area prior to the expiration or earlier termination of this License. These items shall be deemed abandoned. Port may retain, store, remove, and sell or otherwise dispose of abandoned property, and Licensee waives all Claims against Port for any damages resulting from Port's retention, removal and disposition of such property; provided, however, that Licensee shall be liable to Port for all costs incurred in storing, removing and disposing of abandoned property and repairing any damage to the License Area resulting from such removal. Licensee agrees that Port may elect to sell abandoned property and offset against the sales proceeds Port's storage, removal, and disposition costs without notice to Licensee. Licensee hereby waives the benefits of California Civil Code Section 1993 et seq., to the extent applicable.

If Licensee fails to surrender the License Area as required by this Section, Licensee shall Indemnify Port from all damages resulting from Licensee's failure to surrender the License Area, including, but not limited to, any costs of Port to enforce this Section and Claims made by a succeeding licensee or tenant resulting from Licensee's failure to surrender the License Area as required together with, in each instance, reasonable attorneys' fees and costs.

Licensee's obligation under this Section shall survive the expiration or earlier termination of this License.

16. ATTORNEYS' FEES; LIMITATIONS ON DAMAGES.

16.1. ***Litigation Expenses***. The prevailing party in any action or proceeding (including any cross complaint, counterclaim or bankruptcy proceeding) against the other party by reason of a claimed default, or otherwise arising out of a party's performance or alleged non-performance under this License, shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to, reasonable attorneys' fees, which fees shall be payable whether or not such action is prosecuted to judgment. "**Prevailing party**" within the meaning of this Section shall include, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense. Attorneys' fees under this Section shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal.

16.2. ***City Attorney***. For purposes of this License, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the bar of any state) who practice in San Francisco in Law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

16.3. ***Limitation on Damages***. Licensee agrees that Licensee will have no recourse with respect to, and Port shall not be liable for, any obligation of Port under this License, or for any Claim based upon this License, except to the extent of the fair market value of Port's fee interest in the License Area (as encumbered by this License). Licensee's execution and delivery hereof and as part of the consideration for Port's obligations hereunder Licensee expressly waives all such liability.

16.4. ***Non-Liability of City Officials, Employees and Agents***. No elective or appointive board, commission, member, officer, employee or other Agent of City and/or Port shall be personally liable to Licensee, its successors and assigns, in the event of any default or breach by City and/or Port or for any amount which may become due to Licensee, its successors

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and assigns, or for any obligation of City and/or Port under this License. Under no circumstances shall Port, City, or their respective Agents be liable under any circumstances for any consequential, incidental or punitive damages.

16.5. ***Limitation on Port's Liability Upon Transfer***. In the event of any transfer of Port's interest in and to the License Area, Port (and in case of any subsequent transfers, the then transferor), subject to the provisions hereof, will be automatically relieved from and after the date of such transfer of all liability with regard to the performance of any covenants or obligations contained in this License thereafter to be performed on the part of Port, but not from liability incurred by Port (or such transferor, as the case may be) on account of covenants or obligations to be performed by Port (or such transferor, as the case may be) hereunder before the date of such transfer.

17. MINERAL RESERVATION.

The State of California ("State"), pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the License Area and Licensee acknowledges such reserved rights including necessary ingress and egress rights. In no event shall Port be liable to Licensee for any Claims arising from the State's exercise of its rights nor shall such action entitle Licensee to any abatement or diminution of Fees or otherwise relieve Licensee from any of its obligations under this License.

18. CITY AND PORT REQUIREMENTS.

The provisions of Lease Section 35 (City and Port Requirements) are incorporated by reference as though fully set forth in this License. Licensee understands and agrees that its failure to comply with any applicable provision of the listed requirements shall be deemed a material breach of this License and may give rise to penalties under the applicable ordinance.

19. MISCELLANEOUS PROVISIONS.

19.1. ***California Law; Venue***. This License is governed by, and shall be construed and interpreted in accordance with, the Laws of the State of California and City's Charter. Any legal suit, action, or proceeding arising out of or relating to this License 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 License has been brought in an inconvenient forum. The parties also unconditionally and irrevocably waive any right to remove any such suit, action, or proceeding to federal Court.

19.2. ***Entire Agreement***. This License contains all of the representations and the entire agreement between the parties with respect to the subject matter of this License. Any prior correspondence, memoranda, agreements, warranties, or representations, whether written or oral, relating to such subject matter are superseded in total by this License. No prior drafts of this License or changes from those drafts to the executed version of this License shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this License.

19.3. ***Amendments***. No amendment of this License or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

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

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19.5. ***Interpretation of License***.

(a) References in this License to Licensee's acts or omissions will mean acts or omissions by Licensee and its Agents and Invitees unless the context requires or specifically stated otherwise.

(b) Whenever an exhibit or schedule is referenced, it means an attachment to this License unless otherwise specifically identified. All exhibits and schedules are incorporated in this License by reference.

(c) Whenever a section, article or paragraph is referenced, it refers to this License unless otherwise specifically provided. The captions preceding the articles and sections of this License and in the table of contents have been inserted for convenience of reference only and must be disregarded in the construction and interpretation of this License. Wherever reference is made to any provision, term, or matter "in this License," "herein" or "hereof" or words of similar import, the reference will be deemed to refer to any reasonably related provisions of this License in the context of the reference, unless the reference refers solely to a specific numbered or lettered article, section, subdivision, or paragraph of this License.

(d) References to all Laws, including specific statutes, relating to the rights and obligations of either party mean the Laws in effect on the effective date of this License and as they are amended, replaced, supplemented, clarified, corrected, or superseded at any time during the Term or while any obligations under this License are outstanding, whether or not foreseen or contemplated by the parties. References to specific code sections mean San Francisco ordinances unless otherwise specified.

(e) The terms "include," "included," "including" and "such as" or words of similar import when following any general term, statement, or matter may not be construed to limit the term, statement, or matter to the specific items or matters, whether or not language of non-limitation is used, but will be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of the term, statement, or matter, and will be deemed to be followed by the phrase "without limitation" or "but not limited to."

(f) This License has been negotiated at arm's length between persons sophisticated and knowledgeable in the matters addressed. In addition, each party has been represented by experienced and knowledgeable legal counsel, or has had the opportunity to consult with counsel. Accordingly, the provisions of this License must be construed as a whole according to their common meaning in order to achieve the intents and purposes of the parties, without any presumption (including a presumption under California Civil Code § 1654) against the party responsible for drafting any part of this License.

(g) The party on which any obligation is imposed in this License will be solely responsible for paying all costs and expenses incurred in performing the obligation, unless the provision imposing the obligation specifically provides otherwise.

(h) Whenever required by the context, the singular includes the plural and vice versa, the masculine gender includes the feminine or neuter genders and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of "waive" applies to "waiver," "waivers," "waived," waiving," etc.).

(i) References to days mean calendar days unless otherwise specified, provided that if the last day on which a party must give notice, respond to a notice, or take any other action under this License occurs on a day that is not a business day, the date by which the act must be performed will be extended to the next business day.

19.6. ***Successors***. The terms, covenants, agreements and conditions set forth in this License shall bind and inure to the benefit of Port and Licensee and, except as otherwise provided herein, their personal representatives and successors and assigns.

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19.7. ***Real Estate Broker's Fees***. Port will not pay, nor will Port be liable or responsible for, any finder's or broker's fee in connection with this License. Licensee agrees to Indemnify Port from any Claims, including attorneys' fees, incurred by Port in connection with any such Claim or Claims of any person(s), finder(s), or broker(s) to a commission in connection with this License.

19.8. ***Counterparts***. For convenience, the signatures of the parties to this License may be executed and acknowledged on separate pages which, when attached to this License, shall constitute as one complete License. This License may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall constitute one and the same License.

19.9. ***Authority***. If Licensee signs as a corporation or a partnership, each of the persons executing this License on behalf of Licensee does hereby covenant and warrant that Licensee is at the time of execution and at all times while this License is in effect during the Term will continue to be: (1) a duly authorized and existing entity, (2) that Licensee has and is qualified to do business in California, and that Licensee has full right and authority to enter into this License, and that each and all of the persons signing on behalf of Licensee are authorized to do so. Upon Port's request, Licensee shall remain qualified to do business in California and shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties, and covenants.

19.10. ***No Implied Waiver***. No failure by Port to insist upon the strict performance of any obligation of Licensee under this License or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of full or partial Fees during the continuance of any such breach shall constitute a waiver of such breach or of Port's rights to demand strict compliance with such term, covenant or condition. Port's consent to or approval of any act by Licensee requiring Port's consent or approval shall not be deemed to waive or render unnecessary Port's consent to or approval of any subsequent act by Licensee. Any waiver by Port of any default must be in writing and shall not be a waiver of any other default (including any future default) concerning the same or any other provision of this License.

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

19.12. ***Cumulative Remedies***. All rights and remedies of either party hereto set forth in this License shall be cumulative, except as may otherwise be provided herein.

19.13. ***Survival of Indemnities***. Termination or expiration of this License shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this License, the ability to collect any sums due, nor shall it affect any provision of this License that expressly states it shall survive termination or expiration hereof.

19.14. ***Relationship of the Parties***. Port is not, and none of the provisions in this License shall be deemed to render Port, a partner in Licensee's business, or joint venturer or member in any joint enterprise with Licensee. Neither party shall act as the agent of the other party in any respect hereunder. This License is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

19.15. ***No Recording***. Licensee shall not record this License or any memorandum hereof in the Official Records of the City and County of San Francisco.

19.16. ***Additional Written Agreement Required***. Licensee expressly agrees and acknowledges that no officer, director, or employee of Port or City is authorized to offer or promise, nor is Port or the City required to honor, any offered or promised rent credit, concession, abatement, or any other form of monetary consideration (individually and

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collectively, "Concession") without a written agreement executed by the Executive Director of Port or his or her designee authorizing such Concession and, if applicable, certification of the Concession from the City's Controller.

20. DEFINITIONS.

For purposes of this License, the following terms have the meanings ascribed to them in this Section or elsewhere in this License as indicated:

"**Agents**" when used with reference to either party to this License or any other person, means the officers, directors, commissioners, employees, agents, and contractors of the party or other person, and their respective heirs, legal representatives, successors, and assigns.

"**Basic License Information**" refers to the summary of basic license information attached to this License.

"**City**" is defined in Section 1.

"**Claim**" means all liabilities, injuries, losses, costs, claims, demands, rights, causes of action, judgments, settlements, damages, liens, fines, penalties and expenses, including without limitation, direct and vicarious liability of any kind for money damages, compensation, penalties, liens, fines, interest, attorneys' fees, costs, equitable relief, mandamus relief, specific performance, or any other relief.

"**Cure Period**" means the period of time described in the Basic License Information.

"**Environmental Laws**" means any Laws relating to Hazardous Material (including its Handling, Release, or Remediation) or to human health and safety, industrial hygiene, or environmental conditions in the environment, including structures, soil, air, bay water, and groundwater, and any environmental mitigation measure adopted under Environmental Law affecting any portion of the License Area. Environmental Laws include the Risk Management Plan for Pier 70 (Treadwell & Rollo, 7/25/13) as amended and as interpreted by Regulatory Agencies with jurisdiction ("**RMP**").

"**Environmental Regulatory Action**" when used with respect to Hazardous Materials means any inquiry, Investigation, enforcement, Remediation, agreement, order, consent decree, compromise, or other action that is threatened, instituted, filed, or completed by an Environmental Regulatory Agency in relation to a Release of Hazardous Materials, including both administrative and judicial proceedings.

"**Environmental Regulatory Agency**" means the United States Environmental Protection Agency, OSHA, any California Environmental Protection Agency board, department, or office, including the Department of Toxic Substances Control and the San Francisco Bay Regional Water Quality Control Board, Cal OSHA, the Bay Area Air Quality Management District, the San Francisco Department of Public Health, the San Francisco Fire Department, Port, or any other Regulatory Agency now or later authorized to regulate Hazardous Materials.

"**Environmental Regulatory Approval**" means any approval, license, registration, permit, or other authorization required or issued by any Environmental Regulatory Agency, including any hazardous waste generator identification numbers relating to operations on the License Area and any closure permit.

"**Exacerbate**" or "**Exacerbating**" when used with respect to Hazardous Materials means any act or omission that increases the quantity or concentration of Hazardous Materials in the affected area, causes the increased migration of a plume of Hazardous Materials in soil, groundwater, or bay water, causes a Release of Hazardous Materials that had been contained until the act or omission, or otherwise requires Investigation or Remediation that would not have been required but for the act or omission. Exacerbate also includes the disturbance, removal or generation of Hazardous Materials in the course of Licensee's operations, Investigations,

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maintenance, repair, Improvements and Alterations under this License. "Exacerbation" has a correlating meaning.

"**Handle**" or "**Handling**" means to use, generate, process, manufacture, produce, package, treat, transport, store, emit, discharge, or dispose of a Hazardous Material.

"**Hazardous Material**" means any substance, waste, or material that is now or in the future designated by any Regulatory Agency to be capable of posing a present or potential risk of injury to human health or safety, the environment, or property. This definition includes anything designated or defined in any Environmental Law as hazardous, hazardous substance, hazardous waste, toxic, pollutant, or contaminant; any asbestos, ACMs, and PACMs, whether or not part of the structure of any existing Improvements on the License Area, any Improvements to be constructed on the License Area by or on behalf of Licensee, or occurring in nature; and other naturally-occurring substances such as petroleum, including crude oil or any fraction, and natural gas or natural gas liquids.

"**Hazardous Material Claim**" means any Environmental Regulatory Action or any Claim made or threatened by any third party against the Indemnified Parties, or the License Area, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence or Release of any Hazardous Material, including, without limitation, Losses based in common law. Hazardous Material Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the License Area or any other Port property, the loss or restriction of the use or any amenity of the License Area or any other Port property, and attorneys' fees and consultants' fees and experts' fees and costs.

"**Hazardous Material Condition**" means the presence, Release, or threatened Release of Hazardous Materials in, on, or about the License Area, any other Port property, or the environment, or from any vehicles or vessels Licensee, or its Agents and Invitees uses during Licensee's occupancy of the License Area.

"**Indemnified Parties**" is defined in Section 12.1.

"**Indemnify**" means to indemnify, protect, defend, and hold harmless forever. "Indemnification" and "Indemnity" have correlating meanings.

"**Investigate**" or "**Investigation**" when used with reference to Hazardous Materials means any activity undertaken to determine and characterize the nature and extent of Hazardous Materials that have been, are being, or are threatened to be Released in, on, under or about the License Area, any other Port property, or the environment, and includes, without limitation, preparation of site history reports, performing equipment and facility testing such as testing the integrity of secondary containment and above and underground tanks, and sampling and analysis of environmental conditions before, during, and after Remediation begins and continuing until the appropriate Environmental Regulatory Agency has issued a no further action letter, lifted a clean-up order, or taken similar action.

"**Invitees**" means Licensee's clients, customers, invitees, patrons, guests, members, licensees, permittees, concessionaires, assignees, Sublicensees, and any other person whose rights arise through them.

"**Law**" means any present or future law, statute, ordinance, code, resolution, rule, regulation, judicial decision, requirement, proclamation, order, decree, policy (including the Waterfront Land Use Plan), and Regulatory Approval of any Regulatory Agency with jurisdiction over any portion of the License Area, including Regulatory Approvals issued to Port which require Licensee's compliance, and any and all recorded and legally valid covenants, conditions, and restrictions affecting any portion of the License Area, whether in effect when this License is executed or at any later time and whether or not within the present contemplation of the parties.

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"**Lease**" means that certain Lease No. L- 16997 between Port as landlord and Licensee as tenant.

"**License**" is defined in Section 1.

"**License Area**" means the area described in the Basic License Information.

"**License Commencement Date**" is defined in the Basic License Information.

"**License Effective Date**" is defined in the Basic License Information.

"**License Expiration Date**" is defined in the Basic License Information.

"**Notice to Cease Prohibited Use**" is defined in Section 5.

"**Operations Plan**" is the Operations Plan attached to the Lease as Exhibit G

"**Permitted Activities**" is means the activities described in the Basic License Information.

"**Port**" is defined in Section 1.

"**Port's Termination Right**" is defined in Section 3.

"**prevailing party**" is defined in Section 16.1.

"**Prohibited Use**" is defined in Section 5.

"**Regulatory Agency**" means the municipal, county, regional, state, or federal government and their bureaus, agencies, departments, divisions, courts, commissions, boards, officers, commissioners, or other officials, including the Bay Conservation and Development Commission, any Environmental Regulatory Agency, the City and County of San Francisco (in its regulatory capacity), Port (in its regulatory capacity), Port's Chief Harbor Engineer, the Dredged Material Management Office, the State Lands Commission, the Army Corps of Engineers, the United States Department of Labor, the United States Department of Transportation, or any other governmental agency now or later having jurisdiction over Port property.

"**Regulatory Approval**" means any authorization, approval, license, registration, or permit required or issued by any Regulatory Agency.

"**Release**" when used with respect to Hazardous Materials means any actual or imminent spilling, introduction, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the License Area, other Port property, or the environment.

"**Remediate**" or "**Remediation**" when used with respect to Hazardous Materials means to clean up, abate, contain, treat, stabilize, monitor, remediate, remedy, remove, or otherwise control Hazardous Materials, or to restore the affected area to the standard required by the applicable Environmental Regulatory Agency in accordance with applicable Environmental Laws and any additional Port requirements. "Remediation" also includes the creation of a remedial work plan to be approved by the appropriate Environmental Regulatory Agency when required.

"**Special Event**" means the following types of activities of Licensee in the Park: conferences and meetings, temporary exhibitions, concerts, musical and theatrical performances and other forms of live entertainment, public ceremonies, shows, fundraising events or other temporary public or private events or exhibitions and activities related thereto.

"**SWPPP**" is defined in Section 13.6.

"**Term**" is defined in the Basic License Information.

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IN WITNESS WHEREOF, PORT and LICENSEE execute this License as of the last date set forth below.

PORT: **CITY AND COUNTY OF SAN FRANCISCO**,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Kimberley Beal
Acting Deputy Director, Real Estate and Development

Date Signed: _____

LICENSEE: **YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO**, a California Nonprofit Public Benefit Corporation

By: _____
Jamie Bruning-Miles, President and CEO

Date Signed: _____

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: _____
Grace Park
Deputy City Attorney

License Prepared By: James Hurley, Development Project Manager Initials: _____

Port Commission Resolution: 23-20

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EXHIBIT 1

LICENSE AREA

(To be attached.)

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EX

CRANE COVE PARK - DAILY USE AREAS

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EXHIBIT 2

LICENSE EFFECTIVE DATE; LICENSE COMMENCEMENT DATE MEMORANDUM

Landlord:	**CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**
Licensee:	
License Number:	
License Date:	
License Area:	[_____, Suite _____] San Francisco, California

The Effective Date of the License is _____, 2023. The Commencement Date of the License is hereby established as _____, 20___

PORT: **CITY AND COUNTY OF SAN FRANCISCO**,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Kimberly Beal
Acting Deputy Director, Real Estate and Development

Date Signed: _____

LICENSEE:

By: _____
Name: _____
Title: _____

Date Signed: _____

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EXHIBIT 3

BCDC PERMIT

(To be attached)

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San Francisco Bay Conservation and Development Commission
455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

Permittee's Copy

PERMIT NO. 2016.006.00

(Issued on October 17, 2017)

Port of San Francisco
Pier 1
San Francisco, California 94111

ATTENTION: Elaine Forbes, Executive Director

On October 5, 2017, the San Francisco Bay Conservation and Development Commission, by a vote of 15 affirmative, 0 negative, and 1 abstention, approved the resolution pursuant to which this permit is hereby issued:

I. Authorization.

Subject to the conditions stated below, the permittee, The Port of San Francisco, is granted permission to do the following to construct the Crane Cove Park Project within the northwest area of the Port of San Francisco's Pier 70 area, east of Illinois Street, between Mariposa and 19th Streets, in the City and County of San Francisco:

A. **In the Bay:**

1. Remove approximately 4,500 cubic yards (cy) of solid fill within an approximately 8,500-square-foot area to facilitate remediation and reconfiguration of the shoreline;
2. Place, use, and maintain in-kind approximately 780 cy of solid fill (primarily gravel and rock) within an approximately 8,810-square-foot contaminated area to cap contaminated sediment;
3. Place, use, and maintain in-kind approximately 3,250 cy of material at an approximately 19,700-square-foot area to create a sandy beach, including an approximately 180-square-foot universal beach access mat;
4. Install, use, and maintain in-kind an approximately 2,490-square-foot shoreline protection system mainly comprised of approximately 420 cy of rock riprap material;
5. Install, use, and maintain in-kind five safety buoys located adjacent to the drydock ship repair area, totaling approximately 15 square feet (five cy);
6. Repair, use, and maintain in-kind an approximately 10,281-square-foot area of Slipway 4 (resulting in no new or additional fill in the Bay); and
7. Conduct water-oriented special events at the beach and ticketed public events, and associated set-up, dismantling, clean-up, and maintenance activities strictly during periods, as specified herein.

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B. **Within the 100-foot Shoreline Band:**

1. Construct, use, and maintain in-kind an approximately 101,055-square-foot (2.32-acre) area of Crane Cove Park, including: excavation of an approximately 7,398-square-foot-area, grading, landscaping (approximately 11,846 square feet), public plazas and terraces (approximately 6,470 square feet), public pathways (approximately 15,029 square feet), a public vehicle loading area (approximately 3,200 square feet), a universally-accessible beach mat (approximately 270 square feet), seating, guardrails, picnic tables, and infrastructure (e.g., curbs, utilities, stormwater management facilities, and irrigation);
2. At Slipway 4, repair and use an approximately 22,830-square-foot area, including the restoration of two craneways and associated features (e.g., rails and utility racks), the relocation and restoration of an approximately 115-foot-tall crane (Crane No. 14), and the installation of an approximately 800-square-foot pedestrian ramp, bollards, guardrails, seating, a barrier at the end of the slipway between mean high water and mean higher high water, and interpretive facilities, and maintain in-kind said facilities;
3. Install, use, and maintain in-kind an approximately 25,000-square-foot area of a public beach and an associated approximately 45,970-square-foot shoreline protection system (approximately 3,355 cy of riprap material);
4. Install, use, and maintain in-kind an approximately 1,000-square-foot private outdoor dining area at the Ramp Restaurant and an approximately 1,500-square-foot private outdoor dining area located adjacent to the public vehicle loading area at Building 49; and
5. Conduct special events (i.e., free public events, such as farmer's markets, ticketed public events, such as music festivals, and private events, such as weddings), including set-up, dismantling, and cleaning/maintenance.

C. **Permit Application Date.** This authority is generally pursuant to and limited by the permit application signed and dated August 11, 2016, including all accompanying and subsequently submitted correspondence and exhibits, subject to the modifications required by conditions herein.

D. **Deadlines for Commencement and Completion of Authorized Activities.** The work authorized herein must commence by December 1, 2018, and be completed within six years or by December 1, 2024, whichever comes earlier. If the work authorized herein is not commenced and/or completed by these dates, the permit will lapse and become null and void unless an extension of time is granted through an amendment to this permit. In-kind repair and maintenance of the development authorized herein is allowed as long as the facilities and uses authorized herein remain in place. The

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permittee is allowed to conduct special events, as authorized and conditioned herein, starting at the date of project (Crane Cove Park) completion for a period of up to five (5) years subject to the terms of Special Condition II.C.6.f.

II. Special Conditions

The authorization made herein shall be subject to the following special conditions, in addition to the Standard Conditions contained herein:

A. **Construction Document(s).** The improvements authorized herein shall be built generally in conformance with the following documents:

1. **Original Permit:** "Crane Cove Park -- Construction Package 2 – Park Improvements," prepared by AECOM, dated May 5, 2017.

   The permittee is responsible for assuring that all construction documents accurately and fully reflect the terms and conditions of this permit and any legal instruments submitted pursuant to this authorization. No substantial changes shall be made to these construction documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

B. **Construction Document(s) Review and Approval**. No work whatsoever shall commence pursuant to this permit until final construction documents regarding authorized activities are approved in writing by or on behalf of the Commission. All documents are reviewed within 45 days of receipt. To save time, preliminary documents may be submitted prior to the submittal of final documents. If final construction document review is not completed by or on behalf of the Commission within the 45-day period, the permittee may carry out the project authorized herein in a manner consistent with the plans referred to in Special Condition II.A of this permit.

1. **Document Details**. All construction documents shall be labeled with: the Mean High Water line and the tidal datum reference (NAVD88 or, if appropriate, Mean Lower Low Water (MLLW)); the corresponding 100-foot shoreline band; property lines; the location, types, and dimensions of materials, structures, and project phases authorized herein; grading limits; and the boundaries of public access areas required herein. Documents on shoreline protection, sandy beach, and the contamination cap must be dated and include the preparer's certification of project safety and contact information. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

2. **Conformity with Final Approved Documents**. All authorized improvements and uses shall conform to the final documents. Prior to use of the facilities authorized herein, the appropriate professional(s) of record shall certify in writing that the work covered by the authorization has been implemented in accordance with the

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approved criteria and in substantial conformance with the approved documents. No substantial changes shall be made to these documents without prior review and written approval by or on behalf of the Commission through plan review or a permit amendment.

3. **Discrepancies between Approved Plans and Special Conditions**. In case of a discrepancy between final approved documents and the special conditions of this permit or legal instruments, the special condition shall prevail.

4. **Reconsideration of Plan Review**. The permittee may request reconsideration of a plan review action taken pursuant to this special condition within 30 days of a plan review action by submitting a written request for reconsideration to the Commission's Executive Director. Following the Executive Director's receipt of such a request, the Executive Director shall respond to the permittee with a determination on whether the plan review in question shall remain unchanged or an additional review and/or action shall be performed by or on behalf of the Commission, including, but not limited to, an amendment to the permit and/or consultation with the Commission Design Review Board.

C. **Public Access**

1. **Area.** The approximately 111,156-square-foot (2.5-acre) area, as generally shown on Exhibit A of this permit, shall be made available exclusively to the public for unrestricted public access (i.e., walking, bicycling, sitting, viewing, fishing, picnicking, small hand-launch boating, swimming). If the permittee intends to use this area for other purposes, except as allowed in Special Condition II.C.6 (below), it must obtain prior written approval by or on behalf of the Commission.

2. **Improvements Within the BCDC-Required Public Access Area**. Prior to the use of any structure or improved structure authorized herein, the permittee shall install the following improvements, as generally shown on Exhibit A:

   (a) An approximately 1,500 foot-long, 15 to 18-foot-wide San Francisco Bay Trail pathway located through the park and connected to Illinois Street and to a relocated 19th street, approximately 680-foot-long section located within the Commission's 100-foot shoreline band;

   (b) An approximately 44,700-square foot sandy beach with a 450-square-foot universally-accessible beach mat in the Commission's Bay and 100-foot shoreline band jurisdiction;

   (c) An approximately 7,000-square-foot lawn located west of the beach partly in the Commission's 100-foot shoreline band jurisdiction;

   (d) Landscaping throughout the 2.5 acre public access area;

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(e) An approximately 33,100-square-foot area at Slipway 4, within the Commission's 100-foot shoreline band jurisdiction;

(f) Approximately 6,470 square feet of public plazas within the Commission's 100-foot shoreline band jurisdiction;

(g) An approximately 3,200 square foot vehicle turnaround within the Commission's 100-foot shoreline band jurisdiction;

(h) Three picnic tables located north of the beach within the Commission's jurisdiction;

(i) A minimum of three (3) public access and, if appropriate, San Francisco Bay Trail signs, one located at the entry of each path at Crane Cove Park site inside and outside of the Commission's jurisdiction; and

(j) Up to five (5) safety buoys to separate beach users from the adjacent drydock activities within the Commission's jurisdiction.

All improvements shall be consistent with the plans approved pursuant to Condition II.A. of this authorization and substantially conform to the plans entitled "Crane Cove Park -- Construction Package 2 – Park Improvements," dated May 5, 2017, prepared by AECOM.

3. **Maintenance**. The areas and improvements within the total 111,156-square-foot (2.5-acre) shall be permanently maintained by and at the expense of the permittee or its assignees. Such maintenance shall include, but is not limited to, repairs to all path surfaces; replacement of any trees or other plant materials that die or become unkempt; re-nourishment of the beach and riprap, repairs or replacement as needed of any public access amenities, such as signs, benches, drinking fountains, trash containers and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; maintenance and repairs of damage due to flooding; and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, the permittee shall correct any maintenance deficiency noted in a staff inspection of the site.

4. **Assignment.** The permittee shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit.

5. **Reasonable Rules and Restrictions.** The permittee may impose reasonable rules and restrictions for the use of the public access areas to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved by or on behalf of the Commission upon a finding that the proposed rules would not

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significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the public access areas, and would tend to correct a specific problem that the permittee has both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.

6. **Special Events.** The permittee shall conduct special events within public access areas required herein, which are located within the Commission's Bay and 100-foot shoreline band jurisdiction, subject to the following restrictions, as generally shown on Exhibit B: [1]

   a. **Areas.** Special events are allowed at the following areas:

      - **Beach:** Within an area not to exceed approximately 22,350 square feet of the total 44,700-square-foot beach area, representing half of the beach in the Bay and within the 100-foot shoreline band, as shown in Exhibit B.
      - **Lawn (located west of the beach):** Within an area not to exceed approximately 3,500 square feet of the total 7,000-square-foot lawn area, representing half of the lawn, as shown in Exhibit B.
      - **Slipway 4 West Craneway:** Within an area not to exceed 1,800 square feet of the west craneway area; and
      - **Slipway 4 East Craneway:** Within an area not to exceed 1,000 square feet of the east craneway.

   b. **Schedule and Related Activity.** The permittee shall host special events within the Commission's jurisdiction at areas described above in Special Condition II.C.6.a for no more than a total of fifty (50) days per calendar year, which includes a maximum of two (2) weekend days (Saturday and Sunday) per month. An event, or multiple events, held within any portion of a 24-hour period shall be considered as an event day. An event day is used whether an event is held in one of the areas described above in Special Condition II.C.6.a, in multiple areas, or in all areas. All event set-up, dismantling, cleanup, and maintenance shall occur within the event's 24-hour/one-day period. Any equipment, garbage, waste or other event-related items left in a public access area before and/or after the day of the event, shall be counted as an additional event day(s).

   c. **Type.** Special events authorized and further described herein are limited to the following activities and subject to requirements described below and herein (see Table 3, below):

      (1) **Non-Ticketed and No-Fee Public Events.** Open and free to the general public (e.g., a farmer's market) without a ticket or fee. A total of fifty (50) days per calendar year (as described and allowed above) may be used for such events.

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[1] BCDC Permit No. M1996.013.03 does not apply to the project authorized by this permit.

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(2) **Ticketed Public Events.** Open to the general public but requiring a ticket or fee to participate (e.g., a music festival). Of the fifty (50) calendar days allowed herein, a maximum of twelve (12) days may be used for such events.

(3) **Private Events.** Closed to the general public (e.g., a wedding or corporate retreat). No private events are allowed at the 2.5-acre public access area required herein except at the lawn located west of the Bay, and Slipway 4 east and west craneways. Of the fifty (50) calendar days, a maximum of twelve (12) days may be used at the previously-specified areas. All private events are limited to a four-hour period only, excluding set up and breakdown. No private events are allowed at the public beach. The closure of an area for a private event shall be posted at three locations on site for at least one week prior to the event.

(4) **Beach Events.** Of the fifty (50) calendar days, a maximum of twelve (12) days may be used to hold events at the beach and events are restricted to water-oriented uses only, e.g., boating or swimming.

Table 3: Special Events Program
Number of Special Event Days (of 50 Calendar Days)

Areas	Non-Ticketed/No-Fee Public Events	Ticketed Public Events	Private Events
Beach	12 of 50 days (water-oriented uses only)	12 of 50 days (water-oriented uses only)	None
Lawn	50 of 50 days	12 of 50 days	12 of 50 days
West Craneway	50 of 50 days	12 of 50 days	12 of 50 days
East Craneway	50 of 50 days	12 of 50 days	12 of 50 days

d. **Special Events Restrictions.** No special events held pursuant to this Special Condition shall encroach upon public pathways within the Commission's jurisdiction or along the Bay Trail located outside of the Commission's jurisdiction or otherwise diminish the open and free public nature of such areas. No tents, barricades or fences may be erected as part of any private event, except if approved by, or on behalf of, the Commission through prior plan review pursuant to Special Condition II.B of this permit.

e. **Other Special Events.** The permittee may request approval for additional events not provided for in Special Condition II.C in any area of the Commission's jurisdiction at least 30 days prior to the event by seeking plan review approval by, or on behalf of the Commission, pursuant Special Condition II.B of this authorization.

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f. **Notice, Monitoring, and Term of Special Events:**

(1) **Fourteen-Day Notice.** Prior to holding a special event as allowed herein, the permittee shall submit written notice to the Commission's staff, identifying the event's duration, location, purpose, type, description of any structures proposed for the event, and the location of the notice posted at the site. Additionally, the Fourteen-Day Notice shall include the sum of the events held in that calendar year, organized by type as described in Special Condition II.C.6(c).

(2) **Annual Reporting.** No later than January 30 of each calendar year, the permittee shall submit a written report describing the prior year's special event program, including all events, including events outside of the Commission's jurisdiction, specifically the duration, location, purpose, and type of events, and the approximate participant or visitor numbers of each event. The report shall document any complaints received by the public in response to the events, distinguish the complaints for each of the three types of events and describe any issues the permittee encountered in staging for, managing, or cleaning up after the events. The report shall analyze the success of the events in promoting use of the public access areas by the public or any identified adverse impacts and mitigating steps that were or could in the future be implemented.

(3) **Five-Year Limitation.** The permittee is allowed to conduct special events, as described and restricted herein, for a period of five (5) years total, commencing from the official opening of the waterfront park (Crane Cove Park). No more than 180 days prior to the expiration of the five-year special events period, the permittee may request an amendment to this permit to extend the duration for holding special events at the project site. Authorization of an extension of special events will be based, in part, on the information contained in the above-referenced annual reports and an assessment, including, if deemed necessary, a public space public life study, as to whether the program has been successful or needs to be modified.

7. **Public Pathways to the Shoreline.** Public pathways located at the total project site, including areas outside of the Commission's jurisdiction, shall remain unobstructed and open to the general public at all times except as allowed through the *Reasonable Rules and Restrictions* condition contained herein.

8. **Picnic Table Reservations.** One of the three picnic tables (required in Special Condition II.C.2) may be reserved for use by the public for up to five hours in the morning or afternoon of a single day, pursuant to a reservation program to be developed by the permittee and which will be approved by or on behalf of the Commission prior to the reservation of picnic tables through the plan review

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provisions described in Special Condition II.C.5 of this permit. The permittee shall ensure that the remaining two picnic tables remain free to and available for public use without a reservation requirement at all times of the year.

9. **Private Outdoor Dining.** No tables, chairs, or other restaurant or café equipment associated with the private outdoor dining areas (a total of 2,500 square feet) and uses authorized herein shall impede or extend into any public access area required and described herein.

10. **Flooding, Commission Report(s), and Adaptation Strategy.** If any portion of the required public access area (2.5 acres) located in the Commission's jurisdiction is subject to flooding that results in a closure of any area, the permittee shall submit to the Commission a written report within 30 days after the closure of the public access area with documentation of: the date of the closure and duration; the location of the affected site; the recorded water levels during the closure period; the source of flooding (e.g., Bay overtopping of shoreline or stormwater backup or overland flow); and the resulting damage or cleanup; and illustrative photographs with site details. No permanent restrictions or closures of required public access areas may take place without additional approval by or on behalf of the Commission, and the permittee shall provide equivalent public access to ensure public access to and along the shoreline in the event of permanent restrictions or closures contingent in part on the Commission's review and approval of such a project and/or special condition modification.

D. **Shoreline Protection Material, Placement, and Maintenance**. Riprap material shall be either quarry rock or specially cast or carefully selected concrete pieces free of reinforcing steel and other extraneous material and conforming to quality requirements for specific gravity, absorption, and durability specified by the California Department of Transportation or the U. S. Army Corps of Engineers. The material shall be generally spheroid-shaped. The overall thickness of the slope protection shall be no more than three feet measured perpendicular to the slope. Use of dirt, small concrete rubble, concrete pieces with exposed rebar, large and odd shaped pieces of concrete, and asphalt concrete as riprap is prohibited. Riprap material shall be placed so that a permanent shoreline with a minimum amount of fill is established by means of an engineered slope not steeper than two (horizontal) to one (vertical) unless slope is keyed at the toe. The slope shall be created by the placement of a filter layer protected by riprap material of sufficient size to withstand wind and wave generated forces at the site.

The shoreline protection improvements authorized herein shall be regularly maintained by and, at the expense of, the permittee, lessee, assignee or other successor in interest to the project. Maintenance shall include the collection of riprap material that becomes dislodged, the in-kind replacement of damaged or missing riprap material and

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associated filter fabric or other material, and the removal of debris on riprap. Within 30 days of notification by or on behalf of the Commission, the permittee or any successor in interest shall correct any identified maintenance deficiency. This condition shall not apply to the fill authorized herein for the beach and containment cap.

E. **Monitoring of Containment Cap.** Upon completion and prior to the use of the development in the Bay authorized herein, the permittee shall submit an operation and monitoring plan of the contamination cap, in coordination with the San Francisco Bay Regional Water Quality Control Board ("RWCB"), for review and approval by or on behalf of the Commission, which will be used by the permittee to operate and monitor the activities authorized herein to remediate and contain contaminants at the project site. The monitoring plan shall include post-construction inspections of the fill every two-years following construction of the contamination cap, and, subsequently, every five-years thereafter. The monitoring plan shall include corrective measures in the event the fill authorized herein can no longer ensure safe conditions for in-water access by the general public; if deemed necessary to implement, such measures shall be reviewed and approved by or on behalf of the Commission prior to commencement of work.

F. **Construction Measures to Protect Fish**. To minimize disturbance to fish, the permittee shall conduct activities authorized herein occurring in the Commission's Bay jurisdiction in compliance with restrictions identified in the related NOAA Fisheries (NMFS) Endangered Species Act (ESA) Section 7 Concurrence Letter and Magnuson-Stevens Fishery Conservation Management Act Essential Fish Habitat Response dated September 23, 2016, including the restriction to limited all in-water work between June 1 and November 30 of any calendar year.

G. **Water Quality Protection**. The permittee shall ensure that activities authorized herein occurring in the Commission's Bay jurisdiction fully comply with the San Francisco Bay Regional Water Quality Control Board ("RWQCB") Water Quality Certification dated May 17, 2017.

III. Findings And Declarations

This authorization is given on the basis of the Commission's findings and declarations that the work authorized herein is consistent with the McAteer-Petris Act, the *San Francisco Bay Plan* (Bay Plan), the California Environmental Quality Act (CEQA), and the Commission's amended coastal zone management program for San Francisco Bay for the following reasons:

A. **Fill.** The Commission may allow fill only when it meets the requirements identified in Section 66605 of the McAteer-Petris Act, which state, in part, that: (a) the public benefit of the fill should exceed the public detriment and the fill should be limited to water-oriented uses (such as recreation or public assembly) or be "minor" for improving shoreline appearance and public access; (b) fill should be approved only when "no alternative upland location" is available; (c) fill should be "the minimum amount

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necessary to achieve the [project] purpose"; (d) "the nature, location, and extent of any fill should be such that it will minimize harmful effects" to the Bay's resources, e.g., the volume, surface area or circulation of water, water quality, and fertility of marshes; (e) "fill [would] be constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters..." and (g) "fill should be authorized when the applicant has such valid title to the properties in question...."

1. **Public Benefit v. Detriment and Water-Oriented Use**. The approximately 800-foot-long shoreline at the project site is comprised mainly of debris: deteriorated seawalls, discarded concrete, metal, and asphalt, and a concrete and asphalt pad supported by a substructure of metal drums with wood framing. An investigation conducted by the Port of San Francisco in 2015 determined that soil and groundwater contaminants associated with the site's former industrial use, including metals, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), posed a potential risk to human health under certain settings, including wading and small boat use. Based on public input during the Commission's Design Review Board (DRB) meetings on the project, small recreational boaters, including kayakers, expressed a preference for direct access at the site because conditions are less muddy compared to other areas along the San Francisco shoreline; further, a beach at the site could support facilities (e.g., a universally-accessible beach mat) allowing access to persons with disabilities.

   The Port commissioned the preparation of a San Francisco Bay Regional Water Quality Control Board-approved *Feasibility Study and Remedial Action Plan* ("Remediation Plan," 2015) that concluded a rock and gravel cap should be placed at the contaminated areas, including in the Bay and along the shoreline, to ensure safe conditions for human contact.[2] The contamination cap to be constructed at the site is not the subject of an order from the Department of Toxic Substance Control (DTSC), but rather a voluntary remediation project on the part of the Port to facilitate direct water access.

   The Port will remove debris (4,500 cy of solid fill), including contaminants, within an approximately 8,500-square-foot area. The Port will place 780 cy of solid material at an approximately 8,810-square-foot area to cap remaining contaminated sediments at the Bay floor.

   At an approximately 19,700-square-foot area (3,250 cy of solid fill), the Port will create a sandy public beach. The beach will be built on top of gravel and rock base layers designed to contain underlying remnant contaminants. Approximately 420 cy of rock rip rap material within a 2,490-square-foot area will be placed to protect the

[2] Report prepared by Langan-Treadwell-Rollo, dated March 31, 2015.

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shoreline from erosion and contain any remnant contaminants in that area. Within the Commission's 100-foot shoreline band jurisdiction, debris will be removed and the shoreline reconfigured resulting in an enlargement of the Bay by approximately 7,398 square feet.

At Slipway 4 located south of the beach, the Port will repair and repurpose a 10,281-square-foot area for public park use. This activity will not constitute new Bay fill. A minor amount of solid fill (5 cy) for safety buoys will be placed at a location in the water to separate beach users from adjacent drydock activities.

The McAteer-Petris Act provides that fill should be limited to water-oriented uses or for minor fill to improve shoreline appearance or public access. The fill, including to remediate contaminated sediment, protect and improve the shoreline, and provide public access to the Bay, meets these criteria by providing water-oriented recreational use at the site. This area of San Francisco's waterfront, which is deteriorated and mainly occupied by industrial uses, lacks a large public park and opportunities for in-water access. Crane Cove Park will serve that purpose to visitors of varying interests and abilities.

Further, the project will provide habitat benefits from the remediation of contaminated sediments impacting foraging fish. The contaminants at the site impact the benthic species that reside in the existing Bay mud. According to National Marine Fisheries Service (NMFS), benthic organisms will likely reestablish once the construction of the fill is complete, but organisms will shift from mud-adapted polychaetes, amphipods, and clams to similar species adapted to sediments associated with the gravel and rock of the contamination cap. The project will result in a change in habitat that provides a net habitat benefit from the fill associated with the project. As discussed in more detail below, the project would not result in any impacts to sedimentation in the Bay, water circulation, or wave action. As a result, the project will not adversely impact the Bay's natural resources. The resource agencies reviewing the project did not recommend resource mitigation for the project.

The project will result in a decrease of volume of Bay fill (45 cy) and an approximately 22,515-square-foot increase in square-footage, primarily along the bottom of the Bay. Excavation within the Commission's 100-foot shoreline band jurisdiction will increase water surface area by approximately 7,398 square feet.

Special Condition II.D provides standards for riprap placed pursuant to this authorization and requires maintenance to ensure the riprap is safely constructed and properly maintained. Special Condition II.E requires a monitoring plan for the containment cap, based on recommendations in the Port's Remediation Plan (2015), to ensure the remediation cap remains in place and the public benefits of the fill,

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including allowing safe use of the water by people, are achieved. Special Condition II.F and II.G are included to ensure the project is built consistent with the concurrence from NMFS and the water quality certification from the RWQCB. In addition, Special Condition II.A and II.B are included to ensure the fill is constructed consistent with the McAteer-Petris Act and the San Francisco Bay Plan.

The public benefits of the project authorized by this permit exceed the public detriments of the fill, and therefore are consistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan.

2. **Alternative Upland Location.** The subject fill activities serve water-oriented uses, including public recreation and shoreline protection. The deteriorated and contaminated shoreline area requires fill to create a public park and ensure safe public access to the Bay. The fill associated with the shoreline protection system, beach, and containment cap is designed based on the hydrodynamic conditions of the site to provide erosion protection and ensure public access to the water. The Port explored alternatives to the contamination cap approach in its remediation plan (2015). An alternative was analyzed that involved dredging the area to remove the contaminated material. However, this approach would have required capping material as contaminated sediment cannot be completely removed.

   The riprap system is designed to contain contaminants but also to stabilize the shoreline and prevent erosion to the beach. The Port's 2014 *Coastal Engineering Analysis, Remediation Concept Design and Impact Analysis* [3] found that there is natural wave action at this area and, further, wake action associated with the adjacent drydock operations. The riprap and beach design is based on this analysis with the goal of designing a beach where sediment, including any remnant contaminated material, will remain despite expected wave and wake action.

   The advantage of creating a sandy beach at the site—as opposed to other types of access involving fill, e.g., a boat launch or dock—is that the project will facilitate Bay swimming and small human-powered boat use, as well as sunbathing. The opportunity for these types of public recreation are limited within the vicinity of the project site and throughout the City of San Francisco.

   Consequently, the subject fill activities do not have alternative upland locations, consistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan.

[3] "Coastal Engineering Analysis, Remediation Concept Design and Impact Analysis," prepared by Coast & Harbor Engineering, dated November 4, 2014.

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3. **Minimum Amount Necessary.** The subject fill will not increase solid fill in the water. However, these activities will result in an approximately 22,515-square-foot net increase of filled area in the Bay. The design includes the initial removal of approximately 8,500 square feet of debris (4,500 cy of solid fill) to allow reconfiguration of the shoreline. Subsequently, fill will be placed to cap contaminants, construct a shoreline protection system, and develop a public beach. The reconstruction of the shoreline, which includes excavation in upland areas, will introduce tidal action to new areas and increase the Bay surface area.

   The Port's Remediation Plan (2015) evaluated three alternatives to protect the public from contaminant contact and to facilitate water access at the site while minimizing fill in the Bay. The "no action" alternative would not have accommodated water access at the site, depriving the public of this unique recreational opportunity. The Port's remediation plan also analyzed an alternative that involved dredging contaminated sediment to four feet below the mudline.

   While dredging would have removed most of the contaminants in the area, the study found that complete removal would not be possible since some contaminants, such as lead and mercury, are found in higher concentrations at lower depths beyond four feet. As a result, the dredging alternative would have required fill in the form of a rock cap at the dredged footprint to contain remnant contaminants. Additionally, according to the Remediation Plan, the cost of dredging and capping was higher than other alternatives.

   The subject remediation alternative involves the placement of a contamination cap over a layer of treatment material. The design uses an "activated carbon hybrid cap" comprised of a carbon-based treatment material (called "Sedimite") placed atop the contaminated sediment area and held in place by multiple layers of gravel and rock. (A variant of this plan was originally considered, which involved installing a different treatment material underlying gravel and rock layers.) When compared to the other options, the selected alternative involving the use of a thinner layer of material below the cap—1.0 to 2.0 inches thick instead of a one-foot-thick layer–also treats a wider range of contaminants, ensures greater protection of wildlife, and is less costly.

   The riprap system authorized herein is designed to be the minimum fill necessary to contain contaminants along the shoreline but also stabilize the shoreline and prevent erosion. The Port's 2014 *Coastal Engineering Analysis, Remediation Concept Design and Impact Analysis* found that there is wave action at this area of the shoreline, and wake action is caused by the existing drydock operations. As a result, the riprap and beach design is based on this analysis with the goals of designing a beach where the sediment, including any remnant contaminated material, will not erode away due to wave action or be transported to the open water. The advantage

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of a beach over other forms of access involving fill, e.g., a boat launch or dock, is that the site will allow for swimming, the launching of small human-powered boats, and sunbathing.

As a result, the fill authorized by this permit is the minimum amount necessary for the project consistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan.

4. **Effects on Bay Resources**. In addition to Section 66605(d) of the McAteer-Petris Act regarding the impacts of fill on Bay resources, the Bay Plan contains related policies, cited below.

   a. **Fish and Wildlife.** The Bay Plan Fish, Other Aquatic Organisms and Wildlife Policy No. 4 states, in part, that "[t]he Commission should consult with the California Department of Fish and [Wildlife] and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service whenever a proposed project may adversely affect an endangered or threatened plant, fish, other aquatic organism or wildlife species... and give appropriate consideration of (their) recommendations in order to avoid possible adverse impacts of a proposed project on fish, other aquatic organisms and wildlife habitat."

   On September 23, 2016, the National Marine Fisheries Service (NMFS) issued a concurrence letter for the fill associated with the project, concluding that these activities would not likely adversely affect species protected under the federal Endangered Species Act, including anadromous salmonids and green sturgeon. The Bay bottom consists of mud and debris remaining from the former use industrial uses. NMFS determined that contamination at the site likely has an effect on benthic organisms, thereby impacting the food chain.

   NMFS determined that essential habitat for various life stages of fish specified in the Pacific Groundfish Fish Management Plan and the Coastal Pelagic Fish Management Plan would be adversely affected, but the subject activities include measures to avoid, minimize, mitigate, or offset such effects, including excavating debris along the shoreline at low tide and limiting in-water work to the period of June 1 through November 30 of any calendar year. Further, NMFS determined that the subject remediation plan would eliminate contaminated fish food sources. According to NMFS, benthic organisms will likely reestablish once the construction is complete, but organisms will shift from mud-adapted polychaetes, amphipods, and clams to similar species adapted to sediments associated with the gravel and rock of the contamination cap. NMFS stated that nearby fish foraging areas will not be affected by the project and the project will not result in an impact on fish foraging habits.

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The U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife did not issue concurrence or other consultation documentation for the subject project.

Special Condition II.F requires the project to be constructed consistent with the NMFS concurrence letter dated September 23, 2016. As required in Special Condition II.E, the permittee shall submit to the Commission a monitoring plan that will monitor the remediation area annually for the first two years and every five years thereafter to monitor the integrity of the contamination cap to ensure there are no adverse impacts to the environment.

As conditioned, the fill authorized by this permit is consistent with the McAteer-Petris Act requirements and the San Francisco Bay Plan policies related to fish, other aquatic organisms, and wildlife.

b. **Subtidal Areas and Water Surface Area.** The Bay Plan policies on subtidal areas states, in part, "[a]ny proposed filling...project in a subtidal area should be thoroughly evaluated to determine the local and Bay-wide effects of the project on: (a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry. Projects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects." In addition, the Bay Plan policies on water surface area and volume state, in part, "[t]he surface area of the Bay and the total volume of water should be kept as large as possible in order to maximize active oxygen interchange, vigorous circulation, and effective tidal action. Filling and diking that reduce surface area and water volume should therefore be allowed only for purposes providing substantial public benefits and only if there is no reasonable alternative."

According to the Port's Remediation Plan (2015) and the NMFS concurrence letter dated September 23, 2016, the subtidal area at the site contains contaminated sediment at an approximately 8,810-square-foot area, which has been determined to be harmful to organisms. NMFS concluded that the contamination likely affects benthic organisms, which serve as food for fish. NMFS determined that benthic organisms will likely re-establish once remediation is completed, although the type of organisms will shift from mud-adapted species to species suited to the newly created rock and gravel Bay bottom. As a result, although the project involves an increase in square footage of fill in the Bay, the project will result in a net benefit to subtidal habitat.

The Port's Coastal Engineering Analysis (2014) concluded that the remediation cap will have no significant impact on sediment transport or the sedimentation patterns at this site. The beach sediment will remain in place once armored with

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shoreline riprap along the sides of the beach. The contamination cap will not deprive the system of significant sediment. The project will not magnify the sedimentation rates at the navigation area serving the neighboring drydock and, therefore, will not result in future dredging. According to the Port, nourishment of the beach will not be necessary. The Port's Coastal Engineering Analysis conducted an analysis of wave action along the shoreline, including boat wake from the dry dock operation to the east, and concluded that the fill associated with the project would not have a significant impact on wave action along the shoreline.

The removal of debris at the shoreline will expand the Bay surface area by approximately 7,398 square feet. The majority of the fill will be located at the Bay bottom, and there will be no net increase in volume of solid fill. Special Condition II.F requires a monitoring plan to survey the integrity of the contamination cap, thereby ensuring that the fill authorized by the permit does not adversely impact sedimentation or adjacent subtidal areas.

As conditioned, the project authorized by this permit is consistent with the McAteer-Petris Act requirements and the Bay Plan policies related to subtidal areas and water surface area and volume.

c. **Water Quality.** The Bay Plan policies on water quality state, in part, that "[w]ater quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay as identified in the San Francisco Bay Regional Water Quality Control Board's (RWQCB) Basin Plan....[and] the policies, recommendations, decisions, advice, and authority of the State Water Resources Control Board and the Regional Board should be the basis for carrying out the Commission's water quality responsibilities."

On May 17, 2017, the RWQCB issued a water quality certification for the riprap, beach, and contamination cap, finding that the removal of debris and capping of a contaminated area will improve water quality, reduce risk to human health and safety, and improve the functions and values of aquatic resources. The RWQCB did not require mitigation for the project. Special Condition II.G requires the project to be constructed consistent with the RWQCB certification.

As conditioned, the project authorized by this permit is consistent with the requirements of the McAteer-Petris Act and the Bay Plan policies on Water Quality.

d. **Mitigation.** BCDC Bay Plan Mitigation Policy No. 1 states, that, "[p]rojects should be designed to avoid adverse environmental impacts to Bay natural resources such as to water surface area, volume, or circulation and to plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal marshes or tidal

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flats. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required."

The Port did not propose mitigation for the project since it was designed to avoid or minimize adverse environmental impacts. The Port's Coastal Engineering Analysis (2014) concluded that the cap design, riprap, and beach will have no impact on water circulation or sedimentation in the area. According to the Port's Remediation Plan (2015) and the NMFS concurrence letter dated September 23, 2016, the subtidal area at the site contains contaminated sediment, which likely affects benthic organisms used as food for fish. As a result, the remediation of the site with a sediment cap will result in a food supply for fish that is less contaminated once benthic organisms re-establish at the site. The project will not have adverse impacts on water volume, circulation, vegetation and wildlife, subtidal areas, or tidal marsh.

Mitigation is not required by the RWQCB or recommended by NMFS because these agencies found that the project will improve water quality and habitat values at the site. As discussed previously, the project will result in a net increase of 22,515 square feet in area of Bay fill, primarily at the bay bottom, and will not result in an increase in volume of Bay fill. As a result of the excavation of debris along the shoreline and the restructuring of the shoreline with riprap and a beach, the water surface area of the Bay will increase by approximately 7,398 square feet as a result of the project. The project avoids adverse impacts on the Bay, and therefore no mitigation is required by this permit.

5. **Sound Safety Standards.** In addition to Section 66605(e) of the McAteer-Petris Act regarding the seismic and flooding standards by which fill is designed and constructed, the Bay Plan contains the following related policies.

   The Bay Plan Safety of Fills Policy No. 1 states, in part, "[t]he Commission has appointed the Engineering Criteria Review Board [ECRB]...to:...review all except minor projects for the adequacy of their specific safety provisions, and make recommendations concerning these provisions...." Safety of Fills Policy No. 4 states, in part, that "[a]dequate measures should be provided to prevent damage from sea level rise and storm activity that may occur on fill or near the shoreline over the expected life of a project.... New projects on fill or near the shoreline should...be built so the bottom floor level of structures will be above a 100-year flood elevation that takes future sea level rise into account for the expected life of the project."

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The Bay Plan policies on shoreline protection, state, in part: "...shoreline protection projects...should be authorized if: (a) the project is necessary to provide flood or erosion protection for... (b) the type of the protective structure is appropriate for the project site, the uses to be protected, and the erosion and flooding conditions at the site; (c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes future sea level rise into account; (d) the project is properly designed and constructed to prevent significant impediments to physical and visual public access; and (e) the protection is integrated with current or planned adjacent shoreline protection measures." In addition, "[r]iprap revetments...should be constructed of properly sized and placed material that meet sound engineering criteria for durability, density, and porosity...."

The Bay Plan Climate Change Policy No. 2 states, in part: "...a risk assessment should be prepared...based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end-of-century based on the best scientific data available should be used in the risk assessment...." Climate Change Policy No. 3 state, in part, "...within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects...should be designed to be resilient to a mid-century sea level rise projection." Climate Change Policy No. 7 states, in part, that "...the Commission should evaluate each project proposed in vulnerable areas on a case-by-case basis to determine the project's public benefits, resilience to flooding, and capacity to adapt to climate change impacts. The following specific types of projects have regional benefits, advance regional goals, and should be encouraged, if their regional benefits and their advancement of regional goals outweigh the risk from flooding... [including] a public park."

The Commission's ECRB did not review the project because the Commission staff determined that the fill did not raise significant seismic safety issues. Special Conditions II.A and II.B require the Port to submit and receive approval of project plans to, among other things, certify that the fill authorized herein will be constructed to comply with sound safety standards.

The Port designed the contamination cap to ensure that in-water access remains safe for recreational use. The shoreline revetment system is designed to prevent erosion and contain contaminated sediment. As designed, the riprap will gradually slope towards the on-land area and connect to seawalls located at the north end of the beach and the south end of the beach at Slipway 4. Special Condition II.D

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requires the Port to construct the shoreline protection system so that it complies with common engineering standards in the Bay. The riprap will not impede physical or visual access.

The fill associated with the contamination cap is located at the Bay floor and is designed to be submerged at all times by the tide. The design elevations of the beach and shoreline riprap will protect the upland Crane Cove Park area from sea level rise impacts through 2050. As sea level rises over time, the mean higher high water (MHHW) level will incrementally rise at the beach, but will not flood the upland park area. The shoreline riprap system is designed to make the park resilient to 22 inches of sea level rise at mean higher high water (MHHW) through 2065 and will itself remain resilient. The riprap is not designed to protect against flooding from today's 100-year storm events. As a result, the park will flood during a 100-year storm event, which has a 1% chance of occurring every year. The riprap design considers extreme storm events, as it would remain in place and continue to provide erosion control during a 100-year storm event. Special Condition II.C.9 requires reporting in the event the riprap is overtopped and the public access areas required by this permit are flooded.

The fill associated with the project supports development of Crane Cove Park, which will achieve regional goals of public access to the Bay and improved water access. The project involves a public park that provides regional benefits, including the redevelopment of an unused waterfront industrial area to provide a public park in an area along the shoreline lacking public access amenities. Although the park will flood during a 100-year storm event, which has a 1% chance of occurring every year, the regional benefits of the project and advancement of regional goals by the park outweigh the risk of temporary closures from flooding in an extreme storm event.

As a result, the project is consistent with the requirements of the McAteer-Petris Act and with the Bay Plan policies on Shoreline Protection, Safety of Fills and Climate Change.

6. **Valid Title**. The project site, including the area located upland of the Bay, is held in the public trust and is administered by the Port of San Francisco and, therefore, the permittee holds valid title to the subject site.

   As conditioned, the project is consistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan policies related to Bay fill.

B. **Public Access.** In assessing whether a project provides maximum feasible public access consistent with activities proposed, the Commission has relied on the McAteer-Petris Act, the Bay Plan, access requirements of similar previously-permitted projects, and

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relevant court decisions. When the activity under consideration is proposed by a public agency, such as the Port of San Francisco, the Commission also evaluates whether the public access is reasonable in light of project scope.

Section 66602 of the McAteer-Petris Act states, in part, that "...existing public access to the shoreline and waters of the...[Bay] is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided." Section 66632.4 of the McAteer-Petris Act states, "[w]ithin any portion or portions of the shoreline band that are located outside the boundaries of water-oriented priority land uses...the Commission may deny an application for a permit for a proposed project only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project, to the bay and its shoreline."

- **Public Access** policies of the Bay Plan state, in part, that: "[a] proposed fill project should increase public access to the Bay to the maximum extent feasible..." ; "[a]ccess to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available."; "the improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for persons with disabilities to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs."; "Public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding."; and "Any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby." Public Access Policy No. 12 states, in part, "[t]he Design Review Board should advise the Commission regarding the adequacy of the public access proposed."

- **Recreation** policies of the Bay Plan state, in part: "Diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels;" "[a]ccess for non-motorized small boats can be provided at launch ramps, beaches, fishing piers, marinas and waterfront parks, and by providing access through or over shoreline protection (e.g., ramps or stairs)." In addition, "New beaches should be permitted if the site conditions are suitable for sustaining a beach without excessive beach nourishment"; "[t]o capitalize on the attractiveness of their bayfront location,

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parks should emphasize hiking, bicycling, riding trails, picnic facilities, swimming, environmental, historical and cultural education and interpretation, viewpoints, beaches, and fishing facilities"; "[b]ecause of the need to increase the recreational opportunities available to Bay Area residents, small amounts of Bay fill may be allowed for waterfront parks and recreational areas that provide substantial public benefits and that cannot be developed without some filling."

- **Appearance, Design and Scenic Views** policies in the Bay Plan state, in part: "[a]ll bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay"; and "[t]owers, bridges, or other structures near or over the Bay should be designed as landmarks that suggest the location of the waterfront when it is not visible, especially in flat areas. But such landmarks should be low enough to assure the continued visual dominance of the hills around the Bay."

1. **Maximum Feasible Public Access.** A majority of the project site, including the water, is fenced and inaccessible to the public due to hazardous conditions and the presence of contaminated sediment. The fencing along Illinois Street prevents the public from seeing the shoreline and the Bay at the project site. Within the northern boundary of the site, an approximately 2,400-square-foot area with picnic tables exists in part for the public.[4]

   Crane Cove Park will cover an approximately 8.4-acre area, including area located outside of the Commission's jurisdiction. Within the Commission's jurisdiction, the park will occupy an approximately 111,156-square-foot (2.5-acre) area. As authorized herein, the Port will undertake a variety of activities related to the development of the park, including the removal of the debris, the placement of fill to construct a sandy beach, the construction of a riprap shoreline stabilization system, the placement of a containment cap to remediate contaminated sediments, and the repair of Slipway 4. This permit authorizes Phase I of Crane Cove Park. An additional phase (Phase II) located to the east of Phase I will be the subject of a separate permit action in the future.

   Other amenities at the park site include an open lawn, an 18-foot-wide Bay Trail, a vehicle turnaround and drop-off area for pedestrians and boaters, public plazas, and a sandy beach. Park amenities are designed to meet universal access criteria and, thus, will be barrier free to persons with disabilities. North of the beach area, three picnic tables will be installed one of which will be available by reservation, as outlined in Special Condition II.C.9 contained herein. Pedestrian and bicycle

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[4] An 1,994-square-foot section of this area is available to the general public per BCDC Permit No. M1986.061.09. Public access requirements and conditions contained in BCDC Permit No. 2016.006.00 will supercede this public access requirement of BCDC Permit M1986.061.09.

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pathways will provide access from Illinois Street. A reconstructed 19th street (located outside of the Commission's jurisdiction) will serve as a park entrance. Historic industrial elements will be rehabilitated and repurposed (e.g., Slipway 4) for public use.

Two shipbuilding cranes will remain as landmark structures. Crane 14, which is currently located at the upland end of Slipway 4 (outside of the Commission's jurisdiction) will be relocated to the Commission's 100-foot shoreline band jurisdiction. The public will see Crane 14 from 18th street. Crane 30 will be rehabilitated and remain outside of the Commission's jurisdiction. Historic rails and utility racks will be repaired and repurposed as interpretive elements at the park. The Slipway 4 center area will allow for direct public access to the Bay.

Outside of the Commission's jurisdiction, Building 49 will be repurposed as an aquatic center with kayak storage, a public restroom, and a café or retail operation. The café will have a private outdoor dining area with capacity for up to 100 people located within the Commission's 100-foot shoreline band jurisdiction. At the northern boundary of the park, an approximately 2,400-square-foot area (located adjacent to the Ramp Restaurant) will also be a private outdoor dining area with a capacity for 65 people within the Commission's 100-foot shoreline band jurisdiction. Special Condition II.C.7 is included herein to ensure that these outdoor dining areas will not encroach on public access areas.

Upon its initial opening scheduled in 2018, the Port anticipates approximately 60 visitors per day with an annual visitation of approximately 22,000 people. As the public becomes aware of the park, the Port expects visitor numbers to increase. The permittee will hold special events outside of the 100-foot shoreline band. These events could impact the public's use of the shoreline within the 100-foot shoreline band by excluding the public from the special events areas and crowding the public access areas adjacent to the special event areas, thereby inhibiting circulation to and along the shoreline. As a result, Special Condition II.C requires public access amenities within the Commission's Bay and 100-foot shoreline band jurisdiction to provide maximum feasible public access consistent with the project consistent with the requirements of the McAteer-Petris Act and the San Francisco Bay Plan. Special Condition II.C.1 requires the entire area of the park within the Commission's jurisdiction as public access. Special Condition II.C.2 requires specific improvements throughout the public access area. Special Condition II.C.3 and II.C.4 requires maintenance of the public access amenities required herein, including maintenance from flood damage and assignment of the permit if maintenance responsibility is transferred to another party. Special Condition II.C.5 provides for reasonable rules

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and conditions to be imposed by the Port subject to approval by or on behalf of the Commission. The Port will hold limited special events authorized within these required public access areas, as discussed below.

In its original request for a permit for the subject project, the Port asked that the Commission provide "credit" for the development of Crane Cove Park towards a future undetermined project in need of a public access offset or benefit. However, the McAteer-Petris Act and the San Francisco Bay Plan do not contain a framework to approve such a proposal through a permit. As a result, the Port modified its proposal and requested that the Commission and the Port establish a "a public access bank," subject to the Commission's later approval potentially within the context of a San Francisco Waterfront Special Area Plan (SAP) amendment or a Memorandum of Understanding between the two bodies—details of either strategy have yet to be outlined and are not memorialized in the subject permit. This permit describes the potential benefits of the park that could be a basis for the program, such as, but not limited to, the linear feet of shoreline access, the area of public access, facilities to support the Bay Area Water Trail, and the capital costs used for the public access. These potential benefits may be recognized in a future "public access bank" proposal.

2. **Design Review Board**. The Commission's Design Review Board (DRB) together with the Port's Waterfront Design Advisory Committee ("WDAC") reviewed the project on five occasions between January 2013 through July 2014. Although joint review by the DRB and WDAC ("advisory boards") is not required in the San Francisco Waterfront Special Area Plan for projects at this location, the Port and Commission staff agreed that this type of review would result in a more efficient design process.

   At the meeting of January 7, 2013, the advisory boards requested that the Port clarify the impact on the park resulting from other proposed development nearby and outside of the Commission's jurisdiction. The advisory boards also asked that the Port explore design concepts to "pull the site together," reconsider the design of plaza areas, refine treatment of the Bay edge, provide a clear and continuous shoreline path, and maintain the industrial feel of the site. Other issues concerning stormwater treatment, public safety, elevated views from areas outside of the Commission's jurisdiction, and potential sea level rise impacts were discussed. Additional information was requested about boating facilities and project phasing.

   At the meeting of June 10, 2013, when considering a revised project design, the boards requested that the Port address "fragmentation of the design," simplify the design of Slipway 4, emphasize the maritime use and history of the site, and clarify the proposal for the related development site (Phase II of the subject project and

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not the subject of this authorization). Subsequently, the Port simplified the overall design, emphasizing the land-water connections and incorporating water overlooks. Also, the Port redesigned the open space adjacent to Slipway 4.

At the meeting of September 9, 2013, the boards expressed concern about the adjacent site proposed for development located outside of the Commission's jurisdiction (Phase II), and its potential impact on Crane Cove Park. In addition, the boards recommended that the Port consider phasing the project to prioritize development of the northern shoreline, which includes the beach, lawn, and northern plazas that are a part of the subject project. The Port altered the phasing of the park, moving the development site to Phase II.

At the final meeting of July 14, 2014, the boards expressed support of the revised project—the project design reflected in the subject authorized project (also known as "Phase I"). The boards emphasized the need to program the park to promote use by the public, raise public awareness of the facility to enhance its use, and provide safety benefits.

Although, the boards recommended the park be programmed for special events to raise awareness about the facility, they did not review the Port's special events plan, discussed in the following section.

3. **Special Events**. The Port will host special events within and outside of the Commission's jurisdiction at Crane Cove Park. The park is located at a remote location and does not experience significant pedestrian traffic or commercial activity—activities that otherwise would draw the public to the park.

   Special Condition II.C.6 allows special events at four areas in the required public access area. These special events may be held without additional design plan review approval by, or on behalf of, the Commission subject to the terms of Special Condition II.C.6. Special events may be held at these areas for up to fifty (50) days per calendar year, including no more than two (2) weekend days per month. Special Condition II.C.6 imposes additional restrictions on the type of events allowed at each special events area and additional limits on the number of days provided for ticketed public events and private events. Special Condition II.C.6 requires the permittee to monitor special events to ensure the special events do not encroach upon public access areas. The Port will notice the Commission prior to holding an event, and will report to the Commission on the special events program annually, pursuant to Special Condition II.C.6.

   Special Condition II.C.6 limits the special event program to a 5-year duration only until and unless the Port seeks additional consideration by the Commission through an amendment to this permit based on the previous reporting and monitoring of the special events program and an assessment of the success of

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the special events program that includes a "public life study." A public space "public life study" of the park conducted during the first five years would provide valuable feedback on the challenges and opportunities for the programming and maintenance of the park. This type of study could help identify how the special events add value and/or impact the park and public access areas, and provide valuable information for the continuation of special events within the park if the special events are successful in activating the area.

Special Condition II.C.6 provides that additional special events could be held in other areas of the park. In particular, the Port states that it may seek to hold special events at an approximately 6,000-square-foot area in the center of Slipway 4. As described in Special Condition II.C.6, these additional events would be approved by, or on behalf of, the Commission through plan review as provided in Special Condition II.B. The additional authorization to seek plan review for additional special events will allow the Port flexibility to increase public engagement with the new park through events.

Special Condition II.C.6 provides that no special events may encroach upon or diminish the public open and free nature of areas not designated specifically for special events including, but not limited to, the remaining open areas at the beach, lawn, Slipway 4, and public pathways throughout Crane Cove Park including those located outside of the Commission's jurisdiction. Special Condition II.C.6 and Special Condition II.C.8 additionally provides that all public pathways to the shoreline, not limited to the Bay Trail required by Special Condition II.C.2, shall be free of obstructions. This ensures that events held outside of the Commission's jurisdiction will not inhibit public use of the shoreline.

4. **Comparable BCDC-Permitted Projects.** The development of Crane Cove Park is a voluntary effort and not a requirement to offset a public access impact of a permitted or future project. Nevertheless, the Commission must determine whether the activities would provide maximum feasible public access consistent with the project.

   The Commission issued a permit for the construction of India Basin Park (Permit No. 1993.010.03) to the City and County of San Francisco. India Basin Park is similar to the Crane Cove Park in that it involved the restoration of a shoreline through excavation of material and installation of riprap to facilitate access. The India Basin Park project, which involved Bay fill (approximately 25,000 square feet), provided approximately 1,500 linear feet of shoreline access, including approximately 13,748 square feet of pathways and approximately 255,400 square feet of landscaping.

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BCDC Permit No. M1996.013.03 allows the Port to hold special events throughout the San Francisco Waterfront, not including the Crane Cove Park site. The permit allows public markets and special events, including construction of tents and other facilities, for up to 180 days per year as long as prior plan review and approval is obtained through the Commission staff.

BCDC Permit No. 2000.006.00 authorizes special events (with prior plan review and approval) to occur at Rincon Park at the San Francisco waterfront. The permit does not limit the number of special events at the site. BCDC Permit No. 2005.004.01, which authorized the construction of two restaurants within Rincon Park, allows the required public access space between two outdoor dining areas to be used for a total of five 24-hour events and fifteen 12-hour events each calendar year; events can occur for up to two consecutive days. The permit places limitations on the height of event structures, and includes an event reporting schedule requirement and pre-event noticing requirement. These special events can include use of the public access area for private restaurant activities.

BCDC Permit No. 1976.011.09 authorizes special events within a public access area at China Basin in the City of San Francisco. The permittee is allowed to close a public access area to conduct private events for a total of 30 days a year. The permit limits authorization of such special events for a two-year period and is required to submit event reports to the Commission staff prior to obtaining a time extension for such activities.

5. **Sea Level Rise and Flooding.** The shoreline riprap system, the beach, and the park located within the Commission's 100-foot shoreline band jurisdiction are designed to be resilient to flooding from sea level rise beyond 2050. The public access within the Commission's jurisdiction will be resilient to a projection of 22 inches of sea level rise at Mean Higher High Water, which will make the public access resilient beyond mid-century to approximately 2065. The Port anticipates that access restrictions will be in place at some portions of the park beginning in 2065 and increased maintenance will be necessary. However, public pathways to the Bay and along the shoreline will exist through the upland areas of the park up to a projected four feet of sea level rise by end-of-century, providing equivalent public access over the life of the park even when areas closer to the shoreline are flooded.

   Areas of the park will flood during a 100-year storm event under current conditions. These events are short-term events, usually lasting a few hours, and have a 1% chance of occurring each year. As sea levels rise, a 100-year storm event will flood more area of the park. By the end-of-century, with a sea level rise projection of approximately four feet, a 100-year storm event will likely flood most of the park and upland areas of the City beyond Illinois Street. As conditioned, the public access required by this permit is viable in the event of future sea level rise and equivalent

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access will be provided at upland areas of the park in the event of flooding from storms. Special Condition II.C.3 requires maintenance of the public access, including repairing damage due to flooding. Special Condition II.C.9 requires reporting of flooding in the required public access areas. Special Condition II.C.9 requires that any permanent closures or significant access restrictions must be subject to approval by or on behalf of the Commission, including, but not limited to, by amendment to this permit. Although the park will flood toward the end-of-century in extreme storm events, there are upland areas of the park where equivalent access will be provided to ensure circulation along the shoreline and access to the Bay. Special Condition II.C.9 requires that in the event of any permanent closure in a required public access area, the permittee will provide equivalent public access at or near the site to allow public access to and along the shoreline.

As a result, although the park is expected to flood in extreme storm events, it is designed to avoid significant impacts from that flooding consistent with the requirements of the Bay Plan Public Access policies. As conditioned, the public access remains viable to flooding from sea level rise and storms beyond mid-century, and equivalent access is provided in upland areas of the park. Furthermore, the project supports development of Crane Cove Park, which will achieve regional goals of public access to the Bay and improved water access. The project involves a public park that provides regional benefits, including the redevelopment of an unused waterfront industrial area to provide a public park in an area along the shoreline lacking public access amenities. Although the park will likely flood during a 100-year storm event, which has a 1% chance of occurring every year, the regional benefits of the project and advancement of regional goals by the park outweigh the risk of temporary closures from flooding in an extreme storm event.

As conditioned, the project authorized herein is consistent with the McAteer-Petris sections and relevant San Francisco Bay Plan policies regarding Public Access, Recreation, and Appearance, Design, and Scenic Views.

C. **Review Boards**

1. **Engineering Criteria Review Board.** The Commission's ECRB did not review the project because the Commission staff determined that the fill does not raise significant seismic safety issues.

2. **Design Review Board.** The Commission's DRB (and the Port's Waterfront Design Advisory Committee) reviewed the project on five occasions between January 2013 and July 2014.

D. **Environmental Review.** On October 5, 2015, the City of San Francisco, as the lead agency, certified that the project was exempt from the requirement to prepare environmental documentation since the project qualified for the Community Plan

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Categorical Exemption (CEQA Guidelines Section 15183) and is located in the Eastern Neighborhoods Community Plan Area, for which the City's Planning Commission certified the *Eastern Neighborhoods Rezoning and Area Plans Final EIR* (FEIR).[5] The Planning Department determined that the project would not have any additional or significant adverse effects that had not been examined in the subject FEIR, nor had any new or additional information come to light that would alter the conclusions of the FEIR.

E. **Conclusion**. For all the above reasons, the Commission finds, declares, and certifies that, subject to the Special Conditions stated herein, the project authorized herein is consistent with the McAteer-Petris Act, the *San Francisco Bay Plan*, the Commission's Regulations, the California Environmental Quality Act, and the Commission's Amended Management Program for the San Francisco Bay segment of the California coastal zone.

IV. Standard Conditions

A. **Permit Execution**. This permit shall not take effect unless the permittee execute the original of this permit and return it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

B. **Notice of Completion**. The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work in each phase.

C. **Permit Assignment**. The rights, duties, and obligations contained in this permit are assignable. When the permittee transfers any interest in any property either on which the activity is authorized to occur or which is necessary to achieve full compliance of one or more conditions to this permit, the permittee/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignees execute and the Executive Director receives an acknowledgment that the assignees have read and understand the permit and agree to be bound by the terms and conditions of the permit, and the assignees are accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the permit.

D. **Permit Runs With the Land**. Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

E. **Other Government Approvals**. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional

[5] Planning Department Case No.2004.0160E and State Clearinghouse No. 2005032048.

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Water Quality Control Board, and the city or county in which the work is to be performed, whenever any of these may be required. This permit does not relieve the permittee of any obligations imposed by State or Federal law, either statutory or otherwise.

F. **Built Project must be Consistent with Application.** Work must be performed in the precise manner and at the precise locations indicated in your application, as such may have been modified by the terms of the permit and any plans approved in writing by or on behalf of the Commission.

G. **Life of Authorization.** Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.

H. **Commission Jurisdiction.** Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

I. **Changes to the Commission's Jurisdiction as a Result of Natural Processes.** This permit reflects the location of the shoreline of San Francisco Bay when the permit was issued. Over time, erosion, avulsion, accretion, subsidence, relative sea level change, and other factors may change the location of the shoreline, which may, in turn, change the extent of the Commission's regulatory jurisdiction. Therefore, the issuance of this permit does not guarantee that the Commission's jurisdiction will not change in the future.

J. **Violation of Permit May Lead to Permit Revocation.** Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittee or their assignees if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittee or their assignees if the permit has been assigned.

K. **Should Permit Conditions Be Found to be Illegal or Unenforceable.** Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in

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reliance on this permit shall be subject to removal by the permittee or their assignees if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

L. **Permission to Conduct Site Visit**. The permittee shall grant permission to any member of the Commission's staff to conduct a site visit at the subject property during and after construction to verify that the project is being and has been constructed in compliance with the authorization and conditions contained herein. Site visits may occur during business hours without prior notice and after business hours with 24-hour notice.

M. **Abandonment**. If, at any time, the Commission determines that the improvements in the Bay authorized herein have been abandoned for a period of two years or more, or have deteriorated to the point that public health, safety or welfare is adversely affected, the Commission may require that the improvements be removed by the permittee, its assignees or successors in interest, or by the owner of the improvements, within 60 days or such other reasonable time as the Commission may direct.

N. **Best Management Practices**

1. **Debris Removal.** All construction debris shall be removed to an authorized location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittee, its assigns, or successors in interest, or the owner of the improvements, shall remove such material, at their expense, within ten days after they have been notified by the Executive Director of such placement.

2. **Construction Operations.** All construction operations shall be performed to prevent construction materials from falling, washing or blowing into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittee shall immediately retrieve and remove such material at its expense.

O. **In-Kind Repairs and Maintenance.** Any in-kind repair and maintenance work authorized herein shall not result in an enlargement of the authorized structural footprint and shall only involve construction materials approved for use in San Francisco Bay. Work shall occur during periods designated to avoid impacts to fish and wildlife. The permittee shall contact Commission staff to confirm current restricted periods for construction.

P. **Certification of Contractor Review.** Prior to commencing any grading, demolition, or construction, the general contractor or contractors in charge of that portion of the work shall submit written certification that s/he has reviewed and understands the requirements of the permit and the final BCDC-approved plans, particularly as they pertain to any public access or open space required herein, or environmentally sensitive areas.

Exhibit A Required Public Access
BCDC Permit Application #2016.006.00
Port of San Francisco Crane Cove Park
September 7. 2017

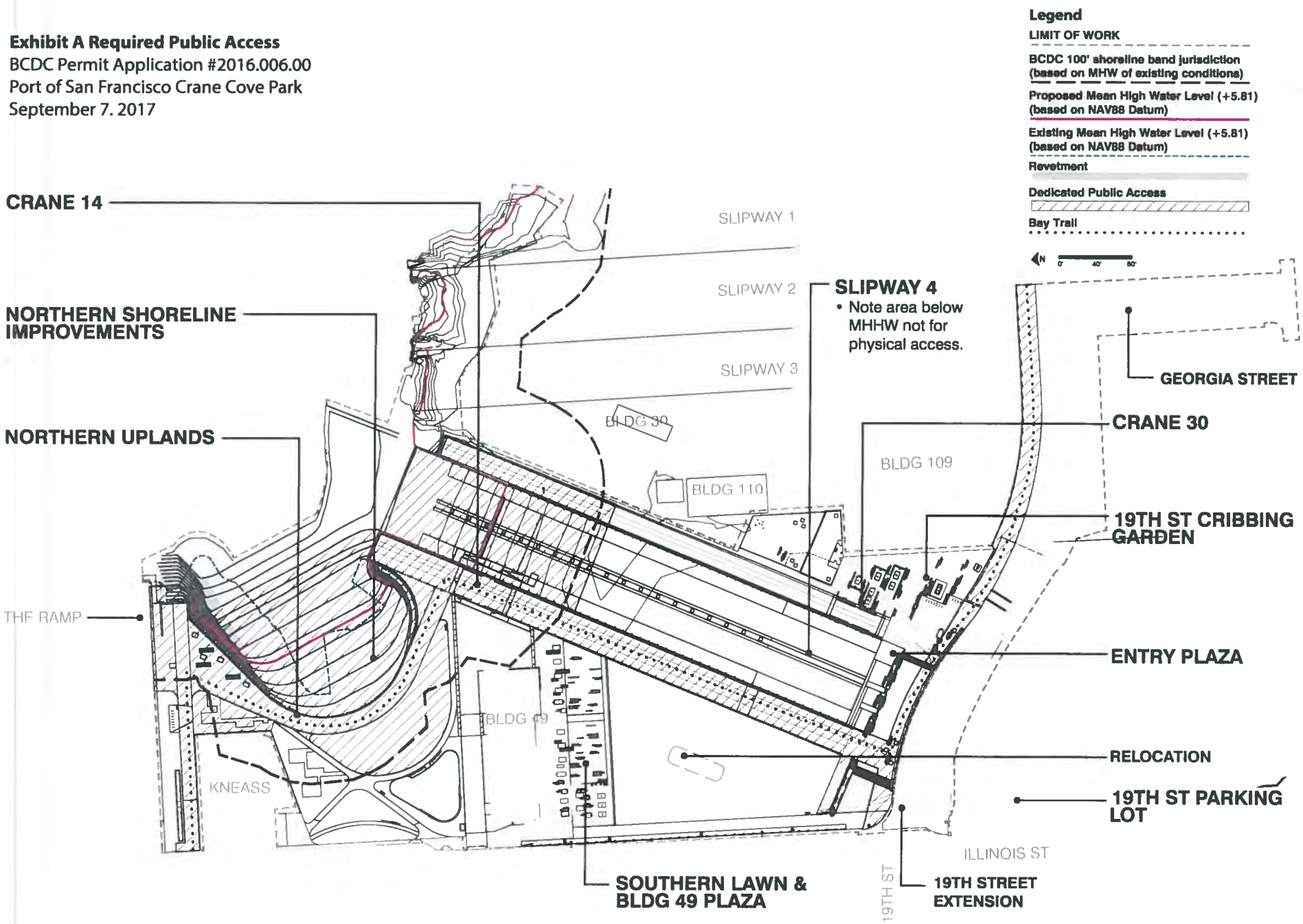

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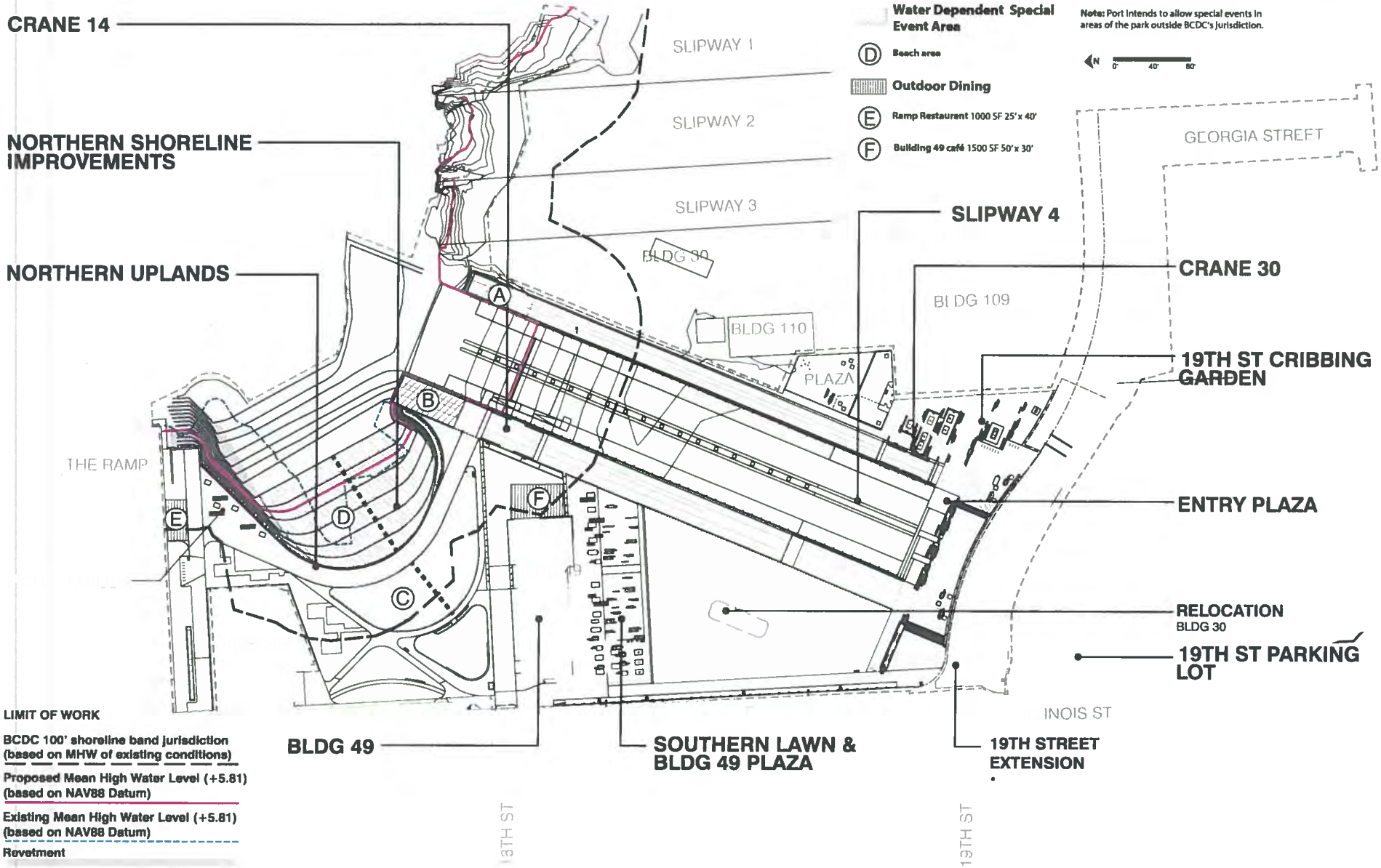
Exhibit B Special Events & Outdoor Dining Areas
BCDC Permit Application #2016.006.00
Port of San Francisco Crane Cove Park
September 7. 2017



Legend

Special Event Areas

- (A) Eastern Craneway
- (B) Western Craneway
- (C) North Lawn

Water Dependent Special Event Area

- (D) Beach area

Outdoor Dining

- (E) Ramp Restaurant 1000 SF 25' x 40'
- (F) Building 49 café 1500 SF 50' x 30'

Table 3: Special Events Program
Number of Special Event Days (of 50 Calendar Days)

Areas	Non-Ticketed/No-Fee Public Events	Ticketed Public Events	Private Events
Beach	12 of 50 days (water-oriented uses only)	12 of 50 days (water-oriented uses only)	None
Lawn	50 of 50 days	12 of 50 days	12 of 50 days
West Craneway	50 of 50 days	12 of 50 days	12 of 50 days
East Craneway	50 of 50 days	12 of 50 days	12 of 50 days

Note: Port intends to allow special events in areas of the park outside BCDC's jurisdiction.

N 0' 40' 80'

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EXHIBIT G
OPERATIONS PLAN

[To Be Attached]

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Exhibit G
Crane Cove Park – Building 49
Operations Plan
Master Tenant: YMCA of San Francisco
Subtenants: Daily Driver, Dogpatch Paddle
April 6, 2023

Tenant plans to operate its own programs from 4,073 square feet of the Premises and to sub-lease 2,744 square feet to sub-tenants engaged in Permitted Activities. The planned Sub-tenants are Dogpatch Paddle, a provider of human-powered watercraft services, and Daily Driver, a retailer of coffee and specialty foods. Tenant's Operating Plan for its own programs is set out below. The Operating Plans for the Sub-tenants will be set out in the Sub-leases and are set out for information below.

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YMCA of San Francisco

Master Tenant

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FOR YOUTH DEVELOPMENT
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

YMCA of San Francisco
Crane Cove, Building 49
Operations Plan

The YMCA of San Francisco ("the Y") has eight fitness facilities throughout San Mateo, San Francisco and Marin counties. Crane Cove will be our ninth. Membership to the Y includes access to all of our gyms, including six swimming pools, tennis courts, virtual and in-person group exercise, as well as personal training, wellness coaching, on-site childcare, and discounted rates on programming.

The Y charges monthly membership fees. For 22-23, these are as follows:

CATEGORY	JOINING FEE	MONTHLY DUES
Adult	$99	$85
Active Older Adult (67+)	$99	$75
Household with Kids	$149	$170
Household without Kids	$149	$140
One Adult Household	$125	$100
Young Adult (19-24)	$99	$65
Teen (13-19)	$0	$45

The Y offers financial assistance to those unable to pay these fees. Thirty-five percent of our members currently receive financial assistance or subsidy for their membership. The Y reserves the right to change how the membership fees are structured and the amounts charged based on market demand, community requirements and operating conditions. Day passes are available for drop-in visits.

The Y will host onsite membership drives several months in advance of a grand opening.

Y staff anticipate activating the space +/- 90 hours weekly, but actual hours may vary depending on demand and operational factors:

- Monday – Friday: 5:30am-8:30pm
- Saturday – Sunday: 7am-2pm
- Y Holidays: 7am-2pm

In year one, the Y gym facilities will provide space for cardio, strength, stretching exercises as well as 12-15 group exercise classes a week. Weekly activities, such as Zumba, Strength for Seniors, or hula dance, will be open to the public. During off-peak times, the Y will also offer community spaces to nonprofits in the neighborhood in need of meeting space. Over time, the Y will adjust programming to meet the needs of the community.

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Wellness activities included in membership:

- indoor / outdoor group exercise classes (Les Mills Body Pump, Zumba, Yoga, Balance and Strength, Mat Pilates, Cardio Circuit, etc.)
- 1:1 and small group training
- Community workshops on nutrition, stress-reduction, etc.
- Evidence-based programming: blood pressure self-monitoring, diabetes prevention, etc.

Y facilities will include restrooms and showers for members.

The Y reserves the right to amend its programming based on market conditions and community requirements.

Outdoor group exercise classes may be organized dependent on access/license by Port to Crane Cove Park and during daylight hours only. Amplified music may be used provided that such use complies with the requirements from time to time of the San Francisco Entertainment Commission.

On occasion, the Y may organize special events in Crane Cove Park for which it will seek any necessary specific permitting under applicable BCDC rules.

STAFFING:

The Crane Cove Y will have 2+ staff onsite during opening hours. Membership and Wellness staff will provide customer service, membership sales, community information, and equipment orientations for Y members. Certified instructors will teach group exercise classes and provide personal training opportunities.

PUBLIC RESTROOMS:

The Y will outsource janitorial support, which will include custodial for the public restrooms. The restrooms will be open at a minimum from 10 am to 6 pm on weekdays and 10 am to 4 pm on weekends and holidays, unless a) closed temporarily for maintenance or repair or for security reasons or b) the Y is not open at Crane Cove.

PARKING:

There is no public parking allocated to the site. Passenger drop-off will be available in the Crane Cove cul-de-sac.

The Y will provide bike racks for members' use.

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Dogpatch Paddle

Sub-Tenant

Dogpatch Paddle will sub-lease 2,289 square feet for the activities set out below.

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Operations Plan: Building 49

Introduction

Dogpatch Paddle was selected as the primary commercial operator of watersports activities in Building 49 in Crane Cove Park. In January of 2021 we began operations within the park, safely and successfully supporting clients seeking paddle boarding and kayaking rentals, lessons, tours, classes, youth programs, storage and private events. We opened our retail location at 560 18th Street, about ½ block from the park itself, in April of 2021 to coincide with our first youth camps. That spring and summer we welcomed 289 campers to our youth camps, including a dozen scholarship participants.

In June of 2022 we began our second season with a temporary lease for storage in Building 49 (while still maintaining our primary location at 560 18th Street). This season we safely welcomed 349 campers, with additional scholarships, and continued to grow our other service offerings. Moreover, we learned a great deal about smooth operations within the park. As we prepare to occupy Building 49 permanently, we have developed, and refined, an optimal operations plan.

Facilities

The operations plan is split into two categories, facilities, and services. Facilities identifies the physical locations for Dogpatch Paddle's operations. Services & Products discusses specific utilization of the facilities relative to the business offerings.

Building 49

Dogpatch Paddle will occupy approximately 2,289 square feet of space within Building 49. Within that space, it will be subdivided into zones for operational purposes as follows:

A. Rental "Shack"
    a. Location: the area in the northeast corner of the building, delineated by the annex protrusion from the main building. A roll-up door will be located on the southeast section of the annex to provide access for larger equipment to be transferred in and out of the building on an as-needed basis.
    b. Uses: the rental shack will serve as the transaction point for service-related activities. A counter will welcome customers to check-in off the main entrance. Clients will obtain accessories such as life vests, wet suits, paddles, etc. Paddle boards and kayaks may either be secured at the rental shack or from the beach

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(see below). There will be changing rooms and lockers located inside the rental shack for customers to prepare for their activities and to leave personal belongings.

c. We propose marking a no-stopping hashed area along the East side of Building 49 to allow for safe transport of equipment from the building to the beach.

B. Retail Space

a. Location: on the southeast corner of the building. The primary egress would be through the retail entrance from the plinth / porch on the east face. There will be a cash wrap / customer service counter floating in the center of the space, delineating the retail space from the indoor storage.

b. Uses: retail displays of equipment, accessories, and sundry items. Additionally, convenience items such as picnic provisions, snacks, beverages, and other park necessities will be presented. All items will be transacted at the cash wrap.

c. Due to the nature of seasonality, it may be necessary to adopt other product lines and services for solvency. Any additional products or services will be developed with family-friendly, recreational focus, not to conflict with any terms set forth within the sublease or operations plan.

C. Indoor Storage

a. Location: all additional space will be dedicated to indoor storage of equipment. The exterior walls and demising wall with the YMCA will be outfitted with fixed racks, and the open space between permanent fixtures will house portable racks on casters. Customers will not be allowed in the storage area.

b. Uses: This equipment will be used to service rentals, lessons, tours, classes, etc. and is referred to as our “fleet” or “quiver”. Optimally, the fleet will sit on racks that are affixed to the building structure, for stability, and will stack double height to maximize space. The caster racks will be rolled in and out for situations where a bulk of equipment is required (camps, private events). Equipment is then off-loaded from the racks and they are returned to the shop.

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Beach Launch & Staging

Dogpatch Paddle, our customers, and the general public all require access to the beach in order to launch and return watercraft. Today and moving forward, any visitor to the park can utilize the breadth of the waterfront to launch their craft. Dogpatch Paddle plans to stage our watercraft in the least active areas of the beach launch, assessed on a daily basis, subject to the use of the entire community. All equipment will be returned to the shop at the end of the day.

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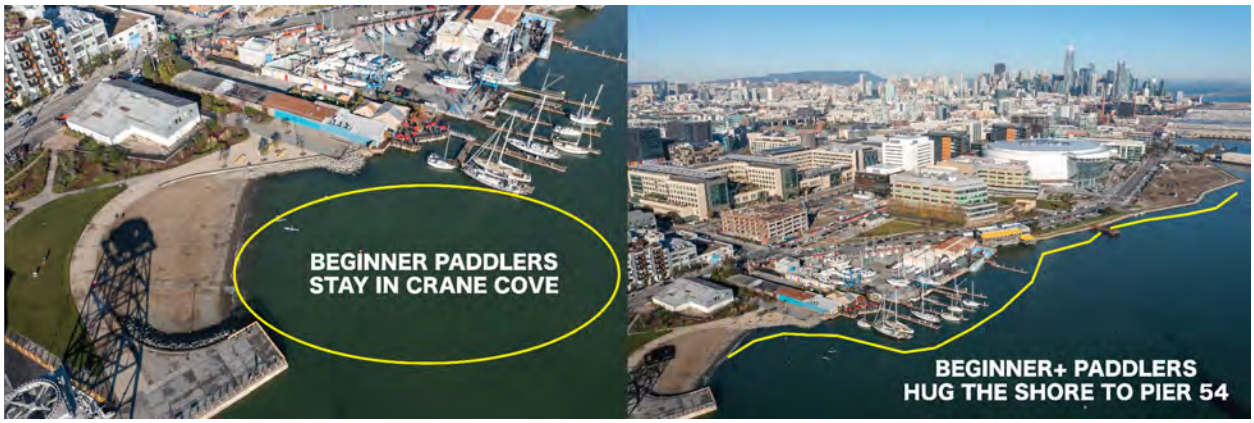
Services & Products

Within the framework of the facilities mentioned above, Dogpatch Paddle has developed a robust operations plan for each of our business segments. These plans reflect two seasons of on-site experience.

Rentals & Memberships

- All rentals are booked online, whether with advanced reservations or walk-in. No cash is accepted on-site and liabilities waivers are automatically signed before any transaction is completed.
- The standard rental is 2 hours. We also offer 1, 3, 4 hour options, and full day rentals.
- First-time paddle boarders and kayaks are not allowed to rent without an experienced paddle companion or participating in a lesson.
- Check-in occurs at the check-in desk located on the outside of the rental shack with our shop staff.
- Clients can enter the rental shack to change their clothes and store personal belongings in our lockers.
- All clients are given life-vests and accessories.
- All clients must listen to a safety briefing every time they rent, which includes:
    - Explanation of current conditions and tidal flow
    - Detailed route explanation.
    - Safe use of the watercraft
    - Instructions of where to paddle and where to avoid hazards
    - Visual representations are posted in multiple locations (see attached maps and rules below).
    - Note on the map safety markings including strong tide areas and red “off limits” blocks like the Dry Dock.
- Clients will obtain and return their board or kayak either from the rental shack or at the staging area on the beach depending on the daily operations plan.
- Equipment will be washed off by our staff in the rental shack and returned to the racks



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GENERAL SAFETY RULES

- Stay within 30 ft of the shoreline or a pier.
- NEVER paddle into open water.
- Use the shoreline and piers as shadows from wind and current.
- Always aim your nose to the middle of a pier - never aim past the end of a pier.
- Stop at edge every pier to observe the conditions before continuing beyond.
- Don't cross an open bay or cove unless you are certain the water is calm.
- Always plan your paddle to have the current at your back on your return.
- If it's windy, consider another day. If you do go, do not go far from Crane Cove.
- When paddling in wind, point your nose into the wind to avoid getting blown side to side.

Lessons, Tours, Classes

The operations plan for lessons tours and classes is exactly the same as for rentals and memberships with the following additions:

- Lessons, Tours, and Classes are met by their instructors after check in with the staff.
- The first 15-30 minutes of any lesson will occur on the beach or grass before entering the water. Lessons will spend more time in the cove than other services.
- All lessons, tours, and classes are accompanied by an instructor.
    - For beginner paddle boarding, the ratio is 1:5
    - For intermediate+ paddle boarding and kayaking, the ratio is 1:8
    - For advanced paddlers, the ratio is 1:10
- The standard lesson, tour, or class is 90 minutes long.

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Youth Programs

Youth camps occur during holiday breaks (thanksgiving, christmas, new years, spring break) summer, and are typically 5-day programs from M-F (with exceptions for shorter breaks). During our youth programs, which we have run successfully for two years, without incident, we utilize minimal space within the park, on the beach, and in the water. We operate in great harmony with any and all users of the park and are incredibly sensitive to the resources we occupy and the equitable enjoyment for all in the park, as evidenced by our spotless record, 100% 5* reviews, and standing in the community.

Below is the typical schedule for youth camp daily operations:

- 8:00am
    - Counselors set up camp (boards brought from indoor storage to staging area), check-in tent erected on porch.
- 8:45am
    - All-hands meeting under “Nick” Crane. Entire staff has a daily stand-up meeting.
- 9:00am
    - Parents drop off campers at the check-in tent. Parents are instructed to queue for drop off, turn around, no parking - or drop campers at the corner of 18th and Illinois for self check-in (we will have a counselor waiting there).
    - Campers go directly to the check-in tent.
    - Campers sent to pods with their counselor (of no more than 5 campers). Typically pods will spread out to some location in the park to play games, or talk with their campmates. The park benches, both grass areas, the beach, and the concrete sidewalks are all utilized to spread out and start the day.
    - Campers have “circle time” in their pods (games, stretching, check-in on today’s activities)
- 9:45-10:15am
    - Staggered launch from beach. Pods enter the water, 5 campers at-a-time, usually based upon skill (most advanced first).
    - 60-90 minute paddle. On Day 1 of camp, we teach new paddlers technique close to shore with tethers to keep them from drifting.
- 11:15-11:45am
    - Staggered return to the beach. Boards returned to the staging area.
    - Lunch is taken at pod locations or moved to picnic areas. If people are in the park, pods are moved to avoid.
    - Afternoon group activity. Typically the camp will move to the South lawn for a group game like capture-the-flag or a lecture. We also utilize the nearby basketball court and both lawns to create spacing and minimize impact.
- 12:45-1:15pm
    - Staggered launch from beach. Pods enter the water, 5 campers at-a-time, usually based upon skill (most advanced first).
    - 60-90 minute paddle. On Day 1 of camp, we teach new paddlers technique close to shore

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    - On windy days we may continue land games and avoid a second launch.
    - Often we will bring out our floating platforms for kids to participate in water-based games, races, or simply play in the cove.
- 2:30pm
    - Staggered return to the beach. Boards returned to the staging area. Equipment washed and returned to storage.
    - Campers return to the check-in tent and clean up for the day.
- 3:00pm
    - Parents pick up at handoff, same location as drop off.
    - Counselors break down camp and return everything to storage. Every day we patrol the beach and grass to make certain nothing was left behind or disturbed.
- 3:30pm
    - Post-camp staff meeting.

Private Events

Private events consist of corporate off-site, team building, or bonding events. Additionally, we host birthday parties, and other customized events for individuals, families, and community members. The standard private event is between 5 and 30 participants. We offer both paddle boarding and kayaking options or any combination of both.

Private events follow the same basic operation plans of our standard lessons, with the following additions:

- Typically private events will arrive in groups, so we have all of the equipment staged in advance.
- Private event participants must each complete a waiver in advance of the event.
- Catering may be coordinated for before or after the event through their own arrangements. We offer referrals to local vendors.
- Private event clients may request land games to supplement their on-water activities. We offer equipment for rent, including bocce, volleyball, spike ball, horseshoes, corn hole and other sports equipment.
- For all private events we are aware and sensitive to other users of the park. We typically will schedule these events in off-peak times to avoid congestion.
- No amplified music or obtrusive equipment is permitted.

Storage

Currently Dogpatch Paddle offers indoor storage in our 560 18th Street location. Clients pay a monthly fee and leave their equipment on the racks in our shop. Before anyone registers for storage they are briefed on general safety, as we have no control over their use of the waterfront, but we seek to ensure they are well-informed.

Storage clients must check-in and out with our staff before obtaining their equipment, which limits them to our operating hours and forces them to wait until a staff member is free. Many clients appreciate the while glove service, but there are those that seek a hands-off option.

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At Building 49 we seek to develop a self-serve storage facility, as mentioned above. The cost would be lower than indoor storage. Customers would have a code for entry and would be responsible for their own gear and ensuring that all of the equipment stored collectively is safe.

Retail Sales

The retail section of Dogpatch Paddle will be a flexible space with displays mostly on casters to allow for continual additions and revisions to the layout. Clients will enter from the retail entrance door, located on the porch that wraps around the southeast corner of Building 49.

The primary products that we currently offer and will continue to sell are:

- Paddle boards & Kayaks
- Accessories
- Apparel
- Sundry Items & Beach Supplies
- Snack Foods, Beverages, & Picnic Provisions

All items are available for purchase during business hours, which typically is 7 days a week, 9am - 5pm, but will adjust based upon volume and seasonality. We are flexible in the goods we carry and will offer any items that the community requests. We will work with our partners at Daily Driver to avoid any competition or overlap.

Additional Products & Services

Due to the nature of seasonality, it may be necessary to adopt other product lines and services for solvency. Any additional products or services will be developed with family-friendly, recreational focus, not to conflict with any terms set forth within the sublease or operations plan.

Environmental Considerations

Environmental Mission

Inherent in Dogpatch Paddle’s company mission is a commitment to sustainability and minimal environmental impact. We are committed to bringing awareness to every aspect of our business practice and reducing our impact on the environment.

Water Usage

We attempt to use minimal water in our daily business operations. The only time we utilize fresh water is at the end of the day to wash the salt water off our equipment. We never use chemicals or cleaning agents and would enjoy utilizing gray water created by the bioswales in the park whenever possible. Our water runoff can also return to the bioswales and gray water catchments with confidence there is no degradation to water purity other than salt and sand.

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Recycling and Compost

We implement best practices in our daily operations for recycling and composting waste materials to minimize our footprint on the environment.

Bay Ecosystem

As stewards of the waterfront, Dogpatch Paddle has led the initiative to keep the San Francisco Bay free of trash and debris. In our daily operations we have hauled countless items of plastic and other trash from the waters to appropriate trash and recycling receptacles. We also support Bay cleanup initiatives and will continue to encourage all paddlers to keep the Bay clean.

Safety Plan

Daily Practices

Every paddler that interacts with Dogpatch Paddle is given a detailed briefing on how to paddle safely on the potentially dangerous waters of the Bay

Communication

Our clients are recommended to bring their cell phone when on the water (waterproof pouches are provided at no charge). In the event of an emergency, clients can contact Dogpatch Paddle or the Coast Guard Directly (the coast guard will always prefer to speak with the client to discern their location and status).

Additionally, all of Dogpatch Paddle's staff of instructors and counselors are equipped with Relay satellite radios with GPS trackers to communicate with home base. There is never a time our staff are out of touch on and off the water.

Staffing Requirements

Every water-touching staff member of Dogpatch Paddle is required to have First Aid / CPR / AED certification. All managers are also required to have lifeguard certification. Every paddle instructor and counselor must complete a comprehensive training program before the start of a season and serve as an intern before guiding any group on the water.

Emergency Response

Despite our greatest efforts there are instances where paddlers do not adhere to the rules and guidelines we provide (if they did, there would be no incidents, as our procedures remove all potential risks and dangers). We acknowledge that people will occasionally disregard our efforts and our goal is to eliminate these situations by recognizing red flags and triggers in their interactions with our staff.

In the incredibly rare situations where paddlers find themselves unable to control their craft and subject to the conditions of wind and tide, we have established a relationship with the San

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Francisco Fire Department and the local US Coast Guard offices to provide support. Their rapid response is 100% effective in returning paddlers to safety.

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Daily Driver

Sub-Tenant

Daily Driver will sub-lease 455 square feet for the activities set out below.

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11.10.2022

Daily Driver began as a community-oriented destination serving organic wood-fired bagels, hand-batted organic butter & cream cheese, small batch house-roasted coffee and much more. We take pride in our craft and we're proud to serve our Dogpatch and greater Bay Area communities.

Each morning at Daily Driver really starts the evening before when we pre-heat our wood-fired ovens. Depending on the business of the day, we start baking anywhere between midnight and four a.m. for our wholesale clients.

By six or seven a.m. we transition to baking for our own retail locations. We currently operate Daily Driver on Third st. and Daily Driver Ferry Building on simultaneous schedules. Every day from eight a.m. to two p.m.

<u>Operational Plan for Daily Driver at Crane Cove:</u>

- **Initial hours of operation: 8am - 3pm Thursday through Sunday**
- Baking for Crane Cove will be concluded by 7:30 a.m. and delivered by 7:45 for 8 o'clock opening.
- 7:30 opening staff arrives and clocks in (2 ppl Thurs./Fri. 3 ppl Sat./Sun.)
- 7:30-8 - staff opens front door, turns on ovens and other heating equipment; pushes out retail counter and pos; brews coffee; organizes bagel delivery

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- 7:45 - 8am – open for general service (depending on delivery time); order at the counter only. We do plan to offer order ahead/pickup service but no third-party ordering platforms.

- 11am-12/12:30 pm – 30 min. breaks are conducted for each staff member

- 2 pm – cleaning and packing of ingredients begins. Empty trash bins, clean/sanitize work surfaces, etc.

- 2:30 pm – bagels go “on sale”; staff takes inventory and sends in order to HQ for next day’s delivery.

- 3 pm – shop closes for the day. Trash gets taken out; floors mopped; coffee carafes cleaned; bagels get bagged up for the following day to sell as “day old”. On Sundays, inventory will be packed up for Monday morning pickup.

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EXHIBIT H
Mitigation Monitoring and Reporting Program

[To Be Attached]

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MITIGATION MONITORING AND REPORTING PROGRAM
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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
MITIGATION MEASURES				
F. Noise				
Project Mitigation Measure 3: Construction Noise (Mitigation Measure F-1 in the Eastern Neighborhoods PEIR) For subsequent development projects within proximity to noise-sensitive uses that would include pile-driving, individual project sponsors shall ensure that piles be pre-drilled wherever feasible to reduce construction-related noise and vibration. No impact pile drivers shall be used unless absolutely necessary. Contractors would be required to use pile-driving equipment with state-of-the-art noise shielding and muffling devices. To reduce noise and vibration impacts, sonic or vibratory sheetpile drivers, rather than impact drivers, shall be used wherever sheetpiles are needed. Individual project sponsors shall also require that contractors schedule pile-driving activity for times of the day that would minimize disturbance to neighbors.	Project Sponsor along with Project Contractor of each subsequent development project undertaken pursuant to the Eastern Neighborhoods Rezoning and Area Plans Project.	During construction	Each Project Sponsor to provide Planning Department with monthly reports during construction period.	Considered complete upon receipt of final monitoring report at completion of construction.
Project Mitigation Measure 4: Construction Noise (Mitigation Measure F-2 in the Eastern Neighborhoods PEIR) Where environmental review of a development project undertaken subsequent to the adoption of the proposed zoning controls determines that construction noise controls are necessary due to the nature of planned construction practices and the sensitivity of proximate uses, the Planning Director shall require that the sponsors of the subsequent development project develop a set of site-specific noise attenuation measures under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted to the Department of Building Inspection to ensure that maximum feasible noise attenuation will be achieved. These attenuation measures shall include as many of the following control strategies as feasible: • Erect temporary plywood noise barriers around a construction site, particularly where a site adjoins noise-sensitive uses; • Utilize noise control blankets on a building structure as the building is erected to reduce noise emission from the site; • Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings housing	Project Sponsor along with Project Contractor of each subsequent development project undertaken pursuant to the Eastern Neighborhoods Rezoning and Area Plans Project.	During construction	Each Project Sponsor to provide Planning Department with monthly reports during construction period.	Considered complete upon receipt of final monitoring report at completion of construction.

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sensitive uses; • Monitor the effectiveness of noise attenuation measures by taking noise measurements; and • Post signs on-site pertaining to permitted construction days and hours and complaint procedures and who to notify in the event of a problem, with telephone numbers listed.				
J. Archeological Resources				
Project Mitigation Measure 1: Archeological Monitoring (Mitigation Measure J-2 in the Eastern Neighborhoods PEIR) Based on the reasonable potential that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of a qualified archeological consultant having expertise in California prehistoric and urban historical archeology. The archeological consultant shall undertake an archeological monitoring program. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of *construction* can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less than significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a)(c).	The Project Sponsor	Prior to issuance of grading or building permits	Project Sponsor shall retain archaeological consultant to undertake archaeological monitoring program in consultation with ERO.	Complete when Project Sponsor retains qualified archaeological consultant.
Archeological monitoring program (AMP). The archeological monitoring program shall minimally include the following provisions: ▪ The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the project archeologist shall determine what project activities shall be archeologically monitored. In most cases, any soils disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the potential risk these activities	The Project Sponsor and archaeological consultant	Prior to any soils disturbance	Consultation with ERO on scope of AMP	After consultation with and approval by ERO of AMP.

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pose to archaeological resources and to their depositional context; ▪ The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource; ▪ The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the archeological consultant, determined that project construction activities could have no effects on significant archeological deposits; ▪ The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis				
If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction crews and heavy equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, present the findings of this assessment to the ERO.	The archaeological consultant, Project Sponsor and project contractor.	Monitoring of soils disturbing activities.	Archaeological consultant to monitor soils disturbing activities specified in AMP and immediately notify the ERO of any encountered archaeological resource.	Considered complete upon completion of AMP.
If the ERO in consultation with the archeological consultant determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either: A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or B) An archeological data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.	ERO, archaeological consultant, and Project Sponsor.	Following discovery of significant archaeological resource that could be adversely affected by project.	Redesign of project to avoid adverse effect or undertaking of archaeological data recovery program.	Considered complete upon avoidance of adverse effect

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If an archeological data recovery program is required by the ERO, the archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The project archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP. The archeological consultant shall prepare a draft ADRP that shall be submitted to the ERO for review and approval. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical. The scope of the ADRP shall include the following elements ▪ Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations. ▪ Cataloguing and Laboratory Analysis. Description of selected cataloguing system and artifact analysis procedures. ▪ Discard and Deaccession Policy. Description of and rationale for field and post-field discard and deaccession policies. ▪ Interpretive Program. Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program. ▪ Security Measures. Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities. ▪ Final Report. Description of proposed report format and distribution of results. ▪ Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.	Archaeological consultant in consultation with ERO	After determination by ERO that an archaeological data recovery program is required	Archaeological consultant to prepare an ADRP in consultation with ERO	Considered complete upon approval of ADRP by ERO.

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Human Remains, Associated or Unassociated Funerary Objects. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity activity shall comply with applicable State and Federal Laws, including immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, ERO, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines. Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects.	Archaeological consultant or medical examiner	Discovery of human remains	Notification of County/City Coroner and, as warranted, notification of NAHC.	Considered complete on finding by ERO that all State laws regarding human remains/burial objects have been adhered to, consultation with MLD is completed as warranted, and that sufficient opportunity has been provided to the archaeological consultant for scientific/historical analysis of remains/funerary objects.
Final Archeological Resources Report. The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the draft final report.	Archaeological consultant	Following completion of cataloguing, analysis, and interpretation of recovered archaeological data.	Preparation of FARR	FARR is complete on review and approval of ERO
L. Hazardous Materials				
Project Mitigation Measure 5: Hazardous Building Materials (Mitigation Measure L-1 in the Eastern Neighborhoods PEIR) The City shall condition future development approvals to require that the subsequent project sponsors ensure that any equipment containing PCBs or DEPH, such as fluorescent light ballasts, are removed and properly disposed of according to applicable federal, state, and local laws prior to the start of renovation, and that any fluorescent light tubes, which could contain mercury, are similarly removed and properly disposed of. Any other hazardous materials identified, either before or during work, shall be abated according to applicable federal, state, and local laws.	Project Sponsor/project archeologist of each subsequent development project undertaken pursuant to the Eastern Neighborhoods Areas Plans and Rezoning	Prior to approval of each subsequent project, through Mitigation Plan.	Planning Department, in consultation with DPH; where Site Mitigation Plan is required, Project Sponsor or contractor shall submit a monitoring report to DPH, with a copy to Planning Department and DBI, at end of construction.	Considered complete upon approval of each subsequent project.

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E. Transportation				
Project Mitigation 2: Traffic Signal Installation (Mitigation Measure E-1 in the Eastern Neighborhoods PEIR) To mitigate the 2025 No Project traffic impacts, a To mitigate the significant cumulative traffic impact at the intersection of 20th and Illinois Streets, an upgraded traffic signal would need to be installed at this intersection. With this new signal, the average vehicle delay would decrease, and the intersection would operate at LOS F during the weekday PM peak hour and LOS D during the weekday MID peak hour. The LOS F condition is due to a number of proposed developments in the immediate vicinity of this intersection, most noticeably at Pier 70, that would contribute to growth in future traffic volumes and increased delays. Installation of a traffic signal at the intersection of 20th and Illinois Streets could be linked to these and other proposed development projects. The project sponsor shall pay their fair share contribution to mitigate the significant cumulative traffic impact at the intersection of 20th and Illinois Streets. The amount and schedule for payment of the proposed project's fair share contribution to the mitigation shall be determined by SFMTA.	San Francisco Municipal Transportation Agency (SFMTA); project sponsor; Port of San Francisco.	To be determined by SFMTA.	SFMTA; Port of San Francisco.	Upon Signalization.
IMPROVEMENT MEASURES				
Project Improvement Measure 1: Monitoring and Abatement of Queues It shall be the responsibility of the owner/operator of any off-street parking facility with more than 20 parking spaces (excluding loading and car-share spaces) to ensure that recurring vehicle queues do not occur on the public right-of-way. A vehicle queue is defined as one or more vehicles (destined to the parking facility) blocking any portion of any public street, alley or sidewalk for a consecutive period of three minutes or longer on a daily or weekly basis. If a recurring queue occurs, the owner/operator of the parking facility shall employ abatement methods as needed to abate the queue. Appropriate abatement methods will vary depending on the characteristics and causes of the recurring queue, as well as the characteristics of the parking facility, the street(s) to which the facility connects, and the associated land uses (if applicable). Suggested abatement methods include but are not limited to the following:	Project Sponsor; Owner or Operator of the parking facility	Ongoing during parking operations	Port of San Francisco	Ongoing during parking operations

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redesign of facility to improve vehicle circulation and/or on-site queue capacity; employment of parking attendants; installation of LOT FULL signs with active management by parking attendants; use of valet parking or other space-efficient parking techniques; use of off-site parking facilities or shared parking with nearby uses; use of parking occupancy sensors and signage directing drivers to available spaces; travel demand management strategies such as additional bicycle parking, customer shuttles, delivery services; and/or parking demand management strategies such as parking time limits, paid parking, time-of-day parking surcharge, or validated parking. If the Planning Director, or his or her designee, suspects that a recurring queue is present, the Department shall notify the property owner in writing. Upon request, the owner/operator shall hire a qualified transportation consultant to evaluate the conditions at the site for no less than seven days. The consultant shall prepare a monitoring report to be submitted to the Department for review. If the Department determines that a recurring queue does exist, the facility owner/operator shall have 90 days from the date of the written determination to abate the queue.				
Project Improvement Measure 2: Installation of Traffic Calming Devices at Parking Lot Exiting Lane It shall be the responsibility of the owner/operator to install appropriate traffic calming devices (e.g., speed bump, rumble strips, “slow speed” signage, etc.) at the exiting travel lane along the garage driveway to reduce vehicle speeds of exiting vehicles traveling out of the parking lot and to further reduce and/or eliminate potential vehicle-pedestrian conflicts.	Project sponsor; Owner or Operator of the parking facility	Design measures to be incorporated into project design; prior to issuance of a building permit.	Port of San Francisco: Planning Department; Department of Public Works (DPW); SFMTA	Considered complete upon installation and implementation of traffic calming features
Project Improvement Measure 3: Convert On-Street Parking Spaces and Install Freight/Delivery Loading Zone along Illinois Street To reduce the potential for parking of freight/delivery vehicles within the travel lane adjacent to the curb lane on Illinois or 19th Street (in the event that the on-street parking spaces are occupied), the Project Sponsor shall seek approval from the SFMTA to convert two (2) regular, on-street parking spaces to yellow-striped loading parking spaces. The location of these two spaces shall be located along the east side of Illinois Street, adjacent to the project site.	Project sponsor.	Loading zone to be incorporated into project design; prior to issuance of a building permit.	Port of San Francisco: Planning Department; Department of Public Works (DPW); SFMTA	Considered complete upon installation and implementation of loading zone

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Project Improvement Measure 4: Coordination of Freight/Loading Activities for Park and Park Related Retail To reduce the potential for parking of delivery vehicles within the travel lane adjacent to the curb lane on Illinois or 19th Street or during peak commute periods (between 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m.), freight/loading activities shall be scheduled and coordinated through Port of San Francisco staff and shall be restricted to occur between the hours of 9:00 a.m. and 4:00 p.m., and no deliveries shall occur between 7:00 a.m. and 9:00 a.m. or between 4:00 p.m. and 6:00 p.m. The Project Sponsor shall enforce strict truck size regulations for use of the on-street loading spaces in the proposed freight/delivery loading area. Truck lengths exceeding 40 feet shall be prohibited from entering the loading zone and shall utilize other on-street parking spaces, if available. The Project Sponsor shall notify Port of San Francisco staff, and café tenants of imposed truck size limits in the proposed freight loading area. In the event freight/delivery vehicles exceed the 40-foot length and are in need to occupy the recommended the on-street loading space (see improvement measure above), appropriate traffic control measures shall be enforced to avoid and/or eliminate any conflicts with moving vehicles or other users along Illinois Street or sidewalk areas adjacent to the project site. Such measures shall include but not limited flaggers, cones, and signage to notify drivers and others of freight/delivery activities	Project sponsor; building tenant(s)	Ongoing during building operations for oversized delivery vehicles or during higher volumes of pedestrian or bicycle activity in the project area.	Port of San Francisco.	Ongoing during building operations.
Project Improvement Measure 5: Construction Truck Deliveries During Off-Peak Periods Any construction traffic occurring between 7:00 a.m. and 9:00 a.m. or between 3:30 p.m. and 6:00 p.m. would coincide with peak hour traffic and could temporarily impede traffic and transit flow, although it would not be considered a significant impact. Limiting truck movements to the hours between 9:00 a.m. and 3:30 p.m. (or other times, if approved by SFMTA) would further minimize disruption of the general traffic flow on adjacent streets during the a.m. and p.m. peak periods. As required, the Project Sponsor and construction contractor(s) shall meet with the Sustainable Streets Division of the SFMTA, the Fire Department, Muni, and the Planning Department to determine feasible measures to reduce traffic congestion, including potential transit disruption, and pedestrian circulation impacts during construction of the project. To minimize	Project sponsor; Project contractor(s)	Prior to construction activity.	Port of San Francisco	Upon completion of project construction

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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
cumulative traffic impacts due to project construction, the Project Sponsor shall coordinate with construction contractors for any concurrent nearby projects that are planned for construction or which later become known.				
Project Improvement Measure 6: Construction Management Plan In addition to items required in the Construction Management Plan, the project sponsor shall include the following: • Carpool and Transit Access for Construction Workers – As an improvement measure to minimize parking demand and vehicle trips associated with construction workers, the construction contractor shall include methods to encourage carpooling and transit use to the project site by construction workers in the Construction Management Plan contracts. • Project Construction Updates – As an improvement measure to minimize construction impacts on nearby businesses, the project sponsor shall provide regularly-updated information (typically in the form of website, news articles, on-site posting, etc.) regarding project construction and schedule, as well as contact information for specific construction inquiries or concerns.	Project sponsor; Project contractor(s)	Prior to construction activity.	Port of San Francisco	Upon completion of project construction

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EXHIBIT I

SUMMARY OF SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

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EXHIBIT J
TENANT ESTOPPEL CERTIFICATE

The undersigned, _____, is the tenant of a portion of the real property commonly known as [Insert Premises Address] located in San Francisco, California (the "**Property**"), and hereby certifies to **THE CITY AND COUNTY OF SAN FRANCISCO THROUGH THE SAN FRANCISCO PORT COMMISSION** ("**Port**") [and to _____ ("**Developer/Lender**")] the following:

1. That there is presently in full force and effect a lease (as modified, assigned, supplemented and/or amended as set forth in paragraph 2 below, the "Lease") dated as of _____, 20__, between the undersigned and Port, covering approximately _____ square feet of the Property (the "**Premises**").

2. That the Lease has not been modified, assigned, supplemented or amended except by:

3. That the Lease represents the entire agreement between Port and the undersigned with respect to the Premises.

4. That the commencement date under the Lease was _____, 20__, the expiration date of said Lease is _____, 20___.

5. That the present minimum monthly Base Rent which the undersigned is paying under the Lease is $_____.

6. The security deposit held by Port under the terms of the Lease is $_____ and Port holds no other deposit from Tenant for security or otherwise.

7. That the undersigned has accepted possession of the Premises and that, to the best of the undersigned's knowledge, any improvements required to be made by Port to the Premises by the terms of the Lease and all other conditions of the Lease to be satisfied by Port have been completed or satisfied to the satisfaction of the undersigned.

8. That, to the best of the undersigned's knowledge, the undersigned, as of the date set forth below, has no right or claim of deduction, charge, lien or offset against Port under the Lease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Lease.

9. That, to the best of the undersigned's knowledge, Port is not in default or breach of the Lease, nor has Port committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Lease by Port.

10. That, to the best of the undersigned's knowledge, the undersigned is not in default or in breach of the Lease, nor has the undersigned committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Lease by the undersigned.

11. The undersigned is not the subject of any pending bankruptcy, insolvency, debtor's relief, reorganization, receivership, or similar proceedings, nor the subject of a ruling with respect to any of the foregoing.

This Certificate shall be binding upon and inure to the benefit of the undersigned, Port, [Developer/Lender] and [its/their respective] successors and assigns.

Dated: _____, 20___.

[Name of Tenant]

By:

Name:

Title:

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EXHIBIT K
LOCAL HIRING PLAN

[To Be Attached]

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SAN FRANCISCO
Office of Economic and Workforce Development

City and County of San Francisco :: Edwin M. Lee, Mayor
Economic and Workforce Development :: Todd Rufo, Director

San Francisco Local Hiring Policy for Construction Fact Sheet

Overview

- Applies to contracts for public work or improvement projects in excess of $600,000.
- The mandatory participation level is 30% of all project hours within each trade to be performed by local residents.
- At least 50% of the project work hours performed by apprentices within each trade shall be performed by local residents.
- A local resident is defined as an individual who is domiciled within the City and County of San Francisco at least 7 days prior to commencing work on the project. An individual may have only one domicile, which is their principal residence and where they intend to return when they are absent.

Guidelines

- **Form 1: Local Hiring Workforce Projection.** Must be submitted to CityBuild through the Elation Systems. Contractors are required to identify trades, contractors and estimated total and local work hours to be utilized on the project.
- **Form 2: Local Hiring Plan.** Must be submitted to and approved by CityBuild through the Elation Systems for project with engineer estimates in excess of $1,000,000. Contractors are required to identify trades, contractors, total and local journey and apprentice work hours to be utilized on the project.
- **Elation Systems:** All contractors will be required to submit certified payroll for all workers through the Elation Systems. An Elation account is required to access the system.

Penalties

- The ordinance establishes various consequences of non-compliance with the policy, including the authority of assessment of penalties against contractors that do not meet the local hiring requirements.
- The penalty for failing to meet the local hiring requirement shall be the amount equal to the journeyman or apprentice prevailing wage rate for the primary trade used by the contractor for each hour the contractor fell short.
- Contractors may request a conditional waiver from local hiring requirements on a project-specific basis for “specialized trades,” by receiving credit for local hiring on non-covered projects, or sponsoring new apprentices.

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SAN FRANCISCO
Office of Economic and Workforce Development

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT
CITYBUILD PROGRAM

LOCAL HIRING PROGRAM
OEWD FORM 1
CONSTRUCTION CONTRACTS

FORM 1: LOCAL HIRING WORKFORCE PROJECTION

Contractor: _____ **Project Name:** _____ **Contract #:** _____

The Contractor must complete and submit this *Local Hiring Workforce Projection* (Form 1) within 15 calendar days from notice award of the contract. The Contractor must include information regarding all of its Subcontractors who will perform construction work on the project regardless of Tier and Value Amount. Notice to Proceed (NTP) will not be issued until the City receives a completed Form 1 from Contractor. The Contractor shall be responsible for any delays to NTP and resulting damages incurred by the City caused by Contractor's failure to submit an accurate and complete Form 1 for its workforce and the workforce of its Subcontractors in a timely manner.

Will you and your Subcontractors be able to meet the mandatory Local Hiring Requirements?

☐ **YES** (***Please provide information for all contractors performing construction work in Table 1 below.***)

☐ **NO** (***Please complete Table 1 below and Form 4: Conditional Waivers.***)

INSTRUCTIONS FOR COMPLETING TABLE 1:

1. Please organize the contractors' information based on their Trade Craft work.
2. For contractors performing work in various Trade Craft, please list contractor name in each Trade Craft (*i.e. if Contractor X will perform two trades, list Contractor X under two Trade categories*.)
3. If you anticipate utilizing apprentices on this project, please note the requirement that 50% of apprentice hours must be performed by San Francisco residents.
4. Additional blank form is available at our Website: www.oewd.org. For assistance or questions in completing this form, contact the CityBuild (415) 581-2363 or Email @ Local.hire.ordinance@sfgov.org.

TABLE 1: WORKFORCE PROJECTION

Trade Craft	Contractor *List contractors by Trade Craft*		Est. Total Work Hours	Est. Total Local Work Hours	Est. Total Local Work Hours %
Example: *Laborer*	*Contractor X*	***Journey***	800	100	12.5%
		Apprentice	200	100	50%
Example: *Laborer*	*Contractor Y*	***Journey***	500	100	20%
		Apprentice	0	0	0
Example:	**TOTAL LABORER**	***Journey***	1300	200	**15%**
		Apprentice	200	100	**50%**
Example:		**TOTAL**	**1500**	**300**	**20%**
		Journey			
		Apprentice			
		Journey			
		Apprentice			
		Journey			
		Apprentice			

DISCLAIMER: *If the Total Work Hours for a Trade Craft are less than 5% of the Total Project Work Hours, the Trade Craft is exempt from the Mandatory Requirement. Subsequently, if the Trade Craft exceeds 5% of the Total Project Work Hours at any time during the project, the Trade Craft is subject to the Mandatory Requirement.*

Name of Authorized Representative	Signature	Date	Phone	Email

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FORM 2: LOCAL HIRING PLAN

Contractor: _____ **Project Name:** _____ **Contract #:** _____

If the Engineer's Estimate for this Project exceeds **$1 million**, then Contractor must submit a *Local Hiring Plan* using this Form 2 through the City's Project Reporting System. NTP will not be issued until Contractor submits a completed Form 2. Contractor shall be responsible for any delays to NTP and resulting damages incurred by the City caused by the Contractor's failure to submit a completed Form 2 in a timely manner. The Local Hiring Plan must be approved in writing by OEWD before any Application for Payment can be approved and progress payment paid to Contractor. The OEWD-approved Local Hiring Plan will be a Contract Document and will be the basis for determining Contractor's and its Subcontractors' compliance with the local hiring requirements. Any OEWD-approved *Conditional Waivers* (Form 4) will be incorporated into the OEWD-approved Local Hiring Plan.

COMPLETE AND SUBMIT A SEPARATE FORM 2 FOR EACH TRADE THAT WILL BE UTILIZED ON THIS PROJECT.

INSTRUCTIONS:

1. Please complete tables below for Contractor and all Subcontractors that will be contributing Project Work Hours to meet the Local Hiring Requirement.
2. Please note that a Form 2 will need to be developed and approved separately for each trade craft that will be utilized on this project.
3. If you anticipate utilizing apprentices on this project, please note the requirement that 50% of apprentice hours must be performed by San Francisco residents.
4. The Contractor and each Subcontractor identified in the Local Hiring Plan must sign this form before it will be considered for approval by OEWD.
5. If applicable, please attach all OEWD-approved Form 4 Conditional Waivers.
6. Additional blank form is available at our Website: www.oewd.org. For assistance or questions in completing this form, contact the CityBuild (415) 581-2363 or Email @ Local.hire.ordinance@sfgov.org.

List Trade Craft. Add numerical values from Form 1: Local Hiring Workforce Projection and input in the table below.

Trade Craft	Total Work Hours	Total Local Work Hours	Local Work Hours%	Total Apprentice Work Hours	Total Local Apprentice Work Hours	Local Apprentice Work Hours %
Example: *Laborer*	*1500*	*300*	*20%*	*200*	100	50%

List all contractors contributing to the project work hours to meet the Local Hiring Requirements for the above Trade Craft

Contractor and Authorized Representative	Local Journey Hours	Local Apprentice Hours	Total Local Work Hours	Start Date	Number of Working Days	*Contractor Signature
Contractor X Joe Smith	100	100	200	3/25/11	60	*Joe Smith*
Contractor Y Michael Lee	100	0	100	5/25/11	30	*Michael Lee*

****We the undersigned, have reviewed Form 2 and agree to deliver the hours set forth in this document.***

City Use Only	
OEWD Approval	☐ Yes ☐ No
Signature and Date:	

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SAN FRANCISCO
Office of Economic and Workforce Development

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT
CITYBUILD PROGRAM

LOCAL HIRING PROGRAM

FORM 3: CITYBUILD JOB NOTICE FORM

INSTRUCTIONS: To meet the requirements of the First Source Hiring Program (San Francisco Administrative Code Chapter 83), the Contractor shall notify CityBuild, the First Source Hiring Administrator, of all new hiring opportunities with a minimum of 3 business days prior to the start date.

1. Complete the form and fax to CityBuild 415-701-4896 or EMAIL: workforce.development@sfgov.org

2. Contact Main Line at (415) 701-4848 or cell: --- email: local.hire.ordinance@sfgov.org

   OR call the main line of the Office of Economic and Workforce Development (OEWD) at 415-701-4848 to confirm receipt of fax or email.

ATTENTION: *Please also submit this form to your union or hiring hall if you are required to do so under your collective bargaining agreement or contract. CityBuild is not a Dispatching Hall, nor does this form act as a Request for Dispatch. All formal Requests for Dispatch will be conducted through your union or hiring hall.*

Section A. Job Notice Information

Trade _____ # of Journeymen _____ # of Apprentices _____

Start Date _____ Start Time _____ Job Duration _____

Brief description of your scope of work: _____

Section B. Union Information *(Union contractors complete Section B. Otherwise, leave Section B blank)*

Local # _____ Union Contact Name _____ Union Phone # _____

Section C. Contractor Information

Project Name: _____

Jobsite Location: _____

Contractor: _____ Prime ☐ Sub ☐

Contractor Address: _____

Contact Name: _____ Title: _____

Office Phone: _____ Cell Phone: _____ Email: _____

Alt. Contact: _____ Phone #: _____

Contractor Contact Signature _____ Date _____

OEWD USE ONLY *Able to Fill* Yes ☐ No ☐

SAN FRANCISCO
Office of Economic and Workforce Development

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT
CITYBUILD PROGRAM

LOCAL HIRING PROGRAM
OEWD FORM 4
CONSTRUCTION CONTRACTS

FORM 4: CONDITIONAL WAIVERS

Contractor: _____ **Project Name:** _____ **Contract #:** _____

Upon approval from OEWD, Contractors and Subcontractors may use one or more of the following pipeline and retention compliance mechanisms to receive a Conditional Waiver from the Local Hiring Requirements on a project-specific basis. Conditional Waivers must be approved by OEWD prior to approval of Contractor's first Application for Payment. If applicable, each contractor must submit their individual Waiver request to OEWD and copy their Prime Contractor.

TRADE WAIVER INFORMATION: Please provide information on the Trades you are requesting Waivers for:

Laborer Trade Craft	Est. Total Work Hours	Projected Deficient Local Work Hours	Laborer Trade Craft	Est. Total Work Hours	Projected Deficient Local Work Hours
1.			3.		
2.			4.		

Please check any of the following Conditional Waivers and complete the appropriate boxes for approval:

☐ **1. SPECIALIZED TRADES** ☐ **2. SPONSORING APPRENTICES** ☐ **3. CREDIT FOR NON-COVERED PROJECTS**

1. SPECIALIZED TRADES: Will your firm be requesting Conditional Waivers for "Specialized Trades" designated by OEWD and listed on OEWD's website or project-specific Specialized Trades approved by OEWD during the bid period? ☐ Yes ☐ No

Please CHECK off the following Specialized Trades you are claiming for Condition Waiver:

☐ MARINE PILE DRIVER ☐ HELICOPTER, CRANE, OR DERRICK BARGE OPERATOR ☐ IRONWORKER CONNECTOR
☐ STAINLESS STEEL WELDER ☐ TUNNEL OPERATING ENGINEER ☐ ELECTRICAL UTILITY LINEMAN ☐ MILLWRIGHT
☐ TRADE CRAFT IS LESS THAN 5% OF TOTAL WORK HOURS. ***LIST:***

a. List OEWD-approved project-specific Specialized Trades approved during the bid period:

OEWD APPROVAL: ☐ **Yes** ☐ **No** **OEWD Signature:**

2. SPONSORING APPRENTICES: Will you be able to work with OEWD to sponsor an OEWD-specified number of new apprentices in the agreeable trades into California Department of Industrial Relations' Division of Apprenticeship Standards approved apprenticeship programs? ☐ Yes ☐ No

PLEASE PROVIDE DETAILS:

Construction Trade	Est. # of Sponsor Positions	Union (Yes / No)	If Yes, Local #	Est. Start Date	Est Duration of Working Days	Est Total Work Hours Performed
		Y ☐ N ☐				
		Y ☐ N ☐				

OEWD APPROVAL: ☐ **Yes** ☐ **No** **OEWD Signature:**

3. CREDIT for HIRING on NON-COVERED PROJECTS: If your firm cannot meet the mandatory local hiring requirement, will you be requesting credit for hiring Targeted Workers on Non-covered Projects? ☐ Yes ☐ No

PLEASE PROVIDE DETAILS:

Labor Trade, Position, or Title		Est. # of Off-site Hires	Est Total Work Hours Performed	Offsite Project Name	Project Address
	Journey				
	Apprentice				

OEWD APPROVAL: ☐ **Yes** ☐ **No** **OEWD Signature:**

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FORM 4: CONDITIONAL WAIVERS

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EXHIBIT L
DIVERSITY, EQUITY & INCLUSION PLAN

[To Be Attached]

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Exhibit L – YMCA of San Francisco DEI Plan

Mission and Vision: The mission of the YMCA of San Francisco ("the Y") is to build healthy, equitable and sustainable communities for all generations. We are guided by our vision of building strong communities, where you can be, belong, and become.

In fulfilling our mission and vision, the Y aims to:

- Champion an accessible, connected, resilient, and just Bay Area
- Enhance individual, staff, family and community health and well-being
- Open pathways to social and economic mobility
- Expand opportunities at all ages and life stages
- Advance a safe, collaborative, and sustainable future

Our Cause to Advance Equity for All: The Y is made up of people from all walks of life working side by side to strengthen communities. Through a focus on youth development, healthy living and social responsibility, the Y is committed to advancing equity for all so that everyone—regardless of who they are or where they come from—has an opportunity to reach their full potential and live life to its fullest.

Operationalizing DEI/EAR: The Y has prioritized Diversity, Equity and Inclusion ("DEI") consistently for over a decade. Through engagement of a consultant in late 2020, the Y has developed – together with its board and community – an Equity and Anti-Racism ("EAR") Strategy with eight areas of focus: 1) Organizational Strategy & Impact Measurement; 2) Board Engagement, Development & Governance; 3) HR/Employee Engagement, Supervision & Development; 4) Financial Strategy, Budgeting and Management; 5) Fund Development and Fundraising; 6) Communications, Marketing and Branding; 7) Facilities, Technology and Operations; 8) Programs, Services, and Community Engagement. This EAR Strategy is a foundation of our '2030 Vision' strategic and operational plan, which will be implemented beginning in January 2023 across all areas of the Ys programs, services and operations. The Y's DEI/EAR work is guided by a standing committee of the Y's board and a dedicated and cross-hierarchical staff team. The Y also is a member of the YMCA of the USA DIG (diversity, inclusion and global) Innovation Network, a group of Ys from across the United States committed to pioneering DEI, innovation and global engagement best practices.

Hiring Practices: Y staff and volunteers thrive in a culturally diverse and vibrant work community. The Y values all individuals and families and is inclusive and welcoming to all races, religions, ethnicities, abilities, sexual orientations, gender identities or gender expressions. Many of our staff and volunteers are members of the communities we serve and are integral to ensuring that the Y remains a vital resource to our diverse members.

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Equal Employment Opportunity- The Y is an equal opportunity employer. It is Y policy that applicants will be selected for employment solely on the basis of their qualifications for a given position and without regard to race, color, ancestry, religious creed, national origin, gender, sexual orientation, gender identity and gender expression (including transgender individuals who are transitioning, have transitioned, or are perceived to be transitioning to the gender with which they identify), sex, pregnancy, childbirth and related medical conditions, marital status, domestic partnership status, veteran status, age (40 and above), physical disability (including HIV/AIDS), mental disability, medical condition, genetic characteristics, information or testing or any other consideration made unlawful by federal, state or local laws. The Y also does not discriminate based on the perception that a person has any of these characteristics. We comply with the Genetic Information Nondiscrimination Act (GINA).

To comply with applicable laws ensuring equal employment opportunities to a qualified individual with a disability, the Y will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee, unless undue hardship and/or a direct threat to the health and/or safety of the individual or others would result.

Membership for All: Y membership is open to all, regardless of ability to pay, due to a sliding scale of membership fees.

With 14 branches in San Francisco, Marin, and San Mateo counties, as well as more than a hundred program sites in these three counties, the Y looks to attract a diversity of citywide and regional users. Our "membership for all" model allows access to all Y facilities, regardless of the 'home branch'. Crane Cove members therefore will have access to a myriad of health and wellness opportunities in all our Y facilities, including six pools. In addition, because of the Nationwide Membership program, members may visit any participating YMCA in the United States and Puerto Rico, at no additional cost.

Diverse Uses and People: The Y serves over 30,000 households each year through our wellness offerings. Thirty-five percent of our members receive financial assistance or subsidy for their gym membership. The Y partners with corporations, government agencies, and health providers to ensure that everyone can meet their wellness goals. The YMCA is committed to providing access to critical health and wellness programs for all.

The Y's programming reflects the needs of our communities. This is a fundamental precept of our organization. In addition to traditional gym offerings, the Y provides workshops, behavioral coaching, and other health-based programs to ensure members meet their wellness goals. Most of these programs are free to members. The Y also leverages its reach through free services such as Diabetes Prevention classes, walking groups, and Zumba classes, as well as active older adult wellness classes.

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The Y's Wellness Center at Building 49 is expected to be an anchor for youth and community programming. Young people from across the City will have the opportunity to recreate on the waterfront, while also being immersed in a creative and responsible environmental education curriculum.

With Building 49, we see an opportunity to build on our mission to provide equitable water safety training by furthering our reach into water sports through a subtenant relationship with Dogpatch Paddle. Crane Cove is the perfect water safety training venue for water sports such as stand-up paddle boarding and kayaking, yet without the support of organizations like the Y, we are unlikely to see people of color participating in these sports. The Y's participation will create a more inclusive environment and broader representation. By taking the broad view of water safety education related to other water sports participation, our combination can introduce these exciting activities to a much wider audience.

Maritime: By having our subtenant Dogpatch Paddle operating as a water sports provider from Building 49, we are opening new opportunities for water sports access to under-resourced communities as well as providing a diverse complement of fitness and recreation activities for a holistic offering on and off the water. Adding human-powered watercraft along the waterfront has brought new life to the Bay. Since Crane Cove Park opened, Dogpatch Paddle has become the de-facto water sports operator for a community seeking safe and healthy outdoor activities. By leveraging the reach of the Y with the on-water resources of Dogpatch Paddle, we will facilitate opportunities for under-resourced communities to enjoy Crane Cove Park and the Southern/Central Waterfront, from the water.

Parks and Open Space: Our contribution to Crane Cove Park will activate and enliven the experience of visitors, completing the original vision of the Port. The programming available from our combination with subtenants providing services, including concessions and fitness, is poised to bring community benefits to life on the Cove.

Because of the size and presence of Building 49 in Crane Cove Park, we believe it will be beneficial to utilize its prominence for educational purposes regarding history, marine biology, and the human impact on climate. These elements will be factored into our core design principles and will be a consistent thread throughout the publicly accessible areas of the site that are within our service area. Specifically:

1. Placards and Kiosks: Consistent with the Port's efforts in Crane Cove Park we will continue to offer educational materials at the site. In addition to the placards that exist on the south exterior, we will add further displays around the perimeter of the building, including the entryways, that will prominently feature the crane gantry.

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2. Interactive exhibits: Reminiscent of the Exploratorium, we intend to create some simple, low-maintenance, self-sustaining outdoor exhibits to illustrate environmental concepts related to use and enjoyment of the Bay through water sports.

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SCHEDULE 1

FEMA-National Flood Insurance Program Disclosure Notice

As part of the National Flood Insurance Program ("NFIP"), Federal Emergency Management Agency ("FEMA") issued the final flood insurance rate maps ("FIRMs") for City and County of San Francisco on September 23rd, 2020, concluding a process that had been going on for more than a decade. This is the first time FEMA mapped flood risks for the City and County of San Francisco. FIRMs were later adopted by the Board of Supervisors through Ordinance 226-20 ("Floodplain Management Program Ordinance") and became effective on March 23, 2021.

Based on detailed studies of coastal flood hazards associated with San Francisco Bay and the Pacific Ocean, the final FIRMs designate portions of the City and County of San Francisco ("City"), including portions of the waterfront, Mission Bay, Islais Creek, Bayview Hunters Point, Hunters Point Shipyard, Candlestick Point, Treasure Island, San Francisco International Airport, and Ocean Beach, in coastal flood hazard areas. Referred to as "Special Flood Hazard Areas" ("SFHAs"), these areas are subject to inundation during a flood having a 1 percent chance of occurrence in any given year. They are shown as zones beginning with the letter "A" or "V" on the FIRMs. Port's structures over water, including piers and wharfs, are designated as Zone D (area of undetermined flood hazard). Zone D areas are not subject to Building Code and NFIP regulation. Historic structures are also exempted from compliance under the NFIP.

Additionally, the San Francisco Public Utilities Commission ("SFPUC") has prepared the 100-Year Storm Flood Risk Map to show areas where flooding is highly likely to occur on City streets during a 100-year rain storm. More information about this map, including a searchable web map, is available at https://sfplanninggis.org/floodmap/. The SFPUC 100-Year Storm Flood Risk Map only shows flood risk from storm runoff and, floodproofing measures are not required at this time.

The SFPUC map does not consider flood risk in San Francisco from other causes, such as inundation from the San Francisco Bay or the Pacific Ocean, which are shown on the FIRMs that FEMA has prepared for San Francisco. Conversely, the FIRMs do not show flooding from storm runoff in San Francisco, because our historical creeks and other inland waterbodies have been built over and are no longer open waterways. In most areas, the flood hazards identified by SFPUC and FEMA are separate. There are a few areas, however, near the shoreline where SFPUC's Flood Risk Zones overlap with the FEMA-designated floodplains.

The FIRM provides flood risk information for flood insurance and floodplain management purposes under the NFIP. The SFHAs, shown on the FIRM, may impact flood insurance requirements and rates, permitting, and building requirements for tenants and permit holders for property in designated SFHAs on the FIRM. Flood insurance is available through the NFIP and the private market. Flood insurance for Zone D areas is not available through NFIP. Pre-FIRM buildings of any type are not required to buy flood insurance. For more information on purchasing flood insurance, please contact your insurance agent.

City's Floodplain Management Program ordinance is based on NFIP requirements. Under the ordinance, the Port and the City must regulate new construction and substantial improvements or repairs to structures in SFHAs to reduce the risk of flood damage. The requirements may include elevation or floodproofing of structures and attendant utilities.

Additional information on this matter are available on the City/Port websites and FEMA website as listed below-

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San Francisco Floodplain Management Program website:
https://onesanfrancisco.orgisan-francisco-floodplain-management-program

Port Floodplain Management Program Website:
https://sfport.com/flood-plain-management-program

FEMA's NFIP website:
www.FloodSmart.gov.

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SCHEDULE 2 – Substructure Reports

Geotechnical Study Report, Pier 70 Crane Cove Park & Building 49, 701 Illinois Street
Prepared by AGS, January 2017

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SCHEDULE 3

ASBESTOS NOTIFICATION AND INFORMATION NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

[Attachment on following page(s)]

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NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

ASBESTOS IN BUILDINGS

FOR PERIOD THROUGH: July 2020

It is the responsibility of the master tenant to provide this notice to any subtenant within their leasehold.

In January of 1989, Assembly Bill 3713 was signed into law and added to the California Health and Safety Code. This bill provides for written notice to employees concerning specific matters related to working in a building with asbestos containing construction materials. It applies to building built before 1979 where the owner knows that the building contains asbestos-containing materials; it does not require that a building be surveyed to determine the presence of asbestos.

WHAT IS ASBESTOS?

Asbestos is a naturally occurring group of fibrous minerals which have been used extensively in public buildings, apartment buildings and homes. Asbestos was incorporated into pipe insulation, acoustic plaster, acoustic tile, duct and furnace insulation, floor tiles, textiles and hundreds of other building materials. In most City buildings, asbestos is located in insulation on piping systems, acoustic plaster on ceilings, acoustic ceiling tiles, vinyl asbestos floor tiles, and structural fireproofing. Asbestos may be found in soils as well, especially if soil is non-native or commingled with municipal waste (land fill).

WHY IS ASBESTOS HAZARDOUS?

Asbestos is a concern because of the potential health risks associated with breathing asbestos fibers. It is important for you to know that most people with asbestos-related diseases were asbestos workers before 1972. These workers were repeatedly exposed to high levels of asbestos each working day with little or no protection. Asbestos workers today are required to follow specific work practices and wear appropriate protection to minimize exposure.

Significant exposure to asbestos fibers can lead to asbestosis and certain forms of cancer. Asbestosis is one of the many dust-related lung diseases. It is associated with chronic exposure to relatively high levels of asbestos and is characterized by the permanent deposition of asbestos fibers in the respiratory tract. The earliest and most prominent clinical finding, breathlessness upon exertion, rarely becomes apparent until at least a decade of exposure.

In addition to asbestosis, the association of asbestos and lung cancer has been well established over the past two decades. Scientists have studied insulation and shipyard workers who were exposed to HIGH AIRBORNE LEVELS of asbestos. These studies indicated that asbestos workers were about five times as likely to get lung cancer as non-asbestos workers who did not smoke. Asbestos workers who also smoke were found to be at much greater risk (about 50 times) of dying of lung cancer than non-smoking non-asbestos workers. Mesothelioma, a rare form of cancer of the chest or abdominal cavity, occurs among occupational groups exposed to certain types of asbestos.

ASBESTOS SAMPLING RESULTS

A variety of exposure standards and health action levels have been established for various purposes:

The Occupational Safety and Health Administration (OSHA) asbestos standards (Title 29 of the Code of Federal Regulations), which apply to employees who actually work with asbestos, mandate a permissible exposure limit (PEL) of 0.1 fibers per cubic centimeter of air (f/cc) determined as an 8 hour time weighted average (TWA) and an excursion limit of 1 f/cc as a 30 minute TWA. When employees are exposed at these levels, OSHA and Cal/OSHA (Title 8 of the California Code of Regulations) require medical monitoring and other control methods.

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The Environmental Protection Agency (EPA) has recommended a "clearance level" for asbestos of 0.01 f/cc, as measured by phase contrast microscopy (PCM). If measured by the transmission electron microscopy (TEM) method described in 40 CFR Part 763, the Asbestos Hazard Emergency Response Act (AHERA), the clearance level is either 0.02 structure/cc or 70 structures per square millimeter of filter (s/mm^2). This means that once an operation involving asbestos (such as removal) is complete, the area is "safe" for re-occupancy as long as the asbestos air concentrations are less than or equal to the "clearance level". These same levels have also been adopted in the California Education Code (Section 494200.7) as the school abatement clearance level.

The state of California has an additional requirement relating to disclosure of the presence of asbestos. Proposition 65, which as voted into law by the state citizens, basically requires posting of area where anyone is exposed to a carcinogen at a level where there is a significant risk of cancer. The California Health and Welfare Agency has established this level at 100 fibers of asbestos per day.

GENERAL PROCEDURES AND HANDLING RESTRICTIONS

As you can see, the concern is with asbestos fibers in the air. When asbestos materials are in good condition, it is unlikely that fibers will be released into the air, unless the asbestos materials are damaged or disturbed. Asbestos-containing materials must not be disturbed so that fibers do not get into the air. Do not cut into, drill into, nail, or pin anything onto, sand, move bump, rub against or otherwise disturb any asbestos containing materials. If you should discover any damaged asbestos-containing material, do not touch it; do not attempt to clean it up. Contact your supervisor or property manager immediately and report the situation.

City employees required to enter areas and perform work activities that might involve the disturbance of asbestos materials have been trained in the proper procedures to minimize exposure. Work that requires major disturbances of asbestos materials (such as removal) is performed under specifications which include work practice procedures, removal techniques, clean up and clearance air sampling.

If any construction, maintenance, or remodeling is conducted in an area of the building where there is the potential for employees to come in contact with, or release or disturb asbestos containing building materials, it is required that the area be posted with a clear and conspicuous warning sign. The warning sign must read:

"CAUTION. ASBESTOS
CANCER AND LUNG DISEASE HAZARD
DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT"

Much of this information may be new to you. If you have questions about asbestos, you may call the Department of Public Health Bureau of Environmental Health Management at 252-3800.

This written announcement fulfills the asbestos notification requirement of Division 20, Chapter 10.4, Section 25915 of the California Health and Safety Code (Assembly Bill 3713).

SITE SPECIFIC INFORMATION

At this time, the Port has not sampled for asbestos in your building. The following materials, if present in your building, are assumed to contain asbestos and should be treated as such:

> Insulation on pipes and ducts; Fireproofing; Drywall and associated taping compound; Plaster; Texturing or acoustic materials on walls or ceilings; Stucco; ceiling tiles; floor tiles or sheet flooring; roofing; fire door core insulation; carpet, baseboard, flooring, and ceiling tile mastics; window glazing compound; ceramic tile grout and mastic. Asbestos may also be found in soil due to natural or man-made conditions.

These materials must not be drilled into, sanded, demolished or otherwise disturbed by unauthorized personnel. Prior to any renovation activities or other activities which may disturb asbestos, please contact your property manager.

The asbestos coordinator for this building is Tim Felton, who can be reached at 274-0582.

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SCHEDULE 4

Environmental Reports and Documents Regarding Hazardous Materials
YMCA of San Francisco

July 19, 2023

Pier 68 / Crane Cove Park/ Building 49

Daily Report, NOA & Pb Monitoring, SCA: 8/30/2021, 8/31/2021, 10/8/2021, 10/11/2021, 10/12/2021, 10/13/2021, 10/14/2021, 10/16/2021, 3/11/2022, 3/14/2022, 3/15/2022, 3/16/2022.

Re-occupancy Clearance Sampling, SCA, 12/18/2021.

Re-occupancy Clearance Sampling, SCA, 10/16/2021.

Renovation Project, Port of San Francisco, Crane Cove Park Buildings 49 and Cranes 14 & 30, Specification Section 02 26 00-1, Existing Conditions, Hazardous Materials Assessment, 3/19/2018.

Environmental Risk Management Plan, Pier 70 Master Plan Area, Treadwell & Rollo, 7/25/2013.

Feasibility Study and Remedial Action Plan, Pier 70 Master Plan Area, Treadwell & Rollo, 5/31/2012.

Environmental Site Investigation Report, Pier 70 Master Plan Area, Treadwell & Rollo, 1/13/2011.

Hazardous Material Abatement, General Cleanup, Envirosurvey, 7/16/2010.

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SCHEDULE 5

LIST OF CONSTRUCTION WARRANTIES

Item Description	Warranty Period if not 24 months
Overall Warranty	
Corrugated Siding	
Sewage Pump	
Fire Alarm	
Hand Dryers	10 years
Roof	15 years (per Submittal #12)
Louvers	20 years
Outdoor Signage	5 years
LED Interior Lighting	5 years
Roll up door at restroom entrance	5 years for door closers and panic hardware
Compressors	6 years

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SCHEDULE 6
IMPROVEMENTS AND ALTERATIONS REMOVAL REQUEST FORM

[Insert Tenant's Notice Address and Contact Information]

[Insert Date]

To: Port at Port's then-specified notice address

Re: Building 49, Crane Cove Park – Alterations Removal and Restoration

To Whom It May Concern:

We provide this notice request pursuant to Section 14.9 of that certain Lease No. L-16997, dated _____, 2023 between Port and Tenant (the "Lease") in connection with our separate request for Port's consent to perform certain Improvements and Alterations. As we have discussed with you, Tenant proposes to perform the Improvements and Alterations described herein below pursuant to Section 14 of the Lease:

[Describe Improvement(s)/Alteration(s) in detail and, as may be required under Section 14, include plans and specifications]

We request that Port inform us whether the Improvements Alterations must be removed on or before the expiration or sooner termination of this Lease. In all cases of removal, Tenant acknowledges that the Premises must be restored to its prior condition in compliance with the terms and conditions of the Lease, including obtaining permits if necessary.

Kindly indicate, by completing the form below, whether the Improvements or Alterations must be removed and then return a copy of this letter and the form to us at the address set forth above.

We understand that Port's response below applies only to the particular Improvement(s)/Alteration(s) described herein above and not to any other Improvement(s)/Alteration(s) or other Improvement(s)/Alteration(s) that may be performed in the future.

Sincerely,

YMCA of San Francisco

<u>Port to complete the form below and return to Tenant</u>:

[ ] Tenant is not required to remove the Improvement(s)/Alteration(s)

[ ] Tenant must remove the Improvement(s)/Alteration(s) before the expiration or sooner termination of the Lease.

[ ] Tenant must remove the following components of the Improvement(s)/Alteration(s) before the expiration or sooner termination of the Lease:_____ _____. The remainder of the Improvement(s)/Alteration(s) may remain on the Premises.

_____By: Port's Authorized Signatory

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CITY AND COUNTY OF SAN FRANCISCO
LONDON N. BREED, MAYOR

AMENDED AND RESTATED LEASE NO. L-17134

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO
OPERATING BY AND THROUGH THE
SAN FRANCISCO PORT COMMISSION

AND
YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION

CRANE COVE PARK BUILDING 49

MARCH 15, 2024

ELAINE FORBES
EXECUTIVE DIRECTOR

SAN FRANCISCO PORT COMMISSION

KIMBERLY BRANDON, PRESIDENT
GAIL GILMAN, VICE PRESIDENT
WILLIE ADAMS, COMMISSIONER
ED HARRINGTON, COMMISSIONER
STEVEN LEE, COMMISSIONER

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BASIC LEASE INFORMATION

Lease Date:	March 15, 2024
Lease Number:	**L-17134**; this Lease amends and restates in its entirety, Lease No. L-16997, and this Lease hereby supersedes Lease No. L-16997.
Landlord or Port:	**CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**
Landlord's Address:	Port of San Francisco Pier 1 San Francisco, California 94111 Attention: Deputy Director, Real Estate and Development Telephone: (415) 274-0400 Facsimile: (415) 274-0494
Tenant:	**YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO**, a California Nonprofit Public Benefit Corporation
Tenant's Main Contact Person and Mailing Address:	Jamie Bruning-Miles, President and CEO YMCA of San Francisco 169 Steuart St. San Francisco, CA 94105 Telephone: (415) 777-9622 Cell: (415) 932-9990 Email: JBruning-Miles@ymcasf.org
Tenant's Billing Contact and Address:	Mittie Grigsby, CFO YMCA of San Francisco 169 Steuart Street San Francisco, CA 94105 Telephone: (415) 777-9622 Cell: (510) 566-1215 Email: Mgrigsby@ymcasf.org
Tenant's Emergency Contact and Address:	Chris McComic, VP YMCA of San Francisco 169 Steuart Street San Francisco, CA 94105 Telephone: (415) 777-9622 Cell: (415) 688-9726 Email: Cmccomic@ymcasf.org

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Tenant's Insurance Contact and Address (not broker):	Jackie O'Brien YMCA of San Francisco 169 Steuart Street San Francisco, CA 94105 Telephone: (415) 777-9622 Cell: (617) 990-2757 Email: JObrien@ymcasf.org
Contact Information for Tenant's Agent for Service of Process:	CT Corp 330 N. Brand Blvd. Glendale, CA 91023-2366
Premises:	The Premises is comprised of Building 49 (the "**Building**"), the existing improvements thereon of approximately 8,000 square feet with a rentable area of approximately Six Thousand Eight Hundred Seventeen (6,817) square feet, located within Crane Cove Park (the "**Park**"), in the City and County of San Francisco as more particularly shown on ***Exhibit A*** attached hereto, and all Improvements hereafter constructed in, on or around the Building. The address of Building 49 is 701 Illinois Street San Francisco, California 94107
Effective Date; Commencement Date; Rent Commencement Date; Expiration Date; Initial Term; Partial Base Rent:	This Lease is amended and restated in its entirety as of the Lease Date, and is effective retroactively as of August 1, 2023 (the "**Commencement Date**" or the "**Effective Date**"). Provided that there is no existing Event of Default and except as set forth in the immediately following, Rent shall be abated during construction of the Initial Improvements (as defined below) starting on the Commencement Date until the earlier of (i) the date Port issues a Temporary Certificate of Occupancy related to all of the Initial Improvements; or (ii) October 1, 2024 ("**Construction Term**"). Tenant shall pay Base Rent payments starting on the earlier of the date Port issues a Temporary Certificate of Occupancy related to all of the Initial Improvements or October 1, 2024 regardless of the status of completion of the Initial Improvements ("**Rent Commencement Date**"). Notwithstanding the foregoing, and subject to compliance with the terms and conditions of the Work Letter, Tenant must pay rent in the amount required by the then-current Port Commission-adopted parameter rates for any uses in the Building other than construction during the Construction Term. Notwithstanding the foregoing, if, prior to the Rent Commencement Date, the Subtenant under the Dogpatch Paddle Sublease takes occupancy of all or a portion of Sublease Premises A pursuant to a Temporary Certificate of Occupancy that allows for such occupancy, then Tenant shall commence partial payment of Base Rent under this Lease from the date of occupancy (the "**Partial Base Rent Date**") in the amount equal to (i) the Base Rent payable under the Dogpatch Paddle Sublease if the Temporary Certificate of

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	Occupancy allows for occupancy of all of Sublease Premises A, or (ii) a pro-rated amount of the Dogpatch Paddle Sublease's Base Rent if the Temporary Certificate of Occupancy allows for occupancy of only a portion of Sublease Premises A (in either case, "**Partial Base Rent**"). For purposes of determining the Sublease Rent Commencement Date under the Dogpatch Paddle Sublease, the "Rent Commencement Date" under the Master Lease (as defined in the Dogpatch Paddle Sublease) is the earlier of the Partial Base Rent Date or the Rent Commencement Date; provided, in no event will any percentage rent be owed by such Subtenant for any period prior to the Rent Commencement Date. This Lease shall expire on the date that is the last day of the tenth (10th) year after the Rent Commencement Date ("**Expiration Date**"). The "**Initial Term**" shall be from the Rent Commencement Date to the Expiration Date. Notwithstanding anything to the contrary in this Lease, if, despite Tenant's commercially reasonable efforts, the Building Permit for the Initial Improvements has not been issued and Finally Approved on or before the date that is 330 days after the Commencement Date ("**Upset Date**") for any reason whatsoever, then Tenant may terminate this Lease by written notice to Port given within five (5) business days of the Upset Date. The termination notice shall immediately terminate this Lease as of the date of such notice; shall automatically terminate any other use agreements, including any licenses then in effect between the parties for the Building or the Park; and shall be irrevocable. Port shall return any unused portion of the Security Deposit as provided in ***Section 9***. Except for provisions that survive the expiration or earlier termination of this Lease, the parties shall have no further obligations under this Lease as of the date of Tenant's notice. Promptly following each of the Commencement Date and Rent Commencement Date, Port and Tenant shall execute a Memorandum substantially in the form attached hereto as ***Exhibit B***, confirming the actual Commencement Date, Rent Commencement Date, Upset Date, and Expiration Date, but either party's failure to do so shall not affect the commencement or expiration of the Term or the actual Rent Commencement Date.
Permitted Use:	Operation of a wellness center featuring fitness and wellness programming and classes and community events; an aquatics center which includes sales, rentals and lessons related to human-powered vessels such as kayaks and stand-up paddleboards; and a food and beverage concession. The Permitted Uses are more fully described in the Operations Plan.
Subtenant Space:	There shall be two (2) spaces in the Building designated for Subtenants as more particularly shown on ***Exhibit A*** attached hereto, as follows: (1) "**Sublease Premises A"**: of approximately 2,289 square feet located in the eastern area of the Building to be used as an aquatics center; and

	(2) "**Sublease Premises B**"***:*** of approximately 455 square feet located in the southwestern area of the Building to be used for retail food and beverage operations.
Initial Subtenants: *Dogpatch Paddle and Daily Driver:*	Port consented to the following Subleases on the Effective Date: (1) For Sublease Premises A: A Sublease between Tenant and Dogpatch Paddle LLC, a California limited liability company, dated as of April 19, 2023 (the "**Dogpatch Paddle Sublease"**); and (2) For Sublease Premises B: A Sublease between Tenant and Daily Driver, LLC, a California limited liability company, dated as of April 19, 2023 (the "**Daily Driver Sublease"**). Further subleasing is subject to the provisions of ***Section 23.5***.
Initial Term Monthly Base Rent and Annual Adjustments:	Tenant is responsible for the payment of Rent. Tenant shall pay monthly base rent in an amount equal to Seven Thousand Seven Hundred Thirty-Four Dollars and Fifteen Cents ($7,734.15) ("**Monthly Base Rent**"). Base Rent is based on a blended rate of $1.1345/square foot ("**Blended Monthly Base Rent**"). On each Anniversary Date during the Initial Term, Monthly Base Rent (including the Monthly Base Rent Allocation for each Subtenant as defined below) will increase by three percent (3%) (regardless of the CPI) (the "**Annual Adjustment**"). The table below sets out the Base Rent payable in each Lease Year inclusive of each Annual Adjustment.

Lease Year	Annual Base Rent	Monthly Base Rent
1	$92,809.80	$7,734.15
2	$95,594.09	$7,966.17
3	$98,461.92	$8,205.16
4	$101,415.77	$8,451.31
5	$104,458.25	$8,704.85
6	$107,591.99	$8,966.00
7	$110,819.75	$9,234.98
8	$114,144.35	$9,512.03
9	$117,568.68	$9,797.39
10	$121,095.74	$10,091.31

Percentage Rent; Participation Rent:	In addition to the Monthly Base Rent, in any month in which the amount under clause (i) below exceeds the Monthly Base Rent Allocation as further described in ***Section 5.2***, Tenant shall pay to Port, as calculated on a monthly basis and paid quarterly, for each for-profit Tenant (for example, a Transferee that is a for-profit entity) and Subtenant, the difference between: (i) six percent (6%) of Gross Revenues generated by that Subtenant; and (ii) the respective monthly Base Rent allocation as shown below, subject to adjustments ("**Monthly Base Rent Allocation**") (collectively, "**Percentage Rent**").

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	Initial Monthly Base Rent Allocation for Sublease Premises A: $2,918.48 Initial Monthly Base Rent Allocation for Sublease Premises B: $1,353.63 The Restroom Rent Credit, as defined below, shall not be taken into account when calculating Percentage Rent. There shall be no deductions from Percentage Rent for costs associated with subletting, including for broker commissions, attorneys' fees or costs for improvements, fixtures or equipment. In the event that Tenant seeks consent to amend a Sublease or enter a new Sublease with sublease base rent in excess of the then-current Monthly Base Rent Allocation (including as a result of increased square footage in the sublease), then, in addition to the monthly Base Rent and Percentage Rent, Tenant shall pay to Port, as Additional Rent, fifty percent (50%) of such rent or other sums paid or payable to Tenant under such Sublease as rent (excluding utility pass-through costs, a commercially reasonable property management fee, and the like) (allocated on a square footage basis in the case of increased square footage) in excess of the then-current Monthly Base Rent Allocation ("**Participation Rent"**) as further described in ***Section 5.3.*** Participation Rent shall be in addition to Base Rent and Percentage Rent and shall not be taken into account when calculating Percentage Rent. Further, Tenant agrees that as a condition of Port's consent to a Sublease or Transfer to a tenant or Subtenant with a substantially different business model (such as alcohol sales) or if Tenant becomes a for-profit entity, Port may elect to increase the monthly Percentage Rent amount above six-percent (6%) or require Tenant to pay Percentage Rent in a commercially reasonable amount consistent with other Port tenants with similar operations, as determined by Port in its reasonable discretion.
Extension Options:	Subject to the terms and conditions described below and in ***Section 7***, Tenant shall have: (i) four (4) options to extend the term for a period of five (5) years each; (ii) followed by one (1) option to extend the term for a period of two (2) years; and (iii) followed by one (1) option to extend the term for a period of one (1) year. Each extension option and each extension term, whether for five (5), two (2), or one (1) year(s), is referred to in this Lease as an "**Extension Option**" and an "**Extension Term.**" Tenant may exercise an Extension Option by providing Port with written notice to exercise an Extension Option (each an "**Option Notice**") no less than Three Hundred Sixty-Fifty (365) days prior to the relevant expiration date (each an "**Option Notice Deadline**"), except in the case of the two (2) year and one (1) year Extension Options, in which case the Option Notice shall be given no less than six (6) months prior to the relevant expiration date and such 6-month date shall be the Option Notice Deadline. Tenant may include in the Option Notice, a request to continue to use the Interim Power Line during the applicable Extension Term. Port will include in its written confirmation of the Extension Term

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	Rent whether Tenant may access the Interim Power Line during the applicable Extension Term. If Port's written confirmation is silent on whether Tenant may use the Interim Power Line, then it will be deemed as if the Interim Power Line is unavailable for Tenant's use during the applicable Extension Term. If Port confirms, or is deemed to have confirmed, that the Interim Power Line is unavailable for Tenant's use during the applicable Extension Term, then Tenant may revoke its Option Notice upon written notice to Port given within ninety (90) days after Port's confirmation or deemed confirmation. If Port confirms that the Interim Power Line is available for Tenant's use but only for a portion of the applicable Extension Term or such use is subject to a new limitation (e.g., available but at a lesser capacity), then Tenant may elect to revoke its Option Notice entirely or revoke and provide a modified Option Notice for an Extension Term that is only for the period of availability or only for such period of time as the Interim Power Line is available without being subject to the new limitation. Tenant shall provide such revocation (or revocation and modified Option Notice) within ninety (90) days after receipt of Port's confirmation.
Rent During an Extension Term:	On the commencement date of an Extension Term (if any) and on each Anniversary Date of an Extension Term, Monthly Base Rent shall be increased by an amount equal to the product obtained by multiplying the average of any annual (over-the-year) changes in the CPI for the five (5) years immediately preceding the Option Notice Deadline by the Monthly Base Rent, but subject to a minimum for such average of one percent (1%) and maximum of such average of four percent (4%) (the "**Extension Term Annual Adjustment**"). For the final 2-year and 1-year options, the Extension Term Annual Adjustment will be calculated in the same manner and subject to the same minimum and maximum, except that the average of any changes in the CPI for the two years preceding the Option Notice Deadline will be used. For any Extension Term for which Tenant has given an Option Notice, no later than the date that is Two Hundred Seventy (270) days (or ninety (90) days in the case of the 2-year option and the 1-year option) prior to the commencement date of the relevant Extension Term, Tenant shall provide a calculation showing the applicable Extension Term Annual Adjustment and resulting Base Rent (including to the Monthly Base Rent Allocation for any Subtenants) and Restroom Rent Credit, for Port's review and written confirmation, which Port will provide within thirty (30) days after receipt. Port will include in its written notice whether Tenant may access the Interim Power Line during the applicable Extension Term. If Port's written notice is silent on whether Tenant may use the Interim Power Line, then it will be deemed as if the Interim Power Line is unavailable for Tenant's use during the applicable Extension Term. Tenant shall have the right to revoke, or revoke,

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	modify and re-submit, its Option Notice as set forth above in the "**Extension Option**" section of this Basic Lease Information. The parties agree that such calculation is a straightforward and objective process; however, if Port rejects Tenant's calculation, then Port shall provide a written explanation of why it disagrees and shall provide its own calculation. The parties shall negotiate in good faith and use commercially reasonable efforts to reach agreement on the applicable Extension Term Annual Adjustment within sixty (60) days after the expiration of the 30-day period, including the schedule for Tenant to make payment of any amounts due or receive a credit for any overpayment. For illustrative purposes only: If the Rent Commencement Date is November 1, 2023, then the first Extension Term will commence on November 1, 2033 and the Option Notice Deadline is October 31, 2032 and Tenant will perform the calculations in the following manner and submit to Port no later than January 4, 2033. October 2027 – October 2028: 6.3%* October 2028 – October 2029: 5.6% October 2029 – October 2030: 6.4% October 2030 – October 2031: 0.6% October 2031 – October 2032: 3.8% Total: 21.5% Annual Average: 4.3% Extension Term Annual Adjustment: 4.0% (capped) *The percentage represents the annual (over-the-year) percentage change in the CPI measured based on the CPI publication date closest to the adjustment date. If CPI is published on a bimonthly basis, the calculation will be made using the most current CPI numbers published previous to the start and end dates of the relevant 12-month calculation period. For example, if the calculation requires numbers published in September and CPI is not published in that month but is published in August, then the calculation will be performed using the August CPIs immediately preceding the applicable Septembers of the 12-month determination period (e.g., August 2027 and 2028)).
Security Deposit:	Fifteen Thousand Four Hundred Sixty-Eight Dollars and 30/100 ($15,468.30)
Initial Improvements:	Tenant must Complete the following Initial Improvements as more fully described in the Scope of Development attached to the Work Letter (***Exhibit E***): (1) tenant improvements generally including (A) improvements necessary for Tenant to operate fitness areas, group exercise spaces, restrooms and an office area, (B) infrastructure improvements to Sublease Premises B to support

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	cooking, cleaning, refrigeration and food delivery at a retail coffee/bagel shop, (C) infrastructure improvements to Sublease Premises A to support operation of, and storage in, a water sports retail shop and aquatics center, including drainage for rinsing of human-powered watercraft, (D) electrical, IT, HVAC, water and sewer facilities, including a new topping slab and radiant heat, and (E) improvements to the exterior of the Building, including store front egress doors, window glazing, roll up access doors, repaired siding, connections between exterior and interior slabs, paint and exterior signage and lighting ("**Initial Tenant Improvements**" or "**Initial Improvements**"); and (2) The Initial Improvements shall be constructed at Tenant's sole cost and expense and in accordance with the Work Letter and ***Section 14*** below. Tenant agrees that it will invest a minimum of Five Million Dollars ($5,000,000) in hard and soft costs in the Initial Tenant Improvements including for the fees and costs of design professionals, engineers, and construction management; internal management costs; landscaping and planters; costs of obtaining LEED or similar green building or environmental certifications; costs of complying with applicable Laws; inspection and testing (such as geotechnical, lead paint and asbestos testing); surveying costs; legal fees; building permit fees; insurance premiums and costs; costs of signage; costs of built in or fixed personal property, such as a lobby desk and built-in cabinets and lockers; kitchen equipment; water fountains; and security services and systems. Tenant must Complete the Initial Improvements no later than the Initial Improvements Completion Date as set forth in the Work Letter. Tenant's Completion of the Initial Improvements by the Initial Improvements Completion Date is material consideration for this Lease and Port would not have entered into this Lease absent such terms. Tenant understands and agrees that it will not receive or seek rent credits or other compensation or consideration for any improvements including without limitation the Initial Improvements and agrees that it will not seek additional term for the purpose of amortizing any improvements.
Park License:	In connection with this Lease, the Parties entered into that certain License to Use Property License No. 17011 dated as of July 14, 2023 (the **"License"**).
Operations Plan:	All Permitted Uses must be performed in compliance with the attached Operations Plan (***Exhibit G***), as approved by the Port and amended from time to time as necessary. The Operations Plan is supplemental to the Lease; in the event of any conflict or inconsistency between the Lease and the Operations Plan, the Lease will control unless explicitly provided otherwise in this Lease. Tenant must prepare and maintain the Operations Plan to document procedures consistent with Laws, industry standards, best

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	management practices and good housekeeping under this Lease and the License. The Operations Plan must address the following operations and components by Tenant and any Subtenants on or about the Premises or the License Area as defined in the License: (A) Hours of Operation, Security, Staffing and Safety Plan; (B) List of required and obtained Regulatory Approvals; (C) Fitness class and aquatic activities safety measures (e.g., participant safety gear; participant/instructor ratio; instructor qualifications); (D) Reporting Accidents; (E) Noise Control; (F) Equipment Washing Protocols (G) Park Usage Areas (including paths of travel for staff and patrons). Failure to comply with the Operations Plan after notice and an opportunity to cure as provided in ***Section 26*** is a material breach of this Lease. Port and Tenant may, from time to time, review the Operations Plan and make recommendations for revisions. All revisions to the Operations Plan, whether initiated by Port or Tenant, are subject to Port and Tenant approval, each in its reasonable discretion.
Obligations Regarding Public Restrooms:	Except as explicitly provided by this Section, all terms, conditions, obligations and liabilities of this Lease apply to the public restrooms ("**Restrooms**"). In addition, specifically, commencing on the date that is the earlier of (a) five (5) days after the date a Temporary Certificate of Occupancy for all or a portion of the Building is issued, or (b) July 1, 2024 (the "**Restroom Opening Date**"), Tenant must: (i) regularly clean, stock, and equip the Restrooms so that the Restrooms remain useable during their hours of operation; (ii) maintain clearly visible signage that the Restrooms are open to the public; (iii) ensure Restrooms are open from 9:00 a.m. – 6:00 p.m. Monday through Friday, 9:00 a.m. – 5:00 p.m. on weekends, and 9:00 a.m. – 2:00 p.m. on holidays (other than holidays when Tenant is not open at the Premises); (iv) provide Port with at least fifteen (15) days prior written notice of its intention to close the Restrooms to the public for any period longer than necessary to address any health or safety concerns or to perform routine maintenance and repair and obtain Port's written consent to do so prior to closing the Restrooms. Subject to ***Section 14.11***, Tenant may install signage in the Restrooms that Tenant considers necessary or appropriate to limit Tenant's liability for their use. Tenant's obligations with respect to the Restrooms are material and Port would not have entered into this Lease absent such terms. Provided Tenant opens the Restrooms on the Restroom Opening Date, and provided that Tenant complies with this section titled "Obligations Regarding Public Restrooms" in this Basic Lease Information and subject further to the terms and conditions of

	Section 5.11(a), starting on the Restroom Opening Date, Port will contribute financially to the cost of capital expenses and repairs for the Restrooms by providing a monthly rent credit of Two Thousand Dollars ($2,000) against Base Rent, which amount shall be adjusted annually by the Annual Adjustment or the Extension Term Annual Adjustment as the case may be ("**Restroom Rent Credit**"). If the Restrooms are opened to the public on a date after the Restroom Opening Date, then the Restroom Rent Credit will be reduced as set forth below. If Rent (including Partial Base Rent) in the amount of the Restroom Rent Credit is not yet payable as of the Restroom Opening Date, then the Restroom Rent Credit shall accumulate, and Port shall apply such accumulated amount to each subsequent Rent payment until the accumulated amount has been applied in full (i.e., the amount of such accumulated Restroom Rent Credit shall be applied in full at once against any Rent then due and against any subsequent Rent amounts until fully exhausted). Notwithstanding any remedies that otherwise may be available to Port under this Lease, if Tenant does not open the Restrooms by the Restroom Opening Date, then (i) there will be no application of the Restroom Rent Credit until the later of the Rent Commencement Date or the date the Restrooms are open to the public, and (ii) the Restroom Rent Credit will be reduced by $175.00 for each day after the Restroom Opening Date until the Restrooms are opened to the public (subject to temporary closures, as permitted under this Lease), up to a maximum reduction of $6000. The Parties agree that the Restroom Rent Credit as established in this Lease is reasonable irrespective of whether Tenant's costs increase or decrease over the Term.
Additional Prohibited Uses:	In addition to, and without limiting, the Prohibited Uses specified in ***Section 10.2*** below, the following are prohibited: (a) No discharges to the Bay; (b) Use of the Premises for operation of a night club, underage parties, raves, pay at the door events or other similar activities. Port shall have all remedies set forth in this Lease, and at law or equity in the event Tenant performs any of the Prohibited Uses.
Maintenance and Repair:	Tenant is solely responsible for maintenance and repair of the Premises including without limitation, the Building and all Building Systems including the structure, substructure, roof, core, shell, Utilities and other infrastructure, windows and interiors. Port will have no maintenance or repair obligations with respect to the Premises or the Interim Power Line.

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Utilities; Services:	Port and Tenant acknowledge that as of the Effective Date, the electricity to the Premises is by means of a power line from outside the Premises ("**Interim Power Line**"). The location of the Interim Power Line is generally depicted on the attached ***Exhibit A*** and originates from areas outside the Premises and within Port's jurisdiction. Tenant has been unable to determine the financial feasibility of designing and constructing a direct connection from the Premises to an electrical power distribution line ("**Direct Power Connection**") for the Permitted Uses before the Effective Date. Subject to the terms and conditions set forth herein, without limiting Tenant's obligations under ***Section 15.1***, Port agrees that Tenant may connect to the Interim Power Line in order to connect to and receive electrical power supplied by the SFPUC (i) while Tenant diligently works to determine the financial feasibility of a Direct Power Connection, (ii) if applicable, if Tenant concludes the Direct Power Connection is financially feasible, during construction of the Direct Power Connection until it is able to receive SFPUC electrical power , and (iii) if applicable, after Tenant reasonably concludes that a Direct Power Connection is financially infeasible. If Tenant reasonably concludes that a Direct Power Connection is financially infeasible, Tenant will promptly provide notice of such conclusion to Port, along with evidence to support such conclusion. The Parties agree that it will be reasonable for Tenant to conclude that a Direct Power Connection is financially infeasible if the cost to Tenant of such connection exceeds $150,000. Reasonable evidence supporting such cost calculation shall constitute sufficient evidence to support such conclusion. Tenant will cease use of the Interim Power Line once a Direct Power Connection is constructed and SFPUC electrical power flows through the Direct Power Connection to the Premises. Tenant must contract directly with SFPUC and install a separate meter or sub-meter for the actual supply and metering of all electrical power to and at the Premises. Port has no obligation to pay for or reimburse any party, for any electrical power (including any infrastructure) supplied to or used at the Premises. Tenant agrees and acknowledges that (i) if it elects to connect to the Interim Power Line, it will connect to the Interim Power Line in its as-is condition, (ii) the current as-is condition of the Interim Power Line is capable of carrying an adequate supply of electricity for the Permitted Use ("**Power Baseline**"), and (iii) Port has no obligation to maintain, repair, or replace the Interim Power Line at any time during the Term. Port has made no representation or warranty about the condition or life-span of the Interim Power Line, the feasibility of Tenant using the Interim Power Line for the Permitted Uses throughout the Term, or whether the Power Baseline is sufficient for the Permitted Uses. Notwithstanding the foregoing, during the period when there is no Direct Power Connection, if all of the Premises is without electrical power due solely to the inability of the Interim Power Line to carry electricity (as opposed to the SFPUC's inability to supply

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	electricity) to the Premises in the amount of the Power Baseline, then Tenant will notify Port. If, within thirty (30) days after receipt by Port of such notice, Port has not restored or repaired the Interim Power Line such that it is once again capable of carrying electricity in the amount of the Power Baseline to the Premises, then, from and after such date, all of base Rent shall be abated until the date that is three (3) days after the date on which the Interim Power Line is once again capable of carrying the Power Baseline to the Premises provided Tenant also proportionately reduces the base rent for its Subtenants for the period of Tenant's Rent abatement. The Parties further acknowledge that any Rent abatement will have no effect on the application of the Restroom Rent Credit or any other rent credit. If, notwithstanding the inability of the Interim Power Line to carry the Power Baseline, Tenant or any subtenants determine that they are able to use part of the Premises (e.g., by using mobile generators), then if the Power Baseline is not restored within thirty (30) days after receipt by Port of Tenant's notice that only a portion of the Power Baseline is being met, Port may, in its sole discretion provide a partial abatement of Rent based on the partial use of the Premises contemplated in the notice. Provided Tenant has made the determination (and the Port has concurred) that the Direct Power Connection is financially infeasible in accordance with the foregoing provisions in this "**Utilities; Services**" section of the Basic Lease Information and Tenant has been using the Interim Power Line but the Interim Power Line has not been able to carry the Power Baseline, if Port is unable to complete the restoration or repair of the Interim Power Line sufficient to allow it to carry the Power Baseline within two hundred seventy (270) days after the date of the cessation, then Tenant may terminate the Lease without penalty by giving Port not less than ninety (90) days' prior written notice. Other than the Rent abatement and termination right without penalty permitted under this section of the Basic Lease Information, Tenant's release of Claims set forth in ***Sections 22.4 and 22.5*** includes the release of all Claims related to the inability of the Interim Power Line to carry the Power Baseline. For the avoidance of doubt, Tenant shall not be entitled to any Rent abatement if the Interim Power Line ceases to carry electricity as a result of (a) a failure of equipment owned or leased by Tenant or SFPUC, (b) a failure by Tenant to pay SFPUC, (c) an outage at SFPUC, or (d) a SFPUC act, omission, negligence or failure. Commencing on the Rent Commencement Date, as compensation to Port for Tenant's use of the Interim Power Line, Tenant will pay monthly to Port a "Capacity Charge" in the amount of One Thousand Three Hundred Sixty-Three and 40/100 Dollars ($1,363.40)(which is equal to $0.20 per rentable square foot of the Premises (6,817 x $0.20 = $1,363.40 per month)). Tenant will pay the Capacity Charge as and when Monthly Base Rent is due. On each Anniversary Date during the Initial Term, the Capacity Charge will increase annually by three percent (3%). On the commencement date of an Extension Term (if any) and on each

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	Anniversary Date of an Extension Term, the Capacity Charge will be increased by the same percentage as Monthly Base Rent is increased following calculation of the Extension Term Annual Adjustment. If at any time the Interim Power Line is no longer able to carry the Power Baseline to the Premises and such inability is not the result of (a) a failure of equipment owned or leased by Tenant or a failure by Tenant to pay SFPUC or (b) an outage at SFPUC, then the Capacity Charge shall be abated from and after such date until the date that is three (3) days after the date on which the Interim Power Line is once again capable of carrying the Power Baseline to the Premises (and provided that Tenant provides a similar abatement to any subtenants if applicable). At any time during the Term (including any Extension Term) on not less than thirty (30) days prior written notice, Tenant may terminate use of the Interim Power Line, whereupon Tenant shall cease using such connection and shall no longer be obligated to pay the Capacity Charge. If the date this Lease terminates or the day before the date Tenant no longer requires use of or has use of the Interim Power Line occurs on a date other than the last day of a calendar month, then any payment of the Capacity Charge shall be pro-rated based on the number of days in such month, and Port shall refund any overpayment to Tenant within thirty (30) days after the applicable date. Except as set forth above in this section of the BLI, Tenant's sole responsibility, as further described in ***Section 15.*** Port makes no representation regarding the availability of existing or new Utilities or capacity for the use of the Premises. Port will cooperate with Tenant at no cost to Port to obtain necessary Utilities.
Development Project:	Events in the Park, including general public events, special events, activation, vending programs, and other uses, including potential future improvements to the Park; redevelopment of the Kneass Building.
Port's Participation in Transfer Proceeds:	As detailed in ***Sections 23.3*** and ***23.4***, Tenant and all subsequent assignees must pay to Port twelve percent (12%) of Tenant's Net Sale Proceeds or Net Financing Proceeds from each Transfer concurrently with and as a condition to the Transfer closing ("**Transfer Participation Rent**").
Facility Conditions Reports:	No later than the date that is six (6) months prior to the fifth (5th) Anniversary Date of this Lease and no later than the date that is six (6) months prior to the relevant expiration date during any Extension Term, Tenant, at its sole cost, shall assess the Building's structural elements and key Building Systems (including without limitation, the roof, substructure, HVAC system, Restrooms and fire protection systems) and provide a report in a form acceptable to Port prepared by qualified, California registered structural engineer, including, at a minimum, the following: (i) a narrative description of the current conditions and expected useful life of each element; (ii) relevant photographs; (iii) a list of the immediate and longer term maintenance, repair and replacement needs and estimated cost

	to address them; (iv) recommendations for further investigation by engineers or construction specialists; and (v) an explanation of cost estimating methodologies and assumptions ("**Facility Conditions Report**"). In addition, Tenant must provide a Facility Conditions Report as reasonably requested by Port as to any element of the Building or Building Systems.
Construction Warranties:	Notwithstanding any other provision of this Lease, Tenant shall not take any action that might impair the construction and associated manufacturing warranties listed in ***Schedule 5*** ("**Construction Warranties**") associated with Port's recent construction work at the Building or Port's ability to enforce the Construction Warranties, including without limitation, in performing Tenant's maintenance and repair obligations under this Lease. Tenant represents and warrants to Port that Tenant has received and reviewed the Construction Warranties listed in ***Schedule 5***. Port and Tenant agree to cooperate as needed in order to enforce the Construction Warranties. At Tenant's request, Port will use commercially reasonable efforts to cause the applicable contractor or subcontractor to perform its obligations under the applicable Construction Warranty including assignment of the warranty to Tenant (if requested by Tenant and at Tenant's sole cost and expense and by a commercially reasonable form of assignment and assumption agreement with respect to any such warranty(ies)).
*California Environmental Quality Act; Mitigation Measures and Reporting Program ("**MMRP**"):*	In order to mitigate any potential significant environmental impacts, Tenant agrees that its development and operation will be in accordance with the MMRP attached as ***Exhibit H*** and fully incorporated herein. Tenant is responsible for implementation and compliance with all required measures relating to Tenant's activities. As appropriate, in addition, Tenant will incorporate the MMRP into any contract for the development and/or operation of the Premises. Failure to comply with the requirements of the MMRP Section shall be a default of this Lease; provided that, for any requirement for which Port is the enforcing agency, Port will provide notice and an opportunity to cure as provided in ***Section 26.***
Diversity, Equity & Inclusion Plan:	Tenant on behalf of itself, its Subtenants and any Transferees, acknowledges the importance of furthering the values of diversity, equity, and inclusion. Tenant agrees to abide by the "**DEI Plan**" generally described in ***Exhibit L*** attached hereto, which may be reasonably amended, updated, and clarified by Tenant from time to time at its own initiative or at Port's suggestion. Tenant will promptly provide Port with a copy of any amended DEI Plan.
Prior Licenses:	The Parties agree that as of the Commencement Date, License 16931, dated June 3, 2022 for reference purposes , and License 16906, dated April 27, 2022 for reference purposes (the "**Prior Licenses"**) between Tenant and Port expired by their terms. The Parties shall continue to be liable for any obligations under the Prior Licenses which have accrued prior to the date of termination

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	and any obligations which by their terms survive the termination or expiration of the Prior Licenses.
Lease Prepared By:	James Hurley, Development Project Manager

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LEASE AGREEMENT

This Lease Agreement, dated for reference purposes only as of the Lease Date set forth in the Basic Lease Information, is by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation ("**City**"), operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), as landlord, and the Tenant identified in the Basic Lease Information ("**Tenant**"). The basic lease information (the "**Basic Lease Information**"), the exhibits, schedule and this Lease Agreement are and shall be construed as a single instrument and are referred to herein as this "**Lease**". In the event of any conflict or inconsistency between the Basic Lease Information and this Lease Agreement, the Basic Lease Information will control.

Port and Tenant previously entered into that certain Lease No. L-16997, dated July 14, 2023 (the "Original Lease"), which included provisions for Tenant to perform certain seismic related improvement work in return for a rent credit for a portion of such seismic related cost from the Port. The Parties desire to (i) eliminate the requirement to perform such seismic related work and provide such rent credit and (ii) make other changes to the Original Lease, and accordingly, the Parties have agreed to amend and restate the Original Lease in its entirety and enter into this Lease, which replaces and supersedes the Original Lease, all as more specifically set forth in this Lease.

1. DEMISE.

In consideration for the rents and all other charges and payments payable by Tenant, and for the agreements, terms and conditions to be performed by Tenant in this Lease, Port does hereby lease to Tenant, and Tenant does hereby hire and take from Port, the Premises upon the agreements, terms and conditions of this Lease for the Term hereinafter stated.

2. DEFINITIONS.

Definitions used in this Lease are found in the specified locations in this Lease or are set forth below. Definitions that are not capitalized below are not capitalized when used in this Lease.

"**ACMs**" means asbestos-containing materials ("**ACMs**") as defined in the Cal-OSHA General Industry Safety Order for Asbestos.

"**Additional Rent**" means all taxes, assessments, insurance premiums, operating and maintenance charges, fees, costs, expenses, liabilities and obligations of every description which Tenant assumes or is obligated to pay or discharge pursuant to this Lease, together with every fine, penalty, interest or other charge which may be added for non-payment or late payment, whether payable to Port or to other persons, parties or entities designated herein.

"**Adjusted Basis**" means the amount of the Certified Construction Costs of the Initial Improvements or Subsequent Alterations that constitute capital improvements to the extent unamortized on a Sale Closing date. If Tenant Completed the Initial Improvements and any Subsequent Alterations that constitute capital improvements, Tenant's Adjusted Basis for such improvements may be deducted if Tenant previously complied with ***Section 23.3(c)***.

"**Agents**" when used with reference to either party to this Lease or any other person means the commissioners, officers, directors, employees, agents, and contractors of the party or other person, and their respective heirs, legal representatives, successors, and assigns.

"**All-gender toilet facility**" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures.

"**Alterations**" means any alterations, installations, improvements, or additions to any Improvements or to the Premises and includes Subsequent Alterations.

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"**Anniversary Date**" means the first and each subsequent anniversary of the Rent Commencement Date and the first and each subsequent anniversary of the commencement date of an Extension Term as the case may be.

"Annual Adjustment" is defined in the Basic Lease Information.

"**Annual Statement**" is defined in ***Section 5.2(a)***.

"Arbitration Notice" is defined in ***Section 20.8(b)***.

"Arbitrator" is defined in ***Section 20.8(b)***.

"**Assignment**" means a proposed or actual Transfer of Tenant's rights, title, and interest in all or any part of the Premises under a contractual assignment or an assignment by operation of Law.

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

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

"**BCDC**" means the San Francisco Bay Conservation and Development Commission.

"**Blended Monthly Base Rent**" is defined in the Basic Lease Information.

"**Books and Records**" means all of Tenant's or a Subtenant's, as applicable, books, records, and accounting reports or statements relating to its business operations under this Lease or a Sublease, and the operation and maintenance of the Premises or subleased premises including construction activities, including cash journals, rent rolls, general ledgers, income statements, bank statements, income tax schedules relating to the Premises or subleased premises and any other bookkeeping documents used in Tenant's or a Subtenant's business operations on the Premises or subleased premises, whether maintained by Tenant, a Subtenant or a third-party contractor.

"**Building"** is defined in the Basic Lease Information.

"Building Permit for the Initial Improvements" means the permit issued by Port pursuant to the Port Building Code permitting construction of the Initial Improvements.

"**Building Systems**" means the plumbing, electrical, fire protection, life safety, security and other mechanical, electrical, and communications systems of the Building and includes Utilities.

"**business day**" means any weekday during which businesses are generally open for business, excluding local, state, and federal holidays observed by Port.

"**CMD**" means the Contract Monitoring Division of the City's General Services Agency.

"**Cal-OSHA**" means the Division of Occupational Safety and Health of the California Department of Industrial Relations.

"**Cash Consideration**" means cash or its equivalent in immediately available funds.

"**Casualty**" is defined in ***Section 20.1(a)***.

"**Casualty Notice**" is defined in ***Section 20.1(b)***.

"**CEQA**" means the California Environmental Quality Act.

"**Certified**" means a written representation by a manager of the entity whose financial statements or costs reports are the subject to the Certification who is authorized and competent to make such a representation that, to the certifying party's knowledge based on reasonably diligent inquiry, the information submitted is current, accurate, and complete.

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"**Certificate of Final Completion and Occupancy**" is provided by the Port's Chief Harbor Engineer or his or her designee through a signature on the back bottom of a permit card after all special inspections have been completed and a final affidavit has been issued by all necessary special inspections testing agencies as required by the Port Building Code.

"**Certified Construction Costs**" are Construction Costs that Port has approved through the procedures described in ***Section 23.3(e)***.

"Change in Laws" is defined in ***Section 11.2.***

"**Changes**" is defined in ***Section 12.2***.

"CHE" is defined in ***Section 16.***

"CHE Determination" is defined in ***Section 16.***

"**City**" means the City and County of San Francisco, a municipal corporation.

"**Claims**" means all liabilities, injuries, losses, costs, claims, demands, rights, causes of action, judgments, settlements, damages, liens, fines, penalties and expenses, including without limitation, direct and vicarious liability of any kind for money damages, compensation, penalties, liens, fines, interest, attorneys' fees, costs, equitable relief, mandamus relief, specific performance, or any other relief.

"**Class Life**" means thirty-four (34) years (in recognition that Tenant is not subject to the classification of and amortization period applicable to the Initial Improvements under Internal Revenue Code section 168(e)).

"**Commencement Date**" is defined in the Basic Lease Information.

"**Commission**" means the San Francisco Port Commission.

"**Completion**" in reference to the Initial Improvements is defined in the Work Letter; "**Completion**" in reference to any Subsequent Alteration means the issuance of a Final Certificate of Completion and Occupancy.

"**Concession**" is defined in ***Section 36.16 below***.

"**Condemnation**" means the taking of all or any part of any property, or the right of possession thereof, for any public or quasi-public purpose by any lawful governmental power or authority, by exercise of the right of eminent domain, condemnation, inverse condemnation, or appropriation. Condemnation may occur pursuant to the recording of a final order of condemnation, or by a voluntary sale of all or any part of any property to any Person having the power of eminent domain (or to a designee of any such Person), provided that the property or such part thereof is then under the threat of condemnation or such sale occurs by way of settlement of a condemnation action.

"**Condemnation Date**" means the earlier of: (a) the date when the right of possession of the condemned property is taken by the condemning authority; or (b) the date when title to the condemned property (or any part thereof) vests in the condemning authority.

"Condemned Land Value" is defined in ***Section 21.4(b)***.

"**Construction Costs**" means actual costs paid by Tenant for all categories of costs for the Initial Improvements or Subsequent Alterations as the case may be, without interest, and subject to the limitations set forth in the Work Letter as to the Initial Improvements, and amortized on a straight line basis over the Class Life of the Initial Improvements or Subsequent Alterations as the case may be, at an annual interest rate of eight percent (8%).

"**Construction Costs Report**" means a report Certified by a financial officer of Tenant or other accountant retained by Tenant prepared in accordance with sound accounting principles consistently applied specifying the Class Life of and verifying Tenant's actual Construction

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Costs for the Initial Improvements or Subsequent Alterations as the case may be, accompanied by copies of documentation substantiating all expenditures, such as: (a) executed contracts; (b) invoices for labor, services, goods, and materials, bills of lading, and other bills or receipts marked "Paid" or similarly indicating payment in full; (c) canceled checks or other written evidence of payment; and (d) other documents reasonably requested by Port.

"**Construction Term**" is defined in the Basic Lease Information.

"**Consumer Price Index**" or "**CPI**" means the Consumer Price Index for All Urban Consumers for the San Francisco-Oakland- Hayward area (1982-84=100)(Series Id: CUURS49BSA0), published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is changed so that the base year differs from that used as of the date most immediately preceding the prior Anniversary Date, the Index will be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued during the Term, such other government index or computation with which it is replaced will be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued; provided, however, if there is no replacement government index or computation, then Port will select another similar published index, generally reflective of increases in the cost of living, in order to obtain substantially the same result as would be obtained if the Index had not been discontinued.

"**Control**" means the direct or indirect ownership of: (a) fifty percent (50%) or more of each class of equity interests in the entity; or (b) fifty percent (50%) or more of each class of interests that have the right to nominate, vote for, or otherwise select the members of the governing body that directs or causes the direction of substantially all of the management and policies of the entity or otherwise has the right to direct or cause the direction of substantially all of the management and policies of the entity.

"**Costs of Sale**" means the following costs, but only to the extent Tenant actually incurred them in connection with a Sale: (a) reasonable (as determined by the Port in its reasonable discretion) brokerage commissions; (b) customary closing fees and costs, including title insurance premiums, survey fees, escrow fees, recording charges, and transfer taxes; (c) reasonable attorneys' fees; and (d) new tenant improvements made solely in connection with the Transfer and performed in compliance with ***Section 14***. Costs of Transfer exclude rents, taxes, or other income or expense items customarily prorated in connection with sales of real property.

"**CPA**" means an independent certified public accounting firm acceptable to Port in its reasonable discretion.

"Daily Driver Sublease" is defined in the Basic Lease Information.

"**Disability Laws**" means the Americans with Disabilities Act, a federal law codified at 42 U.S.C. §§ 12101 et seq., including, but not limited to, Title III thereof, and all regulations and guidelines related thereto ("**ADA**"), together with any and all laws, rules, regulations, ordinances, codes and statutes now or hereafter enacted by local or state agencies having jurisdiction thereof, including all requirements of Title 24 of the State of California, as the same may be in effect on the date of this Lease and may be hereafter modified, amended or supplemented.

"Disputed Amount" is defined in ***Section 20.8(a)***.

"**disturbed or removed**" is defined in ***Section 14.7*** .

"Dogpatch Paddle Sublease" is defined in the Basic Lease Information.

"Early Termination Date" is defined in ***Section 11.2.***

"Early Termination Notice" is defined in ***Section 11.2.***

"**Effective Date**" is defined in the Basic Lease Information.

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"**Encroachment Area**" is defined in ***Section 3.3***.

"**Encroachment Area Charge**" is defined in ***Section 3.3***.

"**Environmental Laws**" means any Laws relating to Hazardous Material (including its Handling, Release, or Remediation) or to human health and safety, industrial hygiene, or environmental conditions in the environment, including structures, soil, air, bay water, and groundwater, and any environmental mitigation measure each to the extent adopted under Environmental Laws affecting any portion of the Premises. Environmental Laws include the Risk Management Plan for Pier 70 (Treadwell & Rollo, 7/25/13) as amended and as interpreted by Regulatory Agencies with jurisdiction ("**RMP**").

"**Environmental Regulatory Action**" when used with respect to Hazardous Materials means any inquiry, Investigation, enforcement, Remediation, agreement, order, consent decree, compromise, or other action that is threatened, instituted, filed, or completed by an Environmental Regulatory Agency in relation to a Release of Hazardous Materials, including both administrative and judicial proceedings.

"**Environmental Regulatory Agency**" means the United States Environmental Protection Agency, OSHA, any California Environmental Protection Agency board, department, or office, including the Department of Toxic Substances Control and the San Francisco Bay Regional Water Quality Control Board, Cal-OSHA, the Bay Area Air Quality Management District, the San Francisco Department of Public Health, the San Francisco Fire Department, the San Francisco Public Utilities Commission, Port, or any other Regulatory Agency now or later authorized to regulate Hazardous Materials.

"**Environmental Regulatory Approval**" means any approval, license, registration, permit, or other authorization required or issued by any Environmental Regulatory Agency, including any hazardous waste generator identification numbers relating to operations on the Premises and any closure permit.

"Estimator" is defined in ***Section 20.8(a)***.

"**Event of Default**" is defined in ***Section 26***.

"**Exacerbate"** or "**Exacerbating"** when used with respect to Hazardous Materials means any act or omission that increases the quantity or concentration of Hazardous Materials in the affected area, causes the increased migration of a plume of Hazardous Materials in soil, groundwater, or bay water, causes a Release of Hazardous Materials that had been contained until the act or omission, or otherwise requires Investigation or Remediation that would not have been required but for the act or omission. Exacerbate also includes the disturbance, removal or generation of Hazardous Materials in the course of Tenant's operations, Investigations, maintenance, repair, Improvements and Alterations under this Lease. "**Exacerbation**" has a correlating meaning.

"**Expiration Date**" means the date on which the Term expires as specified in the Basic Lease Information or the last date of a relevant Extension Term, if any.

"**Extension Option**" is defined in the Basic Lease Information.

"**Extension Term**" is defined in the Basic Lease Information.

"**Extension Term Anniversary Date**" means the first and each subsequent anniversary of the commencement date of an Extension Term.

"Extension Term Annual Adjustment" is defined in the in the Basic Lease Information.

"**Exterior Improvements**" means any improvements, furnishings, fixtures, or equipment including any mechanical equipment, photovoltaic panels, satellite dishes, antennae or other communication equipment, public art, statues, bollards, flower baskets, benches, tables, chairs, umbrellas, heaters, railings, gates, trash receptacles, cleats, signs, kiosks, flagpoles, canopies,

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awnings, landscaping, planter boxes, light poles, lighting fixtures, fountains, ticket booths, bicycle racks, plaques, markers, tents, other street furniture, paint, paving or other surface treatments.

"**Facility Conditions Report**" is defined in the Basic Lease Information.

"**Finally Approved**" means that all applicable appeal periods for the filing of any administrative or judicial appeal challenging the issuance or effectiveness of the (i) approval of the Lease by the Port Commission or San Francisco Board of Supervisors or (ii) issuance of the Building Permit for the Initial Improvements shall have expired and no such appeal shall have been filed, or if such an administrative or judicial appeal is filed, the Lease or Building Permit for the Initial Improvements shall have been upheld by a final decision in each such appeal without material adverse effect on the applicable approval and the final judgment, order or ruling upholding the applicable approval has been entered.

"**financial statements**" mean a current balance sheet and profit and loss statements that have been prepared and reviewed or examined by the management of the entity to which such statements relate.

"**Financing"** means a Transfer affecting ownership of the beneficial interests in or business assets of Tenant including without limitation through a mortgage, deed of trust, or similar security instrument using Tenant's leasehold interest in the Premises or this Lease as collateral.

"**Financing Closing**" means the date that a Financing closes through close of escrow or otherwise.

"**Financing Reinvestment**" means any portion of Gross Financing Proceeds that are dedicated to be used for the benefit of the Building, including such proceeds that are designated for investment in building improvements or resiliency improvements, as approved by Port.

"Flood Protection Measures" is defined in ***Section 16.***

"**Force Majeure**" means events that cause delays due to causes beyond a party's control and not caused by the acts or omissions of such party (excluding, in any case, Tenant's performance of the payment of money required under the terms of this Lease), including: acts of nature or of the public enemy; war; invasion; insurrection; riots; any general moratorium in the issuance of Regulatory Approvals (but in the absence of such a moratorium, acts of the government relating to issuance of building permits or other Regulatory Approvals are governed by Section 12); fires; floods; tidal waves; epidemics; pandemics; quarantine restrictions; freight embargoes; earthquakes; unusually severe weather (but only if such unusually severe weather causes actual delays); delays of contractors or subcontractors due to any of the foregoing causes; the unanticipated presence of Hazardous Materials or other concealed conditions on the Premises that would not have reasonably been discovered through due diligence and that would actually delay or materially and adversely impair or delay Tenant's ability to construct the Initial Improvements; archeological finds on the Premises; strikes and substantial interruption of work because of labor disputes (excluding strikes and labor disputes directly related to any contracts between Tenant and its contractors or work performed on behalf of Tenant); inability to obtain materials or reasonably acceptable substitute materials (provided that Tenant has ordered such materials on a timely basis and Tenant is not otherwise at fault for such inability to obtain materials). The following are excluded from the definition of Force Majeure: (1) Tenant's failure to secure anticipated financing for the Initial Improvements unless caused by a direct result of some other event of Force Majeure; (2) sea level rise; and (3) any event that does not cause an actual delay.

"**goodwill**" means the value assigned to Tenant's intangible business assets in connection with a Transfer, but only if the Transferee will continue to operate substantially the same

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operation or use that Tenant operated at the Premises and Port reasonably agrees with the valuation.

"**Gross Financing Proceeds**" means all sums actually disbursed in connection with a financing or refinancing.

"**Gross Revenues**" means the following: all payments, revenues, fees, or amounts received by Subtenant or by any other party for the account of Tenant or a Subtenant from any Person for any Person's use or occupancy of any portion of the Premises (excluding security or other deposits to be returned to such Person upon the termination of such use or occupancy), or from any other sales, advertising, concessions, licensing, or programming generated from the Premises. Without limiting the foregoing, "**Gross Revenue**" also includes any and all payments made to Tenant from its or a Subtenant's business interruption or delayed opening insurance proceed to the extent such payments are made to compensate for lost revenue. "**Gross Revenue**" does not include any of the following: (i) proceeds from any Sale or Financing, or (ii) proceeds from any Condemnation; (iii) insurance proceeds arising from a Casualty at the Premises.

Except as specified below, Gross Revenues shall be determined without reserve or deduction for failure or inability to collect (including, without limitation, spillage and waste) and without deduction or allowance for cost of goods sold or other costs, charges or expenses of purchasing or selling incurred by Tenant or a Subtenant. No value added tax, no franchise or capital stock tax and no income, gross receipts or similar tax based upon income, profits or gross receipts as such shall be deducted from Gross Revenues.

The following shall be excluded from Gross Revenues, provided that Tenant provides to Port separate records to support the exclusions and separate notations are made for same on Tenant's Quarterly and Annual Statements: (i) the amount of any refund made or credit allowed due to a bona fide complaint from a customer concerning the quality of food, beverages, merchandise, or service by Tenant or a Subtenant; (ii) sales by redemption of gift certificates or like vouchers, but only to the extent previously reported as part of Gross Revenues; and (iii) sums collected for any tax or imposition imposed directly upon Tenant or a Subtenant under any governmental authority, but only if stated separately from the selling price of the goods or merchandise, or services, and collected from customers and such amounts are in fact paid to the appropriate governmental entities for which they are collected. As used in this definition, references to "Tenant" shall mean any Tenant that is a for-profit entity.

"**Gross Sale Proceeds**" means all consideration in any form directly or indirectly received by or for the account of the Tenant in connection with a Sale, including: (a) Cash Consideration; (b) the principal amount of any loan by Tenant to the Transferee to finance the Sale; and (c) the fair market value of any other non-cash consideration representing a portion of the purchase price.

"**Habitual Late Payer**" means Tenant has received at least two (2) notices of monetary default within a twelve (12) month period.

"**Handle**" or "**Handling**" means to use, generate, process, manufacture, produce, package, treat, transport, store, emit, discharge, or dispose of a Hazardous Material.

"**Hard costs**" is defined in ***Section 13.3 below***.

"**Hazardous Material**" means any substance, waste, or material that is now or in the future designated by any Regulatory Agency to be capable of posing a present or potential risk of injury to human health or safety, the environment, or property. This definition includes anything designated or defined in any Environmental Law as hazardous, hazardous substance, hazardous waste, toxic, pollutant, or contaminant; any asbestos, ACM and presumed asbestos-containing materials ("**PACMs**") (as such terms are defined in Cal-OSHA General Industry Safety Order for Asbestos), whether or not part of the structure of any existing Improvements on the Premises, any Improvements to be constructed on the Premises by or on behalf of Tenant, or occurring in

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nature; and other naturally-occurring substances such as petroleum, including crude oil or any fraction, and natural gas or natural gas liquids.

"**Hazardous Material Claim**" means any Environmental Regulatory Action or any Claim made or threatened by any third party against the Indemnified Parties or the Premises, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence or Release of any Hazardous Materials, including, without limitation, claims or losses based in common law. Hazardous Material Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Premises, or other Port property, the loss or restriction of the use or any amenity of the Premises, or other Port property, and attorneys' fees and consultants' fees and experts' fees and costs.

"**Hazardous Material Condition**" means the presence, Release, or threatened Release of Hazardous Materials in, on, or about the Premises, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees use during Tenant's occupancy of the Premises.

"**HEPA**" is defined in ***Section 14.7***.

"Historic Fabric" means the distinctive architectural design of any materials, features, or finishes of the Building and considered important in defining a building's historical character, as described in the Historic Resource Evaluation, Crane Cove Park, San Francisco, California, prepared for Port of San Francisco, prepared by Architectural Resources Group, San Francisco, California, revised August 2015, and attached to the Historic Resource Evaluation Response, San Francisco Planning Department, Case No. 2015-001314ENV, dated September 15, 2015.

"**Improvements**" means any and all buildings, structures, fixtures or other improvements constructed or installed on the Premises, including those constructed by or on behalf of Tenant pursuant to this Lease (including, without limitation, the Initial Improvements, Subsequent Alterations, any trailers, signs, roads, trails, driveways, parking areas, curbs, walks, fences, walls, stairs, poles, plantings and landscaping).

"**Improvements Pertaining to the Realty**" means machinery or equipment installed for use on the property that cannot be removed without a substantial economic loss or without substantial damage to the property on which it is installed, regardless of the method of installation. In determining whether particular property can be removed "without a substantial economic loss," the value of the machinery or equipment in place and considered as part of the realty should be compared with its value if it were removed and sold.

"**Indemnified Parties**" is defined in ***Section 22.1 below***.

"**Indemnify**" means to indemnify, protect, defend, and hold harmless forever. "**Indemnification**" and "**Indemnity**" have correlating meanings.

"**Initial Improvements**" means the improvements more particularly described in the Basic Lease Information and Scope of Development attached as Attachment 1 to the Work Letter.

"Initial Improvements Completion Date" is defined in Work Letter.

"**Interest Rate**" means ten percent (10%) per year or, if a higher rate is legally permissible, the highest rate an individual is permitted to charge under Law.

"**Interim Power Line**" is defined in the "**Utilities; Services**" section of the Basic Lease Information.

"**Investigate**" or "**Investigation**" when used with reference to Hazardous Materials means any activity undertaken to determine and characterize the nature and extent of Hazardous Materials that have been, are being, or are threatened to be Released in, on, under or about the Premises, other Port property, or the environment, and includes, without limitation, preparation and publication of site history, sampling, and monitoring reports, performing equipment and

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facility testing such as testing the integrity of secondary containment and above and underground tanks, and sampling and analysis of environmental conditions before, during, and after Remediation begins and continuing until the appropriate Environmental Regulatory Agency has issued a no further action letter, lifted a clean-up order, or taken similar action.

"**Invitees**" means Tenant's clients, customers, invitees, patrons, guests, members, licensees, permittees, concessionaires, assignees, subtenants, and any other person whose rights arise through them.

"**Late Charge**" means a fee equal to the higher of (a) five percent (5%) of all Rent or any portion thereof that remains unpaid following the date it is due (or with respect to a failure by Tenant to deliver the Quarterly Percentage Rent Statement or Annual Statement to Port on the due date, five percent (5%) of Percentage Rent due for the period of the Quarterly Percentage Rent Statement or Annual Statement), or (b) fifty dollars ($50.00).

"**Law"** means any present or future law, statute, ordinance, code, resolution, rule, regulation, judicial decision, requirement, proclamation, order, decree, the Waterfront Land Use Plan and any successor land use plan, and Regulatory Approval of any Regulatory Agency with jurisdiction over any portion of the Premises, including Regulatory Approvals issued to Port which require Tenant's compliance, and any and all recorded and legally valid covenants, conditions, and restrictions affecting any portion of the Premises, whether in effect when this Lease is executed or at any later time and whether or not within the present contemplation of the parties, as amended from time to time; provided that each of the foregoing has the force of law and applies non-discriminatorily to Tenant or the Premises.

"**Lease**" is defined in the preamble to this Lease.

"**Lease Quarter**" means a calendar quarter or portion thereof starting on the Rent Commencement Date.

"**Lease Year**" means each year of the Term starting on the Rent Commencement Date.

"**Leasehold Estate**" means Tenant's leasehold estate created by this Lease.

"License" is defined in the Basic Lease Information.

"**License Area**" is defined in the Basic Lease Information.

"Major Casualty" is defined in ***Section 20.4(a)***.

"Monthly Base Rent Allocation" is defined in the Basic Lease Information.

"Monthly Percentage Rent Statement" is defined in ***Section 5.2.***

"Net Awards and Payments" is defined in ***Section 21.4***.

"**Net Financing Proceeds**" means Gross Financing Proceeds after subtracting the following items, as applicable: (i) amounts necessary (a) to pay all actual lenders' costs of such Financing paid by Tenant including application fees, closing costs, points, and other customary lenders' fees such as lenders' attorneys' fees and costs and title insurance costs paid at close of escrow; and (b) to pay down the amount of outstanding indebtedness by an amount, if any, desired by Tenant or required by any lender; (ii) any Financing Reinvestment; (iii) all of Tenant's reasonable and documented cash equivalent costs of the Initial Improvements and any Subsequent Alterations that were not paid with outstanding indebtedness; and (iv) to pay Tenant's costs including reasonable attorneys' fees and costs associated with the Financing.

"**Net Sale Proceeds"** means Gross Sale Proceeds less Costs of Sale and goodwill. If Tenant made Initial Improvements or Subsequent Alterations that constitute capital improvements at the Premises, Tenant's Adjusted Basis may be deducted if Tenant previously complied with ***Section 23.3(c)***.

"**Notice to Cease Prohibited Use**" is defined in ***Section 10.3 below***.

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"**Notice of Request to Sublease**" is defined in ***Section 23.5(b)*** .

"**Notice to Vacate**" is defined in ***Section 3.3***.

"**OEWD**" means the City's Office of Economic Workforce and Development.

"**Official Records**" means the official records of the City and County of San Francisco.

"Operations Plan" is attached as ***Exhibit G*** to this Lease.

"**Option Notice**" is defined in the Basic Lease Information.

"**Option Notice Deadline**" is defined in the Basic Lease Information.

"**OSHA**" means the United States Occupational Safety and Health Administration.

"**Park**" is defined in the Basic Lease Information.

"**Partial Base Rent**" is defined in the Basic Lease Information.

"**Partial Base Rent Commencement Date**" is defined in the Basic Lease Information.

"Partial Condemnation" is defined in ***Section 21.3(b)***.

"**Participation Rent**" is defined in the Basic Lease Information.

"**Party**" means Port or Tenant, as a party to this Lease; Parties means both Port and Tenant, as Parties to this Lease.

"Percentage Rent" is defined in the Basic Lease Information.

"Permitted Use" and variations thereof is defined in the Basic Lease Information.

"**Permitted Mortgagee**" means a mortgagee approved by Port under the terms and conditions of ***Section 23.1.***

"**Person**" means any natural person, corporation, limited liability entity, partnership, joint venture, or governmental or other political subdivision or agency.

"**Port**" means the San Francisco Port Commission.

"**Port program or project**" means any development, removal or renovation, by public and/or private parties, of a building, pier or seawall lot in, on or in the vicinity of the Premises (including, but not limited to any Development Project described in the Basic Lease Information) and the Seawall Earthquake Safety Program.

"**Port representative**" means Port, a City auditor, or any auditor or representative designated by Port.

"**Port Work**" is defined in ***Section 14.12***.

"Port's Financing Participation" means the amount due to Port in connection with a Financing as described in ***Section 23.4***.

"**Port's Sale Participation**" means the amount due to Port in connection with a Sale as described in ***Section 23.3***.

"**Power Baseline**" is defined in the "**Utilities; Services**" section of the Basic Lease Information.

"**Premises**" means the real property described in ***Section 3.1*** and depicted on ***Exhibit A***.

"Prior Licenses" is defined in the Basic Lease Information.

"**Prevailing party**" is defined in ***Section 28.1 below***.

"**Prohibited Use(s)**" is defined in ***Section 10.2 below***.

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"**Public Trust**" is defined in ***Section 6.3.***

"Quarterly Percentage Rent Statement" is defined in ***Section 5.2.***

"**Regulatory Agency**" means the municipal, county, regional, state, or federal government and their bureaus, agencies, departments, divisions, courts, commissions, boards, officers, or other officials, including BCDC, any Environmental Regulatory Agency, Port (in its regulatory capacity), other departments, offices, and commissions of the City and County of San Francisco (each in its regulatory capacity), Port's Chief Harbor Engineer, the State Lands Commission, the Army Corps of Engineers, the United States Department of Labor, the United States Department of Transportation, or any other governmental agency each to the extent now or later having jurisdiction over Port property.

"**Regulatory Approval**" means any authorization, approval, license, registration, or permit required or issued by any Regulatory Agency.

"**Rehabilitate**" and "**Rehabilitation**" means the repair or alteration of an historic building that does not damage or destroy the Historic Fabric.

"**Release**" when used with respect to Hazardous Materials means any actual or imminent spilling, introduction, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the Premises, other Port property, or the environment.

"**Remediate**" or "**Remediation**" when used with respect to Hazardous Materials means to clean up, abate, contain, treat, stabilize, monitor, remediate, remedy, remove, or otherwise control Hazardous Materials, or to restore the affected area to the standard required by the applicable Environmental Regulatory Agency in accordance with applicable Environmental Laws and any additional Port requirements. "**Remediation**" also includes the creation of a remedial work plan to be approved by the appropriate Environmental Regulatory Agency when required.

"**Rent**" means the Base Rent, Percentage Rent, Participation Rent, Transfer Participation Rent, Additional Rent and all other sums payable by Tenant to Port hereunder, including, without limitation, any Late Charge and any interest.

"**Restoration**" and "**Restore**" means the restoration, replacement, renovation, reconstruction, repair, or rebuilding of the Improvements (or the relevant portion thereof) in accordance with all Laws (including the Secretary's Standards and any conditions or requirements resulting from review under the California Environmental Quality Act) then applicable. All Restoration shall be conducted in accordance with the provisions of ***Section 14.2*** (Subsequent Alteration). **"Restored"** has a correlative meaning.

"Restoration Cost" is defined in ***Section 20.8(a)***.

"**Restroom Opening Date**" is defined in the Basic Lease Information.

"**Rules and Regulations**" means any reasonable or typical landlord requirements or restrictions applicable to the Premises, as may be amended from time to time.

"**Sale**" means Tenant's Transfer of its entire interest in this Lease or the entire leasehold estate, including the sale to any other Person or entity.

"**saltwater immersion**" is defined in ***Section 34.12***.

"**Scope of Development**" means the Scope of Development attached to the Work Letter (***Exhibit E***) as Attachment 1.

"**Secretary's Standards**" is defined in ***Section 14.3(d) below***.

"**Security Deposit**" means the amount specified in the Basic Lease Information and as further described in ***Section 9 below***.

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"**SHPO**" means the State's Historic Preservation Officer.

"**Sublease**" means the following events or proposed events: (a) a proposed or actual sublease, sublicense or agreement of similar effect with a subtenant, sublicensee, manager, vendor, concessionaire, for all or any part of the Premises as defined in a lease or similar agreement that has a term of more than thirty (30) days; (b) any person other than Tenant uses, occupies or claims a right of possession to any part of the Premises; or (c) any further sublease, sublicense or agreement of similar effect with a subtenant of any of its interest in its sublease or premises.

"Sublease Premises A" is defined in the Basic Lease Information.

"Sublease Premises B" is defined in the Basic Lease Information.

"Subletting Expenses" as pertains only to the calculation of Participation Rent, means verifiable and reasonable expenses such as brokerage commissions and attorney fees incurred in connection with a Sublease and the costs of any new tenant improvements for which Tenant is responsible under the Sublease.

"**Subtenant**" is a person with a Sublease.

"**Subsequent Alteration**" means all alterations, installations, Improvements, repairs to and reconstruction, replacement, addition, expansion, restoration, alteration or modification of any Improvements, or any construction of additional Improvements, following Completion of the Initial Improvements pursuant to the Work Letter.

"Substantial Condemnation" is defined in ***Section 21.3(a)***.

"Subtenant's Property" means all furniture, trade fixtures, office equipment, fitness equipment, and articles of property included therein and any Improvements or Alterations constructed on or affixed to the Premises by or on behalf of a Subtenant.

"**SWPPP**" is defined in ***Section 18.8(a) below***.

"**Temporary Certificate of Occupancy**" may be issued by the Port's Chief Harbor Engineer or his or her designee only if requested by Tenant and the Building or a portion of the Building is approved for occupancy prior to issuance of the Certificate of Final Completion and Occupancy.

"**Tenant**" means the party identified as Tenant in the Basic Lease Information.

"**Tenant's Property**" means all furniture, trade fixtures, office equipment, and articles of property included therein and any Improvements or Alterations constructed on or affixed to the Premises by Tenant and Subtenant's Property.

"**Term"** is the Construction Term, the Initial Term and any Extension Term.

"Termination Fee" is defined in ***Section 11.2.***

"Threat Determination" is defined in ***Section 16.***

"Threat Determination Notice" is defined in ***Section 16.***

"Total Condemnation" is defined in ***Section 21.2***.

"**trade fixtures**" means those items of personalty, furniture, equipment, machinery used in trade by Tenant or a Subtenant which are customarily removed without damage to the Premises at the end of a lease term in the ordinary course of businesses of the type operated by Tenant or any Subtenant at the Premises.

"**Transfer**" means any of the following events or proposed events, whether voluntary, involuntary, or by operation of Law: (a) any sale, assignment, encumbrance (other than in connection with a Financing), or other transfer of any of Tenant's interest in this Lease or in the Premises (other than a Sublease or Financing); (b) any Person other than Tenant occupies or

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claims a right of possession to any part of the Premises other than under a Sublease; (c) if Tenant is a corporation, limited liability company, partnership or similar entity and is not traded on a nationally recognized security exchange, any change in Control of Tenant (including without limitation a dissolution, merger, consolidation, transfer or sale); or (d) any interest of any assignee, or other Transferee of Tenant's interest in the Lease or premises is sold, assigned, encumbered, or otherwise Transferred (other than a Sublease). For the purpose of this Lease, references to "this Lease" and "the Premises" in the context of a Transfer mean this Lease and the Premises to the extent Tenant's leasehold interest is affected by a Transfer.

"**Transfer Agreement**" means all document(s) effecting or evidencing Tenant's proposed sale, assignment, encumbrance, or other Transfer.

"**Transfer Closing**" means the date that any Sale closes.

"**Transfer Date**" means the effective date of a Transfer including a Sale Closing or Financing Closing.

"**Transfer Notice**" means Tenant's prior written notice to Port of an intent to Transfer, specifying: (a) the Transferee's name, address, other contact information, and, if the Transferee is not a natural Person, its form of organization and the identity of each Person with Control of the Transferee; (b) the proposed Transfer Date and a full description of the Transfer Terms; (c) a description of the Transferee's proposed use of the Premises, including any required or desired Alterations or Improvements to the Premises that the Transferee may undertake in order to facilitate its proposed use; and (d) a list of the Transferee's personal, business, and credit references.

"**Transfer Participation Rent**" is defined in the Basic Lease Information and includes Port's Sale Participation and Port's Financing Participation.

"**Transfer Terms**" means the terms and conditions in the proposed or final Transfer Agreement, as appropriate in context.

"**Transferee**" means the Person to which Tenant makes or proposes to make a Transfer.

"Uninsured Casualty" is defined in ***Section 20.4(a)***.

"**Upset Date**" is defined in the Basic Lease Information.

"**Utilities**" means electricity, water, gas, heat, sewers, oil, telecommunication services and all other Utilities.

"**WDAC**" means the Waterfront Design Advisory Committee authorized under Planning Code Section 240, whose members are appointed by the City and Port, and that is advisory to the Port Commission and to the City's Planning Commission.

"**Waiving Party**" is defined in ***Section 19.5 below***.

"**Work**" when used in reference to construction is defined in ***Section 14.3(c) below***.

"**worth at the time of award**" is defined in ***Section 27.10*** .

3. PREMISES; AS-IS CONDITION.

3.1. ***Premises***. Subject to the provisions of this Lease, Port hereby leases to Tenant, and Tenant hereby leases from Port, the Premises identified in the Basic Lease Information. The Premises has the address and contains the square footage specified in the Basic Lease Information. The location and dimensions of the Premises are depicted on ***Exhibit A*** attached hereto and incorporated herein by reference. Port and Tenant agree and acknowledge that any statement of rentable or usable (if applicable) square footage set forth in this Lease is an approximation which Port and Tenant agree is reasonable and that the usable square footage of the Premises may be less than the rentable square footage of the Premises.

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3.2. ***Accessibility Inspection Disclosure***.

California law requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("**CASp**") to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is hereby advised that the Premises has not been inspected by a CASp and Port shall have no liability or responsibility to make any repairs or modifications to the Premises in order to comply with accessibility standards. The following disclosure is required by law:

"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."

3.3. ***San Francisco Disability Access Disclosures***. Tenant is hereby advised that the Premises may not currently meet all applicable construction-related accessibility standards, including standards for public restrooms and ground floor entrances and exits. Tenant understands and agrees that Tenant may be subject to legal and financial liabilities if the Premises does not comply with applicable federal and state disability access Laws. As further set forth in ***Section 11*** (Compliance with Laws), Tenant further understands and agrees that it is Tenant's obligation, at no cost to Port, to cause the Premises, and Tenant's use thereof to be conducted in compliance with the Disability Laws and any other federal or state disability access Laws. Tenant shall notify Port if it is making any Alterations or Improvements to the Premises that might impact accessibility standards required under federal and state disability access Laws.

3.4. ***No Right to Encroach***.

(a) If Tenant (including, its Agents, Invitees, successors and assigns) uses or occupies space outside the Premises other than use in a manner allowable by the general public in a public space without the prior written consent of Port (the "**Encroachment Area"**), then upon written notice from Port ("**Notice to Vacate"**), Tenant shall immediately vacate such Encroachment Area and pay as Additional Rent for each day Tenant used, occupied, uses or occupies such Encroachment Area, an amount equal to the rentable square footage of the Encroachment Area, multiplied by the higher of the (i) highest rental rate then approved by the San Francisco Port Commission for the Premises, or (ii) then current fair market rent for such Encroachment Area, as reasonably determined by Port (the "**Encroachment Area Charge"**). If Tenant uses or occupies such Encroachment Area for a fractional month, then the Encroachment Area Charge for such period shall be prorated based on a thirty (30) day month. In no event shall acceptance by Port of the Encroachment Area Charge be deemed a consent by Port to the use or occupancy of the Encroachment Area by Tenant, its Agents, Invitees, successors or assigns, or a waiver (or be deemed as a waiver) by Port of any and all other rights and remedies of Port under this Lease (including Tenant's obligation to Indemnify Port as set forth in ***Section 3.4(c)***, at law or in equity.

(b) In addition, Tenant shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00) upon delivery of the initial Notice to Vacate plus the actual cost associated with a survey of the Encroachment Area. In the event Port determines during subsequent inspection(s) that Tenant has failed to vacate the Encroachment Area, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300.00) for each additional Notice to Vacate, if applicable, delivered by Port to Tenant following each inspection. The parties agree that the charges associated with each inspection of the

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Encroachment Area, delivery of each Notice to Vacate and survey of the Encroachment Area represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises, issuance of each Notice to Vacate and survey of the Encroachment Area. Tenant's failure to comply with the applicable Notice to Vacate and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this Lease, at law or in equity.

(c) In addition to Port's rights and remedies under this Section, the terms and conditions of the indemnity and exculpation provision set forth in ***Section 22*** (Indemnity and Exculpation) shall also apply to Tenant's (including, its Agents, Invitees, successors and assigns) use and occupancy of the Encroachment Area as if the Premises originally included the Encroachment Area, and Tenant shall additionally Indemnify Port from and against any and all loss or liability resulting from delay by Tenant in surrendering the Encroachment Area including, without limitation, any loss or liability resulting from any Claims against Port made by any tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Encroachment Area to any such tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

(d) All amounts set forth in this Section shall be due within three (3) business days following the applicable Notice to Vacate and/or separate invoice relating to the actual cost associated with a survey of the Encroachment Area. By signing this Lease, each party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

3.5. ***Proximity of Development Project***. Tenant acknowledges that during the Term, a Port program or project and/or the Development Project(s) described in the Basic Lease Information, if any, is scheduled to be, or may be, conducted in the vicinity of the Premises. Tenant is aware that such project(s) and the activities associated with such projects will generate certain adverse impacts which may result in some inconvenience to or disturbance of Tenant. Impacts may include, but are not limited to, increased vehicle and truck traffic, traffic delays and re-routing, loss of street and public parking, dust, dirt, construction noise and visual obstructions. Tenant hereby waives any and all Claims against Port, City and their Agents arising out of such inconvenience or disturbance. To the extent a Port program or project or Development Project is undertaken by Port, Port shall use commercially reasonable efforts to conduct any of the foregoing activities in a manner that, to the extent reasonably practicable, will minimize inconvenience or disturbance to Tenant, but Port will have no obligation to minimize inconvenience or disturbance to Tenant if a Port program or project Development Project is necessary, in Port's sole and absolute discretion, to maintain Port property in a safe, hazard-free condition.

3.6. ***No Light, Air or View Easement***. This Lease does not include an air, light, or view easement. Any diminution or shutting off of light, air or view by any structure which may be erected on lands near or adjacent to the Premises or by any vessels berthed near the Premises shall in no way affect this Lease or impose any liability on Port, entitle Tenant to any reduction of Base Rent or Additional Rent, or affect this Lease in any way or Tenant's obligations hereunder.

3.7. ***Unique Nature of Premises***. Tenant acknowledges that: (a) the Premises is located along the waterfront; (b) Port's regular maintenance may involve activities, such as pile driving, that create noise and other effects not normally encountered in locations elsewhere in San Francisco due to the waterfront location of the Premises; and (c) there is a risk that all or a portion of the Premises will be inundated with water due to floods or sea level rise.

3.8. ***As-Is Condition***. Tenant acknowledges and agrees that Tenant is familiar with the Premises, the Premises is being leased and accepted in their "as-is" condition, without any improvements or alterations by Port, without representation or warranty of any kind, and subject to all applicable Laws governing their use, occupancy and possession. Tenant represents and

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warrants to Port that Tenant has received and reviewed the FEMA disclosure notice attached as ***Schedule 2*** and a copy of the report(s), if any, relating to the substructure and/or structure of the Building, as further described in ***Schedule 3*** attached hereto. Tenant further represents and warrants to Port that Tenant has investigated and inspected, either independently or through agents of Tenant's own choosing, the condition of the Premises and the suitability of the Premises for Tenant's business and intended use. Tenant acknowledges and agrees that neither Port nor any of its agents have made, and Port hereby disclaims, any representations or warranties, express or implied, concerning the rentable area of the Premises, the physical or environmental condition of the Premises, the present or future suitability of the Premises for Tenant's business, or any other matter whatsoever relating to the Premises, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

3.9. ***Release and Waiver***. As part of its agreement to accept the Premises in their "**As Is With All Faults**" condition, Tenant, on behalf of itself and its successors and assigns, will be deemed to waive any right to recover from, and forever release, acquit and discharge, Port and the other Indemnified Parties of and from any and all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, that Tenant may now have or that may arise on account of or in any way be connected with (i) the physical, geotechnical or environmental condition in, on, under, above, or about the Premises, including any Hazardous Materials in, on, under, above or about the Premises (including soil and groundwater conditions), (ii) the suitability of the Premises for the development of the Improvements and the Permitted Uses, (iii) any Laws applicable thereto, including Environmental Laws as of the Effective Date, (iv) damages by death of or injury to any Person, or to property of any kind whatsoever and to whomever belonging, and (v) goodwill, or business opportunities arising at any time and from any cause in, on, around, under, and pertaining to the Premises, including all claims arising from the joint, concurrent, active or passive negligence of any of Indemnified Parties, but excluding any intentionally harmful acts committed solely by Port or City.

3.10. ***Port's Rights Regarding Premises***. Port shall have the full right and authority to make, revoke, impose, and amend any Rules and Regulations pertaining to and reasonably necessary for the proper use, operation and maintenance of the Premises and Tenant agrees to be bound by any such Rules and Regulations upon prior written notice by Port. Tenant also acknowledges that Port's exercise of any of its rights regarding the Premises and other Port property in the vicinity of the Premises will not entitle Tenant to any abatement or diminution of Rent.

4. TERM.

4.1. ***Term***. The Term of this Lease includes the Construction Term, Initial Term and any Extension Term as defined in this Lease.

4.2. ***Delivery***. If Port is unable to deliver possession of the Premises to Tenant on or before the Commencement Date, then the validity of this Lease shall not be affected thereby and Port shall not be liable to Tenant for any Claims resulting therefrom, and Tenant waives all provisions of any Laws to the contrary. In such case, the Term and regular payments of Rent shall not commence until Port delivers possession of the Premises. Notwithstanding anything to the contrary above, if Port's inability to deliver possession of the Premises on the estimated Commencement Date results from Tenant's or its Agents' acts or omissions, then Base Rent and Additional Rent payable by Tenant hereunder shall commence on the date when Port would have delivered possession of the Premises but for such acts or omissions.

4.3. ***Waiver of Relocation Benefits***. To the extent allowed by applicable Law, Tenant hereby waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code §§ 7260 et seq., or under any similar law, statute or ordinance now or hereafter in effect, except as specifically provided in this Lease.

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5. RENT.

Tenant shall pay to Port, in the manner herein described, the following Rent:

5.1. ***Base Rent; Annual Base Rent Adjustment***. Throughout the Initial Term and any Extension Term, Tenant shall pay to Port the Base Rent set forth in the Basic Lease Information. Base Rent shall not be reduced due to subtenant vacancies. Tenant shall make the first payment of Base Rent from no later than the Rent Commencement Date and thereafter shall pay the Base Rent, in advance, on or before the first day of each calendar month throughout the Initial Term and during any Extension Term. If the Expiration Date is other than the last day of the month, the Base Rent for that month shall be apportioned based on a thirty (30) day month.

5.2. ***Percentage Rent***. As described in the Basic Lease Information and subject to Port's consent to each Sublease as required in ***Section 23.5***, Tenant agrees to pay to Port, in addition to the monthly Base Rent payable by Tenant pursuant to ***Section 5.1***, a monthly Percentage Rent in the amount described in the Basic Lease Information in the following manner:

(a) Percentage Rent shall be calculated monthly and shall be paid by Tenant quarterly for each Lease Quarter within thirty (30) days after the end of the prior Lease Quarter, except that in the event this Lease expires or terminates on a day other than the last day of a Lease Quarter, Percentage Rent for such Lease Quarter shall be paid within thirty (30) days after such expiration or termination date. On the date Percentage Rent is determined and due, Tenant shall furnish a complete statement (the "**Quarterly Percentage Rent Statement**") in a form approved by Port. In addition, Tenant shall furnish to Port, within sixty (60) days after the expiration of each applicable Subtenant's fiscal year as stated in the relevant Sublease, a complete statement, showing the computation of the Percentage Rent for the immediately preceding Lease Year ("**Annual Statement**") in a form approved by Port. The Annual Statement is for verification and certification of Quarterly Percentage Rent Statements only and shall not result in any averaging of monthly Percentage Rent. Each Quarterly Percentage Rent Statement and Annual Statement shall set forth in reasonable detail Gross Revenues for such immediately preceding Lease Quarter or Lease Year, as applicable, including an itemized list of any and all deductions or exclusions from Gross Revenues that Tenant may claim and which are expressly permitted under this Lease, and a computation of the Percentage Rent for the immediately preceding Lease Quarter or Lease Year, as applicable.

(b) Each Quarterly Percentage Rent Statement and Annual Statement shall be Certified. Tenant must submit payment of the balance owing together with any Annual Statement showing that Tenant has underpaid Percentage Rent. At Port's option, overpayments may be refunded to Tenant, applied to any other amount then due under the Lease and unpaid, or applied to Rent due at the first opportunity following Tenant's delivery of any Annual Statement showing an overpayment.

(c) If Tenant fails to (i) pay the Percentage Rent on the date due as provided above; (ii) submit the Quarterly Percentage Rent Statement therewith (even if the statement indicates that Percentage Rent is not due); or (iii) fails to submit the Annual Statement, such failure in each instance shall be subject to a Late Charge. Tenant shall also pay any costs including attorneys' fees reasonably incurred by Port by reason of such failure. Additionally, if Tenant fails to deliver any Quarterly Percentage Rent Statement or Annual Statement within the time period set forth in this ***Section 5.2*** (irrespective of whether any Percentage Rent is actually paid or due to Port) and such failure continues for thirty (30) days after the date Tenant receives (or refuses receipt of) written notice of such failure from Port, Port shall have the right, among its other remedies under this Lease, to employ a CPA to make such examination of Tenant's Books and Records (and the Books and Records of any other occupant of the Premises) as may be necessary to certify the amount of Percentage Rent due under this Lease for the period in question and the certification so made shall be binding upon Tenant and Tenant shall promptly pay to Port the total reasonable cost of the examination, together with the full amount of

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Percentage Rent due and payable for the period in question, including any Late Charge. Tenant acknowledges that late submittal of the Quarterly Percentage Rent and Annual Statements and late payment of Percentage Rent will cause Port increased costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. The parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the cost that Port will incur by reason of Tenant's lateness.

(d) Acceptance by Port of any monies paid to Port by Tenant as Percentage Rent as shown by any Quarterly Percentage Rent Statement or Annual Statement, shall not be an admission of the accuracy of said Quarterly Percentage Rent Statement or Annual Statement or the amount of such Percentage Rent payment.

(e) Tenant agrees to submit Quarterly Percentage Rent Statements on a monthly basis if requested by Port with no less than twelve (12) months prior written notice, in which case, all references in this Lease to Quarterly Percentage Rent Statements will be changed to "Monthly Percentage Rent Statements" and all requirements pertaining to Quarterly Percentage Rent Statements shall apply to Monthly Percentage Rent Statements.

5.3. ***Participation Rent***. As described in the Basic Lease Information and subject to Port's consent to each Sublease as required in ***Section 23.5***, Tenant agrees to pay to Port, in addition to the monthly Base Rent payable by Tenant pursuant to ***Section 5.1***, and the Percentage Rent pursuant to ***Section 5.2***, Tenant agrees to pay to Port immediately upon receipt all Participation Rent, less Subletting Expenses in the amounts and manner approved by Port in its reasonable discretion, as Additional Rent.

5.4. ***Books and Records***. Tenant agrees that the business of Subtenants upon the Premises shall be operated with a non-resettable register and so that a duplicate dated sales slip or such other recording method reasonably acceptable to Port shall be issued with each sale, whether for cash, credit or exchange. Furthermore, Tenant shall keep (and shall cause its Subtenants and assignees to keep) at the Premises or at a convenient location in San Francisco at all times during the Term complete and accurate Books and Records that contain all information required to permit Port to verify Gross Revenues and deductions and exclusions therefrom that are in accordance with this Lease and with generally accepted accounting practices consistently applied with respect to all operations of the business to be conducted in or from the Premises and shall retain such Books and Records until the later of (i) four (4) years after the end of each Lease Year to which such Books and Records apply or, (ii) if an audit is commenced or if a controversy should arise between the parties hereto regarding the Percentage Rent payable hereunder, until such audit or controversy is concluded even if such audit period extends beyond the expiration or earlier termination of the Lease (the "**Audit Period**").

5.5. ***Audit***.

(a) Tenant on its own behalf and on behalf of its Subtenants agrees to make all Books and Records available to Port, or to any City auditor, or to any auditor or representative designated by Port or City (hereinafter collectively referred to as "**Port Representative"**), upon no less than thirty (30) business days prior written notice to Tenant, for the purpose of examining said Books and Records to determine the accuracy of Tenant's reporting of Percentage Rent for a period not to exceed the Audit Period after a Percentage Statement is delivered to the Port. Tenant shall cooperate with the Port Representative during the course of any audit, provided however, such audit shall occur at Tenant's business office, or at such other location in San Francisco where the Books and Records are kept, and no books or records shall be removed by Port Representative without the prior express written consent of Tenant (provided, however, copies may be made by the Port Representative on site), and once commenced, with Tenant's cooperation, such audit shall be diligently pursued to completion by Port within a reasonable time of its commencement, provided that Tenant makes available to the Port Representative all the relevant Books and Records in a timely manner. If an audit is made of Tenant's Books and Records and Port claims that errors or omissions have occurred, the

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Books and Records shall be retained by Tenant and made available to the Port Representative until those matters are expeditiously resolved with Tenant's cooperation. If Tenant operates the Premises through one or more Subtenants or Agents (other than Port), Tenant shall require each such Subtenant or Agent to provide the Port with the foregoing audit right with respect to its Books and Records. Upon completion of the audit, Port shall promptly deliver a copy of the audit report to Tenant.

(b) If an audit reveals that Tenant has understated Gross Revenues for said audit period, Tenant shall pay Port, promptly upon demand, the difference between the amount Tenant has paid and the amount it should have paid to Port, plus interest at the Interest Rate from the date of the error in the payment. If an audit reveals that Tenant has overstated Gross Revenues for said audit period, Tenant shall be entitled to a credit against rent for either Base Rent or Percentage Rent next owed equal to the difference between the amount Tenant has paid and the amount it should have paid to Port. If Tenant understates Gross Revenues for any audit period by three percent (3%) or more (subject to a minimum understatement of five thousand dollars ($5,000), increased annually by three percent (3%)), Tenant shall pay the cost of the audit. A second understatement within any three (3) Lease Year period of the first such understatement shall be considered an Event of Default.

5.6. ***Default Interest***. Any Rent, if not paid within five (5) days following the due date and any other payment due under this Lease not paid by the applicable due date, shall bear interest from the due date until paid at the Interest Rate. However, interest shall not be payable on Late Charges incurred by Tenant nor on other amounts to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Tenant. Tenant shall also pay any costs, including attorneys' fees incurred by Port by reason of Tenant's failure to pay Rent or other amounts when due under this Lease.

5.7. ***Late Charges/Habitual Late Payer***. Tenant acknowledges that late payment by Tenant to Port of Rent or other sums due under this Lease will cause Port increased costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Accordingly, if Tenant fails to pay Rent on the date due, such failure shall be subject to a Late Charge at Port's discretion; provided that such Late Charge shall be imposed with respect to the first two (2) occurrences of such a delinquency in any twelve (12)-month period only if Tenant fails to cure such delinquency within five (5) days after written notice from Landlord thereof. Tenant shall also pay any costs including attorneys' fees incurred by Port by reason of Tenant's failure to timely pay Rent. Additionally, in the event Tenant is notified by Port that Tenant is considered to be a Habitual Late Payer, Tenant shall pay, as Additional Rent, an amount equal to Fifty Dollars ($50.00) (as such amount may be adjusted from time to time by the Port Commission) upon written notification from Port of Tenant's Habitual Late Payer status. The parties agree that the charges set forth in this Section represent a fair and reasonable estimate of the cost that Port will incur by reason of any late payment. Such charges may be assessed without notice and cure periods and regardless of whether such late payment results in an Event of Default. Payment of the amounts under this Section shall not excuse or cure any default by Tenant.

5.8. ***Returned Checks***. If any check for a payment for any Lease obligation is returned without payment for any reason, Tenant shall pay, as Additional Rent, an amount equal to Fifty Dollars ($50.00) (as such amount may be adjusted from time to time by the Port Commission) and the outstanding payment shall be subject to a Late Charge as well as interest at the Interest Rate.

5.9. ***Net Lease***. It is the purpose of this Lease and intent of Port and Tenant that all Rent shall be absolutely net to Port, so that this Lease shall yield to Port the full amount of the Rent at all times during the Term, without deduction, abatement or offset. Except as otherwise expressly set forth in this Lease, under no circumstances, whether now existing or hereafter

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arising, and whether or not beyond the present contemplation of the Parties shall Port be expected or required to incur any expense or make any payment of any kind with respect to this Lease or Tenant's use or occupancy of the Premises, including any Improvements. Without limiting the foregoing, but except as expressly provided to the contrary in this Lease, Tenant shall be solely responsible for paying each item of cost or expense of every kind and nature whatsoever, the payment of which Port would otherwise be or become liable by reason of Port's estate or interests in the Premises and any Improvements, any rights or interests of Port in or under this Lease, or the ownership, leasing, operation, management, maintenance, repair, rebuilding, remodeling, renovation, use or occupancy of the Premises, any Improvements, or any portion thereof. No occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant from its liability to pay all of the sums required by any of the provisions of this Lease, or shall otherwise relieve Tenant from any of its obligations under this Lease, or shall give Tenant any right to terminate this Lease in whole or in part, except as otherwise expressly provided in this Lease. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease or to receive any abatement, diminution, reduction or suspension of payment of such sums, on account of any such occurrence or situation, provided that such waiver shall not affect or impair any right or remedy expressly provided Tenant under this Lease.

5.10. ***Additional Charges***. Without limiting Port's other rights and remedies set forth in this Lease, at law or in equity, in the event Tenant fails to submit to the appropriate party, on a timely basis, the items identified in ***Sections: 15*** (Utilities), ***18.3*** (Tenant's Environmental Condition Notification Requirements), ***18.8*** (Storm Water Pollution Prevention), ***34.1(d)*** (CMD Form), and ***38*** (Estoppel Certificate) or to provide evidence of the required insurance coverage described in ***Section 19 below***, then within twenty (20) days after written notice from Port of such failure, Tenant shall pay, as Additional Rent, an amount equaling One Hundred Dollars ($100.00). In the event Tenant fails to provide the necessary document within the time period set forth in the initial notice (which shall not be less than fifteen (15) days under this Lease) and Port delivers to Tenant additional written notice requesting such document, then Tenant shall pay to Port, as Additional Rent, an amount equaling One Hundred Fifty Dollars ($150.00) for each additional written notice Port delivers to Tenant requesting such document. The parties agree that the charges set forth in this ***Section 5.10*** represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Tenant's failure to provide the documents identified in this ***Section 5.10*** and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this Lease, at law or in equity. By signing this Lease, each party specifically confirms the accuracy of the statements made in this ***Section 5.10*** and the reasonableness of the amount of the charges described in this ***Section 5.10***.

5.11. ***Rent Credits.***

(a) Conditions for All Rent Credits.

(i) Tenant agrees and acknowledges that any right or claim Tenant may have to any rent credit that has not yet been actually applied against Rent shall, upon the earlier to occur of (i) Tenant's failure to submit to Port within ninety (90) days adequate evidence of expenditures (if submission is required under this Lease); or (ii) the expiration or earlier termination of this Lease, be immediately terminated, without notice, and Port shall have no liability or obligation to pay or credit Tenant all or any portion of the unused rent credit.

(ii) Rent credits cannot be applied retroactively.

(iii) Notwithstanding anything to the contrary contained herein, in no event shall Tenant receive any rent credit during any existing Event of Default. Upon the occurrence of an Event of Default during the period Tenant is eligible for rent credits, Tenant's right to receive any rent credit shall cease and shall not be reinstated until the Event of Default is cured. If an Event of Default occurs on a day other than the first day of the calendar month or an

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Event of Default is cured on a day other than the last day of the calendar month, Base Rent due to Port shall be apportioned based on a thirty (30) day month. In no event shall the cessation in the application of any rent credit extend the rent credit period or amount.

6. TENANT'S MANAGEMENT AND OPERATING COVENANTS.

6.1. ***Operating Standards/Covenants***. Tenant will maintain and operate the Premises, or cause the Premises to be maintained and operated, in a manner consistent with (i) the maintenance and operation of other YMCA of San Francisco locations in San Francisco, California or, if YMCA of San Francisco is no longer the Tenant, then consistent with the maintenance and operation of similar fitness facilities in San Francisco and (ii) with respect to all other uses, consistent with the maintenance and operation of a similar first-class development of the same or similar use located in the Dogpatch neighborhood of San Francisco, and in, in all cases, in accordance with this Lease. Tenant is exclusively responsible, at no cost to Port, for the management and operation of the Premises. In connection with managing and operating the Premises, Tenant will provide (or require Subtenants or others to provide), services as necessary and appropriate for the use of the Improvements, including (a) repair and maintenance of the Improvements, as more fully described in ***Section 13***; (b) utility and telecommunications (including internet/Wi-Fi) services; and (c) cleaning, janitorial, pest extermination, recycling, composting, and trash and garbage removal.

6.2. ***Continuous Operations***. Tenant shall use commercially reasonable efforts to ensure that all of the Premises are used continuously during the opening hours set forth in this Lease including in the Operations Plan and shall not allow any portion of the Premises to remain unoccupied or unused without the prior written consent of Port, which consent may be withheld in Port's reasonable discretion. Notwithstanding the foregoing, the Port shall not withhold its consent to any cessation of operations of any portion of the Premises for any reasonably necessary time period due to the following causes or in the following circumstances: (a) if the Premises or a portion thereof becomes untenantable due to fire or other Casualty, (b) as may be necessary in connection with performing Improvements, Alterations or major maintenance activities that materially impact the ability to use the Premises or a portion thereof, (c) while conducting periodic inventory of Tenant's goods and merchandise, or (d) during re-subtenanting. Notwithstanding anything to the contrary, the Restrooms shall remain open on the terms and conditions stated in the Basic Lease Information at any time that Tenant is operating at the Premises.

6.3. ***Subleasing Program***. Consistent with the purpose of this Lease to support maritime recreation and promote public access to the Bay and shoreline, Tenant will make every reasonable effort to obtain and retain desirable Subtenants that are consistent with the tidelands public trust for commerce, navigation and fisheries, including the statutory trust imposed by the Burton Act as set forth in the Burton Act ("**Public Trust**"). In the event of vacant subleasable space, Tenant shall first market to Public Trust-consistent users offering similar retail goods and services as the original Subtenants (i.e. aquatics center; food and beverage). Nothing in this section is intended to require Tenant to enter into any Sublease that represents a below market rate or that will materially reduce the economic return to Tenant from the Sublease or require Tenant to enter into an agreement with someone that is not otherwise qualified. Tenant agrees to meet with Port from time to time, and, to consider in good faith whether to implement such steps as the Port may recommend to increase usage for Public Trust-related uses. In the event of any subtenant vacancies, Tenant will provide Port with quarterly reports on the status of its subleasing efforts (the **"Leasing Activity Report"**) and maintain accurate records as to space leased, optioned, and available to lease to ensure the best placement of tenants taking into consideration options to extend and to expand. The Leasing Activity Report is due by the twentieth (20th) day of each Lease Quarter for the immediately preceding quarter and will be submitted concurrently with the applicable Quarterly Percentage Rent Statement.

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6.4. ***Restaurant/Retail Businesses Open to the General Public***. Any restaurant and/or retail operation (other than trade-only showrooms) on the Premises must be open to the general public and operated in a manner consistent with ***Section 6.1*** and ***Section 10*** and the Operations Plan.

6.5. ***Flags***. Throughout the Term, a Port flag will fly on the Building. At Port's sole cost, Port will provide the Port flag to Tenant and will promptly replace worn Port flags. Tenant will promptly, at no charge, install, raise, lower, and remove Port flags at Port's request. The dimensions of Port flags will be similar to the dimensions of Port flags flown on the roofs of Port buildings. Tenant also may fly other flags on the Building, provided that such other flags, other than the flags of the United States and the State of California, must be placed beneath the Port flag and Port must first reasonably approve the dimensions, color, text, design, and materials for each flag. If Port determines that Tenant's response to Port's request to raise or lower Port flags is inadequate, then at Port's election, Port may exercise its rights to access the Flagpoles as further described in ***Section 29***.

If Port does not provide a replacement flag to replace a worn Port flag, then Tenant shall provide Port with notice requesting that a replacement flag be provided (**"Replacement Notice"**). If Port reasonably believes the flag in question is not worn sufficiently enough to warrant its replacement, Port shall notify Tenant within five (5) days following receipt of the Replacement Notice, and such flag shall remain in place and not be replaced. If Port has not timely notified Tenant that Port disputes the need to replace the flag and if Port does not provide Tenant with a replacement flag within thirty (30) days following the Replacement Notice, then Tenant shall deliver to Port a second notice, which notice shall include a statement in bold, all caps, and underlined that if Port does not provide Tenant with a replacement flag within ten (10) days of such second notice, then Tenant shall have the right to remove the worn flag. If Port does not provide Tenant with a replacement flag within five (5) days of such second notice, then Tenant shall have the right to remove the worn flag; provided, however, if Port notifies Tenant that Port cannot provide Tenant with a replacement flag due to unavailability of a replacement flag, Tenant shall not remove the worn flag until Port is able to obtain a replacement flag, but in no event shall Tenant be obligated to fly a worn flag more than sixty (60) days from delivery of the first Replacement Notice from Tenant.

6.6. ***Exterior Improvements***. Tenant will not install any Exterior Improvements without Port's prior consent. Tenant will provide to Port the size, height, design, color, dimensions, text (if any), materials, location, and method of installation of the Exterior Improvements to enable Port to evaluate the proposed Exterior Improvement. Within thirty (30) days following Port's receipt of the proposed Exterior Improvement, Port will notify Tenant if Port requires the proposed Exterior Improvement to be reviewed by the WDAC or another Port advisory body, in Port's sole discretion, and Tenant will incorporate Port's requested changes, if any, into the proposed Exterior Improvement so long as such changes do not materially increase Tenant's cost or materially delay installation of the proposed Exterior Improvement. Construction of the Exterior Improvements will be in accordance with ***Section 14***.

7. EXTENSION OPTIONS.

7.1. ***Options to Extend Term***. Provided that (i) Tenant has invested a minimum of $5,000,000 in the Initial Improvements by the Initial Improvements Completion Date (as may be extended as provided in the Work Letter) as set forth in a summary that Tenant provides to Port of the amounts Tenant has spent, along with reasonably satisfactory evidence of Tenant's payment of such amounts) and (ii) Tenant provides a timely Option Notice, Tenant shall have the Extension Options described in the Basic Lease Information. Any Option Notice by Tenant shall be irrevocable by Tenant. The lease for an Extension Term shall cover the entire Premises and shall be upon all of the terms, covenants and conditions of this Lease, except that the Expiration Date shall mean the last day of the Extension Term.

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If any Event of Default by Tenant is outstanding either at the time of Tenant's Option Notice or at any time prior to the first day of an Extension Term and remains uncured after notice and the expiration of all applicable cure periods, then Port may elect by written notice to Tenant to reject Tenant's exercise of the Extension Option, whereupon the Extension Option shall be null and void. If Tenant fails to exercise any Extension Option or Port rejects Tenant's exercise of any Extension Option in accordance with this Section, then all successive Extension Options shall be null and void and this Lease will terminate as of the original or relevant Expiration Date. The Parties acknowledge and agree that the prerequisite conditions to Tenant's extension option right set forth for in this Section are a material part of the bargained-for consideration under this Lease.

7.2. ***Rent During Extension Term(s)***. During any Extension Term, Tenant shall pay to Port the Base Rent set forth in the Basic Lease Information as adjusted on each Extension Term Anniversary Date by the Extension Term Annual Adjustment as provided in the Basic Lease Information. Percentage Rent, Participation Rent and Transfer Participation Rent will remain the same during any Extension Term.

7.3. ***Other Terms***. The lease for an Extension Term shall cover the entire Premises and shall be upon all of the terms, covenants and conditions of this Lease, except that the Expiration Date shall mean the last day of the Extension Term.

8. TAXES AND ASSESSMENTS.

8.1. ***Payment of Taxes***. During the Term, Tenant agrees to pay, when due, to the proper authority any and all real and personal property taxes, general and special assessments, real property transfer taxes, license fees, permit fees and all other governmental charges of any kind or nature whatsoever, including without limitation all penalties and interest thereon, levied or assessed on Tenant's Property, the leasehold or subleasehold estate or Tenant's use of the Premises, or any transfer of a leasehold interest or subleasehold interest in the Premises (including but not limited to the transfer of the leasehold interest in the Premises pursuant to the Lease) whether in effect at the time this Lease is entered into or which become effective thereafter, and all taxes levied or assessed on the possession, use or occupancy, as distinguished from the ownership, of the Premises. Tenant further recognizes and agrees that its leasehold interest may be subject to the payment of special taxes, including without limitation a levy of special taxes to finance energy efficiency, water conservation, water pollution control and similar improvements under the Special Tax Financing Law in Chapter 43 Article X of the Administrative Code. Tenant shall not permit any of the above taxes, assessments or other charges to become a defaulted lien on the Premises or the Improvements thereon; provided, however, that in the event any such tax, assessment or similar charge is payable in installments, Tenant may make, or cause to be made, payment in installments; and provided, further, that Tenant may, through such proceeding as Tenant considers necessary or appropriate, contest the legal validity or the amount of any tax, assessment or similar charge so long as such assessment or charge does not become a defaulted lien. In the event of any such dispute, Tenant shall Indemnify Port, City, and their Agents from and against all Claims resulting therefrom.

8.2. ***Possessory Interest Tax***. Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest. Tenant further recognizes and understands that any sublease or assignment permitted under this Lease and any exercise of any option to renew or other extension of this Lease may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Tenant agrees to pay taxes of any kind, including, but not limited to, possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Tenant's usage of the Premises that may be imposed upon Tenant by Law, all of which shall be paid when the same become due and payable and before delinquency. Tenant agrees not to allow or suffer a lien for

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any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Tenant, if so desiring, may have reasonable opportunity to contest the validity of the same. San Francisco Administrative Code Sections 23.38 and 23.39 (or any successor statute) require that certain information relating to the creation, renewal, extension, assignment, sublease, or other transfer of this Lease be reported to the County Assessor within sixty (60) days after any such transaction. Accordingly, Tenant must provide a copy of this Lease to the County Assessor not later than sixty (60) days after the Effective Date, and any failure of Tenant to timely provide a copy of this Lease to the County Assessor will be a default under this Lease. Tenant will also timely provide any information that Port or City may request to ensure compliance with this or any other reporting requirement.

9. SECURITY DEPOSIT.

Tenant shall pay to Port upon execution of this Lease, the Security Deposit, in cash, in the sum specified in the Basic Lease Information, as security for the faithful performance by Tenant of all terms, covenants and conditions of this Lease. At all times, the Security Deposit shall equal the amount that is twice the current Monthly Base Rent and Tenant shall increase the amount of the Security Deposit on the same date that any increase in Base Rent is first due, including with respect to any Annual Adjustment and upon the commencement date of any Extension Term to maintain such ratio.

Tenant agrees that Port may (but shall not be required to) apply the Security Deposit in whole or in part to (a) pay any sum due to Port under this Lease; (b) compensate Port for any expense incurred or damage caused by Tenant, its Agents or Invitees; (c) cure any default by Tenant; or (d) cure, or attempt to cure, any failure of Tenant to perform any other covenant, term or condition contained herein. Tenant shall immediately upon demand pay Port a sum equal to the portion of the Security Deposit expended or applied by Port. Port shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to any interest on the Security Deposit. Nothing contained in this Section shall in any way diminish or be construed as waiving any of Port's other remedies set forth in this Lease or provided by law or equity.

Tenant hereby waives the provisions of California Civil Code Section 1950.7 and/or any successor statute, it being expressly agreed that Port may apply all or any portion of the Security Deposit in payment of any and all sums reasonably necessary to compensate Port for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Tenant or any Agent or Invitee of Tenant, and that following a default by Tenant, all or any portion of the Security Deposit may be retained by Port following a termination of this Lease and applied to future damages, including damages for future Rent, pending determination of the same.

10. USE OF THE PREMISES.

10.1. ***Permitted Use***. The Premises shall be used and occupied only for the Permitted Use specified in the Basic Lease Information and for no other purpose.

10.2. ***Prohibited Use***. Tenant agrees that the following activities, by way of example only and without limitation, (in each instance, a "**Prohibited Use"** and collectively, "**Prohibited Uses**"), are inconsistent with this Lease, are strictly prohibited and are considered Prohibited Uses:

(a) any activity, or the maintaining of any object, which will in any way materially increase the existing rate of, or cause a cancellation of, any fire or other insurance policy covering the Premises, any part thereof or any of its contents;

(b) any activity or object which will exceed load restrictions, if any, or cause damage to the Premises;

(c) any activity which constitutes waste or nuisance, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any objectionable odors,

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noises or lights onto adjacent properties or the use of loudspeakers or sound or light apparatus which can be heard or seen outside the Premises in a manner inconsistent with Laws;

(d) any activity which will in any way injure, obstruct or interfere with the rights of other users or of owners, users, or occupants of adjacent properties, including, but not limited to, rights of ingress and egress;

(e) use of the Premises for residential, sleeping or personal living quarters and/or "Live/Work" space;

(f) any auction, distress, fire, bankruptcy or going out of business sale on the Premises without the prior written consent of Port, which consent may be granted, conditioned, or withheld in the sole and absolute discretion of Port;

(g) any vehicle and equipment maintenance, including but not limited to, fueling, changing oil, transmission or other automotive fluids;

(h) the storage of any and all excavated materials, including but not limited to, dirt, concrete, sand, asphalt, and pipes;

(i) except during periods of permitted construction, the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials;

(j) except as provided in the Operations Plan, the washing of any vehicles, vessels or equipment; or

(k) other Prohibited Uses identified in the Basic Lease Information, if any.

10.3. ***Notice of Prohibited Use Charge***. In the event Port determines after inspection that Prohibited Uses are occurring, then Tenant shall cease the Prohibited Use and shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00) upon delivery of written notice to Tenant to cease the Prohibited Use ("**Notice to Cease Prohibited Use**"). In the event Port determines in subsequent inspection(s) that Tenant has not ceased the Prohibited Use, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300.00) for each additional Notice to Cease Prohibited Use delivered to Tenant. The parties agree that the charges associated with each inspection and delivery of the Notice to Cease Prohibited Use, if applicable, represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection and Tenant's failure to comply with the applicable Notice to Cease Prohibited Use and that Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights under this Lease, at law or in equity. By signing this Lease, each party specifically confirms the accuracy of the statements made in this Section and the reasonableness of the amount of the charges described in this Section.

11. COMPLIANCE WITH LAWS; CHANGE IN LAWS.

11.1. ***Compliance with Laws***. Tenant, at Tenant's sole cost and expense, promptly shall comply with all Laws relating to or affecting the condition, use or occupancy of the Premises and shall comply with all Laws relating to Tenant's specific use of the Premises and all Rules and Regulations, if any, in effect either at the time of execution of this Lease or which may hereafter be in effect at any time during the Term, whether or not the same are now contemplated by the parties. Tenant further understands and agrees that it is Tenant's obligation, at Tenant's sole cost and expense, to cause the Premises including the activities and operations conducted thereon, to be in compliance with the Disability Laws. Tenant shall be solely responsible for conducting its own independent investigation of this matter and for ensuring that the design of all Alterations and Improvements strictly complies with all requirements of the Disability Laws. If Tenant's use or occupancy of the Premises triggers a requirement to remove barriers or perform other work to any Port property outside of the Premises to comply with the Disability Laws, then, Tenant will perform the work at Tenant's sole cost and expense.

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The parties acknowledge and agree that Tenant's obligation to comply with all Laws as provided herein is a material part of the bargained for consideration under this Lease. Tenant's obligation under this ***Section 11*** shall include, without limitation, the responsibility of Tenant to make substantial or structural repairs and Alterations to the Premises, regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or Port, the degree to which the curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular Laws involved, and whether the Laws involved are related to Tenant's particular use of the Premises. Any Alteration or Improvements made by or on behalf of Tenant pursuant to the provisions of this ***Section 11*** shall comply with the provisions of ***Section 14***. Except as otherwise expressly set forth in this Lease, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant of its obligations hereunder, nor give Tenant any right to terminate this Lease in whole or in part or to seek redress against Port, except to the extent Tenant may have remedies against Port pursuant to this Lease or applicable Law. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel Port to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

11.2. ***Change in Laws.*** Notwithstanding ***Section 11.1***, if, during an Extension Term, an existing Law is amended or a new Law is enacted (regardless of its effective or implementation date) for reasons unrelated to: (i) Tenant's violation of any Laws; (ii) an unpermitted use, Prohibited Use or change in Permitted Uses; (iii) a Law affecting the License Area or the Park (unless such Law materially and adversely affects access to the Premises); or (iv) temporary health protection measures during a pandemic or other health emergency, and such amended or new Law is effective during the Extension Term, would require Tenant to comply during the Extension Term and either (x) materially impacts Tenant's ability to operate the Premises as generally contemplated under the Lease; or (y) would present a demonstrable financial hardship to Tenant if Tenant had to comply with amended or new Law (each a "**Change in Law**"), then Tenant may terminate this Lease; provided that there is no existing Event of Default (as further described in ***Section 11.2(c)***) and in accordance with the following:

(a) Within four months after the date on which a Change in Law becomes effective (e.g., becomes law following expiration of any time period in which to challenge such law or if challenged, following the final, unappealable judgment upholding such law, as opposed to the deadline under such Change in Law by which Tenant must comply with the Change in Law), Tenant must provide written notice to Port ("**Early Termination Notice**") with the following information:

(i) details about how Tenant anticipates such change will materially impact Tenant's ability to operate the Premises as generally contemplated under the Lease;

(ii) an analysis of the costs associated with the Change in Laws and the financial hardship to Tenant;

(iii) Tenant's intention to terminate the Lease as of the date specified in the notice ("**Early Termination Date**"), which shall not be less than one hundred eighty (180) days from the date of Tenant's Early Termination Notice unless: (1) the Change in Law requires Tenant to achieve compliance in less than 180 days, in which case, Tenant shall propose an earlier termination date; (2) if the Change in Law is a new or updated life safety requirement and Tenant reasonably anticipates that the failure to comply therewith would materially impact Tenant's continuous use of the Premises (or a material portion thereof) for the Permitted Uses, starting at any time earlier than 180 days and continuing for the remainder of the Term, then (x) the 180-day notice period shall not apply and, at Tenant's election, the Early Termination Date may be a date sooner than 180 days, and (y) Tenant shall implement such temporary

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safeguards as Tenant reasonably believes are necessary to address any imminent threat to life or property that the life safety non-compliance under the Change in Law may present; or (3) if the date by which Tenant needs to commence the work necessary in order to be in compliance with the Change in Law by the required deadline is more than one hundred eighty (180) days from the date of Tenant's Early Termination Notice, then Tenant's Early Termination Date shall not be earlier than the date that is one hundred eighty (180) days prior to the date on which Tenant needs to commence the compliance work; and

(iv) the amount of the termination fee which shall be fifty percent (50%) of the Base Rent payable (excluding any then-applicable rent credits) from the termination date to the last day of the Extension Term ("**Termination Fee**").

(b) Within ninety (90) days (or such shorter period as may be necessary under sub-clauses (1) or (2) of ***Section 11.2(a)(iii)***of Tenant's Early Termination Notice, Port shall either (i) accept Tenant's Early Termination Notice in which case, Tenant shall promptly pay the Termination Fee and this Lease will expire on the Early Termination Date without further action by the parties or (ii) object in writing stating the basis of its objection (which shall only be based on the criteria in this ***Section 11.2*** including without limitation the Early Termination Date or the calculation of the Termination Fee). If Port states an objection, Port and Tenant will work in good faith to resolve such objection within a reasonable time period, and Tenant may resubmit its Early Termination Notice, subject again to Port's acceptance.

(c) If any Event of Default by Tenant is outstanding either at the time of Tenant's Early Termination Notice or at any time prior to Early Termination Date and remains uncured after notice and the expiration of all applicable cure periods, then Port may reject Tenant's Early Termination Notice. The Parties acknowledge and agree that the termination right provided by this ***Section 11.2*** provides an extraordinary remedy for Tenant, will be interpreted narrowly and that the prerequisite conditions to Tenant's termination right as set forth for in this Section are a material part of the bargained-for consideration for this termination right.

12. PORT ACTING AS OWNER OF PROPERTY; REGULATORY APPROVALS; COMPLIANCE WITH CITY'S RISK MANAGER'S REQUIREMENTS.

12.1. ***Port Acting as Owner of Property***. Tenant understands and agrees that Port is entering into this Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a Regulatory Agency of the City with certain police powers. By entering into this Lease, Port is in no way modifying or limiting the obligation of Tenant to obtain any required Regulatory Approvals from Regulatory Agencies, and to cause the Premises to be used and occupied in accordance with all Laws and required Regulatory Approvals. Examples of Port actions as a Regulatory Agency include Port issuance of building, encroachment and other construction-related permits, and the Chief Harbor Engineer's actions to protect public health and safety.

12.2. ***Regulatory Approvals***. Tenant understands that Tenant's operations on the Premises, changes in use, or Improvements or Alterations to the Premises (individually and collectively, "**Changes"**) may require Regulatory Approvals, including Regulatory Approvals issued by Port in its capacity as a Regulatory Agency.

Tenant shall be solely responsible for obtaining any Regulatory Approvals, and Tenant shall not seek any Regulatory Approval without first obtaining the prior written approval of Port. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne solely and exclusively by Tenant. Tenant shall be solely responsible for complying with any and all conditions imposed by Regulatory Agencies as part of a Regulatory Approval; provided, however, Tenant shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit or other entitlement from any Regulatory Agency (other than Port), if the Port is required to be a co-permittee under such permit or other entitlement, or if the conditions or restrictions it would impose on the project could affect future

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use or occupancy of the Premises or Port's interest therein or would create obligations on the part of Port (whether on or off of the Premises) to perform or observe, unless in each instance Port has previously approved such conditions in writing, in Port's sole and absolute discretion.

Any fines or penalties imposed as a result of the failure of Tenant to comply with the terms and conditions of any Regulatory Approval shall be promptly paid and discharged by Tenant, and Port shall have no liability, monetary or otherwise, for any fines and penalties. To the fullest extent permitted by Law, Tenant agrees to Indemnify City, Port and their Agents from and against any Claim which City or Port may incur as a result of Tenant's failure to obtain or comply with the terms and conditions of any Regulatory Approval.

Without limiting the terms and conditions of ***Sections 12.1*** and ***12.2***, by signing this Lease, Tenant agrees and acknowledges that (i) Port has made no representation or warranty that Regulatory Approvals to allow for the Changes, if any, can be obtained, (ii) although Port is an agency of the City, Port has no authority or influence over any Regulatory Agency responsible for the issuance of such required Regulatory Approvals, (iii) Port is entering into this Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a Regulatory Agency of the City with certain police powers, and (iv) Tenant is solely responsible for obtaining any and all required Regulatory Approvals in connection with any Changes. Accordingly, Tenant understands that there is no guarantee, nor a presumption, that any required Regulatory Approvals will be issued by the appropriate Regulatory Agency and Port's status as an agency of the City shall in no way limit the obligation of Tenant to obtain approvals from any Regulatory Agencies (including Port) that have jurisdiction over the Premises. Tenant hereby releases and discharges Port from any liability relating to the failure of any Regulatory Agency (including Port) from issuing any required Regulatory Approval.

12.3. ***Compliance with City's Risk Manager's Requirements***. Tenant shall faithfully observe, at no cost to Port, any and all requirements of City's Risk Manager with respect to Tenant's use and occupancy of the Premises, so long as such requirements do not unreasonably interfere with Tenant's or Subtenants' use of the Premises or are otherwise connected with standard prudent commercial practices of other landlords.

13. MAINTENANCE AND REPAIRS.

13.1. ***Tenant Maintenance and Repair Obligations***. Unless otherwise set forth in the Basic Lease Information, Tenant shall at all times during the Term, starting on the Commencement Date, or upon use of the Premises by Tenant under a Prior License to the extent required under the Prior License, and at its sole cost and expense, maintain, repair and replace in good and working order, condition and repair the Premises and all Improvements and Alterations thereon, including, but not limited to, glazing. Port shall not be obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the Premises nor to any Improvements or Alterations now or hereafter located thereon. Tenant hereby waives all rights to make repairs at Port's expense under Sections 1932(1), 1941 and 1942 of the California Civil Code or under any similar Law now or hereafter in effect. Notwithstanding any maintenance obligations of Port that may be set forth in the Basic Lease Information, in the event that Tenant, its Agents or Invitees cause any damage to the Premises or any other property within Port's jurisdiction, Tenant shall be responsible for repair and Port may repair the same at Tenant's sole cost and expense and Tenant shall immediately reimburse Port therefor.

Tenant shall not make, nor cause or suffer to be made, any repairs or other work for which a permit is required by any applicable building code, standard or regulation, including, without limitation, the Port Building Code or of any rule or regulation of Port without first obtaining Port's prior written consent (provided that, no consent shall be required for any minor or routine repairs to the Initial Improvements or any Subsequent Alterations for which Port consent was previously obtained) and a permit therefor.

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In the event that damage or deterioration to the Premises or any portion thereof which is Tenant's obligation to maintain results in the same not meeting the standard of maintenance required by Port for such uses as Tenant is making of the Premises, then Tenant shall have the independent responsibility for, and shall promptly undertake, maintenance or repair of the Premises and complete the same with due diligence.

13.2. ***Port's Right to Inspect***. Without limiting ***Section 29 below***, Port may make periodic inspections of the Premises and may advise Tenant when maintenance or repair of the Premises is required, but such right of inspection shall not relieve Tenant of its independent responsibility to maintain such Premises and Improvements in a condition as good as, or better than, their condition at the Commencement Date, excepting ordinary wear and tear.

13.3. ***Port's Right to Repair***. In the event Tenant fails to maintain the Premises in accordance with this Lease or Tenant fails to promptly repair any damage to the Premises or the Building Systems caused by Tenant or its Agents within the cure period provided by this Lease, but in no event for more than thirty (30) days after Port's written notice to Tenant, then Port may repair the same at Tenant's sole cost and expense and Tenant shall immediately reimburse Port therefor. If the cost (including, but not limited to, salaries of Port staff and attorneys' fees) of any such repairs or replacements made at Tenant's expense is in excess of Two Thousand Dollars ($2,000) (increased annually by three percent (3%)), then Tenant shall pay to Port an administrative fee equal to ten percent (10%) of the total "**Hard costs**" of the work. "**Hard costs**" shall include the cost of materials and installation, but shall exclude any costs associated with design, such as architectural fees. With respect to any work where the total hard costs of such work are less than Two Thousand Dollars ($2,000), Tenant shall pay to Port, as Additional Rent, an amount equaling Two Hundred Dollars ($200).

In addition, upon delivery of the initial notice relating to Tenant's failure to maintain the Premises in accordance with ***Section 13*** ("**Maintenance Notice"**), Tenant shall pay, as Additional Rent, an amount equaling Two Hundred Dollars ($200.00). In the event Port determines during subsequent inspection(s) that Tenant has failed to maintain the Premises in accordance with ***Section 13***, then Tenant shall pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300) for each additional Maintenance Notice, if applicable, delivered by Port to Tenant following each inspection. By signing this Lease, each party specifically agrees that the charges associated with each inspection of the Premises and delivery of each Maintenance Notice represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises and issuance of each Maintenance Notice. Tenant's failure to comply with the applicable Maintenance Notice and Port's right to impose the foregoing charges shall be in addition to and not in lieu of any and all other rights and remedies of Port under this Lease, at law or in equity. The amounts set forth in this Section shall be due within three (3) business days following delivery of the applicable Maintenance Notice.

For purposes of this Lease, the term "**ordinary wear and tear"** shall not include any deterioration in the condition or diminution of the value of any portion of the Premises in any manner whatsoever related directly or indirectly to Tenant's failure to comply with the terms and conditions of this Lease.

13.4. ***Acts of Nature***. Nothing contained herein shall require Port to repair or replace the Premises or the Improvements thereon as a result of damage caused by acts of war, earthquake, tidal wave or other acts of nature, except that this provision shall not affect any obligation to make repairs to the Premises pursuant to ***Section 20*** in the event of any damage or destruction of the Premises.

14. IMPROVEMENTS.

14.1. ***Initial Improvements***. Tenant will construct the Initial Improvements in accordance with, and subject to all the terms, covenants, conditions, and restrictions of this Lease

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including the Work Letter. Port, in its proprietary capacity, has consented to the Initial Improvements.

14.2. ***Subsequent Alteration***.

(a) Tenant shall not make nor cause or suffer to be made, any Subsequent Alteration to the Premises (i) without the prior written consent of Port, which consent shall not be unreasonably withheld; provided, however, that Port shall have the right in its sole and absolute discretion to consent or to withhold its consent to any Alterations or Improvements which affect the structural portions of the Premises, the Building or Building Systems, and (ii) until Tenant shall have procured and paid for all Port and other Regulatory Approvals of the various Regulatory Agencies having jurisdiction over the Premises, including, but not limited to, any building or similar permits required by Port or its Chief Harbor Engineer in the exercise of its jurisdiction with respect to the Premises.

(b) At least thirty (30) days before commencing any Subsequent Alterations, Tenant shall notify Port. Tenant's notice shall be accompanied by final construction documents for the Subsequent Alterations, if applicable. Port shall have the right to object to any of the Subsequent Alterations within sixty (60) days after receipt of notice from Tenant. Port's failure to notify Tenant of Port's consent within the 60-day period shall be deemed Port's disapproval of the Subsequent Alterations.

(c) As a condition to giving consent to any Subsequent Alteration the estimated cost of which (per project) is reasonably expected to exceed $1,000,000 (increased annually by three percent (3%)), Port may require Tenant to provide Port, at Tenant's sole cost and expense, one or more financial guarantees, each in a form and issued by a bank or surety acceptable to Port, such as: (i) a standby letter of credit or bond; and/or (ii) a payment and performance bond from Tenant's contractors naming Port as co-obligee, each in a principal amount up to one hundred ten percent (110%) but not less than one hundred percent (100%) of the estimated costs of the Subsequent Alteration, to ensure Port against any liability for mechanics' and materialmen's liens, stop notices, and to ensure Completion of work.

(d) None of the following will constitute Subsequent Alterations requiring Port's consent, unless the installation will affect the Building Systems or the structure of the Building: (i) the installation, repair, or replacement of furnishings, fixtures, equipment, or decorative improvements within the interior of the Building that does not materially affect the Historic Fabric of the Building and otherwise complies with the Secretary's Standards, (ii) recarpeting, repainting, altering the wall coverings or window treatments, or similar alterations within the interior of the Building that do not materially affect the Historic Fabric of the Building and otherwise complies with the Secretary's Standards.

14.3. ***Construction Requirements***. All Alterations and Improvements to the Premises made by or on behalf of Tenant shall be subject to the following conditions, which Tenant covenants faithfully to perform:

(a) All Alterations and Improvements shall be performed in a good and workmanlike manner in accordance with plans and specifications previously approved by Port in writing and in compliance with the applicable building, zoning and other applicable Laws, including, but not limited to, compliance with Disability Laws, and in compliance with the terms of and conditions imposed in any Regulatory Approval or any permit or authorization for the Premises.

(b) All Alterations and Improvements shall be performed at the sole cost and expense of Tenant, with reasonable dispatch and prosecuted to Completion, and only by duly licensed and bonded contractors or mechanics, and subject to any conditions that Port may reasonably impose.

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(c) Tenant, while performing any Subsequent Alteration or maintenance or repair of the Improvements (for purposes of this Section only, "**Work"**), shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining portions of the Premises and Improvements and the surrounding property, or the risk of injury to members of the public, caused by or resulting from the performance of its Work. Tenant shall undertake commercially reasonably measures to minimize damage, disruption or inconvenience caused by the Work and make adequate provision for the safety and convenience of all persons affected by the Work.

(d) At the Completion of any Work described in this Section, Tenant shall furnish to Port one reproducible "as built" drawing of all Alterations and Improvements made in the Premises. If Tenant fails to provide such as-built drawings to Port within sixty (60) days after Completion, Port, after giving notice to Tenant shall have the right, but not the obligation, to cause the preparation by an architect of Port's choice of "as-built" drawings, at Tenant's sole cost, to be paid by Tenant to Port within thirty (30) days after Port's request therefor.

14.4. ***Construction***.

(a) Construction Standards. All Improvements and Alterations will be accomplished diligently to Completion and in accordance with good construction and engineering practices and applicable Laws and will be consistent with the Secretary's Standards and the historic register status of the Premises. Tenant must make adequate provision for the safety of all persons affected by the Construction, and Tenant will undertake commercially reasonable measures in accordance with good construction practices to: (i) minimize damage, disruption, or inconvenience caused by the Construction (including to areas adjoining portions of Improvements and the surrounding property), (ii) minimize the risk of injury or damage to the Premises and the surrounding property, or the risk of injury or death to members of the public and (iii) make adequate provision for the safety of all Persons affected by any construction activities. Dust, noise and other effects of such work will be controlled in accordance with any applicable dust control ordinance and other effects of the Construction must be controlled using commercially reasonable methods customarily used to control deleterious effects associated with construction projects in populated or developed urban areas.

(b) Reports and Information. During periods of Construction, Tenant shall submit to Port written progress reports when and as reasonably requested by Port.

(c) Construction Fencing and Barriers. Tenant shall provide appropriate construction barriers, construction signs and a project sign or banner, and shall post the signs on the Premises during the period of construction to the extent reasonably necessary to minimize the risk of hazardous construction conditions. Tenant will obtain a building permit from Port before the placement of any construction fencing, signage and/or barriers.

14.5. ***Port of San Francisco Union Iron Works Historic District***. Tenant expressly acknowledges that the Building is a contributing resource to the Port of San Francisco Union Iron Works Historic District at Pier 70 which is listed on the National Register of Historic Places. Accordingly, all interior and exterior Alterations (including but not limited to, any repair, alteration, improvement, or construction to the interior or exterior of the Building) are subject to review by Port for consistency with the design policies and criteria set forth in the Waterfront Land Use Plan, Design and Access Element, the Secretary of the Interior's Standards for the Treatment of Historic Properties, which are published by the National Park Service and posted on its website at http://www.nps.gov/history/hps/tps/Standards/index.htm (the "**Secretary's Standards"**) and summarized in the attached ***Exhibit I***. Tenant expressly agrees to comply with the Secretary's Standards for all current and future interior and exterior repair, alteration, improvement or construction.

14.6. ***Asbestos-containing Materials.*** Without limiting ***Section 18 below*** (Hazardous Materials), in the event that asbestos-containing materials ("**ACM"**) are determined to exist in or

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

14.7. ***Lead-Based Paint***. Tenant, on behalf of itself and its Agents or Invitees, shall comply with all requirements of the Port Building Code, Section 3424, and all other Laws, including, without limitation, the California and United States Occupational Health and Safety Acts and their implementing regulations, when the work of Alterations or Improvements disturbs or removes lead-based or presumed lead-based paint (as described below). Tenant and its Agents or Invitees shall give to Port three (3) business days prior written notice of any disturbance or removal of lead-based or presumed lead-based paint. Further, Tenant and its Agents or Invitees, when disturbing or removing lead-based or presumed lead-based paint, shall not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding or grinding without containment barriers or a High Efficiency Particulate Air filter ("**HEPA"**) local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers, without Port's prior written consent; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool, without Port's prior written consent; and (e) heat guns operating above 1,100 degrees Fahrenheit. Paint on the interior and exterior of buildings built before December 31, 1978, is presumed to be lead-based paint unless lead-based paint testing, as defined in Section 3424 of the Port Building Code, demonstrates an absence of lead-based paint on the surfaces of such buildings. Under this ***Section 14***, lead-based paint is "**disturbed or removed**" if the work of Alterations or Improvements involves any action that creates friction, pressure, heat or a chemical reaction upon any lead-based or presumed lead-based paint on an interior or exterior surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface.

14.8. ***Title to Improvements; Removal of Improvements***. Provided that no Event of Default then exists, Tenant shall not be obligated to remove at the end of the Term, (a) any of the Initial Improvements that are listed on ***Attachment 3*** to the Work Letter, (b) any Subsequent Alteration where Port has agreed in writing (in the form of Schedule 6 or its written equivalent) that the applicable Subsequent Alteration may remain on the Premises at the end of the Term in the form of Schedule 6 or its written equivalent, or (c) Tenant's replacement of any of the items listed in the immediately foregoing sub-clauses (a) and (b) in connection with Tenant's obligation to maintain and repair as further described in ***Section 13.1***. During the Term, without limiting Tenant's obligations to maintain, repair and replace the Premises, Tenant will own the Initial Improvements, Subsequent Alterations and all Tenant's Property (except for any Subtenant's Property, which shall be owned by the applicable Subtenant). Tenant has the right at any time during the Term to remove Tenant's Property from the Premises; provided, however, that if the removal of Tenant's Property causes damage to the Premises, Tenant shall promptly cause the repair of such damage at no cost to Port. Unless Port has agreed that Tenant's Improvements and Alterations may remain on the Premises in the form of ***Schedule 6*** or its written equivalent and other than as set forth on Attachment 3 to the Work Letter, prior to the Expiration Date or earlier termination of this Lease, Tenant, at its own expense, must remove all Improvements and Alterations it constructed from the Premises in accordance with ***Section 30***. Any such removal is subject to the requirements of this Section, including the requirement to obtain a Port building or similar permit. Tenant shall promptly repair, at its own expense, in good and workmanlike fashion any damage occasioned thereby. If Tenant fails to complete any required demolition or removal on or before the expiration or earlier termination of this Lease,

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Port may perform such removal or demolition at Tenant's expense, and Tenant shall reimburse Port within three (3) business days after demand therefor. At the expiration or earlier termination of this Lease, title to any Improvements or Alterations that are allowed to remain on the Premises will vest in Port without further action of any party, and without compensation or payment to Tenant.

14.9. ***Removal of Non-Permitted Improvements***. If Tenant constructs any Alterations or Improvements without Port's prior written consent or without complying with this Section, then, in addition to any other remedy available to Port, Port may require Tenant to remove, at Tenant's expense, any or all such Alterations or Improvements and to promptly repair, at Tenant's expense and in good workmanlike fashion, any damage occasioned thereby. Tenant shall pay to Port all special inspection fees as set forth in any applicable building code, standard or regulation, including, without limitation, the Port Building Code, for inspection of work performed without required permits. The foregoing obligation of Tenant to reimburse Port for all cost and expenses incurred by Port in connection with Tenant's failure to comply with the provisions of this Section shall survive the expiration or earlier termination of this Lease.

14.10. ***All-Gender Toilet Facilities***. If applicable, Tenant shall comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of any new building on City-owned land and within existing buildings leased by the City, including the Premises, where extensive renovations are made. An "**all-gender toilet facility**" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and "**extensive renovations**" means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by this section. If Tenant has any question about applicability or compliance, Tenant should contact the Port's Property Manager for guidance.

14.11. ***Signs***. Tenant shall not install business signage, awnings or other exterior decoration or notices on the Premises without Port's prior written consent. Any sign that Tenant is permitted to place, construct or maintain on the Premises shall comply with all Laws relating thereto, including but not limited to, Port's Sign Guidelines, as revised by Port from time to time, and building permit requirements, and Tenant shall obtain all Regulatory Approvals required by such Laws. Port makes no representation with respect to Tenant's ability to obtain such Regulatory Approval. Tenant, at its sole cost and expense, shall remove all signs placed by it on the Premises at the expiration or earlier termination of this Lease.

14.12. ***Port's Alterations***. Port reserves the right at any time to make Alterations, additions, repairs, deletions or improvements to the Building, Building Systems, or adjacent Port property ("**Port Work**"). Port shall use commercially reasonable efforts to conduct any of the foregoing activities in a manner that, to the extent reasonably practicable, will minimize inconvenience or disturbance to Tenant; Port will have no obligation to minimize inconvenience or disturbance to Tenant for Port Work when the Port Work is necessary, in Port's sole and absolute discretion, to maintain Port property in a safe, hazard-free condition. In no event will inconvenience or disturbance caused by Port Work constitute an actual or constructive eviction of Tenant, entitle Tenant to any abatement or diminution of Rent, or otherwise relieve Tenant from any of its obligations under this Lease. Tenant hereby waives any and all Claims against Port, City and their Agents arising out of any inconvenience or disturbance occasioned by Port Work.

15. UTILITIES.

15.1. ***Utility Services***. Subject to the terms in the Basic Lease Information regarding the Interim Power Line and the Capacity Charges, Tenant, at its sole expense, must (i) arrange for the provision and construction of all on-site and off-site utilities necessary to construct, operate and use the Premises, (ii) be responsible for contracting with, and obtaining, all necessary utility and other services, as may be necessary and appropriate for the uses (it being acknowledged that City (including its San Francisco Public Utilities Commission ("**SFPUC**")) is

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the sole and exclusive provider to the Premises of certain public utility services), and (iii) maintain and repair all utilities serving the Premises to the point provided by the respective utility service provider (whether on or off the Premises). Tenant agrees and acknowledges that Port, in its proprietary capacity as owner of the Premises and landlord under this Lease, will not provide any utility services to the Premises or any portion of the Premises. Tenant also must coordinate with the respective utility service provider with respect to the installation of utilities, including providing advance notice to appropriate parties of trenching requirements. Tenant will purchase all electrical service (to the extent not provided by a PV System, if any) for the Improvements and the Premises from SFPUC unless SFPUC first determines that such service is not feasible for the Premises.

Tenant will pay or cause to be paid when due, all deposits, charges, meter installation fees, connection fees and other costs for all public or private utility services at any time rendered to the Premises or any part of the Premises, and will do all other things required for the maintenance, repair, replacement, and continuance of all such services. Tenant agrees, with respect to any public utility services provided to the Premises by City, that no act or omission of City in its capacity as a provider of public utility services, shall abrogate, diminish, or otherwise affect the respective rights, obligations and liabilities of Tenant and Port under this Lease, or entitle Tenant to terminate this Lease or to claim any abatement or diminution of Rent. Further, Tenant covenants not to raise as a defense to its obligations under this Lease, or assert as a counterclaim or cross-claim in any litigation or arbitration between Tenant and Port relating to this Lease, any Claim arising from or in connection with City's provision (or failure to provide) public utility services, except to the extent to preserve its rights under this Lease that failure to raise such claim in connection with such litigation would result in a waiver of such claim. The foregoing shall not constitute a waiver by Tenant of any claim it may now or in the future have (or claim to have) against any such public utility provider relating to the provision of (or failure to provide) utilities to the Premises.

15.2. ***Photovoltaic Panels***. Tenant shall have the right but not the obligation to install or cause to be installed on the roof(s) of buildings a photovoltaic energy generation facility for the generation and delivery of electrical energy to the Premises and if excess energy is available, potentially to other sites (the "**PV System**"). Before commencing installation of a PV System, Tenant must obtain Port's consent and all required permits and Regulatory Approvals for the PV System, which may include, among other things, approval by SHPO and requirements to strengthen the roof of the applicable building(s). The design, construction and installation of any PV System will be done in accordance with ***Section 14.2***.

15.3. ***Energy Consumption Disclosure***. Tenant consents to Tenant's utility service providers disclosing energy use data for the Premises to City for use under California Public Resources Code Section 25402.10, as implemented under California Code of Regulations Sections 1680–1685, and San Francisco Environment Code Chapter 20, as each may be amended from time to time (**"Energy Consumption Reporting Laws"**), and for such data to be publicly disclosed under the Energy Consumption Reporting Laws.

15.4. ***Waiver***. Tenant waives any benefits of any applicable Law, including the provisions of California Civil Code Section 1932(1) permitting the termination of this Lease due to any interruption or failure of utility services. The foregoing shall not constitute a waiver by Tenant of any claim it may now or in the future have (or claim to have) against any public utility provider relating to the provision of (or failure to provide) utilities to the Premises.

16. FLOOD RISK AND SEA LEVEL RISE.

16.1. ***Sea Level Rise***. The City's current sea level rise capital planning guidance can be found at https://onesanfrancisco.org/sites/default/files/inline-files/San_Francisco%20SLR_Guidance%20SLRTC%20REV%20TO%20CPC%20Jan%202020.pdf (the "**SLR Guidance"**).

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16.2. ***Flood Protection Measures***. In addition to Tenant's obligations to comply with Laws under ***Section 11*** (Compliance with Laws) and to repair and maintain the Premises (including, but not limited to the structure and substructure under ***Section 13*** (Maintenance and Repairs)), if, at any time during the Term of this Lease, and subject to compliance with CEQA , the Chief Harbor Engineer ("**CHE**") determines in his or her regulatory capacity in accordance with applicable Laws that there is a need for temporary public access closures, sandbagging or similar temporary measures to minimize the risks associated with flooding ("**Flood Protection Measures**") at the Premises or proximate to the Premises to protect the Premises from a significant risk of flooding or other damage resulting from climate change or sea level rise, in order to protect public health and safety ("**CHE Determination**"), Tenant shall be responsible at no cost to Port for permitting, constructing and implementing any such Flood Protection Measures in the manner described in this Section. Tenant understands and agrees that it will not receive or seek rent credits or other compensation or consideration for any Flood Protection Measures and agrees that it will not seek additional term for the purpose of amortizing the cost of any Flood Protection Measures. Port and Tenant agree that a CHE Determination under this ***Section 16*** shall not be a Condemnation for purposes of this Lease.

If Tenant fails to implement any required Flood Protection Measures within the time required in the CHE Determination, Port shall provide Tenant with thirty (30) days written notice and the right to cure such failure. If Tenant fails to cure within the 30-day period, Port shall have the right but not the obligation to implement the measure(s) on Tenant's behalf following an additional thirty (30) days' written notice of Port's intent to do so (unless Tenant's failure to cure gives rise to an emergency which creates an imminent danger to public health or safety as determined by the CHE) and Tenant shall reimburse Port for its actual costs as Additional Rent.

16.3. ***Required Flood Protection Improvements for Other Port Property***. If the CHE determines that there is a need to install flood protection measures within the Premises to protect other Port property, Tenant shall cooperate by providing access and other reasonably requested assistance at no cost to Port. Nothing in this ***Section 16*** shall imply any duty upon the part of Port to perform any work that under this Lease Tenant may be required to perform, nor to place upon Port any obligation, or liability, for the care, supervision or repair of Port property outside the Premises.

16.4. ***Limitations; Waiver***.

(a) No occurrence or situation arising during the Term, nor any present or future Law or circumstance, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant of its obligations under this ***Section 16***, nor give Tenant any right to terminate this Lease in whole or in part or to otherwise seek redress against Port except with respect to Tenant's right to terminate under the terms and conditions specified in ***Section 11.2*** (Change in Laws), ***Section 20*** (Damage and Destruction) or ***Section 21*** (Condemnation). Without waiving the right to terminate as provided in ***Section 11.2*** (Change in Laws), ***Section 20*** (Damage and Destruction) or ***Section 21***(Condemnation), Tenant waives any rights now or later conferred upon it by any existing or future Law to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel Port to make any repairs to comply with any such Laws or on account of any such occurrence or situation.

(b) If the CHE determines that there is a need for Flood Protection Measures, the rights and obligations of the Parties shall be as set forth in this ***Section 16***. Accordingly, Port and Tenant each waive the provisions of Sections 1932(2) and 1933(4) of the California Civil Code and Sections 1265.110, 1265.120, 1265.130, and 1265.140 of the California Code of Civil Procedure as such sections may from time to time be amended, replaced, or restated. Notwithstanding the prior sentence, Port and Tenant do not intend to waive their rights under ***Section 11.2*** (Change in Laws), ***Section 20*** (Damage and Destruction) or ***Section 21*** (Condemnation).

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16.5. ***Additional Improvements To Address Sea Level Rise***. At any time during the Term, Port or Tenant may propose optional additional improvements to be performed by Tenant, at its option in Tenant's sole discretion and at its cost that (i) are beyond the scope of the potential Flood Protection Measures contemplated in this Section; and (ii) are not otherwise Tenant's obligation under this Lease (including under ***Section 11*** (Compliance with Laws) and ***Section 13*** (Maintenance and Repairs). Tenant acknowledges that additional Regulatory Approvals will be required for such improvements.

17. LIENS.

Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant or its Agents. In the event that Tenant shall not, within twenty (20) days following the imposition of any such lien, cause the same to be released of record, Port shall have, in addition to all other remedies provided by this Lease or by Law, the right but not the obligation to cause the same to be released by such means as it shall deem proper, including without limitation, payment of the claim giving rise to such lien. All sums paid by Port for such purpose, plus interest at the Interest Rate, and all reasonable expenses incurred by Port in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Port by Tenant upon demand. Port shall have the right to post on the Premises any notices that Port may deem proper for the protection of Port or the Premises, from mechanics' and materialmen's liens. Tenant shall give to Port at least fifteen (15) days' prior written notice of commencement of any Alteration, repair or construction on the Premises. Tenant agrees to Indemnify Port, City and their respective Agents from and against any Claims for mechanic's, materialmen's or other liens in connection with any Alterations, repairs or construction on the Premises, or materials furnished or obligations incurred by or for Tenant.

Without limiting the foregoing, Tenant shall not create, permit or suffer any liens or encumbrances affecting any portion of the Premises or Port's interest therein or under this Lease.

18. HAZARDOUS MATERIALS.

18.1. ***Requirements for Handling***. Subject to ***Section 18.2(b)***, neither Tenant nor its Agents or Invitees may Handle or permit any other person to Handle any Hazardous Material in, on, under or about the Premises, or other Port property, subject only to the following exceptions, provided that Handling is at all times in full compliance with all Environmental Laws: janitorial, disinfectant, pest control, office, and other supplies and equipment in amounts customarily used for the Permitted Uses and subject to the Operations Plan.

18.2. ***Tenant Responsibility***.

(a) Generally. Subject to ***Section 18.2(b)***, Tenant agrees to protect its Agents and Invitees in its operations on the Premises from hazards associated with Hazardous Materials in accordance with all Environmental Laws and also agrees, for itself and on behalf of its Agents and Invitees, that during its use and occupancy of the Premises, each of them:

(i) will not permit any Hazardous Materials to be present in, on, under or about the Premises, or other Port property except as permitted under ***Section 18.1;***

(ii) will not cause or permit any Hazardous Material Condition; and

(iii) will comply with all Environmental Laws relating to the Premises and any Hazardous Material Condition, and will not engage in or permit any activity at the Premises, other Port property, or in the operation of any vehicles or vessels used in connection with the Premises in violation of any Environmental Laws.

(b) Other Port Property. Port agrees that with respect to "other Port property" only (in other words, on Port property other than the Premises) as such term is used under ***Sections 18.1 and 18.2(a)***, (i) without limiting any other agreement Tenant may have with Port, Tenant has no obligations to or for Tenant's Invitees on other Port property, and (ii) Tenant's

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obligations with respect to Tenant's Agents on other Port property arise only to the extent such Agent is performing work on Tenant's behalf or otherwise acting on Tenant's behalf in furtherance of the Permitted Uses under this Lease.

18.3. ***Tenant's Environmental Condition Notification Requirements***.

(a) Tenant must notify Port immediately, orally or by other means that will transmit the earliest possible notice to Port staff, followed within twenty-four (24) hours by written notice, of and when Tenant learns or has reason to believe Hazardous Materials were Released or, except as allowed under ***Section 18.1***, Handled, in, on, or about the Premises, other Port property, or the environment, or from any vehicles or vessels that Tenant or its Agents or Invitees use during Tenant's occupancy of the Premises, whether or not the Release or Handling is in quantities that would be required under Environmental Laws to be reported to an Environmental Regulatory Agency.

(b) Tenant must notify Port immediately, orally or by other means that will transmit the earliest possible notice to Port staff, followed within twenty-four (24) hours by written notice, and contemporaneously provide Port with an electronic copy, of:

(i) Any notice of the Release or Handling of Hazardous Materials, in, on, or about the Premises, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises that Tenant or its Agents or Invitees provides to an Environmental Regulatory Agency;

(ii) Any notice of a violation, or a potential or alleged violation, of any Environmental Law that Tenant or its Agents or Invitees receives from any Environmental Regulatory Agency;

(iii) Any other Environmental Regulatory Action that is instituted or threatened by any Environmental Regulatory Agency against Tenant or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, or about the Premises, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises;

(iv) Any Hazardous Material Claim that is instituted or threatened by any third party against Tenant or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, or about the Premises, other Port property, or the environment, or from any vehicles or vessels Tenant, or its Agents and Invitees uses during Tenant's occupancy of the Premises; and

(v) Any notice of the termination, expiration, or substantial amendment of any Environmental Regulatory Approval needed by Tenant or its Agents or Invitees for their operations at the Premises.

(c) Tenant must notify Port of any meeting, whether conducted face-to-face or telephonically, between Tenant and any Environmental Regulatory Agency regarding an Environmental Regulatory Action. Port will be entitled to participate in any such meetings at its sole election.

(d) Tenant must notify Port of any Environmental Regulatory Agency's issuance of an Environmental Regulatory Approval. Tenant's notice to Port must state the issuing entity, the Environmental Regulatory Approval identification number, and the date of issuance and expiration of the Environmental Regulatory Approval. In addition, Tenant must provide Port with a list of any plan or procedure required to be prepared and/or filed with any Environmental Regulatory Agency for operations on the Premises, including a "Spill Prevention Control and Countermeasure Plan." Tenant must provide Port with copies of any of the documents within the scope of this section upon Port's request.

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(e) Tenant must provide Port with copies of all communications with Environmental Regulatory Agencies and all non-privileged communications with other persons regarding potential or actual Hazardous Material Claims arising from Tenant's or its Agents' or Invitees' operations at the Premises. Upon Port's request, Tenant must provide Port with a log of all communications withheld under a claim of privilege that specifies the parties to and subject of each withheld communication.

(f) Port may from time to time request, and Tenant will be obligated to provide, information reasonably adequate for Port to determine that any and all Hazardous Materials are being Handled in a manner that complies with all Environmental Laws.

18.4. ***Requirement to Remediate***.

(a) Tenant's Remediation obligations under this subsection are subject to ***Sections 18.4(b)*** and ***18.4(c)***.

(i) After notifying Port in accordance with ***Section 18.3(a)***, Tenant must Remediate at its sole cost in compliance with all Environmental Laws and this Lease, any Hazardous Material Condition occurring during the Term or while Tenant or its Agents or Invitees otherwise occupy any part of the Premises. Tenant must obtain Port's approval of a Remediation work plan, whether or not required under Environmental Laws, then begin Remediation actions immediately following Port's approval of the work plan and continue diligently until Remediation is complete, as determined by Port, in its sole discretion.

(ii) In addition to its obligations under clause (i), before this Lease terminates for any reason, Tenant must Remediate at its sole cost in compliance with all Environmental Laws and this Lease: (A) any Hazardous Material Condition caused by Tenant's or its Agents' or Invitees' Handling Hazardous Materials during the Term; and (B) any Hazardous Material Condition discovered during Tenant's occupancy that any Regulatory Agency requires to be Remediated if Remediation would not have been required but for Tenant's use of or Changes to the Premises.

(iii) If Environmental Laws governing Remediation require a remedial action plan, Tenant must provide a draft of its plan to Port for comment and approval before submittal to the appropriate Environmental Regulatory Agency, and a copy of the final plan as submitted.

(iv) In all situations relating to Handling or Remediating Hazardous Materials, Tenant must take all actions that are reasonably necessary in Port's sole judgment to protect the value of the Premises , such as obtaining Environmental Regulatory Approvals related to Hazardous Materials and taking measures to remedy any deterioration in the condition or diminution of the value of any portion of the Premises in any manner related directly or indirectly to Hazardous Materials.

(b) Unless Tenant or its Agents or Invitees Exacerbate the Hazardous Material Condition, and subject further to ***Section 18.4(c)***, Tenant will not be obligated to Remediate any Hazardous Material Condition: (i) caused solely by City, Port, or their Agents during Tenant's occupancy of the Premises; or (ii) arising before the Commencement Date or the date of Tenant's first use of the Premises under the Prior Licenses, whichever is earlier.

(c) Tenant will not be obligated to Remediate any Hazardous Material Condition on other Port property (in other words, on Port property other than the Premises) (i) caused by Tenant's Agent's acts, omissions or negligence on other Port Property, unless at the time such Hazardous Material Condition was caused or Exacerbated, such Agent was performing work directly or indirectly on Tenant's behalf or otherwise acting directly or indirectly on Tenant's behalf in furtherance of the Permitted Uses under this Lease; or (ii) caused by Tenant's Invitee's acts, omissions or negligence on other Port Property.

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18.5. ***Port's Right to Audit***. Port will have the right, but not the obligation, to inspect and audit the Premises for any Hazardous Materials, including the right to Investigate, at reasonable times under ***Section 29*** (Port's Entry on Premises). Port's failure to inspect or obtain samples or to detect conditions attributable to Tenant's operations if an inspection is conducted may not be deemed to be a release of any liability for any Hazardous Materials subsequently determined to be Tenant's responsibility under this Lease.

18.6. ***Notification of Asbestos***. Port hereby notifies Tenant, in accordance with the OSHA Asbestos Rule (1995), 59 Fed. Reg. 40964, 29 CFR §§ 1910.1001, 1926.1101 (as amended, clarified and corrected) (OSHA Asbestos Rule); California Health and Safety Code §§ 25915-259.7 and Cal-OSHA General Industry Safety Order for Asbestos, 8 CCR § 5208, of the presence of asbestos-containing materials ("**ACMs"**) and/or presumed asbestos-containing materials ("**PACMs**") (as such terms are defined in Cal-OSHA General Industry Safety Order for Asbestos), in the locations identified in the summary/table, if any, set forth in ***Schedule 4*** attached hereto.

This notification by Port is made pursuant to a building inspection survey(s), if any, performed by Port or its contractors qualified to perform an asbestos building survey identified in the summary/table, if any, set forth in ***Schedule 4*** attached hereto. Such survey(s), monitoring data and other information are kept at Port of San Francisco, Pier 1, San Francisco, California, 94111 and are available for inspection upon request.

Tenant hereby acknowledges receipt of the notification specified in the first paragraph of ***Section 18.6*** hereof and the notice or report attached as ***Schedule 4*** hereto and understands, after having consulted its legal counsel, that it must make its employees and contractors aware of the presence of ACMs and/or PACMs in or about the Premises in order to avoid or minimize any damage to or disturbance of such ACMs and/or PACMs. Tenant further acknowledges its obligations under Cal-OSHA General Industry Safety Order for Asbestos to provide information to its employees and contractors regarding the presence of ACMs and PACMs at the Premises and to provide a training program for its employees that conforms with 8 CCR § 5208(j)(7)(C).

Tenant agrees that its waiver of Claims set forth in ***Section 22*** (Indemnity and Exculpation) is given with full knowledge of the presence, or possibility, of asbestos in or about the Premises and the potential consequences of such fact. Tenant is aware that the presence, or possibility, of asbestos in or about the Premises may limit Tenant's ability to construct Improvements and Alterations to the Premises without Tenant first performing abatement of such asbestos. The presence of asbestos in the Premises and the removal or non-removal by Port of all or a portion of the asbestos, shall not, however, (i) entitle Tenant to any Claim, (ii) relieve Tenant of any of its obligations hereunder, including without limitation the obligation to pay Rent, or (iii) constitute or be construed as a constructive or other eviction of Tenant.

Notwithstanding any other provisions of this Lease, Tenant agrees to Indemnify Port for Tenant's acts or omissions that result in (1) asbestos-related enforcement actions, including both administrative or judicial proceedings, and (2) any Claims arising from an alleged violation of Cal-OSHA General Industry Safety Order for Asbestos and/or exposures to asbestos.

18.7. ***Notification of Lead***. Port hereby notifies Tenant of the potential presence of lead-containing and presumed lead-containing materials in the Premises. Disturbance or removal of lead is regulated by, among other Laws, 29 CFR §§ 1910.1025, 1926.62; California Health & Safety Code §§ 105185-105197 and 105250-105257; Cal-OSHA Construction Safety Order for Lead, Title 8 CCR § 1532.1; Title 17 CCR Chapter 8; and Port Building Code § 3424.

Tenant agrees that its waiver of Claims set forth in ***Section 22*** (Indemnity and Exculpation) is given with full knowledge of the presence, or possibility, of lead in or about the Premises and the potential consequences of such fact. Tenant is aware that the presence, or possibility, of lead in or about the Premises may limit Tenant's ability to perform any Improvements or Alterations to the Premises without Tenant first performing abatement of such

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lead. The presence of lead in the Premises and the removal or non-removal by Port of all or a portion of the lead, whether in the Premises, shall not, however, (i) entitle Tenant to any Claim, (ii) relieve Tenant of any of its obligations hereunder, including without limitation the obligation to pay Rent, or (iii) constitute or be construed as a constructive or other eviction of Tenant. Notwithstanding any other provisions of this Lease, Tenant agrees to Indemnify Port for its acts or omissions that result in (1) lead-related enforcement actions, including both administrative or judicial proceedings, and (2) any Claims arising from an alleged violation of Cal-OSHA Construction Safety Order for Lead and/or exposures to lead.

18.8. ***Storm Water Pollution Prevention***.

(a) Tenant must comply with the applicable provisions of the Statewide General Permit for Discharge of Industrial Storm Water issued by the State Water Resources Control Board, including filing a Notice of Intent to be covered, developing and implementing a site-specific Storm Water Pollution Prevention Plan ("**SWPPP**"), and conducting storm water monitoring and reporting. Tenant's SWPPP and a copy of a Notice of Intent for Tenant's Premises must be submitted to Port's Real Estate Division before beginning operations on the Premises.

(b) Post-Construction Requirements. In addition to requiring compliance with the permit requirements under Subsection (a), Tenant shall comply with the post-construction stormwater control provisions of the Statewide General Permit for Discharge of Stormwater from Small Municipalities and the San Francisco Stormwater Management Requirements and Design Guidelines, subject to review and permitting by the Port.

18.9. ***Presence of Hazardous Materials***. California Law requires landlords to disclose to tenants the presence or potential presence of certain Hazardous Materials. Accordingly, Tenant is hereby advised that Hazardous Materials (as herein defined) may be present on or near the Premises, including, but not limited to, vehicle fluids, janitorial products, tobacco smoke, and building materials containing chemicals, such as asbestos, naturally-occurring radionuclides, lead and formaldehyde. Further, the following known Hazardous Materials are present on the property: , naturally occurring asbestos, contamination commonly found in fill, petroleum contamination, lead-based paint, etc. and the Hazardous Materials described in the reports listed in ***Schedule 4***, copies of which have been delivered to or made available to Tenant. By execution of this Lease, Tenant acknowledges that the notice set forth in this section satisfies the requirements of California Health and Safety Code Section 25359.7 and related Laws. Tenant must disclose the information contained in this ***Section 18.9*** to any subtenant, licensee, transferee, or assignee of Tenant's interest in this Lease. Tenant also acknowledges its own obligations pursuant to California Health and Safety Code Section 25359.7 as well as the penalties that apply for failure to meet such obligations.

18.10. ***Survival***. Tenant's obligations under ***Section 18*** shall survive the expiration or earlier termination of this Lease.

For purposes of this ***Section 18***, the term "**Commencement Date**" shall mean the commencement date of the Prior Licenses.

19. INSURANCE.

19.1. ***Required Insurance Coverage***. Tenant, at its sole cost and expense, shall maintain, or cause to be maintained, throughout the Term, starting on the earlier of Tenant's occupancy under this Lease or the Commencement Date, the following insurance:

(a) Builders Risk Insurance. At all times during construction before Completion of the Initial Improvements, and during any period of Subsequent Alteration costing more than Five Hundred Thousand Dollars ($500,000) (increased annually by three percent (3%)), Tenant shall maintain, or require to be maintained, on a form reasonably approved by Port, builders risk insurance (or its equivalent for any Subsequent Alteration, which may include coverage under a

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property insurance program as referenced under ***Section 19.1(b)***)in the amount equal to the 100% replacement cost value of any existing structures being Rehabilitated or Restored, and 100% of all new construction, including all materials and equipment to be used/incorporated on or about the Premises, and in transit or storage off-site, against all risk or "special form" hazards, and earthquake and flood insurance (subject to ***Section 19.1(b)***) including risks from any and all testing of any equipment, including as named insureds, Port and Tenant, with any deductible not to exceed Two Hundred Fifty Thousand ($250,000) (except as to earthquake and flood insurance for which the deductible will be in accordance with the requirements of ***Section 19.1(b)***). Such builders risk insurance also shall extend to cover soft costs and loss of business income for any delayed completion period as caused by any of the perils or hazards set forth in and required to be insured pursuant to ***Section 19.1(a)***, for a delay period of not less than two (2) years with a limit of not less than One Million Dollars ($1,000,000). If available at commercially reasonable rates, such builders risk insurance also shall extend to cover the peril of terrorism.

(b) Property Insurance; Earthquake and Flood Insurance.

(1) Upon Completion of the Initial Improvements, and upon Completion of Subsequent Alteration of any additional Improvements, Tenant will maintain all risk property insurance policies, in an amount not less than 100% of the then-current full replacement cost of the Premises, including the Building and any Improvements thereon, foundations, pilings, excavations, and footings, including soft costs and increased cost of construction and demolition of damaged and undamaged structures due to the enforcement of Laws, (with any deductible not to exceed Two Hundred Fifty Thousand Dollars ($250,000). Such property insurance shall name Port as loss payee as its interest may appear. If available at commercially reasonable rates, such insurance shall extend to cover the peril of terrorism.

(2) Earthquake Insurance.

(A) During construction of the Initial Improvements, earthquake insurance will be in an amount equal to at least the lesser of (i) the Probable Maximum Loss to the Initial Improvements or, (ii) the maximum amount that is available at commercially reasonable rates from recognized insurance carriers (with a deductible of up to but not to exceed ten percent (10%) of the then-current, full replacement cost of the Initial Improvements without sublimits for excavations and footings; provided that earthquake coverage is available at commercially reasonable rates, except that a greater deductible will be permitted to the extent that such coverage is not available from recognized insurance carriers or at commercially reasonable rates). **"Probable Maximum Loss"** means the scenario upper loss (SUL) estimate of damage that may occur to the structures with a ninety percent (90%) confidence of non-exceedance as a result of an earthquake with a return period of 224 years as determined before Completion of the Initial Improvements and thereafter not less frequently than every ten (10) years by a consultant chosen and paid for by Tenant who is reasonably satisfactory to Port; and

(B) From and after the issuance of a Certificate of Final Completion and Occupancy for the Building, earthquake insurance will be in an amount equal to at least the lesser of (i) the Probable Maximum Loss to the Improvements, or (ii) the amount that is available at commercially reasonable rates from recognized insurance carriers, in each case, with a deductible of up to but not to exceed an amount that is necessary to make such earthquake insurance available at a commercially reasonable rate.

(3) Flood Insurance.

(A) During construction of the Initial Improvements, flood insurance will be in an amount, to the extent available at commercially reasonable rates from recognized insurance carriers (or through the NFIP if available) equal to the maximum amount of the then-current, full replacement cost of the Initial Improvements (including building code upgrade coverage and without any deduction being made for depreciation), with a deductible of up to but not to exceed ten percent (10%), except that a greater deductible will be permitted to

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the extent that flood coverage is not available from recognized insurance carriers (or through the NFIP) at commercially reasonable rates; and

(B) From and after the issuance of a Certificate of Final Completion and Occupancy for the Building, flood insurance will be in an amount equal to at least the amount available at commercially reasonable rates from recognized insurance carriers or through the NFIP, with a deductible of up to but not to exceed an amount that is necessary to make flood insurance available at commercially reasonable rates.

(4) Exceptions for Earthquake and Flood Insurance. If Tenant determines that earthquake or flood insurance should not be carried on the Improvements because it is not (or no longer) available at commercially reasonable rates (or through the NFIP for flood insurance) or, in Tenant's reasonable business judgment, is imprudent, then Tenant will request in writing Port's consent to the absence or deletion thereof. Any request for Port's consent required under this Section will include with such request evidence supporting Tenant's determination of commercial unreasonableness or imprudence as to the applicable coverage. Such evidence may include quotes, declinations, and notices of cancellation or non-renewal from leading insurance companies for the required coverage, percentage of overall operating expenses attributable thereto, and then current industry practice for comparable mixed-use/retail/office projects in San Francisco. Port will approve or disapprove the absence or deletion of earthquake or flood insurance within forty-five (45) days after Tenant's request. If Port disapproves such request, Port will state the basis for its disapproval. If Tenant elects not to carry or to discontinue such coverage with Port's approval, and Port later determines that due to changes in the industry or other changed circumstances, earthquake insurance or flood insurance, as applicable, has become commercially available at reasonable rates, then Port may notify Tenant thereof, and Tenant will add such coverage to its policy as soon as reasonably practicable thereafter.

(c) Commercial General Liability Insurance. Tenant will maintain, or require to be maintained "**Commercial General Liability**" insurance with coverage at least as broad as Insurance Services Office form CG 00 01 10 93 (or its replacement) insuring against claims for bodily injury (including death), property damage, personal injury and advertising injury, including coverage for premises operations, blanket contractual liability (to the extent possible under the above-referenced policy form or under a separate policy form) that includes coverage extending to the Indemnity in ***Section 22***, broad form property damage, explosion, collapse and underground hazards, independent contractors, products and completed operations, with such insurance to afford protection in an amount not less than Ten Million Dollars ($10,000,000) per occurrence and annual aggregate, and Ten Million Dollars ($10,000,000) products and completed operations aggregate, and deleting any exclusions for care, custody and control of real property. In addition, if Tenant has (or is required under Laws to have) a liquor license and is selling or distributing alcoholic beverages on the Premises, then Tenant will maintain or require to be maintained liquor liability coverage with limits not less than Three Million Dollars ($3,000,000) and Tenant will require any Subtenant or operator who has (or is required under Laws to have) a liquor license and who is selling or distributing alcoholic beverages on the Premises, to maintain such coverage. If applicable, then comprehensive or commercial general liability insurance must include Food Products Liability Insurance with limits not less than One Million Dollars ($1,000,000) each occurrence.

(d) Workers' Compensation Insurance. During any period in which Tenant has employees, as defined in the California Labor Code, Tenant will maintain or require to be maintained policies of workers' compensation insurance providing statutory limits, including employer's liability coverage with limits not less than One Million Dollars ($1,000,000) each accident, disease or illness.

(e) Personal Property Insurance. Tenant, at its sole cost and expense, shall procure and maintain on all of Tenant's Property and Alterations, in, on, or about the Premises, and shall require each of its Subtenants to procure and maintain, personal property insurance on

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an all risk form, excluding earthquake and flood, in an amount not less than full replacement value or a stated value, at Tenant's sole discretion, for the replacement of Tenant's Property/Subtenant's Property. In addition to the foregoing, Port may, in its sole discretion, insure any personal property leased to Tenant by Port pursuant to this Lease in such amounts as Port deems reasonably appropriate and Tenant shall have no interest in the proceeds of such personal property insurance. Port shall have no responsibility or obligation to maintain insurance or replace Tenant's Property or Subtenant's Property, Alterations, or any Improvements regardless of cause of loss.

(f) Boiler and Machinery Insurance. Tenant will maintain, or require to be maintained, boiler and machinery insurance covering damage to or loss or destruction of machinery and equipment, whether integrated into or independent from the structure, located in, on, under, around, or about the Premises that is used by Tenant for heating, ventilating, air-conditioning, power generation and similar purposes, in an amount not less than one hundred percent (100%) of the actual replacement value of such machinery and equipment.

(g) Business Automobile Insurance. Tenant will maintain, or require to be maintained, policies of business automobile liability insurance covering all owned, non-owned or hired motor vehicles (including electric carts) to be used by Tenant and its Agents in connection with Tenant's use and occupancy of the Premises, affording protection for bodily injury (including death) and property damage in the form of Combined Single Limit Bodily Injury and Property Damage policy with limits of not less than Five Million Dollars ($5,000,000) per accident and annual aggregate.

(h) Business Income Insurance. From and after the issuance of a Certificate of Final Completion and Occupancy, Tenant will maintain business income insurance, including loss of rents and extra expense caused by any of the perils or hazards set forth in and required to be insured pursuant to ***Section 19.1(b)*** covering an interruption period of not less than two (2) years, with a limit of not less than twenty-four (24) months' of Gross Revenues.

(i) Contractor's Pollution Legal Liability Insurance. Tenant will cause to be maintained during the period of construction of the Initial Improvements and during any periods of Subsequent Alteration, Contractor's Pollution Legal Liability Insurance for any and all Claims caused by pollution conditions, that are sudden, accidental or gradual, resulting from the contractor's operations, or for which contractor is legally liable, in connection with the construction of the Initial Improvements or Subsequent Alteration, whether such operations be by Tenant or Tenant's contractors, subcontractors, consultants or suppliers of the contractor. The foregoing policy will contain minimum liability limits of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) in the aggregate with a deductible not to exceed Two Hundred Fifty Thousand Dollars ($250,000). The foregoing policy will at a minimum contain coverage for or be specifically endorsed to include coverage for pollution conditions resulting in, arising from or in connection with: (i) bodily injury (including death), property damage and environmental cleanup costs (on-site and off-site) resulting from construction of the Initial Improvements or any Subsequent Alteration; (ii) the use or operation of motor vehicles (whether owned, non-owned or leased) in connection with construction of the Initial Improvements or any Subsequent Alteration, including transportation of any Hazardous Materials to or from the project site, including any interim or temporary storage or transfer sites (such transportation coverage will also include loading/unloading of materials); (iii) claims by third parties (other than a disposal site owner) for bodily injury or property damage arising from any disposal location or facility, both final and temporary, to which any waste that is generated in connection with the construction of the Initial Improvements or any Subsequent Alteration under this Lease or in connection with any Remediation obligation of Tenant pursuant to ***Section 18*** is delivered; all such disposal locations/facilities, both final and temporary, will be scheduled to the foregoing policy as Non-Owned Disposal Sites for coverage under such policy. The foregoing policy will be written on an occurrence form and be in effect during the construction periods described above, or, if not available on an occurrence form, then on a

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claims-made form. If the foregoing policy is written on a claims made form, then the foregoing policy will be maintained for, or contain an extended reporting period of, at least five (5) years. The foregoing policy definition of "Covered Operations" or any other such designation of services or operations performed by Tenant's contractors must include all work or services performed by Tenant's contractors and their respective subcontractors, consultants, or suppliers.

(j) Professional Liability. Tenant will maintain or require to be maintained, professional liability (errors and omissions) insurance, with limits not less than Five Million Dollars ($5,000,000) each claim and annual aggregate, with respect to all professional services, including architectural, engineering, geotechnical, and environmental, reasonably necessary or incidental to the construction of the Initial Improvements and any Subsequent Alteration with any deductible not to exceed Fifty Thousand Dollars ($50,000) each claim (the **"lead policy"**). Notwithstanding the foregoing, however, Tenant may elect, instead of obtaining the foregoing coverages in this ***Section 19.1(j)***, to require that any architects, contractors and sub-contractors performing professional services in connection with the Initial Improvements or any Subsequent Alteration carry professional liability insurance (errors and omissions) in an amount not less than Five Million Dollars ($5,000,000) each claim and annual aggregate with any deductible not to exceed Fifty Thousand Dollars ($50,000). Such insurance will provide coverage during the period when such professional services are performed and for a period of (A) three (3) years after issuance of a Certificate of Final Completion and Occupancy for the Initial Improvements and (B) five (5) years for any Subsequent Alteration. With respect to Subsequent Alteration, Tenant will require that any architect, contractor or subcontractor performing professional services in connection with such Subsequent Alteration, carry professional liability insurance (errors and omissions) in an amount not less than One Million Dollars ($1,000,000) each claim and annual aggregate with any deductible not to exceed Twenty Five Thousand Dollars ($25,000).

(k) Crime policy. Crime policy or fidelity bond covering Tenant's officers and employees against dishonesty with respect to funds provided by Port, in the amount of Seventy Five Thousand Dollars ($75,000) each loss, with any deductible not to exceed Fifty Thousand Dollars ($50,000) each loss.

(l) Special Events/Participants. Tenant, at its sole cost and expense, shall procure and maintain Special Events/Participants Liability (GL) coverage insurance acceptable to Port, with limits not less than One Million Dollars ($1,000,000.00).

(m) Abuse and Molestation. Abuse and molestation coverage with minimum limits of $2,000,000 per occurrence and $4,000,000 in the aggregate. Coverage may be held as a separate policy or included by endorsement in the Commercial General Liability or Errors and Omissions policy.

(n) Other Coverage. Not more often than every year and upon not less than sixty (60) days prior written notice, Port may require Tenant to increase the insurance limits set forth above or to provide other coverage and/or different coverage amounts as may be required by Law, the City's Risk Manager or as is generally required by commercial owners of buildings similar in size, character, age and location as the Premises with respect to risks comparable to those associated with the use of the Premises.

19.2. ***Claims-Made Policies***. If any of the insurance required in ***Section 19.1 above*** is provided under a claims-made form of policy, Tenant shall maintain such coverage continuously throughout the Term and without lapse for a period of three (3) years beyond the termination of this Lease, to the effect that should occurrences during the Term give rise to claims made after termination of this Lease, such claims shall be covered by such claims-made policies.

19.3. ***Annual Aggregate Limits***. If any of the insurance required in ***Section 19.1 above*** is provided under a form of coverage which includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be double the occurrence limits specified herein.

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19.4. ***Payment of Premiums***. Tenant shall pay the premiums for maintaining all required insurance.

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

19.6. ***General Insurance Matters***.

(a) All liability insurance policies required to be maintained by Tenant hereunder shall contain a cross-liability clause, shall name as additional insureds by written endorsement the "**CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO PORT COMMISSION AND THEIR COMMISSIONERS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS**," shall be primary and non-contributory to any other insurance available to the additional insureds with respect to claims arising under this Lease, and shall provide that such insurance applies separately to each insured against whom complaint is made or suit is brought except with respect to the limits of the company's liability.

(b) Tenant may satisfy the limits set forth in ***Section 19.1*** by any combination of primary and excess insurance policies. All insurance policies required to be maintained by Tenant hereunder shall be issued by an insurance company or companies reasonably acceptable to Port with an AM Best rating of not less than A-VIII and authorized to do business in the State of California. Tenant's compliance with this Section shall in no way relieve or decrease Tenant's liability under this Lease.

(c) Tenant shall provide thirty (30) days prior written notice of cancellation for any reason, intended non-renewal, or reduction in coverage to Port.

(d) Tenant shall deliver to Port certificates of insurance, additional insured policy endorsements and waiver of subrogation endorsements in a form satisfactory to and at the direction of Port, such as hard copy documentation or use of an internet-based insurance compliance tracking systems such as EXIGIS, evidencing the coverages required herein, together with evidence of payment of premiums, on or before the Commencement Date, and upon renewal of each policy not less than thirty (30) days before expiration of the term of the policy. If Port is using an internet-based insurance compliance tracking system, Tenant's broker shall complete the insurance questionnaire and submit all required documentation. Tenant shall, upon Port's request, promptly furnish Port with a complete copy of any insurance policy required hereunder.

20. DAMAGE OR DESTRUCTION

20.1. ***General; Notice; Waiver***.

(a) General. If at any time during the Term any damage or destruction occurs to all or any portion of the Premises from fire or other casualty (each a "**Casualty**"), the rights and obligations of the Parties shall be as set forth in this ***Section 20***.

(b) Notice. If there is any Casualty (i) which would materially impair use or operation of any material portion of the Improvements for their intended purpose for a period of thirty (30) days or longer, or (ii) the repair of which would exceed in an individual instance the amount of One Hundred Thousand Dollars ($100,000) (increased annually by three percent (3%)), or aggregate amount of Two Hundred Fifty Thousand Dollars ($250,000) (which amount

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includes both hard and soft costs of a Restoration, increased annually by three percent (3%)), Tenant shall promptly, but not more than ten (10) days after the occurrence of any such Casualty, give written notice thereof to Port describing with as much specificity as is reasonable, the nature and extent of the damage from such Casualty **("Casualty Notice")**.

(c) Waiver. The Parties intend that this Lease fully govern all of their rights and obligations in the event of any Casualty. Accordingly, Port and Tenant each hereby waive the provisions of Sections 1932(2), 1933(4), 1941 and 1942 of the California Civil Code, as such sections may from time to time be amended, replaced, or restated.

20.2. ***No Release of Tenant's Obligations***. Except as set forth in ***Section 20.4***, no damage to or destruction of the Premises or any part thereof from any Casualty event shall permit Tenant to surrender this Lease or relieve Tenant from any obligations, including the obligation to pay Rent. In the event of any damage or destruction to the Improvements that does not result in a termination of this Lease, and at all times before completion of Restoration, Tenant shall pay to Port all Rent at the times and in the manner described in this Lease. If this Lease shall not terminate pursuant to this ***Section 20***, proceeds of rental interruption or business interruption insurance shall be applied first to unpaid Rent due or coming due before completion of the Restoration and then to costs of Restoring the Premises with any remaining balance to be retained by Tenant. If this Lease shall terminate pursuant to this ***Section 20***, proceeds of rental interruption or business interruption insurance shall be applied first to unpaid Rent coming due before termination of this Lease and then such proceeds shall be distributed pursuant to ***Section 20.4(b).***

20.3. ***Tenant's Obligation to Restore***. Except in the event of an Uninsured Casualty or Major Casualty for which Tenant elects to terminate this Lease, under ***Section 20.4***, if all or any portion of the Improvements are damaged or destroyed by Casualty, Tenant shall promptly (allowing for securing necessary Regulatory Approvals), commence and diligently Restore the Improvements to the condition they were in immediately before such Casualty in accordance with then applicable Laws (including any required code upgrades, the Secretary's Standards and Port's Sign Guidelines), without regard to the amount or availability of insurance proceeds, subject to Force Majeure. All Restoration shall be performed in accordance with the procedures set forth in ***Section 14*** relating to Alterations and shall be at Tenant's sole expense. In connection with any Restoration, the Improvements may be redesigned, made larger or smaller, reconfigured, or otherwise modified, provided that the Improvements as so redesigned (i) are at least equivalent in quality, appearance, public safety, and durability to and in all respects consistent with the Building as improved with the Initial Improvements and any Subsequent Alterations prior to the Casualty subject to the Permitted Uses and (ii) allow the Permitted Uses to continue without material adverse effect on such uses.

20.4. ***Major Casualty or Uninsured Casualty***.

(a) Tenant's Election to Restore or Terminate. If an event of Major Casualty occurs at any time during the Term, or if a change in Laws has occurred which prohibits the Premises from being rebuilt for the Permitted Uses, or if an event of Uninsured Casualty occurs at any time during the Term (other than as set forth in ***Section 20.4(c)***), then within ninety (90) days following Tenant's delivery to Port of the Casualty Notice, Tenant shall notify Port of Tenant's election to: (1) commence and complete Restoration of the Improvements, or (2) terminate this Lease (subject to ***Section 20.4(b)***). All Restoration shall be in accordance with the procedures set forth in ***Section 14*** relating to Alterations and shall be at Tenant's sole expense, except as provided in ***Section 20.4(c)***.

"Major Casualty" means a Casualty event that (i) would require the expenditure of more than Two Million Dollars ($2,000,000) (increased annually by three percent (3%)), (ii) would require more than two hundred seventy (270) days inclusive of the time to obtain Regulatory Approvals) for completion of the Restoration, or (iii) would prohibit the Premises from being Restored to a design and condition (a) that is substantially similar to the Building (as improved

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by the construction of the Initial Improvements and any Subsequent Alterations) or (b) that allows for the Permitted Uses to continue without material adverse effect thereon.

"Uninsured Casualty" means any of the following: (i) a Casualty event occurring at any time during the Term for which the costs of Restoration (including the cost of any required code upgrades) are not insured or insurable under the policies of insurance that Tenant is required to carry under ***Section 19*** and such costs exceed Three Hundred Fifty Thousand Dollars ($350,000) (increased annually by three percent (3%)); or (ii) a Casualty event occurring at any time during the Term which is covered under Tenant's policies of insurance that Tenant is required to carry under ***Section 19*** but where the cost of Restoration (including the cost of any required code upgrades) will exceed the sum of (A) the net proceeds of any insurance payable, (B) the amount of any applicable policy deductibles, and (c) Three Hundred Fifty Thousand Dollars ($350,000) (increased annually by three percent (3%)). Any Casualty event not insured due to Tenant's failure to maintain the requisite insurance policies under ***Section 19*** shall not be considered an Uninsured Casualty. As to any Casualty caused by earthquake or flood, the amount of such policy deductible shall be deemed to be the lesser of the amount of the policy deductible for non-earthquake or flood damage under Tenant's property insurance policy maintained under ***Section 22*** as of the date of Casualty, or the actual amount of such policy deductible.

(b) Conditions to Termination. As a condition precedent to Tenant's right to terminate this Lease in accordance with ***Section 20.4(a)***, there shall be no uncured Tenant Event of Default and Tenant shall do all of the following:

(i) The Casualty Notice shall include the estimated cost of Restoration and with respect to the Uninsured Casualty only, the amount by which the estimated cost of Restoration (or time needed to Restore) exceeds insurance proceeds payable (or those insurance proceeds which would have been payable but for Tenant's failure to maintain insurance required to be maintained hereunder); and

(ii) Pay or cause to be paid the following amounts from all insurance proceeds arising from each Casualty promptly following receipt of such proceeds, in the following order of priority:

(1) First, to Port (or Tenant, if such work is performed by, or on account of, Tenant at its cost) for the actual costs incurred for any work required to alleviate any conditions caused by such Casualty that could cause an immediate or imminent threat to the public safety and welfare or damage to the environment, including any demolition or hauling of rubble or debris;

(2) Second, to Port, for all accrued and unpaid amounts owed to Port, if any, by Tenant;

(3) Third, to each Permitted Mortgagee, in order of priority, a portion of the remaining casualty insurance proceeds arising out of or in connection with the Casualty causing such Major Damage or Uninsured Casualty in an amount not to exceed the aggregate amounts then owed to each such Permitted Mortgagee; and

(4) Fourth, to Port and Tenant as follows: the balance of the insurance proceeds shall be divided proportionately between Port, for the value of Port's reversionary interest in the Premises and the Improvements (in their condition immediately prior to the Casualty event), as of the date the Term would have expired but for the Casualty, and Tenant, for the value of the Improvements for the remaining unexpired portion of the Term (in their condition immediately prior to the Casualty event); and

(iii) Pay to Port any Rent due and payable as of the proposed termination date (to the extent any Rent due and payable remains unpaid after application of insurance proceeds pursuant to ***Section 20.4(b)(ii)(2)***; and

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(iv) Upon termination in accordance with this ***Section 20***, Tenant shall deliver possession of the Premises to Port and quitclaim to Port all right, title and interest in the Premises and in any remaining Improvements.

(c) Port's Election Upon Notice of Termination. Notwithstanding ***Section 20.4(a)***, if Tenant elects to terminate this Lease solely due to an Uninsured Casualty, then within sixty (60) days after Port's receipt of the Casualty Notice, Port may elect by giving written notice to Tenant, to continue this Lease and pay the amount to Tenant by which the cost of Restoration will exceed the net proceeds of any insurance payable under the policies of insurance that Tenant is required to carry under ***Section 19*** (or which would have been payable but for Tenant's failure to maintain such insurance) by more than Three Hundred Fifty Thousand Dollars ($350,000) (increased annually by three percent (3%)). If Port elects to continue this Lease as set forth in this ***Section 20.4(c)***, then notwithstanding Tenant's election to terminate this Lease, this Lease shall not be terminated and Tenant shall be obligated to Restore the Premises in accordance with ***Section 20.3***.

20.5. ***Date and Effect of Termination***. If Tenant elects to terminate this Lease under ***Section 20.4(a)***, and Port elects not to continue this Lease under ***Section 20.4(c)***, then, on the date that Tenant shall have fully complied with all provisions of ***Section 20.4(b)*** to the reasonable satisfaction of Port, this Lease shall terminate. Upon such termination, the Parties shall be released thereby without further obligations to the other party as of the effective date of such termination; provided, however, that the Indemnification provisions and any other provisions that explicitly state they will survive expiration or earlier termination of this Lease shall survive any such termination. Any rights of Tenant or Port to receive insurance proceeds in accordance with the provisions of this Lease will survive the termination of this Lease.

20.6. ***Distribution Upon Lease Termination***. If Tenant is obligated to and fails to Restore the Improvements as provided herein and commits an Event of Default in failing to Restore the Improvements and this Lease is thereafter terminated due to such Event of Default, all insurance proceeds held by Port, Tenant and any Permitted Mortgagee, or not yet collected, shall be paid to and retained by Port, subject to the rights of Permitted Mortgagees, if any.

20.7. ***Use of Insurance Proceeds***. Except in the event of termination of this Lease in accordance with ***Section 20.4***, all all-risk coverage insurance proceeds, earthquake and flood proceeds, boiler and machinery insurance proceeds, and any other insurance proceeds paid to Tenant by reason of Casualty (other than business or rental interruption insurance), must be used by Tenant for Restoration of the Premises.

20.8. ***Arbitration of Disputes***.

(a) Estimators. In the event Port and Tenant cannot mutually agree upon the cost of Restoration (the "**Disputed Amount"**), such dispute shall be determined in the manner provided in this ***Section 20.8***. Either party may invoke the provisions of this ***Section 20.8*** at any time there is a Disputed Amount by delivering written notice to the other party **("Arbitration Notice")**. Within twenty (20) days after receipt of the Arbitration Notice, each party shall designate, by written notice to the other party, a professional cost estimator having at least ten (10) years' experience in estimating construction costs of major construction projects in the City, and who is competent, licensed, disinterested and independent **("Estimator")**. Each Estimator shall make an independent determination of the Disputed Amount, in accordance with the provisions hereof. The Estimators may share and have access to objective information in preparing their estimates, but they will otherwise act independently. Each Estimator shall complete, sign and submit its written estimate of the cost of Restoration **("Restoration Cost")** within fifteen (15) days after the appointment of the last Estimator unless the parties agree to permit a longer period of time. If the higher estimate of the Restoration Cost is not more than ten percent (10%) of the lower estimate, the Restoration Cost shall be determined for purposes of this Lease to equal the average of the two (2) determinations. If a party fails to designate an Estimator within the twenty (20) day period, then the determination made by the sole Estimator shall control.

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(b) Arbitration. If the higher estimate of the Restoration Cost is more than ten percent (10%) of the lower estimate, the parties shall agree upon and appoint a third Estimator (the **"Arbitrator"**) within thirty (30) days after the first two (2) determinations have been submitted to the parties. The Arbitrator shall have the minimum qualifications set forth in ***Section 20.8(a)***, and also shall have experience acting as an arbitrator of disputes involving construction costs or construction disputes. If the parties do not appoint the Arbitrator within such thirty (30) day period, then either party may apply to the American Arbitration Association, or any similar provider of professional commercial arbitration services, for appointment in accordance with the rules and procedures of such organization of an independent arbitrator meeting the foregoing qualifications. The Arbitrator shall consider the estimates submitted by the Estimators as well as any other relevant written evidence that the parties may choose to submit. If a party chooses to submit any such evidence, it shall deliver a complete and accurate copy to the other party at the same time it submits the same to the Arbitrator. Neither party shall conduct ex parte communications with the Arbitrator regarding the subject matter of the Arbitration. Within fifteen (15) business days after his or her appointment, the Arbitrator shall select one of the estimates as the more accurate estimate of the Restoration Cost. The determination of the Arbitrator shall be limited solely to the issue of deciding which of the estimates is closest to the actual Restoration Cost. The Arbitrator shall have no right to propose a middle ground or to modify either of the two (2) estimates.

(c) Conclusive Determination. Except as provided in California Code of Civil Procedure Section 1286.2 (as the same may be amended from time to time), the determination by the Estimators, or if applicable, the Arbitrator shall be conclusive, final and binding on the Parties. Neither the Estimators, or if applicable, the Arbitrator shall have any power to modify any of the provisions of this Lease. Subject to the provisions of this ***Section 20.8***, the parties will cooperate to provide all appropriate information to the Estimators and if applicable, the Arbitrator. The Estimators, and if applicable, the Arbitrator will each report their respective determinations in writing, supported by the reasons for the determination.

(d) Conduct of Arbitration Proceeding. Any arbitration proceeding conducted pursuant to this ***Section 20.8*** shall be subject to California Code of Civil Procedure Sections 1280 to 1294.2 (but excluding Section 1283.05 with respect to discovery), or successor Laws then in effect relating to arbitration generally. Any such proceeding shall be conducted in the City.

(e) Fees and Costs; Waiver. Each party shall bear the fees, costs and expenses of the Estimator it selects. The parties shall share the fees, costs and expenses of the Arbitrator and the costs and expenses of the arbitration proceeding equally. The parties waive any claims against the Estimator appointed by the other party, and against the Arbitrator, for negligence, malpractice, or similar claims in the performance of the estimates or arbitration contemplated by this ***Section 20.8***.

(f) Arbitration of Disputes. With respect to the arbitration provided for in this ***Section 20.8***, the Parties agree as follows:

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISIONS IN THIS LEASE DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR BY JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY

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OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT TO NEUTRAL ARBITRATION DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION.

Port's Initials JH Tenant's Initials JBM

Any judgment upon the award rendered by the arbitration may be entered in any court having jurisdiction of such arbitration in accordance with the terms of this Lease. This arbitration provision does not affect the rights of either party to seek confirmation, correction or vacation of the arbitration award pursuant to California Code of Civil Procedure Sections 1285 et seq.

21. CONDEMNATION.

21.1. ***General; Notice; Waiver***.

(a) General. If, at any time during the Term, there is any Condemnation of all or any part of the Premises, the rights and obligations of the Parties shall be determined pursuant to this ***Section 21***.

(b) Notice. In case of the commencement of any proceedings or negotiations which might result in a Condemnation of all or any portion of the Premises during the Term, the party learning of such proceedings shall promptly give written notice of such proceedings or negotiations to the other party. Such notice shall describe with as much specificity as is reasonable, the nature and extent of such Condemnation or the nature of such proceedings or negotiations and of the Condemnation that might result therefrom, as the case may be.

(c) Waiver. Except as otherwise provided in this ***Section 21***, the Parties intend that the provisions of this Lease shall govern their respective rights and obligations in the event of a Condemnation. Accordingly, but without limiting any right to terminate this Lease in accordance with this ***Section 21***, Tenant waives any right to terminate this Lease upon the occurrence of a Partial Condemnation under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure, as such sections may from time to time be amended, replaced or restated.

21.2. ***Total Condemnation***. If there is a Condemnation of the entire Premises or Tenant's leasehold interest therein (a "**Total Condemnation**"), this Lease shall terminate as of the Condemnation Date. Upon such termination, except as otherwise set forth in this Lease, the Parties shall be released without further obligations to the other party as of the Condemnation Date, subject to the payment to Port of accrued and unpaid Rent, up to the Condemnation Date.

21.3. ***Substantial Condemnation; Partial Condemnation; Rent Abatement***. If there is a Condemnation of any portion but less than all of the Premises, the rights and obligations of the Parties shall be as follows:

(a) Substantial Condemnation. If there is a Substantial Condemnation, this Lease shall terminate at Tenant's option (which shall be exercised, if at all, at any time within ninety (90) days after the Condemnation Date by delivering written notice of termination to Port) in accordance with this ***Section 21.3(a)***. "**Substantial Condemnation**" means a Condemnation of (A) less than the entire Premises which renders the Premises untenantable, unsuitable or economically unfeasible for the Permitted Uses as reasonably determined by Tenant or (B) property located outside the Premises that substantially and materially eliminates access to the Premises where no alternative access can be constructed or made available, as reasonable determined by Port. Notwithstanding the foregoing, Tenant shall have no right to terminate this Lease under this ***Section 21.3(a)*** if (1) the Condemnation is for less than one year (unless such

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Condemnation occurs during the last five (5) years of the Term), or (2) Tenant reasonably anticipates (i) based upon a schedule of performance for such Restoration prepared by Tenant in consultation with a licensed general construction contractor that at the time of completion of the Restoration, less than five (5) years would remain in the Term) and (ii) the cost of such Restoration is more than at least Three Hundred Fifty Thousand Dollars ($350,000) (increased annually by three percent (3%)), unless Port (in its sole and absolute discretion and without any obligation to do so) gives written notice to Tenant within thirty (30) days (subject to extension as provided below) after receipt of Tenant's termination notice that Port agrees, at its cost and expense, to pay any amount by which the cost of such Restoration exceeds by at least Three Hundred Fifty Thousand Dollars ($350,000) (increased annually by three percent (3%)). In either such case, this Lease shall not terminate, and, upon a determination that this Lease shall continue based on amount of the Award, Tenant shall perform such Restoration, subject to the provisions of ***Section 14***. Port's right to exercise the option described in clause (2) above shall be conditioned upon Port and Tenant reaching an agreement, with respect to the schedule for performance of required work, on the timing of payments of Port's contribution to the costs of such work (to the extent not available from Port's share of the Award), and any other related issues which may be necessary or appropriate for resolution in connection with such work and the payment for such work. If no satisfactory agreement is reached within such period, Port shall have no right to exercise such right, and such Condemnation shall be deemed a Substantial Condemnation for which Tenant may terminate this Lease.

(b) Partial Condemnation. If there is a Condemnation of any portion of the Premises which does not result in a termination of this Lease under ***Sections 21.2*** or 21.3(a) (a "**Partial Condemnation"**), this Lease shall terminate only as to the portion of the Premises taken in such Partial Condemnation effective as of the Condemnation Date and this Lease shall remain in full force and effect as to the portion of the Premises remaining immediately after such Condemnation. Tenant shall promptly commence and complete any necessary Restoration of the remaining portion of the Premises, at no cost to Port. Any such Restoration shall be performed in accordance with the provisions of ***Section 14***.

(c) Rent Abatement. In the case of a Partial Condemnation, or in the case of a Substantial Condemnation which does not result in a termination of this Lease, the Base Rent payable from the Condemnation Date shall be equitably reduced in the proportion that the gross square footage of the Premises which is taken in such Partial or Substantial Condemnation, as applicable, bears to the aggregate gross square footage of the Premises immediately prior to such Partial or Substantial Condemnation, as applicable.

21.4. ***Awards***. Except as provided in ***Sections 21.5*** and ***21.6***, Awards and other payments to either Port or Tenant on account of a Condemnation, less costs, fees and expenses of either Port or Tenant (including reasonable Attorneys' Fees and Costs) incurred in the collection thereof **("Net Awards and Payments")** shall be allocated between Port and Tenant as follows:

(a) In the event of a Partial Condemnation, first, to pay costs of Restoration, in which case, the portion of the Net Awards and Payments allocable to Restoration shall be payable to Tenant and any Permitted Mortgagee;

(b) Second, to Port for the value of the condemned land only, subject to the particular uses of the Premises existing immediately prior to the Condemnation Date, and without reference to, or inclusion of, Port's reversionary interest in the value of the Improvements (the "**Condemned Land Value"**);

(c) Third, to Port for any accrued and unpaid Rent owed by Tenant to Port for periods prior to the Condemnation Date;

(d) Fourth, to each Permitted Mortgagee, if any, in order of priority, for payment of all outstanding amounts of the loan secured by such mortgage, together with its reasonable out

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of pocket expenses and charges in collecting the Net Awards and Payments, including without limitation, its reasonable attorneys' fees incurred in the Condemnation;

(e) Fifth, to Tenant in an amount equal to the value of Tenant's leasehold interest in this Lease, not including the value of the Improvements on the Premises, for the remaining unexpired portion of the Term; and

(f) Sixth, the balance of the Net Awards and Payment shall be divided proportionately between Port, for the value of Port's reversionary interest in the Improvements (based on the date the Term would have expired but for the event of Condemnation), and Tenant, for the value of the Improvements for the remaining unexpired portion of the Term.

(g) Notwithstanding anything to the contrary set forth in this ***Section 21.4***, any portion of the Net Awards and Payments which has been specifically designated by the condemning authority or in the judgment of any court to be payable to Port or Tenant on account of any interest in the Premises or the Improvements separate and apart from the Condemned Land Value, the value of Port's reversionary interest in the Improvements, Tenant's leasehold interest in this Lease, or the value of the Improvements on the Premises for the remaining unexpired portion of the Term, shall be paid to Port or Tenant, as applicable, as so designated by the condemning authority or judgment.

21.5. ***Temporary Condemnation***. If there is a Condemnation of all or any portion of the Premises for a temporary period lasting less than the remaining Term, other than in connection with a Substantial Condemnation, this Lease shall remain in full force and effect, there shall be no abatement of Rent, and the entire Award shall be payable to Tenant.

21.6. ***Relocation Benefits, Personal Property***. Notwithstanding ***Section 21.4***, Port shall not be entitled to any portion of any Net Awards and Payments payable in connection with the Condemnation of the personal property of Tenant or any of its Subtenants.

22. INDEMNITY AND EXCULPATION.

22.1. ***General Indemnity***. Tenant shall Indemnify Port, City, including, but not limited to, all of their respective boards, commissions, departments, agencies, and other subdivisions, and their respective Agents (collectively, "**Indemnified Parties"**) from, and shall defend them, without cost to the Indemnified Parties, against any and all Claims arising directly or indirectly out of: (a) any accident, injury to or death of any person, including any Agents and/or Invitees of Tenant, or loss or damage to or destruction of any property occurring in, on or about the Premises, or any other Port property, from any cause whatsoever, or (b) any default by Tenant in the observance or performance of any of the terms, covenants or conditions of this Lease, including the provisions of ***Section 23***, or (c) the use, occupancy, manner of use or occupancy, or condition of the Premises or the activities therein by Tenant, its Agents, or Invitees, or (d) any construction or other work undertaken by Tenant on the Premises whether before or during the Term, or (e) any acts, omissions or negligence of Tenant, its Agents or Invitees, in, on or about the Premises, or any other Port property.

22.2. ***Hazardous Materials Indemnity***.

(a) In addition to its obligations under ***Section 22.1***, subject to ***Section 22.2(b)***, Tenant, for itself and on behalf of its Agents and Invitees, agrees to Indemnify the Indemnified Parties from any and all Hazardous Material Claims that arise as a result of: (i) any Hazardous Material Condition, and (ii) Tenant's Exacerbation of any Hazardous Material Condition.

(b) Unless Tenant or its Agents or Invitees Exacerbate a Hazardous Material Condition, Tenant's Indemnity obligations under this Lease do not include any Hazardous Material Claims that arise as a result of a Hazardous Material Condition: (i) caused solely by City, Port, or their Agents during Tenant's its Agents or Invitees occupancy of the Premises; (ii) arising before the Commencement Date or the date of Tenant's first use of the Premises under the Prior Licenses, whichever is earlier; (3) caused by Tenant's Agent's acts, omissions or

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negligence on other Port Property (in other words, on Port property other than the Premises), unless such Agent was performing work on Tenant's behalf or otherwise acting on Tenant's behalf in furtherance of the Permitted Uses under this Lease; or (4) caused by Tenant's Invitee's acts, omissions or negligence on other Port Property (in other words, on Port property other than the Premises).

(c) Tenant's obligation to Indemnify the Indemnified Parties includes: (i) costs incurred in connection with any Investigation or Remediation requested by Port or required by any Environmental Regulatory Agency and to restore the affected area to its condition before the Release; (ii) damages for diminution in the value of the Premises; (iii) damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises; (iv) damages arising from any adverse impact on marketing the space; (v) sums paid in settlement of Claims, Hazardous Material Claims, Environmental Regulatory Actions, including fines and penalties; (vi) natural resource damages; and (vii) attorneys' fees, consultant fees, expert fees, court costs, and all other litigation, administrative or other judicial or quasi-judicial proceeding expenses. If Port pays any costs within the scope of this section, Tenant must reimburse Port for Port's costs, plus interest at the Interest Rate from the date Port incurs each cost until paid, within three (3) business days after Port's payment demand. Tenant's obligations hereunder shall survive the expiration or earlier termination of this Lease.

22.3. ***Scope of Indemnities***. The Indemnification obligations of Tenant set forth in this Lease shall be enforceable regardless of the joint or concurrent, active or passive negligence of the Indemnified Parties, and regardless of whether liability without fault is imposed or sought to be imposed on the Indemnified Parties. The Indemnification obligations of Tenant set forth in this Lease shall be enforceable except to the extent that such Indemnity is void or otherwise unenforceable under applicable Law in effect on, or validly retroactive to, the date of this Lease. Except as specifically provided otherwise, the Indemnification obligations of Tenant set forth in this Lease shall exclude Claims resulting solely from the willful misconduct or gross negligence of the Indemnified Parties.

In addition to Tenant's obligation to Indemnify the Indemnified Parties, Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend the Indemnified Parties from any Claim which actually or potentially falls within the Indemnification obligations of Tenant set forth in this Lease, even if the allegations are or may be groundless, false or fraudulent. This Indemnification by Tenant shall begin from the first notice that any claim or demand is or may be made and shall continue at all times thereafter.

Port agrees that Tenant's Indemnity for Claims that arise out of any Tenant's Invitee's acts, omissions or negligence on "other Port property" as set forth above in ***Section 22.1*** applies only if such Claims (i) arise directly or indirectly out of Tenant's Invitee's acts, omissions or negligence, and (ii) such act, omission or negligence occurred in, on, under, or about the Premises.

Port agrees that Tenant's Indemnity for Claims that arise out of any Tenant's Agent's acts, omissions or negligence on "other Port property" as set forth above in ***Section 22.1*** applies only if such Claims (i) arise directly or indirectly out of Tenant's Agent's acts, omissions or negligence, and (ii) such act, omission or negligence occurred while such Agent was performing work on Tenant's behalf or otherwise acting on Tenant's behalf in furtherance of the Permitted Uses under this Lease.

22.4. ***Exculpation and Waiver***. To the fullest extent permitted by law, Tenant, as a material part of the consideration to be rendered to Port, hereby waives any and all Claims, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, but excluding any Claims caused solely by the Indemnified Parties' willful misconduct or gross negligence. The Indemnified Parties shall not be responsible for or liable to Tenant, and Tenant hereby assumes the risk of, and waives and

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releases the Indemnified Parties from all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, for any injury, loss or damage to any person or property in or about the Premises by or from any cause whatsoever including, without limitation, (i) any act or omission of persons occupying adjoining premises or any part of the adjacent to or connected with the Premises, (ii) theft, (iii) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (iv) stopped, leaking or defective Building Systems, (v) Building defects, (vi) damages to goods, wares, goodwill, merchandise, equipment or business opportunities, (vii) Claims by persons in, upon or about the Premises, or any other Port property for any cause arising at any time, (viii) alleged facts or circumstances of the process or negotiations leading to this Lease prior to the Commencement Date, (ix) inability to use all or any portion of the Premises due to sea level rise, and (x) any other acts, omissions or causes to the fullest extent permitted by law.

Tenant understands and expressly accepts and assumes the risk that any facts concerning the Claims released in this Lease might be found later to be other than or different from the facts now believed to be true, and agrees that the releases in this Lease shall remain effective. Therefore, with respect to the Claims released in this Lease, Tenant waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows:

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

DS JBM

Tenant's Initials

DS JBM

Tenant's Initials

Tenant specifically acknowledges and confirms the validity of the release made above and the fact that Tenant was represented by counsel who explained the consequences of the release at the time this Lease was made, or that Tenant had the opportunity to consult with counsel, but declined to do so.

22.5. ***Survival***. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

23. TRANSFERS AND SUBLEASING.

23.1. ***Financing***. Except with Port's express prior written consent, in its reasonable discretion, Tenant shall not (i) engage in any Financing or other transaction creating any mortgage, deed of trust or similar security instrument upon Tenant's leasehold interest in the Premises or Tenant's interest in the Improvements under this Lease; or (ii) place or suffer to be placed upon Tenant's leasehold interest in the Premises or interest in the Improvements any lien or other encumbrance. Under no circumstance whatsoever shall Tenant place or suffer to be placed any lien or encumbrance on Port's fee interest in the land in connection with any Financing permitted hereunder, or otherwise. Port shall not subordinate its interest in the Premises, nor its right to receive Rent, to any Permitted Mortgagee of Tenant. Any mortgage, deed of trust, or similar security instrument, encumbrance or lien not permitted by Port shall be deemed to be a violation of this covenant on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

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23.2. ***Transfer***.

(a) Tenant must obtain Port's prior written consent to any Transfer, which Port will not withhold unreasonably.

(i) Tenant agrees that any of the following will be a reasonable basis for Port to withhold its consent: (1) at the time Tenant requests Port's consent, an Event of Default, or an event that with notice or the passage of time or both would constitute an Event of Default if not cured, has occurred and remains uncured; (2) the Transfer is by a Transferee of Tenant; (3) the Transferee's financial condition is or may become insufficient to support all of the then-remaining financial and other obligations of this Lease; (4) the Transferee's intended use of the Premises is inconsistent with this Lease or otherwise will affect any City or Port interest materially and adversely; (5) the nature of the Transferee's use of the Premises would involve a materially increased risk of the Handling or Release of Hazardous Materials or of fire or other casualty; (6) the business reputation or character of the Transferee is not reasonably acceptable to Port; (7) the Transferee is not likely to conduct a business in the Premises of a quality substantially equal to Tenant's or otherwise reasonably acceptable to Port; or (8) the Transfer does not reflect an arm's length transaction.

(ii) Tenant also agrees that Port will have the right to impose reasonable conditions to a requested consent to a Transfer, which may include: (1) requiring the Transferee to assume all of Tenant's obligations under this Lease; and (2) giving Port the right to terminate without notice all of Tenant's then-existing Subleases if this Lease is terminated before the existing Subleases expire.

(b) At least one hundred twenty (120) days before any Transfer, Tenant must give Port a Transfer Notice and the following: (i) Certified financial statements for the three (3) years before the Transfer Date (or each year of the proposed Transferee's existence, if shorter) for the Transferee and for any other Person who will be liable for Tenant's obligations under this Lease; (ii) Tenant's current Certified financial statements; (iii) a copy of the proposed Transfer Agreement; and (iii) the Transferee's completed pre-screening and leasing application. In addition, Tenant must provide: (1) any other information, documentation, or evidence that Port reasonably requests to enable Port to evaluate the Transfer and the Transferee; and (2) if any of the Transfer Terms are modified before the Transfer Date, a new Transfer Notice and all relevant documentation for any modified Transfer Terms. Tenant's Transfer Notice will not be complete until Tenant has provided Port with all information required under this Subsection.

For up to thirty (30) days after receipt of the complete Transfer Notice, Port will have the right to take an assignment from Tenant of the interest that Tenant proposes to Transfer on the same terms and conditions as stated in the Transfer Agreement, and, if exercised, Tenant shall be released from all further obligations under this Lease with respect to such interest (except for obligations that survive lease expiration).

(c) Unless the Transfer requires Port Commission and/or Board of Supervisors review and/or approval (as determined by Port in its sole discretion), Port will use commercially reasonable efforts to respond to the Transfer request no later than sixty (60) days after receipt of Tenant's complete Transfer Notice. If the Transfer requires Port Commission and/or Board of Supervisors review and/or approval, Port will use commercially reasonable efforts to respond to the Transfer request no later than ninety (90) days after receipt of Tenant's complete Transfer Notice. Port's failure to respond within the applicable period shall constitute Port's denial of consent. If Port does not consent to the Transfer, Port shall set forth its reasons for withholding consent upon Tenant's request. If Port consents to the Transfer, Tenant must close the Transfer on the Transfer Terms stated in the Transfer Notice within ninety (90) days after Port notifies Tenant of Port's consent. If the Transfer Agreement does not close within the 90-day period, then Port's consent will expire, unless Tenant gives Port a new Transfer Notice, in which case Port again will be entitled to exercise any of the options under this Section.

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(d) Any Transfer that does not comply with this Section fully will constitute an incurable Event of Default and will be void as to Port and this Lease. Port's consent to one Transfer will have no effect with respect to any other Transfer.

(e) Transfer Agreement Requirements. Any Transfer Agreement must include the provisions set forth below.

(i) The Transferee's express assumption of, and acknowledgement and agreement that the Transferee will be jointly and severally liable for, all of Tenant's obligations under this Lease, subject to any agreement between Port and Tenant to release Tenant from any obligations and liabilities accruing after the effective date of the Transfer;

(ii) The Indemnification clause and waiver of claims provisions in ***Section 22*** (Indemnity and Exculpation);

(iii) Insurance provisions requiring that all of the Transferee's liability and other insurance policies name "*The City and County of San Francisco, the San Francisco Port Commission, and their commissioners, officers, agents, employees, and representatives*" as additional insureds and acknowledging Port's right to demand increased coverage to amounts customarily required by other San Francisco landlords for premises where business activities similar to the Transferee's are conducted;

(iv) A provision stating that if this Lease is terminated for any reason, the Transferee's right to possession under the Transfer Agreement will terminate;

(v) A provision under which the Transferee expressly waives any and all relocation assistance and benefits in connection with this Lease to the extent permitted by applicable Laws; and

(vi) A provision under which the Transferee expressly agrees to report the transfer to the County Assessor in accordance with ***Section 8.1*** of this Lease.

23.3. ***Port's Participation in Sale Proceeds***. In addition to all requirements of ***Section 23.2***, the following provisions apply to any Sale.

(a) Tenant and all subsequent assignees must pay to Port twelve percent (12%) of Tenant's Net Sale Proceeds from each Sale as Port's Sale Participation, concurrently with and as a condition to the Sale Closing.

(b) As soon as available after Port consents to a Sale, Tenant must deliver to Port an estimated closing statement that includes Tenant's best estimate of: (i) Gross Sale Proceeds; (ii) Costs of Sale; (iii) Net Sale Proceeds; and (iv) Port's Sale Participation. The closing statement must be updated and delivered to Port the business day before the Sale Closing. If an escrow account is not established for the Sale, the final closing statement must be Certified and state any variances from the estimated closing statement in form and content reasonably acceptable to Port. If escrow is opened for the Sale, Port's Sale Participation will be distributed through escrow. If no escrow is opened for the Sale, Port's Sale Participation will be paid upon the Sale Closing. Within forty-five (45) days after any Sale Closing such Sale, transferor Tenant will submit to Port a Certified statement prepared by a financial officer or other accountant employed or retained by transferor Tenant in accordance with sound accounting principles consistently applied, confirming the actual amounts under (i) – (iv). At Port's option, any overpayments may be either refunded to transferor Tenant or applied to any other amount then due and unpaid or credited against Rent due. The statements delivered to Port under this Section are subject to the audit provisions of ***Section 23.7*** for determination of the accuracy of Tenant's reporting of the Port's share of Sale Proceeds.

(c) Port may reference in any estoppel certificate or other representation requested from Port that payment to Port of Port's Sale Participation is a material obligation under the Lease, due and owing upon the closing of any Sale hereunder, provided, however,

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failure to reference such obligation will in no way negate Tenant's obligation to pay, and Port's right to receive, Port's Sale Participation.

(d) Tenant's obligation to pay Port's Sale Participation will survive the Sale Closing and the expiration or termination of this Lease.

(e) If Tenant Completed the Initial Improvements or any Subsequent Alterations that constitute capital improvements, Net Sale Proceeds will be reduced by Tenant's Adjusted Basis, but only if Port previously approved Tenant's Certified Construction Costs as follows. Within ninety (90) days after Completion of the Initial Improvements or any Subsequent Alterations, Tenant must deliver to Port a Certified Construction Costs Report in form and content acceptable to Port in its reasonable discretion. If Port requests, the report must be accompanied by a CPA's agreed-upon procedures report prepared in accordance with AICPA standards for compliance attestation specifying Port as an intended user, in which case Tenant shall have until the date that is one hundred twenty (120) days after the end of Tenant's fiscal year to provide the Construction Costs Report. Port will notify Tenant in writing whether Port agrees or disagrees with Tenant's Construction Costs Report (including whether Port agrees that Subsequent Alterations constitute capital improvements) within ninety (90) days after receiving it. Port will have the right to inspect Tenant's Books and Records for the Construction Costs Report. Tenant must keep accurate Books and Records of all Construction until the later of two (2) years after Tenant's submission of any Construction Costs Report or six (6) months after any dispute regarding the Construction Costs has been resolved. Tenant's failure to submit a Construction Costs Report as and when required under this Section will be deemed a waiver of its right to make a reduction to Net Sale Proceeds.

The following example is provided for illustrative purposes only:

Gross Sale Proceeds:	$7,000,000
Costs of Sale:	$(500,000)
Tenant's Adjusted Basis	$(5,000,000)
Net Sale Proceeds before distribution:	$1,500,000
Port's Sale Participation @12% of adjusted Net Sale Proceeds:	$180,000

23.4. ***Port's Participation in Financing Proceeds***. In addition to all requirements of ***Section 23.1***, the following provisions apply to any Financing.

(a) Tenant and all subsequent assignees must pay to Port twelve percent (12%) of Tenant's Net Financing Proceeds from each Financing as Port's Financing Participation, concurrently with and as a condition to the Financing Closing.

(b) As soon as available after Port consents to a Financing, Tenant must deliver to Port an estimated closing statement that includes Tenant's best estimate of: (i) Gross Financing Proceeds; (ii) Net Financing Proceeds; and (iii) Port's Financing Participation. The closing statement must be updated and delivered to Port the business day before the Financing Closing. If an escrow account is not established for the Financing, the final closing statement must be Certified by a financial officer or other accountant employed or retained by Tenant and state any variances from the estimated closing statement in form and content reasonably acceptable to Port. If escrow is opened for the Financing, Port's Financing Participation will be distributed through escrow. If no escrow is opened for the Financing, Port's Financing Participation will be paid upon the Financing Closing. Within forty-five (45) days after any Financing Closing such Financing, Tenant will submit to Port a Certified statement prepared by a financial officer or other accountant employed or retained by Tenant in accordance with sound accounting principles consistently applied, confirming the actual amounts under (i) – (iii). At Port's option, any overpayments may be either refunded to Tenant or applied to any other amount then due and unpaid or credited against Rent due. The statements delivered to Port under this Section are

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subject to the audit provisions of ***Section 23.7*** for determination of the accuracy of Tenant's reporting of the Port's share of Financing Proceeds.

(c) Port may reference in any estoppel certificate or other representation requested from Port that payment to Port of Port's Financing Participation is a material obligation under the Lease, due and owing upon the closing of any Financing hereunder, provided, however, failure to reference such obligation will in no way negate Tenant's obligation to pay, and Port's right to receive, Port's Financing Participation.

(d) Tenant's obligation to pay Port's Financing Participation will survive the Financing Closing and the expiration or termination of this Lease.

The following example is provided for illustrative purposes only:

Gross Financing Proceeds:	$7,000,000)
Financing Costs:	$(500,000)
Amount of outstanding indebtedness repaid:	$0
Cost of Improvements not financed	$(5,500,000)
Financing Reinvestment:	$(750,000)
Net Financing Proceeds retained by Tenant:	$250,000
Port's Financing Participation @ 12%:	$30,000

23.5. ***Subleasing by Tenant***.

(a) Subleases. Tenant will not Sublease any portion of the Premises without the prior written consent of Port which will not be unreasonably withheld. All Subleases must be in full compliance with all of the terms and provisions of this ***Section 23.5***. A Sublease without Port's consent will be voidable by Port, in its sole discretion. Nothing in this Lease is intended to restrict or prohibit Tenant and its Subtenants from allocating costs associated with this Lease in any manner they see fit; provided however, that unless explicitly authorized under this Lease, such allocations to do not affect the amount of Rent due to Port.

(b) Request for Sublease. Tenant must give Port as much prior written notice as reasonably possible, but not less than thirty (30) days before it intends to enter into a proposed Sublease (herein "**Notice of Request to Sublease**") and provide Port with the following information in writing: (a) the name, address, legal composition and ownership of the proposed Subtenant, (b) reasonably adequate evidence that the proposed Subtenant's financial condition and prospects are sufficient to support all of the financial and other obligations of the proposed Sublease, (c) a full description of the terms and conditions of the proposed Sublease, including the proposed commencement date, a description of the proposed use and the material terms, including all payments to be made or other consideration to be given in connection with the Sublease, and copies of any and all proposed agreements concerning the proposed Sublease, and (d) a list of any Regulatory Approvals needed and the status of such Regulatory Approvals. Until such time as Tenant has provided to Port all information set forth hereinabove, Tenant's Notice of Request to Sublease will not be deemed to have been given. Tenant will immediately notify Port of any modifications to the proposed terms of the Sublease. Port will use reasonable efforts to respond to the Transfer request no later than thirty (30) days after receipt of Tenant's complete Transfer Notice.

(c) Port's Options. Upon receiving a Notice of Request to Sublease, Port will have the right to either (A) consent to the proposed Sublease, which consent shall not be unreasonably withheld, subject to any reasonable conditions upon such Sublease or (B) deny its consent to the proposed Sublease on the following reasonable grounds: (1) at the time Tenant requests Port's consent, an Event of Default, or an event that with notice or the passage of time or both would constitute an Event of Default if not cured, has occurred and remains uncured; (2) that the proposed Subtenant's financial condition and prospects are or could become

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insufficient to support all of the financial and other obligations of the proposed Sublease; (3) that the use to which the Premises will be put by the proposed Subtenant is inconsistent with the terms of this Lease or otherwise will affect any City or Port interest materially and adversely; (4) the business reputation or character of the proposed Subtenant is not reasonably acceptable to Port or the proposed Subtenant is not likely to conduct a business in the Premises of a quality substantially equal to Tenant's (or a prior Subtenant's) or otherwise reasonably acceptable to Port; (5) that the nature of the proposed Subtenant's intended or likely use of the Premises would involve an unmitigated risk of the Handling, Release or mishandling of Hazardous Materials and Port reasonably believes that the measures proposed by Subtenant are insufficient to mitigate the risk of Handling or Release of Hazardous Materials by Subtenant, or otherwise materially increase the risk of fire or other casualty; (6) that the Sublease rental rate does not reflect an arm's length transaction; (7) failure of the Sublease to contain provisions specified in this Lease.

(d) Required Provisions in Subleases. Each and every Sublease must contain all the following provisions:

(i) the Sublease is subject to and subordinate to this Lease;

(ii) the Indemnification clause and waiver of claims provisions in ***Section 22*** (Indemnity and Exculpation) as to the subleased premises and Subtenant's activities;

(iii) insurance provisions requiring that all of the Subtenant's liability and other insurance policies name "*The City and County of San Francisco, the San Francisco Port Commission, and their commissioners, officers, agents, employees, and representatives*" as additional insureds and acknowledging Port's right to demand increased coverage to amounts customarily required by other San Francisco landlords for premises where business activities similar to the Subtenant's are conducted;

(iv) an express waiver of any and all relocation assistance and benefits in connection with this Lease to the extent permitted by applicable Laws;

(v) a requirement that the Subtenant must pay the rent and other sums due under the Sublease directly to Port upon receiving Port's written notice that an Event of Default has occurred, a copy of which Port will deliver to Tenant;

(vi) a prohibition on assignment or further subleasing, in whole or in part, without Port's consent, which may be given or withheld in Port's sole discretion;

(vii) a provision similar to ***Section 29*** (Port's Entry) requiring Subtenant to permit Port to enter its subleased space for the purposes specified in that Section; and

(viii) a provision similar to ***Section 38*** (Tenant Estoppel) requiring Subtenant, from time to time, to provide Port an estoppel certificate substantially similar to the form attached hereto as ***Exhibit J.***

(e) Any Sublease that does not comply with this Section fully including without limitation Tenant's failure to seek or obtain Port's consent when such consent is required, will constitute an incurable Event of Default and will be void as to Port and this Lease. Port's consent to one Sublease will have no effect with respect to any other Sublease.

(f) Copy of Executed Sublease. Tenant shall provide Port a true and complete copy of each executed Sublease within thirty (30) days after the execution thereof. Each executed Sublease must contain substantially the same (or more favorable to the landlord) business terms as set forth in the applicable Notice of Request to Sublease.

23.6. ***Notice to Port***. In addition to the obligations under ***Section 8.1***, within thirty (30) days of entering into any agreement under which Tenant grants any person the right to occupy or use any portion of the Premises for any period of time, (other than pursuant to a membership

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agreement or day use pass or as a patron of Tenant or any Subtenant), including without limitation, any assignment, sublease, license, permit, concession or vendor agreement or other agreement or renewal thereof, Tenant shall provide written notice to Port and Assessor and a copy of such agreement, regardless of whether Port consent is required under this Lease for such agreement. Tenant agrees to provide such further information as may be requested by City or Port to enable compliance with reporting obligations under state Law and San Francisco Administration Code Sections 23.38 and 23.39 (or any successor ordinance).

23.7. ***Audit***. Tenant agrees to make its Books and Records available to, and cooperate with, any Port representative for the purpose of conducting an audit of the accuracy of Tenant's financial reporting on a Transfer or Sublease until the later of (i) four (4) years after the end of each Lease Year to which such records apply or, (ii) if an audit is commenced or if a controversy should arise between the parties as to the accuracy of Tenant's financial reporting on the Transfer or Sublease, until such audit or controversy is concluded. If an audit reveals that Tenant has overstated any costs in connection with a Transfer, Tenant must pay Port promptly upon demand the difference between the amount Tenant deducted and the amount it should have deducted, plus interest at the Interest Rate from the Transfer Date until paid.

23.8. ***Acknowledgement***. Tenant acknowledges and agrees that Port's rights with respect to Transfers and Subleasing are reasonable limitations for purposes of California Civil Code Section 1951.4 and waives any Claims arising from Port's actions under this ***Section 23***.

24. APPROVALS BY PORT; FEES FOR REVIEW.

24.1. ***Approvals by Port***. Port's Executive Director, or his or her designee, is authorized to execute on behalf of Port any closing or similar documents and any contracts, agreements, memoranda, or similar documents with State, regional, or local authorities or other Persons that are necessary or proper to achieve the purposes and objectives of this Lease and that do not materially increase the obligations of Port under this Lease, if the Executive Director determines, after consultation with, and approval as to form by, the City Attorney, that the document is necessary or proper and in Port's best interests. The Executive Director's signature on any such documents will be conclusive evidence of such a determination by him or her. Wherever this Lease requires or permits the giving by Port of its consent or approval, or whenever an amendment, waiver, notice, or other instrument or document is to be executed by or on behalf of Port, the Executive Director, or his or her designee, will be authorized to execute such instrument on behalf of Port, except as otherwise provided by applicable Law, including the City's Charter.

24.2. ***Fees for Review***. Within ten (10) days after Port's written request, Tenant will pay Port, as Additional Rent, Port's reasonable costs, including Attorneys' Fees and Costs, consultant's costs, and costs for Port staff time, incurred in connection with the review, investigation, processing, documentation, and/or approval of any proposed Transfer, Sublease, non-disturbance agreement, mortgage confirmation statement, mortgage, refinancing certificate, or Subsequent Alteration. Tenant will pay such costs regardless of whether or not Port consents to such proposal.

25. NO MERGER OF TITLE.

There will be no merger of the Leasehold Estate with the fee estate in the Premises by reason of the fact that the same Person may own or hold (a) the Leasehold Estate or any interest in such Leasehold Estate, and (b) any interest in such fee estate. No such merger will occur unless and until all Persons having any interest in the Leasehold Estate and the fee estate in the Premises will join in and record a written instrument effecting such merger.

26. DEFAULT BY TENANT.

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

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(a) failure to pay to Port any Rent or other sum payable hereunder when due, and such default continues for a period of three (3) days following written notice from Port. Notwithstanding the foregoing, (i) Port shall not be required to provide such notice more than twice during any 12-month period, and any such failure by Tenant after Tenant has received two (2) such notices in such 12-month period shall constitute an Event of Default by Tenant hereunder without any further action by Port or opportunity of Tenant to cure except as may be required by Section 1161 of the California Code of Civil Procedure, and (ii) Tenant shall not be in default for failure to pay any Percentage Rent if such failure is solely due to the applicable Subtenant's failure to pay such amount to Tenant or provide the information necessary to calculate the Percentage Rent, provided that, in each case: (A) failure to pay Percentage Rent and failure to provide the information necessary for Tenant to calculate Percentage Rent is a default of the relevant Sublease; (B) Tenant is using demonstrable, commercially reasonable efforts to enforce the Subtenant's performance of such obligations including but not limited to enforcing the Sublease through notices of default and termination; and (C) the subject Percentage Rent is paid no later than ninety (90) days from the original due date; or

(b) failure by Tenant to deliver the Quarterly Percentage Rent Statement or Annual Statement when due and such default continues for a period of thirty (30)days following written notice from Port. Notwithstanding the foregoing, (i) Port shall not be required to provide such notice more than twice during any twelve (12) month period, and any such failure by Tenant after Tenant has received two (2) such notices in such twelve (12) month period shall, at the option of Port, constitute an Event of Default by Tenant hereunder without any further action by Port (including, but not limited to, notice to Tenant of such failure) or opportunity of Tenant to cure except as may be required by Section 1161 of the California Code of Civil Procedure and (ii) Tenant shall not be in default for failure to deliver the Quarterly Percentage Rent Statement or Annual Statement when due if such failure is solely due to the applicable Subtenant's failure to deliver the Quarterly Percentage Rent Statement or Annual Statement when due or provide the information necessary to prepare the applicable statements, provided that, in each case: (A) failure to deliver the statements is solely due to the applicable Subtenant's failure to deliver the relevant statement or to provide the information necessary to prepare the applicable statements; (B) Tenant is using demonstrable, commercially reasonable efforts to enforce the Subtenant's performance of such obligations including but not limited to enforcing the Sublease through notices of default and termination; and (C) the subject statements are submitted no later than one hundred twenty(120) days from the original due date; or

(c) a second understatement by Tenant of Gross Revenues for any audit period by five percent (5%) or more within any three (3) Lease Year period of the first such understatement; or

(d) failure to comply with Tenant's covenants set forth in ***Section 6.2*** (Continuous Operations), as determined by Port in its reasonable discretion and such failure continues for a period of fifteen (15) days following written notice from Port; or

(e) abandonment or vacation of the Premises by Tenant; or

(f) failure to use the Premises solely for the Permitted Use, failure to comply with the provisions of ***Section 18*** (Hazardous Materials) or failure to comply with the provisions of the Operations Plan, in each case in a manner that presents a health, safety, welfare or environmental risk or hazard, as determined by Port in its sole and absolute discretion and such failure continues for a period of twenty-four (24) hours following written notice from Port; in all other circumstances, such failure shall be cured within ten (10) days following written notice from Port; or

(g) failure by Tenant to execute and deliver to Port an estoppel certificate within the time period and in the manner required by ***Section 38 below***, and Tenant's failure to cure the foregoing default within five (5) business days following written notice from Port; or

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(h) a Transfer or Sublease, or attempted Transfer or Sublease, of this Lease or the Premises by Tenant contrary to the provisions of ***Section 23 above***; or

(i) failure by Tenant or Tenant's broker as applicable to provide evidence of insurance coverage complying with the provisions of ***Section 19 above***, failure to maintain any insurance required to be maintained by Tenant pursuant to this Lease, or if any such insurance shall be canceled or terminated or shall expire or be reduced or materially changed, except as permitted in this Lease, and Tenant's or Tenant's broker's failure to deliver evidence of such coverage or failure to reinstate such coverage, all within five (5) business days following written notice from Port; or

(j) failure by Tenant to discharge any lien or encumbrance placed on the Premises or any part thereof in violation of this Lease within ten (10) days after the date such lien or encumbrance is filed or recorded against the Premises or any part thereof, or if Tenant has no knowledge of such lien, then Tenant shall discharge such lien or encumbrance within fifteen (15) days following Tenant's knowledge of such lien or encumbrance; or

(k) failure by Tenant to observe, keep or perform any of the other terms, covenants, agreements or conditions contained in this Lease and required to be observed or performed by Tenant and not specifically enumerated in this ***Section 26***, and such failure continues for a period of fifteen (15) days after written notice by Port, provided that if such default is not capable of cure within such fifteen (15) day period, Tenant shall have a reasonable period to complete such cure if Tenant promptly undertakes action to cure such default within such fifteen (15) day period and thereafter diligently prosecutes the same to Completion within sixty (60) days after the receipt of notice of default from Port. Port shall not be required to provide such notice more than twice in any twelve (12) month period with respect to any material non-monetary defaults and after the second notice in any calendar year, any subsequent failure by Tenant during such twelve (12) month period shall automatically constitute an Event of Default hereunder; or

(l) Tenant shall become bankrupt or insolvent or make a transfer in fraud of creditors, or make an assignment for the benefit of creditors, or bring or have brought against Tenant any action or proceedings of any kind under any provision of the U.S. Bankruptcy Code or under any other insolvency, bankruptcy or reorganization act and, in the event such proceedings are involuntary, Tenant is not discharged from the same within sixty (60) days thereafter; or

(m)a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within sixty (60) days; or

(n) this Lease or any estate of Tenant under this Lease shall be levied upon by any attachment or execution and such attachment is not stayed or lifted within sixty (60) days; or

(o) An uncured default by Tenant under the terms of the License; or

(p) without limiting the provisions of ***Subsection 26(f)*** or lengthening the cure period under that subsection, failure by Tenant to comply with Laws and Tenant's failure to cure the foregoing default within forty-eight (48) hours following written notice from Port.

27. PORT'S REMEDIES.

27.1. ***Port's Remedies Generally***. Upon the occurrence and during the continuance of an Event of Default (but without obligation on the part of Port following the occurrence of an Event of Default to accept a cure of such Event of Default other than as required by Law or by this Lease), Port has all rights and remedies provided in this Lease or available at Law or in equity (including the right to seek injunctive relief or an order for specific performance, where appropriate). All of Port's rights and remedies are cumulative, and except as may be otherwise provided by applicable Law, the exercise of any one or more rights will not preclude the exercise of any other.

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27.2. ***Right to Keep Lease in Effect***.

(a) Continuation of Lease. Port has the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations) under which Port may continue this Lease in full force and effect. In the event Port elects this remedy, Port has the right to enforce by suit or otherwise, all covenants and conditions hereof to be performed or complied with by Tenant and exercise all of Port's rights, including the right to collect Rent when due. Tenant will be liable immediately to Port for all reasonable costs Port incurs exercising its remedies under this ***Section 27***, including reasonable Attorneys' Fees and Costs, brokers' fees or commissions, expenses of remodeling the Premises required by the reletting and similar costs.

(b) No Termination Without Notice. No act by Port allowed by this ***Section 27.2***, nor any appointment of a receiver upon Port's initiative to protect its interest under this Lease, nor any withholding of consent to a Transfer or termination of a Transfer in accordance herewith, will terminate this Lease, unless and until Port notifies Tenant in writing that Port elects to terminate this Lease.

27.3. ***Right to Terminate Lease***. Port may terminate this Lease at any time after the occurrence of (and during the continuation of) an Event of a Default by giving written notice of such termination. Termination of this Lease will occur on the date set forth in such notice. Acts of maintenance or preservation, and any appointment of a receiver upon Port's initiative to protect its interest hereunder will not in any such instance constitute a termination of Tenant's right to possession. No act by Port other than giving notice of termination to Tenant in writing will terminate this Lease. Upon termination of this Lease, Port has the right to recover from Tenant all sums allowed under California Civil Code Section 1951.2, including the following:

(a) The worth at the time of award of the unpaid Rent that had been earned at the time of termination of this Lease; plus

(b) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; plus

(c) 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 the loss of Rent that Tenant proves could have been reasonably avoided; plus

(d) Any other amount necessary to compensate Port for all detriment proximately caused by the Event of Default, or which in the ordinary course of things would be likely to result therefrom.

"**The worth at the time of award**" as used in ***Sections 27.3(a)*** and ***27.3(b)*** will be computed by allowing interest at a rate per annum equal to the Interest Rate. "**The worth at the time of award**" as used in ***Section 27.3(c)*** will be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

27.4. ***Interest***. Rent not paid when due will bear interest at the Interest Rate from the date due until paid.

27.5. ***Continuation of Subleases and Other Agreements***. Port has the right, at its sole option, to assume any and all Subleases and agreements by Tenant for the maintenance or operation of the Premises. Tenant hereby further covenants that, upon request of Port following an Event of Default and termination of Tenant's interest in this Lease, Tenant will execute, acknowledge, and deliver to Port such further instruments as may be necessary or desirable to

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vest or confirm or ratify vesting in Port the then existing Subleases and other agreements then in force, as above specified.

27.6. ***Appointment of Receiver***. From and after an Event of Default, Port has the right to have a receiver appointed to collect Rent and conduct Tenant's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself will constitute an election by Port to terminate this Lease.

27.7. ***Waiver of Redemption***. Tenant hereby waives, for itself and all Persons claiming by and under Tenant, redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other pertinent present or future Law, in the event Tenant is evicted or Port takes possession of the Premises by reason of any Event of Default.

27.8. ***No Accord and Satisfaction***. No payment by Tenant or receipt by Port of an amount less than the Rent due under this Lease shall be deemed to be other than "on account" of the earliest Rent due; nor shall any endorsement or statement on any check or payment, or letter accompanying such check or payment, be deemed an accord and satisfaction. Port may accept any such partial payment or tender without prejudice to its right to recover the balance of any amount due and to pursue any other remedy herein provided at Law or in equity.

27.9. ***Port's Right to Cure Tenant's Default***. Port, at any time after the occurrence of an Event of Default may, at its sole option, cure the default at Tenant's cost. If Port undertakes any act to cure or attempt to cure such default that requires the payment of any sums, or otherwise incurs any costs, damages, or liabilities (including without limitation, attorneys' fees), all such sums, costs, damages or liabilities paid by Port shall be due immediately from Tenant to Port at the time the sum is paid, and if paid by Tenant at a later date shall bear interest at the lesser of the Interest Rate or the maximum non-usurious rate Port is permitted by Law to charge from the date such sum is paid by Port until Port is reimbursed by Tenant.

27.10. ***Remedies Not Exclusive***. The remedies set forth in this Section are not exclusive; they are cumulative and in addition to any and all other rights or remedies of Port now or later allowed by other terms and provisions of this Lease, Law or in equity. Tenant's obligations under this Section will survive any termination of this Lease.

28. LITIGATION EXPENSES; ATTORNEYS' FEES.

28.1. ***Litigation Expenses***. The Prevailing party in any action or proceeding (including any cross-complaint, counterclaim, or bankruptcy proceeding) against the other party by reason of a claimed default, or otherwise arising out of a party's performance or alleged non-performance under this Lease, shall be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "**Prevailing party"** within the meaning of this Section shall include, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense.

28.2. ***Appeals***. Attorneys' fees under this Section shall include attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal.

28.3. ***City Attorney***. For purposes of this Lease, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

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29. PORT'S ENTRY ON PREMISES.

29.1. ***Entry for Inspection***. Port and its authorized Agents shall have the right to enter the Premises upon reasonable prior notice at any time during normal business hours of generally recognized business days, provided that Tenant or Tenant's Agents are present on the Premises (except in the event of an emergency), for the purpose of inspecting the Premises to determine whether the Premises is in good condition and whether Tenant is complying with its obligations under this Lease.

29.2. ***General Entry***. In addition to its rights pursuant to ***Section 29.1***, Port and its authorized Agents shall have the right to enter the Premises at all reasonable times and upon reasonable notice for any of the following purposes:

(a) To perform any necessary maintenance, repairs or restoration to the Premises, or to perform any services that Port has the right or obligation to perform;

(b) To serve, post, or keep posted any notices required or allowed under the provisions of this Lease;

(c) To post "**For Sale"** signs at any time during the Term; to post "**For Lease"** signs during the last six (6) months of the Term or during any period in which there is an Event of Default;

(d) On an occasional basis, at all reasonable times after giving Tenant reasonable advance written or oral notice, to show the Premises to prospective tenants or other interested parties;

(e) If any excavation or other construction is undertaken or is about to be undertaken on any property or street adjacent to the Premises, to shore the foundations, footings or walls of the Premises and to erect scaffolding and protective barricades around and about the Premises as reasonably necessary in connection with such activities (but not so as to prevent or unreasonably restrict entry to the Premises), and to do any other act or thing necessary for the safety or preservation of the Premises during such excavation or other construction; or

(f) To obtain environmental samples and perform equipment and facility testing.

29.3. ***Emergency Entry***. Port may enter the Premises at any time, without notice, in the event of an emergency. Port shall have the right to use any and all means which Port may deem proper in such an emergency in order to obtain entry to the Premises. Entry to the Premises by these means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion of the Premises.

29.4. ***No Liability***. Port shall not be liable in any manner, and Tenant hereby waives any Claim for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in Rent, arising out of Port's entry onto the Premises as provided in this Section or performance of any necessary or required work on the Premises, or on account of bringing necessary materials, supplies and equipment into or through the Premises during the course thereof, except damage resulting solely from the willful misconduct or gross negligence of Port or its authorized representatives.

29.5. ***Nondisturbance***. Port shall comply with Tenant's reasonable security measures and shall use commercially reasonable efforts to conduct its activities on the Premises as allowed in this Section in a manner which, to the extent reasonably practicable, will minimize annoyance or disturbance to Tenant.

30. SURRENDER AND QUITCLAIM.

30.1. ***Surrender***. Upon expiration or earlier termination of this Lease, Tenant shall surrender to Port the Premises in good order, condition, and repair (except for ordinary wear and

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tear occurring after the last necessary maintenance made by Tenant and except for destruction or condemnation as described in ***Sections 20 and 21*** hereof). Ordinary wear and tear shall not include any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Lease. On or before the expiration or earlier termination of this Lease, Tenant at its sole cost shall remove from the Premises, and repair any damage caused by removal of, Tenant's Property, including any signage, and all Alterations and Improvements required to be removed as provided in ***Section 14.8***. The Premises shall be surrendered clean, free of debris, waste, and Hazardous Materials that Tenant is required to remove under this Lease, and free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this Lease and any other encumbrances created by Port. Except for those Alterations and Improvements required to be removed as provided in ***Section 14.8***, Alterations and Improvements shall remain in the Premises as Port property.

If the Premises is not surrendered at the end of the Term or sooner termination of this Lease and in accordance with the provisions of this ***Section 30*** and ***Section 14.8***, Tenant shall continue to be responsible for the payment of Rent (as the same may be increased pursuant to ***Section 31.2 or 31.3 below*** as applicable) until the Premises is surrendered in accordance with these Sections, and Tenant shall Indemnify Port from and against any and all loss or liability resulting from delay by Tenant in so surrendering the Premises including, without limitation, any costs of Port to obtain possession of the Premises; any loss or liability resulting from any Claim against Port made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each instance, reasonable attorneys' fees and costs.

No act or conduct of Port, including, but not limited to, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the Term. Only a written notice from Port to Tenant confirming termination of this Lease and surrender of the Premises by Tenant shall constitute acceptance of the surrender of the Premises and accomplish a termination of this Lease.

30.2. ***Abandoned Property***. Any items, including Tenant's Property, not removed by Tenant as required herein shall be deemed abandoned. Port may retain, store, remove, and sell or otherwise dispose of abandoned Tenant's Property, and Tenant, on its own behalf and for any Subtenant, waives all Claims against Port for any damages resulting from Port's retention, removal and disposition of such property; provided, however, that Tenant shall be liable to Port for all costs incurred in storing, removing and disposing of abandoned Tenant's Property and repairing any damage to the Premises resulting from such removal. Tenant agrees that Port may elect to sell abandoned Tenant's Property and offset against the sales proceeds Port's storage, removal, and disposition costs without notice to Tenant or otherwise according to the procedures set forth in California Civil Code Section 1993 et seq., the benefits of which Tenant waives.

30.3. ***Quitclaim***. Upon the expiration or earlier termination of this Lease, the Premises shall automatically, and without further act or conveyance on the part of Tenant or Port, become the property of Port, free and clear of all liens and without payment therefore by Port and shall be surrendered to Port upon such date. Upon or at any time after the expiration or earlier termination of this Lease, if requested by Port, Tenant shall promptly deliver to Port, without charge, a quitclaim deed to the Premises and any other instrument reasonably requested by Port to evidence or otherwise effect the termination of Tenant's leasehold interest hereunder and to effect such transfer or vesting of title to the Premises or any portion that Port agrees are to remain part of the Premises.

30.4. ***Survival***. Tenant's obligation under this ***Section 30*** shall survive the expiration or earlier termination of this Lease.

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31. HOLDING OVER.

31.1. ***Terms of Holdover Tenancy***. Any holding over after the expiration of the Term shall not constitute a renewal of this Lease, but shall be deemed a month-to-month tenancy upon the terms, conditions, and covenants of this Lease, except as provided in this Section. Either party may cancel the month-to-month tenancy upon thirty (30) days written notice to the other party. Tenant shall Indemnify Port from and against any and all loss or liability resulting from Tenant's delay in surrendering the Premises including, without limitation, any loss or liability resulting from any claim against Port made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Port due to lost opportunities to lease any portion of the Premises to any such succeeding tenant or prospective tenant, together with, in each case, actual attorneys' fees and costs.

31.2. ***With Consent***. If Tenant holds over with the prior written consent of Port, monthly Base Rent shall be equal to one hundred fifty percent (150%) of the monthly Base Rent payable in the month immediately preceding the expiration of this Lease; provided that if both Tenant and Port desire to enter into a new lease or extend the existing term of this Lease but have not yet executed such new lease or extension solely due to Port's delay to produce such document, then the monthly Base Rent during such holdover period shall be equal to the greater of: (a) the Base Rent payable in the month immediately preceding the expiration of this Lease, or (b) the then current rate for the Premises approved by the Port Commission, together with any monthly charge of Additional Rent payable under this Lease.

31.3. ***Without Consent***. If Tenant holds over without the prior written consent of Port, monthly Base Rent shall equal two hundred percent (200%) of the monthly Base Rent payable in the month immediately preceding the expiration of this Lease.

32. REPRESENTATIONS AND WARRANTIES.

Tenant represents, warrants and covenants to Port as follows, as of the Effective Date and as of the Commencement Date:

(a) Valid Existence; Good Standing. Tenant is a non-profit public benefit corporation duly incorporated and validly existing under the laws of the State of California. Tenant has the requisite power and authority to own its property and conduct its business as presently conducted. Tenant is in good standing in the State of California.

(b) Authority. Tenant has the requisite power and authority to execute and deliver this Lease and the agreements contemplated hereby and to carry out and perform all of the terms and covenants of this Lease and the agreements contemplated to be performed by Tenant.

(c) No Limitation on Ability to Perform. Neither Tenant's articles of organization or operating agreement, nor any applicable Law, prohibit Tenant's entry into this Lease or its performance under this Lease. No consent, authorization, or approval of, and no notice to or filing with, any governmental authority, Regulatory Agency or other Person is required for the due execution and delivery of this Lease by Tenant and Tenant's performance hereunder, except for consents, authorizations, and approvals that have already been obtained, notices that have already been given, and filings that have already been made. There are no undischarged judgments pending against Tenant, and Tenant has not received notice of the filing of any pending suit or proceedings against Tenant before any court, Regulatory Agency, or arbitrator, that might materially adversely affect the enforceability of this Lease or the business, operations, assets, or condition of Tenant.

(d) Valid Execution. The execution and delivery of this Lease and the performance by Tenant under this Lease have been duly and validly authorized. When executed and delivered by Port and Tenant, this Lease will be a legal, valid, and binding obligation of Tenant.

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(e) Defaults. The execution, delivery, and performance of this Lease (i) do not and will not violate or result in a violation of, contravene, or conflict with, or constitute a default by Tenant under (1) any agreement, document, or instrument to which Tenant is a party or by which Tenant is bound, (2) any Law applicable to Tenant or its business, or (3) the articles of organization or the operating agreement of Tenant, and (ii) do not result in the creation or imposition of any lien or other encumbrance upon the assets of Tenant, except as contemplated hereby.

(f) Financial Matters. Tenant is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money. Tenant has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code. There has been no event that has materially adversely affected Tenant's ability to meet its Lease obligations. To the best of Tenant's knowledge, no involuntary petition naming Tenant as debtor has been filed under any chapter of the U.S. Bankruptcy Code.

Tenant's representations and warranties in this Lease will survive any termination of this Lease.

33. MINERAL RESERVATION.

The State of California ("**State**"), pursuant to Section 2 of Chapter 1333 of the Statutes of 1968, as amended, has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Premises and Tenant acknowledges such reserved rights including necessary ingress and egress rights. In no event shall Port be liable to Tenant for any Claims arising from the State's exercise of its rights nor shall such action entitle Tenant to any abatement or diminution of Rent or otherwise relieve Tenant from any of its obligations under this Lease.

34. CITY AND PORT REQUIREMENTS.

The San Francisco Municipal Codes (available at www.sfgov.org) and City and Port policies described or referenced in this Lease are incorporated by reference as though fully set forth in this Lease. The descriptions below are not comprehensive but are provided for notice purposes only; Tenant is charged with full knowledge of each such ordinance and policy and any related implementing regulations as they may be amended from time to time. Tenant understands and agrees that its failure to comply with any provision of this Lease relating to any such code provision shall be deemed a material breach of this Lease and may give rise to penalties under the applicable ordinance. Capitalized or highlighted terms used in this Section and not defined in this Lease shall have the meanings ascribed to them in the cited ordinance.

34.1. *Nondiscrimination*.

(a) Covenant Not to Discriminate. In the performance of this Lease, Tenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), weight, height, association with members of classes protected under Chapter 12B or 12C of the San Francisco Administrative Code or in retaliation for opposition to any practices forbidden under Chapter 12B or 12C of the Administrative Code against any employee of Tenant, any City and County employee working with Tenant, any applicant for employment with Tenant, or any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant in the City and County of San Francisco.

(b) Subleases and Other Contracts. Tenant shall include in all subleases and other contracts relating to the Premises a non-discrimination clause applicable to such subtenant or other contractor in substantially the form of ***Section 34.1(a)***. In addition, Tenant shall incorporate by reference in all subleases and other contracts the provisions of Sections 12B.2 (a),

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12B.2 (c)-(k) and 12C.3 of the Administrative Code and shall require all subtenants and other contractors to comply with such provisions.

(c) Nondiscrimination in Benefits. Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City, 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 (collectively "**Core Benefits"**) as well as any benefits other than the Core Benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local Law authorizing such registration, subject to the conditions set forth in Section 12B.2 of the Administrative Code.

(d) CMD Form. On or prior to the Lease Effective Date, Tenant shall execute and deliver to Port the "Nondiscrimination in Contracts and Benefits" form approved by the CMD.

(e) Penalties. Tenant understands that pursuant to Section 12B.2(h) of the Administrative Code, a penalty of $50.00 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

34.2. ***Requiring Health Benefits for Covered Employees***. Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in Administrative Code Chapter 12Q (Chapter 12Q).

(a) For each Covered Employee Tenant shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO.

(b) Notwithstanding the above, if Tenant meets the requirements of a "small business" by the City pursuant to Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with this Section.

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

(d) Any Sublease or Contract regarding services to be performed on the Premises entered into by Tenant shall require the Subtenant or Contractor and Subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in Chapter 12Q of the Administrative Code. Tenant shall notify the Office of Labor Standards Enforcement ("**OLSE**") when it enters into such a Sublease or Contract and shall certify to OLSE that it has notified the Subtenant or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Subtenant or Contractor through written agreement with such Subtenant or Contractor. Tenant shall be responsible for ensuring compliance with the HCAO for each Subtenant, Contractor and Subcontractor performing services on the Premises. If any Subtenant, Contractor or Subcontractor fails to comply, the City may pursue the remedies set forth in Section 12Q.5 of the Administrative Code against Tenant based on the Subtenant's, Contractor's, or Subcontractor's failure to comply, provided that OLSE has first provided Tenant with notice and an opportunity to cure the violation.

(e) Tenant shall not discharge, reprimand, penalize, reduce the compensation of, or otherwise discriminate against, any employee for notifying the City of any issue relating to the

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HCAO, for opposing any practice proscribed by the HCAO, for participating in any proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

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

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

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

(i) Within ten (10) business days of any request, Tenant shall provide the City with access to pertinent records relating to any Tenant's compliance with the HCAO. In addition, the City and its agents may conduct random audits of Tenant at any time during the Term. Tenant agrees to cooperate with City in connection with any such audit.

(j) If a Contractor or Subcontractor is exempt from the HCAO because the amount payable to such Contractor or Subcontractor under all of its contracts with the City or relating to City-owned property is less than $25,000.00 (or $50,000.00 for nonprofits) in that fiscal year, but such Contractor or Subcontractor later enters into one or more agreements with the City or relating to City-owned property that cause the payments to such Contractor or Subcontractor to equal or exceed $75,000.00 in that fiscal year, then all of the Contractor's or Subcontractor's contracts with the City and relating to City-owned property shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements to equal or exceed $75,000.00 in the fiscal year.

34.3. ***First Source Hiring***. The City has adopted a First Source Hiring Program (San Francisco Administrative Code Sections 83.1 et seq.) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry-level positions as those terms are defined by the ordinance. Tenant acknowledges receiving and reviewing the First Source Hiring Program materials and requirements and agrees to comply with all requirements of the ordinance as implemented by Port and/or City, including without limitation, notification of vacancies throughout the Term and entering into a First Source Hiring Agreement, if applicable. Tenant acknowledges and agrees that it may be subject to monetary penalties for failure to comply with the ordinance or a First Source Hiring Agreement and that such non-compliance shall be a default of this Lease.

34.4. ***Local Business Enterprises***. The Port Commission encourages the participation of local business enterprises ("**LBEs**") in Tenant's operations. Tenant agrees to consult with CMD to determine appropriate methods for promoting participation by LBEs. Architecture, Engineering, Laboratory Services (Materials Testing), Trucking and Hauling, and Security Guard Services are categories of services that may provide opportunities for certified LBE participation. City maintains a list of certified LBEs at: https://sfgov.org/cmd/LBE-certification-0.

34.5. ***Indoor Air Quality***. Tenant agrees to comply with Section 711(g) of the Environment Code and any additional regulations adopted by the Director of the Department of the Environment pursuant to Environment Code Section 703(b) relating to construction and maintenance protocols to address indoor air quality.

34.6. ***Prohibition Against Tobacco Advertising; Prohibition Against Tobacco Product Sales, Manufacture, and Distribution***. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. In addition, Tenant

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acknowledges and agrees that no Sales, Manufacture, or Distribution of Tobacco Products (as such capitalized terms are defined in Health Code Section 19K.1) is allowed on the Premises and such prohibition must be included in all subleases or other agreements allowing use of the Premises. The prohibition against Sales, Manufacture, or Distribution of Tobacco Products does not apply to persons who are affiliated with an accredited academic institution where the Sale, Manufacture, and/or Distribution of Tobacco Products is conducted as part of academic research.

34.7. ***Prohibition of Alcoholic Beverages Advertising***. Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "**alcoholic beverage**" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

34.8. ***Graffiti Removal***. Tenant agrees to remove all graffiti from the Premises, including from the exterior of the Premises if included within the Premises, within forty-eight (48) hours of the earlier of Tenant's: (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a tenant to breach any lease or other agreement that it may have concerning its use of the real property. "**Graffiti**" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and that is visible from the public right-of-way, but does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of this Lease or the Port Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (Calif. Civil Code §§ 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

34.9. ***Restrictions on the Use of Pesticides***. Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "**IPM Ordinance**") describes an integrated pest management ("**IPM**") policy to be implemented by all City departments. Tenant shall not use or apply or allow the use or application of any pesticides on the Premises, and shall not contract with any party to provide pest abatement or control services to the Premises, without first receiving City's written approval of an integrated pest management plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the term of this Lease, (ii) describes the steps Tenant will take to meet the City's IPM Policy described in Section 300 of the IPM Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the Tenant's primary IPM contact person with the City. Tenant shall comply, and shall require all of Tenant's contractors to comply, with the IPM plan approved by the City and shall comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Tenant were a City department. Among other matters, such provisions of the IPM Ordinance: (a) provide for the use of pesticides only as a last resort, (b) prohibit the use or application of pesticides on property owned by the City, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (c) impose certain notice requirements, and (d) require Tenant to keep certain records and to report to City all pesticide use by Tenant's staff or contractors. If Tenant or Tenant's contractor will

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apply pesticides to outdoor areas, Tenant must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation and any such pesticide application shall be made only by or under the supervision of a person holding a valid Qualified Applicator certificate or Qualified Applicator license under state law. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, http://sfenvironment.org/ipm.

34.10. ***MacBride Principles Northern Ireland***. Port and the City urge companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. Port and the City urge San Francisco companies to do business with corporations that abide by the MacBride Principles.

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

34.12. ***Preservative-Treated Wood Containing Arsenic***. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Tenant 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 Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

34.13. ***Notification of Limitations on Contributions***. If this Lease is subject to the approval by City's Board of Supervisors, Mayor, or other elected official, the provisions of this Section shall apply. Through its execution of this Lease, Tenant acknowledges its obligations under Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve (12) months after the date the contract is approved. Tenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars ($100,000) or more. Tenant further acknowledges that, if applicable, (i) the prohibition on contributions applies to each Tenant; each member of Tenant's board of directors, and Tenant's principal officers, including its chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten (10%) percent in Tenant; and any subcontractor listed in the Tenant's bid or contract; and (ii)

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within thirty (30) days of the submission of a proposal for the contract, the Port is obligated to submit to the Ethics Commission the parties to the Lease and any subtenant(s). Additionally, Tenant certifies that if this ***Section 34.13*** applies, Tenant has informed each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 by the time it submitted a proposal for the contract and has provided to City the names of the persons required to be informed.

34.14. ***Sunshine Ordinance***. In accordance with Section 67.24(e) of the Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between Port 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 which is covered by this Section will be made available to the public upon request.

34.15. ***Conflicts of Interest***. Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Article III, Chapter 2 of Campaign and Governmental Conduct Code, and Sections 87100 et seq. and Sections 1090 et seq. of the California Government Code, and certifies that it does not know of any facts which would constitute a violation of these provisions, and agrees that if Tenant becomes aware of any such fact during the Term, Tenant shall immediately notify the Port.

34.16. ***Drug-Free Workplace***. Tenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101 et seq.), the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City or Port premises.

34.17. ***Prevailing Wages and Working Conditions***. Tenant shall comply with all applicable prevailing wage requirements, including but not limited to any such requirements in the California Labor Code, the City and County of San Francisco Charter or the City and County of San Francisco Municipal Code. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. Tenant shall require its contractors and subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction to: (A) pay workers performing such work not less than the highest 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**"). Tenant agrees to cooperate with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Prevailing Wage Requirements.

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

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Tenant shall also pay, and shall require its subtenants, and contractors and subcontractors (regardless of tier) to pay, the Prevailing Rate of Wage for the following activities on the Premises as set forth in and to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Special Event (as defined in Section 21C.8), Broadcast Services (as defined in Section 21C.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 21C.10), and Security Guard Services for Events (as defined in Section 21C.11).

34.18. ***Local Hire***. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 23.62 (the "**Local Hiring Requirements**"). Tenant Improvements and Alterations under this Lease are subject to the Local Hiring Requirements unless the cost for such work is (i) estimated to be less than $750,000 per building permit; (ii) is in connection with the set-up, execution and strike of special events of three (3) or fewer days costing in excess of the Threshold Amount; or (iii) meets any of the other exemptions in the Local Hiring Requirements. For Covered Projects estimated to cost more than $1,000,000, the Prime Contractor shall prepare and submit to Port and OEWD for approval a local hiring plan ("**Local Hiring Plan**"). The Local Hiring Plan is attached hereto as ***Exhibit K***. The Local Hiring Plan shall be a written plan for implementation of the Local Hiring Requirements, including an approximate time frame for hiring decisions of Subcontractors, a description of the hiring processes to be utilized by Subcontractors, an estimate of numbers of Targeted Workers needed from various referral sources, qualifications needed for such Targeted Workers, and a recruitment plan detailing an outreach strategy for candidates representative of local demographics. Tenant agrees that it will comply with the Local Hiring Requirements to the extent applicable. Before starting any Tenant Improvements or Alterations, Tenant shall contact OEWD to determine whether the work is a Covered Project subject to the Local Hiring Requirements.

Tenant shall include, and shall require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each such contract shall name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Tenant shall cooperate, and require its subtenants to cooperate, with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Tenant's failure to comply with its obligations under this Section shall constitute a material breach of this Lease. A contractor's or subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

34.19. ***Public Transit Information***. Tenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Premises and encouraging use of such facilities, all at Tenant's sole expense.

34.20. ***Food Service and Packaging Waste Reduction Ordinance***. Tenant agrees to comply fully with and be bound by all of the provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. By entering into this Lease, Tenant agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Tenant agrees that the sum of one hundred dollars ($100.00) liquidated damages for the first breach, two hundred dollars ($200.00) liquidated damages for the second breach in the same year, and five hundred dollars ($500.00) liquidated damages for-subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the

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time this Lease was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Tenant's failure to comply with this provision.

34.21. ***San Francisco Bottled Water Ordinance***. Tenant is subject to all applicable provisions of Environment Code Chapter 24 (which are hereby incorporated) prohibiting the sale or distribution of drinking water specified containers at City-permitted events held on the Premises with attendance of more than 100 people, except as otherwise set forth in Environmental Code Chapter 24.

34.22. ***Consideration Of Criminal History In Hiring And Employment Decisions***.

(a) Tenant 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, including the remedies and implementing regulations as may be amended from time to time, with respect to applicants and employees of Tenant who would be or are performing work at the Premises.

(b) Tenant shall incorporate by reference the provisions of Chapter 12T in all subleases of some or all of the Premises, and shall require all subtenants to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Tenant and subtenants shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Tenant and subtenants shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Tenant and subtenants shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Tenant and subtenants shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Tenant and subtenants shall post the notice prepared by OLSE, available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Tenant and subtenants understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T or this Lease, including but not limited to a penalty of $50 for a second violation and $100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Lease.

(h) If Tenant has any questions about the applicability of Chapter 12T, it may contact Port for additional information. Port may consult with the Director of the City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

34.23. ***Working with Minors***. In accordance with California Public Resources Code Section 5164, if Tenant, or any Subtenant, is providing services at a City park, playground, recreational center or beach, Tenant shall not hire, and shall prevent its Subtenants from hiring, any person for employment or a volunteer position in a position having supervisory or disciplinary authority over a minor if that person has been convicted of any offense listed in Public Resources Code Section 5164. In addition, if Tenant, or any Subtenant, is providing services to the City involving the supervision or discipline of minors or where Tenant, or any Subtenant, will be working with minors in an unaccompanied setting on more than an incidental or occasional basis, Tenant and any Subtenant shall comply with any and all applicable requirements under federal or state law mandating criminal history screening for such positions and/or prohibiting employment of certain persons including but not limited to California Penal Code Section 290.95. In the event of a conflict between this Section and ***Section 34.22*** (Consideration of Criminal History in Hiring and Employment Decisions) of this Lease, this Section shall control.

34.24. ***Southern Waterfront Community Benefits and Beautification Policy***. The Port's "Policy for Southern Waterfront Community Benefits and Beautification" identifies beautification and related projects in the Southern Waterfront (from Mariposa Street in the north to India Basin) that require funding. Under this policy, Tenant shall provide community benefits and beautification measures in consideration for the use of the Premises. Examples of desired benefits include: (i) beautification, greening and maintenance of any outer edges of and entrances to the Premises; (ii) creation and implementation of a Community Outreach and Good Neighbor Policy to guide Tenant's interaction with Port, neighbors, visitors and users; (iii) use or support of job training and placement organizations serving southeast San Francisco; (iv) commitment to engage in operational practices that are sensitive to the environment and the neighboring community by reducing engine emissions consistent with the City's Clean Air Program, and use of machines at the Premises that are low-emission diesel equipment and utilize biodiesel or other reduced particulate emission fuels; (v) commitment to use low impact design and other "green" strategies when installing or replacing stormwater infrastructure; (vi) employment at the Premises of a large percentage of managers and other staff who live in the local neighborhood or community; (vii) use of truckers that are certified by the CMD as "**Local Business Enterprises**" under the City's Local Business Enterprise and Non-Discrimination Ordinance (SF Administrative Code Chapter 14B, as amended); and (viii) use of businesses that are located within the Potrero Hill and Bayview Hunters Point neighborhoods. Tenant agrees to provide Port with documents and records regarding these activities upon Port's request.

34.25. ***Vending Machines; Nutritional Standards and Calorie Labeling Requirements; Offerings***. Tenant shall not install or permit any vending machine on the Premises without the prior written consent of Port. Any permitted vending machine must comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code section 4.9- 1(c), as may be amended from time to time (the "**Nutritional Standards Requirements**"). Tenant agrees to incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section shall be deemed a material breach of this Lease. Without limiting Port's other rights and remedies under this Lease, Port shall have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements. In addition, any Restaurant including any employee eating establishment located on the Premises is encouraged to ensure that at least twenty-five percent (25%) of Meals (as capitalized terms are defined in San

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Francisco Administrative Code section 4.9-1) offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code section 4.9-1(e), as may be amended.

34.26. ***Tenant's Compliance with City Business and Tax Regulations Code.*** Tenant 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 Port is required to make to Tenant under this Lease is withheld, then Port 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 ***Section 34.26*** to Tenant, without interest, late fees, penalties, or other charges, upon Tenant coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

34.27. ***Consideration of Salary History***. Tenant shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." For each employment application to Tenant for work that relates to this Lease or for work to be performed in the City or on City property, Tenant is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant. Tenant shall not (1) ask such applicants about their current or past salary or (2) disclose a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Tenant is subject to the enforcement and penalty provisions in Chapter 12K. Information about Chapter 12K is available on the web at https://sfgov.org/olse/consideration-salary-history.

34.28. ***Employee Signature Authorization Ordinance***. The City has adopted an Employee Signature Authorization Ordinance (S.F. Admin Code Sections 23.50-23.56). That ordinance requires employers of employees in hotel or restaurant projects on public property with fifty (50) or more employees (whether full-time or part-time) to enter into a "**card check"** agreement with a labor union regarding the preference of employees to be represented by a labor union to act as their exclusive bargaining representative. Tenant shall comply with the requirements of such ordinance, if applicable, including, without limitation, any requirements in the ordinance with respect to its Subtenants or operators.

35. NOTICES.

Except as otherwise expressly provided in this Lease or by Law, all notices (including notice of consent or non-consent) required or permitted by this Lease or by Law must be in writing and be delivered by: (a) hand delivery; (b) first class United States mail, postage prepaid; or (c) overnight delivery by a nationally recognized courier or the United State Postal Service, delivery charges prepaid. Notices to a party must be delivered to that party's mailing address in the Basic Lease Information, unless superseded by a notice of a change in that party's mailing address for notices, given to the other party in the manner provided above, or by information provided by Tenant in Tenant's written response to Port's written request for such information.

All notices under this Lease shall be deemed to be duly delivered: (a) on the date personal delivery actually occurs; (b) if mailed, on the business day following the business day deposited in the United States mail or, if mailed return receipt requested, on the date of delivery or on which delivery is refused as shown on the return receipt; or (c) the business day after the business day deposited for overnight delivery.

Notices may not be given by facsimile or electronic mail, but either party may deliver a courtesy copy of a notice by facsimile or electronic mail.

36. MISCELLANEOUS PROVISIONS.

36.1. ***California Law; Venue***. This Lease is governed by, and shall be construed and interpreted in accordance with, the Laws of the State of California and City's Charter. Any legal

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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. The parties also unconditionally and irrevocably waive any right to remove any such suit, action, or proceeding to federal court.

36.2. ***Entire Agreement; Original Lease Superseded***. This Lease replaces and supersedes all prior written and oral agreements between Port and Tenant, including, without limitation, the Original Lease. This Lease contains all of the representations and the entire agreement between the parties with respect to the subject matter of this Lease. Any prior correspondence, memoranda, agreements, warranties, or representations, whether written or oral, relating to such subject matter are superseded in total by this Lease. No prior drafts of this Lease or changes from those drafts to the executed version of this Lease shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts in interpreting this Lease.

36.3. ***Amendments***. No amendment of this Lease or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

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

36.5. ***Interpretation of Lease***.

(a) References in this Lease to Tenant's acts or omissions will mean acts or omissions by Tenant and its Agents and Invitees unless the context requires or specifically stated otherwise.

(b) Whenever an exhibit or schedule is referenced, it means an attachment to this Lease unless otherwise specifically identified. All exhibits and schedules are incorporated in this Lease by reference.

(c) Whenever a section, article or paragraph is referenced, it refers to this Lease unless otherwise specifically provided. 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 must be disregarded in the construction and interpretation of this Lease. Wherever reference is made to any provision, term, or matter "in this Lease," "herein" or "hereof" or words of similar import, the reference will be deemed to refer to any reasonably related provisions of this Lease in the context of the reference, unless the reference refers solely to a specific numbered or lettered article, section, subdivision, or paragraph of this Lease.

(d) References to all Laws, including specific statutes, relating to the rights and obligations of either party mean the Laws in effect on the effective date of this Lease and as they are amended, replaced, supplemented, clarified, corrected, or superseded at any time during the Term or while any obligations under this Lease are outstanding, whether or not foreseen or contemplated by the parties. References to specific code sections mean San Francisco ordinances unless otherwise specified.

(e) The terms "include," "included," "including" and "such as" or words of similar import when following any general term, statement, or matter may not be construed to limit the term, statement, or matter to the specific items or matters, whether or not language of non-limitation is used, but will be deemed to refer to all other items or matters that could

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reasonably fall within the broadest possible scope of the term, statement, or matter, and will be deemed to be followed by the phrase "without limitation" or "but not limited to."

(f) This Lease has been negotiated at arm's length between persons sophisticated and knowledgeable in the matters addressed. In addition, each party has been represented by experienced and knowledgeable legal counsel, or has had the opportunity to consult with counsel. Accordingly, the provisions of this Lease must be construed as a whole according to their common meaning in order to achieve the intents and purposes of the parties, without any presumption (including a presumption under California Civil Code § 1654) against the party responsible for drafting any part of this Lease.

(g) The party on which any obligation is imposed in this Lease will be solely responsible for paying all costs and expenses incurred in performing the obligation, unless the provision imposing the obligation specifically provides otherwise.

(h) Whenever required by the context, the singular includes the plural and vice versa, the masculine gender includes the feminine or neuter genders and vice versa, and defined terms encompass all correlating forms of the terms (e.g., the definition of "waive" applies to "waiver," "waivers," "waived," "waiving," etc.).

(i) References to days mean calendar days unless otherwise specified, provided that if the last day on which a party must give notice, respond to a notice, or take any other action under this Lease occurs on a day that is not a business day, the date by which the act must be performed will be extended to the next business day.

36.6. ***Successors***. The terms, covenants, agreements and conditions set forth in this Lease shall bind and inure to the benefit of Port and Tenant and, except as otherwise provided herein, their personal representatives and successors and assigns.

36.7. ***Real Estate Broker's Fees***. Port will not pay, nor will Port be liable or responsible for, any finder's or broker's fee in connection with this Lease. Tenant agrees to Indemnify Port from any Claims, including attorneys' fees, incurred by Port in connection with any such Claim or Claims of any person(s), finder(s), or broker(s) to a commission in connection with this Lease.

36.8. ***Counterparts***. For convenience, the signatures of the parties to this Lease may be executed and acknowledged on separate pages which, when attached to this Lease, shall constitute one complete Lease. This Lease may be executed in any number of counterparts each of which shall be deemed to be an original and all of which shall constitute one and the same Lease.

36.9. ***Authority***. If Tenant signs as a corporation or a partnership, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is at the time of execution and at all times while this Lease is in effect will continue to be: (1) a duly authorized and existing entity, (2) qualified to do business in California; and that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon Port's request, Tenant shall provide Port with evidence reasonably satisfactory to Port confirming the foregoing representations and warranties, and covenants.

36.10. ***No Implied Waiver***. No failure by either party to insist upon the strict performance of any obligation of the other party under this Lease or to exercise any right, power or remedy under this Lease, irrespective of the length of time for which such failure continues (including Port's acceptance of full or partial Rent from Tenant) shall constitute a waiver of any breach or of either party's rights to demand strict compliance with any Lease term, covenant or condition. Port's consent to or approval of any act by Tenant requiring Port's consent or approval shall not be deemed to waive or render unnecessary Port's consent to or approval of any subsequent act by Tenant. Any waiver by either party must be in writing and shall not be a

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waiver of any other default (including any future default) concerning the same or any other provision of this Lease.

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

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

36.13. ***Survival of Indemnities***. Termination or expiration of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, the ability to collect any sums due, nor shall it affect any provision of this Lease that expressly states it shall survive termination or expiration hereof.

36.14. ***Relationship of the Parties***. Port is not, and none of the provisions in this Lease shall be deemed to render Port, a partner in Tenant's business, or joint venturer or member in any joint enterprise with Tenant. Neither party shall act as the agent of the other party in any respect hereunder. This Lease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

36.15. ***No Recording***. Tenant shall not record this Lease or any memorandum hereof in the Official Records.

36.16. ***Additional Written Agreement Required***. Tenant expressly agrees and acknowledges that no officer, director, or employee of Port or City is authorized to offer or promise, nor is Port or the City required to honor, any offered or promised rent credit, concession, abatement, or any other form of monetary consideration (individually and collectively, "**Concession"**) without a written agreement executed by the Executive Director of Port or his or her designee authorizing such Concession and, if applicable, certification of the Concession from the City's Controller.

36.17. ***Force Majeure***. Except as specified in this ***Section 36.17***, for all purposes of this Lease, a party whose performance of its obligations hereunder is hindered or affected by events of Force Majeure shall not be considered in breach of or in default of its obligations hereunder resulting from Force Majeure effective upon the other party's receipt of written notice describing with reasonable particularity the facts and circumstances constituting Force Majeure and citing this ***Section 36.17***, and performance of the Lease obligation shall be extended on a day for day basis (unless the parties mutually agree to a longer time frame in writing) during the Force Majeure event. The provisions of this ***Section 36.17*** shall not apply to Tenant's obligation to pay Rent and shall not extend the Initial Improvements Completion Date.

37. LIMITATION ON DAMAGES.

37.1. ***No Recourse Beyond Value of Premises***. Notwithstanding anything to the contrary contained in this Lease, Tenant agrees that Tenant will have no recourse with respect to, and Port shall not be liable for, any obligation of Port under this Lease, or for any claim based upon this Lease, except to the extent of the fair market value of Port's fee interest in the Premises (as encumbered by this Lease). Tenant shall look solely to the fair market value of Port's fee interest in the Premises for the recovery of any judgment or award. By Tenant's execution and delivery hereof and as part of the consideration for Port's obligations hereunder, Tenant expressly waives all other liability. Before filing suit for an alleged default by Port, Tenant shall give Port notice and reasonable time to cure the alleged default.

37.2. ***Non-Liability of City Officials, Employees and Agents***. No elective or appointive board, commission, member, officer, employee or other Agent of City and/or Port shall be personally liable to Tenant, its successors and assigns, in the event of any default or breach by City and/or Port or for any amount which may become due to Tenant, its successors and assigns, or for any obligation of City and/or Port under this Lease. Under no circumstances

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shall Port, City, or their respective Agents be liable under any circumstances for any consequential, incidental or punitive damages.

37.3. ***Limitation on Port's Liability Upon Transfer***. In the event of any transfer of Port's interest in and to the Premises, Port (and in case of any subsequent transfers, the then transferor), subject to the provisions hereof, will be automatically relieved from and after the date of such transfer of all liability with regard to the performance of any covenants or obligations contained in this Lease thereafter to be performed on the part of Port, but not from liability incurred by Port (or such transferor, as the case may be) on account of covenants or obligations to be performed by Port (or such transferor, as the case may be) hereunder before the date of such transfer.

38. TENANT ESTOPPEL CERTIFICATES.

Tenant, at any time and from time to time upon not less than ten (10) days' prior notice from Port, shall execute and deliver to Port or to any party designated by Port a certificate in substantially the same form as that attached to this Lease as ***Exhibit J***. Upon Tenant's request, Port shall execute and deliver to Tenant or to any party designated by Tenant a certificate stating to Port's actual knowledge (a) that this Lease is modified or unmodified and in full force and effect, (b) the dates, if any, to which Rent and other sums payable hereunder have been paid, (c) whether or not, without investigation, there are then existing any defaults under this Lease (and if so, specifying the same) and (d) any other matter actually known to Port, directly related to this Lease and reasonably requested by the requesting party. In addition, if requested, Port shall attach to such certificate a copy of this Lease and any amendments thereto, and include in such certificate a statement by Port that, to the best of its knowledge, such attachment is a true, correct and complete copy of this Lease, including all modifications thereto.

39. APPROVAL OF BOARD OF SUPERVISORS.

Notwithstanding anything to the contrary contained in this Lease, Tenant acknowledges and agrees that no officer or employee of City has authority to commit City to this Lease unless and until City's Board of Supervisors shall have duly adopted a resolution approving this Lease and authorizing the transactions contemplated hereby. Therefore, any obligations or liabilities of City hereunder are contingent upon adoption of such a resolution, and this Lease shall be null and void if City's mayor and the Board of Supervisors do not approve this Lease, in their respective sole discretion. Approval of this Lease by any department, commission or agency of City shall not be deemed to imply that such resolution will be enacted, nor will any such approval create any binding obligations on City.

[*Remainder of this page left intentionally blank.*]

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IN WITNESS WHEREOF, PORT and TENANT execute this Lease as of the last date set forth below.

PORT: **CITY AND COUNTY OF SAN FRANCISCO**,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

DocuSigned by:
By: Scott Landsittel
FC6CE420F26940F...
Scott Landsittel
Deputy Director, Real Estate and Development

Date Signed: 3/19/2024

TENANT: **YOUNG MEN'S CHRISTIAN ASSOCIATION OF SAN FRANCISCO, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION**

DocuSigned by:
By: Jamie Bruning-Miles
ECE973A3448C4B0...
Jamie Bruning-Miles, President and CEO

Date Signed: 3/18/2024

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

DocuSigned by:
By: Grace Park
08E8ABE41E3E40D...
Grace Park, Deputy City Attorney

Lease Prepared By: James Hurley, Development Project Manager Initials: DS JH

Port Commission Resolution: 24-01
Board of Supervisors Resolution: 0093-24

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EXHIBIT A

DESCRIPTION OF PREMISES

[Attachment on following page]

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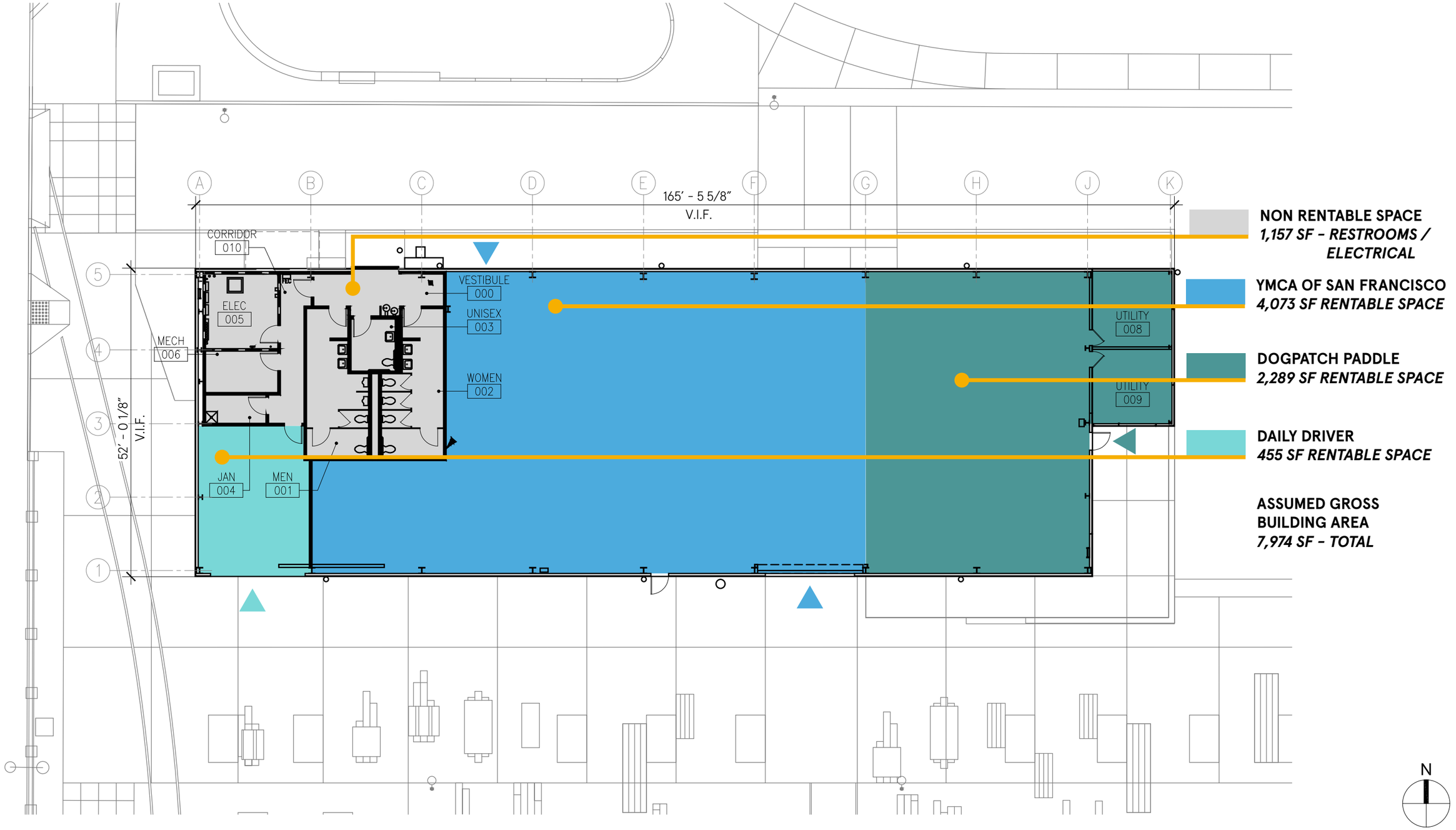

SCALE: 1/16" = 1' - 0"

PROPOSED FLOOR PLAN DIAGRAM
CRANE COVE PARK - BUILDING 49

A1
04/08/2022

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EXHIBIT B

EFFECTIVE DATE; COMMENCEMENT DATE; RENT COMMENCEMENT DATE; UPSET DATE AND EXPIRATION DATE MEMORANDUM

Landlord: **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**

Tenant:

Lease Number:

Lease Date:

Premises: [_____, Suite _____]
San Francisco, California

The Effective Date of the Lease is _____, 2023. The Commencement Date of the Lease is hereby established as _____, 20___ , the Rent Commencement Date of the Lease is hereby established as _____, 20___; the Upset Date is hereby established as _____, 20___ , the Anniversary Date is hereby established as _____, 20__; and the Expiration Date as _____ , 20___.

PORT: **CITY AND COUNTY OF SAN FRANCISCO**,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Kimberly Beal
Acting Deputy Director, Real Estate and Development

Date Signed: _____

Tenant:

By: _____
Name: _____
Title: _____

Date Signed: _____

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EXHIBIT C

RESERVED

DocuSign Envelope ID: E9E5358E-6650-4E4A-B16E-8D380957D00F

EXHIBIT D

RESERVED

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EXHIBIT E

WORK LETTER

This Work Letter sets forth Tenant's obligation to construct the Initial Improvements and shall be deemed part of the Lease. The "Initial Improvements", sometimes referred to as the Initial Tenant Improvements, are described in the Basic Lease Information and associated Port Building Permits and any amendments thereto.

1. General Terms

1.1. ***Definitions***. Initially capitalized terms used in this Work Letter have the meanings given them when first defined. Any initially capitalized words or acronyms used but not defined in this Work Letter shall have the same meanings as in the Lease.

1.2. ***Relationship between Work Letter and the Lease.*** This Work Letter governs Tenant's obligations to construct the Initial Improvements. This Work Letter addresses, among other matters, the scope of Tenant's obligations to design and construct the Initial Improvements, Tenant's obligations to obtain final approvals for the Initial Improvements, and the Schedule of Performance. Before the termination of this Work Letter, this Work Letter shall control in the event of any inconsistency between this Work Letter and the Lease. Upon expiry of this Work Letter, the Lease alone will govern the rights and obligations of the parties with respect to use and occupancy of the Premises.

1.3. ***Term.*** This Work Letter shall commence and become effective as of the Lease Effective Date and shall expire on the date Port issues a Certificate of Final Completion and Occupancy for the Initial Improvements, regardless of whether such date is before or after the Initial Improvements Completion Date as defined below.

1.4. ***Lease Provisions.*** The provisions of the Lease, except where clearly inconsistent or inapplicable to this Work Letter, are incorporated into this Work Letter.

1.5. ***Extensions by Port***. Upon the request of Tenant, Port's Executive Director may, by written instrument, extend the time for Tenant's performance of any term, covenant or condition of this Work Letter or permit the curing of any default of this Work Letter upon such terms and conditions as she or he determines appropriate, including but not limited to the time within which Tenant must perform such terms and/or conditions, provided, however, that any such extension or permissive curing of any particular default will not operate to relieve Tenant of its obligations to pay Rent or release any of Tenant's obligations nor constitute a waiver of Port's rights with respect to any other term, covenant or condition of this Work Letter or the Lease or any other default in, or breach of, the Work Letter or the Lease or otherwise effect the time with respect to the extended date or other dates for performance hereunder.

2. Construction Of The Initial Improvements

2.1.*Tenant's Construction Obligations*.

(a) Project Requirements. Tenant hereby agrees for itself, successors, and assignees, to Complete the construction of the Initial Improvements. Tenant shall Complete said construction free of claims, demands, actions and liens for labor, materials or equipment furnished for the construction, and in accordance with applicable requirements of (i) all Laws; (ii) this Work Letter, including the Scope of Development and Schematic Drawings; (iii) the Port Building Code as applicable; (iv) required Regulatory Approvals; (v) the Waterfront Land Use Plan or successor plan; (vi) the design approved by the Port and, if required, the Planning Commission, pursuant to Section 240 of the Planning Code; and (vii) the Lease. All such requirements are sometimes referred to collectively as the "**Project Requirements**."

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(b) Scope of Development; Schedule of Performance. Tenant shall use commercially reasonable efforts to construct or cause to be constructed the Initial Improvements on the Premises within the times and in the manner set forth in this Work Letter and the scope of development comprised of the Schematic Drawings, the Schedule of Performance, the preliminary plans and any narrative description (collectively, the "**Scope of Development"**) attached hereto as ***Attachment 1***. All construction with respect to the Initial Improvements shall be accomplished expeditiously, diligently and in accordance with good construction and engineering practices and applicable Laws. Tenant shall undertake commercially reasonable measures to minimize damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected by such work. Tenant, while performing any construction with respect to the Initial Improvements, shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining tenants, properties and improvements, or the risk of injury to members of the public, caused by or resulting from the performance of such construction.

(c) Costs; Private Development. Tenant shall bear all of the cost of construction of all Initial Improvements. Without limiting the foregoing, Tenant shall be responsible for performing all Premises preparation work necessary for construction of the Initial Improvements. Such preparation of the Premises shall include, among other things, asbestos and lead abatement investigation required for development or operation of the Initial Improvements, all structure and substructure work, disabled access improvements and public access improvements and tenant improvements.

2.2. ***Utilities***. Subject to the terms in the Basic Lease Information regarding the Interim Power Line and the Capacity Charges, Tenant, at its sole expense, shall arrange for the provision and construction of all on-Premises utilities necessary to use the Premises for the Permitted Use. Tenant and Port shall coordinate, if necessary, with respect to installation of any off-Premises utility infrastructure and design of the Initial Improvements, including providing advance notice of trenching requirements, and coordinate any modification of utilities to any adjacent Port tenants or uses.

2.3. ***Submittals after Completion.*** Tenant shall furnish Port both design/permit drawings in their finalized form and "As-Built" Drawings, specifications and surveys with respect to the Premises (core and shell, and tenant improvements) within sixty (60) days after Completion of the Initial Improvements. If Tenant fails to provide such surveys and as-built plans and specifications to Port within such period of time, Port after giving notice to Tenant shall have the right, but not the obligation, to cause the preparation by an architect of Port's choice of final surveys and as-built plans and specifications, at Tenant's sole cost, to be paid by Tenant to Port within thirty (30) days after Port's request therefor.

2.4. ***Insurance***.

(a) At all times during the construction of the Initial Improvements, in addition to the insurance required to be maintained by Tenant under ***Section 19*** of the Lease, Tenant shall require Tenant's contractor to maintain (a) commercial general liability insurance with limits of not less than Three Million Dollars ($3,000,000) combined single limit for bodily injury and property damage (including personal injury and death), and contractor's protective liability; and products and completed operations coverage in an amount not less than Five Hundred Thousand Dollars ($500,000) per incident, One Million Dollars ($1,000,000) in the aggregate;
(b) comprehensive automobile liability insurance with a policy limit of not less than One Million Dollars ($1,000,000) each accident for bodily injury and property damage, providing coverage at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, "**any auto"**, and insuring against all loss in connection with the ownership, maintenance and operation of automotive equipment that is owned, hired or non-owned;
(c) workers' compensation with statutory limits and employer's liability insurance with limits of

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not less than One Hundred Thousand Dollars ($100,000) per accident, Five Hundred Thousand Dollars ($500,000) aggregate disease coverage and One Hundred Thousand Dollars ($100,000) disease coverage per employee. Tenant shall cause Tenant's Agents (other than Tenant's contractor) to carry such insurance as shall be reasonably approved by Port taking into account the nature and scope of the work and industry custom and practice.

(b) In addition, Tenant shall carry "**Builder's All Risk**" insurance covering the construction of the Initial Improvements as set forth in ***Section 19*** of the Lease. The liability insurance shall be written on an "**occurrence"** basis and shall name Port as additional insureds (by endorsement reasonably acceptable to Port). Subject to Port's consent in its reasonable discretion, Tenant may elect to require that any architects, contractors and sub-contractors performing services in connection with the Initial Improvements, carry Builders Risk Insurance in the amounts and types of coverage stated herein and with the additional insureds named as required herein.

(c) All of the insurance required to be carried by Tenant or Tenant's Agents hereunder shall provide that it is primary insurance, and not excess over or contributory with any other valid, existing, and applicable insurance in force for or on behalf of Port, shall provide that Port shall receive thirty (30) days' written notice from the insurer prior to any cancellation or change of coverage, and shall be placed with companies which are rated A-VIII or better by Best's Insurance Guide and licensed to business in the State of California. All deductibles and self-insured retentions under Tenant's policies are subject to Port's reasonable approval, and all insurance, except workers' compensation, maintained by Tenant's Agents shall preclude subrogation claims by the insurer against anyone insured thereunder. Tenant's compliance with the provisions of this ***Section 2.4*** shall in no way limit Tenant's liability under any of the other provisions of this Work Letter or the Lease.

2.5. ***Performance Bond***. At least five (5) business days prior the start of construction, Tenant shall provide Port, at Tenant's sole cost and expense, (i) a corporate surety payment bond and a performance bond substantially in the form attached hereto as ***Attachment 2*** obtained by each of Tenant's contractors performing work on the Initial Improvements or, (ii) a financial guaranty, in a form approved by Port in its sole discretion, from a third party with liquid assets in an amount of no less than One Hundred Ten (110%) of the cost of the Initial Improvements. Each bond shall be in an amount equal to one hundred percent (110%) of the estimated costs of such work on the Initial Improvements. Each performance bond shall guarantee the contractor's faithful performance of its contract(s) with Tenant. Each payment bond shall guarantee the Contractor's payment of labor, materials, supplies and equipment used in the performance of its contract(s) with Tenant. The bonds are intended to help protect the Port against any liability for mechanics' and materialmen's liens, stop notices and to ensure completion of the work. Corporate sureties issuing these bonds shall be legally authorized to engage in the business of furnishing surety bonds in the State of California. All sureties shall have a current A.M. Best Rating not less than A-, VIII. Each corporate surety bond shall obligate the surety to Tenant and the City and County of San Francisco as co-obligees.

2.6. ***Compliance with Laws***. At its sole cost and expense, Tenant shall comply (taking into account any variances or other deviations properly approved) with: (i) all Laws; (ii) all Regulatory Approvals which place requirements on the Initial Improvements; (iii) all requirements of all policies of insurance which may be applicable to the Premises as to the Initial Improvements or Tenant's Property; and (iv) all other applicable Project Requirements. It is expressly understood and agreed that the performance required of Tenant by the preceding sentence shall include the obligation to make, at Tenant's sole cost and expense, all additions to, modifications of, and installations on the Premises which may be required by any Laws regulating the Premises or any insurance policies covering the Premises as to the Initial Improvements or Tenant's Property. Tenant shall, promptly upon request, provide Port with reasonable evidence of compliance with Tenant's obligations under this Section.

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2.7. ***Port and Other Governmental Permits***. Tenant has the sole responsibility, at its sole cost and expense, for obtaining all necessary permits for the Initial Improvements and shall make application for such permits directly to the applicable Regulatory Agency; provided, however, that where Port is required to act as a co-permittee for any permit Tenant shall apply for such permit in accordance with ***Section 12***.

2.8. ***Port Rights of Access***. Without limiting the rights of Port in its regulatory capacity, Port and its Agents will have the right of access to the Premises to the extent reasonably necessary to carry out the purposes of this Work Letter, including, but not limited to, the inspection of the work being performed in constructing the Initial Improvements upon reasonable prior written notice to Tenant during regular business hours; provided, however, Port shall take such reasonable action necessary to minimize any interference with Tenant's construction activities. Port will provide Tenant promptly upon request with a copy of any written reports prepared by Port or its Agents with respect to the Initial Improvements under any such inspection, subject to withholding documents otherwise privileged or confidential. Port disclaims any warranties, representations and statements made in any such reports, will have no liability or responsibility with respect to any such warranties, representations and statements, and will not be estopped from taking any action (including, but not limited to, later claiming that the construction of the Initial Improvements is defective, unauthorized or incomplete) nor be required to take any action as a result of any such inspection.

2.9. ***Construction Signs and Barriers***. Tenant shall provide appropriate construction barriers, construction signs and a project sign or banner, and shall post the signs on the Premises during the period of construction. Tenant will obtain a building permit from Port before the placement of any construction fencing, signage and/or barriers.

3. Preparation And Approval Of Plans

3.1. The Construction Documents.

(a) Definition of Construction Documents. The Construction Documents shall be as follows:

(i) "**Schematic Drawings**" for the Initial Improvements which shall generally include, without limitation, the following:

(1) Perspective drawings sufficient to illustrate the Initial Improvements.

(2) A site plan at appropriate scale showing relationships of the Initial Improvements with their respective uses, designating Public Access Areas, open spaces, walkways, buildings, loading areas, streets, parking, and adjacent uses. Adjacent existing and proposed streets, piers, arcades and structures should also be shown.

(3) Building plans, floor plans and elevations sufficient to describe the development proposal, the general architectural character, and the location and size of uses.

(4) Building sections showing height relationships of those areas noted above.

(ii) "**Preliminary Construction Documents"** in sufficient detail and completeness to show that the Initial Improvements and the construction thereof shall comply with the Project Requirements, and which shall generally include, without limitation:

(1) Premises plan(s) at appropriate scale showing the buildings, streets, boat docks, walkways, and other open spaces. All land uses shall be designated. All Premises development details and bounding streets, points of vehicular and pedestrian access shall be shown.

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(2) All building plans and elevations at appropriate scale.

(3) Building sections showing all typical cross sections at appropriate scale.

(4) Floor plans.

(5) Preliminary interior improvement plans.

(6) Plans for proposed Public Access Areas showing details including but not limited to, walls, fences, railings, benches, bicycle racks, street furniture, markers, plaques, models, paving, exterior lighting, signs, and trash containers.

(7) Outline specifications for materials, finishes and methods of construction.

(8) Interior and Exterior Signage Plans.

(9) Exterior lighting plans.

(10) Material and color samples.

(11) Roof plans showing all mechanical and other equipment.

(iii) "**Final Construction Documents"** which shall include all plans and specifications required under applicable codes to be submitted with an application for a Building Permit for the Initial Improvements.

(b) Exclusion. As used in this Work Letter "**Construction Documents"** do not mean any contracts between Tenant and any contractor, subcontractor, architect, engineer or consultant.

(c) In preparing the Construction Documents, Tenant shall use good faith efforts to include energy conservation and other green building improvement measures including but not limited to solar panels, energy efficient light fixtures; Energy Star appliances; recycling of demolition debris and use of recycled building materials; composting services for customers including in bathrooms (for paper towels).

3.2. ***Scope of Tenant Submissions of Construction Documents***. The following provisions apply to all stages of Tenant's submission of Construction Documents. Each of the Construction Document stages is intended to constitute a further development and refinement from the previous stage. The elements of the Preliminary Construction Documents requiring Port's approval shall be in substantial conformance with the Schematic Drawings and the Scope of Development, and shall incorporate conditions, modifications and changes specified by Port or required as a condition of Regulatory Approvals as approved by Port. Preliminary Construction Documents shall be in sufficient detail and completeness to show that the Initial Improvements and the construction of the Initial Improvements will be in compliance with the Project Requirements and matters previously approved. The Final Construction Documents shall be a final development of, and be based upon and conform to, the approved Preliminary Construction Documents. The elements of the Final Construction Documents requiring Port approval shall incorporate conditions, modifications and changes required by Port for the approval of the Preliminary Construction Documents. The Final Construction Documents shall include all drawings, specifications and documents necessary for the Initial Improvements to be constructed and completed in accordance with this Work Letter.

3.3. ***Construction Document Review Procedures***.

(a) Method of Port Action/Prior Approvals. Port shall approve, disapprove or approve conditionally the Construction Documents, in writing, in accordance with the Schedule of Performance, but, in any event, within ninety (90) days after submittal, so long as the applicable Construction Documents are properly submitted in accordance with the Schedule of

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Performance. If Port fails to either approve or disapprove within five (5) business days after Tenant's second written request made to Port after such ninety (90) day period, the applicable Construction Documents shall be deemed disapproved.

(b) Timing of Port Disapproval/ Conditional Approval and Tenant Resubmission. If Port disapproves of the Construction Documents in whole or in part, Port in the written disapproval shall state the reason or reasons and may recommend changes and make other recommendations. If Port conditionally approves the Construction Documents in whole or in part, the conditions shall be stated in writing and a time shall be stated for satisfying the conditions. Tenant shall make a resubmittal as expeditiously as possible. Tenant may continue making resubmissions until the approval of the submissions or the time specified in any conditional approval.

3.4.*Changes in Construction Documents.*

(a) Approval of Changes in Construction Documents. Tenant shall not make or cause to be made any material changes in any Port-approved Construction Documents without Port's express written approval in its reasonable discretion as provided in ***Section 3.4(b)*** below. Prior to making any changes that Tenant considers to be non-material to any Port-approved Construction Documents, including, without limitation, substituting materials which are the architectural equivalent as to aesthetic appearance, quality, color, design and texture, Tenant shall notify Port in writing. If Port in its reasonable discretion determines that such noticed changes are material, then such changes shall be subject to Port's approval under ***Section 3.4(b)***. Port's determination of whether such changes are material will be conclusive. Without otherwise limiting the requirements of this ***Section 3.4(a***), any changes that cost Five Thousand Dollars ($5,000.00) or less in the aggregate and that would not otherwise affect the structural elements of the Initial Improvements shall be presumed to be non-material changes.

(b) Response. Tenant shall request in writing Port's approval in connection with all material changes to the Construction Documents. Port shall give its approval or disapproval to Tenant in writing within thirty (30) days after receipt of Tenant's request. If Port disapproves, then it shall specify in writing the reasons for its disapproval. If Port fails to approve or disapprove within five (5) business days after Tenant's second written request made to Port after the thirty (30) day period, such changes will be deemed disapproved.

3.5. ***Progress Meetings/Consultation***. During the preparation of Construction Documents, Port staff and Tenant agree to hold regular progress meetings, as appropriate considering Tenant's Construction Document progress, to coordinate the preparation of, submission to, and review of Construction Documents by Port. Port staff and Tenant (and its applicable consultants) agree to communicate and consult informally as frequently as is reasonably necessary to assure that the formal submittal of any Construction Documents to Port can receive prompt and speedy consideration.

4. Completion of Construction

4.1. ***Completion of Construction***. Tenant shall commence, prosecute and use commercially reasonable efforts to Complete the Initial Improvements by the Initial Improvements Completion Date in accordance with the dates set forth in the Schedule of Performance. During construction of the Initial Improvements, Tenant shall submit written progress reports to Port, in form and detail as may be required reasonably by Port, but at least on a monthly basis.

4.2. ***Port's Remedy for Tenant's Failure to Timely Complete Construction***. In the event Tenant fails to complete the Initial Improvements in a manner sufficient to cause Port to determine the Initial Improvements to be Completed by the Initial Improvements Completion Date, Tenant shall pay to Port an amount equaling One Hundred Dollars ($100.00) per day commencing on the Completion Date and shall continue at such rate until Completion in addition to the Rent that would otherwise be payable for such period.

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THE PARTIES HAVE AGREED THAT PORT'S ACTUAL DAMAGES IN THE EVENT OF TENANT'S FAILURE TO COMPLETE CONSTRUCTION OF THE INITIAL IMPROVEMENTS BY THE INITIAL IMPROVEMENTS COMPLETION DATE WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THEY HAVE AGREED UPON THE SUM SPECIFIED ABOVE, AFTER NEGOTIATION, AS THEIR REASONABLE ESTIMATE OF PORT'S DAMAGES IN SUCH EVENT.

JBM JH

Tenant Initials *Port Initials*

5. Completion

5.1.*Completion*.

(a) Issuance Process.

(i) Before the Initial Improvements Completion Date, Tenant may not occupy the Premises except for construction purposes under this Work Letter or the Lease, unless Port consents to such use, a Temporary Certificate of Occupancy has been issued allowing such use and Tenant pays Partial Base Rent, or rent in the amount required by the then-current Port Commission-adopted parameter rates, as applicable.

(ii) After the Initial Improvements Completion Date, Tenant may request a written determination of Completion for the Initial Improvements in writing. Port shall issue or provide Tenant with notice of Port's refusal to issue the written determination of Completion for the Initial Improvements within sixty (60) days of receipt of Tenant's request. If Port refuses to issue a determination of Completion, then it shall state the reasons why in its refusal notice.

(iii) Port's determination that the Initial Improvements have been Completed does not relieve Tenant or any other Person from any obligations to secure or comply with any Regulatory Approval of any agency (including Port) that may be required for the occupancy or operation of the Initial Improvements.

(b) ***Condition to Approval***. If there remain uncompleted (i) finishing details, minor omissions, decorations and mechanical adjustments of the type normally found on an architectural "**punch list**", (ii) landscaping, (iii) exterior finishes (to the extent Tenant can demonstrate to Port's reasonable satisfaction that such exterior finishes would be damaged during the course of later construction of Interior Improvements), or (iv) any other item that Port approves in writing in its sole and absolute discretion (collectively "**Deferred Items"**), Port may reasonably condition approval upon provision of security or other assurances in form, substance and amount satisfactory to Port that all the Deferred Items will be completed in a timely fashion. Such security may include a letter of credit (in a form and issued by an institution acceptable to Port) in the amount of one hundred ten percent (110%) of the cost of Completion of the Deferred Items as reasonably determined by Port. The obligations set forth in this subsection shall survive a termination of the Lease.

(c) ***Definition of Completion***. For purposes of this Work Letter and the Initial Improvements, "**Completion**" means completion by Tenant of all aspects of the Initial Improvements in accordance with the Project Requirements, and in compliance with all Regulatory Approvals needed for the occupancy and development of the Initial Improvements or provision of security reasonably satisfactory to Port for Deferred Items under ***Section 5.1(b)***, and issuance of a Certificate of Final Completion and Occupancy. The "**Initial Improvements Completion Date**" shall mean the earlier of (i) the date of the Certificate of Final Completion and Occupancy for the Initial Improvements or (ii) the date that is twenty-four (24) months after the date on which the Building Permit for the Initial Improvements was Finally Approved; provided,

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however, that the Port's Executive Director, in her or his reasonable discretion, may extend the 24-month deadline in writing following Tenant's written request and provided that Tenant is working diligently toward Completion of the Initial Improvements and provided further that any such extension will not operate to relieve Tenant of its obligations to pay Rent or release any of Tenant's obligations nor constitute a waiver of Port's rights with respect to any other term, covenant or condition of this Work Letter or the Lease or any other default in, or breach of, the Work Letter or the Lease or otherwise effect the time with respect to the extended date or other dates for performance hereunder. The Port's Executive Director's failure to issue an extension within ten (10) days after Tenant's notice requesting an extension shall be deemed a denial of the request.

6. Termination Of Lease

6.1. ***Plans and Data.*** If the Lease terminates as a result of an Event of Default by Tenant before Completion of the Initial Improvements, Tenant shall assign and deliver to Port (without cost to Port), without any warranty or representation from Tenant and subject to the terms of any design professional's, engineer's, consultant's, or contractors agreement with Tenant, any and all copies of reports in its possession regarding the Premises and all Construction Documents in the possession of or prepared for Tenant, for the contracting of the Initial Improvements within thirty (30) days after written demand from Port. Port may use said reports and Construction Documents for any purpose whatsoever relating to the Premises; provided, however, Port shall release Tenant and Tenant's contractor, architect, engineer, agents, employees and other consultants from any Claims arising out of Port's use of such reports and Construction Documents except to the extent such contractor, architect, engineer, agent, employee or other consultant is retained by Port to complete the Initial Improvements. Tenant shall include in all contracts and authorizations for services pertaining to the planning and design of the Initial Improvements an express agreement by the Person performing such services that Port may use such reports or Construction Documents as provided in this Section 6.1 without compensation or payment from Port in the event such reports or Construction Documents are delivered to Port under the provisions of this ***Section 6.1***, provided that Port agrees (i) not to remove the name of the preparer of such reports of Construction Documents without the preparer's written permission or (ii) to remove it at their written request.

6.2. ***Return of Premises***. If the Lease terminates pursuant to this ***Section 6***, Tenant shall, at its sole expense and as promptly as practicable, return the Premises to Port in a safe condition, and unless otherwise requested by Port, shall promptly remove all Improvements and Alterations, equipment, loose building materials and debris present at the Premises resulting from Tenant's construction activities. In the event that Tenant is required to return the Premises as aforesaid, Tenant shall obtain those permits customary and necessary to enter upon the Premises in order to complete such work and shall otherwise comply with applicable Law. In such event, Port shall cooperate with Tenant in Tenant's efforts to obtain such permits, provided that Port will not be required to expend any money or undertake any obligations in connection therewith. The provisions of this Section shall survive any termination of the Lease.

ATTACHMENTS

ATTACHMENT 1	**SCOPE OF DEVELOPMENT**
ATTACHMENT 2	**FORM OF PERFORMANCE BOND & PAYMENT (LABOR AND MATERIAL) BOND**
ATTACHMENT 3	**INITIAL IMPROVEMENTS THAT DO NOT NEED TO BE REMOVED FROM THE PREMISES**

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ATTACHMENT 1

SCOPE OF DEVELOPMENT

PROJECT DESCRIPTION

Tenant improvements to Building 49 to increase the public use of Crane Cove Park. Master tenant (YMCA) to provide a wellness center for its members/public. Subtenant 1 (Daily Driver) to provide a food/beverage business to serve coffee/sandwiches/bagels to-go. Subtenant 2 (Dogpatch Paddle) to provide a water recreation business and run youth camp programming, rentals, and private events. This project is in relation to the RFP for Building 49 which was awarded to the YMCA of San Francisco and consists of a long-term lease with the Port of San Francisco. YMCA of SF to operate and maintain the public restrooms that were built in Building 49 by the Port of San Francisco.

SCOPE OF WORK

Core and shell improvements for three tenants include new storefront windows, entries, and overhead coiling doors. Tenant improvements for YMCA of SF include interior partition walls and finishes.

TENANT IMPROVEMENTS

AT SUBTENANT 1 AND 2 SPACES, COLD GREY SHELL SHALL INCLUDE THE FOLLOWING:

1. FRAMED WALLS AND CEILING (IF APPLIES), NO FINISHES EXCEPT FOR INTERIOR FINISHES SURROUNDING STOREFRONT AT EXTERIOR WALLS.
2. OPENINGS AND DOORS AS INDICATED ON DWGS
3. TOPPING SLAB AS INDICATED ON DWGS
4. RADIANT FLOOR SLAB NOT INCLUDED.
5. PLUMBING AND ELECTRICAL CONNECTIONS TO BE STUBBED OUT AT PERIMETER OF SPACE
6. EGRESS LIGHTING PROVIDED AT REQUIRED EXITS.
7. ACCESSIBLE EGRESS/INGRESS FOR SPACE

CIVIL DETAILS

1. Drainage connections as needed for washdown of equipment from Dogpatch Paddle space
2. Utility connections for Fire Sprinklers
3. Any additional utility upgrades needed for service

ARCHITECTURAL DETAILS

<u>CONCRETE</u>

1. Provide concrete curbs at building perimeter for securing existing metal siding, see drawings for location and size.
2. Provide concrete curbs at shower stalls
3. Provide new concrete footings at demising walls and studio walls and other locations so noted in structural basis of design section.

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4. Trench where required for new footings, plumbing, and electrical/data runs to floor boxes. Patch and repair to match adjacent.
5. Fill existing cracks in existing slab. See structural basis of design section.
6. Provide unbonded concrete topping slab for leveling the floor (where necessary) and for radiant flooring (where provided)
    a. Thickness of radiant topping slab (minimum - max)
        i. Minimum is 2-inches, with rigid insulation of 3-inch total 5-inch combined system; thickest tube will be 5/8-inch thick
        ii. Provide WWR at bottom of topping slab.
        iii. Maximum thickness of concrete is 3-inch for sizing standard system; making slab thicker will increase size of tubing and amount of water in system
        iv. Minimum rigid insulation is 1.5-inch polyurethane, will be increased as necessary (tapered) to create level surface for topping slab
    b. Control joints max. 6' o.c. and at all changes in elevation.
    c. Allow for movement and expansion joints in topping slab and radiant floor tubing system. Crane Cove soils experiences on-going settlement.
    d. Where exposed and as scheduled, grind and polish topping slab to a Class A cream finish and Level 2 Satin honed gloss.

METALS

1. Provide metal handrails at interior ramps, walkways, and stairs
2. Provide equipment (mechanical) screens at ductwork and equipment visible on top of the restroom and studio room "roof" areas (inclusion pending mechanical design)
3. All partitions and framing to be metal stud framing.
4. Use G60 metal stud framing, track and backing plates and ceiling framing at showers.

WOODS AND PLASTICS

1. Breakroom: custom plastic laminate-faced casework with base and upper cabinets.
2. Breakroom: open shelves as indicated

OPENINGS

1. Provide factory pre-primed A90 galvanized hollow metal doors and frames at restrooms, to be field painted with epoxy
2. Provide HM door to public restroom hallway from YMCA space.
3. Provide HM frames at all interior wood doors
4. Provide stainless steel hardware for all new doors
5. Provide panic hardware at door to public restroom

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1. Provide interior wood doors with full lite at Office and Studio: straight grain hardwood veneer, factory stained and finished
2. Provide interior flush wood doors at Accessible Changing Room, Storage and Breakroom, straight grain hardwood veneer, factory stained and finished.
3. Provide tempered glass panel where occurs.
4. Provide SS hardware for all new doors and privacy latches at restroom/showers and changing areas

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1. Provide one 10' overhead coiling doors with Powderguard Max finish (standard color)
2. Provide one 16'1"W x 19'1"H overhead coiling door with Powerguard Max finish (standard color). Product TBD AmericanDoor Roll Up Door Man Door, Overhead Door Corp, or Wanye Dalton commercial Doors
3. Provide Motorized Operating Hardware, tracks and support.

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1. Kawneer thermal windows and storefront;
2. Dark Anodized finish.
3. Awning window with crank operation and screens
4. 1” insulated low e clear glass and tempered as indicated
5. Provide panic hardware with Bronze finish.

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1. See storefront and window sections for glazing associated with those openings
2. Provide full height mirrors at Free Weights and Studio walls. Product TBD
3. Provide frameless mirrors at restrooms over the lavatory. Product TBD
4. Provide 3x6’ frameless mirror at accessible changing room. Product TBD
5. Provide tempered glass panels at full lite in Studio and Office doors. Product TBD

FINISHES

1. Provide plaster ceiling at All Gender restroom/shower rooms
    a. Backer board: Durock or equal
    b. STO Corporation Stolit Acrylic Finish
    c. Provide all components of manufacturer’s system
3. Ceiling framing G90 galvanized metal stud framing

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1. Provide 5/8” thick type X gypsum board throughout.
2. Provide moisture and mold resistant gypsum board in Break Room kitchenette area and toilet rooms
3. Cement backer board for tile at showers.
4. Quietrock EZ-SNAP Type X gypsum board at Studio walls and YMCA side of demising wall at Tenant 1.

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1. Provide new ceramic tile at all gender restroom and shower rooms, both walls and floors (over radiant sub floor)
    a. Floor tile at shower stall: 1x1 mosaic porcelain with double grit for slip resistance
    b. Floor tile at restrooms and lavatory: 1x2 mosaic porcelain with double grid for slip resistance
    c. Wall tile: Glazed porcelain tile 12x24 with bullnosed corners and cove base as indicated.

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1. Above reception desk at Lobby: Wood grille ceiling with acoustic batt above and integrated recessed lighting;
    a. 1200-series by 9Wood

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1. Weight area: Mondo Sport Impact; 10 mm rubber sport flooring specifically designed for free weight room use

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1. Studio floor: Robbins 2 1/8” Bio-cushion classic for dance with Northern hard maple 25/32” x 2” blind nailed. Clear sport flooring finish (3 coats) with
2. Vented rubber cove base

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1. Provide sound-control mineral wool batt insulation between metal studs at Studio partitions, restroom/shower rooms and demising walls. Thickness as required to fill wall cavity.

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1. Quilted studio blanket acoustic insulation at high wall and roof as indicated, mechanically fastened
2. Lamvin standard acoustic rigid panel wall-mounted at Studio as indicated, 1-inch thick

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1. Exterior steel handrail system to receive high-performance coating with primer, intermediate, and finish coat. Finish coat by Tnemec, "Fluoronar, Series 1071V"
2. High-performance coating for exposed structural steel
3. See Finish Schedule in DWGS for additional information.

SPECIALTIES

1. Solid Phenolic Lockers, see drawings for count and location
    a. Day Use 36” tall x 15” wide x 15” deep (2 per tower) with overlapping “S” door design
    b. Rentable “Kit” lockers 12x12x 12 (6 per tower)
    c. Stainless steel hardware, door vents
    d. Colors selected from manufacturer’s colors expanded range of Wilsonart or sim
    e. Metal stud base with cove rubber base applied. Lockers anchored to partition or steel structure behind.

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1. Provide new toilet, soap and shower accessories for accessible toilet stall, showers and lavatory areas.
2. Accessible bench at locker – to match locker system

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1. Provide interior acrylic code required signage for room identification, accessibility and exiting.
2. For wayfinding, entry, and branding signage and elements see YMCA’s separate budget

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1. Fire extinguishers with semi-recessed cabinets.

FURNISHINGS

1. Owner provided FFE
2. Manual window coverings
3. Recessed entry mat at YMCA entrance
4. Exterior circular bicycle racks (2)

STRUCTURAL DETAILS

THE STRUCTURAL WORK INCLUDES THE FOLLOWING:

A. NEW FREE-STANDING ROOM WITHIN THE EXISTING BUILDING, CONSISTING OF COLD-FORMED STEEL CONSTRUCTION, WITH PLYWOOD SHEATHING.
B. NEW CANOPY AT NORTH ENTRY OF THE BUILDING, NEW CONCRETE RAMP WORK OVER (E)S.O.G. WITHIN THE BUILDING.
C. Plywood sheathing supported by metal stud walls along the interior perimeter of the building.

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MECHANICAL DETAILS

1. Radiant flooring installed in YMCA tenant space
2. Split System Outdoor/Indoor Unit
3. Heat Pump for Radiant Heating
4. Exhaust Fans (3)
5. Supply Fans (2)
6. Large Interior Fans in YMCA Space (3)
7. Water Heater (1)
8. 20 GPM Pump for Radiant Flooring

PLUMBING DETAILS

1. Floor Cleanout
2. Hose Bibb at Dogpatch Paddle tenant space
3. Area Drain
4. Water Closet (ADA Compliant)
5. Lavatory
6. Sinks at new YMCA restroom and breakroom spaces
7. Shower (2) in new YMCA restroom space
8. Bottle filler/Water fountain in YMCA space

ELECTRICAL DETAILS

1. New lighting and branch circuiting to existing panel
2. Maintain some of the existing power and signal outlets and provided additional new power branch circuiting and raceway systems as required to new power and signal outlets

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ATTACHMENT 2

FORM OF PERFORMANCE BOND & PAYMENT (LABOR AND MATERIAL) BOND

KNOW ALL MEN BY THESE PRESENTS, that WHEREAS, the Port of San Francisco on behalf of City and County of San Francisco, State of California, has awarded to:

_____

hereinafter designated as the "Principal", a Lease by Port Commission Resolution No. xx-xx, adopted on xxx, xx, xxxx for:

Lease No. L-16997 (the "Contract")

WHEREAS, said Principal is required under the terms of said Contract to furnish a Bond for the faithful performance of certain improvements under said Contract; and to furnish a separate Bond for the payment of any materials, provisions, or other supplies, used in, upon, for or about the performance of the Work contracted to be done;

NOW, THEREFORE, we the Principal and

_____

as Surety, are firmly bound unto the City and County of San Francisco in the penal sum of

(PERFORMANCE BOND) _____ and (PAYMENT BOND) _____

lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents for the penal sum for a performance bond and an equal and separate penal sum for a separate payment bond. The conditions of this obligation is such that if the said principal does well and faithfully performs all the conditions and covenants of said Contract, according to the true intent and meaning thereof, upon its part to be kept and performed, then the above obligation is to be null and void, otherwise to remain in full force and effect.

(PERFORMANCE BOND)

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said Contract, including the provisions for liquidated damages in the said Contract, any changes, additions or alterations thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City and County of San Francisco, its officers and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

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(PAYMENT BOND)

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said principal, its heirs, executors, administrators, successors or assigns, or its subcontractors, shall fail to pay (i) any of the persons named in California Civil Code Section 9100 for any materials, provisions, or other supplies used in, upon, for or about the performance of work under the Contract, or for any work or labor performed under the Contract; or (ii) amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the Contract; or (iii) for any amounts required to be deducted, withheld, and paid over to the State of California Employment Development Department from the wages of employees of Principal and subcontractors pursuant to Section 13020 of the California Unemployment Insurance Code with respect to such work or labor, that Surety will pay for the same in an amount not exceeding the sum specified in this Bond. In the event that suit is brought upon this Payment Bond, the parties not prevailing in such suit shall pay reasonable attorney's fees and costs incurred by the prevailing parties in such suit.

This Payment Bond shall inure to the benefit of any of the persons named in California Civil Code Section 9100 as to give a right of action to such persons or their assigns in any suit brought against this Bond.

Should the condition of this Payment Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

Surety, for value received, hereby expressly agrees that no change, extension of time, modification, alteration or addition to the undertakings, covenants, terms, conditions and agreements of the Contract, or to the work to be performed thereunder, or to the Specifications accompanying the same, and no inadvertent overpayment of progress payments, shall in any way affect its obligations on these Bonds; and it does hereby waive notice of any such change, extension of time, modification, alteration or addition to the undertakings, covenants, terms, conditions and agreements of the Contract, or to the Work to be performed thereunder, or to the Specifications, or of any inadvertent overpayment of progress payments.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their seal this ____day of _____, 20___, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Approved as to form:
David Chiu
City Attorney

By: _____
Deputy City Attorney

_____
Principal

By: _____

_____
Surety

By: _____

END OF DOCUMENT

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ATTACHMENT 3 INITIAL IMPROVEMENTS THAT DO NOT NEED TO BE REMOVED FROM THE PREMISES

Subject to Section 14.8 of the Lease, the following table lists Initial Improvements that can remain at the Premises or that must be removed (unless otherwise requested by Port) at the end of the lease term.

Area of Improvement	Description (if needed)	Status	
		Can Remain	To be Removed Unless Otherwise Requested by Port
Mechanical Infrastructure and Equipment	The new HVAC systems are connected throughout Building 49 across the tenant spaces. This includes radiant flooring system and electrical heating components.	X	
Electrical Infrastructure and Equipment		X	
Plumbing Infrastructure and Equipment		X	
Openings	All new exterior windows, storefronts, and large coiling doors.	X	
Interior Walls	Offices, breakrooms, and miscellaneous interior walls and openings.		X
Plywood Sheathing	Interior perimeter plywood sheathing	X	
Interior Structural Walls	Interior structural walls that separate tenant spaces.	X	
Ceilings	Ceilings of tenant spaces. Includes food and beverage tenant area and auxiliary space in master tenant space.	X	
Additional Restrooms	New restroom and water closet facilities.	X	
FFE	All fixtures, furniture, and equipment throughout the building		X
Tile and Flooring	All tile and finished flooring material throughout the tenant spaces	X	
IT Low Voltage	All security and communications equipment.		X
Fire Alarm Systems	All fire systems	X	
Signage	All tenant interior and exterior signage including code compliance signage.		X

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Unrentable Space	All infrastructure, equipment, and fixtures including public restroom facilities.	**X**	
Paint	Tenant-specific painting of interior or exterior walls (e.g. business signage, murals)		**X**

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EXHIBIT F

RESERVED

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EXHIBIT G
OPERATIONS PLAN

[To Be Attached]

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Exhibit G
Crane Cove Park – Building 49
Operations Plan
Master Tenant: YMCA of San Francisco
Subtenants: Daily Driver, Dogpatch Paddle
April 6, 2023

Tenant plans to operate its own programs from 4,073 square feet of the Premises and to sub-lease 2,744 square feet to sub-tenants engaged in Permitted Activities. The planned Sub-tenants are Dogpatch Paddle, a provider of human-powered watercraft services, and Daily Driver, a retailer of coffee and specialty foods. Tenant's Operating Plan for its own programs is set out below. The Operating Plans for the Sub-tenants will be set out in the Sub-leases and are set out for information below.

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YMCA of San Francisco

Master Tenant

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FOR YOUTH DEVELOPMENT
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

YMCA of San Francisco
Crane Cove, Building 49
Operations Plan

The YMCA of San Francisco ("the Y") has eight fitness facilities throughout San Mateo, San Francisco and Marin counties. Crane Cove will be our ninth. Membership to the Y includes access to all of our gyms, including six swimming pools, tennis courts, virtual and in-person group exercise, as well as personal training, wellness coaching, on-site childcare, and discounted rates on programming.

The Y charges monthly membership fees. For 22-23, these are as follows:

CATEGORY	JOINING FEE	MONTHLY DUES
Adult	$99	$85
Active Older Adult (67+)	$99	$75
Household with Kids	$149	$170
Household without Kids	$149	$140
One Adult Household	$125	$100
Young Adult (19-24)	$99	$65
Teen (13-19)	$0	$45

The Y offers financial assistance to those unable to pay these fees. Thirty-five percent of our members currently receive financial assistance or subsidy for their membership. The Y reserves the right to change how the membership fees are structured and the amounts charged based on market demand, community requirements and operating conditions. Day passes are available for drop-in visits.

The Y will host onsite membership drives several months in advance of a grand opening.

Y staff anticipate activating the space +/- 90 hours weekly, but actual hours may vary depending on demand and operational factors:

- Monday – Friday: 5:30am-8:30pm
- Saturday – Sunday: 7am-2pm
- Y Holidays: 7am-2pm

In year one, the Y gym facilities will provide space for cardio, strength, stretching exercises as well as 12-15 group exercise classes a week. Weekly activities, such as Zumba, Strength for Seniors, or hula dance, will be open to the public. During off-peak times, the Y will also offer community spaces to nonprofits in the neighborhood in need of meeting space. Over time, the Y will adjust programming to meet the needs of the community.

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Wellness activities included in membership:

- indoor / outdoor group exercise classes (Les Mills Body Pump, Zumba, Yoga, Balance and Strength, Mat Pilates, Cardio Circuit, etc.)
- 1:1 and small group training
- Community workshops on nutrition, stress-reduction, etc.
- Evidence-based programming: blood pressure self-monitoring, diabetes prevention, etc.

Y facilities will include restrooms and showers for members.

The Y reserves the right to amend its programming based on market conditions and community requirements.

Outdoor group exercise classes may be organized dependent on access/license by Port to Crane Cove Park and during daylight hours only. Amplified music may be used provided that such use complies with the requirements from time to time of the San Francisco Entertainment Commission.

On occasion, the Y may organize special events in Crane Cove Park for which it will seek any necessary specific permitting under applicable BCDC rules.

STAFFING:

The Crane Cove Y will have 2+ staff onsite during opening hours. Membership and Wellness staff will provide customer service, membership sales, community information, and equipment orientations for Y members. Certified instructors will teach group exercise classes and provide personal training opportunities.

PUBLIC RESTROOMS:

The Y will outsource janitorial support, which will include custodial for the public restrooms. The restrooms will be open at a minimum from 10 am to 6 pm on weekdays and 10 am to 4 pm on weekends and holidays, unless a) closed temporarily for maintenance or repair or for security reasons or b) the Y is not open at Crane Cove.

PARKING:

There is no public parking allocated to the site. Passenger drop-off will be available in the Crane Cove cul-de-sac.

The Y will provide bike racks for members' use.

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Dogpatch Paddle

Sub-Tenant

Dogpatch Paddle will sub-lease 2,289 square feet for the activities set out below.

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Operations Plan: Building 49

Introduction

Dogpatch Paddle was selected as the primary commercial operator of watersports activities in Building 49 in Crane Cove Park. In January of 2021 we began operations within the park, safely and successfully supporting clients seeking paddle boarding and kayaking rentals, lessons, tours, classes, youth programs, storage and private events. We opened our retail location at 560 18th Street, about ½ block from the park itself, in April of 2021 to coincide with our first youth camps. That spring and summer we welcomed 289 campers to our youth camps, including a dozen scholarship participants.

In June of 2022 we began our second season with a temporary lease for storage in Building 49 (while still maintaining our primary location at 560 18th Street). This season we safely welcomed 349 campers, with additional scholarships, and continued to grow our other service offerings. Moreover, we learned a great deal about smooth operations within the park. As we prepare to occupy Building 49 permanently, we have developed, and refined, an optimal operations plan.

Facilities

The operations plan is split into two categories, facilities, and services. Facilities identifies the physical locations for Dogpatch Paddle's operations. Services & Products discusses specific utilization of the facilities relative to the business offerings.

Building 49

Dogpatch Paddle will occupy approximately 2,289 square feet of space within Building 49. Within that space, it will be subdivided into zones for operational purposes as follows:

A. Rental "Shack"
    a. Location: the area in the northeast corner of the building, delineated by the annex protrusion from the main building. A roll-up door will be located on the southeast section of the annex to provide access for larger equipment to be transferred in and out of the building on an as-needed basis.
    b. Uses: the rental shack will serve as the transaction point for service-related activities. A counter will welcome customers to check-in off the main entrance. Clients will obtain accessories such as life vests, wet suits, paddles, etc. Paddle boards and kayaks may either be secured at the rental shack or from the beach

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(see below). There will be changing rooms and lockers located inside the rental shack for customers to prepare for their activities and to leave personal belongings.

c. We propose marking a no-stopping hashed area along the East side of Building 49 to allow for safe transport of equipment from the building to the beach.

B. Retail Space

a. Location: on the southeast corner of the building. The primary egress would be through the retail entrance from the plinth / porch on the east face. There will be a cash wrap / customer service counter floating in the center of the space, delineating the retail space from the indoor storage.

b. Uses: retail displays of equipment, accessories, and sundry items. Additionally, convenience items such as picnic provisions, snacks, beverages, and other park necessities will be presented. All items will be transacted at the cash wrap.

c. Due to the nature of seasonality, it may be necessary to adopt other product lines and services for solvency. Any additional products or services will be developed with family-friendly, recreational focus, not to conflict with any terms set forth within the sublease or operations plan.

C. Indoor Storage

a. Location: all additional space will be dedicated to indoor storage of equipment. The exterior walls and demising wall with the YMCA will be outfitted with fixed racks, and the open space between permanent fixtures will house portable racks on casters. Customers will not be allowed in the storage area.

b. Uses: This equipment will be used to service rentals, lessons, tours, classes, etc. and is referred to as our “fleet” or “quiver”. Optimally, the fleet will sit on racks that are affixed to the building structure, for stability, and will stack double height to maximize space. The caster racks will be rolled in and out for situations where a bulk of equipment is required (camps, private events). Equipment is then off-loaded from the racks and they are returned to the shop.

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Beach Launch & Staging

Dogpatch Paddle, our customers, and the general public all require access to the beach in order to launch and return watercraft. Today and moving forward, any visitor to the park can utilize the breadth of the waterfront to launch their craft. Dogpatch Paddle plans to stage our watercraft in the least active areas of the beach launch, assessed on a daily basis, subject to the use of the entire community. All equipment will be returned to the shop at the end of the day.

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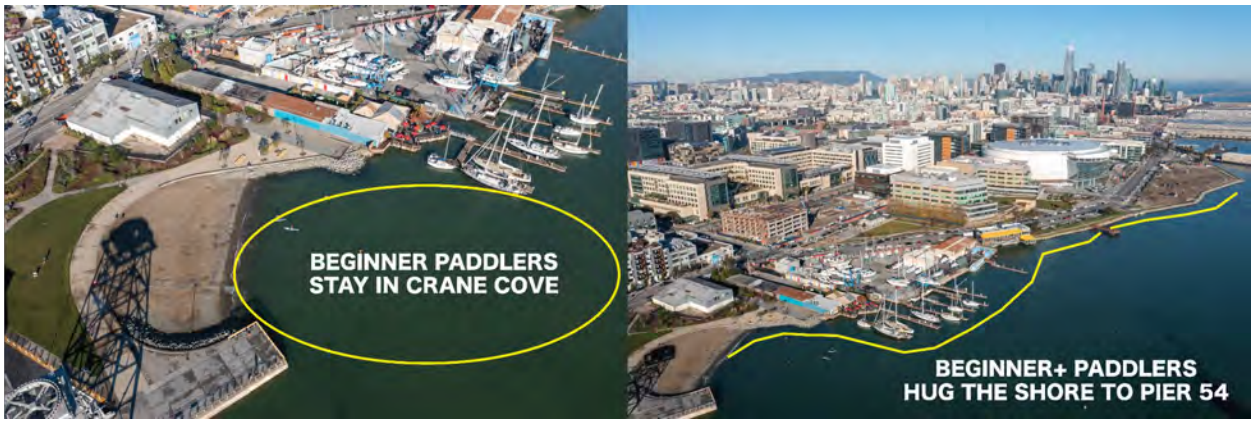
Services & Products

Within the framework of the facilities mentioned above, Dogpatch Paddle has developed a robust operations plan for each of our business segments. These plans reflect two seasons of on-site experience.

Rentals & Memberships

- All rentals are booked online, whether with advanced reservations or walk-in. No cash is accepted on-site and liabilities waivers are automatically signed before any transaction is completed.
- The standard rental is 2 hours. We also offer 1, 3, 4 hour options, and full day rentals.
- First-time paddle boarders and kayaks are not allowed to rent without an experienced paddle companion or participating in a lesson.
- Check-in occurs at the check-in desk located on the outside of the rental shack with our shop staff.
- Clients can enter the rental shack to change their clothes and store personal belongings in our lockers.
- All clients are given life-vests and accessories.
- All clients must listen to a safety briefing every time they rent, which includes:
    - Explanation of current conditions and tidal flow
    - Detailed route explanation.
    - Safe use of the watercraft
    - Instructions of where to paddle and where to avoid hazards
    - Visual representations are posted in multiple locations (see attached maps and rules below).
    - Note on the map safety markings including strong tide areas and red “off limits” blocks like the Dry Dock.
- Clients will obtain and return their board or kayak either from the rental shack or at the staging area on the beach depending on the daily operations plan.
- Equipment will be washed off by our staff in the rental shack and returned to the racks



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GENERAL SAFETY RULES

- Stay within 30 ft of the shoreline or a pier.
- NEVER paddle into open water.
- Use the shoreline and piers as shadows from wind and current.
- Always aim your nose to the middle of a pier - never aim past the end of a pier.
- Stop at edge every pier to observe the conditions before continuing beyond.
- Don't cross an open bay or cove unless you are certain the water is calm.
- Always plan your paddle to have the current at your back on your return.
- If it's windy, consider another day. If you do go, do not go far from Crane Cove.
- When paddling in wind, point your nose into the wind to avoid getting blown side to side.

Lessons, Tours, Classes

The operations plan for lessons tours and classes is exactly the same as for rentals and memberships with the following additions:

- Lessons, Tours, and Classes are met by their instructors after check in with the staff.
- The first 15-30 minutes of any lesson will occur on the beach or grass before entering the water. Lessons will spend more time in the cove than other services.
- All lessons, tours, and classes are accompanied by an instructor.
    - For beginner paddle boarding, the ratio is 1:5
    - For intermediate+ paddle boarding and kayaking, the ratio is 1:8
    - For advanced paddlers, the ratio is 1:10
- The standard lesson, tour, or class is 90 minutes long.

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Youth Programs

Youth camps occur during holiday breaks (thanksgiving, christmas, new years, spring break) summer, and are typically 5-day programs from M-F (with exceptions for shorter breaks). During our youth programs, which we have run successfully for two years, without incident, we utilize minimal space within the park, on the beach, and in the water. We operate in great harmony with any and all users of the park and are incredibly sensitive to the resources we occupy and the equitable enjoyment for all in the park, as evidenced by our spotless record, 100% 5* reviews, and standing in the community.

Below is the typical schedule for youth camp daily operations:

- 8:00am
    - Counselors set up camp (boards brought from indoor storage to staging area), check-in tent erected on porch.
- 8:45am
    - All-hands meeting under “Nick” Crane. Entire staff has a daily stand-up meeting.
- 9:00am
    - Parents drop off campers at the check-in tent. Parents are instructed to queue for drop off, turn around, no parking - or drop campers at the corner of 18th and Illinois for self check-in (we will have a counselor waiting there).
    - Campers go directly to the check-in tent.
    - Campers sent to pods with their counselor (of no more than 5 campers). Typically pods will spread out to some location in the park to play games, or talk with their campmates. The park benches, both grass areas, the beach, and the concrete sidewalks are all utilized to spread out and start the day.
    - Campers have “circle time” in their pods (games, stretching, check-in on today’s activities)
- 9:45-10:15am
    - Staggered launch from beach. Pods enter the water, 5 campers at-a-time, usually based upon skill (most advanced first).
    - 60-90 minute paddle. On Day 1 of camp, we teach new paddlers technique close to shore with tethers to keep them from drifting.
- 11:15-11:45am
    - Staggered return to the beach. Boards returned to the staging area.
    - Lunch is taken at pod locations or moved to picnic areas. If people are in the park, pods are moved to avoid.
    - Afternoon group activity. Typically the camp will move to the South lawn for a group game like capture-the-flag or a lecture. We also utilize the nearby basketball court and both lawns to create spacing and minimize impact.
- 12:45-1:15pm
    - Staggered launch from beach. Pods enter the water, 5 campers at-a-time, usually based upon skill (most advanced first).
    - 60-90 minute paddle. On Day 1 of camp, we teach new paddlers technique close to shore

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    - On windy days we may continue land games and avoid a second launch.
    - Often we will bring out our floating platforms for kids to participate in water-based games, races, or simply play in the cove.
- 2:30pm
    - Staggered return to the beach. Boards returned to the staging area. Equipment washed and returned to storage.
    - Campers return to the check-in tent and clean up for the day.
- 3:00pm
    - Parents pick up at handoff, same location as drop off.
    - Counselors break down camp and return everything to storage. Every day we patrol the beach and grass to make certain nothing was left behind or disturbed.
- 3:30pm
    - Post-camp staff meeting.

Private Events

Private events consist of corporate off-site, team building, or bonding events. Additionally, we host birthday parties, and other customized events for individuals, families, and community members. The standard private event is between 5 and 30 participants. We offer both paddle boarding and kayaking options or any combination of both.

Private events follow the same basic operation plans of our standard lessons, with the following additions:

- Typically private events will arrive in groups, so we have all of the equipment staged in advance.
- Private event participants must each complete a waiver in advance of the event.
- Catering may be coordinated for before or after the event through their own arrangements. We offer referrals to local vendors.
- Private event clients may request land games to supplement their on-water activities. We offer equipment for rent, including bocce, volleyball, spike ball, horseshoes, corn hole and other sports equipment.
- For all private events we are aware and sensitive to other users of the park. We typically will schedule these events in off-peak times to avoid congestion.
- No amplified music or obtrusive equipment is permitted.

Storage

Currently Dogpatch Paddle offers indoor storage in our 560 18th Street location. Clients pay a monthly fee and leave their equipment on the racks in our shop. Before anyone registers for storage they are briefed on general safety, as we have no control over their use of the waterfront, but we seek to ensure they are well-informed.

Storage clients must check-in and out with our staff before obtaining their equipment, which limits them to our operating hours and forces them to wait until a staff member is free. Many clients appreciate the while glove service, but there are those that seek a hands-off option.

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At Building 49 we seek to develop a self-serve storage facility, as mentioned above. The cost would be lower than indoor storage. Customers would have a code for entry and would be responsible for their own gear and ensuring that all of the equipment stored collectively is safe.

Retail Sales

The retail section of Dogpatch Paddle will be a flexible space with displays mostly on casters to allow for continual additions and revisions to the layout. Clients will enter from the retail entrance door, located on the porch that wraps around the southeast corner of Building 49.

The primary products that we currently offer and will continue to sell are:

- Paddle boards & Kayaks
- Accessories
- Apparel
- Sundry Items & Beach Supplies
- Snack Foods, Beverages, & Picnic Provisions

All items are available for purchase during business hours, which typically is 7 days a week, 9am - 5pm, but will adjust based upon volume and seasonality. We are flexible in the goods we carry and will offer any items that the community requests. We will work with our partners at Daily Driver to avoid any competition or overlap.

Additional Products & Services

Due to the nature of seasonality, it may be necessary to adopt other product lines and services for solvency. Any additional products or services will be developed with family-friendly, recreational focus, not to conflict with any terms set forth within the sublease or operations plan.

Environmental Considerations

Environmental Mission

Inherent in Dogpatch Paddle’s company mission is a commitment to sustainability and minimal environmental impact. We are committed to bringing awareness to every aspect of our business practice and reducing our impact on the environment.

Water Usage

We attempt to use minimal water in our daily business operations. The only time we utilize fresh water is at the end of the day to wash the salt water off our equipment. We never use chemicals or cleaning agents and would enjoy utilizing gray water created by the bioswales in the park whenever possible. Our water runoff can also return to the bioswales and gray water catchments with confidence there is no degradation to water purity other than salt and sand.

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Recycling and Compost

We implement best practices in our daily operations for recycling and composting waste materials to minimize our footprint on the environment.

Bay Ecosystem

As stewards of the waterfront, Dogpatch Paddle has led the initiative to keep the San Francisco Bay free of trash and debris. In our daily operations we have hauled countless items of plastic and other trash from the waters to appropriate trash and recycling receptacles. We also support Bay cleanup initiatives and will continue to encourage all paddlers to keep the Bay clean.

Safety Plan

Daily Practices

Every paddler that interacts with Dogpatch Paddle is given a detailed briefing on how to paddle safely on the potentially dangerous waters of the Bay

Communication

Our clients are recommended to bring their cell phone when on the water (waterproof pouches are provided at no charge). In the event of an emergency, clients can contact Dogpatch Paddle or the Coast Guard Directly (the coast guard will always prefer to speak with the client to discern their location and status).

Additionally, all of Dogpatch Paddle's staff of instructors and counselors are equipped with Relay satellite radios with GPS trackers to communicate with home base. There is never a time our staff are out of touch on and off the water.

Staffing Requirements

Every water-touching staff member of Dogpatch Paddle is required to have First Aid / CPR / AED certification. All managers are also required to have lifeguard certification. Every paddle instructor and counselor must complete a comprehensive training program before the start of a season and serve as an intern before guiding any group on the water.

Emergency Response

Despite our greatest efforts there are instances where paddlers do not adhere to the rules and guidelines we provide (if they did, there would be no incidents, as our procedures remove all potential risks and dangers). We acknowledge that people will occasionally disregard our efforts and our goal is to eliminate these situations by recognizing red flags and triggers in their interactions with our staff.

In the incredibly rare situations where paddlers find themselves unable to control their craft and subject to the conditions of wind and tide, we have established a relationship with the San

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Francisco Fire Department and the local US Coast Guard offices to provide support. Their rapid response is 100% effective in returning paddlers to safety.

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Daily Driver

Sub-Tenant

Daily Driver will sub-lease 455 square feet for the activities set out below.

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11.10.2022

Daily Driver began as a community-oriented destination serving organic wood-fired bagels, hand-batted organic butter & cream cheese, small batch house-roasted coffee and much more. We take pride in our craft and we're proud to serve our Dogpatch and greater Bay Area communities.

Each morning at Daily Driver really starts the evening before when we pre-heat our wood-fired ovens. Depending on the business of the day, we start baking anywhere between midnight and four a.m. for our wholesale clients.

By six or seven a.m. we transition to baking for our own retail locations. We currently operate Daily Driver on Third st. and Daily Driver Ferry Building on simultaneous schedules. Every day from eight a.m. to two p.m.

<u>Operational Plan for Daily Driver at Crane Cove:</u>

- **Initial hours of operation: 8am - 3pm Thursday through Sunday**
- Baking for Crane Cove will be concluded by 7:30 a.m. and delivered by 7:45 for 8 o'clock opening.
- 7:30 opening staff arrives and clocks in (2 ppl Thurs./Fri. 3 ppl Sat./Sun.)
- 7:30-8 - staff opens front door, turns on ovens and other heating equipment; pushes out retail counter and pos; brews coffee; organizes bagel delivery

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- 7:45 - 8am – open for general service (depending on delivery time); order at the counter only. We do plan to offer order ahead/pickup service but no third-party ordering platforms.

- 11am-12/12:30 pm – 30 min. breaks are conducted for each staff member

- 2 pm – cleaning and packing of ingredients begins. Empty trash bins, clean/sanitize work surfaces, etc.

- 2:30 pm – bagels go “on sale”; staff takes inventory and sends in order to HQ for next day’s delivery.

- 3 pm – shop closes for the day. Trash gets taken out; floors mopped; coffee carafes cleaned; bagels get bagged up for the following day to sell as “day old”. On Sundays, inventory will be packed up for Monday morning pickup.

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EXHIBIT H
Mitigation Monitoring and Reporting Program

[To Be Attached]

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SAN FRANCISCO
PLANNING DEPARTMENT

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Certificate of Determination
EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.:	2015-001314ENV
Project Address:	**Crane Cove Park – East of Illinois between 19th and Mariposa Streets at Pier 70**
Zoning:	P (Public) and M-2 (Heavy Industrial) Use Districts 40-X and 65-X Height and Bulk District
Block/Lot:	4046/001, 002, 9900/068, 3941/001
Lot Size:	Approximately 11 acres
Plan Area:	Eastern Neighborhoods Area Plan
Project Sponsor:	David Beaupre, Port of San Francisco, (415) 274-0539, david.beaupre@sfport.com
Staff Contact:	Melinda Hue, (415) 575-9041, Melinda.Hue@sfgov.org

PROJECT DESCRIPTION

The project site (Crane Cove) is an approximately 11-acre area located at Pier 70 in San Francisco's Potrero Hill neighborhood and within the Central Waterfront area of the Eastern Neighborhoods Area Plans. The general boundaries of the project site are Illinois Street to the west, San Francisco Bay (Bay) to the east, Mariposa Street to the north, and 19th Street to the south. The project site includes six buildings (Buildings 49, 30, 50, 110, 248, 249) and a portion of Building 109 (Building 109 West), Slipways 1 through 4, and Cranes 30 and 14. The majority of the project site (south and east of Building 49) is located within the boundaries of the Union Iron Works National Register Historic District.

(Continued on next page.)

EXEMPT STATUS

Exempt per Section 15183 of the California Environmental Quality Act (CEQA) Guidelines and California Public Resources Code Section 21083.3

DETERMINATION

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

SARAH B. JONES
Environmental Review Officer

October 5, 2015
Date

cc: David Beaupre, Project Sponsor; Supervisor Malia Cohen, District 10; Rich Sucre, Current Planning Division; Virna Byrd, M.D.F.; Exemption/Exclusion File

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PROJECT DESCRIPTION (continued)

The proposed project would involve 1) the construction of a new, approximately 9.8-acre shoreline park (Crane Cove Park), 2) an extension of 19th Street for park access and circulation, 3) creation of Georgia Street which would connect 20th Street to the 19th Street extension, 4) the relocation of the BAE Shipyard entrance from 20th Street to the terminus of the 19th Street extension and rerouting BAE Shipyard truck traffic from 20th Street to the 19th Street extension, and 5) street improvements along the eastern side of Illinois Street.

The proposed project would involve the creation of a new park, including the following: a new sandy shoreline edge to allow access to of the Bay for human powered boats (e.g. kayaks and canoes) and swimmers; ancillary park uses such as café uses; multi-purpose lawn areas; a children's play area; shoreline paths; pile-supported look-out piers; site furnishings; and site interpretation elements. The project would involve the renovation of Building 109 West, Building 49, and Building 110, while Buildings 30, 50, 248, and 249 would be demolished. Slipway 4 would be rehabilitated as a plaza and Crane 14 would be relocated to the end of Slipway 4. Crane 30 would remain in its current location. The park would generally be open from sunrise to one hour after sunset, while the ancillary park uses (e.g. cafe) would generally operate between 11:00 a.m. to 6:00 p.m.

Several circulation and access improvements would be made to support the new park. The 19th Street extension would include a 15-foot shared-use bicycle/pedestrian path on the north side and a 10-foot sidewalk on the south side, two 12-foot travel lanes, street lighting, and utilities, and a 22-foot curb cut to provide vehicle access to the proposed parking for the park in Building 109 West. A new street (Georgia Street) would be constructed and include a 8- to 12-foot-wide sidewalk on the east side and a 14- to 16-foot wide shared use bicycle/pedestrian pathway on the east side, two 13-foot-wide travel lanes, street lighting, and utilities. The new intersection of Georgia Street and 20th Street would consist of stop control only for the southbound direction of 20th Street. Americans with Disabilities Act (ADA)-compliant curb ramps would be provided at the new crosswalk to be installed across the new north leg of Georgia Street. Also, the new intersection of Georgia Street and the 19th Street extension would form a three-way intersection consisting of all-way stop control and crosswalks with ADA-compliant curb ramps across all intersection approaches. The BAE Shipyard entrance would be moved approximately 100 feet north of the existing entrance to the terminus of the 19th Street extension and BAE Shipyard truck traffic would be rerouted from 20th Street to the 19th Street extension. A portion of the fence along Illinois Street would be removed to accommodate the 19th Street extension. A new 12-foot sidewalk would be provided along Illinois Street between 18th and 19th Street on the eastern side of the Illinois Street fence (within Port property). The existing sidewalk along Illinois between 18th and Mariposa Streets would be expanded to 12 feet. On-street parking along Illinois Street between 18th and 19th will not change with the proposed project; however curb parking between Mariposa Street and 18th Street would be modified to parallel parking.

The intersection at 19th and Illinois streets is currently a three-way intersection and the proposed project would turn this intersection into a four-way intersection. The proposed project would involve the installation of a stop control at this intersection for both the existing eastbound and proposed westbound direction of 19th Street. Additionally, if the proposed project is approved and constructed prior to the San Francisco Municipal Transportation Agency (SFMTA) Mission Bay Loop Project, the project would involve the installation of two new crosswalks across the south and west legs of the 19th Street and Illinois

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Street intersection and the installation of ADA-compliant curb ramps serving these new crosswalks. The intersection at 18th and Illinois streets is currently a three-way intersection. The proposed project would require the three existing curb cuts along Illinois to be consolidated into a 22-foot curb cut at the 18th Street and Illinois Street intersection to allow vehicular access to the boat loading/unloading area next to Building 49. If the proposed project is approved and constructed prior to the SFMTA Mission Bay Loop Project, the project would involve the consolidation of the curb cuts and the installation of three new crosswalks at 18th Street and Illinois Street and the and the installation of ADA-compliant curb ramps serving these new crosswalks. In addition, the Crane Cove Project would construct ADA curb ramps and crosswalks across the remaining legs of the 18th Street/Illinois Street and 19th Street /Illinois Street intersections that are not a part of the Mission Bay Loop Project.

Construction of the proposed project is anticipated to occur in two phases, with the first phase lasting approximately 16 months and the second phase lasting approximately 12 months. Phase I would involve the construction of the majority of Crane Cove Park with the exception of improvements at Slipways 1 through 3 and the renovation of Buildings 10 and 109 West, and it would involve construction of the 19th Street extension, Georgia Street, and Illinois Street improvements. Construction of the project would require excavation between two to six feet below ground surface and approximately 9,800 cubic yards of excavation primarily at the shoreline areas to create a new sandy shoreline at the northern shoreline and a revegetated shoreline at Slipways 2 and 3.

PROJECT APPROVAL

The Approval Action for the proposed project would be approval by the San Francisco Port Commission of Port projects including the proposed project in the amount of $8.7 million in the fourth and final sale of the 2008 Clean and Safe Neighborhood Parks General Obligation Bond. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco Administrative Code.

COMMUNITY PLAN EXEMPTION OVERVIEW

California Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 provide an exemption from environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an Environmental Impact Report (EIR) was certified, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that: a) are peculiar to the project or parcel on which the project would be located; b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent; c) are potentially significant off-site and cumulative impacts that were not discussed in the underlying EIR; or d) are previously identified in the EIR, but which, as a result of substantial new information that was not known at the time that the EIR was certified, are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for the project solely on the basis of that impact.

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This determination evaluates the potential project-specific environmental effects of the proposed project described above, and incorporates by reference information contained in the Programmatic EIR for the Eastern Neighborhoods Rezoning and Area Plans (PEIR)[1]. Project-specific studies were prepared for the proposed project to determine if the project would result in any significant environmental impacts that were not identified in the Eastern Neighborhoods PEIR.

After several years of analysis, community outreach, and public review, the Eastern Neighborhoods PEIR was adopted in December 2008. The Eastern Neighborhoods PEIR was adopted in part to support housing development in some areas previously zoned to allow industrial uses, while preserving an adequate supply of space for existing and future production, distribution, and repair (PDR) employment and businesses.

The Planning Commission held public hearings to consider the various aspects of the proposed Eastern Neighborhoods Rezoning and Area Plans and related Planning Code and Zoning Map amendments. On August 7, 2008, the Planning Commission certified the Eastern Neighborhoods PEIR by Motion 17659 and adopted the Preferred Project for final recommendation to the Board of Supervisors.[2,3]

In December 2008, after further public hearings, the Board of Supervisors approved and the Mayor signed the Eastern Neighborhoods Rezoning and Planning Code amendments. New zoning districts include districts that would permit PDR uses in combination with commercial uses; districts mixing residential and commercial uses and residential and PDR uses; and new residential-only districts. The districts replaced existing industrial, commercial, residential single-use, and mixed-use districts.

The Eastern Neighborhoods PEIR is a comprehensive programmatic document that presents an analysis of the environmental effects of implementation of the Eastern Neighborhoods Rezoning and Area Plans, as well as the potential impacts under several proposed alternative scenarios. The Eastern Neighborhoods Draft EIR evaluated three rezoning alternatives, two community-proposed alternatives which focused largely on the Mission District, and a "No Project" alternative. The alternative selected, or the Preferred Project, represents a combination of Options B and C. The Planning Commission adopted the Preferred Project after fully considering the environmental effects of the Preferred Project and the various scenarios discussed in the PEIR. The Eastern Neighborhoods PEIR estimated that implementation of the Eastern Neighborhoods Plan could result in approximately 7,400 to 9,900 net dwelling units and 3,200,000 to 6,600,0000 square feet of net non-residential space (excluding PDR loss) built in the Plan Area throughout the lifetime of the Plan (year 2025).

A major issue of discussion in the Eastern Neighborhoods rezoning process was the degree to which existing industrially-zoned land would be rezoned to primarily residential and mixed-use districts, thus reducing the availability of land traditionally used for PDR employment and businesses. Among other topics, the Eastern Neighborhoods PEIR assesses the significance of the cumulative land use effects of the rezoning by analyzing its effects on the City's ability to meet its future PDR space needs as well as its ability to meet its housing needs as expressed in the City's General Plan.

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[1] Planning Department Case No. 2004.0160E and State Clearinghouse No. 2005032048

[2] San Francisco Planning Department. Eastern Neighborhoods Rezoning and Area Plans Final Environmental Impact Report (FEIR), Planning Department Case No. 2004.0160E, certified August 7, 2008. Available online at: http://www.sf-planning.org/index.aspx?page=1893, accessed August 17, 2012.

[3] San Francisco Planning Department. San Francisco Planning Commission Motion 17659, August 7, 2008. Available online at: http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=1268, accessed August 17, 2012.

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Individual projects that could occur in the future under the Eastern Neighborhoods Rezoning and Area Plans will undergo project-level environmental evaluation to determine if they would result in further impacts specific to the development proposal, the site, and the time of development and to assess whether additional environmental review would be required. This determination concludes that the proposed project at the Crane Cove project site at Pier 70 is consistent with and was encompassed within the analysis in the Eastern Neighborhoods PEIR, including the Eastern Neighborhoods PEIR development projections. This determination also finds that the Eastern Neighborhoods PEIR adequately anticipated and described the impacts of the proposed Crane Cove Park project, and identified the mitigation measures applicable to the Crane Cove Park project. The proposed project is also consistent with the zoning controls and the provisions of the Planning Code applicable to the project site.[4,5] The Eastern Neighborhoods PEIR identified the area east of Illinois Street and north of 20th Street at Pier 70, which includes the project site, to be potentially rezoned to a special Pier 70 Mixed-Use District which would "allow the flexibility to create a mix of arts-oriented, light industrial, research and development, institutional, and entertainment activities."[6] Additionally, the Eastern Neighborhoods PEIR noted that the Central Waterfront Area Plan "identifies specific sites for possible private or public acquisition and improvement including Pier 70 at the end of 18th Street…", which is where the project site is located, for open space.[7] Therefore, no further CEQA evaluation for the Crane Cove Park project is required. In sum, the Eastern Neighborhoods PEIR and this Certificate of Exemption for the proposed project comprise the full and complete CEQA evaluation necessary for the proposed project.

PROJECT SETTING

To the east of the project site is a ship repair facility (BAE Shipyard) operating under a lease with the Port of San Francisco by BAE Systems. To the north of the site are commercial uses, including the Kneass building and Ramp Restaurant, and recreational boating uses. To the east is a mixture of residential, commercial, educational and PDR uses. The area to the south is the 20th Street Historic Core of Pier 70 (aka Orton), which is currently being redeveloped with office, commercial and light industrial uses. Further south is the Pier 70 Mixed-Use District project site, where new residential, commercial-office and retail-light industrial-arts uses are being proposed.

There are various public transportation options within a half mile of the project site. The San Francisco Municipal Railway (Muni) operates lightrail service along 3rd Street, which is one block west of the project site. Muni also operates buses that run on 18th, Tennessee, 20th, Illinois, 22nd, and Pennsylvania streets, and the Caltrain 22nd Street Station is located at 22nd and Iowa streets.

[4] Adam Varat, San Francisco Planning Department, Community Plan Exemption Eligibility Determination, Citywide Planning and Policy Analysis, Crane Cove Park, July 30, 2015. This document is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2015-001314ENV.

[5] Elizabeth Watty, San Francisco Planning Department, Community Plan Exemption Eligibility Determination, Current Planning Analysis, Crane Cove Park, August 13, 2015. This document is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2015-001314ENV.

[6] Eastern Neighborhoods PEIR, p. 79. Planning Department Case No. 2004.0160E, State Clearinghouse No. 2005032048. Available online at: http://www.sf-planning.org/index.aspx?page=1893.

[7] Ibid, p. 377.

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POTENTIAL ENVIRONMENTAL EFFECTS

The Eastern Neighborhoods PEIR included analyses of environmental issues including: land use; plans and policies; visual quality and urban design; population, housing, business activity, and employment (growth inducement); transportation; noise; air quality; parks, recreation and open space; shadow; archeological resources; historic architectural resources; hazards; and other issues not addressed in the previously issued initial study for the Eastern Neighborhoods Rezoning and Area Plans. The proposed Crane Cove Park project is in conformance with the height, use and density for the site described in the Eastern Neighborhoods PEIR and would represent a small part of the growth that was forecast for the Eastern Neighborhoods plan areas. Thus, the plan analyzed in the Eastern Neighborhoods PEIR considered the incremental impacts of the proposed Crane Cove Park project. As a result, the proposed project would not result in any new or substantially more severe impacts than were identified in the Eastern Neighborhoods PEIR.

Significant and unavoidable impacts were identified in the Eastern Neighborhoods PEIR for the following topics: land use, historic architectural resources, transportation and circulation, and shadow. Implementation of the proposed project would result in the net loss of approximately 4,050 square feet of inactive PDR building space (currently vacant) and approximately 37,340 square feet of active PDR uses; this would contribute considerably to the significant cumulative land use impact related to loss of PDR uses that was identified in the Eastern Neighborhoods PEIR. In regards to historic architectural resources, the proposed demolition of two contributing buildings to the Union Iron Works National Register Historic District would not cause a significant adverse impact upon on a qualified historic resource and the proposed design features would be meet the Secretary of the Interior's Standards for Rehabilitation. Since the proposed project would not adversely affect any of the character-defining features of the Historic District, it would not contribute to the significant historic resource impact identified in the PEIR. Implementation of the proposed project would contribute over five percent of traffic volumes at the intersection of 20th and Illinois streets, which is anticipated to operate at a Level of Service F under 2040 cumulative conditions; this would contribute considerably to the significant cumulative traffic impact that was identified in the Eastern Neighborhoods PEIR. The proposed project would not contribute to significant and unavoidable shadow impacts since the proposed project would not involve the development of new buildings or any new structures above 40 feet in height.

The Eastern Neighborhoods PEIR identified feasible mitigation measures to address significant impacts related to noise, air quality, archeological resources, historical resources, hazardous materials, and transportation. Table 1 below lists the mitigation measures identified in the Eastern Neighborhoods PEIR and states whether each measure would apply to the proposed project.

Table 1 – Eastern Neighborhoods PEIR Mitigation Measures

Mitigation Measure	Applicability	Compliance
F. Noise		
F-1: Construction Noise (Pile Driving)	Applicable: pile driving proposed	The project sponsor has agreed to implement noise and vibration attenuation measures associated with pile driving during construction

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Mitigation Measure	Applicability	Compliance
F-2: Construction Noise	Applicable: temporary construction noise from use of heavy equipment	The project sponsor has agreed to develop and implement a set of noise attenuation measures during construction.
F-3: Interior Noise Levels	Not Applicable: noise-sensitive uses not proposed	N/A
F-4: Siting of Noise-Sensitive Uses	Not Applicable: noise-sensitive uses not proposed	N/A
F-5: Siting of Noise-Generating Uses	Not Applicable: noise-generating uses not proposed	N/A
F-6: Open Space in Noisy Environments	Not Applicable: private open space not proposed	N/A
G. Air Quality		
G-1: Construction Air Quality	Not Applicable: superseded by Dust Control Ordinance and project site not located within an Air Pollutant Exposure Zone	N/A
G-2: Air Quality for Sensitive Land Uses	Not Applicable: Sensitive Land Use not proposed	N/A
G-3: Siting of Uses that Emit DPM	Not Applicable: proposed project would not emit substantial levels of DPM	N/A
G-4: Siting of Uses that Emit other TACs	Not Applicable: proposed project would not emit other TACs	N/A
J. Archeological Resources		
J-1: Properties with Previous Studies	Not Applicable: project site is not within this mitigation area	N/A
J-2: Properties with no Previous Studies	Applicable: soil disturbance to approximately 6 feet below ground surface proposed in this mitigation area	The project sponsor has agreed to implement the Planning Department's Second Standard Mitigation Measure (Archeological Monitoring).
J-3: Mission Dolores Archeological District	Not Applicable: project site is not within this mitigation area	N/A
K. Historical Resources		

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Mitigation Measure	Applicability	Compliance
K-1: Interim Procedures for Permit Review in the Eastern Neighborhoods Plan area	Not Applicable: plan-level mitigation completed by Planning Department	N/A
K-2: Amendments to Article 10 of the Planning Code Pertaining to Vertical Additions in the South End Historic District (East SoMa)	Not Applicable: plan-level mitigation completed by Planning Commission	N/A
K-3: Amendments to Article 10 of the Planning Code Pertaining to Alterations and Infill Development in the Dogpatch Historic District (Central Waterfront)	Not Applicable: plan-level mitigation completed by Planning Commission	N/A
L. Hazardous Materials		
L-1: Hazardous Building Materials	Applicable: project includes demolition of two structures	The project sponsor has agreed to ensure that any equipment containing polychlorinated biphenyls (PCBs) or mercury, such as fluorescent light ballasts, are removed and properly disposed, and that any fluorescent light tube fixtures, which could contain mercury, are similarly removed intact and properly disposed of.
E. Transportation		
E-1: Traffic Signal Installation	Applicable: project would contribute over five percent of traffic volumes at the intersection of 20th and Illinois streets, which is anticipated to operate at a Level of Service F under 2040 cumulative conditions	The project sponsor has agreed to pay its fair share contribution for the installation of a traffic signal at 20th and Illinois Streets.
E-2: Intelligent Traffic Management	Not Applicable: plan level mitigation by SFMTA	N/A
E-3: Enhanced Funding	Not Applicable: plan level mitigation by SFMTA & SFTA	N/A
E-4: Intelligent Traffic Management	Not Applicable: plan level mitigation by SFMTA &	N/A

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Mitigation Measure	Applicability	Compliance
	Planning Department	
E-5: Enhanced Transit Funding	Not Applicable: plan level mitigation by SFMTA	N/A
E-6: Transit Corridor Improvements	Not Applicable: plan level mitigation by SFMTA	N/A
E-7: Transit Accessibility	Not Applicable: plan level mitigation by SFMTA	N/A
E-8: Muni Storage and Maintenance	Not Applicable: plan level mitigation by SFMTA	N/A
E-9: Rider Improvements	Not Applicable: plan level mitigation by SFMTA	N/A
E-10: Transit Enhancement	Not Applicable: plan level mitigation by SFMTA	N/A
E-11: Transportation Demand Management	Not Applicable: plan level mitigation by SFMTA	N/A

Please see the attached Mitigation Monitoring and Reporting Program (MMRP) for the complete text of the applicable mitigation measures. With implementation of these mitigation measures the proposed project would not result in significant impacts beyond those analyzed in the Eastern Neighborhoods PEIR.

PUBLIC NOTICE AND COMMENT

A "Notification of Project Receiving Environmental Review" was mailed on June 25, 2015 to adjacent occupants and owners of properties within 300 feet of the project site. One comment letter and a phone call was received. Concerns raised by the public pertaining to the environmental effects of the proposed project include pedestrian circulation and access to the proposed park. These concerns are addressed in the Transportation and Circulation section of the CPE checklist. The proposed project would not result in significant adverse environmental impacts associated with the issues identified by the public beyond those identified in the Eastern Neighborhoods PEIR.

CONCLUSION

As summarized above and further discussed in the CPE Checklist[8]:

1. The proposed project is consistent with the development density established for the project site in the Eastern Neighborhoods Rezoning and Area Plans;

[8] The CPE Checklist is available for review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, in Case File No. 2015-001314ENV.

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2. The proposed project would not result in effects on the environment that are peculiar to the project or the project site that were not identified as significant effects in the Eastern Neighborhoods PEIR;

3. The proposed project would not result in potentially significant off-site or cumulative impacts that were not identified in the Eastern Neighborhoods PEIR;

4. The proposed project would not result in significant effects, which, as a result of substantial new information that was not known at the time the Eastern Neighborhoods PEIR was certified, would be more severe than were already analyzed and disclosed in the PEIR; and

5. The project sponsor will undertake feasible mitigation measures specified in the Eastern Neighborhoods PEIR to mitigate project-related significant impacts.

Therefore, the proposed project is exempt from further environmental review pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

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SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

Historic Resource Evaluation Response

Case No.:	**2015-001314ENV**
Project Address:	**Pier 70 Crane Cove Park**
Zoning:	M-2 (Heavy Industrial) Zoning District 40-X Height and Bulk District
Block/Lot:	4046/001 and 9900/068
Date of Review:	September 15, 2015
Staff Contact:	Richard Sucre (Preservation Planner) (415) 575-9108 richard.sucre@sfgov.org Melinda Hue (Environmental Planner) (415) 575-9041 melinda.hue@sfgov.org

PART II: PROJECT EVALUATION

PRE-EXISTING HISTORIC RATING / SURVEY

On April 17, 2014, Pier 70 was listed in the National Register of Historic Places (National Register) as part of the "Union Iron Works Historic District." The Union Iron Works Historic District is significant under National Register Criterion A (Events) and Criterion C (Design/Construction) within the areas of maritime industry and industrial architecture. This district is significant at the national level under for its association with the development of steel shipbuilding in the United States. Union Iron Works is significant for its pioneering technological developments in shipbuilding, and the production of significant wartime vessels. The historic district is also significant as a physical record of the trends in industrial architecture from the late 19th-century through World War II. The period of significance begins in 1884, with the construction of the shipyard, and ends in 1945 at the close of World War II, when the yard was at its greatest build-out.

- This historic district contains:
  - 38 Contributing Buildings (Building 2, 6, 11, 12, 14, 15, 16, 19, 21, 25, **30**, 32, 36, 38, 40, **49**, **50**, 58, 64, 66, 101, 102, 103, 104, 105, 107, 108, **109**, **110**, 111, 113/114 (includes Building 23 and 24), 115/116, 117, 119, 120, 121, 122, and 123)
  - 4 Non-Contributing Buildings (Building 41, 68, 127, and 141)
  - 2 Contributing Sites (Irish Hill Remnant and Site of Slips 1, 2, and 3)
  - 4 Contributing Structures (**Slip No. 4**; **Cranes 14 and 30**; Whirley Crane 27; and, Pier 68 Highwater Platform)
  - 6 Non-Contributing Structures (Wharves 1, 3 and 4; Drydocks 2 and Eureka; Pier 70 Wharves 6, 7, and 8; Slips 5-8 Remnants; 20th Street Paving Stones; and, Rail Spur Remnants)

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Other significant features include the **fence** on 20th and Illinois Streets.

The character-defining features of the historic district include:

- Waterfront location/shoreline
- Minimal planted vegetation
- Open areas that are either paved with asphalt or covered with gravel
- Streets that are improved without curbs and gutters, except for 20th Street, which has granite curbs
- Dense urban-industrial character
- Variation in materials, styles, rooflines, and window types
- Variation in height and scale, with resources that range from one to six stories (80 feet) in height, some with large footprints of 60,000 to 100,000 square feet.
- Certain groupings of buildings, such as the entry promenade along 20th Street and the Building 12 complex
- Features such as cranes, wharves and piers
- Ship repair activities
- Yard layout and plan

Any resource listed in the National Register is automatically designated in the California Register of Historical Resources (California Register).

Based on its designation in the California Register, Pier 70 is considered a "Category A - Historical Resources" for the purposes of the Planning Department's California Environmental Quality Act (CEQA) review procedures.

PROPOSED PROJECT ☒ Demolition ☐ Alteration ☒ New Construction

PER DRAWINGS DATED: n/a

PROJECT DESCRIPTION

The proposed project (Crane Cove Park) entails the creation of a nine-acre waterfront park that overlaps with the Union Iron Works Historic District. Generally, the park is bound by Illinois Street on the west, an eastward extension of 19th Street on the south, and the existing ship repair facility on the east. On the north, the park extends around a trapezoidal parcel containing the Kneass Building (which is outside the park boundary), terminating at the south edge of the building at 855 Terry A Francois Boulevard (The Ramp Restaurant). The northern portion of the park is outside the UIW Historic District. Currently, the district boundary extends along the northern side of Building 49 then runs northeasterly to the bay. The park will be constructed in at least two phases.

Crane Cove Park will consist of five sub-areas:

- *Northern Shoreline and Uplands:* The existing shoreline consisting of formed and dumped concrete will be replaced with a sandy shoreline edge to allow access to the bay for human powered boaters. Additional elements of the northern shoreline area include: a new pile-supported look

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out pier; a seating area just south of the Ramp Restaurant; a shoreline path; a formal and informal children's play area; native planting areas and lawn; and vehicle drop off/pick up area for boaters with small water craft.

- *Open Green:* The portion of the site along Illinois street between 18th and 19th Streets will be transformed into a multi-purpose lawn. To accommodate access, the lawn will be graded so as to match the grade of Illinois Street on the west and slope downward in the eastward direction to match the elevation of the slipway. At 19th Street, Illinois Street is currently 8-feet above the proposed lawn site.
- *Keel Park:* Slip No. 4 will be rehabilitated and adapted into a public plaza.
- *19th Street Entry and Crane Plaza:* 19th Street will be extended eastward to serve as the primary park and vehicular entry. Along the northern side of the 19th Street extension, a plaza will step down to the inshore end of Slip No. 4. The stepped plaza is intended to provide a variety of seating areas, some of which will be defined by reusing concrete cribbage and keel blocks that formerly occupied Slip No. 4.
- *Slipways 1-3:* In Phase 2 of the project, the former slipways will be converted to a shoreline park characterized by native plantings and informal pathways. A former welding pad along the eastern edge of Slip No. 4 will be converted to a patio/sun deck area.

The project proposes the following treatments to contributing resources within the Union Iron Works Historic District:

- **Building 30 (Template Warehouse)** will be demolished.
- **Building 49 (Galvanizing Shop)** will be rehabilitated and adapted for reuse as an aquatic center for human powered boating, boat storage and public restrooms.
- **Building 50 (Substation No. 2)** will be demolished.
- The western portion of **Building 109 (Plate Shop No. 1)**, which does not have walls on the south, west and east sides, will be rehabilitated to accommodate vehicle parking, site interpretation and a park pavilion. The eastern portion of Building 109 is outside the project boundary and not part of the Crane Cove Park. No change to that portion of the building is proposed.
- **Building 110 (Yard Washroom/Locker Room)** will be shuttered until Phase 2 of the project. Shuttering will entail boarding up the exterior of all windows and doors to prevent entry to the building. In Phase 2 of the project, the building will be rehabilitated and adapted for reuse as a restaurant or café with park restrooms.
- **Slip No.** 4 will be resurfaced and used as a paved plaza space. This space will accommodate a significant historic interpretive program, including demarcation of the silhouettes of two major historic ships built at the slipway.
- **Cranes 14** and **30** will be stabilized and retained on-site. Crane 14 will be moved towards the outshore end of Slip No. 4, to a position that aligns with 19th Street.
- The **freight and crane rail lines** will be retained, where covered by soil or asphalt, exposed.

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- The **iron fence along Illinois Street** will be repaired in place. Rehabilitation of the fence will include removing non-historic attachments, repairing broken fasteners, repairing deformed sections, and replacing missing finials. The fence will also be repainted. A portion of the fence will be removed to accommodate the eastward extension of 19th Street into the property. The existing gate near Building 49 will be retained.
- During Phase 2 of the project, the site of **Slips 1, 2 and 3** will be used to accommodate an informal shoreline park area. This area will be characterized by native plantings with informal pathways that provide public access to interpreted historic ship building relics.

To assist in the evaluation of the historic district, Architectural Resources Group, a historic preservation consultant, prepared an *Historic Resource Evaluation, Crane Cove Park, San Francisco* (dated August 2015)" for the proposed project.

PROJECT EVALUATION

If the property has been determined to be a historic resource, please check whether the proposed project would materially impair the resource and identify any modifications to the proposed project that may reduce or avoid impacts.

Subject Property/Historic Resource:

☒ The project <u>will not</u> cause a significant adverse impact to the historic resource as proposed.

☐ The project <u>will</u> cause a significant adverse impact to the historic resource as proposed.

Department staff finds that the demolition of two contributing buildings within the Union Iron Works Historic District would not cause a significant adverse impact upon any qualified historic resource. The district would retain a high number of contributing resources, and many of the demolished buildings are ancillary and/or repetitive relative to the district's history and significance. The Department also finds that the rehabilitation of the contributing resources, including Buildings 49, 109, 110, Slip No. 4, and Cranes 14 and 30, would meet the Secretary of the Interior's Standards for Rehabilitation. Further, the new construction anticipated for the project site would have a less-than-significant impact upon the larger historic district, since the new construction would be appropriately designed to preserve the district's character-defining feature, while also accommodating for new design features. Overall, the Department concurs with the provided consultant report, its analysis and conclusions.

<u>Project-Specific Impacts</u>
As noted within the consultant report:

> ...the Crane Cove Park design does not adversely affect any of the character-defining features identified in the NR Nomination for the UIW Historic District as a whole. Indeed, the project will make many of those character-defining features more visible to, and more easily appreciated by, the public. As a result, the design of the park as a whole is in conformance with the Secretary of the Interior's Standards for Rehabilitation.

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As noted within the consultant report, the project is consistent with the Secretary of the Interior' Standards for Rehabilitation. The Department concurs with this analysis and incorporates this report and its conclusions by reference.

Cumulative Impact-Demolition within Union Iron Works Historic District:
This Historic Resource Evaluation Report incorporates by reference the cumulative impact analysis provided in the Historic Resource Evaluation Response for the Pier 70 BAE Ship Repair Project (Case No. 2014.0713E). This analysis examined the demolition of the contributing resources planned for all current and future projects within the Union Iron Works Historic District. As previously noted, the collective anticipated demolitions planned within the Union Iron Works Historic District would not impair the integrity of the surrounding district. Therefore, the project would result in a less-than-significant cumulative impact upon historic resources present on the project site.

Summary
As currently proposed, the project will have a less-than-significant impact upon a historic resource, as defined by CEQA.

PART II: SENIOR PRESERVATION PLANNER REVIEW

Signature: _____ Date: 9/15/2015
Tina Tam, *Senior Preservation Planner*

cc: Melinda Hue, Environmental Planning
I:\Cases\2015\2015-001314ENV

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IMAGES

Aerial View, Pier 70
(Source: Google Maps, 2015; Accessed August 13, 2015)

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MITIGATION MONITORING AND REPORTING PROGRAM
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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
MITIGATION MEASURES				
F. Noise				
Project Mitigation Measure 3: Construction Noise (Mitigation Measure F-1 in the Eastern Neighborhoods PEIR) For subsequent development projects within proximity to noise-sensitive uses that would include pile-driving, individual project sponsors shall ensure that piles be pre-drilled wherever feasible to reduce construction-related noise and vibration. No impact pile drivers shall be used unless absolutely necessary. Contractors would be required to use pile-driving equipment with state-of-the-art noise shielding and muffling devices. To reduce noise and vibration impacts, sonic or vibratory sheetpile drivers, rather than impact drivers, shall be used wherever sheetpiles are needed. Individual project sponsors shall also require that contractors schedule pile-driving activity for times of the day that would minimize disturbance to neighbors.	Project Sponsor along with Project Contractor of each subsequent development project undertaken pursuant to the Eastern Neighborhoods Rezoning and Area Plans Project.	During construction	Each Project Sponsor to provide Planning Department with monthly reports during construction period.	Considered complete upon receipt of final monitoring report at completion of construction.
Project Mitigation Measure 4: Construction Noise (Mitigation Measure F-2 in the Eastern Neighborhoods PEIR) Where environmental review of a development project undertaken subsequent to the adoption of the proposed zoning controls determines that construction noise controls are necessary due to the nature of planned construction practices and the sensitivity of proximate uses, the Planning Director shall require that the sponsors of the subsequent development project develop a set of site-specific noise attenuation measures under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted to the Department of Building Inspection to ensure that maximum feasible noise attenuation will be achieved. These attenuation measures shall include as many of the following control strategies as feasible: • Erect temporary plywood noise barriers around a construction site, particularly where a site adjoins noise-sensitive uses; • Utilize noise control blankets on a building structure as the building is erected to reduce noise emission from the site; • Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings housing	Project Sponsor along with Project Contractor of each subsequent development project undertaken pursuant to the Eastern Neighborhoods Rezoning and Area Plans Project.	During construction	Each Project Sponsor to provide Planning Department with monthly reports during construction period.	Considered complete upon receipt of final monitoring report at completion of construction.

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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
sensitive uses; • Monitor the effectiveness of noise attenuation measures by taking noise measurements; and • Post signs on-site pertaining to permitted construction days and hours and complaint procedures and who to notify in the event of a problem, with telephone numbers listed.				
J. Archeological Resources				
Project Mitigation Measure 1: Archeological Monitoring (Mitigation Measure J-2 in the Eastern Neighborhoods PEIR) Based on the reasonable potential that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of a qualified archeological consultant having expertise in California prehistoric and urban historical archeology. The archeological consultant shall undertake an archeological monitoring program. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the suspension of *construction* can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less than significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a)(c).	The Project Sponsor	Prior to issuance of grading or building permits	Project Sponsor shall retain archaeological consultant to undertake archaeological monitoring program in consultation with ERO.	Complete when Project Sponsor retains qualified archaeological consultant.
Archeological monitoring program (AMP). The archeological monitoring program shall minimally include the following provisions: ▪ The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the project archeologist shall determine what project activities shall be archeologically monitored. In most cases, any soils disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the potential risk these activities	The Project Sponsor and archaeological consultant	Prior to any soils disturbance	Consultation with ERO on scope of AMP	After consultation with and approval by ERO of AMP.

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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
pose to archaeological resources and to their depositional context; ▪ The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource; ▪ The archaeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the archeological consultant, determined that project construction activities could have no effects on significant archeological deposits; ▪ The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis				
If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction crews and heavy equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, present the findings of this assessment to the ERO.	The archaeological consultant, Project Sponsor and project contractor.	Monitoring of soils disturbing activities.	Archaeological consultant to monitor soils disturbing activities specified in AMP and immediately notify the ERO of any encountered archaeological resource.	Considered complete upon completion of AMP.
If the ERO in consultation with the archeological consultant determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either: A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or B) An archeological data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.	ERO, archaeological consultant, and Project Sponsor.	Following discovery of significant archaeological resource that could be adversely affected by project.	Redesign of project to avoid adverse effect or undertaking of archaeological data recovery program.	Considered complete upon avoidance of adverse effect

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If an archeological data recovery program is required by the ERO, the archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The project archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP. The archeological consultant shall prepare a draft ADRP that shall be submitted to the ERO for review and approval. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical. The scope of the ADRP shall include the following elements ▪ Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations. ▪ Cataloguing and Laboratory Analysis. Description of selected cataloguing system and artifact analysis procedures. ▪ Discard and Deaccession Policy. Description of and rationale for field and post-field discard and deaccession policies. ▪ Interpretive Program. Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program. ▪ Security Measures. Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities. ▪ Final Report. Description of proposed report format and distribution of results. ▪ Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.	Archaeological consultant in consultation with ERO	After determination by ERO that an archaeological data recovery program is required	Archaeological consultant to prepare an ADRP in consultation with ERO	Considered complete upon approval of ADRP by ERO.

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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
Human Remains, Associated or Unassociated Funerary Objects. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity activity shall comply with applicable State and Federal Laws, including immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, ERO, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines. Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects.	Archaeological consultant or medical examiner	Discovery of human remains	Notification of County/City Coroner and, as warranted, notification of NAHC.	Considered complete on finding by ERO that all State laws regarding human remains/burial objects have been adhered to, consultation with MLD is completed as warranted, and that sufficient opportunity has been provided to the archaeological consultant for scientific/historical analysis of remains/funerary objects.
Final Archeological Resources Report. The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the draft final report.	Archaeological consultant	Following completion of cataloguing, analysis, and interpretation of recovered archaeological data.	Preparation of FARR	FARR is complete on review and approval of ERO
L. Hazardous Materials				
Project Mitigation Measure 5: Hazardous Building Materials (Mitigation Measure L-1 in the Eastern Neighborhoods PEIR) The City shall condition future development approvals to require that the subsequent project sponsors ensure that any equipment containing PCBs or DEPH, such as fluorescent light ballasts, are removed and properly disposed of according to applicable federal, state, and local laws prior to the start of renovation, and that any fluorescent light tubes, which could contain mercury, are similarly removed and properly disposed of. Any other hazardous materials identified, either before or during work, shall be abated according to applicable federal, state, and local laws.	Project Sponsor/project archeologist of each subsequent development project undertaken pursuant to the Eastern Neighborhoods Areas Plans and Rezoning	Prior to approval of each subsequent project, through Mitigation Plan.	Planning Department, in consultation with DPH; where Site Mitigation Plan is required, Project Sponsor or contractor shall submit a monitoring report to DPH, with a copy to Planning Department and DBI, at end of construction.	Considered complete upon approval of each subsequent project.

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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
E. Transportation				
Project Mitigation 2: Traffic Signal Installation (Mitigation Measure E-1 in the Eastern Neighborhoods PEIR) To mitigate the 2025 No Project traffic impacts, a To mitigate the significant cumulative traffic impact at the intersection of 20th and Illinois Streets, an upgraded traffic signal would need to be installed at this intersection. With this new signal, the average vehicle delay would decrease, and the intersection would operate at LOS F during the weekday PM peak hour and LOS D during the weekday MID peak hour. The LOS F condition is due to a number of proposed developments in the immediate vicinity of this intersection, most noticeably at Pier 70, that would contribute to growth in future traffic volumes and increased delays. Installation of a traffic signal at the intersection of 20th and Illinois Streets could be linked to these and other proposed development projects. The project sponsor shall pay their fair share contribution to mitigate the significant cumulative traffic impact at the intersection of 20th and Illinois Streets. The amount and schedule for payment of the proposed project's fair share contribution to the mitigation shall be determined by SFMTA.	San Francisco Municipal Transportation Agency (SFMTA); project sponsor; Port of San Francisco.	To be determined by SFMTA.	SFMTA; Port of San Francisco.	Upon Signalization.
IMPROVEMENT MEASURES				
Project Improvement Measure 1: Monitoring and Abatement of Queues It shall be the responsibility of the owner/operator of any off-street parking facility with more than 20 parking spaces (excluding loading and car-share spaces) to ensure that recurring vehicle queues do not occur on the public right-of-way. A vehicle queue is defined as one or more vehicles (destined to the parking facility) blocking any portion of any public street, alley or sidewalk for a consecutive period of three minutes or longer on a daily or weekly basis. If a recurring queue occurs, the owner/operator of the parking facility shall employ abatement methods as needed to abate the queue. Appropriate abatement methods will vary depending on the characteristics and causes of the recurring queue, as well as the characteristics of the parking facility, the street(s) to which the facility connects, and the associated land uses (if applicable). Suggested abatement methods include but are not limited to the following:	Project Sponsor; Owner or Operator of the parking facility	Ongoing during parking operations	Port of San Francisco	Ongoing during parking operations

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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
redesign of facility to improve vehicle circulation and/or on-site queue capacity; employment of parking attendants; installation of LOT FULL signs with active management by parking attendants; use of valet parking or other space-efficient parking techniques; use of off-site parking facilities or shared parking with nearby uses; use of parking occupancy sensors and signage directing drivers to available spaces; travel demand management strategies such as additional bicycle parking, customer shuttles, delivery services; and/or parking demand management strategies such as parking time limits, paid parking, time-of-day parking surcharge, or validated parking. If the Planning Director, or his or her designee, suspects that a recurring queue is present, the Department shall notify the property owner in writing. Upon request, the owner/operator shall hire a qualified transportation consultant to evaluate the conditions at the site for no less than seven days. The consultant shall prepare a monitoring report to be submitted to the Department for review. If the Department determines that a recurring queue does exist, the facility owner/operator shall have 90 days from the date of the written determination to abate the queue.				
Project Improvement Measure 2: Installation of Traffic Calming Devices at Parking Lot Exiting Lane It shall be the responsibility of the owner/operator to install appropriate traffic calming devices (e.g., speed bump, rumble strips, “slow speed” signage, etc.) at the exiting travel lane along the garage driveway to reduce vehicle speeds of exiting vehicles traveling out of the parking lot and to further reduce and/or eliminate potential vehicle-pedestrian conflicts.	Project sponsor; Owner or Operator of the parking facility	Design measures to be incorporated into project design; prior to issuance of a building permit.	Port of San Francisco: Planning Department; Department of Public Works (DPW); SFMTA	Considered complete upon installation and implementation of traffic calming features
Project Improvement Measure 3: Convert On-Street Parking Spaces and Install Freight/Delivery Loading Zone along Illinois Street To reduce the potential for parking of freight/delivery vehicles within the travel lane adjacent to the curb lane on Illinois or 19th Street (in the event that the on-street parking spaces are occupied), the Project Sponsor shall seek approval from the SFMTA to convert two (2) regular, on-street parking spaces to yellow-striped loading parking spaces. The location of these two spaces shall be located along the east side of Illinois Street, adjacent to the project site.	Project sponsor.	Loading zone to be incorporated into project design; prior to issuance of a building permit.	Port of San Francisco: Planning Department; Department of Public Works (DPW); SFMTA	Considered complete upon installation and implementation of loading zone

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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
Project Improvement Measure 4: Coordination of Freight/Loading Activities for Park and Park Related Retail To reduce the potential for parking of delivery vehicles within the travel lane adjacent to the curb lane on Illinois or 19th Street or during peak commute periods (between 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m.), freight/loading activities shall be scheduled and coordinated through Port of San Francisco staff and shall be restricted to occur between the hours of 9:00 a.m. and 4:00 p.m., and no deliveries shall occur between 7:00 a.m. and 9:00 a.m. or between 4:00 p.m. and 6:00 p.m. The Project Sponsor shall enforce strict truck size regulations for use of the on-street loading spaces in the proposed freight/delivery loading area. Truck lengths exceeding 40 feet shall be prohibited from entering the loading zone and shall utilize other on-street parking spaces, if available. The Project Sponsor shall notify Port of San Francisco staff, and café tenants of imposed truck size limits in the proposed freight loading area. In the event freight/delivery vehicles exceed the 40-foot length and are in need to occupy the recommended the on-street loading space (see improvement measure above), appropriate traffic control measures shall be enforced to avoid and/or eliminate any conflicts with moving vehicles or other users along Illinois Street or sidewalk areas adjacent to the project site. Such measures shall include but not limited flaggers, cones, and signage to notify drivers and others of freight/delivery activities	Project sponsor; building tenant(s)	Ongoing during building operations for oversized delivery vehicles or during higher volumes of pedestrian or bicycle activity in the project area.	Port of San Francisco.	Ongoing during building operations.
Project Improvement Measure 5: Construction Truck Deliveries During Off-Peak Periods Any construction traffic occurring between 7:00 a.m. and 9:00 a.m. or between 3:30 p.m. and 6:00 p.m. would coincide with peak hour traffic and could temporarily impede traffic and transit flow, although it would not be considered a significant impact. Limiting truck movements to the hours between 9:00 a.m. and 3:30 p.m. (or other times, if approved by SFMTA) would further minimize disruption of the general traffic flow on adjacent streets during the a.m. and p.m. peak periods. As required, the Project Sponsor and construction contractor(s) shall meet with the Sustainable Streets Division of the SFMTA, the Fire Department, Muni, and the Planning Department to determine feasible measures to reduce traffic congestion, including potential transit disruption, and pedestrian circulation impacts during construction of the project. To minimize	Project sponsor; Project contractor(s)	Prior to construction activity.	Port of San Francisco	Upon completion of project construction

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	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
cumulative traffic impacts due to project construction, the Project Sponsor shall coordinate with construction contractors for any concurrent nearby projects that are planned for construction or which later become known.				
Project Improvement Measure 6: Construction Management Plan In addition to items required in the Construction Management Plan, the project sponsor shall include the following: • Carpool and Transit Access for Construction Workers – As an improvement measure to minimize parking demand and vehicle trips associated with construction workers, the construction contractor shall include methods to encourage carpooling and transit use to the project site by construction workers in the Construction Management Plan contracts. • Project Construction Updates – As an improvement measure to minimize construction impacts on nearby businesses, the project sponsor shall provide regularly-updated information (typically in the form of website, news articles, on-site posting, etc.) regarding project construction and schedule, as well as contact information for specific construction inquiries or concerns.	Project sponsor; Project contractor(s)	Prior to construction activity.	Port of San Francisco	Upon completion of project construction

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EXHIBIT I

SUMMARY OF SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

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EXHIBIT J
TENANT ESTOPPEL CERTIFICATE

The undersigned, _____, is the tenant of a portion of the real property commonly known as [Insert Premises Address] located in San Francisco, California (the "**Property**"), and hereby certifies to **THE CITY AND COUNTY OF SAN FRANCISCO THROUGH THE SAN FRANCISCO PORT COMMISSION** ("**Port**") [and to _____ ("**Developer/Lender**")] the following:

1. That there is presently in full force and effect a lease (as modified, assigned, supplemented and/or amended as set forth in paragraph 2 below, the "Lease") dated as of _____, 20__, between the undersigned and Port, covering approximately _____ square feet of the Property (the "**Premises**").

2. That the Lease has not been modified, assigned, supplemented or amended except by:

3. That the Lease represents the entire agreement between Port and the undersigned with respect to the Premises.

4. That the commencement date under the Lease was _____, 20__, the expiration date of said Lease is _____, 20___.

5. That the present minimum monthly Base Rent which the undersigned is paying under the Lease is $_____.

6. The security deposit held by Port under the terms of the Lease is $_____ and Port holds no other deposit from Tenant for security or otherwise.

7. That the undersigned has accepted possession of the Premises and that, to the best of the undersigned's knowledge, any improvements required to be made by Port to the Premises by the terms of the Lease and all other conditions of the Lease to be satisfied by Port have been completed or satisfied to the satisfaction of the undersigned.

8. That, to the best of the undersigned's knowledge, the undersigned, as of the date set forth below, has no right or claim of deduction, charge, lien or offset against Port under the Lease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Lease.

9. That, to the best of the undersigned's knowledge, Port is not in default or breach of the Lease, nor has Port committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Lease by Port.

10. That, to the best of the undersigned's knowledge, the undersigned is not in default or in breach of the Lease, nor has the undersigned committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Lease by the undersigned.

11. The undersigned is not the subject of any pending bankruptcy, insolvency, debtor's relief, reorganization, receivership, or similar proceedings, nor the subject of a ruling with respect to any of the foregoing.

This Certificate shall be binding upon and inure to the benefit of the undersigned, Port, [Developer/Lender] and [its/their respective] successors and assigns.

Dated: _____, 20___.

[Name of Tenant]

By:

Name:

Title:

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EXHIBIT K
LOCAL HIRING PLAN

[To Be Attached]

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City and County of San Francisco :: Edwin M. Lee, Mayor
Economic and Workforce Development :: Todd Rufo, Director

San Francisco Local Hiring Policy for Construction Fact Sheet

Overview

- Applies to contracts for public work or improvement projects in excess of $600,000.
- The mandatory participation level is 30% of all project hours within each trade to be performed by local residents.
- At least 50% of the project work hours performed by apprentices within each trade shall be performed by local residents.
- A local resident is defined as an individual who is domiciled within the City and County of San Francisco at least 7 days prior to commencing work on the project. An individual may have only one domicile, which is their principal residence and where they intend to return when they are absent.

Guidelines

- **Form 1: Local Hiring Workforce Projection.** Must be submitted to CityBuild through the Elation Systems. Contractors are required to identify trades, contractors and estimated total and local work hours to be utilized on the project.
- **Form 2: Local Hiring Plan.** Must be submitted to and approved by CityBuild through the Elation Systems for project with engineer estimates in excess of $1,000,000. Contractors are required to identify trades, contractors, total and local journey and apprentice work hours to be utilized on the project.
- **Elation Systems:** All contractors will be required to submit certified payroll for all workers through the Elation Systems. An Elation account is required to access the system.

Penalties

- The ordinance establishes various consequences of non-compliance with the policy, including the authority of assessment of penalties against contractors that do not meet the local hiring requirements.
- The penalty for failing to meet the local hiring requirement shall be the amount equal to the journeyman or apprentice prevailing wage rate for the primary trade used by the contractor for each hour the contractor fell short.
- Contractors may request a conditional waiver from local hiring requirements on a project-specific basis for “specialized trades,” by receiving credit for local hiring on non-covered projects, or sponsoring new apprentices.

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SAN FRANCISCO
Office of Economic and Workforce Development

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT
CITYBUILD PROGRAM

LOCAL HIRING PROGRAM
OEWD FORM 1
CONSTRUCTION CONTRACTS

FORM 1: LOCAL HIRING WORKFORCE PROJECTION

Contractor: _____ **Project Name:** _____ **Contract #:** _____

The Contractor must complete and submit this *Local Hiring Workforce Projection* (Form 1) within 15 calendar days from notice award of the contract. The Contractor must include information regarding all of its Subcontractors who will perform construction work on the project regardless of Tier and Value Amount. Notice to Proceed (NTP) will not be issued until the City receives a completed Form 1 from Contractor. The Contractor shall be responsible for any delays to NTP and resulting damages incurred by the City caused by Contractor's failure to submit an accurate and complete Form 1 for its workforce and the workforce of its Subcontractors in a timely manner.

Will you and your Subcontractors be able to meet the mandatory Local Hiring Requirements?

☐ **YES** (***Please provide information for all contractors performing construction work in Table 1 below.)***

☐ **NO** (***Please complete Table 1 below and Form 4: Conditional Waivers.***)

INSTRUCTIONS FOR COMPLETING TABLE 1:

1. Please organize the contractors' information based on their Trade Craft work.
2. For contractors performing work in various Trade Craft, please list contractor name in each Trade Craft (*i.e. if Contractor X will perform two trades, list Contractor X under two Trade categories*.)
3. If you anticipate utilizing apprentices on this project, please note the requirement that 50% of apprentice hours must be performed by San Francisco residents.
4. Additional blank form is available at our Website: www.oewd.org. For assistance or questions in completing this form, contact the CityBuild (415) 581-2363 or Email @ Local.hire.ordinance@sfgov.org.

TABLE 1: WORKFORCE PROJECTION

Trade Craft		Contractor *List contractors by Trade Craft*		Est. Total Work Hours	Est. Total Local Work Hours	Est. Total Local Work Hours %
Example:	*Laborer*	*Contractor X*	***Journey***	800	100	12.5%
			Apprentice	200	100	50%
Example:	*Laborer*	*Contractor Y*	***Journey***	500	100	20%
			Apprentice	0	0	0
Example:		**TOTAL LABORER**	***Journey***	1300	200	**15%**
			Apprentice	200	100	**50%**
Example:			**TOTAL**	**1500**	**300**	**20%**
			Journey			
			Apprentice			
			Journey			
			Apprentice			
			Journey			
			Apprentice			

DISCLAIMER: *If the Total Work Hours for a Trade Craft are less than 5% of the Total Project Work Hours, the Trade Craft is exempt from the Mandatory Requirement. Subsequently, if the Trade Craft exceeds 5% of the Total Project Work Hours at any time during the project, the Trade Craft is subject to the Mandatory Requirement.*

Name of Authorized Representative	Signature	Date	Phone	Email

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Office of Economic and Workforce Development

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT
CITYBUILD PROGRAM

LOCAL HIRING PROGRAM
OEWD FORM 2
CONSTRUCTION CONTRACTS

FORM 2: LOCAL HIRING PLAN

Contractor: _____ **Project Name:** _____ **Contract #:** _____

If the Engineer's Estimate for this Project exceeds **$1 million**, then Contractor must submit a *Local Hiring Plan* using this Form 2 through the City's Project Reporting System. NTP will not be issued until Contractor submits a completed Form 2. Contractor shall be responsible for any delays to NTP and resulting damages incurred by the City caused by the Contractor's failure to submit a completed Form 2 in a timely manner. The Local Hiring Plan must be approved in writing by OEWD before any Application for Payment can be approved and progress payment paid to Contractor. The OEWD-approved Local Hiring Plan will be a Contract Document and will be the basis for determining Contractor's and its Subcontractors' compliance with the local hiring requirements. Any OEWD-approved *Conditional Waivers* (Form 4) will be incorporated into the OEWD-approved Local Hiring Plan.

COMPLETE AND SUBMIT A SEPARATE FORM 2 FOR EACH TRADE THAT WILL BE UTILIZED ON THIS PROJECT.

INSTRUCTIONS:

1. Please complete tables below for Contractor and all Subcontractors that will be contributing Project Work Hours to meet the Local Hiring Requirement.
2. Please note that a Form 2 will need to be developed and approved separately for each trade craft that will be utilized on this project.
3. If you anticipate utilizing apprentices on this project, please note the requirement that 50% of apprentice hours must be performed by San Francisco residents.
4. The Contractor and each Subcontractor identified in the Local Hiring Plan must sign this form before it will be considered for approval by OEWD.
5. If applicable, please attach all OEWD-approved Form 4 Conditional Waivers.
6. Additional blank form is available at our Website: www.oewd.org. For assistance or questions in completing this form, contact the CityBuild (415) 581-2363 or Email @ Local.hire.ordinance@sfgov.org.

List Trade Craft. Add numerical values from Form 1: Local Hiring Workforce Projection and input in the table below.

Trade Craft	Total Work Hours	Total Local Work Hours	Local Work Hours%	Total Apprentice Work Hours	Total Local Apprentice Work Hours	Local Apprentice Work Hours %
Example: *Laborer*	*1500*	*300*	*20%*	*200*	100	50%

List all contractors contributing to the project work hours to meet the Local Hiring Requirements for the above Trade Craft

Contractor and Authorized Representative	Local Journey Hours	Local Apprentice Hours	Total Local Work Hours	Start Date	Number of Working Days	*Contractor Signature
Contractor X Joe Smith	100	100	200	3/25/11	60	*Joe Smith*
Contractor Y Michael Lee	100	0	100	5/25/11	30	*Michael Lee*

****We the undersigned, have reviewed Form 2 and agree to deliver the hours set forth in this document.***

City Use Only	
OEWD Approval	☐ Yes ☐ No
Signature and Date:	

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Office of Economic and Workforce Development

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT
CITYBUILD PROGRAM

LOCAL HIRING PROGRAM

FORM 3: CITYBUILD JOB NOTICE FORM

INSTRUCTIONS: To meet the requirements of the First Source Hiring Program (San Francisco Administrative Code Chapter 83), the Contractor shall notify CityBuild, the First Source Hiring Administrator, of all new hiring opportunities with a minimum of 3 business days prior to the start date.

1. Complete the form and fax to CityBuild 415-701-4896 or EMAIL: workforce.development@sfgov.org

2. Contact Main Line at (415) 701-4848 or cell: --- email: local.hire.ordinance@sfgov.org

   OR call the main line of the Office of Economic and Workforce Development (OEWD) at 415-701-4848 to confirm receipt of fax or email.

ATTENTION: *Please also submit this form to your union or hiring hall if you are required to do so under your collective bargaining agreement or contract. CityBuild is not a Dispatching Hall, nor does this form act as a Request for Dispatch. All formal Requests for Dispatch will be conducted through your union or hiring hall.*

Section A. Job Notice Information

Trade _____ # of Journeymen _____ # of Apprentices _____

Start Date _____ Start Time _____ Job Duration _____

Brief description of your scope of work: _____

Section B. Union Information *(Union contractors complete Section B. Otherwise, leave Section B blank)*

Local # _____ Union Contact Name _____ Union Phone # _____

Section C. Contractor Information

Project Name: _____

Jobsite Location: _____

Contractor: _____ Prime ☐ Sub ☐

Contractor Address: _____

Contact Name: _____ Title: _____

Office Phone: _____ Cell Phone: _____ Email: _____

Alt. Contact: _____ Phone #: _____

Contractor Contact Signature _____ Date _____

OEWD USE ONLY *Able to Fill* Yes ☐ No ☐

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CITYBUILD PROGRAM

LOCAL HIRING PROGRAM
OEWD FORM 4
CONSTRUCTION CONTRACTS

FORM 4: CONDITIONAL WAIVERS

Contractor: _____ **Project Name:** _____ **Contract #:** _____

Upon approval from OEWD, Contractors and Subcontractors may use one or more of the following pipeline and retention compliance mechanisms to receive a Conditional Waiver from the Local Hiring Requirements on a project-specific basis. Conditional Waivers must be approved by OEWD prior to approval of Contractor's first Application for Payment. If applicable, each contractor must submit their individual Waiver request to OEWD and copy their Prime Contractor.

TRADE WAIVER INFORMATION: Please provide information on the Trades you are requesting Waivers for:

Laborer Trade Craft	Est. Total Work Hours	Projected Deficient Local Work Hours	Laborer Trade Craft	Est. Total Work Hours	Projected Deficient Local Work Hours
1.			3.		
2.			4.		

Please check any of the following Conditional Waivers and complete the appropriate boxes for approval:

☐ **1. SPECIALIZED TRADES** ☐ **2. SPONSORING APPRENTICES** ☐ **3. CREDIT FOR NON-COVERED PROJECTS**

1. SPECIALIZED TRADES: Will your firm be requesting Conditional Waivers for "Specialized Trades" designated by OEWD and listed on OEWD's website or project-specific Specialized Trades approved by OEWD during the bid period? ☐ Yes ☐ No

Please CHECK off the following Specialized Trades you are claiming for Condition Waiver:

☐ MARINE PILE DRIVER ☐ HELICOPTER, CRANE, OR DERRICK BARGE OPERATOR ☐ IRONWORKER CONNECTOR
☐ STAINLESS STEEL WELDER ☐ TUNNEL OPERATING ENGINEER ☐ ELECTRICAL UTILITY LINEMAN ☐ MILLWRIGHT
☐ TRADE CRAFT IS LESS THAN 5% OF TOTAL WORK HOURS. ***LIST:***

a. List OEWD-approved project-specific Specialized Trades approved during the bid period:

OEWD APPROVAL: ☐ **Yes** ☐ **No** **OEWD Signature:**

2. SPONSORING APPRENTICES: Will you be able to work with OEWD to sponsor an OEWD-specified number of new apprentices in the agreeable trades into California Department of Industrial Relations' Division of Apprenticeship Standards approved apprenticeship programs? ☐ Yes ☐ No

PLEASE PROVIDE DETAILS:

Construction Trade	Est. # of Sponsor Positions	Union (Yes / No)	If Yes, Local #	Est. Start Date	Est Duration of Working Days	Est Total Work Hours Performed
		Y ☐ N ☐				
		Y ☐ N ☐				

OEWD APPROVAL: ☐ **Yes** ☐ **No** **OEWD Signature:**

3. CREDIT for HIRING on NON-COVERED PROJECTS: If your firm cannot meet the mandatory local hiring requirement, will you be requesting credit for hiring Targeted Workers on Non-covered Projects? ☐ Yes ☐ No

PLEASE PROVIDE DETAILS:

Labor Trade, Position, or Title		Est. # of Off-site Hires	Est Total Work Hours Performed	Offsite Project Name	Project Address
	Journey				
	Apprentice				

OEWD APPROVAL: ☐ **Yes** ☐ **No** **OEWD Signature:**

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FORM 4: CONDITIONAL WAIVERS

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EXHIBIT L
DIVERSITY, EQUITY & INCLUSION PLAN

[To Be Attached]

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Exhibit L – YMCA of San Francisco DEI Plan

Mission and Vision: The mission of the YMCA of San Francisco ("the Y") is to build healthy, equitable and sustainable communities for all generations. We are guided by our vision of building strong communities, where you can be, belong, and become.

In fulfilling our mission and vision, the Y aims to:

- Champion an accessible, connected, resilient, and just Bay Area
- Enhance individual, staff, family and community health and well-being
- Open pathways to social and economic mobility
- Expand opportunities at all ages and life stages
- Advance a safe, collaborative, and sustainable future

Our Cause to Advance Equity for All: The Y is made up of people from all walks of life working side by side to strengthen communities. Through a focus on youth development, healthy living and social responsibility, the Y is committed to advancing equity for all so that everyone—regardless of who they are or where they come from—has an opportunity to reach their full potential and live life to its fullest.

Operationalizing DEI/EAR: The Y has prioritized Diversity, Equity and Inclusion ("DEI") consistently for over a decade. Through engagement of a consultant in late 2020, the Y has developed – together with its board and community – an Equity and Anti-Racism ("EAR") Strategy with eight areas of focus: 1) Organizational Strategy & Impact Measurement; 2) Board Engagement, Development & Governance; 3) HR/Employee Engagement, Supervision & Development; 4) Financial Strategy, Budgeting and Management; 5) Fund Development and Fundraising; 6) Communications, Marketing and Branding; 7) Facilities, Technology and Operations; 8) Programs, Services, and Community Engagement. This EAR Strategy is a foundation of our '2030 Vision' strategic and operational plan, which will be implemented beginning in January 2023 across all areas of the Ys programs, services and operations. The Y's DEI/EAR work is guided by a standing committee of the Y's board and a dedicated and cross-hierarchical staff team. The Y also is a member of the YMCA of the USA DIG (diversity, inclusion and global) Innovation Network, a group of Ys from across the United States committed to pioneering DEI, innovation and global engagement best practices.

Hiring Practices: Y staff and volunteers thrive in a culturally diverse and vibrant work community. The Y values all individuals and families and is inclusive and welcoming to all races, religions, ethnicities, abilities, sexual orientations, gender identities or gender expressions. Many of our staff and volunteers are members of the communities we serve and are integral to ensuring that the Y remains a vital resource to our diverse members.

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Equal Employment Opportunity- The Y is an equal opportunity employer. It is Y policy that applicants will be selected for employment solely on the basis of their qualifications for a given position and without regard to race, color, ancestry, religious creed, national origin, gender, sexual orientation, gender identity and gender expression (including transgender individuals who are transitioning, have transitioned, or are perceived to be transitioning to the gender with which they identify), sex, pregnancy, childbirth and related medical conditions, marital status, domestic partnership status, veteran status, age (40 and above), physical disability (including HIV/AIDS), mental disability, medical condition, genetic characteristics, information or testing or any other consideration made unlawful by federal, state or local laws. The Y also does not discriminate based on the perception that a person has any of these characteristics. We comply with the Genetic Information Nondiscrimination Act (GINA).

To comply with applicable laws ensuring equal employment opportunities to a qualified individual with a disability, the Y will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee, unless undue hardship and/or a direct threat to the health and/or safety of the individual or others would result.

Membership for All: Y membership is open to all, regardless of ability to pay, due to a sliding scale of membership fees.

With 14 branches in San Francisco, Marin, and San Mateo counties, as well as more than a hundred program sites in these three counties, the Y looks to attract a diversity of citywide and regional users. Our "membership for all" model allows access to all Y facilities, regardless of the 'home branch'. Crane Cove members therefore will have access to a myriad of health and wellness opportunities in all our Y facilities, including six pools. In addition, because of the Nationwide Membership program, members may visit any participating YMCA in the United States and Puerto Rico, at no additional cost.

Diverse Uses and People: The Y serves over 30,000 households each year through our wellness offerings. Thirty-five percent of our members receive financial assistance or subsidy for their gym membership. The Y partners with corporations, government agencies, and health providers to ensure that everyone can meet their wellness goals. The YMCA is committed to providing access to critical health and wellness programs for all.

The Y's programming reflects the needs of our communities. This is a fundamental precept of our organization. In addition to traditional gym offerings, the Y provides workshops, behavioral coaching, and other health-based programs to ensure members meet their wellness goals. Most of these programs are free to members. The Y also leverages its reach through free services such as Diabetes Prevention classes, walking groups, and Zumba classes, as well as active older adult wellness classes.

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The Y's Wellness Center at Building 49 is expected to be an anchor for youth and community programming. Young people from across the City will have the opportunity to recreate on the waterfront, while also being immersed in a creative and responsible environmental education curriculum.

With Building 49, we see an opportunity to build on our mission to provide equitable water safety training by furthering our reach into water sports through a subtenant relationship with Dogpatch Paddle. Crane Cove is the perfect water safety training venue for water sports such as stand-up paddle boarding and kayaking, yet without the support of organizations like the Y, we are unlikely to see people of color participating in these sports. The Y's participation will create a more inclusive environment and broader representation. By taking the broad view of water safety education related to other water sports participation, our combination can introduce these exciting activities to a much wider audience.

Maritime: By having our subtenant Dogpatch Paddle operating as a water sports provider from Building 49, we are opening new opportunities for water sports access to under-resourced communities as well as providing a diverse complement of fitness and recreation activities for a holistic offering on and off the water. Adding human-powered watercraft along the waterfront has brought new life to the Bay. Since Crane Cove Park opened, Dogpatch Paddle has become the de-facto water sports operator for a community seeking safe and healthy outdoor activities. By leveraging the reach of the Y with the on-water resources of Dogpatch Paddle, we will facilitate opportunities for under-resourced communities to enjoy Crane Cove Park and the Southern/Central Waterfront, from the water.

Parks and Open Space: Our contribution to Crane Cove Park will activate and enliven the experience of visitors, completing the original vision of the Port. The programming available from our combination with subtenants providing services, including concessions and fitness, is poised to bring community benefits to life on the Cove.

Because of the size and presence of Building 49 in Crane Cove Park, we believe it will be beneficial to utilize its prominence for educational purposes regarding history, marine biology, and the human impact on climate. These elements will be factored into our core design principles and will be a consistent thread throughout the publicly accessible areas of the site that are within our service area. Specifically:

1. Placards and Kiosks: Consistent with the Port's efforts in Crane Cove Park we will continue to offer educational materials at the site. In addition to the placards that exist on the south exterior, we will add further displays around the perimeter of the building, including the entryways, that will prominently feature the crane gantry.

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2. Interactive exhibits: Reminiscent of the Exploratorium, we intend to create some simple, low-maintenance, self-sustaining outdoor exhibits to illustrate environmental concepts related to use and enjoyment of the Bay through water sports.

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SCHEDULE 1

FEMA-National Flood Insurance Program Disclosure Notice

As part of the National Flood Insurance Program ("NFIP"), Federal Emergency Management Agency ("FEMA") issued the final flood insurance rate maps ("FIRMs") for City and County of San Francisco on September 23rd, 2020, concluding a process that had been going on for more than a decade. This is the first time FEMA mapped flood risks for the City and County of San Francisco. FIRMs were later adopted by the Board of Supervisors through Ordinance 226-20 ("Floodplain Management Program Ordinance") and became effective on March 23, 2021.

Based on detailed studies of coastal flood hazards associated with San Francisco Bay and the Pacific Ocean, the final FIRMs designate portions of the City and County of San Francisco ("City"), including portions of the waterfront, Mission Bay, Islais Creek, Bayview Hunters Point, Hunters Point Shipyard, Candlestick Point, Treasure Island, San Francisco International Airport, and Ocean Beach, in coastal flood hazard areas. Referred to as "Special Flood Hazard Areas" ("SFHAs"), these areas are subject to inundation during a flood having a 1 percent chance of occurrence in any given year. They are shown as zones beginning with the letter "A" or "V" on the FIRMs. Port's structures over water, including piers and wharfs, are designated as Zone D (area of undetermined flood hazard). Zone D areas are not subject to Building Code and NFIP regulation. Historic structures are also exempted from compliance under the NFIP.

Additionally, the San Francisco Public Utilities Commission ("SFPUC") has prepared the 100-Year Storm Flood Risk Map to show areas where flooding is highly likely to occur on City streets during a 100-year rain storm. More information about this map, including a searchable web map, is available at https://sfplanninggis.org/floodmap/. The SFPUC 100-Year Storm Flood Risk Map only shows flood risk from storm runoff and, floodproofing measures are not required at this time.

The SFPUC map does not consider flood risk in San Francisco from other causes, such as inundation from the San Francisco Bay or the Pacific Ocean, which are shown on the FIRMs that FEMA has prepared for San Francisco. Conversely, the FIRMs do not show flooding from storm runoff in San Francisco, because our historical creeks and other inland waterbodies have been built over and are no longer open waterways. In most areas, the flood hazards identified by SFPUC and FEMA are separate. There are a few areas, however, near the shoreline where SFPUC's Flood Risk Zones overlap with the FEMA-designated floodplains.

The FIRM provides flood risk information for flood insurance and floodplain management purposes under the NFIP. The SFHAs, shown on the FIRM, may impact flood insurance requirements and rates, permitting, and building requirements for tenants and permit holders for property in designated SFHAs on the FIRM. Flood insurance is available through the NFIP and the private market. Flood insurance for Zone D areas is not available through NFIP. Pre-FIRM buildings of any type are not required to buy flood insurance. For more information on purchasing flood insurance, please contact your insurance agent.

City's Floodplain Management Program ordinance is based on NFIP requirements. Under the ordinance, the Port and the City must regulate new construction and substantial improvements or repairs to structures in SFHAs to reduce the risk of flood damage. The requirements may include elevation or floodproofing of structures and attendant utilities.

Additional information on this matter are available on the City/Port websites and FEMA website as listed below-

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San Francisco Floodplain Management Program website:
https://onesanfrancisco.orgisan-francisco-floodplain-management-program

Port Floodplain Management Program Website:
https://sfport.com/flood-plain-management-program

FEMA's NFIP website:
www.FloodSmart.gov.

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SCHEDULE 2

SUBSTRUCTURE REPORT(S)

[Attachment on following page(s)]

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DRAFT

GEOTECHNICAL STUDY REPORT

PIER 70 CRANE COVE PARK
BUILDING 49, 701 ILLINOIS STREET
PORT OF SAN FRANCISCO
SAN FRANCISCO, CALIFORNIA

AGS Job No. KK0210

Prepared for:

AECOM

Prepared by:

AGS

JANUARY 2017

5 Freelon Street, San Francisco, California 94107 • Phone (415) 777-2166 • Fax (415) 777-2167

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1.0 INTRODUCTION

1.1 GENERAL

This report presents the results of the geotechnical study conducted by AGS, Inc. (AGS) for the proposed foundation retrofit project for Pier 70 Crane Cove Park Building 49 at 701 Illinois Street in San Francisco. The location of the project site is shown on Plate 1 – Site Location Map.

This report includes geotechnical engineering conclusions and recommendations related to subsurface conditions, geoseismic hazards, earthwork, dewatering, foundations, resistance to lateral loads, and construction monitoring for the proposed project. The conclusions and recommendations presented in this report are based on the available data from the previous geotechnical investigations for the site vicinity, available geologic information for the area, and subsurface conditions encountered during field exploration for this study. The location of the exploratory borings is shown on Plate 2 – Site Plan and Boring Location Map, including the locations of previous borings drilled by AGS and others. The conclusions and recommendations presented in this report should not be extrapolated to other areas or used for other facilities without prior review by AGS.

1.2 PROJECT DESCRIPTION

The Building 49 portion of the Crane Cove Park project involves preservation and seismic retrofit of the building for use in the proposed Crane Cove Park, and includes replacing the existing foundations with new, deep foundations designed to resist loading which may be imposed in a design seismic event, including those loads resulting from liquefaction and lateral spreading. Additionally, grading is proposed which would raise grades along the north side of the building to near existing finished floor elevations, an increase of about 6 feet in elevation along most of the north side of the building. A plan showing Building 49 within the proposed Crane Cove Park context, including proposed grading nearby, is shown on Plate 3 – Conceptual Plan.

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1.3 WORK PERFORMED

AGS prepared a proposal for geotechnical engineering services on April 28, 2016, and revised the proposal on June 3, 2016. As outlined in the proposal, AGS' tasks included a review of the available published and unpublished geological and geotechnical data, completion of a field exploration program, completion of a laboratory testing program, and the performance of appropriate engineering analyses and report preparation. The work performed for this study is outlined in following sections.

1.3.1 Review of Available Data

AGS reviewed available geotechnical and environmental information obtained by AGS and others at the site and its vicinity, including the reports by AGS (1989, 2012, 2014), Dames and Moore (1969 and 1973), and Treadwell and Rollo (2010). AGS visited the site to observe test pits exposing some of the existing building foundations, and issued a letter (AGS, 2016). AGS also reviewed the drawings and construction photos from Bethlehem Steel Company dated March 1945 and May 1941, respectively. In addition, AGS reviewed the photos provided in the Architectural Resources Group Report, "Documentation and Assessment of Historic Artifacts", dated December 2011. The available data reviewed included geologic and seismologic information pertaining to the site, including the USGS Geological Maps (Schlocker, Graymer and others, 2006), Seismic Hazard Zone Report and Map (California Division of Mines and Geology, 2000), and other sources.

1.3.2 Field Exploration

The subsurface exploration program consisted of drilling two (2) soil borings at the project site. AGS obtained a drilling permit from the City and County of San Francisco Department of Public Health, Environmental Services Division. In addition, AGS notified Underground Service Alert (USA). Drilling and sampling was performed by Geo-Ex Subsurface Exploration of Dixon, California, on November 17 and 18, 2016.

The field exploration program was performed under the technical supervision of a qualified AGS geologist, who completed a log of each boring, documented the drilling progress, and recorded the subsurface conditions encountered at the location of each boring. The location of the exploratory borings is shown on Plate 2 – Site Plan and

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Boring Location Map., including the locations of previous borings drilled by AGS and others. The deep borings, numbered Borings B-14 and B-15, to continue the numbering sequence from AGS' previous work at the site, were extended to depths ranging from approximately 72.5 to 80 feet below the existing ground surface (bgs). Based on data from the topographic survey by NV5 Engineering (2013), the ground elevations at the locations of the borings ranged from approximately +2.3 to +3 feet[1].

Details of the subsurface exploration, including the logs of test borings, are presented in Appendix A. Plates A-1.1 through A-1.5 - Logs of Test Borings provide descriptions and graphic representations of the encountered materials and the depths at which samples were obtained. The legend to the logs is shown on Plates A-2 - Soil Classification Chart and Key to Test Data and A-3, Physical Characteristics of Rock.

1.3.3 Laboratory Testing

A laboratory testing program was performed on selected soil samples obtained during the field exploration program. The laboratory tests included moisture content, dry density, particle-size analyses, Atterberg limits, unconfined compression, triaxial compression, and corrosivity, as appropriate for the various soils encountered. The triaxial compression test was performed by Soil Mechanics Laboratory (SML) of Oakland, California. The corrosivity testing was performed by Cooper Testing Laboratory (CTL) of Palo Alto, California. All other testing was performed by AGS. Details of the laboratory testing, including test results, performed by the AGS laboratory are presented in Appendix B; details of laboratory testing, including test results, performed by SML and CTL are presented in Appendix C.

1.3.4 Engineering Analyses and Report Preparation

Engineering analyses were performed based on the field and laboratory data to develop geotechnical conclusions and recommendations for the design and construction of the proposed project. Our geotechnical findings, conclusions, and recommendations, along with the supporting field and laboratory data, are presented in this engineering report, which includes the following:

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[1] Elevations in this study refer to the historical City and County of San Francisco Datum (SFCD), unless otherwise noted.

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- A description of the proposed project;
- Subsurface soil conditions;
- Groundwater elevations;
- Seismic design criteria;
- Liquefaction and lateral spreading potential, consequences, and mitigation measures;
- Geotechnical design criteria for new foundations including the type, size, and depth of pile foundations, downward and uplift capacities, and total and differential settlements;
- Geotechnical recommendations for resistance to lateral load resistance capacities of new piles;
- Earthwork and subgrade preparation recommendations;
- Fill and backfill criteria;
- Permanent retaining wall recommendations, including active, at-rest, passive, surcharge, and dynamic earth pressure; and
- Construction considerations.

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2.0 FINDINGS

2.1 SITE CONDITIONS

Building 49 is a part of the historic Union Ironworks/Bethlehem Steel Yard at Pier 70, and was formerly used as the Galvanizing Shop. Based on the plans from the Bethlehem Steel Company, the building is a steel-frame building 52 feet wide, and 152 feet long, oriented approximately east-west in the long direction, with a 27-foot × 14-foot extension at the northern half of the east end. Based on the topographic survey by NV5, the finished floor elevation along the south end of the building ranges from +3.09 to +3.41 feet. Based on our observations (AGS, 2016), there is a concrete wall on at least the north and south sides of the building, ranging from 4 feet to 6 feet in height; extending to existing site grades on the north side, and into the ground on the south side of the building. Soil levels under the building were not uniform, and did not extend to the floor slab everywhere. The building was originally supported on 14-inch timber piles, some of which have disintegrated completely. According to the Bethlehem Steel plans (1944), the center portion of the building is depressed several feet, and contained tanks for galvanizing operations.

Exterior grade elevations along the west and south sides range from about +3.4 to +2.4 feet; exterior grade elevations along the north side of the building range from about +3.5 at the west end nearest the street, sloping down between Building 49 and 699 Illinois Street to about -2.0 to -3.2 along the eastern half of the building.

The surface grade to the east, south, and west of the building is generally flat and nearly level gravel pavement. There is a retaining wall extending from the northeast corner of the building towards the northeast; the top of wall is at about elevation +2.4 and the bottom is at about elevation -3.0. The grade to the north of the building is generally flat, level, and concrete-paved, except between Building 49 and the 699 Illinois Street structure.

2.2 SITE HISTORY

Pier 70 is the location of the most important intact 19th century industrial complex west of the Mississippi River and has built or repaired ships. Accordingly, under the Pier 70

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Plan, it will be nominated to the National Register as a Historic District for its contribution to the industry between 1884 – 1945 for steel hull ship building, and for its industrial architecture and design. The entire Pier 70 area includes approximately 47 historic resources that may contribute to an eligible National Register Historic District, six of these historic resources, most significantly Slipway 4, are located within the Crane Cove Park site and in many ways have provided the context for the park Master Plan.

The site is underlain by artificial fill placed seaward of the historic shoreline. Fill was placed on top of the Young Bay Mud (YBM), and a majority of fill was placed from the late 1800s to the early 1900s. The original shoreline was comprised of serpentinite bluffs overlooking mud flats that extended into the San Francisco Bay. Along many portions of the shoreline, these bluffs were blasted and the resulting rock used as bay fill, including at the project site, where serpentinite rock and other Franciscan rock fragments are found in the fill.

Building 49 was used by the Bethlehem Steel Company as its galvanizing shop. According to plans from the Bethlehem Steel Company (1944), the building was erected in 1941, and was supported on 14-inch wooden piles. A plan showing the historic location of Building 49 within the shipyard is shown on Plate 4 – Historic Use Map.

2.3 GEOLOGY

The geology of the Crane Cove Park project, including the Building 49 area, was described in our Phase 2 report (AGS, 2014).

2.4 FAULTING AND SEISMICITY

2.4.1 Surface Fault Rupture

The site is not located within an Alquist-Priolo earthquake fault zone (CGS, 2007). Therefore, the risk from surface fault rupture is considered to be very low.

2.4.2 Historical Seismicity

The project area is located in a seismically active region which has been subjected to several strong earthquakes during historic time. The San Andreas Fault, which is situated about 13.3 kilometers (km) southwest of the project site, dominates the tectonics, geology, and physiography of the San Francisco Bay region. Further from the

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project site are the Hayward Fault, situated about 16.5 km northeast, and the San Gregorio Fault, which is situated about 19.2 km to the southwest of the site; both are also significant seismic sources. Other major active faults which could cause significant shaking at the project site are the Concord, Calaveras, Greenville, Monte Vista-Shannon Thrust, and Rodgers Creek Faults. Active fault traces and epicenters of recent earthquakes are shown on Plate 5 – Earthquake Epicenters and Fault Map. Active faults that are pertinent to the project site and historic earthquakes attributed to each fault are listed in Table 1 - Historical Earthquakes.

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TABLE 1

HISTORICAL EARTHQUAKES

Date	Magnitude	Fault	Epicenter Area
June 24, 1808	6.0[5]	Unknown	Uncertain, San Francisco Bay Area
June 10, 1836	6.5[1], 6.8[5]	San Andreas	San Juan Bautista
June 1838	7.5[1], 7.0[5]	San Andreas	San Juan Bautista
Nov. 26, 1858	6.25[5]	Calaveras	San Jose Area
February 26, 1864	6.0[5]	San Andreas	South Santa Cruz Mountains
March 26, 1864	6.0[5]	San Andreas	Santa Cruz Mountains
October 8, 1865	6.3[2], 6.5[5]	San Andreas	South Santa Cruz Mountains
October 21, 1868	7.0[2,5]	Hayward	Berkeley Hills, San Leandro
February 17, 1870	6.0[5]	San Andreas	Los Gatos
April 12, 1885	6.25[5]	San Andreas	South Diablo Range
May 19, 1889	6.25[5]	Concord-Green Valley	Antioch
April 24. 1890	6.25[5]	San Andreas	Pajaro Gap
April 19, 1892	6.5[5]	Great Valley	Vacaville
April 21, 1892	6.25[5]	Great Valley	Winters
June 20, 1897	6.25[5]	Calaveras	Gilroy
March 31, 1898	6.5[5]	Rodgers Creek	Mare Island
April 18, 1906	8.0[3]	San Andreas	Golden Gate
July 1, 1911	6.6[4], 6.5[5]	Calaveras	Diablo Range, East of San Jose
October 22, 1926	6.1[5]	San Gregorio	Monterey Bay
April 24, 1984	6.1[5]	Calaveras	Morgan Hill
October 17, 1989	7.1[5]	San Andreas	Loma Prieta, Santa Cruz Mountains
August 24, 2014	6.0[6]	West Napa	South Napa, American Canyon

1) Borchardt & Toppozada (1996)
2) Toppozada, et al. (1981)
3) Petersen, et al (1996)
4) Real, et al (1978), Toppozada (1984)
5) Ellsworth, W.L. (1990)
6) GEER (2014)

2.4.3 Regional Active Faulting

The maximum moment magnitude earthquake (M_{max}) is defined as the largest earthquake that a given fault is considered capable of generating. The M_{max} earthquake

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on the San Andreas Fault would be a magnitude 8.0 event occurring approximately 13.3 km from the project site and is based on a repeat of the 1906 earthquake.

The seismicity associated with each pertinent fault, including estimated slip rates, is summarized below in Table 2 - Fault Seismicity.

TABLE 2

FAULT SEISMICITY

Fault Name	Distance to Site (km) [2]	Maximum Moment Magnitude [3]	Contributing Segments [2]	Slip Rate [1] (mm/year)
San Andreas	13.3	8.0	Offshore (SAO) + North Coast (SAN) + Peninsula (SAP) + Santa Cruz Mountains (SAS)	24 ± 3 24 ± 3 17 ± 4 17 ± 4
Hayward	16.5	7.0	Northern (HN) + Southern (HS)	9 ± 2
San Gregorio	19.2	7.5	Northern (SGN) + Southern (SGS)	7 ± 3 3 ± 2
Calaveras	31.6	7.0	Northern (CN) + Central (CC) + Southern (CS)	6 ± 2 15 ± 3 15 ± 3
Mount Diablo Thrust	33.1	6.6	Mount Diablo Thrust (MTD)	2 ± 1
Concord – Green Valley	38.0	6.8	Concord (CCD) + Green Valley (GV)	4 ± 2
Monte Vista - Shannon	45.0	6.5	Monte Vista-Shannon (MVS)	0.4 ± 0.3
Rodgers Creek	45.1	7.1	Rodgers Creek (RC)	9 ± 2
West Napa	46.3	6.7	West Napa (WN)	1 ± 1
Greenville	46.5	7.0	Northern (GN) + Southern (GS)	2 ± 1

1) WGCEP (2003, 2008), Working Group on California Earthquake Probabilities
2) Map distance to the nearest segment, based on USGS Quaternary Fault and Fold Database (2006)
3) WGCEP (2008), Tables I-1 and I-3 of Appendix I. Parameters for Faults in California, 2008, “Documentation for the 2008 Update of the United States National Seismic Hazard Maps”

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There are other active faults in the region, but these are either farther from the project site or smaller and therefore would not be capable of causing shaking at the project site as strong as those caused by the faults listed in Table 2.

2.5 SUBSURFACE CONDITIONS

AGS previously investigated the future Crane Cove Park area and completed thirteen soil borings as part of the Phase I Geotechnical Study (AGS, 2012) and Phase II Geotechnical Study (AGS, 2014). For the current project AGS drilled, sampled and logged two (2) additional borings, Borings B-14 and B-15. The locations of the borings completed closest to Building 49 are shown on Plate 2. Nearby borings drilled for previous phases include Borings B-1, B-4, B-9, and B-10.

The thickness of each unit at the locations of the nearby borings, including previously drilled borings, is presented in Table 3. Plates 6 and 7 show generalized subsurface profiles along Cross Section Lines D-D' and E-E' that interpolate the subsurface conditions in the vicinity of Building 49. A general description of the soils and bedrock at the project site is presented in the following paragraphs.

TABLE 3

SUMMARY OF SUBSURFACE MATERIALS

Boring ID	Ground Surface Elevation (feet)	Fill Thickness (feet)	YBM Thickness (feet)	Top of Bedrock Depth (feet)	Top of Bedrock Elevation (feet)	Encountered Groundwater Depth[1] (feet)
B-1	2	12.5	35.5	87.5	-85.5	9
B-4	2	17	43	>105.5[2]	<-103.5[2]	8
B-9	3	17	NE[3]	43	-40	9.5
B-10	2.5	16	26	71	-68.5	8.5
B-14	3.0	12	26	70	-67	10
B-15	2.3	15	32	75	-72.7	9.7

Notes:
1) Groundwater depths are as measured during drilling; stabilized groundwater depths were not measured.
2) Bedrock not encountered in boring; depth and elevation of bottom of boring given.
3) NE: not encountered.

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The subsurface materials encountered in Borings B-14 and B-15 were generally consistent with those encountered in previous borings. The soils encountered can be divided into four general strata: Artificial Fill, Young Bay Mud, Alluvium/Bayside Deposits and Old Bay Clay, and Bedrock. Detailed descriptions of each layer follow. Maps showing elevation contours of the top of the YBM and the top of bedrock are presented on Plates 8 and 9, attached.

2.5.1 Artificial Fill

Fill materials encountered in the current field exploration program were similar to those encountered previously, and in general consist of very loose to medium dense sand with gravel and silt or silty and sandy gravel with pockets of dense material.

Both the sandy and gravelly materials include angular rock fragments and pieces of metal slag ranging from fine sand size to about 2-inch size gravel. A few cobbles were also noted. Laboratory testing indicated fines content varies from approximately 5 to 19 percent and includes typically few to little silt and trace clay. Other debris in the fill consisted of a few brick fragments, asphalt, concrete, wood and charcoal. The darker colored materials had a slight to moderate hydrocarbon odor.

The thickness of fill near Building 49 ranged from approximately 12 feet thick in Boring B-14 (bottom elevation -9 feet) to approximately 15 feet thick in Boring B-15 (bottom elevation -12.5 feet).

2.5.2 Young Bay Mud

The fill material is underlain by very soft, black to dark gray highly compressible, high plasticity clay identified as Young Bay Mud (YBM). The thickness of the YBM in close vicinity to Building 49 varied from about 12 feet in Boring B-14 to about 15 feet in Boring B-15. The thickness of YBM increases closer to the seawall. Table 3 shows the thickness and bottom elevation of YBM in those borings near the building.

2.5.3 Alluvium / Bayside Deposits and Old Bay Clay (OBC)

The YBM is underlain by deposits of sandy clay, clayey sand with gravel, and clay with gravel and sand that ranged in thickness from about 35 feet in Boring B-14 to about 40.5 feet thick in Boring B-15. The clay deposits were mainly stiff to very stiff and the

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sandy deposits borderline medium dense to dense in either boring. The Alluvium/ Bayside Deposits and OBC are underlain by bedrock at variable depths across the site.

2.5.4 Bedrock

Bedrock underlying the site consists of moderately weak to hard, and moderately to severely weathered sedimentary rock, such as sandstone and shale; or serpentinite.

Along the length of Building 49, the bedrock elevation dropped from about -67 feet in Boring B-14 to about -72.7 feet in Boring B-15. Previous exploration found the bedrock elevation was about -40 feet at Boring B-9. Closer to the seawall, the bedrock elevation drops markedly from about -85.5 feet in Boring B-1 to lower than -103.5 feet in Boring B-4.

Based on the trends indicated from the borings, the depth to bedrock along the western wall of Building 49 is likely somewhat shallower than that encountered in Boring B-14. Borings were not able to be completed near the northerly wall, but based on the trends indicated by the borings, the bedrock elevation is likely somewhat deeper than that encountered along the southerly wall.

2.5.5 Groundwater

Groundwater was encountered at depths of about 10 feet in Boring B-14 and about 9.7 feet in Boring B-15 during the drilling of exploratory borings. Since groundwater was measured when encountered, and was not allowed to stabilize due to the use of rotary wash drilling methods, the measured levels may not be entirely indicative of the stabilized groundwater levels at the site.

Groundwater at the site is essentially tidal, due to the proximity of San Francisco Bay and the permeable nature of the surface fill soils. According to the CGS Seismic Hazard Zone Report for the City and County of San Francisco (2005), the historically shallowest groundwater depth at the site is less than 5 feet below the surface. Based on a Sea Level Rise and Adaptation study performed by URS in 2010, approximate tide elevations were determined based on City of San Francisco Datum for this project site, as shown in Table 4.

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TABLE 4

APPROXIMATE TIDE ELEVATION

Event	Approximate Tide Elevation* (feet, SF City Datum)
100-Year Tide	-2.1
500-Year Tide	-1.9
MHHW (Mean Higher High Water)	-5.1
Mean Sea Level	-8.0
MLLW (Mean Lower Low Water)	-11.4

2.6 CORROSIVITY

A composite sample of fill soils from this investigation was sent to CTL for corrosivity testing purposes. The composite sample was tested for resistivity, chloride ion concentration, sulfate ion concentration, and pH.

Based on soil resistivity classification presented by National Association of Corrosion Engineers (2013) and the results of the corrosivity testing, the near-surface fills are classified as “extremely corrosive”, with high chloride levels. In our experience at multiple projects along the Bay margin, YBM is typically also considered “extremely corrosive” and has high chloride levels. Groundwater at the site is likely to be salty due to the proximity to the Bay. According to ACI 318-11, the sulfate concentration measured in the corrosivity sample tested for this study indicates a Soil Exposure Class S0. However, the salt levels of water from the Bay may indicate a Soil Exposure Class S1. The results of the corrosivity testing are shown in Appendix C.

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3.0 CONCLUSIONS AND RECOMMENDATIONS

3.1 GENERAL

Based on AGS' review of available data and engineering analysis, AGS provides the following conclusions and recommendations for the renovation and seismic retrofit of Building 49 at the proposed Pier 70 Crane Cove Park.

Significant geotechnical factors affecting the project are:

- Heterogeneity of existing fills at the site;
- High groundwater;
- Static settlement of the loose fills and Young Bay Mud (YBM) in response to increased loads; and
- The potential for liquefaction-induced settlements and lateral deformation.

Building 49 was constructed on deep foundations which have deteriorated to the extent that some are no longer connected to the building structure.

The undocumented fills, soft compressible YBM deposits, and potentially liquefiable soils create difficulties for the support of shallow foundations, which would be subject to high levels of differential settlement in both static and seismic conditions. In general, a deep foundation system would minimize settlements and differential settlements of the proposed structures.

3.2 DESIGN GROUNDWATER LEVEL

Based on tide data and the CGS Historically Highest Groundwater Map (2005), AGS recommends that a groundwater level of elevation -5 feet (SF City Datum), be used for design of the work; however, as the actual groundwater level will fluctuate due to tides, for situations where a lower groundwater level is more conservative, design should consider conditions where the groundwater level drops to -11.5 feet (SF City Datum).

3.3 SEISMIC DESIGN CONSIDERATIONS

3.3.1 General

Based on our boring data and our liquefaction analysis, the site is classified as Site Class F due to the potential for liquefaction. However, according to Section 20.3.1 of

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ASCE 7-10, if the fundamental period of vibration of the structures is equal to or less than 0.5 seconds and the classification of Site Class F is due to liquefaction, seismic design may use parameters for the site class which the site would otherwise be classified. Based on the heights of the existing structure, we assume that Building 49 has a fundamental period of less than 0.5 seconds, and therefore seismic design for the site may use Site Class E.

Site specific spectral accelerations were provided in our previous Phase 2 report for Crane Cove Park (AGS, 2014), in accordance with Chapter 21 of ASCE 7-10. Liquefaction analysis is performed using the PGA_M – the MCE_G peak ground acceleration adjusted for site effects. In this report, AGS uses the value calculated for the site as a whole, PGA_M = 0.36g.

3.3.2 ASCE 41-13 Seismic Design Criteria

Seismic parameters were determined using ASCE 41-13 procedures for the BSE-1E and BSE-2E Seismic Hazard Levels, and are presented on Table 5 and Table 6, respectively. The choice of hazard level should be made by the Structural Engineer

TABLE 5

SEISMIC CRITERIA BASED ON ASCE 41-13, BSE-1E

CATEGORIZATION/COEFFICIENT	ASCE 41-13 Table/Figure/Equation	DESIGN VALUE
Site Class	Section 2.4.1.6.1	E
Short Period Spectral Response Parameter, $S_{S,20/50}$[3] (g)	Section 2.4.1.3	0.853[1]
1-second Spectral Response Parameter, $S_{1,20/50}$[3] (g)	Section 2.4.1.3	0.320[1]
Site Coefficient, F_a	Table 2-3	1.076[2]
Site Coefficient, F_v	Table 2-4	2.720[2]
Short-period Spectral Response Parameter, $S_{XS,BSE-1E}$ (g)	Equation 2-4	0.900[2]
1s Spectral Response Parameter, $S_{X1,BSE-1E}$ (g)	Equation 2-5	0.870[2]

1) Based on USGS Online Seismic Design Paramater Calculator.
2) Based on Site Class E.
3) Based on a 20% probablity of exceedence in 50 years

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TABLE 6

SEISMIC CRITERIA BASED ON ASCE 41-13, BSE-2E

CATEGORIZATION/COEFFICIENT	ASCE 41-13 Table/Figure/Equation	DESIGN VALUE
Site Class	Section 2.4.1.6.1	E
Short Period Spectral Response Parameter, $S_{S,5/50}$[3] (g)	Section 2.4.1.3	1.484[1]
1-second Spectral Response Parameter, $S_{1,5/50}$[3] (g)	Section 2.4.1.3	0.601[1]
Site Coefficient, F_a	Table 2-3	0.9[2]
Site Coefficient, F_v	Table 2-4	2.4[2]
Short-period Spectral Response Parameter, $S_{XS,BSE-2E}$ (g)	Equation 2-4	1.336[2]
1s Spectral Response Parameter, $S_{X1,BSE-2E}$ (g)	Equation 2-5	1.441[2]

1) Based on USGS Online Seismic Design Paramater Calculator.
2) Based on Site Class E.
3) Based on a 5% probability of exceedence in 50 years.

3.3.2.1 Design Vertical Accelerations

AGS recommends that the peak vertical component of the acceleration be taken as equal to the peak horizontal acceleration component.

3.3.3 Liquefaction Potential

Soil liquefaction is a phenomenon in which saturated (submerged) cohesionless soils lose their strength due to the build-up of excess pore water pressure, especially during cyclic loadings such as those induced by earthquakes. In the process, the soil acquires mobility sufficient to permit both horizontal and vertical movements, if not confined. Soils most susceptible to liquefaction are loose, clean, uniformly graded, fine-grained sands. Silty and clayey sands may also liquefy during strong ground shaking.

The nature of liquefaction depends greatly on the characteristics of the soil. In loose soils, liquefaction results in significant loss of soil strength, which can lead to large deformations. In dense soils, although a condition of liquefaction can be initiated, the tendencies for loss of strength and deformations are resisted by dilation of the soils. Deformation in dense soils results in a tendency for soil volume increase (dilation), which in turn results in reduction of pore water pressures, increase in effective stresses, and increased resistance to further deformations.

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The liquefaction potential of soils at the site was evaluated using a simplified, analytical, and empirical procedure that is correlated with the liquefaction behavior of saturated soils during historic earthquakes (Youd and Idriss, 2001; Idriss and Boulanger, 2008; Boulanger and Idriss, 2014). The primary data utilized in the analysis consisted of standard penetration test (SPT) and Modified California (MC) sampler blow counts obtained from the borings drilled at the site. The SPT and MC blow counts recorded in the field were corrected for various factors to obtain corrected N-values, which were used in the liquefaction analysis. The factors used to obtain corrected N-values, included the effects of overburden pressure, rod length, sampler type and size, and fines content.

Determination of liquefaction and liquefaction-induced lateral spreading potential was based on a MCE geometric mean peak ground acceleration adjusted for site effects (PGA_M) of 0.36g, based on our analyses in the Phase 2 report (AGS, 2014). We used an assumed groundwater elevation of -5 feet based on a conservative groundwater depth at the time of an earthquake.

The liquefaction analysis was conducted according to the method set forth in Boulanger and Idriss (2014), using the following parameters:

- Magnitude 8.0 earthquake;
- PGA_M of 0.36g;
- Groundwater elevation of -5 feet.

Section 3.3.3.2 summarizes the results of liquefaction analyses and related seismically induced settlements at the locations of the borings.

3.3.3.1 Consequences of Liquefaction

The main effects of liquefaction at the site include settlement of the ground surface and utilities, lateral deformation, development of excess pore water pressure, buoyancy effects, loss of allowable bearing pressure, downdrag force on the foundation, and increased lateral pressures on utilities and foundations extending below the groundwater table. In addition to loss of soil strength, liquefaction of soils underlying the existing below ground structures may also induce additional temporary buoyant uplift pressures due to rising pore pressures within the liquefiable layer.

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3.3.3.2 Seismically-Induced Settlements

The estimated liquefaction-induced deformations resulting from a magnitude 8.0 earthquake are shown in Table 7.

TABLE 7

ESTIMATED LIQUEFACTION-INDUCED DEFORMATIONS

Boring ID	Maximum Depth of Boring (feet)	Depths of liquefiable layers (feet)	Liquefaction-induced settlement[1] (inches)	Seismically-induced lateral deformation[2] (inches)
B-14	79	8 – 12 44- 59	3.7	3
B-15	80	8 – 15 47 – 54 64 – 75	8.2	17

Notes:
1) Settlement at gound surface may be less than estimated values due to presence of thick YBM.
2) Calculated from the location of the boring to the nearest free face.

Based on the guidelines of CGS Special Publication 117A (2008) and our judgment, the liquefaction-induced differential settlements in the fill above the YBM are likely to be up to 4 inches across 100 feet. Liquefaction-induced differential settlements in soils below the YBM will be attenuated by the YBM, and we judge to be on the order of 1 inch across 100 feet; therefore, AGS anticipates that total liquefaction-induced differential settlements will be up to 5 inches along 100 feet.

Seismically-induced settlements above the water table, also called seismic compaction, will result in settlements of up to ¼ inch across the site, and negligible differential settlements.

3.3.3.3 Liquefaction-induced Lateral Deformation

Seismically-induced lateral deformation is another phenomenon which can occur during a seismic event. Calculation of lateral deformation assumed a free-face height of 24 feet at the edge of the San Francisco Bay, based on existing plans of the site, and measured distances from our boring locations to the shoreline. Our calculations of predicted seismically-induced lateral deformations are given in Table 7. However, given the variable nature of fill soils, fluctuating water levels, and the presence of barrier

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structures at the shoreline which might reduce lateral deformations, predictions of seismically-induced lateral deformation can vary greatly and these approximations are intended to serve as an index of the order of magnitude of deformation.

Utility connections to buildings should be designed as flexible connections to allow for differential settlement between the buildings and utility lines away from the buildings in the event of an earthquake. Lateral deformations can be expected to move soils adjacent to the building roughly to the northeast, but allowance should be made for movement in any direction between north and east from the building.

In the event of liquefaction-induced lateral deformation, the crust above liquefiable soils will impose loads on the subsurface portions of the structure. The crust can be considered to be all soils above elevation -5 feet (SFCD). For long, continuous structures, the loads imposed by the fill crust over the liquefiable materials will be equivalent to the passive pressure, an ultimate equivalent fluid pressure of 480 pounds per cubic foot. For piles in the crust, the equivalent fluid pressure should be considered to act across 3 times the diameter of the pile.

3.4 EXCAVATION AND EARTHWORK

3.4.1 Demolition and Site Preparation

The existing Building 49 structure is to remain in place. We understand that the area north of the building will be filled to near the existing finished floor elevation.

Prior to installation of foundations or new fill, existing slabs and pavements in the construction area should be removed, and debris should be disposed of outside the construction limits. Existing underground utilities located within the proposed construction areas, if affected by construction activities, should be relocated prior to excavations. Debris generated from the demolition of underground utilities, including abandoned pipes, should be removed from the site as construction proceeds. If pipes are abandoned in-place, they should be filled completely with lean grout to mitigate the potential for their collapse in the future.

Any area on site to receive fill, foundations, or pavements, after removal of demolished structures, should be scarified to a depth of 8 inches, moisture-conditioned to near-optimum moisture, and compacted to 95 percent relative compaction (as determined by

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ASTM D1557-12). Prepared subgrades should be firm and unyielding, with no pumping or weaving under equipment loads.

3.4.2 Fills and Backfills

Fills and backfills may be placed under and around foundations, slabs, utility trenches, and pavement during construction of this project.

Fills and backfills may either be structural or nonstructural. Structural fills and backfills are those defined as providing support to foundations, slabs, and pavements. Nonstructural fills and backfills include all other fills such as those placed for landscaping, and not planned for future structural loads. Structural fills and backfills should be compacted to at least 95 percent relative compaction (as determined by ASTM D1557-12); nonstructural fills and backfills should be compacted to at least 90 percent relative compaction.

Structural fill and backfill materials should be placed in lifts not exceeding approximately 8 inches in loose thickness, brought to near-optimum moisture content and compacted using mechanical compaction equipment. Nonstructural fills and backfills may be placed in lifts not exceeding 12 inches in loose thickness and compacted in a similar manner.

Material to be used as compacted fill and backfill should be predominantly granular, less than 3 inches in any dimension, free of organic and inorganic debris, and contain less than 20 percent of mostly non-plastic fines passing the No. 200 sieve. The fill and backfill soils should have a liquid limit less than 35 and a plasticity index less than 12 and an R-Value of 25 or more. The on-site near-surface fill material appears generally suitable for fill material, if the materials are considered environmentally suitable for reuse. AGS did not evaluate the near-surface soils for environmental contamination. Samples of import fill and backfill materials should be submitted to the geotechnical engineer prior to use for testing to establish that they meet the above criteria.

Existing onsite soils include fragments of rock, broken concrete, broken asphalt pavement, bricks, and wood. Oversized and deleterious materials should be removed from subgrade soils during subgrade preparation. Brick and wood fragments greater than 1 inch in size should be removed from on-site soils before use as fill; wood and

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other organic material in on-site soils should be limited to 3% of the fill material by volume.

The fill and backfill materials should be placed and compacted under the full time observation and testing of the project geotechnical engineer.

3.4.3 Lightweight Fills

Due to the Bay Mud thickness and the amount of fill proposed on the north side of the building, significant settlement can be expected after grading, and additional loads may be imposed upon the foundations. To mitigate these effects, lightweight fills can be placed at the bottom of fills to reduce potential settlements and differential settlements. Materials and placement of lightweight fills should follow the recommendations in the Crane Cove Park Phase 2 project geotechnical report (AGS, 2014).

3.4.4 Downdrag Loads

Fills placed against the north wall of the building will settle due to long-term consolidation of the YBM. This settlement will cause vertical (downward) loading on the wall. If conventional backfills are used, the magnitude of the vertical loading can be estimated as $13.5 \times H^2$ pounds per linear foot of wall, where H is the height (in feet) of fill in contact with the wall. If geofoam backfill is used, and geofoam is placed within one foot of the wall, the vertical loading from the geofoam will be negligible; however, the load from the soil cap would still need to be considered. The impact of downdrag loads caused by new fill loads on the piles is discussed in Section 3.5.1, below.

3.4.5 Temporary Excavation

During construction, the contractor must maintain safe and stable slopes and provide shoring as necessary. All cuts deeper than 4 feet must be sloped or shored in accordance with the current requirements of OSHA and Cal-OSHA. Shallow excavations above the groundwater level may be sloped if space permits. The upper 5 feet of site soils appear to generally be OSHA Class B soils, and may be sloped no steeper than 1:1 horizontal to vertical (h:v). Soils more than 5 feet below the existing grade appear to generally be OSHA Class C soils, and may be sloped no steeper than 1½:1 (h:v). Soil classifications should be verified by the contractor at the time of

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excavation. Sloping of excavations should conform to OSHA requirements, and should be monitored by the contractor to verify stability to ensure worker safety.

Heavy construction equipment, building materials, and excavated soil should be kept away from the edge of the excavation at least a distance equal to, or greater than, the depth of the excavation.

During wet weather, runoff water should be prevented from entering excavations, and collected and disposed of outside the construction limits. To prevent runoff from entering the excavation, a perimeter berm may be constructed at the top of the slope. In addition, it is recommended that the sidewalls of the excavation be covered by plastic sheets to prevent saturation of the earth material.

3.4.6 Excavation Characteristics

The Contractor should review the available data, in order to independently evaluate the type of equipment required to complete the proposed excavations to the required depths. Based on the boring information, it appears that conventional earth moving equipment may be used to remove backfill and soils. Existing underground utilities or other structures may require use of jackhammers or hoe-rams to remove. Railroad tracks and ballast may exist below site grades; particularly along the south side of the structure.

3.4.7 Dewatering

Groundwater levels at the site may fluctuate due to rain and other causes. The design groundwater level is Elevation -5 feet, about two feet below the existing surface on the north side of the building. Therefore, excavations extending below the groundwater level may be necessary for foundation excavations and utilities. The contractor should be responsible for providing an adequate dewatering system during construction. A properly designed, installed, and operated dewatering system should:

- Lower the water table inside the excavation or intercept seepage which will emerge from the sides or bottom of the excavation;
- Improve the stability of the excavation and prevent disturbance of the bottom of the excavation;
- Provide a reasonably dry working area in the bottom of the excavation; and

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- Provide for collection and removal of surface water and rainfall.

During excavation for foundations and utilities, it is recommended that the water level be maintained at least two feet below the bottom of the excavation until the structure is constructed, and until the weight of the structure is sufficient to resist buoyancy. Selection of the equipment and methods of dewatering should be left up to the contractor, and the contractor should be aware that modifications to the dewatering system may be required during construction, depending on conditions encountered.

Because the fill consists predominantly of sand and gravel, a relatively high infiltration rate should be anticipated above the YBM. Based on the gradation test results, we estimate a hydraulic conductivity of roughly 1×10^{-3} to 1×10^{-2} cm/sec for the near-surface fills.

To reduce the extent of dewatering and its adverse effects on adjacent existing structures and facilities, excavations may be isolated from the groundwater by an impervious barrier such as steel sheet piling. Steel sheet piling will act as a groundwater barrier only if it extends into a relatively impermeable layer and maintains the interlock between sheets. If obstructions such as cobbles or boulders are encountered during emplacement, the interlock may be lost and the sheet piling may not be an effective barrier to groundwater inflows.

Because of the potential problems associated with driving sheet piles through the fill and the potential presence of debris within the fill, sheet piling may not form an effective seal, and well points and sump pumps may be necessary to alleviate local accumulation of groundwater.

Water collected during dewatering should be tested for contamination prior to its disposal. Because the potential for contamination of groundwater was not explored in this study, recommendations are not given herein for proper disposal of collected water.

3.5 FOUNDATIONS

The existing building was constructed with pile foundations; however, exploration (AGS, 2016) indicates that the condition of the piles has deteriorated to the extent that installation of new piles connected to existing grade beams is planned.

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We understand that driven piles are not preferred for this site due to vibration and noise restrictions. We therefore provide recommendations for torque-in steel piles and auger-cast piles, both of which can be installed with significantly less noise and vibration than driven piles.

3.5.1 Deep Foundations

Due to the variability of thickness and strength of the interbedded sediments between the YBM and bedrock, consistent foundation support is not available in that layer, and we recommend that piles be extended at least 2 feet into bedrock. This will require pile tip elevations of about -69 feet to -75 feet (SFCD).

Pile foundations should (a) resist (with appropriate factor of safety) the vertical (uplift and downward) loads due to dead loads, operating live loads, and seismic loads; (b) resist lateral loads induced by the structure with acceptable lateral displacements; (c) resist the lateral loads on the piles due to movement of the soil during the earthquake; and (d) limit vertical differential settlements in the structure to an acceptable level.

The pile capacities given below are based on the strength of soil and rock at the site. The structural capacities of the piles depend on the strength of the pile materials which should be checked by the structural engineer

3.5.1.1 Torque-in Steel Pile Foundations

Torque-in steel piles may be used for support of Building 49. We recommend using 12¾-inch torque-in steel pipe piles with a wall thickness of at least 3/8 inch, filled with concrete after installation. The minimum wall thickness does not include any sacrificial thickness required to allow for corrosion.

It is our opinion that 12¾-inch steel pipe piles with concrete infill, installed at least 2 feet into the bedrock, will achieve a static allowable compression capacity of 70 kips. The allowable compression capacity includes a factor of safety of 2.0 and an estimated downdrag load of 25 kips induced by the static and seismically-induced settlements. Therefore, no additional reductions are necessary to account for downdrag.

The allowable uplift capacity for a single pile at least 2 feet into the bedrock is estimated to be 80 kips. The allowable uplift capacity includes a factor of safety of 2.0 and the buoyant weight of the piles.

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Piles should be spaced at least three times the pile diameter, center-to-center. If piles are spaced closer than three diameters, additional geotechnical analysis will be required to calculate reductions in vertical and lateral capacity.

3.5.1.2 Auger Cast Piles

Alternatively, auger cast piles can be used to support the Building 49. Auger cast piles are shafts drilled using a hollow-stem auger and pressure-grouted through the stem of the auger. In theory, this method allows for less of a "stress relaxation" in the free-face of the shaft, thereby allowing greater unit frictional and end-bearing capacities than in drilled piers. Therefore, the primary advantage of auger cast pile over drilled piers is relative high axial capacities. Other advantages of auger cast pile over drilled shafts are (1) use of casing or slurry to temporarily support the hole is avoided, (2) drilling the hole in one continuous process is faster than drilling a shaft excavation and (3) because of torque requirement the diameter and length of auger cast piles are generally less than drilled shafts. The disadvantages of auger cast piles include (1) the soil conditions in the borehole cannot be verified during the grouting of the pile, (2) the soil cuttings on the auger could potentially contaminate the grout and (3) continuous auger for installation also limits auger cast piles to soil or very weak rock profiles. From a construction point of view, in construction of a drilled pier system, a reinforcement cage is installed first and concrete is poured later. In auger cast pile system, a reinforcement cage will be placed into the pressure grouted hole immediately after grout placement is completed. The pressure grouting process fills the borehole and any cavities that may have formed.

We recommend using an auger cast pile diameter of 24 inches. The minimum center-to-center spacing of the auger cast piles should be three times their diameter. If piles are spaced closer than three diameters, additional geotechnical analysis will be required to calculate reductions in vertical and lateral capacity.

It is our opinion that the 24-inch auger cast piles penetrated at least 2 feet into the bedrock will achieve a static allowable compression capacity of 160 kips. The allowable compression capacity includes a factor of safety of 2.0 and an estimated downdrag load of 50 kips induced by the static and seismically-induced settlements. Therefore, no additional reductions are necessary to account for downdrag.

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If an auger cast pile designed primarily to resist compressive loads is subjected to uplift loads, we recommend an allowable uplift capacity of 158 kips for 24-inch auger cast piles. The allowable uplift capacity includes a factor of safety of 2.0 and the buoyant weight of the piles.

Piles should be spaced at least three times the pile diameter, center-to-center. If piles are spaced closer than three diameters, additional geotechnical analysis will be required to calculate reductions in vertical and lateral capacity.

The Contractor should anticipate drilling through gravelly/sandy soils, as shown in our exploratory boring logs and subsurface profiles. The Contractor should expect and make provisions for very slow drilling that is likely to occur when these gravelly/sandy soils are encountered. The Contractor should also be aware that coarse gravelly soils may be encountered.

3.5.1.3 Lateral Resistance of PIles

Resistance to lateral loads will be provided by passive soil pressure against the piles and by the bending resistance of the piles. Lateral deformation, shear forces, bending moments, and soil reaction data along the proposed 12¾-inch torque-in piles and along the proposed 24-inch auger-cast piles, for free-head conditions, are shown on Plates 10 and 11, respectively. Lateral analyses were performed for pile head deflections of 0.25, 0.50, 0.75, and 1.0 inch. The lateral responses of the piles were computed considering liquefaction conditions, and include no factor of safety.

The lateral pile capacity may be reduced by group action when space between two adjacent piles is closer than three times the width of the new piles; where this occurs, additional geotechnical analyses will be necessary.

3.5.1.4 Lateral Resistance of Pile Caps and Grade Beams

Additional lateral resistance will be provided by passive pressure against pile caps, grade beams, and by frictional resistance against the sides of the pile caps and grade beams.

Passive pressure mobilized by the pile caps (or grade beams) will depend on the movements of the caps. For a cap or a grade beam which is primarily within the fill, the maximum allowable passive pressure should be calculated using equivalent fluid

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pressures of 300 pounds per cubic foot (pcf) for fill above water and 150 pounds per cubic foot for fill below water.

Friction along the sides of the pile caps may be used in combination with the above passive resistance. For fill, the frictional resistance can be estimated by using an allowable coefficient of friction of 0.30. The allowable coefficient of friction includes a factor of safety of 1.5. The effective at-rest pressures, the pressures normal to the sides of the structural elements, should be used in estimating frictional resistance along the sides. AGS recommends using equivalent fluid pressure of 60 pcf and 30 pcf for the effective at-rest earth pressures in fill above and below the groundwater level, respectively.

Friction along the bottom of pile caps and pile-supported structures should not be used in lateral resistance calculations. Because of the relatively high stiffness of the piles, little if any downward load would be available to mobilize friction against the bottom of the pile caps and pile-supported structures. Furthermore, the contact between the structure and soils will be lost after occurrence of seismically-induced settlement.

3.5.1.5 Settlement

Settlements of piles constructed in accordance with the above recommendations and embedded at least 2 feet into the bedrock will be on the order of ½ inch, with differential settlements between piles of up to ¼ inch.

Utility connections to buildings should be designed as flexible connections to allow for differential settlement between the buildings and utility lines away from the buildings in the event of an earthquake.

3.5.1.6 Pile Load Test Program

A pile load test program including one downward and one uplift pile load test should be performed. The pilot piles should be installed at approved “waste” locations on the site. The pilot piles should not be incorporated into the production phase of the work. The results of the load tests should be used to refine the size(s) of the piles, if necessary. Compression and uplift tests should be performed in accordance with ASTM D1143 and D3689, respectively, using the quick-load method except that load shall be applied in increments of 10 percent of the test load. Each load increment or removal shall be

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maintained for 10 minutes. The seating load shall not exceed 1.5 percent of the test load. The test loads shall be established by the Geotechnical and Structural Engineers to verify maximum allowable compression and uplift capacities.

The pile load test program should include installation of the piles, load testing of the piles, and analysis of the load test results by the Geotechnical Engineer. The pile load test program should be completed prior to commencing the installation of production piles. The intents of the pile load test program are to verify that the design dimensions of the piles are adequate to achieve the required load-displacement characteristics and to establish the effectiveness of the Contractor's proposed installation procedure in achieving the specified requirements. Procedures and other installation parameters established during the pile load test program should be used for production pile installation.

The Geotechnical Engineer should be present during the pile load test program to observe the installation and load testing of all piles. Prior to beginning the pile load test program, the Contractor should submit the design information for the piles for review by the Structural and Geotechnical Engineers. The Contractor should provide a final design for production piles to meet the expected design load demands.

3.5.1.7 Pile and Pile Cap Corrosion Potential

Based on the soil resistivity classification presented by National Association of Corrosion Engineers, the existing fill and the YBM are "extremely corrosive". The chloride levels in the fill soils are high, which may require additional corrosion mitigation measures. AGS recommends that a Corrosion Engineer be consulted for the development of site-specific corrosion protection measures.

3.6 RETAINING WALLS AND LATERAL LOAD RESISTANCE

The walls extending down from the building floor level are retaining unknown, but variable, amounts of fill. Placement of fill along the north side of the building may change the magnitude and direction of lateral loads applied to the walls.

Lateral loads imposed on subsurface walls will generally be at-rest pressures, as the walls will generally not be allowed to deflect sufficiently to develop active pressure loading. At-rest lateral pressures can be taken as an equivalent fluid pressure of 60

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pounds per cubic foot (pcf) in existing site fills and granular import fills above the water table, and 30 pcf below the water table. Walls should be analyzed for low and high water levels as described in Section 3.2. Hydrostatic pressures of 64 pcf should be included where water levels may be different on opposite sides of a wall.

Lateral loads on near-surface underground structures may be resisted by passive pressure or base friction. Allowable passive resistance in on-site fills above design groundwater elevation may be taken as an equivalent fluid pressure of 300 pounds per cubic foot (pcf), with a Factor of Safety of 1.5. The top foot of passive resistance should be disregarded where the soil is not confined by slabs or pavements. Passive resistance below the water table should use one-half the above values. An allowable coefficient of friction of 0.30 may be used for foundation elements in existing or new site fills above the water table not supported by piles. For foundation elements below the water table, an allowable coefficient of friction of 0.20 should be used.

If geofoam is used for fill placed along the north side of the building, lateral loading from the geofoam fill can be taken as 20 pcf, provided that geofoam blocks are placed to within one foot of the wall.

3.7 CONCRETE SLABS ON GRADE

Concrete slabs used for walkways, equipment, or material storage at the site should be designed in accordance with the recommendations below.

Slab subgrades should be rolled smooth prior to slab construction to provide a uniformly dense, non-yielding surface as described in Section 3.4.2.

3.7.1 Moisture Control

Where moisture intrusion through the slab is a concern, a layer, at least 4 inch-thick, clean, open-graded, 3/4-inch maximum size rock or gravel should be placed beneath slab-on-grade floors or structural floor slabs to provide a capillary moisture break. This material should be compacted with a vibratory roller and should conform to the gradation criteria presented in Table 8 - Recommended Capillary Break Material.

TABLE 8

RECOMMENDED CAPILLARY BREAK MATERIAL

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Sieve Size (U.S. Series)	Percentage Passing
1 inch	100
3/4 inch	90 - 100
No. 8	0 - 10
No. 16	0 - 5
No. 200	0 - 3

A plastic vapor-barrier membrane (Visqueen or equivalent) at least 10 mil thick should be placed between the prepared subgrade and the slab to provide an effective vapor retarder, and to minimize potential moisture condensation under floor coverings. The vapor retarder membrane shall be lapped a minimum of 12-inches to provide a continuous vapor proof retarder under the entire slab. Care must be taken to assure that the membrane does not become torn and entangled with the reinforcing.

A minimum of two inches of moistened sand should be placed over the vapor retarder to facilitate curing of the concrete and to act as a cushion to protect the membrane. The perimeter of the slab should be thickened a minimum of 2-inches to bear on the prepared structure pad and to confine the sand. During winter construction, sand may become saturated due to rainy weather prior to pouring. Saturated sand is not desirable because there is a high probability of creating sand pockets within the slab section during the concrete pour. As an alternate, a sand-fine gravel mixture that is stable under saturated conditions may be used. However, the material must be approved by the Soil Engineer prior to use.

As an alternate to the placement of the sand, the sand may be omitted and the concrete placed directly on the moisture-vapor barrier, provided the concrete mix used has a maximum water/cement ratio of 0.45, and one layer of 20 mil high-strength plastic vapor retarder or one layer or 10 mil ASTM E 1745 Class A vapor retarder is used.

All slab areas must be observed by a geotechnical engineer prior to placing the gravel and sand, and any weak or disturbed areas should be replaced.

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3.7.2 Slab-On-Grade

Slabs-on-grade may be used for light equipment pads or sidewalks if future minor repair and re-leveling is acceptable. Slabs-on-grade should be at least 6 inches thick and supported on two (2) feet of structural fill compacted to minimum 95 percent relative compaction as discussed in Section 3.4.2. Some re-leveling and/or repair may be needed for slabs-on-grade over the life of the project due to long-term settlements, and will be required after an earthquake due to liquefaction-induced differential settlements.

Should import material be used to establish the proper grading for the proposed pavement, the import material should be approved by the Geotechnical Engineer before it is brought to the site. General import material should preferably have an expansion potential similar to or less than the on-site soil to keep the foundation design recommendations in the report valid. The select import material should meet the following requirements:

- Have an R-Value of not less than 25;
- Have a Plasticity Index not higher than 12;
- Not more than 15% passing the No. 200 sieve;
- No rocks larger than 4 inches in maximum size;
- Have a pH of 6.5 to 7.5;
- Have a minimum resistivity of 5000 ohms/cm; and
- Have a maximum soluble sulfate content of 0.2% by weight.

3.8 CORROSION POTENTIAL

A test of a composite sample of the fill taken during this investigation is classified as “extremely corrosive”, with high chloride levels. In our experience, YBM is typically considered “extremely corrosive” with high chloride levels. Groundwater at the site is likely to be salty due to the proximity to the Bay. Corrosive soils may adversely affect the foundations and buried utilities.

AGS recommends that all buried metal piping and reinforced concrete be properly protected against corrosion depending upon the critical nature of the structure. AGS recommends that a Corrosion Engineer be consulted for the development of site-

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specific corrosion protection measures of foundations, utilities, and other structures in contact with site soils.

3.9 CONSTRUCTION CONSIDERATIONS

Although the information in this report is primarily intended for the design engineers, data from our borings may also be useful to the contractor. However, it is the responsibility of bidders and subcontractors to evaluate soil and groundwater conditions independently and to develop their own conclusions and designs regarding soil densification, excavation, grading, foundation construction, and other construction and safety related issues.

The geotechnical engineer should review project plans and specifications prior to construction to ascertain that the geotechnical aspects of the project are consistent with the intent of the recommendations presented herein. The geotechnical engineer or his/her representative should observe the following items and perform required tests during the construction.

- Site preparation and earthwork;
- Excavations for the pile caps;
- Placement and compaction of fills and backfills, including lightweight fill;
- Field density tests during the placement and compaction of engineered fill and backfill; and
- Construction of foundations.

The geotechnical engineer should observe the soil conditions encountered during construction, verify the applicability of the recommendations presented in this report to the soil conditions encountered, and recommend appropriate changes in design or construction procedures, if the conditions differ from those described herein.

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4.0 CLOSURE

This report has been prepared in accordance with generally accepted professional geotechnical engineering practice for the exclusive use of AECOM and the Port of San Francisco for the proposed seismic retrofit of Pier 70 Crane Cove Park Building 49 at 701 Illinois Street in San Francisco, California. No other warranty, express or implied, is made.

The analyses and recommendation submitted in this report are based upon data from two (2) borings performed for this study, as well as available geotechnical and geologic data from the vicinity of the site. The nature and extent of variations between the borings may not become evident until construction. In the event variations occur it will be necessary to reevaluate the recommendations of this report.

It is the responsibility of the owner or its representative to ensure that the applicable provisions of this report are incorporated into the plans and specifications and that the necessary steps are taken to see that the contractor carry out such provisions.

Respectfully submitted,
AGS, Inc.

Kamran Ghiassi, Ph.D.	Anthony Argyriou
Geotechnical Engineer 2792	Geotechnical Engineer 2687

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PLATES

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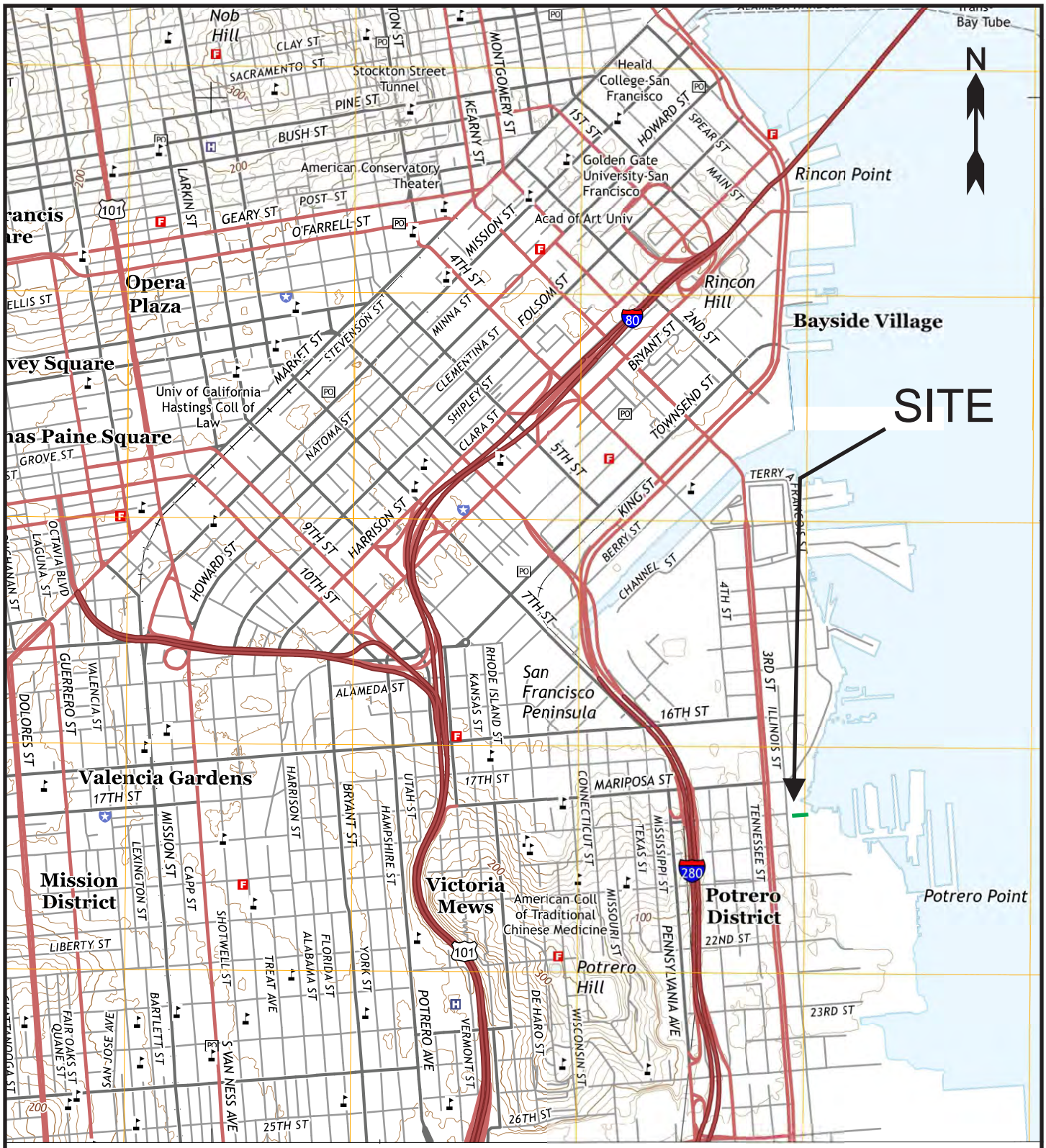

Base Map: USGS, 7.5 minute Topographic Map of San Francisco North Quadrangle, 2015

1000 0 1000 2000 3000

Scale: 1" = 2000'

SITE VICINITY MAP

CRANE COVE PARK BUILDING 49
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

AGS

JOB NO. KK0210	DATE: JAN 2017	PLATE 1

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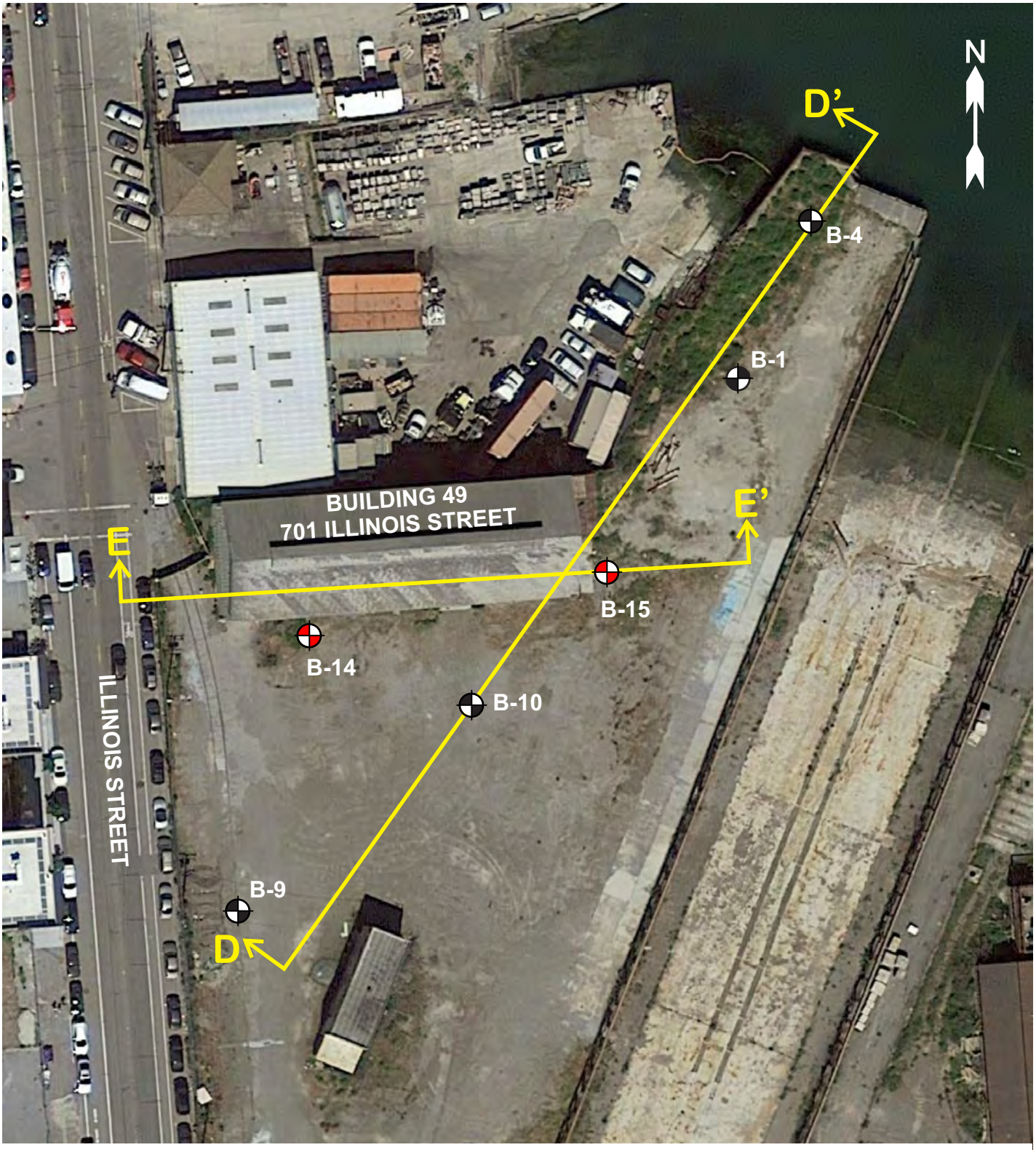

Base Map: Google Earth, 2016

LEGEND

Boring location, AGS 2016 (approximately located)

Boring location, AGS 2012 and 2014. (approximately located)

60 30 0 30 60

Scale: 1" = 60'

SITE PLAN AND BORING LOCATION MAP

CRANE COVE PARK BUILDING 49
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

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JOB NO. KK0210	DATE: JAN 2017	PLATE 2

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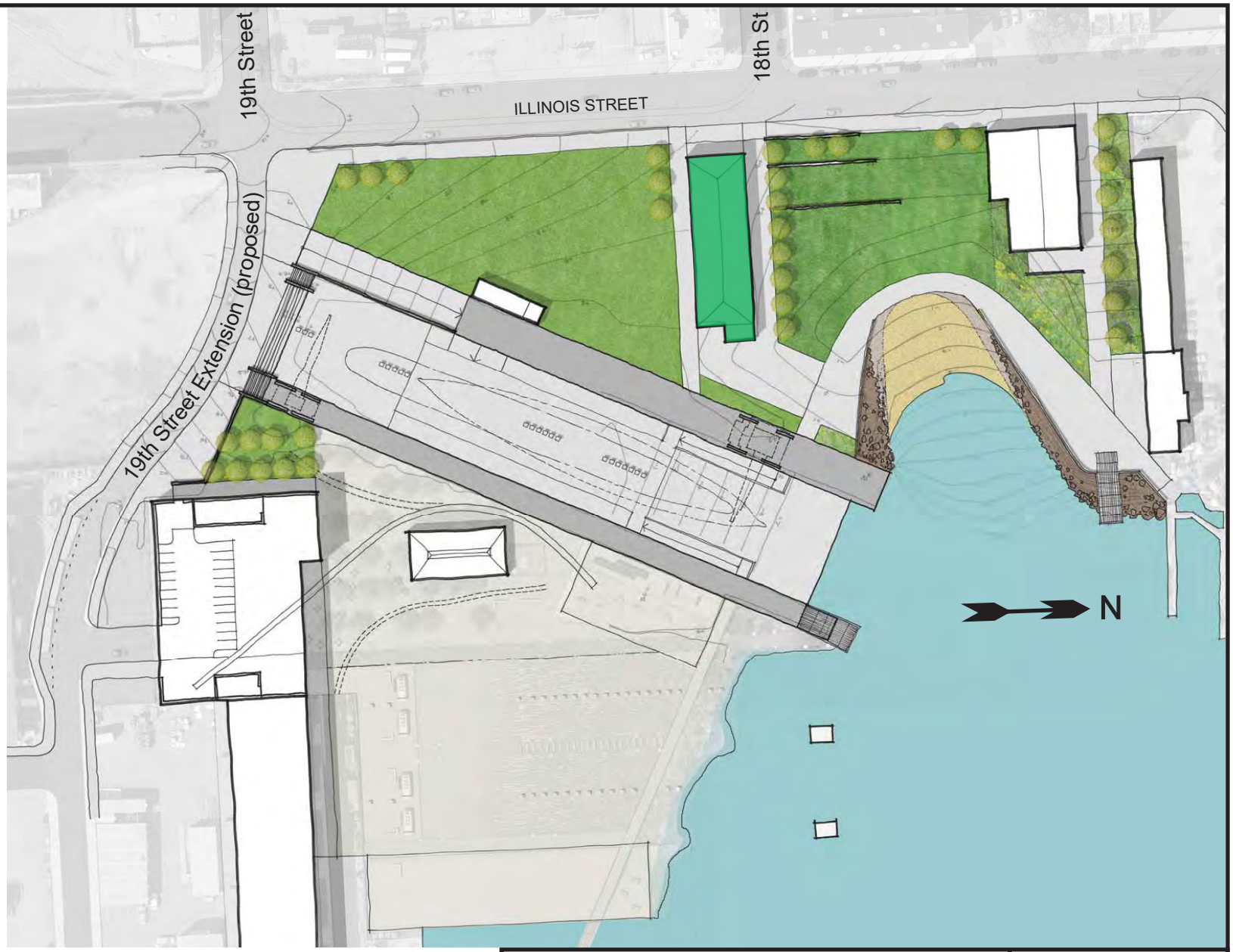

Source: Crane Cove Park Conceptual Plan, 2013.

50 0 50 100 150 feet

Approx. Scale

Project Site (Building 49)

CONCEPTUAL PLAN

CRANE COVE PARK BUILDING 49
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

AGS

JOB NO. KK0210	DATE: JAN 2017	PLATE 3

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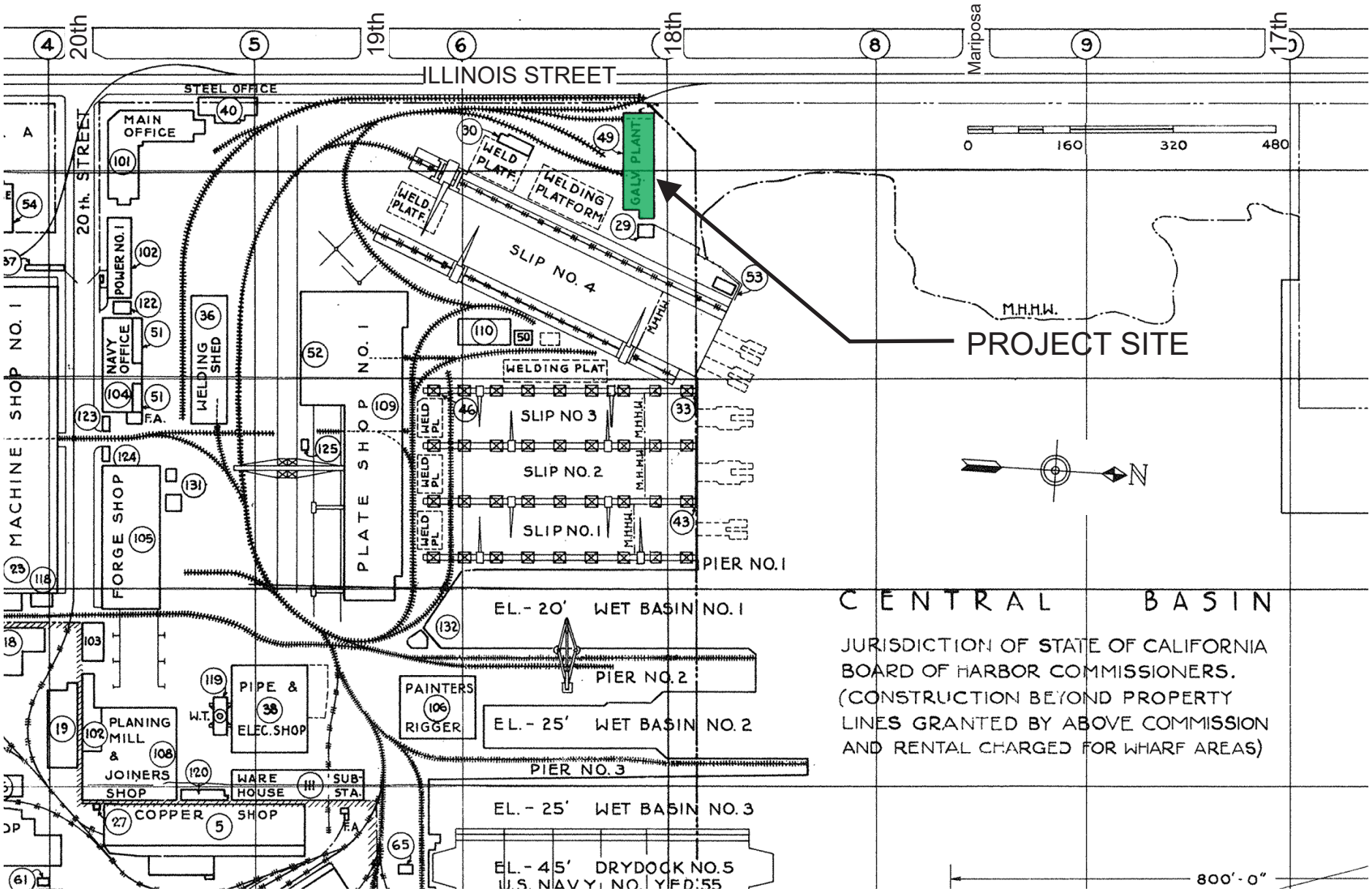

Source: General Plan of San Francisco Yard, Bethlehem Steel Company, Shipbuilding Division, 1944.

HISTORIC USE MAP

CRANE COVE PARK BUILDING 49
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

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JOB NO. KK0210	DATE: JAN 2017	PLATE 4

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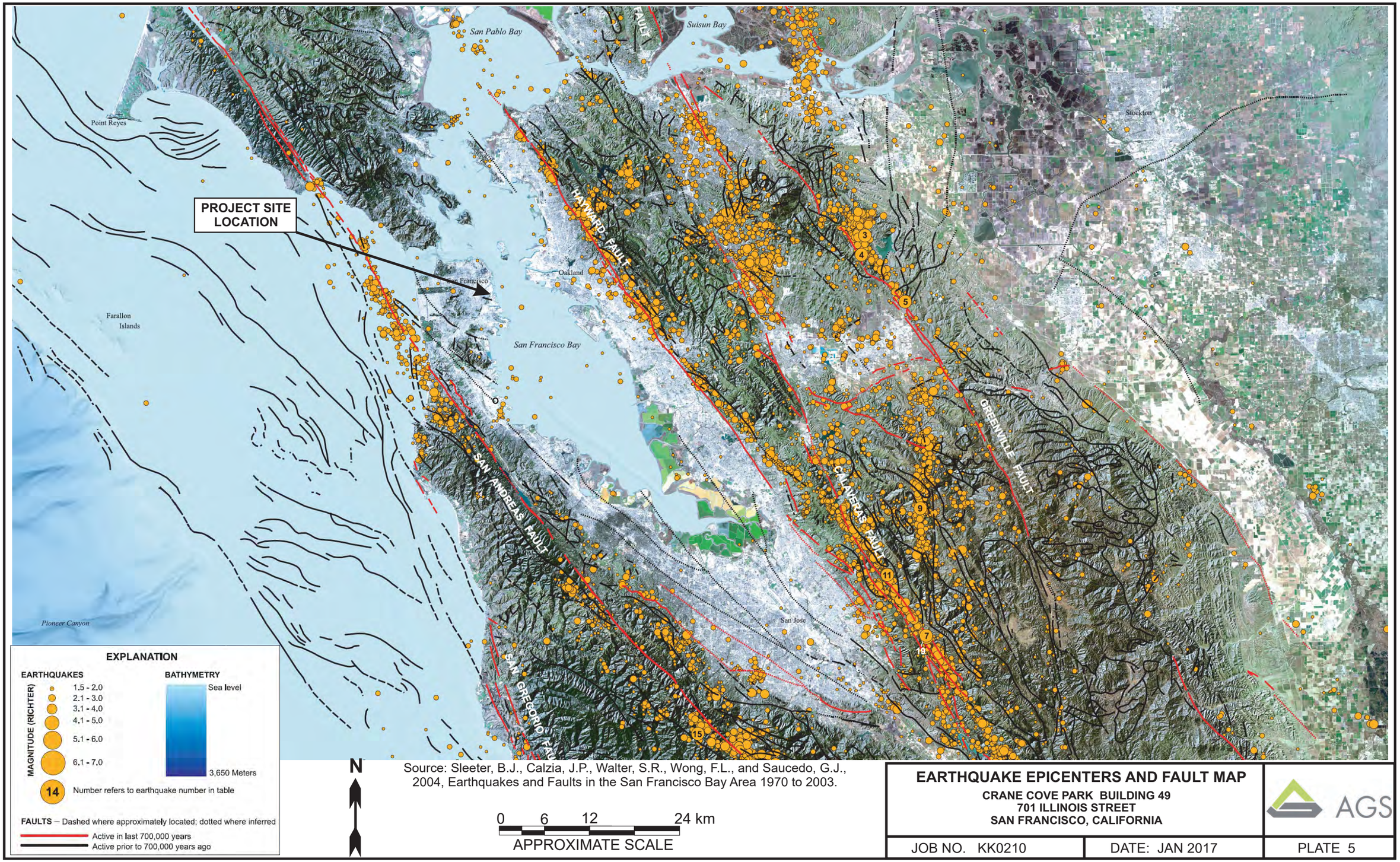

Source: Sleeter, B.J., Calzia, J.P., Walter, S.R., Wong, F.L., and Saucedo, G.J., 2004, Earthquakes and Faults in the San Francisco Bay Area 1970 to 2003.

EARTHQUAKE EPICENTERS AND FAULT MAP

CRANE COVE PARK BUILDING 49
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

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JOB NO. KK0210	DATE: JAN 2017	PLATE 5

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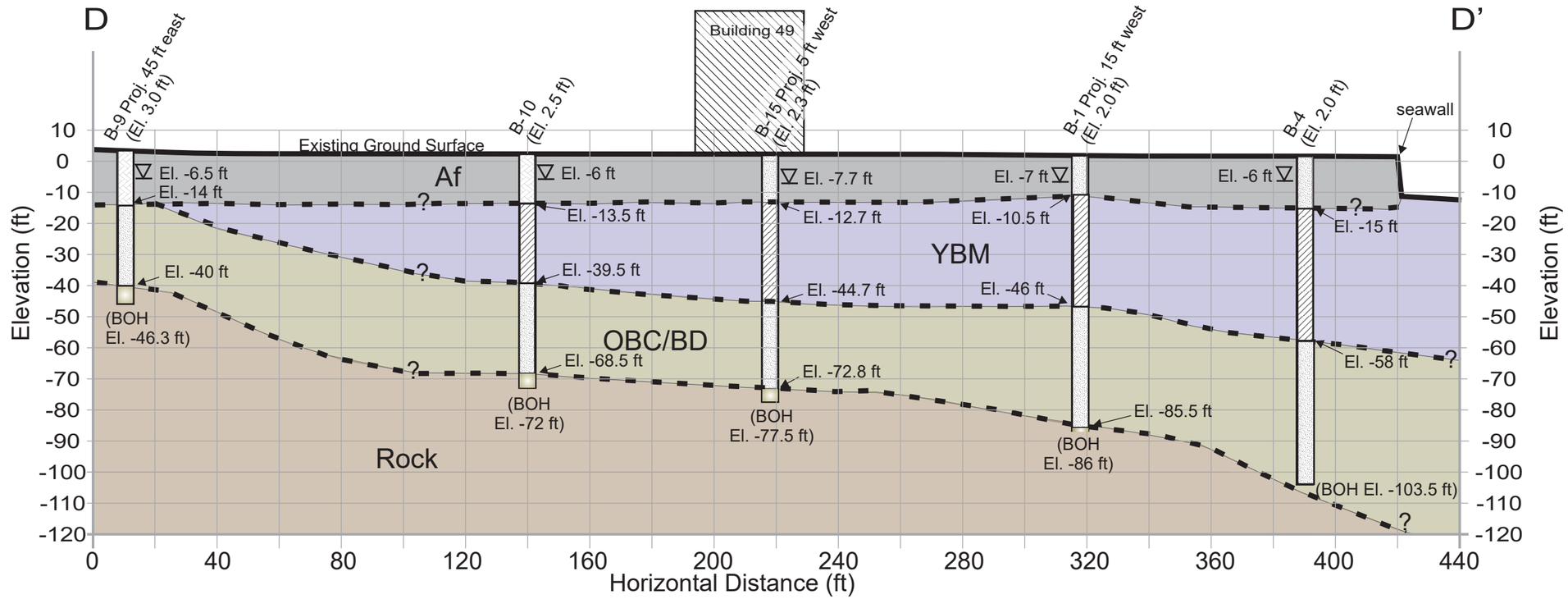

1" = 40',
no vertical exaggeration

LEGEND

Af	Artificial fill; typically loose to medium-dense gravel and sand mixture with little silt fines, metal slag, wood and brick, may contain few cobbles and boulders or concrete rubble, particularly nearer the seawall
YBM	Young Bay Mud; Middle to Late Holocene-age (Quaternary) clay and silt with few shells and sand lenses, very soft and saturated, commonly dark gray
OBC / BD	Alluvium, Bayside Deposits, and Old Bay Clay; typically Late Pleistocene to Early Holocene-age (Quaternary) stiff or very stiff sandy clay and medium dense to dense clayey sand with gravel, commonly brown, olive or gray, closer to seawall includes Old Bay Mud that is commonly soft to stiff olive-gray to blue-gray fat clay with sand and gravel.
Bedrock	Franciscan Complex Sedimentary Rock; mostly serpentinite, some sandstone, shale, and siltstone, moderately weathered, moderately hard, apparently weak to moderately strong within the explored depths
?- - -?	Approximate geologic contact
BOH	Bottom of Hole

NOTES

(1) All elevations and dimensions are approximate, based on the City of San Francisco Datum.

(2) Groundwater level measured immediately after drillling.

(3 The subsurface conditions were interpolated. Site elevations estimated from Crane Cove Park Topographic Survey, 2013. Our interpolation and extrapolation of the subsurface soil, rock, and groundwater conditions are based on widely spaced borings. Variations in the actual conditions from those assumed should be anticipated. Neither boring logs nor the generalized soil profiles are stand-alone documents, and they should only be used within the full context of the soil report. The profile was prepared for the sole purpose of developing geotechnical recommendations. It is not intended for use in estimating quantity of various soil types.

SUBSURFACE PROFILE - SECTION D-D'

CRANE COVE PARK BUILDING 49
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

AGS

JOB NO. KK0210	DATE: JAN 2017	PLATE 6

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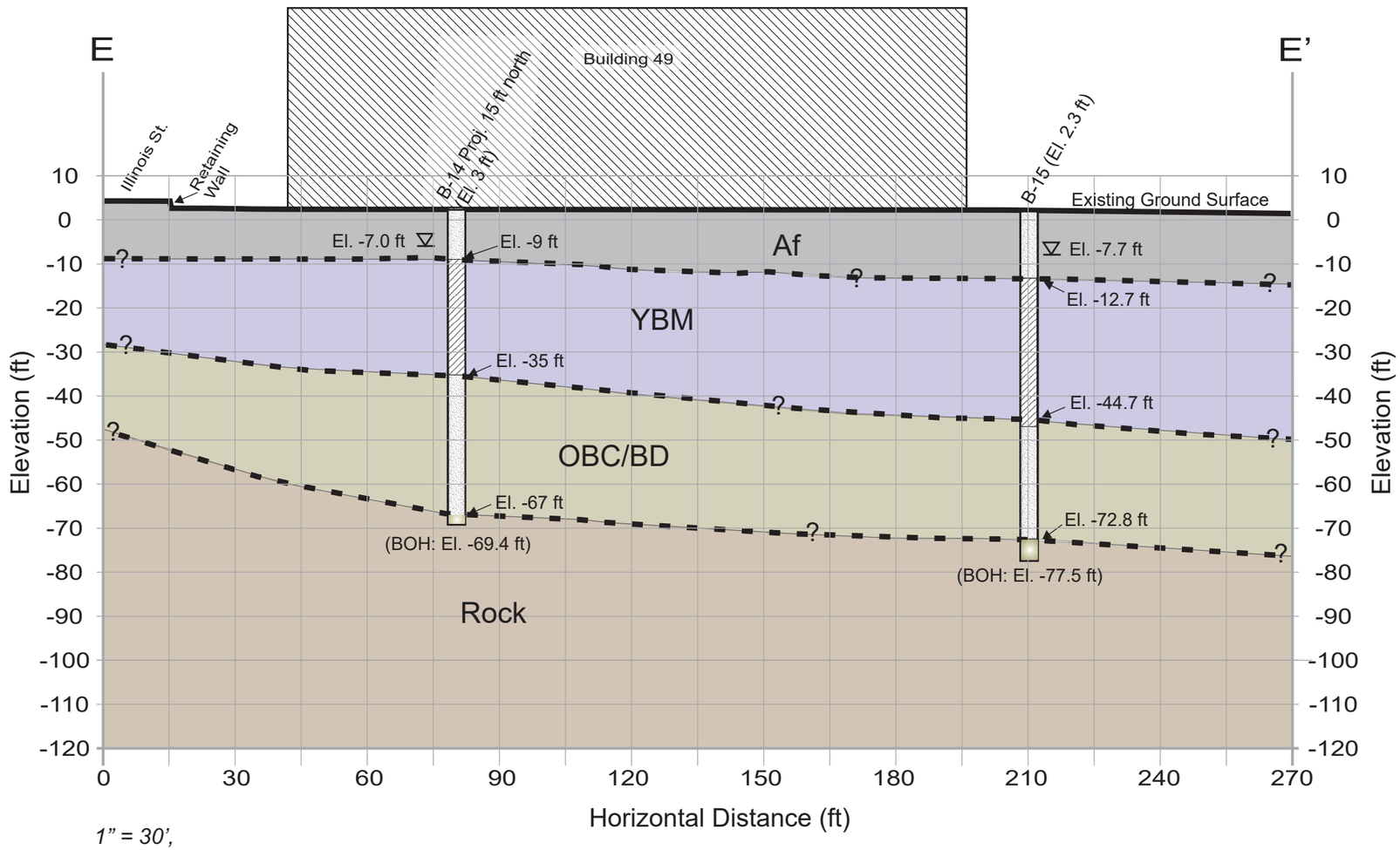

1" = 30',
no vertical exaggeration

LEGEND

Af	Artificial fill; typically loose to medium-dense gravel and sand mixture with little silt fines, metal slag, wood and brick, may contain few cobbles and boulders or concrete rubble, particularly nearer the seawall
YBM	Young Bay Mud; Middle to Late Holocene-age (Quaternary) clay and silt with few shells and sand lenses, very soft and saturated, commonly dark gray
OBC / BD	Alluvium, Bayside Deposits, and Old Bay Clay; typically Late Pleistocene to Early Holocene-age (Quaternary) stiff or very stiff sandy clay and medium dense to dense clayey sand with gravel, commonly brown, olive or gray, closer to seawall includes Old Bay Mud that is commonly soft to stiff olive-gray to blue-gray fat clay with sand and gravel.
Bedrock	Franciscan Complex Sedimentary Rock; mostly serpentinite, some sandstone, shale, and siltstone, moderately weathered, moderately hard, apparently weak to moderately strong within the explored depths
?- - -?	Approximate geologic contact
BOH	Bottom of Hole

NOTES

(1) All elevations and dimensions are approximate, based on the City of San Francisco Datum.

(2) Groundwater level measured immediately after drillling.

(3 The subsurface conditions were interpolated. Site elevations estimated from Crane Cove Park Topographic Survey, 2013. Our interpolation and extrapolation of the subsurface soil, rock, and groundwater conditions are based on widely spaced borings. Variations in the actual conditions from those assumed should be anticipated. Neither boring logs nor the generalized soil profiles are stand-alone documents, and they should only be used within the full context of the soil report. The profile was prepared for the sole purpose of developing geotechnical recommendations. It is not intended for use in estimating quantity of various soil types.

SUBSURFACE PROFILE - SECTION E-E'

CRANE COVE PARK BUILDING 49
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

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JOB NO. KK0210	DATE: JAN 2017	PLATE 7

DocuSign Envelope ID: E9E5358E-6650-4E4A-B16E-8D380957D00F

NOTE: Elevations in feet relative to historic San Francisco City Datum.

Aerial Base: Google Earth Pro, imagery date 4/5/2016.

10 0 10 20 30 40 ft

Approximate Scale

ELEVATION CONTOURS - TOP OF YBM

CRANE COVE PARK BUILDING 49
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

AGS

JOB NO. KK0210	DATE: JAN 2017	PLATE 8

DocuSign Envelope ID: E9E5358E-6650-4E4A-B16E-8D380957D00F

NOTE: Elevations in feet relative to historic San Francisco City Datum.

Aerial Base: Google Earth Pro, imagery date 4/5/2016.

10 0 10 20 30 40 ft

Approximate Scale

ELEVATION CONTOURS - TOP OF ROCK

CRANE COVE PARK BUILDING 49
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

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JOB NO. KK0210	DATE: JAN 2017	PLATE 9

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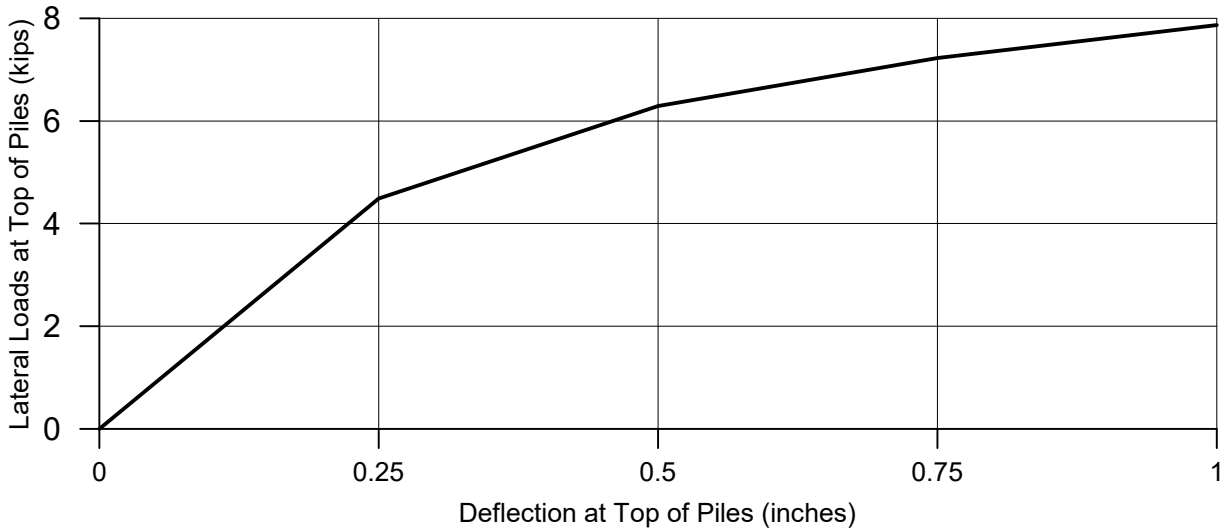
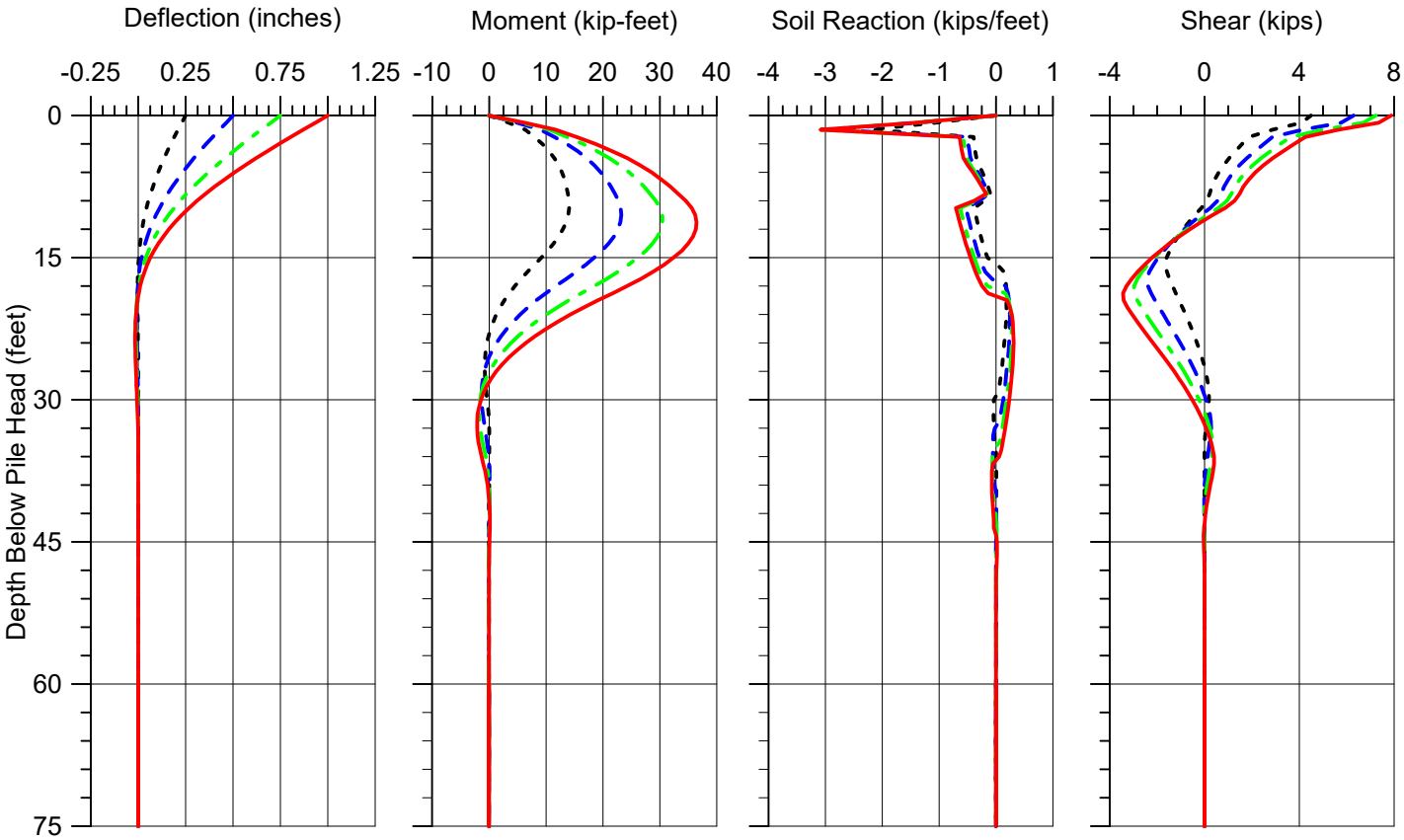


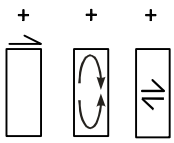


Analysis notes:

Pile is 12¾-inch steel torque-in pile with 3/8-inch wall.
Analyses assumed pile embedded 4 feet into bedrock.
Bottom of pile cap is assumed to be at elevation -3 ft (SFCD).
Analysis assumed liquefied conditions.
Axial compression loading assumed 30 tons (60 kips).

Applied Deformation
- 0.25 inch
- 0.50 inch
- 0.75 inch
- 1.00 inch

Sign Conventions
(direction of positive load, moment, and shear)



RESPONSE TO LATERAL LOADING - 12¾-INCH TORQUE-IN PILE
FREE-HEAD CONDITION
BUILDING 49 RENOVATION PROJECT
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

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Project No.: KK0210	Date: Dec. 2016	Plate 10

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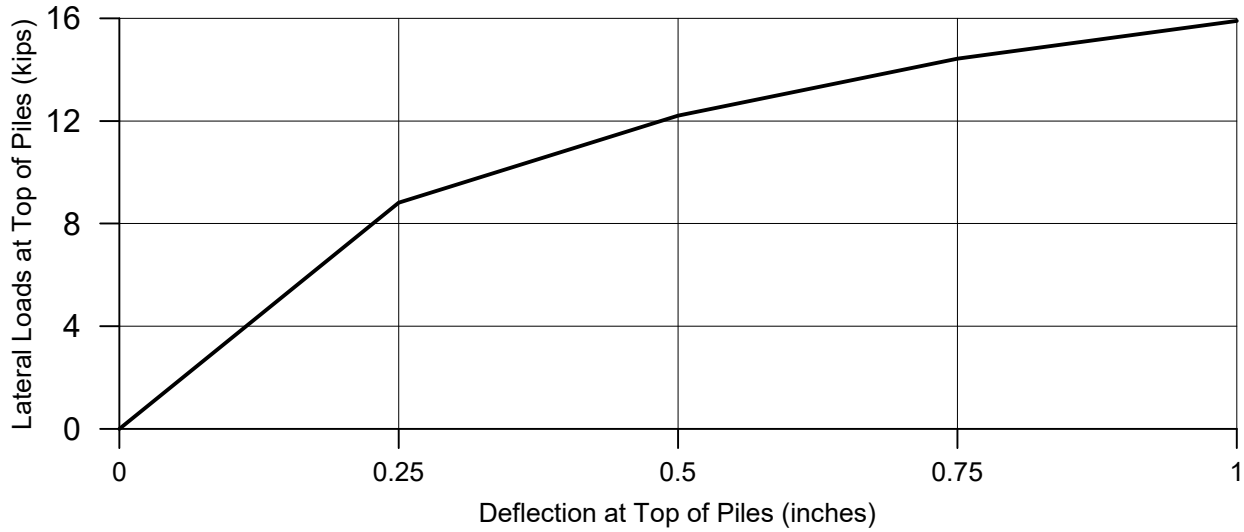
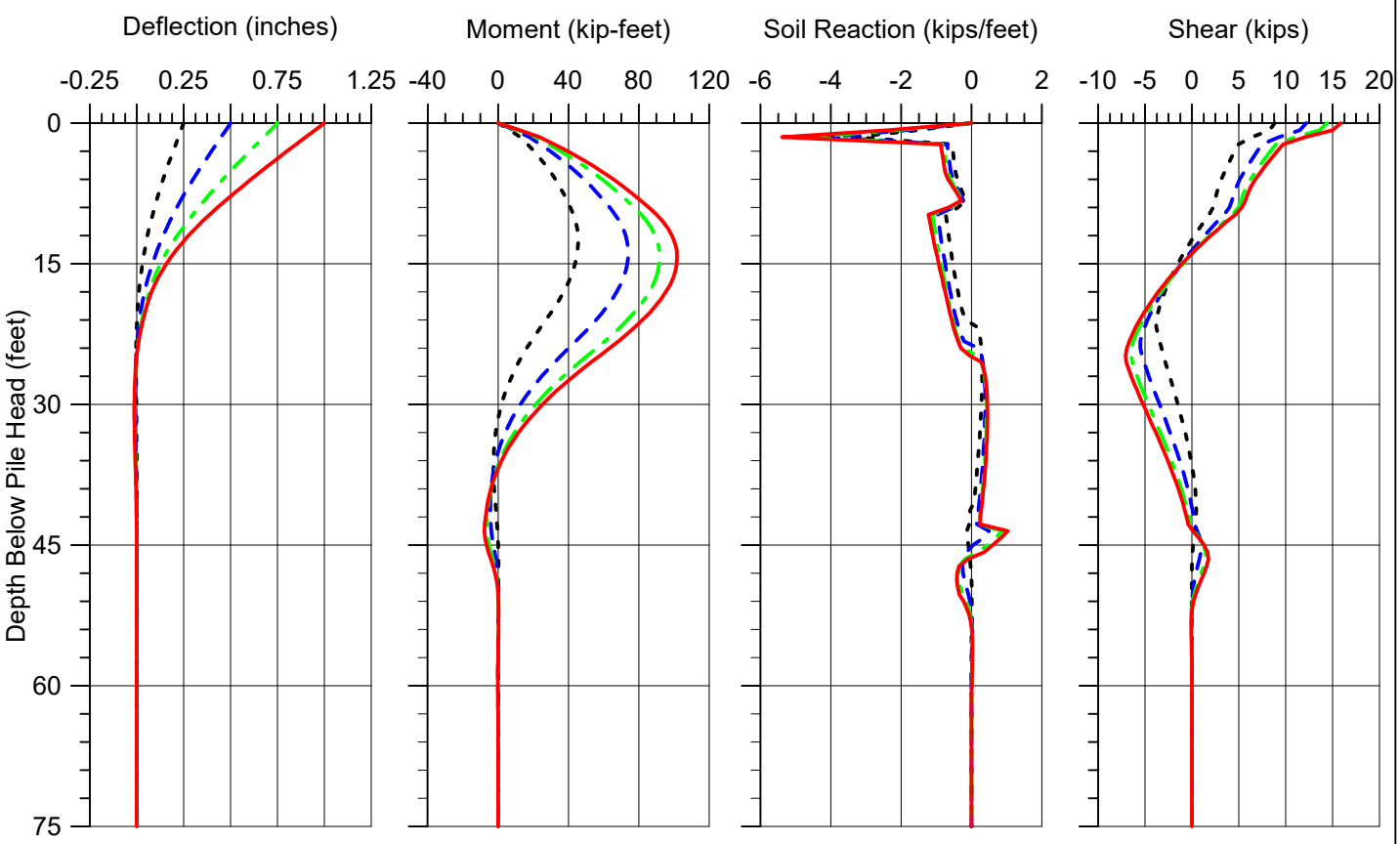


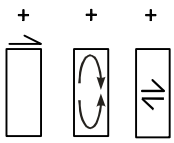


Analysis notes:

Pile is 24-inch auger-cast pile with 8 #8 rebar.
Analyses assumed pile embedded 4 feet into bedrock.
Bottom of pile cap is assumed to be at elevation -2 ft (SFCD).
Analysis assumed liquefied conditions.
Axial compression loading assumed 75 tons (150 kips).

Applied Deformation
- 0.25 inch
- 0.50 inch
- 0.75 inch
- 1.00 inch

Sign Conventions
(direction of positive load, moment, and shear)



RESPONSE TO LATERAL LOADING - 24-INCH AUGER-CAST PILE
FREE-HEAD CONDITION
BUILDING 49 RENOVATION PROJECT
701 ILLINOIS STREET
SAN FRANCISCO, CALIFORNIA

AGS

Project No.: KK0210	Date: Dec. 2016	Plate 11

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APPENDIX A – FIELD EXPLORATION

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A.1 FIELD EXPLORATION

AGS completed an initial site reconnaissance on November 15th, 2016 to observe site conditions and evaluate the site access, ingress and egress. During this visit AGS marked proposed boring locations and notified Underground Service Alert (USA) so that utility companies could mark their underground utilities, and warn AGS (USA Ticket # W632000501). After selecting the exploratory boring locations, AGS obtained a drilling permit for the project (# 6483) through the City and County of San Francisco Department of Public Health (SFDPH), Environmental Health Division. In order to work on the site AGS received access permission through the Port of San Francisco.

The field exploration program was performed under the technical supervision of a qualified AGS geologist, who completed a log of each boring, documented the drilling progress, and recorded the subsurface conditions encountered at the location of each boring. Drilling was performed by Geo-Ex Subsurface Exploration of Dixon, California on November 17 and 18, 2016, using a truck-mounted CME-75 drill rig. Two (2) deep exploratory borings, Borings B-14 and B-15, were drilled for the current Building 49 project. These borings reached depths of approximately 72.5 feet to 80 feet below the existing ground surface (bgs).

The borings were initially advanced using 4-inch diameter solid-flight augers; after groundwater and materials suitable for conductor casing were encountered at about 10 feet bgs in both borings, the driller switched to rotary wash (mud rotary) drilling. Conditions within boring B-15 required the casing used for rotary wash drilling to be extended into the Young Bay Mud deposit at a depth of 15 feet bgs.

Following the completion of each boring, they were backfilled with cement grout per requirements of the SFDPH permit. The County Inspector arrived to observe the final grouting of the first boring drilled, Boring B-14. Following backfilling and allowance of settlement, the ground surface at each boring location was restored to grade.

The subsurface conditions encountered in the borings were continuously logged in the field during drilling operations by a geologist from AGS. Plates A-1.1 through A-1.2 show the Logs of Borings B-14 and B-15, and give descriptions and graphic representations of the encountered materials, the depths at which samples were

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obtained, and the laboratory tests performed. The legend to the logs is shown on Plate A-2 - Soil Classification Chart and Key to Test Data, and Plate A-3 - Physical Characteristics of Rock. The locations of the exploratory borings are shown on Plate 2 – Site Plan and Boring Location Map.

A.2 SOIL SAMPLING

Soil and rock samples, as appropriate for the various earth materials encountered, were collected using standard penetration test (SPT) and modified California (MC) samplers. Samples were typically collected at least once in each 5-foot depth interval, but at typical 10-foot intervals in the Young Bay Mud (YBM). Borings were completed after they penetrated into bedrock.

Relatively undisturbed soil samples obtained with the MC sampler were collected into 2.5-inch outside diameter by 6-inch long stainless steel liners. The liners were immediately capped, sealed with vinyl tape, and labeled. Soil samples collected from the SPT sampler were placed into plastic bags and labeled. Following collection the samples were preserved in a cool and dark area until delivery to AGS' laboratory or other testing laboratory for examination and analyses.

The SPT and MC samplers were driven with an automatic 140-pound hammer, free-falling 30 inches for an 18-inch penetration, where possible. The blows required to advance the samplers were used to assist in classifying the apparent density of cohesionless soil deposits, and the relative consistency of cohesive soil deposits. The blow counts required to drive the sampler for each 6-inch increment were recorded; except where refusal was met, in which case the number of inches penetrated by 50 blows (typically) was recorded. The blow counts are shown on the Logs of Borings attached. The blow counts shown on the Logs of Borings are the numbers recorded in the field, and have not been corrected or adjusted.

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LOG OF BORING B-14

DRILLING DATE: 11/17/16
DRILLING METHOD: 4" SFA/Rotary Wash > 10'
DRILL RIG TYPE: CME 55
HAMMER TYPE: Automatic Hammer (140-lb) falling 30 in

SURFACE ELEVATION: 3.0 ft
DATUM: City of San Francisco
LOGGED BY: JF
CHECKED BY: AA

AGS, Inc. Consulting Engineers

DEPTH (FEET)	SAMPLE TYPE	SAMPLE NO.	BLOW COUNT	GRAPHIC LOG	GEOTECHNICAL DESCRIPTION AND CLASSIFICATION	DRY DENSITY (PCF)	MOISTURE CONTENT (%)	LIQUID LIMIT (%)	PLASTICITY INDEX (%)	ADDITIONAL TESTS
					SILTY GRAVEL WITH SAND (GM)- moist, brown, medium dense, fine and coarse subangular to rounded gravel [FILL]					
					SILTY SAND WITH GRAVEL (SM)- moist, dark brown to black, medium dense, fine- to medium-grained sand, little fine and coarse subangular gravel to 2" diameter, slight hydrocarbon odor [FILL]					
		1	14 7 7				9			SA (13)
5					- change to very loose					
		2	3 1 2				10			WA (13)
		3A B	4 9 13		- change to black, fine- to coarse-grained sand, little fine and coarse angular gravel to 1" diameter, trace wood fragments and charcoal, moderate hydrocarbon odor [FILL]	83	14	25	2	WA (16)
10					- change to wet					
					FAT CLAY (CH)- wet, dark gray, soft, trace fine-grained sand, trace gravel, trace organics [YOUNG BAY MUD]					
		4	WOH 1 1				77			WA (97)
15										
20										
		5A B	WOH 0 2		- change to no gravel, few fine-grained sand, few shells, strong organic odor	67	57	80	49	WA (91) UC (0.3)
25										
30										
		6A B	WOH 0 1		- change to very soft	58	80			
35										

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LOG OF BORING B-14

DRILLING DATE: 11/17/16
DRILLING METHOD: 4" SFA/Rotary Wash > 10'
DRILL RIG TYPE: CME 55
HAMMER TYPE: Automatic Hammer (140-lb) falling 30 in

SURFACE ELEVATION: 3.0 ft
DATUM: City of San Francisco
LOGGED BY: JF
CHECKED BY: AA

AGS, Inc. Consulting Engineers

DEPTH (FEET)	SAMPLE TYPE	SAMPLE NO.	BLOW COUNT	GRAPHIC LOG	GEOTECHNICAL DESCRIPTION AND CLASSIFICATION	DRY DENSITY (PCF)	MOISTURE CONTENT (%)	LIQUID LIMIT (%)	PLASTICITY INDEX (%)	ADDITIONAL TESTS
					FAT CLAY (CH) continues- wet, dark gray, very soft, trace fine-grained sand [YOUNG BAY MUD]					
					FAT CLAY WITH SAND (CH)- wet, greenish-gray with yellowish-brown mottling, very stiff, little fine-grained sand, few fine subrounded gravel to 1/4" diameter					
40										
	X	7A	5 9			96	31	50	35	WA (77)
	X	B	13			105	24			UC (2.6)
					CLAYEY SAND WITH GRAVEL (SC)- wet, yellowish-brown to light olive-brown, dense, fine- to coarse-grained sand, little fine angular gravel					
45										
	X	8A	9 16							
	X	B	20			106	23			
50										
		9	8 10 13				25	42	22	WA (43)
55										
	X	10A	9 12							
	X	B	15			103	24			
					FAT CLAY WITH GRAVEL AND SAND (CH)- wet, light olive-brown with reddish-brown mottling, stiff, little fine and coarse angular to subrounded gravel to 1.5" diameter, few fine- to coarse-grained sand					
60										
	X	11A	5 8 9			72	50			WA (83) UC (1.0)
65										
70										

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LOG OF BORING B-14

DRILLING DATE: 11/17/16
DRILLING METHOD: 4" SFA/Rotary Wash > 10'
DRILL RIG TYPE: CME 55
HAMMER TYPE: Automatic Hammer (140-lb) falling 30 in

SURFACE ELEVATION: 3.0 ft
DATUM: City of San Francisco
LOGGED BY: JF
CHECKED BY: AA

AGS, Inc. Consulting Engineers

DEPTH (FEET)	SAMPLE TYPE	SAMPLE NO.	BLOW COUNT	GRAPHIC LOG	GEOTECHNICAL DESCRIPTION AND CLASSIFICATION	DRY DENSITY (PCF)	MOISTURE CONTENT (%)	LIQUID LIMIT (%)	PLASTICITY INDEX (%)	ADDITIONAL TESTS
					SERPENTINITE- wet, green and black, moderately hard, moderately strong, intensely fractured [Jsp]					
		12	50/5"				14			
					Boring competed to a depth of 72.4 feet below ground surface (bgs). Groundwater encountered at about 10 feet (bgs). Boring backfilled with cement grout to surface.					
75										
80							12			
85										
90										
95										
100										
105										

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LOG OF BORING B-15

DRILLING DATE: 11/18/16
DRILLING METHOD: 4" SFA/Rotary Wash > 10'
DRILL RIG TYPE: CME 55
HAMMER TYPE: Automatic Hammer (140-lb) falling 30 in

SURFACE ELEVATION: 2.3 ft
DATUM: City of San Francisco
LOGGED BY: JF
CHECKED BY: AA

AGS, Inc. Consulting Engineers

DEPTH (FEET)	SAMPLE TYPE	SAMPLE NO.	BLOW COUNT	GRAPHIC LOG	GEOTECHNICAL DESCRIPTION AND CLASSIFICATION	DRY DENSITY (PCF)	MOISTURE CONTENT (%)	LIQUID LIMIT (%)	PLASTICITY INDEX (%)	ADDITIONAL TESTS
					SILTY GRAVEL WITH SAND (GM)- moist, brown, medium dense, fine and coarse subangular to rounded gravel [FILL]					
					SILTY SAND WITH GRAVEL (SM)- moist, olive-brown, medium dense, fine- to medium-grained sand, little fine and coarse angular gravel to 2" diameter [FILL]					
		1	4 5 5		- change to loose		13			WA (19)
5										
		2A B	14 23 25		**SILTY GRAVEL WITH SAND (GM)**- moist, reddish-brown, gray and greenish-gray, dense, fine and coarse angular gravel to 2" diameter, little fine- to coarse-grained sand, few wood fragments and charcoal, slight hydrocarbon odor [FILL]	120 117	9 11			WA (15) TX
					POORLY GRADED SAND WITH SILT AND GRAVEL (SP-SM)- moist, black, loose, fine- to coarse-grained sand, little fine and coarse angular gravel to 1" diameter, trace wood fragments and charcoal, moderate hydrocarbon odor [FILL]					
		3	2 3 5				10			WA (6)
10										
		4	2 1 WOH		- change to wet, very loose, strong hydrocarbon odor		36			WA (5)
15										
					FAT CLAY (CH)- wet, dark gray, very soft, trace fine-grained sand, trace shells to 2" diameter, trace fine gravel, trace wood fragments [YOUNG BAY MUD]					
20										
		5A B	WOH 0 0		- change to few sand, no gravel, no wood fragments	58	67			
25										
30		6	WOH 0 0		(No recovery.)					
35										

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LOG OF BORING B-15

DRILLING DATE: 11/18/16
DRILLING METHOD: 4" SFA/Rotary Wash > 10'
DRILL RIG TYPE: CME 55
HAMMER TYPE: Automatic Hammer (140-lb) falling 30 in

SURFACE ELEVATION: 2.3 ft
DATUM: City of San Francisco
LOGGED BY: JF
CHECKED BY: AA

AGS, Inc. Consulting Engineers

DEPTH (FEET)	SAMPLE TYPE	SAMPLE NO.	BLOW COUNT	GRAPHIC LOG	GEOTECHNICAL DESCRIPTION AND CLASSIFICATION	DRY DENSITY (PCF)	MOISTURE CONTENT (%)	LIQUID LIMIT (%)	PLASTICITY INDEX (%)	ADDITIONAL TESTS
					FAT CLAY (CH) continues- wet, greenish-gray, very soft [YOUNG BAY MUD] - 3" layer of silty sand at 41 feet					
40		7A B C	WOH 0 1			56	76			WA (97) UC (0.2)
45										
					SANDY LEAN CLAY WITH GRAVEL (CL)- wet, yellowish-brown to light olive-brown, very stiff, some fine- to coarse-grained sand, little fine angular gravel					
50		8A B	9 16 20			105	23			
55		9	6 7 9		**SANDY FAT CLAY (CH)**- wet, olive-gray, very stiff, some fine- to coarse-grained sand, trace angular gravel to 1/2" diameter		23	65	46	WA (73)
60		10A B	8 9 8		- grades sandier with increasing depth	105	25			WA (50) UC (0.9)
65		11	8 10 15		**SILTY SAND (SM)**- wet, yellowish-brown and gray, medium dense, fine- to coarse-grained sand, trace to few subangular gravel to 1/2" diameter		25	NP	NP	WA (14)
70										

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LOG OF BORING B-15

DRILLING DATE: 11/18/16
DRILLING METHOD: 4" SFA/Rotary Wash > 10'
DRILL RIG TYPE: CME 55
HAMMER TYPE: Automatic Hammer (140-lb) falling 30 in

SURFACE ELEVATION: 2.3 ft
DATUM: City of San Francisco
LOGGED BY: JF
CHECKED BY: AA

AGS, Inc. Consulting Engineers

DEPTH (FEET)	SAMPLE TYPE	SAMPLE NO.	BLOW COUNT	GRAPHIC LOG	GEOTECHNICAL DESCRIPTION AND CLASSIFICATION	DRY DENSITY (PCF)	MOISTURE CONTENT (%)	LIQUID LIMIT (%)	PLASTICITY INDEX (%)	ADDITIONAL TESTS
		12	5 5 7		**FAT CLAY WITH SAND (CH)**- wet, olive-gray, stiff, little fine- to coarse-grained sand, trace fine and coarse subrounded gravel to 1.5" diameter		46	59	38	WA (74)
75					**SERPENTINITE**- wet, green and black, moderately hard, moderately strong, intensely fractured [Jsp]					
80		13	50 50/3"				12			
					Boring completed to a depth of 79.75 feet below ground surface (bgs). Groundwater encountered at about 10 feet bgs. Boring backfilled with cement grout to surface.					
85										
90										
95										
100										
105										

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MAJOR DIVISIONS				TYPICAL NAMES
COARSE GRAINED SOILS More than Half > #200 sieve	GRAVELS MORE THAN HALF COARSE FRACTION IS LARGER THAN NO. 4 SIEVE	CLEAN GRAVELS WITH LITTLE OR NO FINES	GW	WELL GRADED GRAVELS, GRAVEL-SAND MIXTURES
			GP	POORLY GRADED GRAVELS, GRAVEL-SAND MIXTURES
		GRAVELS WITH OVER 15% FINES	GM	SILTY GRAVELS, POORLY GRADED GRAVEL-SAND-SILT MIXTURES
			GC	CLAYEY GRAVELS, POORLY GRADED GRAVEL-SAND-CLAY MIXTURES
	SANDS MORE THAN HALF COARSE FRACTION IS SMALLER THAN NO. 4 SIEVE	CLEAN SANDS WITH LITTLE OR NO FINES	SW	WELL GRADED SANDS, GRAVELLY SANDS
			SP	POORLY GRADED SANDS, GRAVELLY SANDS
		SANDS WITH OVER 15% FINES	SM	SILTY SANDS, POOORLY GRADED SAND-SILT MIXTURES
			SC	CLAYEY SANDS, POORLY GRADED SAND-CLAY MIXTURES
FINE GRAINED SOILS More than Half < #200 sieve	SILTS AND CLAYS LIQUID LIMIT LESS THAN 50		ML	INORGANIC SILTS AND VERY FINE SANDS, ROCK FLOUR, SILTY OR CLAYEY FINE SANDS, OR CLAYEY SILTS WITH SLIGHT PLASTICITY
			CL	INORGANIC CLAYS OF LOW TO MEDIUM PLASTICITY, GRAVELLY CLAYS, SANDY CLAYS, SILTY CLAYS, LEAN CLAYS
			OL	ORGANIC CLAYS AND ORGANIC SILTY CLAYS OF LOW PLASTICITY
	SILTS AND CLAYS LIQUID LIMIT GREATER THAN 50		MH	INORGANIC SILTS, MICACEOUS OR DIATOMACIOUS FINE SANDY OR SILTY SOILS, ELASTIC SILTS
			CH	INORGANIC CLAYS OF HIGH PLASTICITY, FAT CLAYS
			OH	ORGANIC CLAYS OF MEDIUM TO HIGH PLASTICITY, ORGANIC SILTS
HIGHLY ORGANIC SOILS			Pt	PEAT AND OTHER HIGHLY ORGANIC SOILS

UNIFIED SOIL CLASSIFICATION SYSTEM

	Modified California Sampler (2.5-inch I.D.)	WOR	Weight of Rods
	Standard Penetration Test (1.5-inch I.D.)	WOH	Weight of Hammer
	Shelby Tube (Pushed)	PP	Pocket Penetrometer - Field (tsf)
	Osterberg Piston Sampler	TX	Triaxial Shear (UU)
	Bulk Sample (Auger Cuttings)	UC	Unconfined Compressive Strength
	Grab Sample (Auger Cuttings)	(1.2)	Shear Strength, from UC (ksf)
CON	Consolidation	SA	Sieve Analysis
R-V	R-Value	WA	Wash Analysis
CMP	Compaction Curve	(20)	(% Passing No. 200 Sieve)
ENV	Environmental Samples		Initial Groundwater Level at Time of Drilling
COR	Corrosivity		Later Water Level (after Equilibrating)

ADDITIONAL TESTS AND KEY TO TEST DATA

SOIL CLASSIFICATION CHART AND KEY TO TEST DATA

Pier 70 Crane Cove Park
San Francisco, California

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JOB NO.: KK0210	DATE: Dec 2016		PLATE A-2

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PHYSICAL CHARACTERISTICS OF ROCKS
FIELD TERMINOLOGY

HARDNESS

VERY SOFT:	EASILY CRUMBLED OR DEFORMED BY HAND.
SOFT:	MAY BE BROKEN USING BOTH HANDS OR IF PLASTIC, DEFORMED BY HAND. MAY BE CUT WITH DIFFICULTY WITH KNIFE. EASILY POWDERED WITH PICK. DULL THUD WHEN STRUCK WITH HAMMER.
MODERATELY HARD:	MAY BE SCRATCHED WITH KNIFE TO SHALLOW DEPTH. DULL RING WHEN STRUCK WITH HAMMER.
HARD:	CAN BE SCRATCHED WITH DIFFICULTY WITH KNIFE.
VERY HARD:	CANNOT BE SCRATCHED WITH KNIFE. SHARP RING WHEN STRUCK WITH HAMMER.

STRENGTH

PLASTIC:	CAN BE DEFORMED BY HAND.
FRIABLE:	CRUMBLES BY RUBBING WITH FINGERS.
WEAK:	AN UNFRACTURED OUTCROP OF SUCH MATERIAL WOULD CRUMBLE UNDER LIGHT HAMMER BLOWS.
MODERATELY STRONG:	OUTCROP WOULD WITHSTAND A FEW FIRM HAMMER BLOWS BEFORE BREAKING.
STRONG:	OUTCROP WOULD WITHSTAND A FEW HEAVY HAMMER BLOWS, BUT WILL YIELD LARGE FRAGMENTS.
VERY STRONG:	OUTCROP WOULD RESIST HEAVY RINGING HAMMER BLOWS AND WILL YIELD, WITH DIFFICULTY, ONLY DUST AND SMALL FRAGMENTS.

WEATHERING

EXTENT	DECOMPOSITION	DISINTEGRATION	DISCOLORATION	FRACTURE CONDITION
SEVERE	MODERATE TO COMPLETE ALTERATION OF MINERALS, FELDSPARS ALTERED TO CLAY, ETC.	GENERALLY FRIABLE, BUT ROCK TEXTURE AND STRUCTURE ARE PRESERVED.	EXTENSIVE AND THOROUGH.	ALL FRACTURES EXTENSIVELY COATED WITH OXIDES, CARBONATES OR CLAY.
MODERATE	SLIGHT ALTERATION OF MINERALS, CLEAVAGE SURFACES LUSTERLESS AND STAINED.	MOST CEMENTATION IS AFFECTED; MAY BE LOCALLY FRIABLE.	MODERATE OR LOCALIZED AND INTENSE.	THIN COATINGS OR STAINS.
SLIGHT	NO MEGASCOPIC ALTERATION OF MINERALS.	LITTLE OF NO EFFECT ON NORMAL CEMENTATION.	SLIGHT TO INTERMITTENT AND LOCALIZED.	FEW STAINS ON FRACTURE SURFACES.
FRESH	UNALTERED, CLEAVAGE SURFACES GLISTENING.	CEMENTATION UNAFFECTED.	NO DISCOLORATION.	NO STAINS.

FRACTURING*

EXTENT	ENGLISH SIZE RANGE	METRIC SIZE RANGE
CRUSHED (MAY CONTAIN CLAY)	LESS THAN 0.05 FT	LESS THAN 1.5 CM
INTENSELY FRACTURED	0.05 TO 0.1 FT	1.5 CM TO 3.0 CM
CLOSELY FRACTURED	0.1 TO 0.5 FT	3.0 CM TO 15 CM
MODERATELY FRACTURED	0.5 TO 1.0 FT	15 CM TO 30 CM
LITTLE FRACTURED	1.0 TO 3.0 FT	30 CM TO 100 CM
MASSIVE	3.0 FT AND LARGER	1.0 M AND LARGER

FRACTURE COATINGS

EXTENT	THICKNESS
UNSTAINED OR CLEAN: NEARLY ALL SURFACES CLEAN.	STAINED: NO PERCEPTIBLE THICKNESS.
SMALL: COVERS LESS THAN 10% OF FRACTURE SURFACE.	THIN: BARELY PERCEPTIBLE.
MODERATE OR PATCHY: COVERS 10% TO 50% OF SURFACE.	MEDIUM: UP TO 2 MM.
EXTENSIVE: COVERS NORE THAN 50% OF SURFACE.	THICK: OVER 2 MM THICK.

STRATIFICATION

STRATIFICATION (OR PARTING)	CROSS-STRATIFICATION	APPROXIMATE THICKNESS**	
		ENGLISH	METRIC
VERY THICK-BEDDED (-PARTED)	VERY THICKLY CROSS-BEDDED	OVER 3 FT	OVER 1 M
THICK-BEDDED (-PARTED)	THICKLY CROSS-BEDDED	1 TO 3 FT	30 TO 100 CM
MEDIUM-BEDDED (-PARTED)	MEDIUM CROSS-BEDDED	4 TO 12 IN	10 TO 30 CM
THIN-BEDDED (-PARTED)	THINLY CROSS-BEDDED	1 TO 4 IN	3 TO 10 CM
VERY THIN-BEDDED (-PARTED)	VERY THINLY CROSS-BEDDED	0.5 TO 1 IN	1 TO 3 CM
LAMINATED (THINLY PARTED)	CROSS-LAMINATED	0.1 TO 0.5 IN	0.3 TO 1.0 CM
THINLY LAMINATED (VERY THINLY PARTED)	THINLY CROSS-LAMINATED	LESS THAN 0.1 IN	LESS THAN 0.3 CM

* JOINTS AND FRACTURES ARE TREATED THE SAME FOR PHYSICAL DESCRIPTION AND BOTH ARE REFERRED TO AS FRACTURES; SIZE RANGE REFERS TO SIZE OF PIECES.
** MASSIVE IF BEDS ARE OVER 10 FT (3 M) THICK.

RECOVERY = RECOVERY RATIO, RECOVERED LENGTH DIVIDED BY LENGTH OF RUN; EXPRESSED AS A PERCENTAGE.

RQD = SUM OF LENGTHS OF FULL DIAMETER, SOUND CORE 4" OR LONGER, DIVIDED BY LENGTH OF RUN; EXPRESSED AS A PERCENTAGE. NOT APPLICABLE TO SEVERELY WEATHERED ROCK.

PHYSICAL CHARACTERISTICS OF ROCK
Pier 70 Crane Cove Park
San Francisco, California

AGS, Inc.
Consulting Engineers

JOB NO. KK0210	DATE: Dec 2016	PLATE A-3

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APPENDIX B – AGS GEOTECHNICAL LABORATORY RESULTS

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B.1 GENERAL

Preliminary visual soil classifications were made by AGS in the field in accordance with ASTM D-2488-09a, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure). The samples collected from the borings were taken to AGS' laboratory for examination and analyses. The soil classifications were verified by observation of the samples in the laboratory, and a testing program in accordance with ASTM D-2487-11, Standard Classification of Soils for Engineering Purposes (Unified Soil Classification System).

Geotechnical laboratory tests were performed on selected soil samples in order to evaluate the engineering properties of the materials. Samples were tested in the AGS lab for moisture content, dry density, grain-size distribution, percent passing the No. 200 sieve, Atterberg limits, and unconfined compressive strength. A sample was submitted to Soil Mechanics Laboratory of Oakland California for triaxial strength testing, and a composite sample was submitted to Cooper Testing Laboratyro of Palo Alto, California, for corrosivity testing. The results of laboratory testing of soil samples are attached to this appendix.

The laboratory tests were performed using the techniques and procedures discussed below.

B.1.1 Moisture and Density Tests

Moisture content and density tests were performed on selected samples to evaluate their consistencies and the moisture variation throughout the explored profile. The moisture content was evaluated in accordance with ASTM D2216-10, Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock, and was considered to represent the moisture content of the entire sample for dry density evaluation. The test results are presented on the Logs of Borings at the corresponding sample depth, in Appendix A.

B.1.2 Particle Size

Particle size analyses were conducted on selected samples in accordance with ASTM D422-63, Standard Test Method for Particle Size Analysis of Soils or ASTM D1140-14,

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Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75-µm) Sieve. The results of the particle size analysios are presented on Plate B-1.1, Particle Size Distribution. The amounts passing the No. 200 sieve are shown on the Logs of Borings at the corresponding sample depths, in Appendix A.

B.1.3 Atterberg Limits

Atterberg limits were evaluated on selected cohesive, fine-grained soil samples to assist in their classification. Liquid limits, plastic limits, and plasticity indices were evaluated in accordance with ASTM D4318-10, Standard Test Method for Liquid Limit, Plastic Limit, and Plasticity Index of Soils. The results of the Atterberg limits tests are presented on Plates B-2.1 through B-2.2, Plasticity Chart. Liquid Limits and Plasticity Indices are also shown on the Logs of Borings at the corresponding sample depths, in Appendix A.

B.1.4 Unconfined Compressive Strength

Unconfined compressive strength tests were performed on selected cohesive soil samples at the AGS Laboratory in San Francisco, California, to evaluate their strength characteristics. The tests were conducted in accordance with ASTM D-2166, Standard Test Method for Unconfined Compressive Strength of Cohesive Soil. The unconfined compressive strength test results are shown on Plates B-4.1 through B-4.5.

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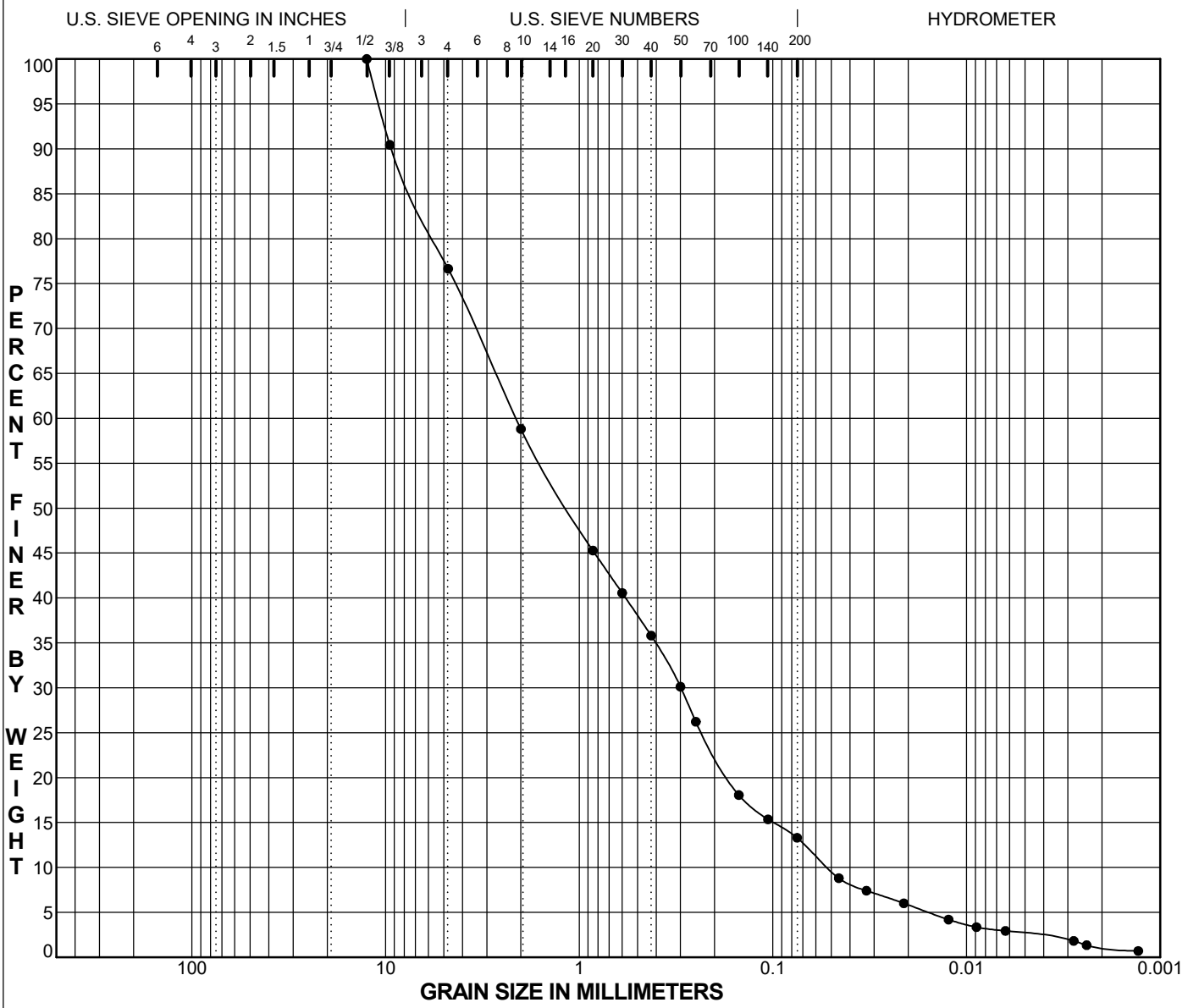

COBBLES	GRAVEL		SAND			SILT OR CLAY
	coarse	fine	coarse	medium	fine	

	SAMPLE SOURCE	CLASSIFICATION	MC%	LL	PL	PI	Cc	Cu
●	B-14 @ 4.0'	Silty Sand with Gravel (SM)	9				0.81	40.6

	SAMPLE SOURCE	D100	D60	D30	D10	%Gravel	%Sand	%Silt	%Clay
●	B-14 @ 4.0'	12.50	2.12	0.298	0.0521	23.4	63.3	10.7	2.6

PARTICLE SIZE ANALYSIS

Pier 70 Crane Cove Park
San Francisco, California

AGS, Inc.
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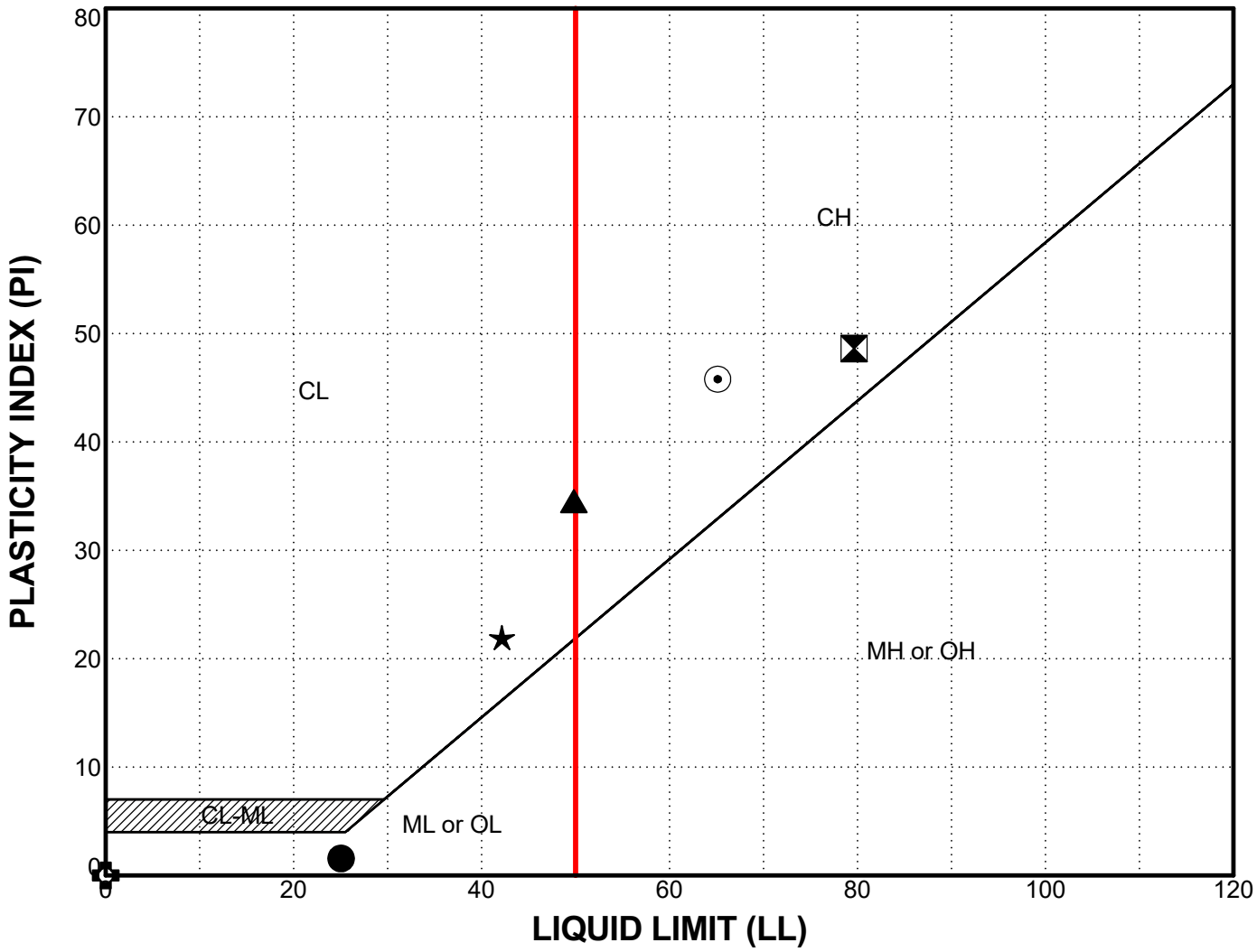

SAMPLE SOURCE	CLASSIFICATION	LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	% PASSING #200 SIEVE
● B-14 @ 9.0'	Silty Sand with Gravel (SM)	25	23	2	16
⧗ B-14 @ 21.5'	Fat Clay (CH)	80	31	49	91
▲ B-14 @ 41.0'	Fat Clay with Sand (CH)	50	15	35	77
★ B-14 @ 51.0'	Clayey Sand with Gravel (SC)	42	20	22	43
⊙ B-15 @ 56.0'	Fat Clay with Sand (CH)	65	19	46	73
✿ B-15 @ 66.0'	Silty Sand (SM)	NP	NP	NP	14

PLASTICITY CHART
Pier 70 Crane Cove Park
San Francisco, California

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JOB NO.	KK-0210	DATE	Dec 2016		PLATE B-2.1

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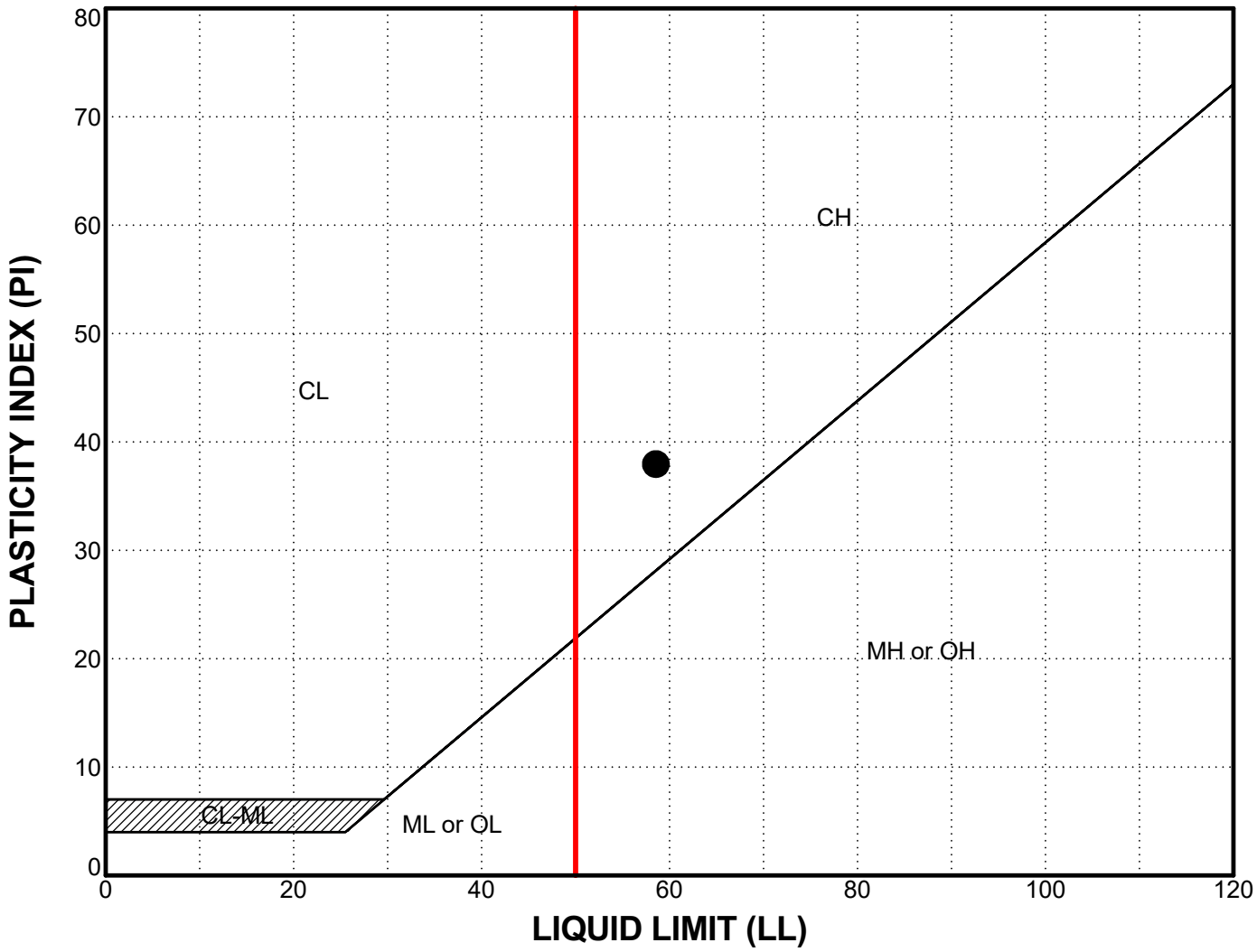

SAMPLE SOURCE	CLASSIFICATION	LIQUID LIMIT (%)	PLASTIC LIMIT (%)	PLASTICITY INDEX (%)	% PASSING #200 SIEVE
● B-15 @ 71.0'	Fat Clay with Sand (CH)	59	21	38	74

PLASTICITY CHART
Pier 70 Crane Cove Park
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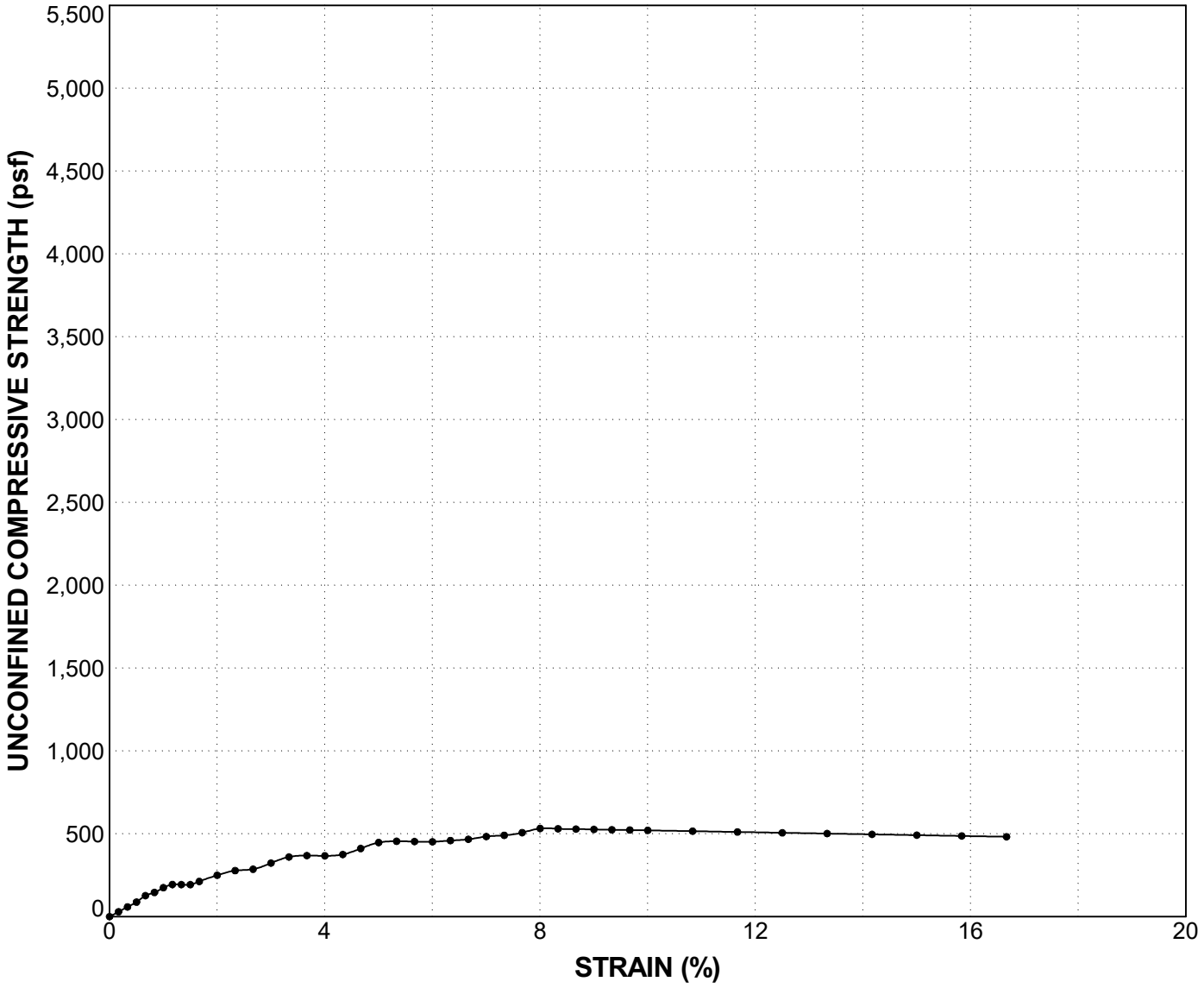

Sample Source	Classification	Type of Test		Ultimate Strength (psf)	Strain (%)	Dry Density (pcf)	Moisture Content (%)
● B-14 @ 21.5'	Fat Clay (CH)	UC		532	8	67	56.7

UC = Unconfined Compression

UNCONFINED COMPRESSIVE STRENGTH

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San Francisco, California

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JOB NO.	KK-0210	DATE	Dec 2016		PLATE B-3.1

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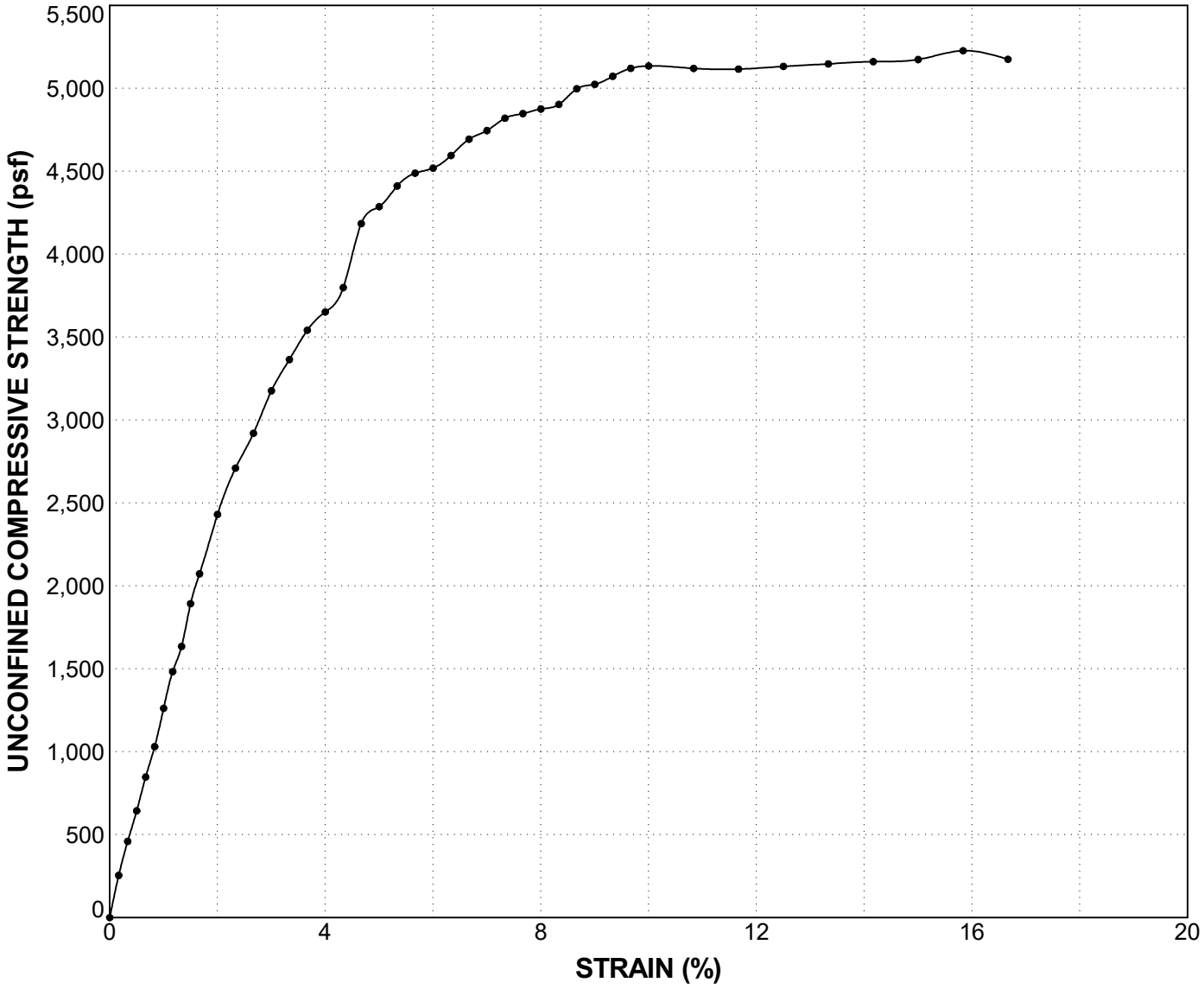

Sample Source	Classification	Type of Test		Ultimate Strength (psf)	Strain (%)	Dry Density (pcf)	Moisture Content (%)
● B-14 @ 41.5'	Fat Clay with Sand (CH)	UC		5174	15	105	23.9

UC = Unconfined Compression

UNCONFINED COMPRESSIVE STRENGTH

Pier 70 Crane Cove Park
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JOB NO.	KK-0210	DATE	Dec 2016		PLATE B-3.2

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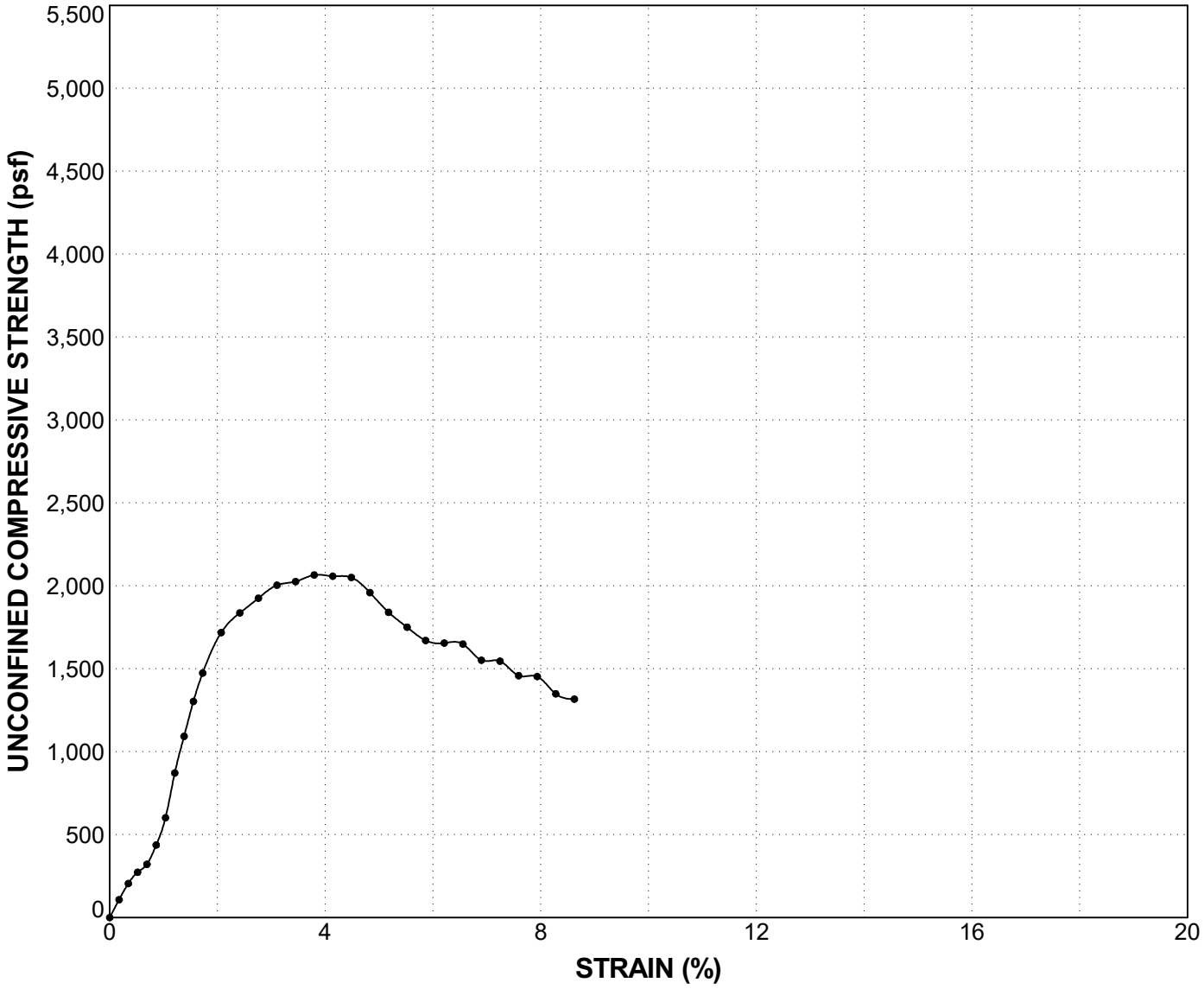

Sample Source	Classification	Type of Test		Ultimate Strength (psf)	Strain (%)	Dry Density (pcf)	Moisture Content (%)
● B-14 @ 61.5'	Fat Clay with Gravel and Sand (CH)	UC		2066	4	72	50.1

UC = Unconfined Compression

UNCONFINED COMPRESSIVE STRENGTH

Pier 70 Crane Cove Park
San Francisco, California

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JOB NO.	KK-0210	DATE	Dec 2016		PLATE B-3.3

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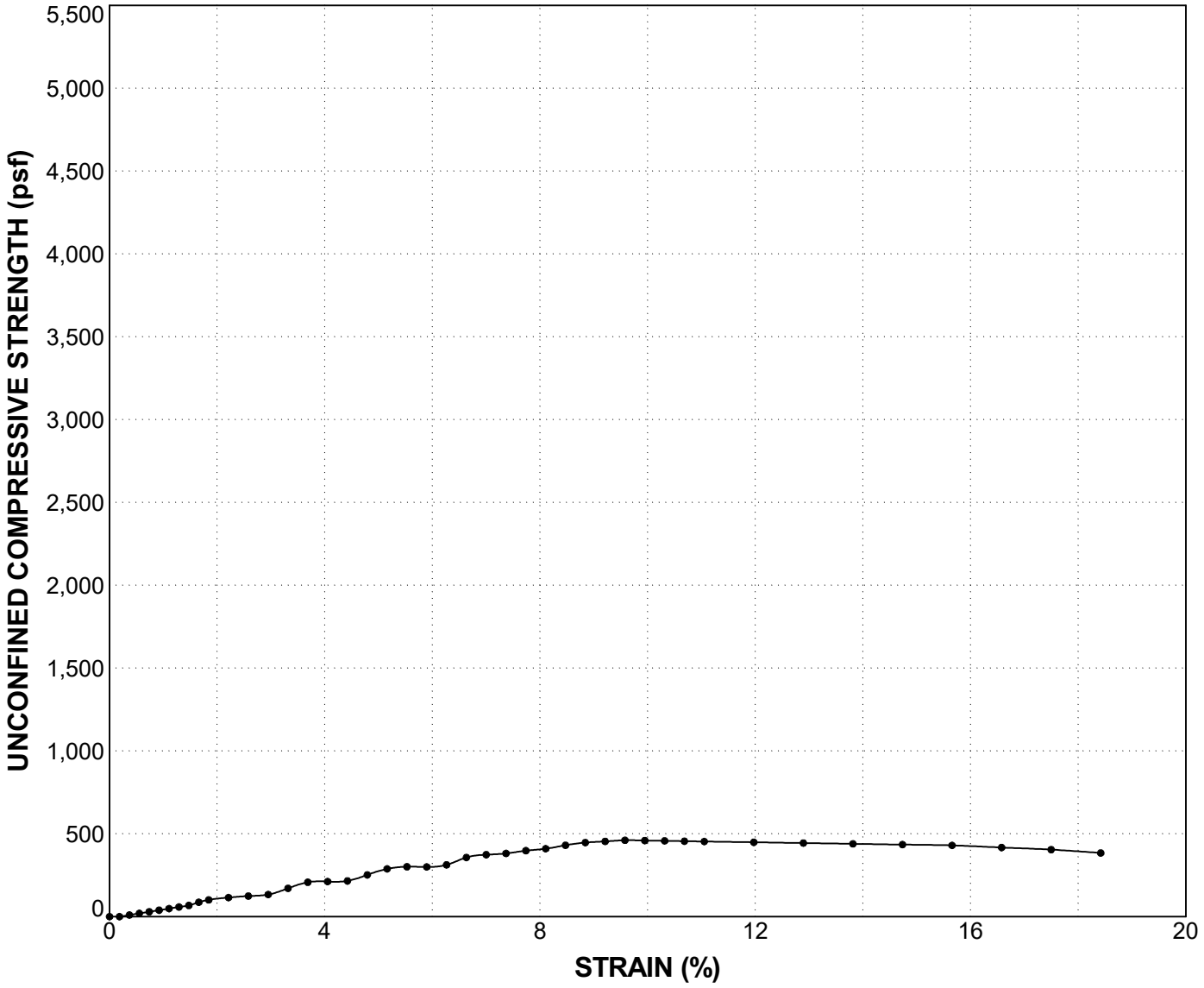

Sample Source	Classification	Type of Test		Ultimate Strength (psf)	Strain (%)	Dry Density (pcf)	Moisture Content (%)
● B-15 @ 41.0'	Fat Clay (CH)	UC		461	10	56	76.1

UC = Unconfined Compression

UNCONFINED COMPRESSIVE STRENGTH

Pier 70 Crane Cove Park
San Francisco, California

AGS, Inc.
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JOB NO.	KK-0210	DATE	Dec 2016		PLATE B-3.4

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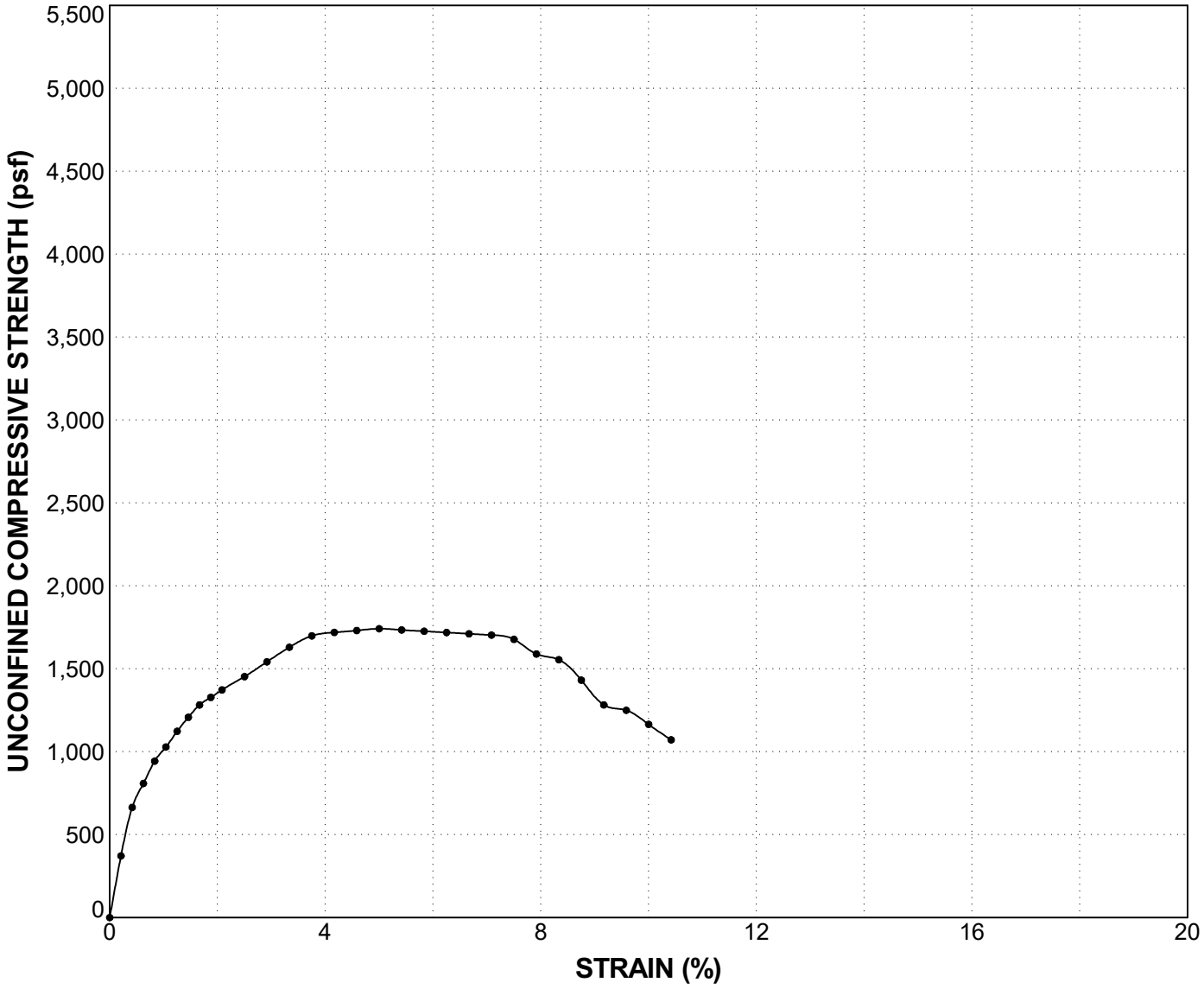

Sample Source	Classification	Type of Test		Ultimate Strength (psf)	Strain (%)	Dry Density (pcf)	Moisture Content (%)
● B-15 @ 61.5'	Fat Clay with Sand (CH)	UC		1742	5	105	24.7

UC = Unconfined Compression

UNCONFINED COMPRESSIVE STRENGTH

Pier 70 Crane Cove Park
San Francisco, California

AGS, Inc.
Consulting Engineers

JOB NO.	KK-0210	DATE	Dec 2016		PLATE B-3.5

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APPENDIX C – OUTSIDE LABORATORY RESULTS

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C.1 GENERAL

Geotechnical laboratory tests were performed on selected soil samples in order to evaluate the engineering properties of the materials. One sample was submitted to Soil Mechanics Lab of Oakland, California, for triaxial compression testing, and one composite sample was submitted to Cooper Testing Laboratory for corrosivity testing. The results of laboratory testing of soil samples are attached to this appendix.

The laboratory tests were performed using the techniques and procedures discussed below.

C.1.1 Triaxial Compression Test

One sample was tested in triaxial compression in unconsolidated, undrained conditions, by Soil Mechanics Laboratory of Oakland, California, to evaluate strength characteristics. The test was conducted in accordance with ASTM D2850-03, Standard Test Method for Unconsolidated-Undrained Triaxial Compression Test on Cohesive Soils. The triaxial strength test results are shown on Plate C-1.

C.1.2 Corrosivity Tests

One composite sample of near-surface fill soils was tested for resistivity, chlorides, sulfate, pH, and Redox potential. Tests were performed in accordance with ASTM G57, D4327, G51 and G200, respectively. Test results are presented on Plate C-2.

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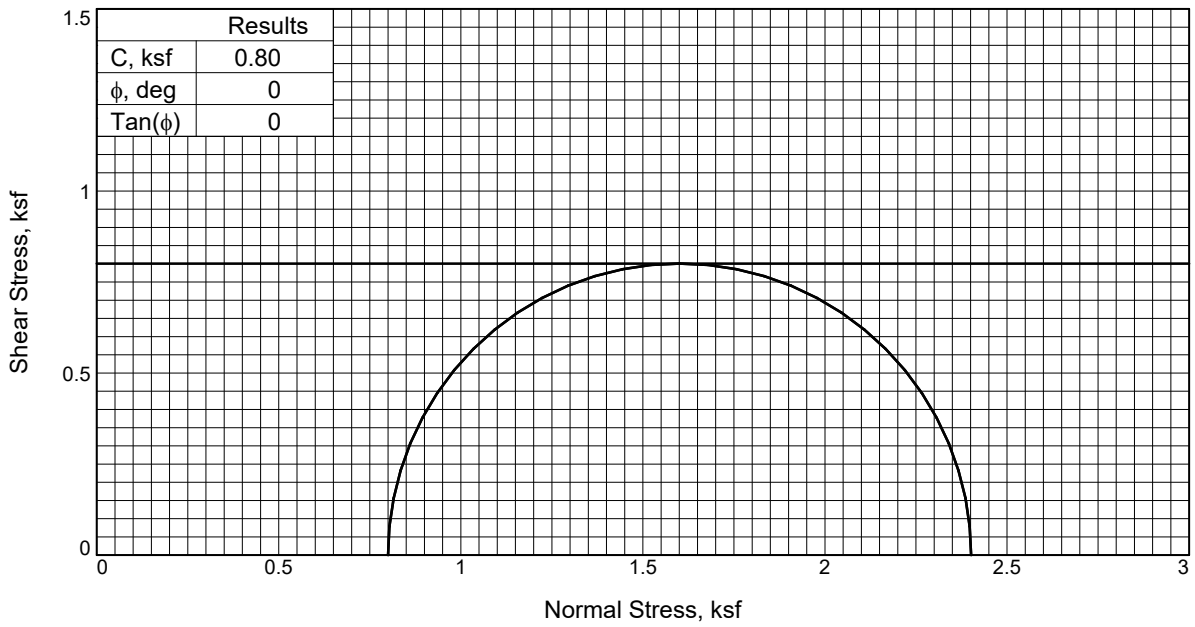

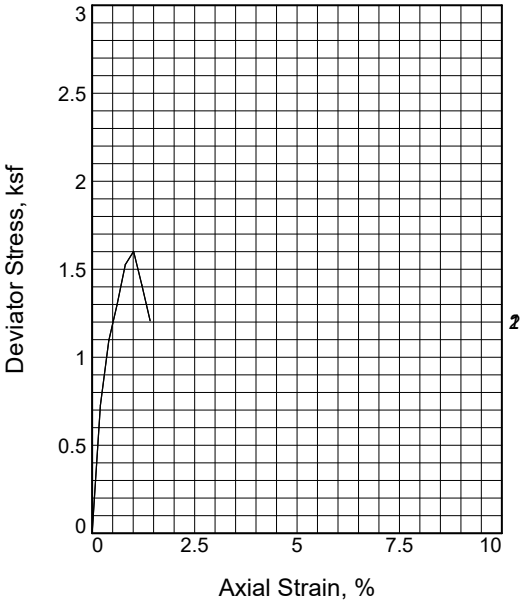

Sample No.		1	2
Initial	Water Content, %	10.9	
	Dry Density, pcf	117.2	
	Saturation, %	66.9	
	Void Ratio	0.4381	
	Diameter, in.	2.42	
	Height, in.	4.95	
At Test	Water Content, %	10.9	
	Dry Density, pcf	117.2	
	Saturation, %	66.9	
	Void Ratio	0.4381	
	Diameter, in.	2.42	
	Height, in.	4.95	
Strain rate, %/min.		0.08	
Back Pressure, psi		0.00	
Cell Pressure, psi		5.56	
Fail. Stress, ksf		1.60	
Strain, %		1.0	
Ult. Stress, ksf			
Strain, %			
σ_1 Failure, ksf		2.40	
σ_3 Failure, ksf		0.80	

Type of Test: Unconsolidated Undrained

Sample Type: Mod.Cal.

Description: Very dense,black with greenish gray silty SAND w/f-m gravel inclusions.Trace clay fines.

Assumed Specific Gravity= 2.70

Remarks:

Client: AGS

Project: Port of SF-Pier 70(Crane Cove PK) Bldg.49

Location: B-15

Sample Number: 2B **Depth:** 6-6.5'

Proj. No.: KKO210 **Date Sampled:** 11-17-16

TRIAXIAL SHEAR TEST REPORT
Soil Mechanics Lab
Oakland, California

Plate C-1.1

Tested By: MA

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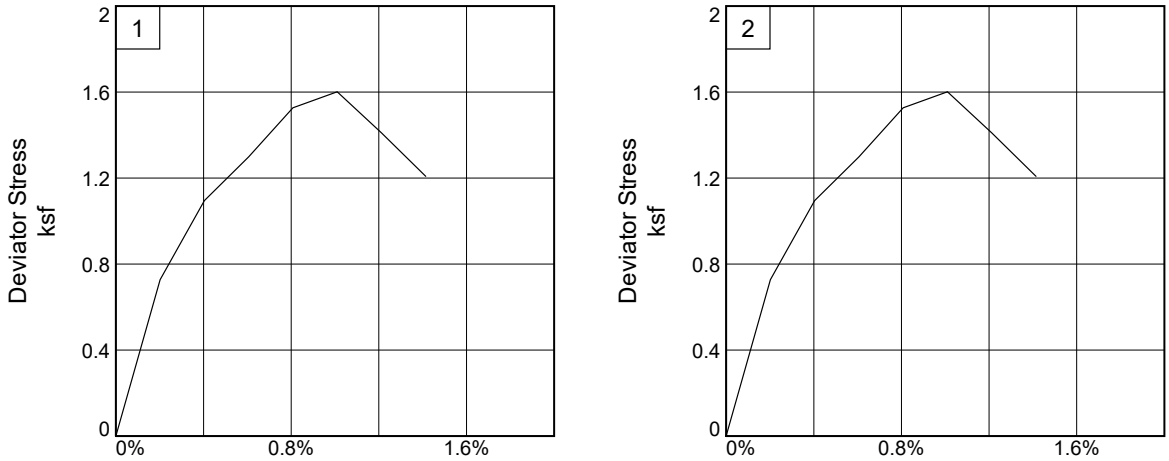

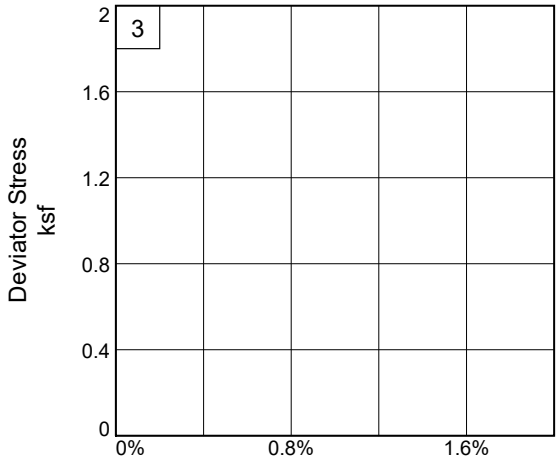

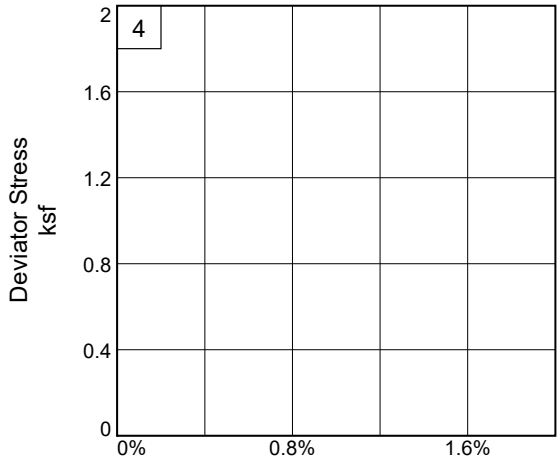

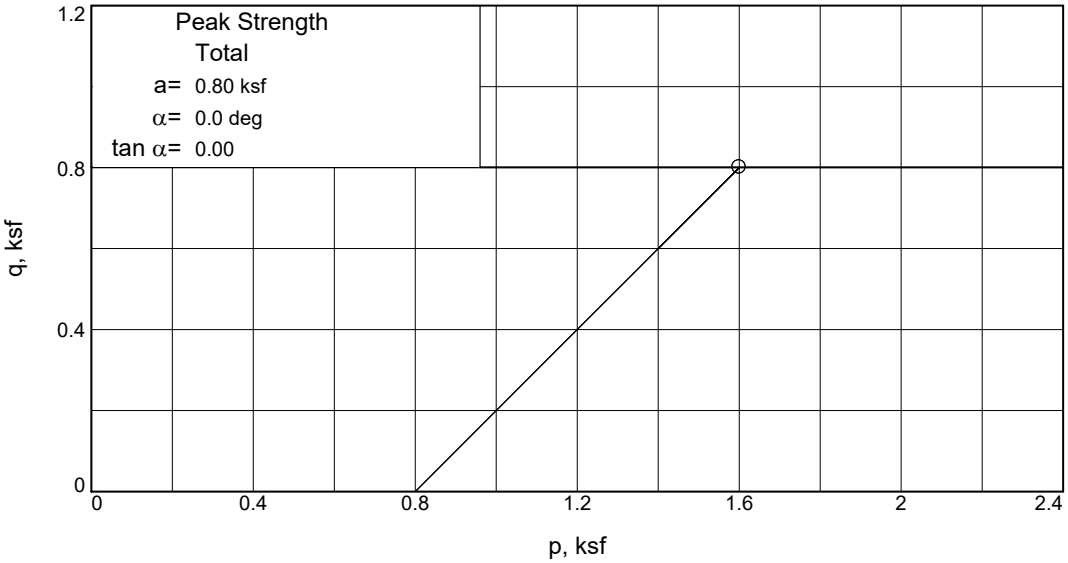

Stress Paths: o indicates peak

Client: AGS
Project: Port of SF-Pier 70(Crane Cove PK) Bldg.49
Location: B-15 **Depth:** 6-6.5' **Sample Number:** 2B
Project No.: KKO210 **Plate** C-1.2

Soil Mechanics Lab

Tested By: MA

Corrosivity Tests Summary

CTL # 041-146 **Date:** 1/10/2017 **Tested By:** PJ **Checked:** PJ
Client: AGS **Project:** Crane Cove Park- Bldg 49 **Proj. No:** AGS KK 0210
Remarks:

Sample Location or ID			Resistivity @ 15.5 °C (Ohm-cm)			Chloride	Sulfate		pH	ORP (Redox)		Sulfide	Moisture	Soil Visual Description
			As Rec.	Min	Sat.	mg/kg Dry Wt.	mg/kg Dry Wt.	% Dry Wt.		E_H (mv)	At Test Temp °C	Qualitative by Lead	At Test %	
Boring	Sample, No.	Depth, ft.	ASTM G57	Cal 643	ASTM G57	ASTM D4327	ASTM D4327	ASTM D4327	ASTM G51	ASTM G200		Acetate Paper	ASTM D2216	
B-14 & B-15	Composite	-	-	-	127	3,933	349	0.0349	6.5	242	16	-	17.5	Black Clayey SAND

PLATE C-2

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APPENDIX D – LIQUEFACTION ANALYSIS

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D.1 GENERAL

Soil liquefaction is a phenomenon in which saturated (submerged) cohesionless soils experience a temporary loss of strength due to the build-up of excess pore water pressure during cyclic seismic loadings. In the process, the soil acquires mobility sufficient to permit both horizontal and vertical movements. Soils most susceptible to liquefaction are loose, clean, saturated, and uniformly graded, fine-grained sands, which lie within about 50 feet of the ground surface. Saturated loose silty and clayey sands may also liquefy during strong ground shaking.

This appendix presents the results of our liquefaction potential evaluation for the proposed improvement discussed in the main text. The liquefaction potential evaluation was based on the results of our field exploration program, whereby blow counts were recorded by driving the Modified California (MC) and Standard Penetration Test (SPT) samplers. The blow counts shown on these plates were corrected for various factors, as discussed below, and used in the liquefaction analyses.

The design earthquakes evaluated were a Maximum Moment Magnitude event of Mw 8.0 on the San Andreas Fault. The San Andreas Fault is located about 4.8 km (3.0 miles) southwest of the site. Our evaluations were made using the liquefaction evaluation procedure developed by National Center for Earthquake Engineering (NCEE), 1996; Youd and Idriss 2001, Idriss and Boulanger (2008), and Boulanger and Idriss (2014), based on liquefaction observation in previous earthquakes.

D.2 LIQUEFACTION POTENTIAL EVALUATION

A comprehensive collection of site conditions at various locations where some evidence of liquefaction was known to have or to have not occurred was collected by Seed and others (1984). These data on sandy soils with a fines content less than 5 percent under magnitude 7.5 earthquake conditions was presented as relationships between field values of cyclic stress ratio, τ_{max}/σ'_o (where: τ_{av} = average horizontal shear stress induced by an earthquake; and σ'_o = initial effective overburden pressure on the soil element), and the SPT blow counts corrected for certain effects. For an earthquake of magnitude 8.0, the cyclic shear stress ratio necessary to cause liquefaction in Seed's

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curve was corrected to account for the earthquake magnitude or duration effect (Idriss, 1996).

For the first step in estimating liquefaction potential, the measured SPT blow counts should be corrected for various factors using the method proposed by NCEER (1997). The raw SPT blow count, N, is corrected to obtain the modified penetration resistance, $N_{1(60)}$. The modified penetration resistance is computed as follows:

$$N_{1(60)} = N \times C_m \times C_z \times C_h \times C_s \times C_N \quad \text{(D.1)}$$

where:

N: raw SPT or Modified California blow count (blows/ft);

C_m: a factor to correct for the size of the sampler.

C_m = 1.0 for the SPT sampler; C_m = 0.61 for the Modified California sampler;

C_z: a factor that depends on the length of the drive rods; the following C_z factors may be used for various depths:

Depth	C_z
> 30 ft	1.0
13 to 20 ft	0.95
10 to 13 ft	0.85
< 10 ft	0.75

C_h: a factor that accounts for the hammer efficiency used in the field to normalize the actual hammer efficiency to the cathead-and-rope system efficiency of 60%.

$C_h = E_h/60\%$, where E_h is the hammer efficiency; 80% for this investigation.

C_s: a factor that depends on the sampling tube; for a split-spoon sampler without liner (ID = 1.5" and OD = 2.0"), the following C_s factors may be used:

Raw Blow Count, N	C_S
< 10	1.0
> 10	1.2

C_N: a factor that depends on the effective overburden pressure at the depth when the penetration test was conducted.

$$C_N = \left(\frac{P_a}{\sigma_v'}\right)^m \leq 1.7 \quad \text{(D.2)}$$

Where P_a is atmospheric pressure, σ'_v is effective vertical stress, and

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$$m = 0.784 - 0.00768\sqrt{(N_1)_{60cs}}\ , \quad \text{(D.3)}$$

which must be solved iteratively.

As presented in NCEE (1996), another correction factor, $\Delta(N_1)_{60}$, to account for fines content, should be added to $(N_1)_{60}$ as follows:

$$\Delta(N_1)_{60} = \exp\left(1.63 + \frac{9.7}{FC+0.01} - \left(\frac{15.7}{FC+0.01}\right)^2\right) \quad \text{(D.4)}$$

Where FC is the fines content expressed as a fraction of the whole, not a percentage.

The resulting corrected blow count, $(N_1)_{60cs}$ is:

$$(N_1)_{60cs} = (N_1)_{60} + \Delta(N_1)_{60} \quad \text{(D.5)}$$

The cyclic stress ratio (CSR), T_{max}/σ'_o, at a specific depth can be estimated from dynamic site response analyses. It also can be estimated with reasonable accuracy from the following equation as discussed by Seed and Idriss (1982).

$$\mathrm{CSR} = \frac{\tau_{max}}{\sigma'_v} = 0.65\ \frac{a_{max}}{g}\ \frac{\sigma_v}{\sigma'_v}\, r_d \quad \text{(D.6)}$$

where:

a_{max}: maximum acceleration at the ground surface;

σ_v: total overburden pressure;

σ_v': effective overburden pressure; and

r_d: a stress reduction factor.

Based on the magnitude of the design earthquake, and the peak ground acceleration generated by that earthquake, the cyclic stress ratio is calculated using Equation D.6.

The derived correlation between CRR and penetration resistance is expressed by the following equation developed by Idriss and Boulanger (2008).

$$CRR_M = \exp\left(\left(\frac{(N_1)_{60\,cs}}{14.1}\right) + \left(\frac{(N_1)_{60\,cs}}{126}\right)^2 - \left(\frac{(N_1)_{60\,cs}}{23.6}\right)^3 + \left(\frac{(N_1)_{60\,cs}}{25.4}\right)^4 - 2.8\right) \quad \text{(D.7)}$$

The cyclic stress ratio is then corrected to account for an earthquake magnitude other than 7.5, and for overburden pressure:

$$CRR_R = CRR_M \times MSF \times K_\sigma \quad \text{(D.8)}$$

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The Magnitude Scaling Factor (MSF) is used to adjust the CRR to a common value of M_w=7.5, because the CRR depends on the number of loading cycles, which correlates with M_w (Seed et al. 1975b). MSF is calculated using equations D.9:

$$MSF = 1 + (MSF_{max} - 1)\left(8.64 \exp\left(\frac{-M}{4}\right) - 1.325\right) \leq \mathrm{MSF_{max}} \quad \text{(D.9)}$$

Where $MSF_{max} = 1.09 + \left(\frac{(N_1)_{60}}{31.5}\right)^2 \leq 2.2$

The overburden correction factor (K_σ) was introduced by Seed (1983) to adjust the CRR. Overburden correction factor can be estimated using equation D.10.

$$K_\sigma = 1 - C_\sigma \cdot \ln\left(\frac{\sigma_v}{P_a}\right) \leq 1.1 \quad \text{(D.10)}$$

Where $C_\sigma = \left(\frac{1}{18.9 - 2.55\sqrt{(N_1)_{60\,cs}}}\right) \leq 0.3$

The factor of safety against liquefaction can be estimated using equation D.11.

$$FS_{liq} = CRR_R/CSR \quad \text{(D.11)}$$

G.3 SEISMICALLY-INDUCED SETTLEMENT

For coarse-grained soils such as sand and gravel with various amount of silt and clay, AGS used the liquefaction evaluation approach described above and developed over the years by Seed and his co-authors.

For fine-grained soils such as silt and clay, there are currently two screening procedures. Both approaches are based on modified Chinese Criteria for liquefaction evaluation of fine-grained soils. The first approach was developed by Bray and Sancio (2006), and another approach was developed by Boulanger and Idriss (2007). The Bray and Sancio (2006) criteria state that a soil is:

a) Susceptible to liquefaction if w_c/LL > 0.85, PI < 12, and LL<37
b) Moderately susceptible to liquefaction if 0.8 < w_c/LL< 0.9 and 12< PI <18
c) Not susceptible to liquefaction if w_c/LL< 0.8 and PI >18

where w_c is water content, LL is Liquid Limit, and PI is Plasticity Index. The criteria presented by Boulanger and Idriss (2006) state that a soil is

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a) sand-like if PI < 7
b) clay-like if PI > 7

where sand-like soils are susceptible to liquefaction, and clay-like soils should be evaluated using Boulanger and Idriss (2004) criteria based on cyclic triaxial shear testing. The method of analyses is based on the relationship proposed by Tokimatsu and Seed (1987), and Ishihara and Yoshimine (1992), Zhang (2004) with scale effect modification.

G.4 SEISMICALLY-INDUCED LATERAL DEFORMATION

Seismically-induced lateral deformation (lateral spreading) is another phenomenon which can occur during a seismic event. The potential for lateral deformation of the soil is evaluated using empirical relationships developed by Zhang (2004). A “Lateral Deformation Index” (LDI) is calculated from estimated shear strains in each liquefiable layer based on the soil properties and thickness of the liquefiable layer, the magnitude of the earthquake from the site, and the intensity of the ground shaking. Once the LDI is calculated, estimated horizontal ground movement is calculated from the LDI and the boundary conditions (ground slope, slope of liquefiable layer, or distance to and height of a free face).

The continuity of potentially liquefiable soil layers is a key consideration in evaluating the potential for seismically-induced lateral deformation. It should be noted that for a significant areal lateral deformation to occur, a continuous layer of potentially liquefiable soil is required.

G.5 RESULTS

AGS’ liquefaction evaluation was based on an assumed earthquake of Mw 8.0, a peak ground acceleration of 0.36 g, and a groundwater table at elevation -5.0 feet.

Calculation of lateral displacement used the reported free-face height of 24 feet at the edge of the seawall, and measured distances from our boring locations to the shoreline.

Evaluation of liquefaction potential, settlement, and lateral deformation was performed using the program NovoLiq (version 3.50.2016.1010) by NovoTech Software.

A summary of our results is presented in Table 7 in Section 3.3.3.2 of this report.

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SCHEDULE 3

ASBESTOS NOTIFICATION AND INFORMATION NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

[Attachment on following page(s)]

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NOTICE TO EMPLOYEES, OWNERS, LESSEES, SUBLESSEES, AGENTS AND CONTRACTORS

ASBESTOS IN BUILDINGS

FOR PERIOD THROUGH: July 2020

It is the responsibility of the master tenant to provide this notice to any subtenant within their leasehold.

In January of 1989, Assembly Bill 3713 was signed into law and added to the California Health and Safety Code. This bill provides for written notice to employees concerning specific matters related to working in a building with asbestos containing construction materials. It applies to building built before 1979 where the owner knows that the building contains asbestos-containing materials; it does not require that a building be surveyed to determine the presence of asbestos.

WHAT IS ASBESTOS?

Asbestos is a naturally occurring group of fibrous minerals which have been used extensively in public buildings, apartment buildings and homes. Asbestos was incorporated into pipe insulation, acoustic plaster, acoustic tile, duct and furnace insulation, floor tiles, textiles and hundreds of other building materials. In most City buildings, asbestos is located in insulation on piping systems, acoustic plaster on ceilings, acoustic ceiling tiles, vinyl asbestos floor tiles, and structural fireproofing. Asbestos may be found in soils as well, especially if soil is non-native or commingled with municipal waste (land fill).

WHY IS ASBESTOS HAZARDOUS?

Asbestos is a concern because of the potential health risks associated with breathing asbestos fibers. It is important for you to know that most people with asbestos-related diseases were asbestos workers before 1972. These workers were repeatedly exposed to high levels of asbestos each working day with little or no protection. Asbestos workers today are required to follow specific work practices and wear appropriate protection to minimize exposure.

Significant exposure to asbestos fibers can lead to asbestosis and certain forms of cancer. Asbestosis is one of the many dust-related lung diseases. It is associated with chronic exposure to relatively high levels of asbestos and is characterized by the permanent deposition of asbestos fibers in the respiratory tract. The earliest and most prominent clinical finding, breathlessness upon exertion, rarely becomes apparent until at least a decade of exposure.

In addition to asbestosis, the association of asbestos and lung cancer has been well established over the past two decades. Scientists have studied insulation and shipyard workers who were exposed to HIGH AIRBORNE LEVELS of asbestos. These studies indicated that asbestos workers were about five times as likely to get lung cancer as non-asbestos workers who did not smoke. Asbestos workers who also smoke were found to be at much greater risk (about 50 times) of dying of lung cancer than non-smoking non-asbestos workers. Mesothelioma, a rare form of cancer of the chest or abdominal cavity, occurs among occupational groups exposed to certain types of asbestos.

ASBESTOS SAMPLING RESULTS

A variety of exposure standards and health action levels have been established for various purposes:

The Occupational Safety and Health Administration (OSHA) asbestos standards (Title 29 of the Code of Federal Regulations), which apply to employees who actually work with asbestos, mandate a permissible exposure limit (PEL) of 0.1 fibers per cubic centimeter of air (f/cc) determined as an 8 hour time weighted average (TWA) and an excursion limit of 1 f/cc as a 30 minute TWA. When employees are exposed at these levels, OSHA and Cal/OSHA (Title 8 of the California Code of Regulations) require medical monitoring and other control methods.

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The Environmental Protection Agency (EPA) has recommended a "clearance level" for asbestos of 0.01 f/cc, as measured by phase contrast microscopy (PCM). If measured by the transmission electron microscopy (TEM) method described in 40 CFR Part 763, the Asbestos Hazard Emergency Response Act (AHERA), the clearance level is either 0.02 structure/cc or 70 structures per square millimeter of filter (s/mm^2). This means that once an operation involving asbestos (such as removal) is complete, the area is "safe" for re-occupancy as long as the asbestos air concentrations are less than or equal to the "clearance level". These same levels have also been adopted in the California Education Code (Section 494200.7) as the school abatement clearance level.

The state of California has an additional requirement relating to disclosure of the presence of asbestos. Proposition 65, which as voted into law by the state citizens, basically requires posting of area where anyone is exposed to a carcinogen at a level where there is a significant risk of cancer. The California Health and Welfare Agency has established this level at 100 fibers of asbestos per day.

GENERAL PROCEDURES AND HANDLING RESTRICTIONS

As you can see, the concern is with asbestos fibers in the air. When asbestos materials are in good condition, it is unlikely that fibers will be released into the air, unless the asbestos materials are damaged or disturbed. Asbestos-containing materials must not be disturbed so that fibers do not get into the air. Do not cut into, drill into, nail, or pin anything onto, sand, move bump, rub against or otherwise disturb any asbestos containing materials. If you should discover any damaged asbestos-containing material, do not touch it; do not attempt to clean it up. Contact your supervisor or property manager immediately and report the situation.

City employees required to enter areas and perform work activities that might involve the disturbance of asbestos materials have been trained in the proper procedures to minimize exposure. Work that requires major disturbances of asbestos materials (such as removal) is performed under specifications which include work practice procedures, removal techniques, clean up and clearance air sampling.

If any construction, maintenance, or remodeling is conducted in an area of the building where there is the potential for employees to come in contact with, or release or disturb asbestos containing building materials, it is required that the area be posted with a clear and conspicuous warning sign. The warning sign must read:

"CAUTION. ASBESTOS
CANCER AND LUNG DISEASE HAZARD
DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT"

Much of this information may be new to you. If you have questions about asbestos, you may call the Department of Public Health Bureau of Environmental Health Management at 252-3800.

This written announcement fulfills the asbestos notification requirement of Division 20, Chapter 10.4, Section 25915 of the California Health and Safety Code (Assembly Bill 3713).

SITE SPECIFIC INFORMATION

At this time, the Port has not sampled for asbestos in your building. The following materials, if present in your building, are assumed to contain asbestos and should be treated as such:

> Insulation on pipes and ducts; Fireproofing; Drywall and associated taping compound; Plaster; Texturing or acoustic materials on walls or ceilings; Stucco; ceiling tiles; floor tiles or sheet flooring; roofing; fire door core insulation; carpet, baseboard, flooring, and ceiling tile mastics; window glazing compound; ceramic tile grout and mastic. Asbestos may also be found in soil due to natural or man-made conditions.

These materials must not be drilled into, sanded, demolished or otherwise disturbed by unauthorized personnel. Prior to any renovation activities or other activities which may disturb asbestos, please contact your property manager.

The asbestos coordinator for this building is Tim Felton, who can be reached at 274-0582.

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SCHEDULE 4

HAZARDOUS MATERIAL DISCLOSURE

[Attachment on following page(s)]

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SECTION 02 80 01
(Addendum 01)

HAZARDOUS MATERIALS ABATEMENT WORK PLAN

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Only Task 6 in Section VIII may apply to this contract. The rest describes work done in a previous contract for reference.

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HAZARDOUS MATERIALS ABATEMENT WORK PLAN

Project:	Port of San Francisco-Crane Cove Park Renovations & Demolition Building 49,Cranes 14 & 30 & Hopper/Utility Rack/Relics	**Updated:**	Updated June 2018

The work covered by this work plan includes the removal, handling and disposal of various hazardous materials in accordance with the Contract Documents and applicable federal, state and local regulations at the above designated site. A copy of this Abatement Work Plan is to be posted on-site during the abatement work.

I. Summary of Work (as designated)

Work done in previous contract:

Work Area	Hazmat Contractor's Scope
Building 49	• Construct a negatively-pressurized containment to satisfy abatement requirements. • Remove asbestos-containing materials, per contract documents. • Remove dust on all floors and horizontal surfaces, including but not limited to, tops and flanges of structural beams. • Stabilize all loose and peeling paints on interior and exterior surfaces. • Apply lead encasement product on all interior and exterior surfaces, per contract documents. • Deconstruction of construction barriers and hazardous materials containment and removal of engineering controls upon receipt of passing clearance results.
Cranes 14 & 30	• Constructed a negatively-pressurized containment in each crane cab to satisfy abatement requirements. • Remove asbestos-containing materials, per contract documents. • Stabilize all loose and peeling paints on interior and exterior surfaces. • Apply lead encasement product on all interior and exterior surfaces, per contract documents. • Deconstruction of construction barriers and hazardous materials containment and removal of engineering controls upon receipt of passing clearance results.
Hopper & Utility Rack	• Stabilize all loose and peeling paints on surfaces • Spot abate primers and lead-containing paints prior to torching, cutting to assist with demolition • Demolish hopper and utility rack
Relics	• Stabilize all loose and peeling paints on surfaces • Apply lead encasement product on all interior and exterior surfaces, per contract documents. • Removal of assumed asbestos-containing materials, per contract documents.

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Removal Summary of Work (as designated)

X	Removal and disposal of asbestos-containing materials (ACM) and asbestos-containing building/construction materials (ACBM / ACCM) as part of demolition and renovation activities.
X	Spot abatement and disposal of wastes for primers and lead-containing paints on structural steel elements prior to torching, cutting, etc., including dust controls and personal protective procedures in compliance with Cal/OSHA's Construction Lead Standard, 8 CCR 1532.1 and CDPH regulation 17 CCR Sections 35001 through 36100. **Warning** - Surfaces or building materials scheduled for torch cutting or other "hot" work may have previously been coated with paints with chromium, cadmium or other heavy metals. Spot removal of paints may not be sufficient to completely control fume release. The contractor is required to: (1) use the appropriate equipment and work practices to prevent lead releases and possible exposures to tenants, visitors and construction personnel; (2) protect or clean surfaces so that dislodgeable lead contamination (i.e. contamination which can be identified by wipe sampling, where lead may be used as an indicator for other heavy metals) is not left behind, and (3) take appropriate measures to protect their employees against exposures to lead or other heavy metals
X	Scraping of loose and peeling paints as required for disposal of intact painted elements as non-hazardous waste, including associated dust controls and personal protective procedures in compliance with Cal/OSHA's Construction Lead Standard, 8 CCR 1532.1 and CDPH regulation 17 CCR Sections 35001 through 36100.
X	Demolition, removal and disposal of surfaces with lead-containing paints (LCPs) whereby airborne exposures may exceed the permissible exposure level, requiring such work to be completed by CDPH Certified Lead Workers and Supervisors in compliance with Cal/OSHA's Construction Lead Standard, 8 CCR 1532.1 and CDPH regulation 17 CCR Sections 35001 through 36100.
X	Clean-up of asbestos- and lead-containing dusts on floors and horizontal members throughout Bldg. 49.
X	Removal and disposal of PCB-containing ballasts, as designated.
X	Removal and recycling of mercury-containing lamps, as designated.

May be applicable as needed when performing scope of work for this contract

I. SUBMITTALS:

Pre-job Submittals (as designated): If Applicable

X	BAAQMD Notification (10-working days in);
X	Cal/OSHA Asbestos Abatement Notification per 8 CCR 1529 (twenty-four (24) hours in advance);
X	Cal/OSHA Lead Hazard Notification per 8 CCR 1532.1 (twenty-four (24) hours in advance);
X	Notification to San Francisco Building Inspections Dept. in compliance with SF Lead-Based Paint Ordinance
X	copy of current Contractors' State Licensing Board (CSLB) License, including C-22 License for Asbestos Abatement;
X	copy of Cal/OSHA Asbestos Registration Certificate;
X	proof of all required permits or variances;

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X___	abatement work schedule;
X___	abatement work plan(s);
X___	copies of workers' asbestos training certificates, including the Competent Person;
X___	copies of workers' lead awareness training certificates;
X___	copies of workers' annual medical exam and respirator approval;
X___	copies of workers' 12-month respirator fit testing records;
X___	copies of workers' blood lead test within past 90 days;
X___	Safety Data Sheets (SDSs) (formerly known as Material Safety Data Sheets or MSDSs) for all products and materials proposed for use at the site;
X___	emergency phone and pager listing;
X___	Independent on-site third-party DOP testing of HEPA-filtered negative pressure units and vacuum cleaners;
X___	proposed location of locked dumpster; and
X___	rotameter calibrations within past 6 months.
X___	Completed sample manifest for Port of SF review that lists correct EPA #, Generator information, and disposal facility information

Periodic Submittals (as designated): If Applicable

X___	personal air monitoring (daily);
X___	updated worker documentation (as needed);
X___	boundary access logs (daily);
X___	negative pressure records (daily); and
X___	copies of updated notification to regulatory agencies (as needed).

Project Close-out Submittals (as designated within 2 weeks of completion): If Applicable

X___	Certificate of Completion;
X___	receipt and weight tickets from landfill operator or recycler (as applicable);
X___	copies of completed uniform waste manifests, including hazardous and non-hazardous waste;
X___	waste profiling data (TCLP, WET and SW846, as applicable);
X___	filter change logs for all filtration units, water filtration units (as applicable) and respirators;
X___	foreman's daily job reports;
X___	employee and visitor entry/exit logs for all containments;
X___	manometer printouts for all applicable containments;
X___	air sample results for all personnel, work areas and air filtration units; and
X___	A detailed list describing the presence, locations and quantity of ACM and PACM remaining in the work area, per 1529 CCR Section (K)(3)(c)

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II. SCHEDULE

Start Date:	Refer to Contract Documents.
End Date:	Refer to Contract Documents.
Maximum Abatement Shifts:	Work shall be completed within the timeframe identified in the Contract Documents.
Time frame:	Monday-Friday, weekend work or double shifts may be permitted with Owner approval, unless otherwise indicated in the Contract Documents.

TBD=to be determined

III. CONTACTS:

Contact	***Individual***	***Phone #***	***Cell #***	***Email***
Port of San Francisco Project Manager	Carol Bach	415-274-0568	415-819-8065	Carol.bach@sfport.com
Environmental Consultant's Project Manager	TBD	TBD	TBD	TBD
Abatement Contractor	TBD	TBD	TBD	TBD

TBD=to be determined

Note: Contact the Owner's Project Manager only in an emergency.

IV. SECURITY

Arrange site security with the Owner at the beginning of the job. Please note the following:

1. Abatement contractor employees and equipment will be required to enter the buildings at entrance ways designated by the Owner. No employee may enter the buildings at any other point than the designated entryway(s).

2. Abatement contractor's equipment will be stored and secured in an area agreed upon by the Owner and the Contractor.

3. The Abatement contractor will be responsible for providing temporary security at building penetrations created by the demolition and abatement.

4. Refer to the Contract documents for additional site security requirements for the project.

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V. SPECIAL CONDITIONS

1. The minimum negative pressure level for this project is –0.02" w.g. at all locations. The Hazadous Materials Contractor is responsible for maintaining this level during all work activities, including bagout and until satisfactory clearance air results have been received and notice of clearance is provided by the Environmental Consultant.

2. Negative pressure recording: the Hazadous Materials Contractor is responsible for recording negative pressure as follows:

   a. Negative pressure will be recorded throughout the entire project, including inspections, clearance testing, and at all times until the Environmental Consultant provides a final clearance notice.
   b. At least one spare manometer must be kept on site at all times.
   a. A printout of recordings must be transmitted to the Environmental Consultant by the Abatement Contractor <u>each day</u>.

3. Waste will be removed from the building each night and disposed of in approved waste receptacles in the designated loading areas. Waste receptacles will be properly labeled and locked each night.

4. The Hazadous Materials Contractor shall be aware that fill material at the Crane Cove site contains naturally-occurring asbestos in concentrations up to 5.5%. Impacts to the soils are not anticipated for this project, as removal of the building slab is not included in the scope of work.

   While not anticipated for this project, the Contractor is advised that if any work disturbs soils, all work shall also comply with the California Air Resources Board (CARB) 2002-07-29 Asbestos ATCM for Construction, Grading, Quarrying, and Surface Mining Operations. Soil disturbance shall require an Asbestos Dust Mitigation Plan (ADMP) and ADMP application shall be prepared and submitted by the Contractor to the Bay Area Air Quality Management District (BAAQMD) prior to the commencement of soil disturbance construction activities. The ADMP shall be approved by the BAAQMD prior to engaging in any onsite construction or grading operations.

5. The Contractor shall remove the debris pile on the exterior of Building 49. The Contractor shall characterize the debris and dispose of all material per federal, state, and local regulations.

6. Following stabilization of loose and peeling paints on Cranes 30 & 14, the Hazardous Materials Contractor will apply one coat of each of the following Global Encasement Inc. products (in this order):

   - R.I.P.™ Rust-Inhibiting Primer
   - PrepLESS Primer™
   - LEADLock™.

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The coatings shall be applied only to areas where paints and coatings are present.

The coatings shall be custom tinted prior to application. The Contractor shall provide color samples to the Port a minimum of 10 business days prior to application for review and approval.

7. Dust in Bldg. 49 has been identified with lead up to 530 ppm and asbestos up to 10%. The Contractor will be required to place the building under negative pressure and decontaminate all horizontal surfaces (e.g., floors, structural members, etc.) as part of the project.

Asbestos Sampling:

1. PCM Analysis: Analysis of PCM samples shall follow the procedures outlined in NIOSH method 7400 and within these Contract Documents.

2. TEM Analysis: The U. S. Environmental Protection Agency passed regulations for schools under the Asbestos Hazard Emergency Response Act (AHERA), which are found in 40 CFR Part 763 "Asbestos Containing Materials in Schools". This regulation states that all abatement work shall be evaluated upon completion by collecting air samples using aggressive sampling techniques and that such samples shall be analyzed using Transmission Electron Microscopy (TEM). TEM analysis turnaround times shall be 24 hours, unless otherwise indicated.

3. The sampling and analytical criteria in the AHERA regulation for schools shall be viewed as the preferred method for determining that any asbestos abatement project in any building has achieved a satisfactory level of cleanliness. The Environmental Consultant shall collect air samples from all work areas using aggressive sampling and TEM analysis, unless otherwise noted. The Port reserves the right to determine the quantity of clearance air samples to be collected for each subzone. Sample results in excess of 70 asbestos structures per square millimeter of filter area (equivalent to 0.018 s/cc, corrected for a 1,500 [1,200 - 1,800] liter sample volume as appropriate) will require cleaning, inspection, and resampling of the affected area at the Hazadous Materials Contractor 's expense. Z-testing shall NOT be used as a means for comparing the interior levels against those of the exterior for the purpose of clearing the Work Area.

4. The Owner shall pay the Environmental Consultant's costs of the final round of visual inspections, air sampling, and PCM and/or TEM analyses that will meet the asbestos abatement specification. All rounds of visual inspections, air sampling, and PCM and/or TEM analyses that fail to meet the contract criteria shall be borne by the Hazadous Materials Contractor. For the purpose of this paragraph, visual inspection includes the area isolation inspection, pre-encapsulation inspection, and final area clean-up inspection.

5. During all asbestos-related work, perimeter sample results will be collected by the designated Environmental Consultant (Industrial Hygienist). These samples will be analyzed

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~~by Phase Contrast Microscopy (PCM). Sample results that are in excess of the background level or 0.01 fibers per cubic centimeter (f/cc) Project Action Level may be forwarded for analysis by Transmission Electron Microscopy (TEM) with a 12-hour turnaround specified. Handling, shipping, and analysis charges (including the Environmental Consultants time and expenses) will be paid for by the Hazadous Materials Contractor. Any sample results in excess of 0.018 structures/cc will require cleaning, inspection, and resampling of the affected area at the Hazadous Materials Contractor 's expense.~~

Contractor should do as incidental to any work that disturbs paint. They should sub to a Certified Industrial Hygienist.

Lead Sampling:

1. During all lead hazard-related work, such as demolition, torching and welding activities, etc., as applicable, perimeter air sample and/or lead wipe sample results may be collected by the Environmental Consultant (Industrial Hygienist). These samples will be analyzed by flame atomic absorption or ICP/MS. Wipe sample results which are in excess of the of 40 micrograms per square foot for adjoining zones on two consecutive samplings (or two consecutive days) or for adjoining floor areas on any occasion will require isolation and clean-up of the affected areas. Air sampling results in excess of of 1.5 micrograms per cubic meter will require isolation of the work area and amendment of work procedures and/or clean-up of the affected areas. Resampling of the affected areas and handling, shipping, and analysis charges (including the Environmental Consultant's time and expenses) for additional sampling required to show background levels below these construction lead standards shall be borne by the Hazadous Materials Contractor.

Submittals:

1. All pre-construction submittals shall be forwarded to the Owner and the Owner's designated Environmental Consultant prior to the start of abatement as designated in the Contract Documents and herein. Documents shall be provided at least **10 business days prior to** commencement of work activities.

2. Failure by the Hazadous Materials Contractor to fulfill the submittal requirements as specified in the Contract Documents and herein shall be the basis for withholding final payment until such submittal requirements are satisfied.

Waste Manifests:

1. The Hazadous Materials Contractor shall coordinate the inspection and signing of all waste manifests with the Owner and its Environmental Consultant, while on-site. Failure to complete the manifests or callbacks after completion of the project will be backcharged to the Hazadous Materials Contractor.

   Waste Manifests shall contain the following information:

Generator's Name	TBD
Generator Address	TBD
Generator ID#	TBD

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Additional Liquidated Damages:

1. The Hazadous Materials Contractor shall pay for all Environmental Consultant costs for delays in completion of work beyond the authorized schedule established as stated in the contract documents. Such charges shall include Consultant's observations and inspections, daily air monitoring, equipment, transportation and analysis charges. Such charges shall include Consultant's observations and inspections, daily air monitoring, equipment, transportation and PCM analysis charges, estimated at $1500 per 8-hour shift, excluding TEM analyses. Such costs are in addition to liquidated damages for failure to complete the tasks in accordance with the schedules established in the Contract Documents. See the Liquidated Damages Section in the contract documents for further requirements.

VI. SUMMARY OF SURVEY RESULT AND CONDITIONS

Asbestos:

For a list of ACM and ACBM / ACCM, refer to the Materials Matrix Reports attached to Section 02 26 00: Hazardous Materials Existing Conditions. Additional suspect materials identified should be assumed asbestos-containing until such time as sampling can be performed to verify asbestos content.

Note that Building 49 has now been coated in a 3 part lead-encapsulating product. Lead-containing paint remains under the encapsulating coating.

Lead:

All paints and are assumed to contain lead and shall be treated as such. Various paints were identified with elevated concentrations and may require specialized handling and disposal. Contractors shall comply with the Cal/OSHA lead in construction regulation (8 CCR 1532.1) for all work activities, and all coated surfaces shall be considered to contain some lead.

Treat all similar paints and substrates in kind. Note that most building paints contain some lead content, and require demolition dust control procedures for compliance with Cal/OSHA's Construction Lead Standard under 8 CCR 1532.1, as well as the Welding, Cutting, and Heating of Coated Metals under 8 CCR 1537.

Characterize debris from coated materials, vinyl flooring, etc. for possible disposal as hazardous waste. Intact painted elements may be disposed as non-hazardous waste complying with dust controls and personal protective procedures per Cal/OSHA regulation 8 CCR 1532.1 and CDPH regulation 17 CCR Sections 35001 through 36100, if both the total and leachable lead contents of the waste streams are below 1000 mg/kg and 5 mg/liter (WET and TCLP tests).

Cleaned in prior contract

Dust:

Settled dust in Building 49 was sampled and characterized for asbestos. Asbestos was identified in dust at up to (10% asbestos). Refer to Section 00 26 00: Hazardous Materials Existing Conditions for detailed information. Such dust is present on all horizontal surfaces: floor, tops and flanges of structual beams, pipes, fixtures, etc.

VII. SCOPE OF WORK: PRE-RENOVATION/PRE-DEMOLITION ABATEMENT

The Contractor will be responsible for quantifying all hazardous materials requiring abatement for bidding purposes. Materials listed below include identified hazardous materials within the areas requiring abatement and disposal.

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Asbestos Abatement:

Task 1

Abatement Materials	**Vinyl Floor Tiles** Removed in 2019 abatement contract					
Method:	X	Full Isolation or Mini-Containments		Glovebag		Glovebag-Cutout
Material	***Activity Class***	***Material I.D.***	***% Asbestos***		***Est. Quantity requiring abatement*** *(Field verify)*	
Vinyl Floor Tiles	2	12FLVCT/M-1	Varies, refer to Section VII & Existing Conditions		Varies, refer to Section VII, Existing Conditions, and Architectural Plans	
Decon System:	X	Shower		Central		Bucket
Floor:		# Layers Poly		Drop Cloths		Scaffold
Walls:	1	# of Polyethylene Layers		Splash Guards		
Criticals:	1	# of Polyethylene Layers		Plywood Barriers		
Vinyl floor tiles: Abate the floor tiles per Cal/OSHA 8 CCR 1529 Work Class II procedures, minimum, with negative pressurization of the zone(s). Dispose of waste as asbestos waste.						

Task 2

Abatement Materials	**Gaskets** Removed in 2019 abatement contract					
Method:		Full Isolation or Mini-Containments		Glovebag	X	Cordon Area
Material	***Activity Class***	***Material I.D.***	***% Asbestos***		***Est. Quantity requiring abatement*** *(Field verify)*	
Gaskets	1	GASKET-4	Varies, refer to Section VII & Existing Conditions		Varies, refer to Section VII, Existing Conditions, and Architectural Plans	
Decon System:	X	Shower		Central		Bucket
Walls:		# of Polyethylene Layers		Splash Guards		
Criticals:	2	# of Polyethylene Layers		Plywood Barriers		
Remove items intact without disturbance. Double wrap and dispose of as asbestos waste. HEPA-vacuum surrounding area and drop cloths before final visual clearances. Where removal will result in RACM, complete abatement within a full isolation containment per Cal/OSHA 8 CCR 1529 Work Class 2 procedures, minimum, with negative pressurization of the zone(s).						

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Task 3 Removed in 2019 abatement contract

Abatement Materials	**Roofing Materials & Debris**						
Method:	X	Cordon Area		Glovebag		Glovebag-Cutout	
Material	***Activity Class***	***Material I.D.***	***% Asbestos***		***Est. Quantity requiring abatement*** *(Field verify)*		
Black roofing mastic on corrugated metal roofing panels & debris noted in Stor 1. ("Stor 1" area was the former boiler room & requires abatement & decontamination)	2	RFMAS-8	Varies, refer to Section VII & Existing Conditions		Varies, refer to Section VII, Existing Conditions, and Architectural Plans		
Decon System:	___	Shower if >2,500 SF	___	Central	X___	Hudson sprayer or bucket decon if <2,500 SF	
Floors:		# of Polyethylene Layers		X	Drop Cloths		
Walls:		# of Polyethylene Layers			Splash Guards		
Criticals:	1	# of Polyethylene Layers			Plywood Barriers		

For Roofing Abatement: Set-up drop cloths on the ground under roofing removal area and abate the roofing mastics and panels. Seal rooftop vents, windows, etc. with one layer of 6-mil polyethylene sheeting as a critical barrier. Bag or wrap waste in 2 layers of 6-mil polyethylene sheeting and lower to ground. Debris chutes must be sealed and negatively pressurized, if used.

For cleanup of roofing debris inside building: Cleanup debris per Cal/OSHA 8 CCR 1529 Work Class II procedures, minimum, with negative pressurization of the zone(s). Dispose of waste as asbestos waste.

For Disposal & Cleanup: HEPA vacuum the surrounding area following the abatement for final clearance. Dispose of all roofing debris as Category 1 non-friable asbestos waste.

Allow for a 20 ft. minimum buffer zone between the roof removal activities and other demolition or renovation work.

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Task 4 Removed in 2019 abatement contract

Abatement Materials	**Decontamination of Horizontal Surfaces, including Floors, Structural Members, Piping, Fixtures, etc. for Bldg. 49**					
Method:	X	Cordon Area		Glovebag		Glovebag-Cutout
Material	***Activity Class***	***Material I.D.***	***% Asbestos***	***Lead Content***	***Est. Quantity requiring abatement****(Field verify)*	
Settled dust on floors and horizontal surfaces	I	49-DUST-100	Up to 10%	Up to 530 ppm	9090 SF	
Decon System:	X__	Shower	____	Central	__	Hudson / bucket decon
Floor:		# Layers Poly	____	Drop Cloths		Scaffold
Walls:		# of Polyethylene Layers		Splash Guards		
Criticals:	2	# of Polyethylene Layers		Plywood Barriers		

The Contractor will be required to decontaminate the floors and all horizontal surfaces in Building 49 as part of the scope of work. Work will be performed utilizing wet methods and with use of an airless sprayer (with long extensions to allow close proximity of surfaces being cleansed). Port approval of any alternate method proposed by the Contractor is required prior to implementation at the site. These structural members and surfaces have loose dust with up to 10% asbestos and 530 ppm lead. Refer to Section VII & Existing Conditions.

High pressure washers, compressed air and dry wiping/sweeping are prohibited. The Contractor will be required to collect and containerize all water. Characterization and disposal of the water is the requirement of the Contractor.

The Contractor shall be solely responsible for all worker protection for decontamination of beams, horizontal surfaces, labor, health & safety, equipment, waste characterization, and disposal of all waste generated as part of the decontamination.

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Task 5 Not applicable at B49 location

Abatement Materials	**Miscellaneous Items**						
Method:		X	Cordon Area		Glovebag		Glovebag-Cutout
Material	***Activity Class***		***Material I.D.***	***% Asbestos***		***Est. Quantity requiring abatement*** *(Field verify)*	
Glazing Compounds	2		30-01-6,7 14-02-09-11	Varies, refer to Section VII & Existing Conditions		Varies, refer to Section VII & Existing Conditions	
Electrical Breaker Insulators	2		30-Z2-2 30-Z3-3 14-Z5-8 14-Z6-18				
Break pads/shoes	2		14-z6-13 30-Z4-4				
Miscellaneous wiring, gaskets, etc.* associated with Relics	2		MISC-AAA				
Decon System:			Shower			X	Bucket
Floor:			# Layers Poly	X	Drop Cloths		Scaffold
Walls:			# of Polyethylene Layers		Splash Guards		
Criticals:		1	# of Polyethylene Layers		Plywood Barriers		
Remove items intact without disturbance. Double wrap and dispose of as asbestos waste. HEPA-vacuum surrounding area and drop cloths before final visual clearances. Where removal will result in RACM, complete abatement within a full isolation containment per Cal/OSHA 8 CCR 1529 Work Class 2 procedures, minimum, with negative pressurization of the zone(s).							

*not anticipated to be removed under base scope. Work procedures provided herein for reference.

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Note that Building 49 has now been coated in a 3 part lead-encapsulating product. Lead-containing paint remains under the encapsulating coating.

Lead Hazards Construction Work: Task 6

Abatement Material:	Removal of loose and peeling lead-containing paints, removal of lead-containing vinyl floor (>50 ppm); torch cutting or welding of coated metals; lead encasement; and dust clean-up in Bldg. 49.					
Sample I.D.	***Color***		***Area***	***Lead Content***		***Activity Class***
N/A	All		All	>1000 ppm		1
Decon System:		Shower		Central	X	Bucket
Required Methods:		Full Containment	X	Manual Methods w/Drop Cloths	X	Loose & Peeling Paints Only

Other Comments: **For Stabilization of Loose & Peeling Paints:** Manually scrape and stabilize loose and peeling paints prior to demolition of painted substrates using drop cloths, wet methods, and HEPA vacuums for dust control in compliance with Cal/OSHA regulation 8 CCR 1532.1. Avoid dry sweeping.

For Mechanical Sanding: Work areas requiring mechanical sanding or stripping of painted surfaces with any lead content shall be fully contained with polyethylene dust barriers, establishing negative pressure of the zone, and using HEPA-filtered tools and other dust control procedures as outlined under 8 CCR 1532.1.

For Demolition of Painted Substrates: Demolition of painted substrates required for renovation work shall be completed using wet methods. Loose paints, HEPA vacuum canister wastes, and fine dust shall be characterized and disposed as potential hazardous waste. Respiratory protection shall be upgraded per 8 CCR 1532.1 requirements for mechanical sanding or mechanical equipment without HEPA vacuum or water misting attachments.

For Floor sheeting with lead: Debris shall be characterized for lead content prior to disposal. For non asbestos-containing flooring with lead content >50 ppm, remove flooring prior to demolition of the buidling and characterize waste for lead content prior to proper disposal accordingly. HEPA vacuums for dust control in compliance with Cal/OSHA regulation 8 CCR 1532.1. Avoid dry sweeping.

For spot abatement of painted steel prior to torching cutting or welding: Spot abate any painted steel that would be torched, with at least 6-inch clearance from any paint.

Warning - Surfaces or building materials scheduled for torch cutting or other "hot" work may have previously been coated with paints with chromium, cadmium or other heavy metals. Spot removal of paints may not be sufficient to completely control fume release. The contractor is required to:

(1) use the appropriate equipment and work practices to prevent lead releases and possible exposures to tenants, visitors, and construction personnel;
(2) protect or clean surfaces so that dislodgeable lead contamination (i.e. contamination which can be identified by wipe sampling, where lead may be used as an indicator for other heavy metals) is not left behind, and
(3) take appropriate measures to protect their employees against exposures to

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lead or other heavy metals

For Disposal & Cleanup: Intact painted substrates may be disposed of as non-hazardous waste as confirmed by the Contractor's waste characterization testing. Characterize and dispose of loose and peeling paint debris, chemical strippers, rags, vinyl flooring, etc. as potential hazardous waste.

Lead Encasement: Following stabilization of loose and peeling paints, Following stabilization of loose and peeling paints on Cranes 30 & 14, the Relics, and Bldg. 49, the Hazardous Materials Contractor will apply one coat of each of the following Global Encasement Inc. products (in this order) per the contract documents:

- R.I.P.™ Rust-Inhibiting Primer
- PrepLESS Primer™
- LEADLock™.

The coatings shall be applied on interior and exterior surfaces, per contract plans, and custom tinted to the Port's discretion.

Dust Clean-up: Clean up lead-containing dust on floors and all horizontal surfaces in Bldg. 49 in compliance with CalOSHA regulation 8 CCR 1532.11 and 1529 (see Task 4 for additional requirements). Avoid dry sweeping.

Complete abatement work exceeding the permissible exposure limit using CDPH Certified Lead Workers and Supervisors, including but not necessarily limited to demolition of lead glazed ceramic tiles, lead-containing vinyl flooring, extensive manual or mechanical scraping or sanding of loose and peeling paints, demolition of concrete-encased primed steel, and spot abatement of primed structural steel prior to torching or cutting, as applicable.

Other Items:
Task 7

Removed in 2019 abatement contract

PCB Ballasts:	X	Remove and dispose of PCB ballasts throughout the buildings as required by the renovation and demolition plans. Any ballast not otherwise labeled by the manufacturer as non-PCB is considered as PCB containing. Quantity – field verify quantity.
Mercury Lamp Recycling	X	Remove and recycle fluorescent lamps throughout the buildings as required by the renovation and demolition plans. Quantity— field verify quantity.

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VIII. MONITORING AND CLEARANCE

Asbestos Clearance Requirements (includes estimated # of samples):

Vinyl flooring	___ Visual Only	___ PCM/zone	1-5 TEM/zone
Roofing Debris Cleanup (in Stor 1)	___ Visual Only	___ PCM/zone	1-5 TEM/zone
Dust Cleanup (throughout)	___ Visual Only	___ PCM/zone	1-5 TEM/zone
Roofing Abatement	X Visual Only	___ PCM/zone	___ TEM/zone
Gaskets	X Visual Only	___ PCM/zone	___ TEM/zone
Miscellaneouns items (glazing compounds, electrical breaker insulators, break pads/shoes, wiring, etc.)	X Visual Only	___ PCM/zone	___ TEM/zone

Lead Clearance Requirements (includes estimated # of samples):

Cranes, Hopper, Utility Racks & Relics	**Stabilization of Paints and demolition of intact painted elements**	X Visual Only	___ Wipes
Building 49	**Stabilization of Paints and demolition of intact painted elements**	X Visual Only post abatement	1-5 Wipes/zone post renovation and prior to reoccupancy

IX. SIGNATURES

Consultant's Signature: Chuck Siu, CIH, PE, CSP, CAC (92-0098), CDPH	Date: 6/25/18
Consultant's Signature: Christina Codemo, CHMM, CAC (99-2649), REPA	Date: 6/25/18
Contractor's Signature	Date:

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SECTION 02 26 00
(ADDENDUM 01)

EXISTING CONDITIONS – HAZARDOUS MATERIAL ASSESSMENT

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Note: This is a reference document describing the existing conditions prior to an already completed hazmat abatement contract. It includes work plans for hazardous materials abatement work already performed at the site *and* work plans for the following items that may be encountered for this contract. Note that at this time, Building 49 has been coated in a 3 part lead-encapsulating product as part of the previous hazmat abatement contract.

Items that may affect this contract are:
1) Any work that disturbs painted surfaces - Contractor will need to follow procedures in Task 6 of the work plan

2) Trace amounts of asbestos were found in samples of the concrete slab and subgrade:

CalOSHA 8 CCR 1529 regulates asbestos in any detected quantity, including materials <1%. Given the presence of asbestos detected in the above-listed materials, workers involved with removal or renovation of the materials are required to adhere to all CalOSHA requirements (e.g., training, notifications to CalOSHA prior to work, personal monitoring, etc.). Grinding and dust generating activities should be kept to a minimum, where feasible, and all work should be performed using wet methods with localized exhaust to reduce airborne asbestos emissions. In addition, powered tools should always be equipped with LEV/HEPA filtration. Work involving >100 SF of trace (<1% asbestos) construction materials (e.g. concrete) shall be completed by a DOSH registered abatement contractor.

Note that this document was prepared for a larger site, including buildings and structures not part of this contract. Some of the referenced testing was performed at locations not in this contract.

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SECTION 02 26 00

SCHEDULE FOR EXISTING CONDITIONS

PART 1 - GENERAL

1.1 SUMMARY

A. This Document discloses Reference Documents that are available to the bidders regarding the hazardous materials investigations utilized in preparation of the Contract Documents.

1.2 HAZARDOUS MATERIALS REPORT(S)

The Bidder's attention is directed to the fact that the following hazardous materials investigations were performed for the buildings and structures:

- ~~"Hazardous Materials Survey Report, Pier 70 Renovation Project, Crane 30, Crane 14 & Street Tower, San Francisco, California", prepared by GHD, Inc. (GHD), dated January 28, 2013.~~ not in project area
- Inspection and limited sampling of hazardous materials in Building 49 was conducted by SCA Environmental, Inc. in May 2016. The sampling and investigation included limited destructive testing inside, and included sampling of suspect asbestos-, lead-, and polychlorinated biphenyl (PCB)-containing materials as well as visual quantifications of PCB and mercury-containing items.

A copy of the hazardous materials reports for Building 49, Cranes 30 and 14 can be obtained from the Owner for review.

1.3 HAZARD SUMMARY

A. Asbestos Hazards: Certain existing building components or materials, which may be impacted by the Work of this Project, are known or presumed to contain asbestos. In addition, soils at the Crane Cove Park site have been identified with naturally-occurring asbestos content up to 5.5%.

For a list of asbestos-containing materials (ACM, >1%), asbestos-containing construction materials (ACCM, >0.1%), Trace asbestos materials, assumed asbestos-containing materials, and non-asbestos-containing materials in the buildings and at the site, refer to the Material Matrix Reports attached to this section. Additional suspect materials identified should be assumed asbestos-containing until such time as sampling can be performed to verify asbestos content.

B. Lead Hazards: Certain existing painted or coated surfaces to be impacted by the Work of this Project are known or suspected and assumed to contain lead.

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Treat all similar paints and substrates in kind. Note that most building paints contain some lead content. Assume all paints contain >1000 ppm and require demolition dust control procedures for compliance with Cal/OSHA's Construction Lead Standard under 8 CCR 1532.1.

Characterize debris from coated materials for possible disposal as hazardous waste. Intact painted elements may be disposed as non-hazardous waste complying with dust controls and personal protective procedures per Cal/OSHA regulation 8 CCR 1532.1 and California DPH regulation 17 CCR Sections 35001 through 36100.

The following materials were not all tested but, the Contractor, for the purposes of this Contract, shall assume, and manage, them as lead containing.

a. Plumbing components, such as pipes, fittings and solders.
b. Roof flashings.
c. Mastic and adhesives.
d. Coatings/paints on structural steel.

It has not been verified that any paints, coatings, dusts, or materials are “lead free” or below detection therefore all “trigger 1” construction activities, such as demolition of painted surfaces, manual scraping or sanding of painted surfaces, or any work impacting painted surfaces and primed structural steel shall be completed using dust controls and personal protective measures in compliance with the Cal/OSHA Construction Lead Standard, 8 CCR 1532.1.

C. Other Hazards:

1. PCB-containing Fluorescent Light Ballasts: Fluorescent fixtures shall be treated as having a mix of PCB and non-PCB ballasts, requiring disposal of impacted suspect units as hazardous waste.

2. Mercury-Containing Fluorescent Light Tubes/Bulbs: Fluorescent lamps on-site shall be treated as having mercury content requiring removal and recycling by this contract’s demolition requirements.

3. Dust: Settled dust in Building 49 was sampled and characterized for lead and asbestos. Lead was identified up to 530 ppm, and asbestos was identified up to 10%. Dust is assumed present on all floors, horizontal beams, flanges, etc.

1.4 USE OF DATA

A. Environmental consultation was obtained only for the use of the Owner and its Consultants for planning and design stages of this Project. The above mentioned data are not, as a whole, part of the Contract Documents, but the sampling data contained therein can be relied upon by the Contractor to characterize general site conditions, although quantities, friability and other factors may have changed or been altered since the time of inspection.

B. All statements, findings, and interpretations in the above mentioned reports are those of the Survey or Abatement Consultant. The Owner makes no representations, either expressed or

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implied, as to the completeness or adequacy of the above-mentioned reports. Bidders are advised that the limited testing of components allow for generalizations in describing the extent of hazardous materials. Specific components or materials, should be checked against the referenced sampling data and the Contract Documents, or be tested at affected locations, prior to disturbance of such components.

C. Bidders shall visit the site and acquaint themselves with the existing conditions.

1.5 PRE-BID VISIT TO WORK SITE

A. Prior to bidding, Bidders may make their own investigations to satisfy themselves as to the Site and building conditions.

1.6 ASBESTOS SAMPLE LOCATION DIAGRAMS

Drawings provided herein and listed below refer to sample locations only and are not intended to provide locations where hazardous materials are present. Sample location diagrams include only samples collected by SCA in May 2016. Refer to Section 1.7 for information regarding locations of identified hazardous materials.

Figures
Figure HM B49: Interior
Figure HM B49: Exterior & Roof

1.7 MATERIALS MATRIX REPORTS

Materials Matrix Reports provided herein as listed below inventory the suspect materials that may be present requiring abatement and /or control procedures:

Table 1: Building 49
~~Table 2: Cranes 30 & 14, Hopper, Utility Rack, & Relics~~ Outside of this project location

1.8 LABORATORY REPORTS

Laboratory reports provided herein are provided for reference only.

END OF SECTION 02 26 00

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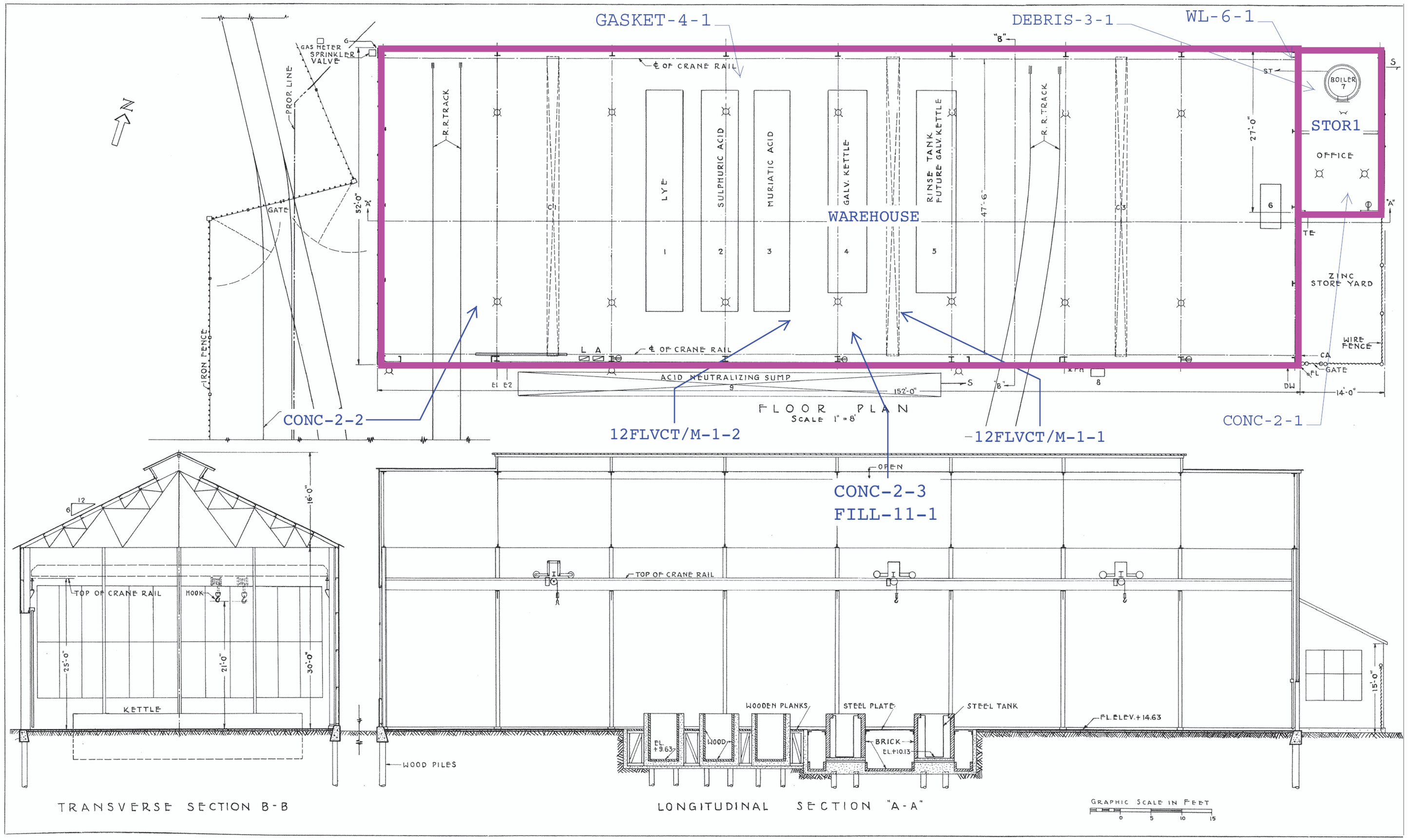

CONSULTANT

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PORT OF SAN FRANCISCO
CRANE COVE
HAZARDOUS MATERIALS SURVEY

SHEET TITLE

BUILDING 49
INTERIOR PLAN

APPROVED
CC

DRAWN
DL

CHECKED
CC

SCA PROJECT NO.
F12054

PORT OF SF CRANE COVE
HAZMAT SURVEY

SCALE
AS NOTED

DATE
JUNE 2016

SHEET

HM B49.1

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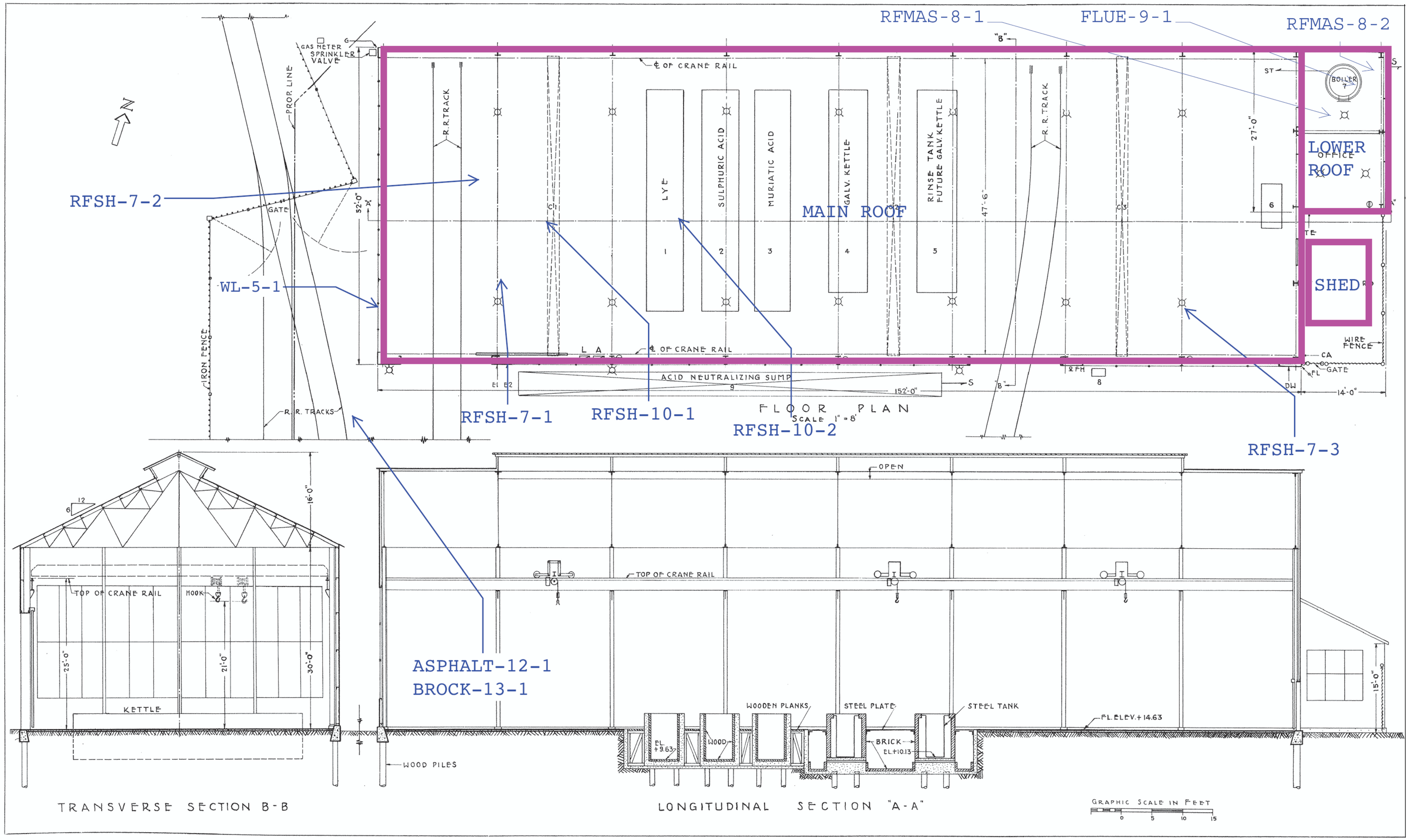

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EXTERIOR & ROOF PLANS

APPROVED
CC

DRAWN
DL
CHECKED
CC
SCA PROJECT NO.
F12054
PORT OF SF CRANE COVE
HAZMAT SURVEY
SCALE
AS NOTED
DATE
JUNE 2016

SHEET
HM B49.EXT/R

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Table 1: Materials Matrix Report-Building 49, Crane Cove, Port of SF

Material ID	Material Description	Sub-sample # A	B	C	Asbestos Positive? Yes. No. Trace. Assumed	UNITS (LF, SF, EA)	Building 49 First Floor: Warehouse	First Floor: Stor 1 (former Boiler Room)	Roof: Main Roof	Roof: Lower Roof	Exterior: Exterior	Exterior: Debris Pile (former Shed)	TOTAL (+/-15%)
ASBESTOS													
~~12FLVCT/M-1~~	~~12"x12" Beige vinyl floor tile (+) w/ yellow glue (-)~~	~~4% CH~~	~~4% CH~~			~~SF~~	~~200~~						~~200~~
~~GASKET-4~~	~~Black gasket between flanges of pipes~~	~~65% CH~~				~~EA~~	~~1~~						~~1~~
~~RFMAS-8~~	~~Black roofing mastic on corrugated metal roofing panels & debris noted in Stor 1. "Stor 1" area requires abatement & decontamination.~~	~~10% CH~~	~~NA~~		**YES**	~~SF~~		~~400~~		~~400~~			~~800~~
FILL-11/FILL-32	Gravel fines/soil below concrete slab (quantity assumes 12" thick)-<0.25% CH under warehouse (FILL-11) but up to 5.5% throughout the site (xref ID: FILL-32 in Bldg 40)	up to 5.5% CH				CY					7300		7300
~~DUST-100~~	~~Dust on all horizontal surface throughout, incld beams (black/gray tar debris and paper insulation debris)~~	~~1-10% CH~~	~~NA~~			~~SF~~	~~8690~~	~~400~~					~~9090~~
BROCK-13	Base rock/fill below asphalt (quantity assumes 8" thick)	0.5% CH			**TRACE**	CY					5340		5340
NON-ASBESTOS													
DEBRIS-3	Debris of former steam pipe insulation (Note: Stor 1 was former boiler room. No other TSI noted throughout building)	ND				SF		200					200
WL-5	Yellow-painted canvas patch on metal wall panels	ND				SF					5		5
WL-6	Off-white canvas wall patch	ND				SF	5						5
RFSH-7	Gray roofing shingles (2 layers)	ND	ND	ND	**NO**	SF			7500				7500
FLUE-9	Off-white insulation in double-layered metal flue	ND				LF				5			5
RFSH-10	Green roofing shingle w/black felt paper at base of "cupola-like" structure	ND	ND			SF			1600				1600
ASPHALT-12	Black asphalt (~10" thick)	ND				SF					8000		8000
CONC-2	Gray concrete slab (~8" thick) (-) with no vapor barrier. First sample collected in storage area which was contaminated with ACM roofing tar/mastic (RFMAS-8)	ND	ND	ND		SF	7300	400					7700
WL-NNN	Yellow-painted corrugated metal/fiberglass wall panels					SF					12000		12000
FIREDOOR-NNN	Hollow or brown paper insulation in metal firedoors					EA	3						3
FL-NNN	Wood flooring				**NOT SUSPECT**	SF						100	100
WL-NNN	Wood wall panels					SF						900	900
RF-NNN	Gray corrugated metal roofing panels					SF						100	100
PCBs					**PPM**								
~~PCBs~~	~~PCB-Ballasts~~				~~**ASSUMED**~~	~~EA~~	~~2~~						~~2~~
LEAD					**PPM**								
~~12FLVCT/M-1~~	~~Beige vinyl floor tile (ACM +) w/ yellow glue (-)~~				~~35, low lead~~	~~SF~~	~~200~~						~~200~~
RD-1	Red paint on concrete floor (patch)				440, lead	SF		PNQ					PNQ
GY-2	Gray paint on metal wall panels and structural steel members				36000, lead	SF	PNQ	PNQ			PNQ		PNQ
YW-3	Yellow paint on corrugated metal/fiberglass wall panels				250, lead	SF					PNQ		PNQ
BK-4	Black paint on metal shed framing				4200, lead	SF						PNQ	PNQ
~~DUST-100, DUST-101~~	~~Dust on floors throughout~~				~~440-530, lead~~	~~SF~~	~~8690~~	~~400~~					~~9090~~
Lead in paints	Lead Containing Paints / Coatings (assumed >1000 ppm)				>1000, lead	SF	PNQ	PNQ			PNQ	PNQ	PNQ
Other Hazardous Materials													
~~Mercury~~	~~Fluorescent Light Tubes~~				~~**PRESENT**~~	~~EA~~	~~4~~						~~4~~
~~Radioactive Signs~~	~~Radioactive Exit Signs~~					~~EA~~							~~0~~
~~Mercury~~	~~Mercury Thermostats~~				**NOT PRESENT**	~~EA~~							~~0~~
~~Mercury~~	~~Mercury Switches~~					~~EA~~							~~0~~
~~Mold~~	~~Potentially Moldy Conditions~~					~~EA~~							~~0~~

Notes:
PNQ = Present, not quantified; CH = Chrysotile; ND = Not detected; NA = Not analyzed
1) Storage sumps shown on as-builts drawings are now filled with concrete

Indicates removed during previous abatement contract

Not in project limits

Table 2: Materials Matrix Report - Cranes 14 & 30, Hopper & Utility Rack, Crane Cove, Port of SF

		Sub-sample #					Cranes		Hopper & Utility Rack		Relics		
Material ID	Material Description	A	B	C	Asbestos Positive? Yes. No. Trace. Assumed	UNITS (LF, SF, EA)	Crane 30	Crane 14	Hopper	Utility Rack	Lathe	Stamp	TOTAL (+/- 15%)
ASBESTOS													
30-Z2-2	Electrical breaker insulator, dark grey	10% CH				EA	PNQ						PNQ
30-Z3-3	Electrical insulator, black	5% CH				EA	PNQ						PNQ
30-Z4-4	brake shoe, 2.5' diameter	25% CH				EA	PNQ						PNQ
30-01-6,7	window glazing compound, gray	>1% CH				SF	PNQ						PNQ
14-Z5-8	Electrical insulator, gray	15% CH			**YES**	EA		PNQ					PNQ
14-Z6-18	Electrical insulator debris	7% CH				SF		PNQ					PNQ
14-Z6-13	brake pad, gray	25% CH				EA		PNQ					PNQ
14-02-9-11	window glazing compound, gray	>1% CH				SF		PNQ					PNQ
Soil-32	fill soil below slab containing >1% NOA	5.5% CH				CY	PNQ	PNQ					PNQ
ASSUMED ASBESTOS													
Misc-AAA	wiring, gaskets, etc.				**ASSUMED**	SF					PNQ	PNQ	PNQ
NON-ASBESTOS													
14-P1-12	exterior paint, gray with red paint beneath and silver/pink paint	ND				SF		PNQ					PNQ
14-H1-14; 14-H1/2-15	sheet flooring, multiple layers in some areas	ND				SF		PNQ					PNQ
15-AA-16	fabric door liner	ND			**NO**	SF		PNQ					PNQ
14-BB-17	fabric/coated wire insulation	ND	ND	ND		LF		PNQ					PNQ
14-N1-19	window caulk/glazing compound, black with a rubber texture	ND				SF		PNQ					PNQ
30-P-20	Exterior paint, silver/pink	ND				SF	PNQ						PNQ
PCBs					**PPM**								
GY-101	Grey exterior paint on Crane 14		SF		2.13	SF	PNQ	6760					PNQ
OW-103	Off-white exterior paint on Pipe Racks		SF		<0.50	SF				9000			9000
OW-104	Off-white exterior paint on Hopper		SF		3.6	SF			1400				1400
OW-105	Off-white exterior paint on Lathe Machine		SF		6.8	SF					600		600
GR-106	Off-white exterior paint on Stamp Machine		SF		12	SF						400	400
PCBs-ballasts	PCB-Ballasts				not present	SF							0
LEAD					**PPM**								
30-Z1-1	window glazing compound, gray				390	SF	PNQ						PNQ
14-Z1-4	window glazing compound, gray				220	SF		PNQ					PNQ
7-11	paint at the gusset plate on the steel traveler, red/pink				55000	SF	PNQ						PNQ
23-30	metal beam paints, grey				31000-109000	SF		PNQ					PNQ
31	metal handrail paints, gray				38000	SF		PNQ					PNQ
32-33	metal ladder paints, gray				14000-16000	SF		PNQ					PNQ
41-43	metal house wall, gray				45000-70500	SF		PNQ					PNQ
44-45	metal house beam, gray				60000-67500	SF		PNQ					PNQ
14-P-3	cab interior, dark green/red				100000	SF		PNQ					PNQ
14-P-24	steel rotation table, silver/red				140000	SF		PNQ					PNQ
14-P-35	structural steel paint				76000	SF		PNQ					PNQ
assumed	lead in floor sheeting				assumed >1000	SF		PNQ					PNQ
Lead in paints	Lead Containing Paints / Coatings & lead coatings on structural steel and surfaces (assumed >1000 ppm)				>1000, lead	SF	PNQ	PNQ	PNQ	PNQ	PNQ	PNQ	PNQ
Other Hazardous Materials													
Mercury	Fluorescent Light Tubes				**NOT PRESENT**	EA							0

Notes:

PPNQ= presumed present but not quantified; PNQ = Present, not quantified; CH = Chrysotile; ND = Not detected

*Data extrapolated from GHD's Hazardous Materials Survey Report dated January 28, 2013. SCA has not verified the accuracy of data presented herein and assumed all data is true and correct.

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REI LAB **Reservoirs Environmental, Inc.**

May 26, 2016

Subcontract Number:	**NA**
Laboratory Report:	**RES 350648-1**
Project # / P.O. #	**F12054**
Project Description:	**Crane Cove, Bldg 49**

SCA Environmental, Inc.
650 Delancey St. Ste. 222
San Fransisco CA 94107

Dear Customer,

Reservoirs Environmental, Inc. is an analytical laboratory accredited for the analysis of Industrial Hygiene and Environmental matrices by the National Voluntary Laboratory Accreditation Program (NVLAP), Lab Code 101896-0 for Transmission Electron Microscopy (TEM) and Polarized Light Microscopy (PLM) analysis and the American Industrial Hygiene Association (AIHA), Lab ID 101533 - Accreditation Certificate #480 for Phase Contrast Microscopy (PCM) analysis. This laboratory is currently proficient in both Proficiency Testing and PAT programs respectively.

Reservoirs Environmental, Inc. has analyzed the following samples for asbestos content as per your request. The analysis has been completed in general accordance with the appropriate methodology as stated in the attached analysis table. The results have been submitted to your office.

RES 350648-1 is the job number assigned to this study. This report is considered highly confidential and the sole property of the customer. Reservoirs Environmental, Inc. will not discuss any part of this study with personnel other than those of the client. The results described in this report only apply to the samples analyzed. This report must not be used to claim endorsement of products or analytical results by NVLAP or any agency of the U.S. Government. This report shall not be reproduced except in full, without written approval from Reservoirs Environmental, Inc. Samples will be disposed of after sixty days unless longer storage is requested. If you have any questions about this report, please feel free to call 303-964-1986.

Sincerely,

Elisa Mari
Elisa Mari for

Jeanne Spencer
President

RESERVOIRS ENVIRONMENTAL INC.

NVLAP Lab Code 101896-0

TABLE: PLM BULK ANALYSIS, PERCENTAGE COMPOSITION BY VOLUME

RES Job Number: **RES 350648-1**
Client: **SCA Environmental, Inc.**
Client Project Number / P.O.: **F12054**
Client Project Description: **Crane Cove, Bldg 49**
Date Samples Received: **May 18, 2016**
Method: **EPA 600/R-93/116 - Short Report, Bulk**
Turnaround: **5 Day**
Date Samples Analyzed: **May 25, 2016**

ND=None Detected
TR=Trace, <1% Visual Estimate
Trem/Act=Tremolite/Actinolite

Client Sample Number	Lab ID Number	LAYER	Physical Description	Sub Part (%)	Asbestos Content: Mineral	Asbestos Content: Visual Estimate (%)	Non Asbestos Fibrous Components (%)	Non-Fibrous Components (%)
12FLVCT/M-1-1	EM 1633059	A	Yellow mastic	10		**ND**	0	100
		B	Beige/multi-colored tile	90	**Chrysotile**	**4**	0	96
12FLVCT/M-1-2	EM 1633060	A	Yellow mastic	10		**ND**	0	100
		B	Gray/multi-colored tile	90	**Chrysotile**	**4**	0	96
CONC-2-1	EM 1633061	A	Black tar	20	**Chrysotile**	**7**	0	93
		B	Gray granular cementitious material	80		**ND**	TR	100
CONC-2-2	EM 1633062	A	Gray granular cementitious material	100		**ND**	TR	100
DEBRIS-3-1	EM 1633063	A	Gray debris	100		**ND**	50	50
GASKET-4-1	EM 1633064	A	Gray gasket	100	**Chrysotile**	**65**	0	35
WL-5-1	EM 1633065	A	Beige/multi-colored paint	30		**ND**	0	100
		B	White fibrous woven material	30		**ND**	80	20
		C	White/gray sealant	40		**ND**	0	100

TEM Analysis recommended for organically bound material (i.e. floor tile) if PLM results are <1%.

Kelly Nuccio
Kelly Nuccio
Analyst

Paul D. LoScalzo
Paul D. LoScalzo
Analyst / Data QA

DocuSign Envelope ID: E9E5358E-6650-4E4A-B16E-8D380957D00F

Due Date: 5-23-25
Due Time: 12:30

REI LAB Reservoirs Environmental, Inc.

5801 Logan St. Denver, CO 80216 • Ph: 303 964-1986 • Fax 303-477-4275 • Toll Free :866 RESI-ENV
After Hours Cell Phone: 720-339-9228

RES 350648

SUBMITTED BY:	INVOICE TO: (IF DIFFERENT)	CONTACT INFORMATION:	
Company: SCA Environmental, Inc.	Company:	Contact:	Contact:
Address: 650 Delancey St. Ste. 222	Address:	Phone:	Phone:
San Fransisco CO 94107		Fax:	Fax:
		Cell/pager:	Cell/pager:
Project Number and/or P.O. #: F12054		Final Data Deliverable Email Address:	
Project Description/Location: Crane Cove, Bldg 49		ccodemo@sca-enviro.com & dleung@sca-enviro.com	

ASBESTOS LABORATORY HOURS: Weekdays: 7am - 7pm & Sat. 8am - 5pm

PLM / PCM / TEM ___ RUSH (Same Day) ___ PRIORITY (Next Day) _X_ STANDARD (5 Day)
(Rush PCM = 2hr, TEM = 6hr.)

CHEMISTRY LABORATORY HOURS: Weekdays: 8am - 5pm

Metal(s) / Dust** ___ RUSH ___ 24 hr. ___ 3-5 Day
RCRA 8 / Metals & Welding Fume Scan / TCLP** ___ RUSH (3 Day) ___ 5 Day ___ 10 Day
Organics ___ 24 hr. ___ 3 day ___ 5 Day

Prior notification is required for RUSH turnarounds.

MICROBIOLOGY LABORATORY HOURS: Weekdays: 9am - 6pm

E.coli and/or Coliforms* ___ 24-48 Hour Other: _____
Pathogens* ___ 24-48 Hour
Microbial Growth* ___ 5-10 Day
Legionella ___ 10 Day
Mold ___ RUSH ___ 24 Hr ___ 48 Hr ___ 3 Day ___ 5 Day

TAT dependent on speed of microbial growth.

Turnaround times establish a laboratory priority, subject to laboratory volume and are not guaranteed. Additional fees apply for afterhours, weekends and holidays.

Special Instructions: 3 day

VALID MATRIX CODES

Air = A	Bulk = B
Dust = D	Paint = P
Soil = S	Wipe = W
Swab = SW	F = Food
Drinking Water = DW	Waste Water = WW
O = Other	

ASTM E1792 approved wipe media only

Client sample ID number (Sample ID's must be unique)	PLM - Short report, Point Count, Long report, Qualitative	TEM - AHERA, Level II, 7402, ISO, +/- (Air, Bulk or Dust), Quant, Semi-Quant, Micro-vac, ISO-Indirect Preps	PCM - 7400A, 7400B, OSHA	DUST - Total, Respirable	METALS - Analyte(s) RCRA 8, TCLP, Welding Fume, Metals Scan, pH	ORGANICS - METH, TSS	MICROBIOLOGY: Pathogens: Aerobic Plate Count, Salmonella, E.coli O157:H7, Listeria, S.aureus, Camphlobacter: +/- or Quantification	E.coli and/or Coliforms: +/- or Quantification	Microbial Growth: Aerobic Plate Count ID, Bacteria or Y & M: +/- or Quantification	Legionella: +/- or Quantification	Other: Bioburden, LAL or Environmental	Mold: Spore Trap or Bulk: +/-, Identification, Quantification	SAMPLER'S INITIALS OR OTHER NOTES:	Sample Volume (L) / Area	Matrix Code	# Containers	Date Collected mm/dd/yy	Time Collected hh/mm a/p	EM Number (Laboratory Use Only)
1 12FLVCT/M-1-1	X																		1633059
2 12FLVCT/M-1-2	X																		1633060
3 CONC-2-1	X																		1633061
4 CONC-2-2 (sample not labeled)	X																		1633062
5 DEBRIS-3-1	X																		1633063
6 GASKET-4-1	X																		1633064
7 WL-S-1 (sample not on original co)	X																		1633078
8																			
9																			
10																			

LAB NOTES:

Number of samples received: 6 (Additional samples shall be listed on attached long form.)

NOTE: REI will analyze incoming samples based upon information received and will not be responsible for errors or omissions in calculations resulting from the inaccuracy of original data. By signing client/company representative agrees that submission of the following samples for requested analysis as indicated on this Chain of Custody shall constitute an analytical services agreement with payment terms of NET 30 days, failure to comply with payment terms may result in a 1.5% monthly interest surcharge.

Relinquished By: Date/Time:

Laboratory Use Only
Received By: Elisa Mui Date/Time: 5-18-16 12:30 Carrier: Hand / FedEx / UPS / USPS / Drop Box / Courier

Sample Condition: On Ice Yes / No Sealed Yes / No Intact Yes / No
Temp. (F°) _____

Data Entry QA:	Contact	Phone	Email	Fax	Date	Time	Initials	Contact	Phone	Email	Fax	Date	Time	Initials
	Contact	Phone	Email	Fax	Date	Time	Initials	Contact	Phone	Email	Fax	Date	Time	Initials

DocuSign Envelope ID: E9E5358E-6650-4E4A-B16E-8D380957D00F

SCA Environmental, Inc.

CHAIN OF CUSTODY FORM

	Tel	Fax
650 Delancey St, #222, SF, CA 94107	415-8821675	415-9620736
1 Lakeside Dr, #215, Oakland, CA 94612	510-6456200	415-9620736

CALL/TXT with results:

Email rpt / COC & invoice:
dleung@sca-enviro.com & pgervasio@scaehs.com

Email Prj Mgr Name:
Chuck Siu Glenn Cass (Christina Codemo) [circled]

Accounting Data:

EMAIL HEADING: PORT OF SF CRANE COVE BVY

(Project #) -	(Project Manager Initials) -	(Site Name/Address) -	(Date MMDD)
F12054	CC	CRANE COVE, BLDG 49	5/17

LAB
REI

COURIER

LAB REP NOTIFIED: ____ Notification DATE/TIME: ____
AIRBILL/FLIGHT NO.: ____ Shipper REFERENCE I.D. ____
EST ARRIVAL DATE: ____ EST. ARRIVAL TIME: ____

Method Reference 7400 PCM AHERA TEM (≤0.005 s/cc AnaSen) CARB-AHERA TEM 0.001 s/cc Ana Sensitivity (PLM (asbestos)) [circled] Flame AA (Lead)

Sample Media 25 37 mm 0.45 0.8 micron MCEF (Bulk) [circled] Water Wipe

RESULTS DUE: 3 DAYS AM / PM

CHAIN OF CUSTODY DATA:

Sending Info 7 samples submitted by DL (SCA) on 5/17 at 4:00P
Received by Lab: ____ samples received by ____ on ____ at ____
Received by Analyst: ____ samples received by ____ on ____ at ____

SAMPLE ID	LITERS	Results	Ins/Blanks/Outs
12FLVC1/M-1-1,	2		
CONC-2-1,2			
DEBRIS-3-1			
GASKET-4-1			
	0 LITERS		BLANK
	0 LITERS		BLANK
	0 LITERS		BLANK

	ASBESTOS Units (each)	PCM NIOSH 7400	PLM Bulk	CARB 435 (400 Pt Ct) w/ prep	PLM Std Point Count 400	TEM AHERA	CARB AHERA 35-40 grid openings	CARB AHERA 10-15 grid openings			LEAD Units (each)	Flame AA	Wipes
< 6 hours	1 to 9										1 to 9		
	10 to 40										10 to 40		
	>40										>40		
24 hours	1 to 9										1 to 9		
	10 to 40										10 to 40		
	>40										>40		
48 hours	1 to 9										1 to 9		
	10 to 40										10 to 40		
	>40										>40		
3 to 5 days	1 to 9										1 to 9		
	10 to 40										10 to 40		
	>40										>40		
> 6 days	1 to 9										1 to 9		
	10 to 40										10 to 40		
	>40										>40		

INSTRUCTIONS TO LAB (delete items not applicable AND circle items applicable):

~~1. Pickup requested:~~
~~Contact:~~ ____
~~Time of Call:~~ ____
~~2. Call SCA's contact to acknowledge receipt of samples.~~
~~3. Analyze samples by PCM only.~~
~~4. Analyze inside samples by PCM first; if any sample >0.01 f/cc, contact SCA.~~
~~5. If all samples are <0.01 f/cc, proceed with items 6, 7 or 8, as noted.~~
~~6. Analyze inside samples only; stop if Avg >70 str/mm^2, contact SCA before analyzing outsides or blanks.~~
~~7. Analyze all samples, including outside samples and blanks.~~
~~8. Do NOT analyze outside or blank samples.~~
~~9. Analyze by TEM only the inside air sample with the highest PCM result.~~
(10) Serial analysis; stop at first positive (>1%); first trace (<0.1%);except sheetrock and plaster samples.
~~11. Analyze all bulk samples, unless otherwise indicated.~~
~~12. PCB: <25 PPM detection limit required. Authorized to perform cleanup to meet the detection limit.~~
13. ____

Report Number:

Invoice Number:

Supplies /Equipment	Qty
Hi-Vol (3040)	
Lo-Vol (3020)	
TEM / Pb cassettes (3520)	
PCM cassettes (3500)	
Bulk sampling supply (3710)	7

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REI LAB **Reservoirs Environmental, Inc.**

May 31, 2016

Subcontract Number:	**NA**
Laboratory Report:	**RES 350999-1**
Project # / P.O. #	**F12054**
Project Description:	**Crane Cove Bldg. 49**

Christina Codemo
SCA Environmental, Inc.
650 Delancey St. Ste. 222
San Fransisco CA 94107

Dear Customer,

Reservoirs Environmental, Inc. is an analytical laboratory accredited for the analysis of Industrial Hygiene and Environmental matrices by the National Voluntary Laboratory Accreditation Program (NVLAP), Lab Code 101896-0 for Transmission Electron Microscopy (TEM) and Polarized Light Microscopy (PLM) analysis and the American Industrial Hygiene Association (AIHA), Lab ID 101533 - Accreditation Certificate #480 for Phase Contrast Microscopy (PCM) analysis. This laboratory is currently proficient in both Proficiency Testing and PAT programs respectively.

Reservoirs Environmental, Inc. has analyzed the following samples for asbestos content as per your request. The analysis has been completed in general accordance with the appropriate methodology as stated in the attached analysis table. The results have been submitted to your office.

RES 350999-1 is the job number assigned to this study. This report is considered highly confidential and the sole property of the customer. Reservoirs Environmental, Inc. will not discuss any part of this study with personnel other than those of the client. The results described in this report only apply to the samples analyzed. This report must not be used to claim endorsement of products or analytical results by NVLAP or any agency of the U.S. Government. This report shall not be reproduced except in full, without written approval from Reservoirs Environmental, Inc. Samples will be disposed of after sixty days unless longer storage is requested. If you have any questions about this report, please feel free to call 303-964-1986.

Sincerely,

Elisa Mari
Elisa Mari for

Jeanne Spencer
President

RESERVOIRS ENVIRONMENTAL INC.

NVLAP Lab Code 101896-0

TABLE: PLM BULK ANALYSIS, PERCENTAGE COMPOSITION BY VOLUME

RES Job Number: **RES 350999-1**
Client: **SCA Environmental, Inc.**
Client Project Number / P.O.: **F12054**
Client Project Description: **Crane Cove Bldg. 49**
Date Samples Received: **May 23, 2016**
Method: **EPA 600/R-93/116 - Short Report, Bulk**
Turnaround: **3-5 Day**
Date Samples Analyzed: **May 31, 2016**

ND=None Detected
TR=Trace, <1% Visual Estimate
Trem/Act=Tremolite/Actinolite

Client Sample Number	Lab ID Number	LAYER	Physical Description	Sub Part (%)	Asbestos Content: Mineral	Asbestos Content: Visual Estimate (%)	Non Asbestos Fibrous Components (%)	Non-Fibrous Components (%)
WL-6-1	EM 1635483	A	White fibrous woven material w/ white paint	100		**ND**	80	20
RFSH-7-1	EM 1635484	A	Black/white shingle	100		**ND**	60	40
RFSH-7-2	EM 1635485	A	Black/multi-colored shingle	100		**ND**	60	40
RFSH-7-3	EM 1635486	A	Black/white shingle	100		**ND**	60	40
RFMAS-8-1	EM 1635487	A	Black/gray fibrous tar w/ silver paint	100	**Chrysotile**	**10**	TR	90
RFMAS-8-2	EM 1635488		Not Analyzed per Client Request.					
FLUE-9-1	EM 1635489	A	Brown/tan debris	100		**ND**	0	100
RFSH-10-1	EM 1635490	A	Black felt	40		**ND**	85	15
		B	Black/green shingle	60		**ND**	60	40
RFSH-10-2	EM 1635491	A	Black felt	40		**ND**	85	15
		B	Black/green shingle	60		**ND**	60	40

TEM Analysis recommended for organically bound material (i.e. floor tile) if PLM results are <1%.

Kelly Nuccio
Kelly Nuccio
Analyst

Paul D. LoScalzo
Paul D. LoScalzo
Analyst / Data QA

DocuSign Envelope ID: E9E5358E-6650-4E4A-B16E-8D380957D00F

Due Date: 5-26-31
Due Time: 10:25

Reservoirs Environmental, Inc.

5801 Logan St. Denver, CO 80216 • Ph: 303 964-1986 • Fax 303-477-4275 • Toll Free :866 RESI-ENV
After Hours Cell Phone: 720-339-9228

RES 350999

SUBMITTED BY:		INVOICE TO: (IF DIFFERENT)		CONTACT INFORMATION:	
Company:	SCA Environmental, Inc.	Company:		Contact:	Contact:
Address:	650 Delancey St. Ste. 222	Address:		Phone:	Phone:
	San Fransisco CO 94107			Fax:	Fax:
				Cell/pager:	Cell/pager:
Project Number and/or P.O. #:	F12054				
Project Description/Location:	Crane Cove Bldg 49			ccodemo@sca-enviro.com & dleung@sca-enviro.com	

ASBESTOS LABORATORY HOURS: Weekdays: 7am - 7pm & Sat. 8am - 5pm

PLM / PCM / TEM ____ RUSH (Same Day) ___ PRIORITY (Next Day) _X_ STANDARD (5 Day)
(Rush PCM = 2hr, TEM = 6hr.)

CHEMISTRY LABORATORY HOURS: Weekdays: 8am - 5pm

Metal(s) / Dust** ___ RUSH ___ 24 hr. ___3-5 Day
RCRA 8 / Metals & Welding Fume Scan / TCLP** __RUSH (3 Day)__5 Day __10 Day
Organics ___ 24 hr. ___ 3 day ___5 Day

Prior notification is required for RUSH turnarounds.

MICROBIOLOGY LABORATORY HOURS: Weekdays: 9am - 6pm

E.coli and/or Coliforms* ___24-48 Hour Other: _____
Pathogens* ___24-48 Hour
Microbial Growth* ___5-10 Day
Legionella ___10 Day
Mold ___ RUSH ___24 Hr ___48 Hr ___3 Day ___5 Day

TAT dependent on speed of microbial growth.

Turnaround times establish a laboratory priority, subject to laboratory volume and are not guaranteed. Additional fees apply for afterhours, weekends and holidays.

Special Instructions:

VALID MATRIX CODES

Air = A	Bulk = B
Dust = D	Paint = P
Soil = S	Wipe = W
Swab = SW	F = Food
Drinking Water = DW	Waste Water = WW
O = Other	

ASTM E1792 approved wipe media only

Client sample ID number (Sample ID's must be unique)	PLM - Short report, Point Count, Long report, Qualitative	TEM - AHERA, Level II, 7402, ISO, +/- (Air, Bulk or Dust), Quant, Semi-Quant, Micro-vac, ISO-Indirect Preps	PCM - 7400A, 7400B, OSHA	DUST - Total, Respirable	METALS - Analyte(s) RCRA 8, TCLP, Welding Fume, Metals Scan, pH	ORGANICS - METH, TSS	MICROBIOLOGY: Pathogens: Aerobic Plate Count, Salmonella, E.coli O157:H7, Listeria, S.aureus, Camphlobacter: +/- or Quantification	E.coli and/or Coliforms: +/- or Quantification	Microbial Growth: Aerobic Plate Count ID, Bacteria or Y & M: +/- or Quantification	Legionella: +/- or Quantification	Other: Bioburden, LAL or Environmental	Mold: Spore Trap or Bulk: +/-, Identification, Quantification	SAMPLER'S INITIALS OR OTHER NOTES:	Sample Volume (L) / Area	Matrix Code	# Containers	Date Collected mm/dd/yy	Time Collected hh/mm a/p	LAB NOTES: EM Number (Laboratory Use Only)
1 WL-6-1	X																		1635483
2 RFSH-7-1	X																		1635484
3 RFSH-7-2	X																		1635485
4 RFSH-7-3	X																		1635486
5 RFMAS-8-1	X																		1635487
6 RFMAS-8-2	X																		1635488
7 FLUE-9-1	X																		1635489
8 RFSH-10-1	X																		1635490
9 RFSH-10-2	X																		1635491
10	X																		

Number of samples received: 9 (Additional samples shall be listed on attached long form.)

NOTE: REI will analyze incoming samples based upon information received and will not be responsible for errors or omissions in calculations resulting from the inaccuracy of original data. By signing client/company representative agrees that submission of the following samples for requested analysis as indicated on this Chain of Custody shall constitute an analytical services agreement with payment terms of NET 30 days, failure to comply with payment terms may result in a 1.5% monthly interest surcharge.

Relinquished By: Date/Time:

Laboratory Use Only
Received By: Date/Time: 5-23-16 10:25 Carrier: Hand / FedEx / UPS / USPS / ~~Drop Box~~ / Courier

Sample Condition: On Ice Yes / No; Sealed Yes / No; Intact Yes / No
Temp. (F°) _____

Data Entry QA:	Contact	Phone	Email	Fax	Date	Time	Initials	Contact	Phone	Email	Fax	Date	Time	Initials
	Contact	Phone	Email	Fax	Date	Time	Initials	Contact	Phone	Email	Fax	Date	Time	Initials

DocuSign Envelope ID: E9E5358E-6650-4E4A-B16E-8D380957D00F

SCA Environmental, Inc.

CHAIN OF CUSTODY FORM

650 Delancey St, #222, SF, CA 94107 — Tel 415-8821675 — Fax 415-9620736
1 Lakeside Dr, #215, Oakland, CA 94612 — Tel 510-6456200 — Fax 415-9620736

CALL/TXT with results:

Email rpt / COC & invoice: dleung@sca-enviro.com & pgervasio@scaehs.com

Email Prj Mgr Name: Chuck Siu Glenn Cass (Christina Codemo)

Accounting Data:

EMAIL HEADING: (Project #) - (Project Manager Initials) - (Site Name/Address) - (Date MMDD)

	(Project #)	(Project Manager Initials)	(Site Name/Address)	(Date MMDD)
Port of SF Crane Cove Survey	F12054	CC	Port of SF, Crane Cove, BLDG 49	5/19

LAB REI

COURIER

LAB REP NOTIFIED: ____ Notification DATE/TIME: ____
AIRBILL/FLIGHT NO.: ____ Shipper REFERENCE I.D. ____
EST ARRIVAL DATE: ____ EST. ARRIVAL TIME: ____

Method Reference 7400 PCM AHERA TEM (≤0.005 s/cc AnaSen) CARB-AHERA TEM 0.001 s/cc Ana Sensitivity (PLM (asbestos)) Flame AA (Lead)

Sample Media 25 37 mm 0.45 0.8 micron MCEF (Bulk) Water Wipe

RESULTS DUE: 3 DAYS AM / PM

CHAIN OF CUSTODY DATA:

Sending Info 9 samples submitted by DL (SCA) on / at ____
Received by Lab: ____ samples received by ____ on ____ at ____
Received by Analyst: ____ samples received by ____ on ____ at ____

SAMPLE ID	LITERS	Results	Ins/Blanks/Outs
WL-6-1			
RFSH-7-1,2,3			
RFMAS-8-1,2			
FLUE-9-1			
RFSH-10-1,2			
	0 LITERS		BLANK
	0 LITERS		BLANK
	0 LITERS		BLANK

INSTRUCTIONS TO LAB (delete items not applicable AND circle items applicable):

~~1. Pickup requested:~~
~~Contact:~~ ____
~~Time of Call:~~ ____
~~2. Call SCA's contact to acknowledge receipt of samples.~~
~~3. Analyze samples by PCM only.~~
~~4. Analyze inside samples by PCM first; if any sample >0.01 f/cc, contact SCA.~~
~~5. If all samples are ≤0.01 f/cc, proceed with items 6, 7 or 8, as noted.~~
~~6. Analyze inside samples only; stop if Avg ≥70 str/mm^2, contact SCA before analyzing outsides or blanks.~~
~~7. Analyze all samples, including outside samples and blanks.~~
~~8. Do NOT analyze outside or blank samples.~~
~~9. Analyze by TEM only the inside air sample with the highest PCM result.~~
(10.) Serial analysis; stop at first positive (>1%); first trace (<0.1%);except sheetrock and plaster samples.
~~11. Analyze all bulk samples, unless otherwise indicated.~~
~~12. PCB: <25 PPM detection limit required. Authorized to perform cleanup to meet the detection limit.~~
13. ____

Report Number:

Invoice Number:

Supplies /Equipment	Qty
Hi-Vol (3040)	
Lo-Vol (3020)	
TEM / Pb cassettes (3520)	
PCM cassettes (3500)	
Bulk sampling supply (3710)	9

Turnaround	Units (each)	Wipes	Flame AA	LEAD	CARB AHERA 10-15 grid openings	CARB AHERA 35-40 grid openings	TEM AHERA	PLM Std Point Count 400	CARB 435 (400 Pt Ct) w/ prep	PLM Bulk	PCM NIOSH 7400	ASBESTOS Units (each)
< 6 hours	1 to 9											1 to 9
< 6 hours	10 to 40											10 to 40
< 6 hours	>40											>40
24 hours	1 to 9											1 to 9
24 hours	10 to 40											10 to 40
24 hours	>40											>40
48 hours	1 to 9											1 to 9
48 hours	10 to 40											10 to 40
48 hours	>40											>40
3 to 5 days	1 to 9											1 to 9
3 to 5 days	10 to 40											10 to 40
3 to 5 days	>40											>40
> 6 days	1 to 9											1 to 9
> 6 days	10 to 40											10 to 40
> 6 days	>40											>40

DocuSign Envelope ID: E9E5358E-6650-4E4A-B16E-8D380957D00F

ALSF ANALYTICAL LABS SAN FRANCISCO INC.

POLARIZED LIGHT MICROSCOPY ANALYSIS FOR ASBESTOS CONTENT (CARB 435)

Client: SCA ENVIRONMENTAL, INC.
650 DELANCEY ST. #222
SAN FRANCISCO, CA 94107

Report Number: CE22006
Date: MAY 25, 2016
Analyst: OLGA KIST
Date Analyzed: MAY 25, 2016
Sample Collector: DAN LEUNG
Collection Date: MAY 20, 2016

Project No.: F12054
Project: PORT OF SF, CRANE COVE, BLDG 49

1 Sample(s) containing Asbestos

4 Sample(s) Analyzed
4 Sample(s) Received 5/20/16 13:30

Sample #	Location / Description	ASBESTOS Type and Range % or NONE DETECTED	NONASBESTOS Other Fibers (%) Balance
1. CONC-2-3	OFF-WHITE CONCRETE WITH WHITE-GRAY-BROWN AGGREGATES WITH GRAY-GREEN SURFACE (16.5 cm)	NONE DETECTED	SILI, IRON OXIDES, OPAQUES, CEMENT, MICA, MISC.
2. FILL-11-1	BROWN-GRAY-GOLD CLAY SOIL WITH GRAVEL AND SAND	NONE DETECTED	CELL <1, SILI, OPAQUES, CARB, MISC.
3. ASPHALT-12-1	A) BLACK TAR AND GRAVEL WITH GRAY-BROWN-GOLD-WHITE STONES (22.5 cm)	NONE DETECTED	SILI, OPAQUES, IRON OXIDES, MICA, ASPHALT, MISC.
	B) GREEN ROCK	NONE DETECTED	
4. BROCK-13-1	**BROWN CLAY SOIL WITH GRAY-WHITE-BLACK ROCKS, GRAVEL AND SERPENTINE**	**CHRYS <1***	SILI, OPAQUES, IRON OXIDES, NF TREM, MICA, SERPENTINE, MISC.
		***CHRYSOTILE 0.50% (400 POINTS).**	
052316	LABORATORY BLANK (1866 GLASS FIBERS)	NONE DETECTED	

ASBESTOS TYPES	NONASBESTOS	
CHRYS: Chrysotile	CELL: Cellulose	POLY: Polyethylene
AMOS: Amosite	GL: Fiberglass/Mineral Wool	FTALC: Fibrous Talc
CROC: Crocidolite	SYN: Synthetic	FGYP: Fibrous Gypsum
TREM: Tremolite/Actinolite	CARB: Carbonates	FELD: Feldspar
ANTH: Anthophyllite	SILI: Mixed Silicates	CASI: Calcium Silicates

Bulk samples analyzed in accordance with "Method for the Determination of Asbestos in Bulk Building Materials" EPA/600/R-93/116, July 1993. The detection limit is 1%. Quantitation of asbestos is by calibrated visual estimation. Analytical Labs San Francisco, Inc. (ALSF) is recognized under the National Laboratory Accreditation Program for satisfactory compliance with criteria established in Title 15, Part 7 code of Federal Regulations and accredited for bulk asbestos fiber analysis (NVLAP lab code: 101909-0). Asbestos fibers less than 0.2 microns cannot be resolved by light microscope. This report must not be reproduced except in full, without the written approval of ALSF and pertains only to the samples analyzed.

AUTHORIZED SIGNATURE _____ DATE 5/27/16

467 Potrero Avenue, San Francisco, CA 94110 (415) 552-4595 FAX 552-0730

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ALSF ANALYTICAL LABS SAN FRANCISCO INC.
467 Potrero Avenue, San Francisco, CA 94110 (415) 552-4595 FAX 552-0730

QUANTITATION OF ASBESTOS CONTENT USING POINT COUNTING METHOD AND POLARIZED LIGHT MICROSCOPY (CARB 435)

CLIENT: SCA ENVIRONMENTAL, INC.
1 LAKESIDE DR. #215
OAKLAND, CA 94612

REPORT #: CE22006.PT
DATE COMPLETED: MAY 25, 2016
ANALYST: O. KIST

Project No.: F12054
Project: PORT OF SF, CRANE COVE, BLDG 49

SUPPLEMENTAL TO:
PLM BULK REPORT CE22006

SAMPLE NO. RESULT	DESCRIPTION	TOTAL POINTS	ASBESTOS AREA PERCENT BY POINT-COUNTING	STATISTICAL LIMIT
2. FILL-11-1				
NONE DETECTED	BROWN-GRAY-GOLD CLAY SOIL WITH GRAVEL AND SAND	400	<0.25%	0.25%
4. BROCK-13-1				
CHRYS <1	BROWN CLAY SOIL WITH GRAY-WHITE-BLACK ROCKS AND SERPENTINE	400	0.50%	0.25%

AUTHORIZED SIGNATURE

DATE 5/27/16

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CE220069

CHAIN OF CUSTODY FORM

SCA Environmental, Inc.
650 Delancey St. #222, SF, CA 94107 — Tel 415-8821675 — Fax 415-9620736
1 Lakeside Dr. #215, Oakland, CA 94612 — Tel 510-6456200 — Fax 415-9620736

CALL/TXT with results:

Email rpt / COC & invoice: dleung@sca-enviro.com & pgervasio@scaehs.com

Email Prj Mgr Name: Chuck Siu Glenn Cass Christina Codemo

Accounting Data:

EMAIL HEADING: (Project #) - (Project Manager Initials) - (Site Name/Address) - (Date MMDD)

Port of SF Crane Cove Survey — F12054 — CC — Port of SF, Crane Cove, BLDG 49 — 5/20

LAB: ALGF

COURIER

LAB REP NOTIFIED: Notification DATE/TIME:
AIRBILL/FLIGHT NO.: Shipper REFERENCE I.D.
EST. ARRIVAL DATE: EST. ARRIVAL TIME:

Method Reference: 7400 PCM — AHERA TEM (≤0.005 s/cc AnaSen) — CARB-AHERA TEM 0.001 s/cc Ana Sensitivity — PLM (asbestos) — Flame AA (Lead)

Sample Media: 25 37mm 0.45 0.8 micron — MCEF — Bulk — Water — Wipe

RESULTS DUE: 6 DAYS — AM / PM

CHAIN OF CUSTODY DATA:

Sending Info: 4 samples submitted by DL (SCA) on 5/20 at 1:30 P
Received by Lab: 4 samples received by DL on 5/20 at 13:30
Received by Analyst: 4 samples received by DL on " at "

SAMPLE ID	LITERS	Results	Ins/Blanks/Outs
CONC-2-3		-1	
FILL-11-1		-2	
ASPHALT-12-1		-3	
BROCK-13-1		-4	
	0 LITERS		BLANK
	0 LITERS		BLANK
	0 LITERS		BLANK

INSTRUCTIONS TO LAB (delete items not applicable AND circle items applicable):

~~1. Pickup requested~~:
~~Contact~~: _____
~~Time of Call~~: _____
~~2. Call SCA's contact to acknowledge receipt of samples.~~
~~3. Analyze samples by PCM only.~~
~~4. Analyze inside samples by PCM first; if any sample >0.01 f/cc, contact SCA.~~
~~5. If all samples are <0.01 f/cc, proceed with items 6, 7 or 8, as noted.~~
~~6. Analyze inside samples only, stop if Avg >70 str/mm^2, contact SCA before analyzing outsides or blanks.~~
~~7. Analyze all samples, including outside samples and blanks.~~
~~8. Do NOT analyze outside or blank samples.~~
~~9. Analyze by TEM only the inside air sample with the highest PCM result.~~
~~10. Serial analysis: stop at first positive (>1%), first trace (≤0.1%) except sheetrock and plaster samples.~~
(11) Analyze all bulk samples, unless otherwise indicated.
~~12. PCB: <25 PPM detection limit required. Authorized to perform cleanup to meet the detection limit.~~
13. _____

Report Number: CE220069

Invoice Number: CE220069

Supplies /Equipment	Qty
Hi-Vol (3040)	
Lo-Vol (3020)	
TEM / Pb cassettes (3520)	
PCM cassettes (3500)	
Bulk sampling supply (3710)	4

	Wipes	Flame AA	Units (each)	LEAD														ASBESTOS
																		Units (each)
																		PCM NIOSH 7400
																		PLM Bulk
																		CARB 435 (400 Pt Ct) w/ prep
																		PLM Std Point Count 400
																		TEM AHERA
																		CARB AHERA 35-40 grid openings
																		CARB AHERA 10-15 grid openings
			1 to 9	< 6 hours														1 to 9
			10 to 40															10 to 40
			>40															>40
			1 to 9	24 hours														1 to 9
			10 to 40															10 to 40
			>40															>40
			1 to 9	48 hours														1 to 9
			10 to 40															10 to 40
			>40															>40
			1 to 9	3 to 5 days														1 to 9
			10 to 40															10 to 40
			>40															>40
			1 to 9	> 6 days														1 to 9
			10 to 40															10 to 40
			>40															>40

ver 2015

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McCampbell Analytical, Inc.

"When Quality Counts"

Analytical Report

WorkOrder: 1605780 **Amended:** 05/26/2016

Report Created for: SCA Enviromental, Inc.

1 Lakeside Drive, Suite 215
Oakland, CA 94612

Project Contact: Dan Leung
Project P.O.:
Project Name: F12054; Port of SF Crane Cove Svy, Bldg 49

Project Received: 05/18/2016

Analytical Report reviewed & approved for release on 05/25/2016 by:

Angela Rydelius,
Laboratory Manager

The report shall not be reproduced except in full, without the written approval of the laboratory. The analytical results relate only to the items tested. Results reported conform to the most current NELAP standards, where applicable, unless otherwise stated in the case narrative.

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CDPH ELAP 1644 ♦ NELAP 4033ORELAP

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Glossary of Terms & Qualifier Definitions

Client: SCA Enviromental, Inc.
Project: F12054; Port of SF Crane Cove Svy, Bldg 49
WorkOrder: 1605780

Glossary Abbreviation

%D	Serial Dilution Percent Difference
95% Interval	95% Confident Interval
DF	Dilution Factor
DI WET	(DISTLC) Waste Extraction Test using DI water
DISS	Dissolved (direct analysis of 0.45 µm filtered and acidified water sample)
DLT	Dilution Test (Serial Dilution)
DUP	Duplicate
EDL	Estimated Detection Limit
ITEF	International Toxicity Equivalence Factor
LCS	Laboratory Control Sample
MB	Method Blank
MB % Rec	% Recovery of Surrogate in Method Blank, if applicable
MDL	Method Detection Limit
ML	Minimum Level of Quantitation
MS	Matrix Spike
MSD	Matrix Spike Duplicate
N/A	Not Applicable
ND	Not detected at or above the indicated MDL or RL
NR	Data Not Reported due to matrix interference or insufficient sample amount.
PDS	Post Digestion Spike
PDSD	Post Digestion Spike Duplicate
PF	Prep Factor
RD	Relative Difference
RL	Reporting Limit (The RL is the lowest calibration standard in a multipoint calibration.)
RPD	Relative Percent Deviation
RRT	Relative Retention Time
SPK Val	Spike Value
SPKRef Val	Spike Reference Value
SPLP	Synthetic Precipitation Leachate Procedure
ST	Sorbent Tube
TCLP	Toxicity Characteristic Leachate Procedure
TEQ	Toxicity Equivalents
WET (STLC)	Waste Extraction Test (Soluble Threshold Limit Concentration)

Quality Control Qualifiers

F10	MS/MSD outside control limits. Physical or chemical interferences exist due to sample matrix.

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Analytical Report

Client:	SCA Enviromental, Inc.	**WorkOrder:**	1605780
Date Received:	5/18/16 15:25	**Extraction Method:**	SW3050B
Date Prepared:	5/18/16-5/24/16	**Analytical Method:**	SW6020
Project:	F12054; Port of SF Crane Cove Svy, Bldg 49	**Unit:**	mg/Kg

Lead

Client ID	Lab ID	Matrix	Date Collected	Instrument	Batch ID
RD-1	**1605780-001A**	**Solid**	**05/17/2016**	**ICP-MS1**	**121101**

Analytes	Result	RL	DF	Date Analyzed
Lead	**440**	0.50	1	05/19/2016 16:09

Surrogates	REC (%)	Limits	
Terbium	104	70-130	05/19/2016 16:09

Analyst(s): BBO

Client ID	Lab ID	Matrix	Date Collected	Instrument	Batch ID
GY-2	**1605780-002A**	**Solid**	**05/17/2016**	**ICP-MS3**	**121101**

Analytes	Result	RL	DF	Date Analyzed
Lead	**36,000**	50	100	05/19/2016 21:53

Surrogates	REC (%)	Limits	
Terbium	103	70-130	05/19/2016 21:53

Analyst(s): DVH

Client ID	Lab ID	Matrix	Date Collected	Instrument	Batch ID
YW-3	**1605780-003A**	**Solid**	**05/17/2016**	**ICP-MS2**	**121386**

Analytes	Result	RL	DF	Date Analyzed
Lead	**280**	5.0	10	05/25/2016 17:34

Surrogates	REC (%)	Limits	
Terbium	111	70-130	05/25/2016 17:34

Analyst(s): BBO

Client ID	Lab ID	Matrix	Date Collected	Instrument	Batch ID
BK-4	**1605780-004A**	**Solid**	**05/17/2016**	**ICP-MS3**	**121101**

Analytes	Result	RL	DF	Date Analyzed
Lead	**4200**	50	100	05/19/2016 21:46

Surrogates	REC (%)	Limits	
Terbium	99	70-130	05/19/2016 21:46

Analyst(s): DVH

(Cont.)

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Analytical Report

Client:	SCA Enviromental, Inc.	**WorkOrder:**	1605780
Date Received:	5/18/16 15:25	**Extraction Method:**	SW3050B
Date Prepared:	5/18/16-5/24/16	**Analytical Method:**	SW6020
Project:	F12054; Port of SF Crane Cove Svy, Bldg 49	**Unit:**	mg/Kg

Lead

Client ID	Lab ID	Matrix	Date Collected	Instrument	Batch ID
12FLVCT/M-1	**1605780-005A**	**Solid**	**05/17/2016**	**ICP-MS1**	**121101**

Analytes	Result	RL	DF	Date Analyzed
Lead	**35**	0.50	1	05/19/2016 16:45

Surrogates	REC (%)	Limits	
Terbium	103	70-130	05/19/2016 16:45

Analyst(s): BBO

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Quality Control Report

Client:	SCA Enviromental, Inc.	**WorkOrder:**	1605780
Date Prepared:	5/17/16	**BatchID:**	121101
Date Analyzed:	5/18/16	**Extraction Method:**	SW3050B
Instrument:	ICP-MS3	**Analytical Method:**	SW6020
Matrix:	Soil	**Unit:**	mg/Kg
Project:	F12054; Port of SF Crane Cove Svy, Bldg 49	**Sample ID:**	MB/LCS-121101 1605740-002AMS/MSD

QC Summary Report for Metals

Analyte	MB Result	LCS Result	RL	SPK Val	MB SS %REC	LCS %REC	LCS Limits
Lead	ND	48.6	0.50	50	-	97	75-125
Surrogate Recovery							
Terbium	534	524		500	107	105	70-130

Analyte	MS Result	MSD Result	SPK Val	SPKRef Val	MS %REC	MSD %REC	MS/MSD Limits	RPD	RPD Limit
Lead	56.6	50.1	50	4.001	105	92	75-125	12.3	20
Surrogate Recovery									
Terbium	562	505	500		112	101	70-130	10.8	20

Analyte	DLT Result	DLTRef Val	%D	%D Limit
Lead	4.08	4.001	1.97	-

%D Control Limit applied to analytes with concentrations greater than 25 times the reporting limits.

(Cont.)

CDPH ELAP 1644 • NELAP 4033ORELAP

_____ QA/QC Officer

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Quality Control Report

Client:	SCA Enviromental, Inc.	**WorkOrder:**	1605780
Date Prepared:	5/23/16	**BatchID:**	121386
Date Analyzed:	5/25/16	**Extraction Method:**	SW3050B
Instrument:	ICP-MS2	**Analytical Method:**	SW6020
Matrix:	Soil	**Unit:**	mg/Kg
Project:	F12054; Port of SF Crane Cove Svy, Bldg 49	**Sample ID:**	MB/LCS-121386 1605A11-001AMS/MSD 1605A11-001APDS

QC Summary Report for Metals

Analyte	MB Result	LCS Result	RL	SPK Val	MB SS %REC	LCS %REC	LCS Limits
Lead	ND	53.0	0.50	50	-	106	75-125
Surrogate Recovery							
Terbium	509	513		500	102	103	70-130

Analyte	MS Result	MSD Result	SPK Val	SPKRef Val	MS %REC	MSD %REC	MS/MSD Limits	RPD	RPD Limit
Lead	83.9	109	50	10.53	147,F10	198,F10	75-125	26.3,F10	20
Surrogate Recovery									
Terbium	526	511	500		105	102	70-130	2.89	20

Analyte	PDS Result	SPK Val	SPKRef Val	PDS %REC	PDS Limits
Lead	58.5	50	10.53	96	75-125

Analyte	DLT Result	DLTRef Val	%D	%D Limit
Lead	9.99	10.53	5.13	-

%D Control Limit applied to analytes with concentrations greater than 25 times the reporting limits.

McCampbell Analytical, Inc.
1534 Willow Pass Rd
Pittsburg, CA 94565-1701
(925) 252-9262

CHAIN-OF-CUSTODY RECORD

WorkOrder: 1605780 **ClientCode: SCAO**

☐ WaterTrax ☐ WriteOn ☐ EDF ☐ Excel ☐ EQuIS ☑ Email ☐ HardCopy ☐ ThirdParty ☐ J-flag

Report to:
Dan Leung
SCA Enviromental, Inc.
1 Lakeside Drive, Suite 215
Oakland, CA 94612
(510) 267-2726 FAX: (510) 839- 6200

Email: dleung@sca-enviro.com
cc/3rd Party: pgervasio@scaehs.com;
PO:
ProjectNo: F12054; Port of SF Crane Cove Svy, Bldg 49

Bill to:
Accounts Payable
SCA Enviromental, Inc.
1 Lakeside Drive, Suite 215
Oakland, CA 94612
emuise@sca-ic.com;pgervasio@scaehs

Requested TAT: 5 days;

Date Received: 05/18/2016
Date Logged: 05/18/2016

Lab ID	Client ID	Matrix	Collection Date	Hold	Requested Tests (See legend below) 1	2	3	4	5	6	7	8	9	10	11	12
1605780-001	RD-1	Solid	5/17/2016	☐	A											
1605780-002	GY-2	Solid	5/17/2016	☐	A											
1605780-003	YW-3	Solid	5/17/2016	☐	A											
1605780-004	BK-4	Solid	5/17/2016	☐	A											
1605780-005	12FLVCT/M-1	Solid	5/17/2016	☐	A											

Test Legend:

1	PBMS_TTLC_S	2		3		4	
5		6		7		8	
9		10		11		12	

Prepared by: Maria Venegas

Comments:

NOTE: Soil samples are discarded 60 days after results are reported unless other arrangements are made (Water samples are 30 days).
Hazardous samples will be returned to client or disposed of at client expense.

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WORK ORDER SUMMARY

Client Name: SCA ENVIROMENTAL, INC.
QC Level: LEVEL 2
Work Order: 1605780
Project: F12054; Port of SF Crane Cove Svy, Bldg 49
Client Contact: Dan Leung
Date Logged: 5/18/2016
Comments:
Contact's Email: dleung@sca-enviro.com

☐ WaterTrax ☐ WriteOn ☐ EDF ☐ Excel ☐ Fax ☑ Email ☐ HardCopy ☐ ThirdParty ☐ J-flag

Lab ID	Client ID	Matrix	Test Name	Containers /Composites	Bottle & Preservative	De-chlorinated	Collection Date & Time	TAT	Sediment Content	Hold	SubOut
1605780-001A	RD-1	Solid	SW6020 (Lead)	1	small plastic	☐	5/17/2016	5 days		☐	
1605780-002A	GY-2	Solid	SW6020 (Lead)	1	small plastic	☐	5/17/2016	5 days		☐	
1605780-003A	YW-3	Solid	SW6020 (Lead)	1	small plastic	☐	5/17/2016	5 days		☐	
1605780-004A	BK-4	Solid	SW6020 (Lead)	1	small plastic	☐	5/17/2016	5 days		☐	
1605780-005A	12FLVCT/M-1	Solid	SW6020 (Lead)	1	small plastic	☐	5/17/2016	5 days		☐	

NOTES: - STLC and TCLP extractions require 2 days to complete; therefore, all TATs begin after the extraction is completed (i.e., One-day TAT yields results in 3 days from sample submission).

- MAI assumes that all material present in the provided sampling container is considered part of the sample - MAI does not exclude any material from the sample prior to sample preparation unless requested in writing by the client.

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CHAIN OF CUSTODY RECORD

TURN AROUND TIME: RUSH ☐ 1 DAY ☐ 2 DAY ☐ 3 DAY ☐ 5 DAY ☒

GeoTracker EDF ☐ PDF ☒ EDD ☐ Write On (DW) ☐ EQuIS ☐ 10 DAY ☐

Effluent Sample Requiring "J" flag ☐ **UST Clean Up Fund Project** ☐; **Claim #**_____

Report To: Dan Leung **Bill To: SCA Environmental, Inc.**

Company: SCA Environmental, Inc.

1 Lakeside Dr., #215 Oakland, CA 94612 pgervasio@scaehs.com and

Tele: (415) 867-9544 **E-Mail: dleung@sca-enviro.com**

Project #: F12054 **Project Name:** PORT OF SF CRANE

Project Location: CRANE COVE BLDG 49 **Purchase Order#** COVE SVY

Sampler Signature: Dan Leung

Analysis Request

SAMPLE ID	Location/ Field Point Name	SAMPLING Date	SAMPLING Time	# Containers	MATRIX Ground Water	MATRIX Waste Water	MATRIX Drinking Water	MATRIX Sea Water	MATRIX Soil	MATRIX Air	MATRIX Sludge	MATRIX Other	METHOD PRESERVED HCL	METHOD PRESERVED HNO_3	METHOD PRESERVED Other	BTEX & TPH as Gas (8021/ 8015) MTBE	TPH as Diesel (8015)	Total Petroleum Oil & Grease (1664 / 5520 E/B&F)	Total Petroleum Hydrocarbons (418.1)	EPA 505/ 608 / 8081 (Cl Pesticides)	EPA 608 / 8082 PCB's ; Aroclors / Congeners	EPA 507 / 8141 (NP Pesticides)	EPA 515 / 8151 (Acidic Cl Herbicides)	EPA 524.2 / 624 / 8260 (VOCs)	EPA 525.2 / 625 / 8270 (SVOCs)	EPA 8270 SIM / 8310 (PAHs / PNAs)	CAM 17 Metals (200.8 / 6020)***	LUFT 5 Metals (200.8 / 6020)***	Metals (200.8 / 6020)***	Lab to Filter sample for Dissolved metals analysis	LEAD (111C)				
RD - 1		5/17		1								X																			X				
GY - 2		↓		1								X																			X				
YW - 3		↓		1								X																			X				
BK - 4		↓		1								X																			X				
12FLVC1/M - 1		↓		1								X																			X				

**MAI clients MUST disclose any dangerous chemicals known to be present in their submitted samples in concentrations that may cause immediate harm or serious future health endangerment as a result of brief, gloved, open air, sample handling by MAI staff. Non-disclosure incurs an immediate $250 surcharge and the client is subject to full legal liability for harm suffered. Thank you for your understanding and for allowing us to work safely.

*** If metals are requested for water samples and the water type is not specified on the chain of custody, then MAI will default to metals by E200.8.

Relinquished By:	Date:	Time:	Received By:
Dan Leung	5/18	10:55 A	
Relinquished By:	Date:	Time:	Received By:
	5/18/16	1525	
Relinquished By:	Date:	Time:	Received By:

ICE/t°_____
GOOD CONDITION_____
HEAD SPACE ABSENT_____
DECHLORINATED IN LAB_____
APPROPRIATE CONTAINERS_____
PRESERVED IN LAB_____

VOAS O&G METALS OTHER HAZARDOUS:
PRESERVATION_____ pH<2_____

COMMENTS:
PCBs: <25 PPM detection limit required. Authorized to perform cleanup to meet the detection limit.

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Sample Receipt Checklist

Client Name:	**SCA Enviromental, Inc.**	Date and Time Received:	**5/18/2016 15:25**
Project Name:	**F12054; Port of SF Crane Cove Svy, Bldg 49**	Date Logged:	**5/18/2016**
WorkOrder №:	**1605780** Matrix: Solid	Received by:	Maria Venegas
Carrier:	Bernie Cummins (MAI Courier)	Logged by:	Maria Venegas

Chain of Custody (COC) Information

Chain of custody present?	Yes ☑	No ☐
Chain of custody signed when relinquished and received?	Yes ☑	No ☐
Chain of custody agrees with sample labels?	Yes ☑	No ☐
Sample IDs noted by Client on COC?	Yes ☑	No ☐
Date and Time of collection noted by Client on COC?	Yes ☑	No ☐
Sampler's name noted on COC?	Yes ☑	No ☐

Sample Receipt Information

Custody seals intact on shipping container/cooler?	Yes ☐	No ☐	NA ☑
Shipping container/cooler in good condition?	Yes ☑	No ☐	
Samples in proper containers/bottles?	Yes ☑	No ☐	
Sample containers intact?	Yes ☑	No ☐	
Sufficient sample volume for indicated test?	Yes ☑	No ☐	

Sample Preservation and Hold Time (HT) Information

All samples received within holding time?	Yes ☑	No ☐	
Sample/Temp Blank temperature	Temp:		NA ☑
Water - VOA vials have zero headspace / no bubbles?	Yes ☐	No ☐	NA ☑
Sample labels checked for correct preservation?	Yes ☑	No ☐	
pH acceptable upon receipt (Metal: <2; 522: <4; 218.7: >8)?	Yes ☐	No ☐	NA ☑
Samples Received on Ice?	Yes ☐	No ☑	

UCMR3 Samples:

Total Chlorine tested and acceptable upon receipt for EPA 522?	Yes ☐	No ☐	NA ☑
Free Chlorine tested and acceptable upon receipt for EPA 218.7, 300.1, 537, 539?	Yes ☐	No ☐	NA ☑

Comments:

DocuSign Envelope ID: E9E5358E-6650-4E4A-B16E-8D380957D00F

McCampbell Analytical, Inc.

"When Quality Counts"

Analytical Report

WorkOrder: 1803E56

Report Created for: SCA Environmental, Inc.

1 Lakeside Drive, Suite 215
Oakland, CA 94612

Project Contact: Dan Leung
Project P.O.:
Project: F12054.05; Crane Cove EQA

Project Received: 03/26/2018

Analytical Report reviewed & approved for release on 03/29/2018 by:

Yen Cao
Project Manager

The report shall not be reproduced except in full, without the written approval of the laboratory. The analytical results relate only to the items tested. Results reported conform to the most current NELAP standards, where applicable, unless otherwise stated in the case narrative.

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CA ELAP 1644 ♦ NELAP 4033 ORELAP

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Glossary of Terms & Qualifier Definitions

Client: SCA Environmental, Inc.
Project: F12054.05; Crane Cove EQA
WorkOrder: 1803E56

Glossary Abbreviation

%D	Serial Dilution Percent Difference
95% Interval	95% Confident Interval
DF	Dilution Factor
DI WET	(DISTLC) Waste Extraction Test using DI water
DISS	Dissolved (direct analysis of 0.45 µm filtered and acidified water sample)
DLT	Dilution Test (Serial Dilution)
DUP	Duplicate
EDL	Estimated Detection Limit
ERS	External reference sample. Second source calibration verification.
ITEF	International Toxicity Equivalence Factor
LCS	Laboratory Control Sample
MB	Method Blank
MB % Rec	% Recovery of Surrogate in Method Blank, if applicable
MDL	Method Detection Limit
ML	Minimum Level of Quantitation
MS	Matrix Spike
MSD	Matrix Spike Duplicate
N/A	Not Applicable
ND	Not detected at or above the indicated MDL or RL
NR	Data Not Reported due to matrix interference or insufficient sample amount.
PDS	Post Digestion Spike
PDSD	Post Digestion Spike Duplicate
PF	Prep Factor
RD	Relative Difference
RL	Reporting Limit (The RL is the lowest calibration standard in a multipoint calibration.)
RPD	Relative Percent Deviation
RRT	Relative Retention Time
SPK Val	Spike Value
SPKRef Val	Spike Reference Value
SPLP	Synthetic Precipitation Leachate Procedure
ST	Sorbent Tube
TCLP	Toxicity Characteristic Leachate Procedure
TEQ	Toxicity Equivalents
WET (STLC)	Waste Extraction Test (Soluble Threshold Limit Concentration)

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Analytical Report

Client:	SCA Environmental, Inc.	**WorkOrder:**	1803E56
Date Received:	3/26/18 14:05	**Extraction Method:**	SW3050B
Date Prepared:	3/26/18	**Analytical Method:**	SW6020
Project:	F12054.05; Crane Cove EQA	**Unit:**	mg/Kg

Lead

Client ID	Lab ID	Matrix	Date Collected	Instrument	Batch ID
49-DUST-100	**1803E56-001A**	**Solid**	**03/26/2018**	**ICP-MS3 108SMPL.D**	**155304**

Analytes	Result	RL	DF	Date Analyzed
Lead	**440**	0.50	1	03/27/2018 20:05

Surrogates	REC (%)	Limits	
Terbium	102	70-130	03/27/2018 20:05

Analyst(s): ND

Client ID	Lab ID	Matrix	Date Collected	Instrument	Batch ID
49-DUST-101	**1803E56-002A**	**Solid**	**03/26/2018**	**ICP-MS3 035SMPL.D**	**155304**

Analytes	Result	RL	DF	Date Analyzed
Lead	**530**	5.0	10	03/28/2018 11:31

Surrogates	REC (%)	Limits	
Terbium	92	70-130	03/28/2018 11:31

Analyst(s): JC

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Quality Control Report

Client:	SCA Environmental, Inc.	**WorkOrder:**	1803E56
Date Prepared:	3/26/18	**BatchID:**	155304
Date Analyzed:	3/26/18 - 3/27/18	**Extraction Method:**	SW3050B
Instrument:	ICP-MS1	**Analytical Method:**	SW6020
Matrix:	Soil	**Unit:**	mg/Kg
Project:	F12054.05; Crane Cove EQA	**Sample ID:**	MB/LCS-155304 1803E45-043AMS/MSD

QC Summary Report for Metals

Analyte	MB Result	LCS Result	RL	SPK Val	MB SS %REC	LCS %REC	LCS Limits
Lead	ND	49.0	0.50	50	-	98	75-125
Surrogate Recovery							
Terbium	491	504		500	98	101	70-130

Analyte	MS Result	MSD Result	SPK Val	SPKRef Val	MS %REC	MSD %REC	MS/MSD Limits	RPD	RPD Limit
Lead	54.1	50.8	50	2.241	104	97	75-125	6.33	20
Surrogate Recovery									
Terbium	550	521	500		110	104	70-130	5.49	20

Analyte	DLT Result	DLTRef Val	%D	%D Limit
Lead	ND<2.5	2.241	-	-

%D Control Limit applied to analytes with concentrations greater than 25 times the reporting limits.

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Pittsburg, CA 94565-1701
(925) 252-9262

CHAIN-OF-CUSTODY RECORD

WorkOrder: 1803E56 **ClientCode: SCAO**

☐ WaterTrax ☐ WriteOn ☐ EDF ☐ Excel ☒ EQuIS ☑ Email ☐ HardCopy ☐ ThirdParty ☐ J-flag
☒ Detection Summary ☒ Dry-Weight

Report to:
Dan Leung
SCA Environmental, Inc.
1 Lakeside Drive, Suite 215
Oakland, CA 94612
(510) 645-6200 FAX: (510) 839- 6200

Email: dleung@sca-enviro.com; labreports99@g
cc/3rd Party:
PO:
Project: F12054.05; Crane Cove EQA

Bill to:
Accounts Payable
SCA Environmental, Inc.
1 Lakeside Drive, Suite 215
Oakland, CA 94612
emuise@sca-ic.com; pgervasio@scaeh

Requested TAT: 3 days;

Date Received: 03/26/2018
Date Logged: 03/26/2018

Lab ID	Client ID	Matrix	Collection Date	Hold	Requested Tests (See legend below) 1	2	3	4	5	6	7	8	9	10	11	12
1803E56-001	49-DUST-100	Solid	3/26/2018 00:00	☐	A											
1803E56-002	49-DUST-101	Solid	3/26/2018 00:00	☐	A											

Test Legend:

1	PBMS_TTLC_S	2		3		4	
5		6		7		8	
9		10		11		12	

Prepared by: Kena Ponce

Comments:

NOTE: Soil samples are discarded 60 days after results are reported unless other arrangements are made (Water samples are 30 days).
Hazardous samples will be returned to client or disposed of at client expense.

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WORK ORDER SUMMARY

Client Name: SCA ENVIRONMENTAL, INC.
Client Contact: Dan Leung
Contact's Email: dleung@sca-enviro.com; labreports99@gmail.com

Project: F12054.05; Crane Cove EQA
Comments:

Work Order: 1803E56
QC Level: LEVEL 2
Date Logged: 3/26/2018

☐ WaterTrax ☐ WriteOn ☐ EDF ☐ Excel ☐ Fax ☑ Email ☐ HardCopy ☐ ThirdParty ☐ J-flag

Lab ID	Client ID	Matrix	Test Name	Containers /Composites	Bottle & Preservative	De-chlorinated	Collection Date & Time	TAT	Sediment Content	Hold	SubOut
1803E56-001A	49-DUST-100	Solid	SW6020 (Lead)	1	5ml Plastic yellow cap	☐	3/26/2018	3 days		☐	
1803E56-002A	49-DUST-101	Solid	SW6020 (Lead)	1	5ml Plastic yellow cap	☐	3/26/2018	3 days		☐	

NOTES: - STLC and TCLP extractions require 2 days to complete; therefore, all TATs begin after the extraction is completed (i.e., One-day TAT yields results in 3 days from sample submission).

- MAI assumes that all material present in the provided sampling container is considered part of the sample - MAI does not exclude any material from the sample prior to sample preparation unless requested in writing by the client.

1803E56

RUSH!

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CHAIN OF CUSTODY RECORD

TURN AROUND TIME: RUSH ☐ 1 DAY ☐ 2 DAY ☐ 3 DAY ☒ 5 DAY ☐

GeoTracker EDF ☐ PDF ☒ EDD ☐ Write On (DW) ☐ EQuIS ☐ 10 DAY ☐

Effluent Sample Requiring "J" flag ☐ UST Clean Up Fund Project ☐; Claim #_____

Report To: Dan Leung **Bill To:** SCA Environmental, Inc.

Company: SCA Environmental, Inc.

1 Lakeside Dr., #215 Oakland, CA 94612 pgervasio@scaehs.com and

Tele: (415) 867-9544 **E-Mail:** dleung@sca-enviro.com

Project #: ~~[illegible]~~ F12054.05 **Project Name:** CRANE COVE EQA

Project Location: CRANE COVE, BLDG 49 **Purchase Order#**

Sampler Signature: Dan Leung

Analysis Request

SAMPLE ID	Location/ Field Point Name	SAMPLING Date	SAMPLING Time	# Containers	MATRIX Ground Water	MATRIX Waste Water	MATRIX Drinking Water	MATRIX Sea Water	MATRIX Soil	MATRIX Air	MATRIX Sludge	MATRIX Other	METHOD PRESERVED HCL	METHOD PRESERVED HNO_3	METHOD PRESERVED Other	BTEX & TPH as Gas (8021/ 8015) MTBE	TPH as Diesel (8015)	Total Petroleum Oil & Grease (1664 / 5520 E/B&F)	Total Petroleum Hydrocarbons (418.1)	EPA 505/ 608 / 8081 (Cl Pesticides)	EPA 608 / 8082 PCB's ; Aroclors / Congeners	EPA 507 / 8141 (NP Pesticides)	EPA 515 / 8151 (Acidic Cl Herbicides)	EPA 524.2 / 624 / 8260 (VOCs)	EPA 525.2 / 625 / 8270 (SVOCs)	EPA 8270 SIM / 8310 (PAHs / PNAs)	CAM 17 Metals (200.8 / 6020)***	LUFT 5 Metals (200.8 / 6020)***	Metals (200.8 / 6020)***	Lab to Filter sample for Dissolved metals analysis	LEAD (1LC)				
49-DUGT-100		3/26		1								X																			X				
49-DUGT-101		↓		1								X																			X				

**MAI clients MUST disclose any dangerous chemicals known to be present in their submitted samples in concentrations that may cause immediate harm or serious future health endangerment as a result of brief, gloved, open air, sample handling by MAI staff. Non-disclosure incurs an immediate $250 surcharge and the client is subject to full legal liability for harm suffered. Thank you for your understanding and for allowing us to work safely.

*** If metals are requested for water samples and the water type is not specified on the chain of custody, then MAI will default to metals by E200.8.

Relinquished By:	Date:	Time:	Received By:
Dan Leung	3/26	2:05 P	[signature]
Relinquished By:	Date:	Time:	Received By:
Relinquished By:	Date:	Time:	Received By:

ICE/t° NO ICE
GOOD CONDITION_____
HEAD SPACE ABSENT_____
DECHLORINATED IN LAB_____
APPROPRIATE CONTAINERS_____
PRESERVED IN LAB_____

PRESERVATION_____ VOAS O&G METALS OTHER pH<2_____ HAZARDOUS:

COMMENTS:
PCBs: 1 PPM detection limit required. Authorized to perform Florisil cleanup to meet the detection limit.

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Sample Receipt Checklist

Client Name:	**SCA Environmental, Inc.**	Date and Time Received	**3/26/2018 14:05**
Project:	**F12054.05; Crane Cove EQA**	Date Logged:	**3/26/2018**
		Received by:	Kena Ponce
WorkOrder №:	**1803E56** Matrix: Solid	Logged by:	Kena Ponce
Carrier:	Client Drop-In		

Chain of Custody (COC) Information

Chain of custody present?	Yes ☑	No ☐	
Chain of custody signed when relinquished and received?	Yes ☑	No ☐	
Chain of custody agrees with sample labels?	Yes ☑	No ☐	
Sample IDs noted by Client on COC?	Yes ☑	No ☐	
Date and Time of collection noted by Client on COC?	Yes ☑	No ☐	
Sampler's name noted on COC?	Yes ☑	No ☐	
COC agrees with Quote?	Yes ☐	No ☐	NA ☑

Sample Receipt Information

Custody seals intact on shipping container/cooler?	Yes ☐	No ☐	NA ☑
Shipping container/cooler in good condition?	Yes ☑	No ☐	
Samples in proper containers/bottles?	Yes ☑	No ☐	
Sample containers intact?	Yes ☑	No ☐	
Sufficient sample volume for indicated test?	Yes ☑	No ☐	

Sample Preservation and Hold Time (HT) Information

All samples received within holding time?	Yes ☑	No ☐	NA ☐
Samples Received on Ice?	Yes ☐	No ☑	
Sample/Temp Blank temperature	Temp:		NA ☑
Water - VOA vials have zero headspace / no bubbles?	Yes ☐	No ☐	NA ☑
Sample labels checked for correct preservation?	Yes ☑	No ☐	
pH acceptable upon receipt (Metal: <2; 522: <4; 218.7: >8)?	Yes ☐	No ☐	NA ☑
UCMR Samples:			
pH tested and acceptable upon receipt (200.8: ≤2; 525.3: ≤4; 530: ≤7; 541: <3; 544: <6.5 & 7.5)?	Yes ☐	No ☐	NA ☑
Free Chlorine tested and acceptable upon receipt (<0.1mg/L)?	Yes ☐	No ☐	NA ☑

Comments:

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SCHEDULE 5

LIST OF CONSTRUCTION WARRANTIES

Item Description	Warranty Period if not 24 months
Overall Warranty	
Corrugated Siding	
Sewage Pump	
Fire Alarm	
Hand Dryers	10 years
Roof	15 years (per Submittal #12)
Louvers	20 years
Outdoor Signage	5 years
LED Interior Lighting	5 years
Roll up door at restroom entrance	5 years for door closers and panic hardware
Compressors	6 years

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SCHEDULE 6
IMPROVEMENTS AND ALTERATIONS REMOVAL REQUEST FORM

[Insert Tenant's Notice Address and Contact Information]

[Insert Date]

To: Port at Port's then-specified notice address

Re: Building 49, Crane Cove Park – Alterations Removal and Restoration

To Whom It May Concern:

We provide this notice request pursuant to Section 14.9 of that certain Lease No. L-16997, dated _____, 2023 between Port and Tenant (the "Lease") in connection with our separate request for Port's consent to perform certain Improvements and Alterations. As we have discussed with you, Tenant proposes to perform the Improvements and Alterations described herein below pursuant to Section 14 of the Lease:

[Describe Improvement(s)/Alteration(s) in detail and, as may be required under Section 14, include plans and specifications]

We request that Port inform us whether the Improvements Alterations must be removed on or before the expiration or sooner termination of this Lease. In all cases of removal, Tenant acknowledges that the Premises must be restored to its prior condition in compliance with the terms and conditions of the Lease, including obtaining permits if necessary.

Kindly indicate, by completing the form below, whether the Improvements or Alterations must be removed and then return a copy of this letter and the form to us at the address set forth above.

We understand that Port's response below applies only to the particular Improvement(s)/Alteration(s) described herein above and not to any other Improvement(s)/Alteration(s) or other Improvement(s)/Alteration(s) that may be performed in the future.

Sincerely,

YMCA of San Francisco

<u>Port to complete the form below and return to Tenant</u>:

[ ] Tenant is not required to remove the Improvement(s)/Alteration(s)

[ ] Tenant must remove the Improvement(s)/Alteration(s) before the expiration or sooner termination of the Lease.

[ ] Tenant must remove the following components of the Improvement(s)/Alteration(s) before the expiration or sooner termination of the Lease:_____ _____. The remainder of the Improvement(s)/Alteration(s) may remain on the Premises.

_____By: Port's Authorized Signatory

MEMORANDUM

April 21, 2023

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Willie Adams, Vice President
Hon. Gail Gilman
Hon. Ed Harrington
Hon. Steven Lee

FROM: Elaine Forbes
Executive Director

SUBJECT: Request approval of proposed development and multi-use lease of Building 49 located at 701 Illinois Street within Crane Cove Park by the YMCA of San Francisco, for an initial term of 10 years plus options to extend for a total term of up to 34 years, and a fee waiver for a companion license agreement.

DIRECTOR'S RECOMMENDATION: Approve the Attached Resolution No. 23-20

This item was presented as an informational item at the October 11, 2022 Port Commission meeting and is now before the Port Commission for approval. For convenience, substantive changes from the informational staff memorandum are shown in underline and strikeout.

EXECUTIVE SUMMARY

On October 26, 2021, the Port Commission adopted Resolution 21-46 which authorized staff to begin negotiating a long-term lease with the Young Men's Christian Association of San Francisco, a California Nonprofit Public Benefit Corporation ("YMCA SF" or "YMCA") for Building 49 located within Crane Cove Park at 701 Illinois Street. The YMCA SF's proposed program includes a center for the community focused on human-powered watercraft fitness & wellness, food concessions, diverse & inclusive programming, and educational programs. The program will also provide publicly available restrooms.

THIS PRINT COVERS CALENDAR ITEM NO. 7D

On October 11, 2022, Port staff presented an informational item to the Port Commission on the proposed lease terms as negotiated by the parties. Port staff and the YMCA SF then presented the lease terms and proposed program to the Port's Southern Advisory Committee on October 26, which was favorably received. The Committee's feedback centered around minimizing disruption to Crane Cove Park during construction and the historic and architectural significance of Building 49, and the park activation benefits that the project will deliver. Now, Port staff requests Port Commission approval of Lease No. 16997 (the "Lease"). Additionally, Port staff seeks approval for a fee waiver associated with a companion license agreement for certain programmatic activities in Crane Cove Park (e.g., aquatics and fitness programs), as described further at the end of Table 1 in Section 6 of this report.

This staff report is broken into the following sections:

1. Strategic Plan Alignment
2. Background
3. Project Concept
4. Review of the Diversity Equity and Inclusion Plan
5. Consistency with RFP Goals and YMCA Response to RFP
6. Key Lease Terms
7. California Environmental Quality Act
8. Public Trust Consistency
9. Recommendation and Next Steps

STRATEGIC PLAN ALIGNMENT

YMCA SF's proposal is to rehabilitate and maintain Building 49, a historic resource, provide water recreation and publicly oriented uses that enhance Crane Cove Park, offer new activities and attractions for the neighborhood and park visitors, and accomplish these objectives within a financially feasible project, with a sustainable operating structure.

Specifically, the lease and development of Building 49 by the YMCA SF as proposed will support four of the Port's strategic plan objectives (from the 2021-2025 Strategic Plan):

1. Evolution: The completion by the YMCA SF of the Building 49 renovation that was begun by the Port in 2020 will serve as a milestone in the ongoing transformation of the Pier 70 area to better address the needs of the public and the Waterfront.

2. Engagement: The re-opening and activation of this contributing resource to the Pier 70 Union Ironworks Historic District will provide amenities that increase the public's awareness of the history of the Pier 70 area.

3. Equity: Building 49 will be accessible, attractive, and beneficial to a diverse group of people who live, work, and/or recreate along the Southern Waterfront.

4. Productivity: The proposed lease and development of Building 49 by the YMCA SF will return the building to productive use and attract visitors to Crane Cove Park.

BACKGROUND

In 2021, the Port sought a qualified partner to enter exclusive negotiations to develop and operate Building 49 through a competitive Request for Proposals ("RFP") process. The Port received two responses to the RFP for Building 49; the respondents were Ted Choi, dba "City Kayak", and YMCA SF.

As part of the RFP process, the Port convened a five-member scoring panel including community leaders, experts from key disciplines, and Port staff to review and score both the written responses and oral interviews, based upon the criteria approved by the Port Commission and described in the RFP. The YMCA SF submittal, which met the goals, objectives, and values described in the RFP, scored significantly higher on its RFP submittal than the other respondent.

On October 26, 2021, the Port Commission adopted Resolution 21-46 which authorized staff to begin negotiating a long-term lease with YMCA SF for Building 49 located within Crane Cove Park at 701 Illinois Street. The YMCA SF's proposed program includes a center for the community focused on human-powered watercraft, fitness & wellness, food concessions, diverse & inclusive programming, and educational programs.

The YMCA SF is a proven local community engager, operating 14 YMCAs throughout San Francisco, Marin, and San Mateo Counties, including one on the Embarcadero near Rincon Park and one in Bayview Hunter's Point. Their mission is "to build strong kids, strong families, and strong communities by enriching the lives of all people in spirit, mind, and body".[1]

As in its RFP proposal, YMCA SF has partnered with two local organizations that will occupy portions of the building under subtenant agreements:

- Dogpatch Paddle is a human-powered boating business/club that was spawned by the opening of Crane Cove Park and currently has over 900 members. Dogpatch Paddle offers stand-up paddle board (SUP) and kayak rentals, lessons, camps, and equipment sales, and will operate the aquatic center at the eastern end of the building.

- Daily Driver is a community-oriented, female-owned food and beverage business specializing in bagels and house-made butter and cream cheese. Their flagship restaurant and production facility is located near Crane Cove Park in the American Industrial Building on 3rd Street, and they also have a location within the Ferry Building.

[1] See: https://www.ymcasf.org/

PROJECT CONCEPT

Through its own programming and its service partners, the YMCA SF's vision for Building 49 is "a community hub focused on human-powered watercraft, fitness, and wellness, hyper-local food concessions, diverse and inclusive programming, targeted retail, and educational programs". YMCA SF proposes to construct an approximately 4,000 square foot, membership-based community wellness center that includes traditional gym amenities like cardio machines, weights, and group exercise classes, along with gender-neutral locker rooms, onsite wellness coaching, health education classes, and personal training for members and guests.

Dogpatch Paddle will occupy approximately 2,200 square feet on the water-facing east side of the facility. They will offer lessons, rentals, classes, youth programs, and a retail store featuring equipment sales and beach provisions, as they seek to expand their current operations and draw more of the surrounding community and beyond to Crane Cove Park. They will offer drop-in services and monthly memberships, as well as combined aquatics and fitness packages in partnership with the YMCA SF.

Daily Driver will occupy 480 square feet and offer healthy grab-and-go provisions at the southwest corner of the building, nearest the picnic tables on the south side of Crane Cove Park.

The proposed lease includes a requirement that the YMCA SF maintain the public restrooms located at the northeast corner of the building near the intersection of 18th and Illinois streets.

DIVERSITY, EQUITY, AND INCLUSION

The YMCA of San Francisco is deeply embedded in communities among the most deeply impacted by structural inequality and racism. Foundational in their approach is a belief in community-centered solutions and the value they place on community dialogue. Through culturally, linguistically, and gender-responsive practices, YMCA SF ensures that people who have historically been impacted by structural inequality have both access and voice in their programs. Community-based staff is essential to their work.

YMCA staff live and work in the communities they serve, and the shared understanding and experiences allow them to build rapport with the young people they work with and create safe and trusting spaces conducive to positive youth experiences.

The YMCA of San Francisco has historically been one of the largest employers in the City and a significant employer of young adults; for many of their membership and youth development staff, the YMCA is their first professional experience. Additionally, their workforce development programs provide job readiness, skill building, and job and internship placements for underserved youth.

As an organization, YMCA SF is committed to diversity and inclusion at all levels. They

maintain an agency-wide diversity and inclusion committee which advances inclusive internal policies including job development for underrepresented groups in leadership positions. The YMCA SF is committed to staff professional development and has invested significantly in training and mentoring programs within the organization to ensure that they can retain and promote diverse staff. YMCA SF has partnered with the San Francisco Department of Public Health (SFDPH) and Trauma Transformed to adopt the Trauma Informed Systems (TIS) model for organizational change.

With regard to membership cost, they offer inclusive, sliding-scale packages. They bring a strong commitment to providing access to underserved populations (including through their African American Holistic Wellness program based at the Bayview YMCA and their partnership with the SF Department of Public Health).

CONSISTENCY WITH RFP GOALS AND YMCA RESPONSE TO RFP

Throughout the lease negotiations process over the past year, Port staff have focused on delivering a lease and development program for Building 49 that meets the community values and priorities listed in the RFP as follows:

- Provide programs and uses that support human-powered recreational boating (e.g., kayaks, paddleboards)
- Enhance the use and activation of Crane Cove Park
- Provide needed amenities for park visitors, including public bathroom facilities
- Preserve the historic character and maritime function of the building

As we look ahead to lease approval and execution, Port staff are confident that the YMCA SF will not only deliver on all of these priorities but will also deliver a robust program of community benefits through their organizational mission and their keen focus on diversity, equity, and inclusion.

Another goal of the lease negotiations has been to maintain consistency with the original proposal submitted by the YMCA SF, which scored very highly on each of the criteria set forth in the RFP. That said, the further due diligence investigation into the scope and cost of the building improvements required to complete the renovation begun by the Port and to successfully operate and maintain the facility have revealed the need to temper the Port's expectations with regard to financial benefits to the Harbor Fund.

In particular, a review of the structural integrity of the building has resulted in a substantial unanticipated cost for a partial seismic retrofit of the building. Port staff agrees that this work – estimated at $1.5M - is prudent to undertake from both a life-safety perspective and a preservation of the historic resource perspective given the potential for a significant seismic event over the next 30 years. Therefore, Port staff propose to share these costs through rent credits as described in Table 1 below ("Seismic Cost Sharing") in order to make the project financially feasible for the YMCA SF.

There are two other negotiated financial terms that deviate somewhat from the YMCA's original proposal: (1) a 15% reduction to starting Base Rent in exchange for annual escalation of Base Rent; and (2) monthly rent credits to offset the capital costs associated with the public restrooms (both as described in Table 1). With these financial concessions by the Port and additional improvements by the Tenant, all parties believe that the proposed project will be financially feasible and sustainable. Indeed, in addition to delivering on the promise of preserving this historic resource and delivering a facility that serves the needs of the community and enhances the experience of visitors to Crane Cove Park, Building 49 will become a productive asset for the Port, generating positive net revenues to the Harbor Fund well into the future.

KEY LEASE TERMS

Table 1 below outlines the key negotiated lease terms (substantive changes as a result of refining and negotiating terms are highlighted in underline and strikeout) which Port staff believes will deliver a financially feasible project that meets all of the Port's objectives for the rehabilitation and reuse of Building 49 as described in the RFP.

Table 1: Key Lease Terms:

Premises	Building 49 includes approx. 8,000 square feet Total Rentable Building Area: 6,758 square feet (does not include use of outdoor space within Crane Cove Park which is covered through a separate license agreement as described below).
Primary Tenant	YMCA SF (4,068 square feet): Community Wellness Facility
Subtenants	Dogpatch Paddle (2,210 square feet): Retail/Aquatics Center Daily Driver (480 square feet): Retail Food and Beverage
Required Tenant Improvements; Time allowed for Completion of Improvements; Tenant Termination Right	Tenant estimates the proposed capital investment to cost approximately ~~$5.4 million as of September 2022~~ $5.2 million not including the seismic improvements described immediately below as of April 2023, subject to escalations over time. Tenant is solely responsible for these improvements and costs. Tenant is obligated to contribute a minimum of $5.0 million (inclusive of hard and soft costs) to the improvements at Building 49 as consideration for the Tenant Extension Options below. This capital contribution is exclusive of the seismic work described below. The improvements must be completed within twenty-four (24) months after the Port issues the building permit provided, however, that the Port's Executive Director may extend the 24-

	month deadline in writing following Tenant's written request and provided that Tenant is working diligently toward completion of the improvements and provided further that any such extension will not operate to relieve Tenant of its obligations to pay Rent. If the Building Permit is not issued within 11 months after the Commencement Date, then Tenant can terminate the Lease at no further cost.
Seismic Work - Cost Sharing/Rent Credits	Tenant will perform voluntary seismic improvements and structural upgrades to the building, estimated to cost approximately ~~$1,000,000~~ $1,500,000. Port will share these additional structural improvement costs through rent credits equal to 50% of the actual costs of the seismic strengthening/structural improvement work or $500,000, whichever is less.
Initial Lease Term	Ten (10) Years
Construction Rent Abatement	Port will provide up to 11 months (330 days) of rent abatement during the construction of the Tenant Improvements.
Tenant Extension Options	Four, 5-Year Tenant Extension Options and two, 2-year Tenant Extension Options pursuant to the terms of the Lease. Total possible lease term inclusive of all Extension Options and 270 days of construction = 34 years, 11 months
Base Rent	Year 1 Base rent of ~~$93,500~~ 92,810 per annum to be paid by YMCA SF in monthly installments of approximately ~~$7,792~~ 7,735.
Initial Term Base Rent Escalation	The annual Base Rent amount will be increased by 3% every year during the Initial Lease Term.
Extension Periods Base Rent Escalation	The annual Base Rent escalation for each year during any 5-year Extension Term shall be escalated by the percentage that is the "collared" average of the CPI for the prior 5 years, which average is subject to a minimum of 1% and a maximum of 4% per year. In no event shall Base Rent be less than Base Rent in the prior lease year. For the final two, 2-year options, the calculation will be based upon the average CPI for the preceding two years, subject to a minimum of 1% and a maximum of 4% per year.
Percentage Rent for Subtenant Activities	Tenant is responsible for payment of Percentage Rent equal to 6% of gross revenues generated at Building 49 by each for-

	profit subtenant. For each for-profit subtenant (initially Dogpatch Paddle and Daily Driver), if the Percentage Rent calculation falls below the subtenant's respective share of Base Rent as defined in the Lease in any given month, only Base Rent shall be due.
Maintenance and Repair	Sole responsibility of Tenant for all Building including roof, core, shell, windows, and interiors, including all site infrastructure, stormwater and drainage, and sea level rise measures; Tenant responsible for all security, daily custodial servicing, and maintenance and repair of public restrooms (including improvements, replacements, and other capital costs). Port will have no maintenance obligations with respect to the Site.
Port Financial Contribution to Public Restrooms	Port shall contribute financially to the capital costs associated with ~~maintaining and repairing~~ the Public Restrooms through a reduction of Base Rent of $2,000 each month, subject to increase at the rate of the applicable annual escalation factor.
Connection to Existing Power Line to Building 49 During Initial Term	Port will allow the Tenant to connect to the existing power line currently provided to Building 49 for the Initial Term. Port makes no representation or warranty on the condition of the existing power line. From the Rent Commencement Date, Tenant will pay an annual Capacity Charge at the Port parameter rate of $0.20 per rentable square foot of Building 49 (6,817 x $0.20 = $16,360.80) on an annual basis, plus the actual costs charged by SFPUC to supply the power. The Capacity Charge will be indexed annually in line with the Rent.
Southern Waterfront Community Benefits and Beautification Policy	Consistent with the latest adoption of Parameter Rates (Reso. 22-41), 6.5% of lease revenues will be set aside in the Port's Southern Waterfront Community Benefits and Beautification fund. Also, Tenant will support key elements of this Port policy. YMCA brings a proven track record of engagement with the community, supports local hiring practices, and has a strong commitment to environmental sustainability through their building design and operations as well as their educational programming. Tenant agrees that Port staff and Tenant will work collaboratively to highlight the areas of benefits to the public through ongoing engagement with the community, and to consider community members' comments and proposals in the context of Tenant's operations and the requirements and constraints of the new lease.

Port Participation in Lease Transfer Proceeds	Tenant and all subsequent assignees must pay to Port twelve percent (12%) of the sales proceeds from any transfer or financing of the lease, net of reasonable costs associated with such transfer or financing (e.g., attorney fees, broker commissions).
Damage & Destruction	If a casualty event occurs, then available insurance proceeds will be used to repair the Premises, including the YMCA's tenant improvements. If insurance proceeds are not adequate to fully restore the Premises within 270 days, then the YMCA can terminate the Lease under certain conditions. If the Lease is terminated without repairing the Premises, any available insurance proceeds will be equitably distributed between the parties.
Substantial Condemnation; Partial Condemnation; Rent Abatement	Tenant entitled to lease termination or partial rent abatement in the event of a taking of the Premises which renders all or a portion of the Premises untenantable, unsuitable, or economically infeasible for the Permitted Uses.
Force Majeure	The Lease contains commercially reasonable force majeure provisions to allow for a suspension of certain obligations during events beyond the control of the parties.
Port Form Lease and City Requirements	Except as noted, the Lease will be consistent with the Port's form retail lease and include standard provisions regarding Security Deposits, bonding, and other financial guarantees, Consent to Subtenants, Assignments and Transfers, and Port participation in such events, Sea Level Rise/Flooding, Taxes, Utilities, Maintenance and Repair, Hazardous Materials, Defaults and Remedies, Indemnity and Waiver, Insurance, all applicable City requirements and other customary provisions for similar leases. The Port does not retain a right to terminate for convenience.
Termination Based on Change in Laws	The Lease allows the YMCA to terminate during an extension term upon payment to Port of a termination fee equal to 50% of the remaining Base Rent for the remaining term if there is a change in Laws that would materially impact the YMCA's ability to operate the Premises or cause a financially material hardship for the YMCA by requiring the YMCA to make capital improvements or impairing the YMCA's operations as determined by the YMCA. Termination under this provision requires at least 180 days' notice.

Port Form Lease and City Requirements	Except as noted, the Lease will be consistent with the Port's form retail lease and include standard provisions regarding Security Deposits, bonding, and other financial guarantees, Consent to Subtenants, Assignments and Transfers, and Port participation in such events, Sea Level Rise/Flooding, Taxes, Utilities, Maintenance and Repair, Hazardous Materials, Defaults and Remedies, Indemnity and Waiver, Insurance, all applicable City requirements and other customary provisions for similar leases. The Port does not retain a right to terminate for convenience given the Trust consistency of the Lease and the size of investment (at least $5.0 million).
Limited Hazardous Materials Responsibility on Other Port Property and Indemnity Provisions for Claims on Other Port Property	Tenant is not responsible for the handling or release of hazardous materials on "other Port property" (in other words, on Port property other than the Premises) by its agents (unless such agent is performing work on Tenant's behalf or otherwise acting on Tenant's behalf in furtherance of the Permitted Uses under the Lease) or its invitees. Tenant also has limited indemnification obligations for claims on "other Port property" arising out of its invitees' and agents' acts, omissions, or negligence.
No-Fee License for Use of Outdoor Space in Crane Cove Park	In conjunction with the Lease and in compliance with the Port Code (which regulates Port parks), the Port will enter into a separate license agreement (License No. 17011, or "License") with the YMCA which grants a revocable, personal, non-assignable, non-exclusive, and non-possessory privilege for the YMCA and its approved subtenants to conduct aquatics and fitness classes and other permissible activities in the Park. All activities must be performed in compliance with the Operations Plan. Provided there is no Event of Default under the Lease, there shall be no fee under the License, but the License will otherwise conform to the approved Port form for license agreements including standard provisions regarding Indemnity and Waiver, Insurance, applicable City requirements, and other customary provisions.

By year 5 of the lease, these lease terms are estimated to result in approximately ~~$5.4 to $6.4M~~ $6.7M invested in the building; $67k to $125k in total annual rent to the Port Base Rent plus Percentage Rent), and publicly accessible restrooms, food and beverage cafe, water recreation center, and a community wellness facility.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The San Francisco Planning Department has reviewed the YMCA SF Building 49 project for compliance with CEQA. On October 5, 2015, the Planning Department issued a Community Plan Exemption for the Crane Cove Park – Pier 70 project (Planning Department Case No. 2015-001314ENV) under the Eastern Neighborhoods Rezoning and Area Plans Final EIR (Planning Department Case No. 2004.0160E). The Port Commission affirmed this determination on October 13, 2015. Subsequently, on April 11, 2022, the San Francisco Planning Department issued a Determination of No Substantial Modification, which found that the YMCA SF Building 49 project is within the scope of the project evaluated in the prior Community Plan Exemption (2015-001314ENV), and no additional environmental review is required.

PUBLIC TRUST CONSISTENCY

The rehabilitation, reuse, lease, and operation of Building 49 by the YMCA SF as described in this Memorandum will benefit the Public Trust through historic rehabilitation of and investment in Trust assets, enhanced water recreation opportunities, and provision of visitor-serving amenities, all of which will attract the public to use and enjoy these cultural and historic resources and generate revenue to help fund necessary improvements throughout the Port.

RECOMMENDATION AND NEXT STEPS

Port staff recommends approval of the attached Resolution 23-20, authorizing the Port Executive Director to execute Lease 16997 and to waive any applicable fees with the companion License. If approved by the Port Commission, Port Staff will promptly seek the Board of Supervisors' approval of the Lease as is required for any lease having a term of ten (10) years or more.

Prepared by:	Jamie Hurley, Development Project Manager Real Estate and Development
For:	Josh Keene, Assistant Deputy Director Real Estate and Development
	Rebecca Benassini, Deputy Director Real Estate and Development

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 23-20

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and

WHEREAS, On February 9, 2021, the Port Commission, by Resolution 21-07, authorized Port staff to issue a request for proposals ("Request for Proposals" or "RFPs") and manage the solicitation process for the adaptive rehabilitation, reuse, lease, and operation of two historic structures – the 'Kneass Building' and 'Building 49' – both located in the Pier 70 Area adjacent to Crane Cove Park generally along Illinois Street between 18th and 19th Streets; and

WHEREAS, On April 14, 2021, the Port issued the Request for Proposals for the "Kneass Building" and "Building 49", (or collectively the "Crane Cove Park Buildings"); and

WHEREAS, On June 9, 2021, the Port received two responses for Building 49 that met the RFP minimum qualifications; and

WHEREAS, A five-member scoring panel consisting of a real estate development expert, a Port staff person, a Port advisory committee member, a citywide stakeholder and a person with City planning experience conducted interviews and scored the two Building 49 proposals against the objectives and evaluation criteria set forth in the RFP; and

WHEREAS, The YMCA of San Francisco ("YMCA SF") proposal received the highest score from the scoring panel; and

WHEREAS, On September 14, 2021, the Port Commission received a briefing on the responses received, the concepts presented and the scoring panel process; and

WHEREAS, On October 6, 2021, Port staff and YMCA SF presented to the Port's Southern Advisory Committee (SAC) a briefing on the responses received, the concepts presented and the scoring panel process; and;

WHEREAS, On October 26, 2021, the Port Commission approved Resolution 21-46 authorizing staff to enter into lease negotiations with YMCA SF; and

WHEREAS, On June 19, 2008, the San Francisco Planning Commission certified the Final Environmental Impact Report for the Eastern Neighborhoods Rezoning and Area Plans (Eastern Neighborhoods EIR) (Planning Department Case No. 2004.0160E) in compliance with the California Environmental Quality Act (CEQA); and

WHEREAS, On October 5, 2015, the San Francisco Planning Department issued a Community Plan Exemption (CPE) for the Crane Cove Park – Pier 70 project (Planning Department Case No. 2015-0013214ENV) under the Eastern Neighborhoods EIR, which found that the Crane Cove Park project is encompassed within the analysis contained in the Eastern Neighborhoods EIR and required no further environmental review; and

WHEREAS, Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth mitigation measures that were identified in the Eastern Neighborhoods EIR that are applicable to the Crane Cove Park project, and these mitigation measures are set forth in their entirety in the MMRP attached to this resolution as Exhibit A; and

WHEREAS, On April 11, 2022, the San Francisco Planning Department issued a Determination of No Substantial Modification which found that the YMCA SF Building 49 project (Project) is within the scope of the project evaluated in the Eastern Neighborhoods EIR and the prior Community Plan Exemption (2015-001314ENV), and no additional environmental review is required; and

WHEREAS, There have been no substantial changes to the Eastern Neighborhoods Rezoning and Area Plans or the Crane Cove Park project, and no substantial changes in circumstances, that would require major revisions to the Eastern Neighborhoods EIR or prior Community Plan Exemption due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusion set forth in the Eastern Neighborhoods EIR or prior Community Plan Exemption; and

WHEREAS, On October 11, 2022, Port staff presented an information item to the Port Commission, which discussed the proposed terms of Lease No. L-16997 (the “Lease”) as negotiated by the parties; and

WHEREAS, On October 26, 2022, Port staff and YMCA SF presented a briefing to the SAC on the proposed Lease terms and program; and

WHEREAS, The rehabilitation, reuse, lease and operation of Building 49 by the YMCA SF as described in the Memorandum to the Port Commission dated April 21, 2023 will benefit the Public Trust through historic rehabilitation of and investment in Trust assets, enhance water recreation opportunities, and provide visitor-serving amenities which will attract the public to use and enjoy these cultural and historic resources and generate revenue to fund necessary improvements throughout the Port; and

WHEREAS, Port staff recommends approval of the proposed Lease with the YMCA SF on terms including an investment by the YMCA SF of at least five million dollars ($5,000,000) into Building 49 and monthly rent to the Port, and approval of a companion, no-fee License 17011 (the "License") governing the YMCA SF's use of a portion of Crane Cove Park for YMCA SF programming, all as further described in the Memorandum to the Port Commission dated April 21, 2023 accompanying this resolution and on terms set forth in the Lease and License on file with the Port Commission Secretary; and now therefore be it

RESOLVED, That the Port Commission hereby affirms the Planning Department's CEQA determinations and adopts the MMRP attached hereto as Exhibit A and incorporated by reference as part of this resolution, and includes all required mitigation measures contained in the MMRP as conditions of approval; and be it further

RESOLVED, That the Port Commission hereby approves the Lease on the terms and conditions described in this resolution and the Memorandum to the Port Commission dated April 21, 2023 accompanying this resolution and on terms set forth in the Lease on file with the Port Commission Secretary, and authorizes the Executive Director or her designee to forward the Lease to the Board of Supervisors for their consideration and approval; and be it further

RESOLVED, That the Port Commission hereby approves the License as described in the Memorandum to the Port Commission accompanying this resolution and on terms set forth in the License on file with the Port Commission Secretary, and authorizes the Executive Director or her designee to forward the License to the Board of Supervisors for their consideration and approval; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director or her designee, to execute the Lease and after execution of the Lease, the License, after approval of said documents by the Board of Supervisors; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director or her designee, to enter into any additions, amendments or other modifications to the Lease or License that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligations or liabilities of the Port or materially decrease the public benefits accruing to the Port, and are necessary and advisable to complete the transaction and effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of any such documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 25, 2023.

DocuSigned by:

Jenica Lin

Secretary

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MEMORANDUM

January 19, 2024

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Willie Adams, Vice President
Hon. Gail Gilman
Hon. Ed Harrington
Hon. Steven Lee

FROM: Elaine Forbes
Executive Director

SUBJECT: Request for approval to amend and restate Lease No. L-16997 with the Young Men's Christian Association of San Francisco for Building 49 located within Crane Cove Park.

DIRECTOR'S RECOMMENDATION: Approve the Attached Resolution No. 24-01

This item was presented as an informational item at the December 12, 2023 Port Commission meeting and is now before the Port Commission for approval. For convenience, substantive changes from the prior report are shown in underline and strikeout.

EXECUTIVE SUMMARY

Lease No. L-16997 ("Existing Lease", or "Lease") that was approved by the Port Commission[1] and the Board of Supervisors in late Spring and early Summer of this year, respectively, includes a commitment from the Young Men's Christian Association of San Francisco ("YMCA") to perform a partial, seismic retrofit of the building that is not required by the Port building code (the "Seismic Improvements"). The Existing Lease also stipulates that the Port will provide rent credits up to an amount equal to 50% of the total cost of the Seismic Improvement or $500,000, whichever is less.

[1] https://sfport.com/files/2023-04/042523-7d_building_49_ymca_lease_and_license_approval_.pdf

THIS PRINT COVERS CALENDAR ITEM NO. 10A

In early October 2023, the YMCA notified Port staff that, due to budgetary constraints owing in part to the unanticipated increased cost from potential additional disturbance of hazardous materials that would be required to carry out the Seismic Improvements, along with overall construction costs escalation, performing the Seismic Improvements to Building 49 has become infeasible. As a result, the YMCA has requested that their obligation to construct the Seismic Improvements be removed from the Existing Lease. Removing the Seismic Improvements would also eliminate the up to $500,000 in rent credits that the Port had agreed to provide to partially offset the cost of the Seismic Improvement.

The YMCA is proposing a revised seismic scope that will lessen the disturbance of hazardous materials and is financially feasible for the YMCA. Port structural plan reviewers understand the general concept the YMCA has proposed and agree that, subject to a detailed plan check review, the new concept can be designed in compliance with Port Building Code requirements and enhance the building's current structural condition and expected seismic performance.

BACKGROUND

On April 25, 2023, the Port Commission adopted Resolution 23-20 authorizing Port staff to execute the Existing Lease with the YMCA for the lease and development of Building 49 located at 701 Illinois Street within Crane Cove Park. The Existing Lease was also approved by the Board of Supervisors, on June 27, 2023 (Resolution 344-23). The Existing Lease was subsequently executed by the parties on July 28, 2023.

Based on further due diligence analysis and advanced project design by the YMCA since the execution of the Lease, the YMCA has concluded that the planned Seismic Improvements are beyond their budgetary resources to deliver, as further described in Exhibit 1 (Letter from YMCA's President and CEO dated October 5, 2023).

The YMCA has assured Port staff that they remain fully committed to the project as described in the Existing Lease (other than construction of the Seismic Improvements contemplated in the Existing Lease) and are prepared to proceed immediately with construction upon issuance of a Building Permit by the Port. Construction is expected to last approximately 6-8 months.

PROPOSED CHANGES TO EXISTING LEASE

Due primarily to project delays associated with the YMCA's need to re-think the seismic approach (i.e. redesign work to minimize hazardous materials disturbance and bring the project back into financial feasibility), the YMCA has requested a few additional changes to the Existing Lease which Port staff supports and which are intended to: (1) accommodate the current construction schedule which was originally expected to span 11 months from the Lease Commencement Date of August 1, 2023 (through June 30, 2024) but is now expected to take an additional 3 months to complete (through September 2024); (2) support the YMCA's goal of facilitating early occupancy (i.e. prior to full completion of construction for the entire building) of a portion of the building by one of their two

subtenants, Dogpatch Paddle, to the extent that can be achieved and authorized by Port Building Permits via issuance of a partial temporary certificate of occupancy ("Partial TCO") for the Premises; and (3) ensure that the public restrooms located within the building are open and managed/maintained by the YMCA by no later than July 1, 2024.

While the most significant proposed change to the Existing Lease is the revision of the seismic improvements scope, Port staff supports each of the other proposed changes and/or clarifications to the Existing Lease described below to facilitate successful project delivery and achieve the Port's project objectives, including but not limited to preserving the historic resource, providing community and visitor-serving uses, and enhanced activation of Crane Cove Park.

Port staff recommends that the Existing Lease be amended and restated pursuant to a new Lease No. 17134 (the "Amended and Restated Lease") in the following ways:

- YMCA's obligation to construct the Seismic Improvements described in the Existing Lease be removed and replaced with an alternate, reduced seismic scope that will be designed in the context of the specific tenant improvements being made and is consistent with Port Building Code requirements.
    - The Port's obligation to provide rent credits for any seismic improvement work will be eliminated altogether.
- The public restrooms located within the building are to be open and operated/maintained by the YMCA in a manner consistent with the YMCA's obligation under the Existing Lease beginning on July 1, 2024, <u>or within 5-days following issuance by the Port of a TCO for any or all of the building</u>, whichever is earlier.
- So long as the YMCA opens the public restrooms by July 1, 2024 or, if earlier, within five days following issuance of a TCO ("Restroom Opening Date"), and manages the same in accordance with the Lease, the YMCA shall receive a $2,000 monthly rent credit ("Restroom Rent Credit"). The Port will have remedies prescribed in the Amended and Restated Lease for any failure by the YMCA to comply with this requirement.
    - Failure by Tenant to satisfy the bathroom operations and maintenance requirements ~~within five (5) days of July 1, 2024 or any occupancy prior to that date~~ will constitute a default under the terms of the Amended and Restated Lease.
    - <u>Failure by Tenant to open the Restrooms by the Restroom Opening Date will result in a reduction of the Restroom Rent Credit of $175.00 for each day after the Restroom Opening Date until the Restrooms are opened to the public (subject to temporary closures, as permitted under this Lease), up to a maximum reduction of $6000</u>.

- If Dogpatch Paddle occupies the building pursuant to a Partial TCO, YMCA shall pay the Port an amount equal to the pro-rata share of the sublease rent based on the portion of the subleased premises occupied by the subtenant, subject to the YMCA's obligations above, less the available Restroom Rent Credit.

    - Example: If the full amount of monthly base rent for the Dogpatch Paddle space is $2,918 and if Dogpatch Paddle is only able to occupy 75% of their space on an early, interim basis, the amount of base rent due to the Port would be $2,918*75%, which is $2,189.

    - If Dogpatch Paddle is unable to occupy the space early for any reason, and the YMCA opens the public restrooms by July 1, 2024 and is in compliance with the requirement to operate and maintain the public restrooms as described above, the Restroom Rent Credit shall be retained by the YMCA but delayed (i.e. "banked") until Rent Commencement, at which time it may then be applied immediately against any outstanding rent obligations (i.e. the full amount of any such banked Restroom Rent Credit shall be applied in full and at once against the amount of base rent due until fully exhausted).

- Full Rent Commencement on October 1, 2024 or upon issuance of a TCO for the full building, whichever is earlier (i.e. maximum of three months of additional construction period rent abatement as compared to the Existing Lease).

- <u>All other terms of the Existing Lease will remain the same.</u>

RECOMMENDATION

Port staff recommends approval of the attached Resolution No. 24-XX authorizing the Port Executive Director to forward the approved Amended and Restated Lease to the Board of Supervisors for approval and to execute the Amended and Restated Lease upon approval from the Board of Supervisors.

Prepared by: Jamie Hurley
Development Projects Manager
Real Estate and Development

For: Josh Keene
Assistant Deputy Director
Real Estate and Development

Kimberley Beal
Acting Deputy Director
Real Estate and Development

Exhibits: Letter from Jamie Bruning-Miles, YMCA SF President and CEO, dated October 5, 2023

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 24-01

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and

WHEREAS, On April 25, 2023, the Port Commission adopted Resolution 23-20 authorizing Port staff to execute Lease No. 16997 ("Existing Lease") with the Young Men's Christian Association of San Francisco (the "YMCA SF") for the development and use of Building 49 located at 701 Illinois Street within Crane Cove Park following approval of the Existing Lease by the Board of Supervisors, which approval occurred on June 27, 2023 (Resolution 344-23); and

WHEREAS, The Port Commission and the Board of Supervisors each adopted environmental findings regarding the Existing Lease in Resolutions 23-20 and 322-23, respectively; and

WHEREAS, The Existing Lease was executed by the parties on July 28, 2023, with a Lease Commencement date of August 1, 2023; and

WHEREAS, The rehabilitation, reuse, lease and operation of Building 49 by the YMCA SF as described in the Memorandum to the Port Commission dated April 21, 2023 will benefit the public trust through historic rehabilitation of and investment in trust assets, enhance water recreation opportunities, and provide visitor-serving amenities which will attract the public to use and enjoy these cultural and historic resources and generate revenue to fund necessary improvements throughout the Port; and

WHEREAS, The YMCA SF agreed under the Existing Lease to perform a partial, seismic retrofit of the building that is not required by the Port building code, and Port agreed to contribute, in rent credits, 50% of the total cost associated with such seismic work or $500,000, whichever is less; and

WHEREAS, In October of 2023, the YMCA notified Port staff that due to a lack of adequate project funding and unanticipated increased costs from potential additional disturbance of hazardous materials that would be required to carry out the Seismic Improvements, along with overall construction costs escalation, they would not be able to perform the seismic/structural improvements to Building 49 as described in the Existing Lease, and they requested that the seismic scope be reduced

in order to restore financial feasibility to the project, and the Existing Lease be amended accordingly; and

WHEREAS, The parties propose to amend and restate the Existing Lease pursuant to a new Lease No. 17134 (the "Amended and Restated Lease") that will, among other things, (i) reduce the seismic improvements scope described in the Existing Lease, (ii) eliminate all rent credits for any seismic work performed by the YMCA SF, (iii) require the YMCA SF to open the public restrooms no later than July 1, 2024, (iv) delay the rent commencement date and (v) include the other changes and/or clarifications described in the Memorandum to the Port Commission accompanying this resolution and on terms set forth in the Amended and Restated Lease on file with the Port Commission Secretary; and now therefore be it

RESOLVED, For purposes of this action, the Port Commission relies on the environmental findings it adopted in Port Commission Resolution 23-20 and incorporates the same environmental findings herein by reference; and be it further

RESOLVED, That the Port Commission hereby approves the Amended and Restated Lease on the terms and conditions described in this resolution and authorizes the Executive Director or her designee to forward the Amended and Restated Lease to the Board of Supervisors for their consideration and approval; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director or her designee, to execute the Amended and Restated Lease after approval of the Amended and Restated Lease by the Board of Supervisors; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director or her designee, to enter into any additions, amendments or other modifications to the Amended and Restated Lease that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligations or liabilities of the Port or materially decrease the public benefits accruing to the Port, and are necessary and advisable to complete the transaction and effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of any such documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of January 23, 2024.

DocuSigned by:

Jenica Lin

Secretary

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EXHIBIT A

Letter from Jamie Bruning-Miles, YMCA SF President and CEO

FOR YOUTH DEVELOPMENT®
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

October 5, 2023

Via Email

Port of San Francisco
Pier 1
San Francisco, CA 94111

Attention: Mr. Michael Martin, Assistant Port Director, Chief Operating Officer, Port of San Francisco

Re: Seismic Improvement Decision Letter re Lease No. L-16997 of Building 49, Crane Cove Park, San Francisco

Dear Michael:

As discussed in detail with Josh Keene, Jamie Hurley and the Port Planning Team, the YMCA of San Francisco (YSF) proposes to alter the planned scope of work associated with the voluntary seismic improvements for Building 49 as described in the Lease. YSF had proposed to improve the structural integrity of Building 49 on a voluntary (i.e., not required by Code, RFP or Port standards) basis by installing new steel braced frames and a new steel roof truss diaphragm system, estimated at a total cost of $1.5M (of which up to $500k would be shared by the Port through rent abatement). This anticipated cost was within a total estimated project cost of $6.7m.

Despite our substantial initial diligence, further site exploration and consultation with the Port's planning team indicate that the scope of work contemplated in the Lease will require additional extensive work with respect to the contaminated soils and other existing hazardous materials at Building 49, adding significantly more risk and cost to the project. Additional mitigation expenses of at least $500,000 will be necessary, and there will be delays in project completion. The minimum cost increase alone is beyond our available resources and there are considerable risks that the ultimate scope and cost will be significantly greater. In particular, there is a substantial risk that the work may trigger the Maher Ordinance, which would lead to further permitting requirements, with associated significant further delays, costs and risks.

In consultation with our engineers and the Port's engineering team, we now intend to forgo any seismic improvements to Building 49 because the costs and risks associated with managing the hazardous materials make doing so infeasible. With the proposed change of use and low occupancy, we are willing to proceed without improving the building's seismic resilience. As a result, the Port will no longer be required to provide the $500k of rent credits and we should be able to proceed more expeditiously to complete the project and commence operations for the benefit of all involved. This decision comes with YSF's continued enthusiastic commitment to the Building 49 Project as a whole and our desire to establish a vibrant community hub for both local residents and visitors to Crane Cove Park.

Our ability to complete all other improvements remains subject to the approval of the Port of San Francisco's Department of Building Inspection and applicable building codes.

YMCA of San Francisco
169 Steuart Street, San Francisco, CA 94105
P 415 777 9622 F 415 398 9622 www.ymcasf.org

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FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

We would like to proceed promptly on this basis and look forward to your confirmation that we may do so, hopefully without the need for additional approvals beyond the permitting process. We will be happy to answer any questions.

Sincerely,

Jamie Bruning-Miles
President & CEO
YMCA of San Francisco

cc: Ms. Elaine Forbes, Executive Director, Port of San Francisco
Mr. Josh Keene, Waterfront Development Manager, Port of San Francisco
Mr. Jamie Hurley, Real Estate Development Project Manager, Port of San Francisco

YMCA of San Francisco
169 Steuart Street, San Francisco, CA 94105
P 415 777 9622 F 415 398 9622 www.ymcasf.org

MEMORANDUM

July 3, 2025

TO: MEMBERS, PORT COMMISSION
Hon. Gail Gilman, President
Hon. Stephen Engblom, Vice President
Hon. Willie Adams
Hon. Steven Lee
Hon. Ken McNeeley

FROM: Elaine Forbes
Executive Director

SUBJECT: Request approval of an amendment to Amended and Restated Lease No. L-17134 with the Young Men's Christian Association of San Francisco.

DIRECTOR'S RECOMMENDATION: Approve the Attached Resolution 25-38

EXECUTIVE SUMMARY

In late Fall 2024, as the Young Men's Christian Association of San Francisco ("YMCA") was nearing completion of construction on Building 49 located within Crane Cove Park, they requested certain changes to the price and terms of the Amended and Restated Lease No. L-17134 ("Lease"). Specifically, the YMCA outlined three requested changes:

1) New rent credits of $150,000 to partially reimburse the YMCA for unexpected costs related to improving the structural condition of the building;
2) Elimination of the lease provision that would reduce (by $6,000) existing "Restroom Rent Credits" due to the inability of the YMCA to open the public restrooms on July 1, 2024 as required by the Lease;
3) Retroactive adjustment of the Rent Commencement Date from October 1, 2024 to January 1, 2025.

After careful consideration of the YMCA's request, Port staff recommends amending the Lease in accordance with two of the three items listed above: (1) to provide $150,000 in rent credits as a Port contribution towards the costs related to seismically strengthening the building, and (2) to allow for the full amount of Restroom Rent Credits to remain intact.

THIS PRINT COVERS CALENDAR ITEM NO. 10D

STRATEGIC OBJECTIVES

Amending the Lease as proposed, to allow for a Port contribution (via rent credits) towards certain unexpected project costs borne by the YMCA, will advance the following Port Strategic Objectives:

Evolution: YMCA's completion in early 2025 of the Building 49 renovation that was begun by the Port in 2020 leverages the public investment associated with the development of Crane Cove Park. The active recreation-focused services and programs offered by the YMCA at their new facility, along with those of its primary subtenant, Dogpatch Paddle, complement and enhance the public benefits associated with Crane Cove Park.

Equity: The newly opened, multi-use facility is accessible, attractive, and beneficial to a diverse group of people who live, work, and/or recreate along the Southern Waterfront.

Productivity: Building 49, a historically significant Port real estate asset, has been returned to productive use following several decades of vacancy. The building's reincarnation serves as another major milestone in the ongoing transformation of the Pier 70 area that seeks to better address the current needs of the public while also honoring the past.

PROJECT BACKGROUND

The Building 49 rehabilitation project was completed by the YMCA in January 2025 after a multi-year effort that began with the Port Commission's approval on October 26, 2021 of Resolution 21-46 which awarded the YMCA exclusive negotiating rights for the lease and development of Building 49.

On April 25, 2023, the Port Commission adopted Resolution No. 23-20 authorizing Port staff to execute Lease No. L-16997 (the "Original Lease") with the YMCA for the development and use of Building 49 located at 701 Illinois Street within Crane Cove Park following approval by the Board of Supervisors, which approval occurred on June 27, 2023 pursuant to Board Resolution No. 344-23. That Original Lease was executed in July 2023.

Shortly after execution of the Original Lease, the YMCA's further due diligence investigation of the existing building conditions during the final design process revealed significant unforeseen costs and risks which forced them to re-think their entire approach with regard to planned seismic/structural upgrades to the building. A second round of negotiations ensued in an effort to incorporate changes to the lease terms that were viewed as necessary to bring the project back into financial feasibility.

The Port Commission adopted Resolution No. 24-01 on January 23, 2024, which authorized execution of a new Lease L-17134 (the "Amended and Restated Lease" or "Lease") that (i) reduced the seismic improvements described in the original lease, (ii) eliminated all rent credits for any seismic work performed by the YMCA, (iii) required the YMCA to open the public restrooms no later than July 1, 2024, (iv) delayed the rent

commencement date to no later than October 1, 2024 and (v) included the other changes and/or clarifications described in the Memorandum to the Port Commission dated January 19, 2024 and on terms set forth in the Amended and Restated Lease.

The new “Dogpatch YMCA of Crane Cove”, along with a water recreation facility operated by their primary subtenant Dogpatch Paddle, opened for business in February 2025, and officially celebrated its opening with a ribbon-cutting ceremony on May 4, 2025.

Construction Costs Escalation (Overall and Specifically Related to Structural Scope)

Table 1 below shows the evolution of project costs as estimated by the YMCA at various milestone events.

Most prominent among the changes to the original lease that were incorporated into the Amended and Restated Lease was a scaled-back seismic/structural scope and a corresponding elimination of the rent credits associated with that original scope. At the time, that change (shown in row 3 below) was understood by the YMCA to allow them to complete the project at a maximum total cost of $7.3M, even with the elimination of the $500,000 rent credits. Although that net development cost figure was approximately. $1.1M higher than the YMCA’s original cost estimate of $6.2M (row 1), it was unchanged as compared to their estimate at the time of receipt of their building permit (row 2).

Table 1: Evolution of Project Costs - March 31, 2023 through April 1, 2025

Milestone Event	**Total Development Cost**	**Portion of Total Costs Related to Structural Improvements**	**Rent Credits for Structural Improvements**	**Net Development Costs**
Approval of Original Lease (3/31/23)	$ 6.7M	$ 1.4M	$ 500K	$ 6.2M
Final/Approved Permit Set Submittal (8/22/23)	$ 7.8M	$ 1.1M	$ 500K	$ 7.3M
Approval of Amended and Restated Lease (3/6/24)	$ 7.3M	$ 581K	$ 0	$ 7.3M
Final **Actual** Cost (4/1/25)	$ 7.6M	$ 987K	$ 150K*	$ 7.45M

**If approved*

Complications Related to Steel Corrosion in Existing Building Frame

After starting construction with a $7.3M total development budget (at the time the Amended and Restated Lease was executed), the YMCA and their contractor encountered a number of existing structural elements which were either (a) compromised to the point of being non-salvageable and thus had to be replaced entirely, or (b) required extensive and costly repairs to mitigate corrosion at the base of the steel columns. Those previously unknown site/building conditions resulted in further cost escalation; as shown above, the final (actual) project costs came out to $7.6M.

RECOMMENDATION

Staff recommend approval of the attached resolution based in part on the following factors:

- The YMCA had to overcome extraordinary challenges in order to successfully rehabilitate and repurpose Building 49, especially in regard to improving the building's structural integrity and seismic resiliency in the face of adverse existing building/site conditions.
- With the successful completion of the building rehabilitation project and the long-awaited opening of the new facility, the YMCA has delivered on their commitment to providing significant community benefits per the Port's RFP objectives.
- The YMCA's request for $150,000 of rent credits is consistent with the Port's original commitment to sharing in the costs directly related to enhancing the seismic resiliency and life safety profile of the building.

NEXT STEPS

The attached Resolution 25-38 authorizes the Port Executive Director to amend Lease No. L-17134 If approved by the Port Commission, Port Staff will seek approval of the lease amendment by the Board of Supervisors.

Prepared by:	Jamie Hurley Development Projects Manager Real Estate and Development
For:	Scott Landsittel Deputy Director Real Estate and Development

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 25-38

WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate, and control Port area of the City and County of San Francisco; and

WHEREAS, On April 25, 2023, the Port Commission adopted Resolution No. 23-20 authorizing Port staff to execute Lease No.16997 ("Original Lease") with the Young Men's Christian Association of San Francisco (the "YMCA") for the development and use of Building 49 located at 701 Illinois Street within Crane Cove Park following approval by the Board of Supervisors, which approval occurred on June 27, 2023 pursuant to Resolution No. 344-23; and

WHEREAS, On January 23, 2024 the Port Commission adopted Resolution No. 24-01, which authorized execution of Lease L-17134 ("the Amended and Restated Lease", or "Lease") that (i) reduced the improvements described in the Original Lease, (ii) eliminated all rent credits for any seismic work performed by the YMCA, (iii) required the YMCA to open the public restrooms no later than July 1, 2024, (iv) delayed the rent commencement date to no later than October 1, 2024 and (v) included the other changes and/or clarifications described in the Memorandum to the Port Commission dated January 19, 2024 and on terms set forth in the Lease; and

WHEREAS, The Port Commission and the Board of Supervisors each adopted environmental findings regarding the Original Lease in Resolutions 23-20 and 322-23, respectively, and relied on such findings when they approved the Amended and Restated Lease; and

WHEREAS, The Port Commission relies on the environmental findings approved by Resolution 24-01 again in this resolution; and

WHEREAS, Port staff believes that it is in the interest of both parties to amend Lease No. L-17134 to: 1) eliminate the provision which would (due to the tenant's inability to safely open the public restrooms on July 1, 2024 as required by the Lease) reduce by $6,000 the amount of rent credits that are intended to offset operation and maintenance costs associated with the public restrooms under the terms of the original lease; and 2) provide $150,000 in new rent credits to partially offset unexpected costs related to improving the structural condition of Building 49; and

WHEREAS, Port staff recommends approval of an amendment to Lease No. L-17134 (the "First Amendment") with the Young Men's Christian Association of

San Francisco, which will provide for rent credits totaling $156,000, and make no other changes; now, therefore be it

RESOLVED, That the Port Commission hereby approves the First Amendment on the terms and conditions described in this Resolution and the Memorandum to the Port Commission dated July 3, 2025, and in form substantially similar to the form on file with the Port Commission Secretary; and be it further

RESOLVED, That the Port Commission hereby authorizes the Executive Director or her designee to forward the First Amendment to the Board of Supervisors for their consideration and approval; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director or her designee to execute the First Amendment after approval of the First Amendment by the Board of Supervisors; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director or her designee, to enter into any additions, amendments or other modifications to the Lease and First Amendment that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligations or liabilities of the Port or materially decrease the public benefits accruing to the Port, and are necessary and advisable to complete the transaction and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of any such documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 8, 2025.

DocuSigned by:

Jenica Lin

Secretary

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President, District 8
BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Tel. No. 554-6968
Fax No. 554-5163
TDD/TTY No. 544-5227

RAFAEL MANDELMAN

PRESIDENTIAL ACTION

Date: 9/9/25

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

☐ Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____ _____ (Primary Sponsor)

Title.

_____

☐ Transferring (Board Rule No 3.3)

File No. _____ _____ (Primary Sponsor)

Title.

_____

From: _____ Committee

To: _____ Committee

☒ Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: Chen Replacing Supervisor: Engardio

For: 9/10/25 (Date) Budget & Finance (Committee) Meeting

Start Time: _____ End Time: _____

Temporary Assignment: ○ Partial ◉ Full Meeting

Rafael Mandelman, President
Board of Supervisors

Docusign Envelope ID: A8A666B7-6B56-4D56-B819-4CF71B77ABC5

Incomplete - Pending Signature

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 . www.sfethics.org

Received On:

File #: 250853

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	
TYPE OF FILING Original	**DATE OF ORIGINAL FILING (*for amendment only*)**
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD	
OFFICE OR BOARD Board of Supervisors	**NAME OF CITY ELECTIVE OFFICER** Members

3. FILER'S CONTACT	
NAME OF FILER'S CONTACT Angela Calvillo	**TELEPHONE NUMBER** 415-554-5184
FULL DEPARTMENT NAME Office of the Clerk of the Board	**EMAIL** Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT	
NAME OF DEPARTMENTAL CONTACT Boris Delepine	**DEPARTMENT CONTACT TELEPHONE NUMBER** 415-818-5768
FULL DEPARTMENT NAME PRT Port	**DEPARTMENT CONTACT EMAIL** boris.delepine@sfport.com

Incomplete / Pending Signature

5. CONTRACTOR	
NAME OF CONTRACTOR YMCA of San Francisco	**TELEPHONE NUMBER** 415-777-9622
STREET ADDRESS (including City, State and Zip Code) 169 Steuart Street, San Francisco, CA 94105	**EMAIL** tgardner@ymcasf.org

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	**ORIGINAL BID/RFP NUMBER**	**FILE NUMBER (*If applicable*)** 250853
DESCRIPTION OF AMOUNT OF CONTRACT Base rent $92,809.80		
NATURE OF THE CONTRACT *(Please describe)* Lease with YMCA of San Francisco for Building 49 in Crane Cove Park.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
☐	**THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM**
☒	**A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES** Board of Supervisors
☐	**THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS**

Docusign Envelope ID: A8A666B7-6B56-4D56-B819-4CF71B77ABC5

Incomplete - Pending signature

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	Baker	John	Board of Directors
2	Becerril	Alicia	Board of Directors
3	Brunning-MIles	Jamie	CFO
4	Chang	Annabel	Board of Directors
5	Chisholm	Richard	Board of Directors
6	Eberly	jon	Board of Directors
7	Estrada	Josue	Board of Directors
8	Farrell	glen	Board of Directors
9	Gregory-Burns	Gina	Board of Directors
10	Gridley	Jennifer	Board of Directors
11	Hankins	Stephen	Board of Directors
12	Kearney	Thomas	Board of Directors
13	Kelly	David	Board of Directors
14	Li	Samuel	Board of Directors
15	Pasarell-Tasi	Shelby	Board of Directors
16	Patz	Christopher	Board of Directors
17	Pisano	Marianna	Board of Directors
18	Price	Amy	Board of Directors
19	Pronsitz	Eric	Board of Directors

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Incomplete - Pending Signature

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	robins	richard	Board of Directors
21	robinson	michael	Board of Directors
22	Rogers	Stephen	Board of Directors
23	Susko	Peter	Board of Directors
24	Teague	Gary	Board of Directors
25	Welborn	Caryl	Board of Directors
26	Welland	Jeremy	Board of Directors
27	Willingham	John	Board of Directors
28	Bley	Mark	Board of Directors
29	Grigsby	Mittie	CFO
30	Clark	Erin	COO
31	Rich	Chip	COO
32			
33			
34			
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37			
38			

Incomplete - Pending Signature

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			
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47			
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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.

SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK	DATE SIGNED
BOS Clerk of the Board	

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

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

- ☒ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ☐ 2. Request for next printed agenda (For Adoption Without Committee Reference)
  (Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor _____ inquires…"
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. _____ from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ☐ 8. Substitute Legislation File No. _____
- ☐ 9. Reactivate File No. _____
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

☐ Yes ☐ No

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

Sponsor(s):

Walton

Subject:

[First Amendment to Real Property Lease No. 17134– YMCA SF – Building 49 -701 Illinois Street -Crane Cove Park– Rent Credit $156,000]

Long Title or text listed:

Resolution approving and authorizing the execution, delivery, and performance of the First Amendment to Port Lease No. 17134 for Building 49, located at 701 Illinois Street within Crane Cove Park between the Port of San Francisco and the Young Men's Christian Association of San Francisco (YMCA SF) to: 1) eliminate the provision which would reduce by $6,000 the amount of rent credits that are intended to offset operation and maintenance costs associated with the public restrooms; and 2) provide $150,000 in new rent credits to partially offset unexpected costs related to improving the structural condition of Building 49; and authorizing the Executive Director of the Port to enter into any additions, amendments or other modifications that do not materially increase obligations or liabilities of the City or Port and are necessary or advisable to complete the transactions which this Resolution contemplates and effectuate the purpose and intent of this Resolution.

Signature of Sponsoring Supervisor: /s/ Shamann Walton