

File No. 130234

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Sub-Committee Date 03/27/2013

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
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Completed by: Victor Young Date March 22, 2013

Completed by: Victor Young Date _____

1 [Ground Lease Amendment - 255 Broadway]

2
3 **Resolution approving and authorizing the Mayor's Office of Housing, as Successor**
4 **Housing Agency to the Redevelopment Agency, to amend an existing term ground**
5 **lease with Broadway Sansome Associates, L.P., a California limited partnership, for the**
6 **development and operation of affordable housing on certain real property located at**
7 **255 Broadway and making findings that the amendments are in conformance with**
8 **California Environmental Quality Act, the City's General Plan, and the priority policies**
9 **of Planning Code, Section 101.1.**

10
11 WHEREAS, The Redevelopment Agency of the City and County of San Francisco (the
12 "Former Agency") was the fee owner of 255 Broadway Street (Lot 21, Block 165 and referred
13 to herein as the "Property") and intended to develop the Property for affordable housing; and,

14 WHEREAS, Through a Memorandum Agreement with the Mayor's Office of Housing
15 ("MOH"), MOH agreed to fund and manage the development of the Property into affordable
16 family rental housing; and,

17 WHEREAS, In December 2006 MOH issued a Request for Proposals and in June 2007
18 conditionally selected Chinatown Community Development Center ("CCDC") as the qualified
19 developer; and,

20 WHEREAS, CCDC formed a limited partnership called Broadway Sansome
21 Associates, L.P. (the "Developer") that will act as the developer for the Property; and,

22 WHEREAS, the proposed project will be the new construction of 75 family rental units
23 (the "Project"); and,

24 WHEREAS, in 2010 the Former Agency entered into a ground lease (the "Lease") with
25 the Developer in order to demonstrate site control for a state funding application; and,

1 WHEREAS, Under California State Assembly Bill No. 1X26 (Chapter 5, Statutes of
2 2011-12, first Extraordinary Session) ("AB 26"), the Former Agency dissolved as a matter of
3 law on February 1, 2012, and pursuant to AB 26, as amended by California State Assembly
4 Bill No. 1484 ("AB 1484"), and Resolution No. 11-12, adopted by this Board and Mayor on
5 January 26, 2012, Ordinance No. 215-12, adopted by this Board and Mayor on October 12,
6 2012, and the approved housing asset list submitted by MOH to, and approved by, the State
7 of California Department of Finance pursuant to AB 1484 (Cal. Health & Safety Code Section
8 34176(a)(2)), MOH is successor in interest to Former Agency's fee interest in the Property
9 and to all of the Former Agency's rights and obligations under the Lease; and,

10 WHEREAS, In order to close current Project financing, including a construction loan
11 from Silicon Valley Bank and equity from Raymond James (together, the "Project Financers"),
12 the Project Financers are requesting material changes to the Lease; and,

13 WHEREAS, MOH staff and the Director of Property have reviewed the requested
14 changes and determined they are administrative and can be accepted and incorporated into
15 an amended and restated ground lease, substantially in the form of the Amended and
16 Restated Ground Lease on files with the Clerk of the Board of Supervisors in File 130234(the
17 "Amended Lease"); and,

18 WHEREAS, the Planning Department determined that the Project is consistent with the
19 City's General Plan and the Eight Priority Policies of Planning Code Section 101.1; and,

20 WHEREAS, On July 22, 2010, the Planning Commission, in accordance with Title 14 of
21 the California Code of Regulations, Chapter 3, Article 19, Section 15332 (CEQA State
22 Guidelines), adopted a Mitigated Negative Declaration determination under CEQA; now,
23 therefore, be it

24 RESOLVED, That this Board finds that there have been no substantial project changes
25 or changes in project circumstances since the Mitigated Negative Declaration was certified

1 that would require major revisions thereto due to the involvement of new significant
2 environmental effects or an increase in the severity of previous identified significant impacts,
3 and there is no new information of substantial importance that would change the conclusions
4 set forth therein; and, be it

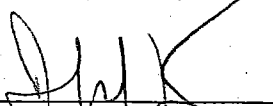
5 FUTURE RESOLVED, That in accordance with the recommendations of the Director
6 of Property and the Director MOH, the Board of Supervisors hereby approves and authorizes
7 the Director of Property, along with the Director of MOH, to finalize negotiations for the
8 Amended Lease and following the negotiations for the Amended Lease authorizes the
9 Director of Property and the Director of MOH to execute and deliver the Amended Lease; and,
10 be it

11 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
12 Property and the Director of MOH, in consultation with the City Attorney, to enter into any
13 additions, amendments or other modifications to the Amended Lease (including in each
14 instance, without limitation, the attachment of exhibits) that the Director of Property and
15 Director of MOH determine are in the best interests of the City, do not decrease the revenues
16 of the City in connection with the Property, or otherwise materially increase the obligations or
17 liabilities of the City, and are in compliance with all applicable laws, including the City's
18 Charter.

19
20 RECOMMENDED:

21 

22 _____
23 MOH Director

24 
25 _____
Director of Property

Items 1 and 2

Files 13-0177 & 13-0234

Department:

Mayor's Office of Housing (MOH)

EXECUTIVE SUMMARY**Legislative Objectives**

File 13-0234: Resolution authorizing the Director of Property and the Mayor's Office of Housing (MOH) as Successor Housing Agency to the former San Francisco Redevelopment Agency (SFRA) to (1) amend an existing Ground Lease with Broadway Sansome Associates, L.P. for the development and operation of 75 units of affordable housing at 255 Broadway, and (2) make any future amendments to the Ground Lease that do not decrease the revenues to the City or otherwise materially increase the obligations or liabilities of the City.

File 13-0177: Resolution authorizing the issuance of tax-exempt multifamily housing revenue bonds in an aggregate principal amount not to exceed \$23,900,000 to provide financing for the construction of 75 units of affordable housing at 255 Broadway.

Background

- On July 20, 2010, the former SFRA and Chinatown Community Development Center (CCDC) executed a Ground Lease for the subject property at 255 Broadway for CCDC to develop and operate 75 units of affordable housing. The SFRA was dissolved on February 1, 2012 and SFRA's affordable housing assets and functions were transferred to the City.

Key Points

- File 13-0234: The proposed amendments to the Ground Lease are required by the Project's Equity Investor and Construction Lender to proceed with financing the Project. The proposed Amended Ground Lease includes two amendments to the existing Ground Lease that the Budget and Legislative Analyst deems substantive or as having the potential to decrease revenues to the City: (1) after 55 years, increasing the income requirement for households to be eligible to live in the planned affordable housing from 50% to 60% of area median income, and (2) amending the "Permitted Uses of Surplus Cash," such that the City would receive up to \$16,500 less per year in the first five years of the Project than it would otherwise receive under the existing Ground Lease.
- File 13-0177: The proposed multifamily housing revenue bond is necessary for financing the construction of the planned affordable housing because a large portion of the committed financing for the Project will not be paid until the construction is completed. Although the City would issue the proposed multifamily housing revenue bonds, the obligation to repay the bonds would rest entirely on revenue generated by the Project and is the obligation of the Project sponsors. As such, the City would incur no financial liability from the issuance of such bonds.

Fiscal Impact

- The City would potentially receive an estimated \$78,506 from Surplus Cash under the proposed Amended Ground Lease, in addition to Base Rent, as compared to an estimated \$161,006 from Surplus Cash under the existing Ground Lease, or a reduction of \$82,500 over the 15-year period. However, the impact on the City's receipt of Surplus Cash is not a significant loss to the City given (1) the City's overarching goal of developing affordable housing for low-income households, and (2) the City's commitment of \$13,783,800 to the development of the Project and annual operating subsidies increasing from \$100,814 in Year 1 to \$174,636 in Year 15.

Recommendation

- Approve the proposed resolutions.

MANDATE STATEMENT / BACKGROUND**Mandate Statements**

File 13-0234: In accordance with City Charter Section 9.118(c), the modification or amendment of any lease of City-owned property, which when entered into was for a period of ten or more years or had anticipated revenue to the City of \$1,000,000 or more, is subject to approval by resolution of the Board of Supervisors.

File 13-0177: In accordance with City Charter Section 9.107, the Board of Supervisors is authorized to issue revenue bonds, without voter approval, when such bonds are issued to establish a fund for the purpose of financing the construction of housing.

Background

The subject property at 255 Broadway, which consists of vacant land and a surface parking lot comprising 17,846 square feet, was formerly owned by the State Department of Transportation (Caltrans). This property contained a portion of the Embarcadero Freeway off-ramp, which was damaged in the Loma Prieta earthquake and subsequently demolished. The Embarcadero Roadway project replaced the Embarcadero Freeway, eliminating the need to retain the subject property for transportation uses. After Caltrans transferred the subject property to the City on December 30, 1994 at no cost, the property was placed under the jurisdiction of the Department of Public Works (DPW).

On May 18, 2004, DPW declared the subject property surplus under the City's Surplus Property Ordinance¹ and transferred the property to the Mayor's Office of Housing (MOH). According to MOH, DPW had an outstanding obligation to repay the San Francisco Municipal Transportation Authority (SFMTA) for the maintenance of the Embarcadero Roadway. In 2006, the former San Francisco Redevelopment Agency (SFRA) purchased the subject property from MOH for \$1,500,000 with the requirement that the property be used to develop affordable housing. In approving the sale of the subject property from MOH to the former SFRA for the development of affordable housing, the Board of Supervisors appropriated the \$1,500,000 in sale proceeds to DPW to provide the needed funds for DPW's obligation to SFMTA for maintenance of the Embarcadero Roadway.

Through an agreement with the former SFRA, MOH agreed to fund and manage the development of the 255 Broadway site into 51 units of affordable family rental housing. In December 2006, MOH issued a Request for Proposals and in June 2007 selected Chinatown Community Development Center (CCDC) as the developer. In 2009, SFMTA and MOH entered into an agreement to add 18 additional units to the planned affordable housing Project at 255 Broadway as replacement housing for displaced residents of housing that would need to be demolished to construct a Chinatown Central Subway Station. The Project plan has since been

¹The Surplus Property Ordinance, approved by the Board of Supervisors on November 18, 2002 (File No. 01-1498), established (a) a procedure for identifying "surplus," "unutilized," or "underutilized" City-owned properties and (b) a policy that such property would be used to provide housing for the homeless or be sold, with the proceeds to be used to finance affordable housing.

expanded to include a total of 75 units of affordable housing (including one unit for a property manager).

As shown in Table 1 below, the City's commitment to date for the development of affordable housing at 255 Broadway (not including SFRA's original purchase of the property from MOH for \$1,500,000) is \$13,783,800 in loans to CCDC that are unlikely to be repaid, or \$183,784 per unit based on 75 units. In addition, MOH plans to provide an annual operating subsidy to the Project, which would start at \$100,814 in Year 1 and increase to \$174,636 by Year 15.

Table 1: City Financing of Affordable Housing at 255 Broadway

Sources		Uses	
MOH	\$5,783,800	Predevelopment	\$3,123,929
SFMTA	<u>8,000,000</u>	Gap Financing	<u>10,659,871</u>
Total	\$13,783,800	Total	\$13,783,800

Source: Mayor's Office of Housing

According to Ms. Joan McNamara, Senior Project Manager at MOH, CCDC has expended \$2,741,197 to date in City-provided predevelopment funds.

City Ownership of Former Redevelopment Agency Affordable Housing Assets

On July 20, 2010, the former SFRA and CCDC executed a Ground Lease for the subject property at 255 Broadway, under which the former SFRA agreed to lease the subject property to CCDC for the development of 75 units of affordable housing, for an initial term of 70 years, with an option to extend for an additional 29 years to 99 years, and with annual rent payable by CCDC to SFRA equal to 10 percent of the appraised value of \$3,750,000, or \$375,000, of which \$15,000 would be required as "Base Rent," and the remaining \$360,000 of which would be required only in the event the Project generated "Surplus Cash," as discussed below.

Under California Assembly Bill 26 (AB 26), the former SFRA was dissolved on February 1, 2012 and the SFRA's affordable housing assets and functions were transferred to the City, under the jurisdiction of MOH, as approved by the Board of Supervisors on January 24, 2012 (File No. 12-0021). AB 26 was subsequently amended to disallow the City from being the successor agency to the former SFRA's non-affordable housing assets and functions; however, the City remains the successor agency to the former SFRA's affordable housing assets and functions, as approved by the Board of Supervisors on October 2, 2012 (File No. 12-0898). As Successor Housing Agency to the former SFRA, the City owns the subject property at 255 Broadway and is successor to the former SFRA's rights and obligations under the existing Ground Lease. Any modifications or amendments to the lease of the subject property are therefore subject to Board of Supervisors approval.

According to Ms. McNamara, while it was typically the practice of the former SFRA to own and lease the properties on which SFRA financed the development of affordable housing, the City traditionally has not owned the properties on which MOH financed the development of affordable housing. Ms. McNamara advises that by retaining ownership of the subject property, the City will be able to ensure that the planned affordable housing remains affordable beyond the 55-year period usually provided under affordable housing covenants entered into by the City and private developers when the City does not own the property.

DETAILS OF PROPOSED LEGISLATION

File 13-0234: The proposed resolution would authorize the Director of Property and MOH as Successor Housing Agency to the former SFRA to (1) amend an existing Ground Lease with Broadway Sansome Associates, L.P.² for the development and operation of 75 units of affordable housing at 255 Broadway, and (2) make any future amendments to the Ground Lease with Broadway Sansome Associates, L.P. that do not decrease the revenues to the City or otherwise materially increase the obligations or liabilities of the City.

According to Ms. McNamara, CCDC recently secured the financing needed to complete the construction of the planned affordable housing. According to Ms. McNamara, the proposed amendments to the Ground Lease are required by the Project's Equity Investor, Raymond James California Housing Opportunities Fund II L.L.C. (Raymond James), and the Project's Construction Lender, Silicon Valley Bank, to proceed with financing the Project. Currently, the estimated total cost of the Project is \$37,881,665, including \$13,783,800 in financing from the City, as shown in Table 1 above.

The proposed Amended Ground Lease includes two amendments to the existing Ground Lease that the Budget and Legislative Analyst deems substantive or as having the potential to decrease revenues to the City.

(1) Income requirements

Under the proposed Amended Ground Lease, the income requirement for households to be eligible to live in the planned affordable housing increases after 55 years from no more than 50 percent of area median income (AMI) to no more than 60 percent of AMI, as determined by the U.S. Department of Housing and Urban Development. In contrast, under Section 1.29 of the existing Ground Lease, the income requirement remains at no more than 50 percent of AMI for the duration of the initial 70-year lease term. As such, the proposed amendment would likely result in some of the planned housing units serving a higher income group after 55 years. According to Ms. McNamara, this amendment is being proposed so that the Project is able to demonstrate to the IRS that the Project financing as structured can repay its debts fully over the course of the 55-year compliance term according to financial projections. However, Ms. McNamara advises that the Project is unlikely to increase to 60 percent of AMI after 55 years because sometime after the initial 15-year Tax Credit Compliance Period and depending upon the capital needs of the building, MOH anticipates that the Project will be refinanced and the Project sponsors will request additional financial support from MOH, allowing MOH to require the continuation of the 50 percent AMI income requirements in exchange for additional financial support.

(2) Permitted Uses of Surplus Cash

The proposed Amended Ground Lease amends the "Permitted Uses of Surplus Cash," also commonly referred to as the "Surplus Cash Waterfall." The "Surplus Cash Waterfall" sets forth a list of permitted uses of Surplus Cash, in order of highest priority to lowest priority, in the event the Project generates Surplus Cash from rent and operating subsidies in any given year.

² Broadway Sansome Associates, L.P. is a Partnership between CCDC and the Project's Equity Investor, Raymond James California Housing Opportunities Fund II L.L.C.
SAN FRANCISCO BOARD OF SUPERVISORS

Ms. McNamara advises that the Surplus Cash Waterfall in the existing Ground Lease was tentative, and that MOH anticipated having to amend the Surplus Cash Waterfall to the satisfaction of the Project's Equity Investor, once outside financing was identified, in order to proceed with the Project. Table 2 below compares the Surplus Cash Waterfall, in order of priority, under the existing Ground Lease to the proposed Amended Ground Lease.

Table 2: Surplus Cash Waterfall, in order of priority, under the Existing and Proposed Amended Ground Leases

Existing Ground Lease	Proposed Amended Ground Lease
<p>Payments from any Surplus Cash generated by the Project from rent and operating subsidies would be applied toward:</p> <ol style="list-style-type: none"> 1) Base Rent Accrual, to be paid to the City in the event the Project fails to generate enough income to pay Base Rent in previous years (Base Rent is \$15,000 per year). 2) A Partnership Management Fee of \$15,530 in Year 1 (and increasing each year thereafter), to be paid to CCDC. 3) A Limited Partner Asset Management Fee, if any. 4) One-third of the remaining Surplus Cash would be allocated to the CCDC as an Incentive Management Fee in an amount not to exceed \$37,500 per year, and two-thirds of the remaining Surplus Cash would be paid to the California Department of Housing and Community Development (HCD) and to MOH in proportion to each agency's investment in the project (approximately one-third HCD and two-thirds MOH). 	<p>Payments from any Surplus Cash generated by the Project from rent and operating subsidies would be applied toward:</p> <ol style="list-style-type: none"> 1) Base Rent Accrual, to be paid to the City in the event the Project fails to generate enough income to pay Base Rent in previous years (Base Rent is \$15,000 per year). 2) A Limited Partner Asset Management Fee of \$3,662 in Year 1 (and increasing each year thereafter), to be paid to Raymond James. 3) If necessary, replenishment of the Operating Reserve Account, which is 25 percent of annual Operating costs. 4) A Deferred Developer Fee of \$82,500, to be paid to CCDC in five installments of \$16,500 over the first five years of the Project. 5) A Partnership Management Fee of \$17,820 in Year 1 (and increasing each year thereafter), to be paid to CCDC. 6) The same as bullet point No. 4 under the Existing Ground Lease.

The proposed amendments to the Surplus Cash Waterfall, as shown in Table 2 above, include (1) moving the Limited Asset Management Fee to be paid to Raymond James from third priority to second priority in the Waterfall, (2) adding the replenishment of the Operating Reserve Account, (3) increasing the Partnership Management Fee from \$15,530 to \$17,820 in accordance with MOH's updated guidelines for Partnership Management Fees, and (4) adding a Deferred Developer Fee of \$82,500 to be paid to CCDC in five annual installments of \$16,500. According to Ms. McNamara, CCDC elected to defer \$82,500 of its Developer Fee to help finance construction.

As a result of the proposed addition of the Deferred Developer Fee to the Project's Surplus Cash Waterfall, the City would receive up to \$16,500 less per year in the first five years of the Project than it would otherwise receive under the existing Ground Lease. As a result of the other proposed amendments to the Surplus Cash Waterfall, the City would be somewhat less likely to receive any Surplus Cash which the Project may generate each year.

However, Ms. McNamara advises that the impact on the City's receipt of Surplus Cash is not a significant loss to the City given (1) the City's overarching goal of developing affordable housing for low-income households, and (2) the City's significant financial commitment to the Project including the commitment of \$13,783,800 to the development of the Project and the provision of annual operating subsidies increasing from \$100,814 in Year 1 to \$174,636 in Year 15.

As discussed above, the proposed resolution would also authorize the Director of Property and MOH to make any future amendments to the Ground Lease that do not decrease the revenues to the City or otherwise materially increase the obligations or liabilities of the City. According to Ms. McNamara, amendments that would materially increase the obligations or liabilities to the City, and would therefore be subject Board of Supervisors approval, might include extending the term of the lease beyond the term provided in the proposed Amended Lease, or providing financing for future repairs to the building.

File 13-0177: The proposed resolution would authorize the issuance of tax-exempt multifamily housing revenue bonds in an aggregate principal amount not to exceed \$23,900,000 for the purpose of providing financing for the construction of 75 units of affordable housing at 255 Broadway.

According to Ms. McNamara, the proposed multifamily housing revenue bond is necessary for financing the construction of the planned affordable housing because a large portion of the committed financing for the Project will not be paid until the construction is completed. Once construction is completed, the full principal amount of the proposed multifamily housing revenue bonds would be paid down immediately by the Project's Permanent Funding Sources. According to the Project's projections, the interest payments for the proposed multifamily revenue bonds would total \$685,550.

Ms. McNamara advises that although the City would issue the proposed multifamily housing revenue bonds, the obligation to repay the bonds would rest entirely on revenue generated by the Project and is the obligation of the Project sponsors. As such, the City would incur no financial liability from the issuance of such bonds.

FISCAL IMPACT

As a result of the proposed addition of the Deferred Developer Fee to the Project's Surplus Cash Waterfall, the City would receive up to \$16,500 less per year in the first five years of the Project than it would otherwise receive under the existing Ground Lease. As shown in Table 3 below, the City would potentially receive an estimated \$78,506 from Surplus Cash under the proposed Amended Ground Lease, in addition to Base Rent, as compared to an estimated \$161,006 from Surplus Cash under the existing Ground Lease, or a reduction of \$82,500 over the 15-year period. In addition, as a result of the other proposed amendments to the Surplus Cash Waterfall, the City would be somewhat less likely to receive any Surplus Cash which the Project may generate each year.

However, Ms. McNamara advises that the impact on the City's receipt of Surplus Cash is not a significant loss to the City given (1) the City's overarching goal of developing affordable housing for low-income households, and (2) the City's significant financial commitment to the Project including the commitment of \$13,783,800 to the development of the Project and the

provision of annual operating subsidies increasing from \$100,814 in Year 1 to \$174,636 in Year 15.

Table 3: Projected Surplus Cash and Projected Payments to the City under the Existing and Proposed Ground Leases

Year	Projected Surplus Cash	Potential Surplus Cash Payments to the City under the Existing Lease	Projected Surplus Cash Payments to the City under the Proposed Amended Lease
1	\$65,472	\$29,468	\$12,968
2	\$59,031	\$25,460	\$8,960
3	\$57,586	\$24,470	\$7,970
4	\$55,942	\$23,379	\$6,879
5	\$54,091	\$22,183	\$5,683
6	\$48,059	\$9,989	\$9,989
7	\$45,757	\$8,565	\$8,565
8	\$43,212	\$7,020	\$7,020
9	\$40,411	\$5,346	\$5,346
10	\$37,342	\$3,538	\$3,538
11	\$33,990	\$1,588	\$1,588
12	\$30,342	\$0	\$0
13	\$26,382	\$0	\$0
14	\$22,095	\$0	\$0
15	\$17,465	\$0	\$0
15-year Total	\$637,177	\$161,006	\$78,506

RECOMMENDATION

Approve the proposed resolutions.

**MAYOR'S OFFICE OF HOUSING
CITY AND COUNTY OF SAN FRANCISCO**



**EDWIN M. LEE
MAYOR**

**OLSON LEE
DIRECTOR**

February 26, 2013

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

RE: Resolution approving and authorizing MOH to amend an existing term ground lease with Broadway Sansome Associates, L.P. for the development and operation of affordable housing at 255 Broadway.

Dear Supervisor Chiu:

Thank you for agreeing to introduce a resolution regarding amendments to a long-term ground lease for 255 Broadway, an affordable housing development sponsored by Chinatown Community Development Center. The resolution would authorize Olson Lee, as Director of this office, working with the Director of the Real Estate Department to amend an existing long-term lease between the Former Agency and Broadway Sansome Associates, L.P., the developer and owner operator of the new construction of 75 units of affordable family rental units.

We respectfully request introduction at a Board of Supervisor's meeting at the earliest convenience and appreciate your support.

The attached resolution has reviewed by the Director of Property and has been approved as-to-form by Deputy City Attorney Evan Gross.

If you have any questions about the resolution or the project, please contact Joan McNamara at 701-5532, or me at 701-5515.

Sincerely,

A handwritten signature in black ink, appearing to read "Teresa Yanga".

Teresa Yanga
Director of Housing Development



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|---|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 18154

HEARING DATE: JULY 22, 2010

Date: July 15, 2010
Case No.: 2008.0797ECKV
Project Address: 235 BROADWAY
Zoning: C-2 (Community Business) District
65-A Height and Bulk District
Washington-Broadway Special Use District No. 2
Block/Lot: 0165 / 021
Project Sponsor: Kim Piechota, Executive Director
Chinatown Community Development Center
1515 Vallejo Street, Fourth Floor
San Francisco, CA 94100
Staff Contact: Kevin Guy - (415) 558-6163
kevin.guy@sfgov.org

ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 271 AND 303 TO ALLOW EXCEPTIONS FROM BULK LIMITATIONS IN ASSOCIATION WITH A PROJECT TO DEMOLISH AN EXISTING SURFACE PARKING LOT AND CONSTRUCT A NEW EIGHT-STORY BUILDING CONTAINING APPROXIMATELY 75 AFFORDABLE DWELLING UNITS, APPROXIMATELY 2,900 SQUARE FEET OF GROUND-FLOOR RETAIL USE, AND NO OFF-STREET PARKING, LOCATED AT 235 BROADWAY, LOT 021 OF ASSESSOR'S BLOCK 0165, WITHIN THE C-2 (COMMUNITY BUSINESS) DISTRICT, THE WASHINGTON-BROADWAY SPECIAL USE DISTRICT NO. 2, AND THE 65-A HEIGHT AND BULK DISTRICT AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On June 17, 2010, Kim Piechota, Project Manager for the Chinatown Community Development Center ("Project Sponsor"), representing the San Francisco Redevelopment Agency, filed an application with the Planning Department ("Department") for Conditional Use authorization pursuant to Planning Code Sections ("Section") 271 and 303 to allow exceptions from bulk limitations in association with a project to demolish an existing surface parking lot and construct a new eight-story building containing

approximately 61 affordable dwelling units, approximately 2,900 square feet of ground-floor retail use, and no off-street parking, located at 235 Broadway, Lot 021 of Assessor's Block 0165 ("Project Site"), within the C-2 (Community Business) District, the Washington-Broadway Special Use District No. 2, and the 65-A Height and Bulk District. The application was subsequently amended to propose 75 affordable dwelling units (collectively, "Project").

On July 2, 2008, the Project Sponsor submitted a request for review of a proposed development on the Project Site exceeding 40 feet in height, pursuant to Section 295, analyzing the potential impacts of the development to properties under the jurisdiction of the Department of Recreation and Parks (Case No. 2008.0797K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Project would have no impact to properties subject to Section 295.

On June 30, 2010, a Draft Mitigated Negative Declaration ("MND") for the Project was prepared and published for public review.

The Draft MND was available for public comment until July 20, 2010.

On July 22, 2010, the Planning Commission ("Commission") reviewed and considered the Final MND and found that the contents of said report and the procedures through which the Final MND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (hereinafter "CEQA"), 14 California Code of Regulations Sections 15000 et seq. (hereinafter the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

The Planning Commission found the Final MND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and approved the Final MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

In the Department, Linda Avery, is the custodian of records, located in the File for Case No. 2008.0797E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

On July 22, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2008.0797ECKV.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2008.0797ECKV subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is located on the south side of Broadway, between Battery and Sansome Streets, Lot 021 in Assessor's Block 0165. The property is in the C-2 (Community Business) District, the Washington-Broadway Special Use District No. 2, and the 65-A Height and Bulk District, and measures approximately 17,850 square feet. The eastern portion of the site is developed with a surface parking lot, while the western half is undeveloped. The Project Site occupies the entire frontage of the subject block of Broadway, and was historically occupied by ramps for the Embarcadero Freeway until 1991.
3. **Surrounding Properties and Neighborhood.** The Project Site is situated north of the Financial District and Jackson Square, south and west of the Northern Waterfront, and southeast of Telegraph Hill and North Beach. Surrounding development in the immediate area primarily consists of commercial uses, with some residential uses. Existing building heights in the immediate area range from two to eight stories.
4. **Project Description.** The Project would demolish an existing surface parking lot occupying a portion of the Project Site, and construct a new eight-story building containing approximately 75 affordable dwelling units and approximately 2,900 square feet of ground-floor retail use. The dwelling unit mix includes 10 studios, 36 1-bedroom units, 24 2-bedroom units, and 5 3-bedroom units. No off-street parking spaces are provided.
5. **Variances.** The Project would be the subject of three requested Variances for rear yard, (Section 134), dwelling-unit exposure (Section 140), and off-street parking (Section 151), as discussed for each respective Section under item #6 below.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Use.** The C-2 (Community Business) District allows retail sales as a principally permitted use. The C-2 District allows dwellings at a density ratio not exceeding the number of dwelling units permitted in the nearest "R" District. In no case shall the maximum permitted density be less than for an RM-1 District.

The proposed ground-floor retail uses are principally permitted within the C-2 District. The nearest "R" District, as measured from the frontage on Battery Street, is an area zoned as RC-4 (Residential-Commercial, Combined, High Density) District, which permits dwellings at a ratio not exceeding one unit per 200 square feet of lot area. The subject property measures approximately 17,850 square feet, therefore, the subject property would be allowed up to 89 dwelling units pursuant to the RC-4 District. The provision of 75 dwelling units complies with the permitted density.
 - B. **Height and Bulk.** The subject property is located within a 65-A Height and Bulk District, which permits a maximum height of 65 feet. This District also limits the horizontal

dimension of a building above 40 feet in height to 110 feet, and the diagonal dimension to 125 feet.

Pursuant to the provisions for measurement of height within Section 102.12, the Project Site would be measured as an upsloping lot measured from the Battery Street frontage. These provisions specify that the measurement of height be taken at the centerline of each building step. The Project is divided into three distinct sections that step up with the height of the site along the Broadway frontage. At the centerline of each step, the building complies with the 65-foot height limit.

The fourth through eighth floors exceed 40 feet in height, therefore, these floors are subject to the bulk limitations of the 65-A Height and Bulk District. The fourth, fifth, and sixth floors have a horizontal dimension of approximately 275 feet and a diagonal dimension of approximately 284 feet. The seventh floor has a horizontal dimension of approximately 183 feet and a diagonal dimension of approximately 186 feet. Therefore, these floors exceed the maximum permitted length and diagonal dimensions. The eighth floor has a horizontal dimension of approximately 100 feet and a diagonal dimension of approximately 121 feet, and therefore complies with the maximum dimensions.

The Project Sponsor is requesting that the Commission allow the Project to exceed the specified bulk limits after considering the criteria specified in Section 271(c), through the Conditional Use Authorization process. Conformance with these criteria is discussed under item #8 below.

- C. **Floor Area Ratio.** In the C-2 District, Section 124 allows a Floor Area Ratio (FAR) of up to 4.8 for a lot which is nearer to an RC-4 District than any other "R" District. The nearest "R" District, as measured from the frontage on Battery Street, is an area zoned RC-4. The project site has an area of 17,850 square feet, therefore the allowable FAR would permit a building of up to 85,680 square feet of Gross Floor Area, as defined in Section 102.9.

The Project proposes approximately 84,200 square feet of Gross Floor Area, and therefore complies with this requirement.

- D. **Rear Yard.** Section 134(a)(1) of the Planning Code requires a rear yard equal to 25 percent of the lot depth. Within the C-2 District, the required rear yard must be provided at the lowest level containing a dwelling unit, and at each succeeding story of the building.

The Project proposes a "C"-shaped building on a lot with frontages on Broadway, Sansome, and Battery Streets, with a courtyard at the second level situated toward the interior of the lot. The configuration of this courtyard does not meet the requirements for a rear yard pursuant to the Code, and thus the Project requires a Variance from the rear yard requirements.

A code-complying rear yard would provide an open area of approximately 4,720 square feet. The proposed common courtyard measures approximately 3,100 square feet. In addition, common decks are proposed on the seventh and eighth floors that measure a total of 5,660 square feet. The total area of common open space for the project equals approximately 8,760 square feet, exceeding the amount of open area that would be provided by a code-complying rear yard.

- E. **Usable Open Space.** Section 135 requires that dwelling units within the C-2 District are provided usable open space in an amount equivalent to the open space required by the Zoning District which establishes the density for the property. The RC-4 District requires that a minimum of 36 square feet of private usable open space, or 47.9 square feet of common usable open space be provided for each dwelling unit. This Section specifies that the area counting as usable open space must meet minimum requirements for area, horizontal dimensions, and exposure.

The Project therefore must provide a minimum of 3,593 square feet of common open space. The Project proposes roof decks at the seventh and eighth floors that measure a total of 5,660 square feet. These decks are open to the sky and meet the standards for area, dimension, and exposure. Therefore, the Project complies with these requirements.

- F. **Dwelling Unit Exposure.** Section 140 of the Planning Code requires that at least one room of all dwelling units face onto a public street, a rear yard, or other open area that meets minimum requirements for area and horizontal dimensions.

The units that face onto Broadway, Sansome, and Battery Streets comply with the requirements of Section 140. Some units face onto the interior courtyard. Section 140 specifies that an open area (such as the courtyard) must have minimum horizontal dimensions of 25 feet at the lowest floor containing a dwelling unit and floor immediately above, with an increase of five feet in horizontal dimensions for each subsequent floor above. According to this methodology, the open area above the courtyard would need to measure at least 30 feet in horizontal dimensions at the fourth floor, 35 feet at the fifth floor, 40 feet at the sixth floor, 45 feet at the seventh floor, and 50 feet at the eighth floor of the Project.

The courtyard dimensions measures approximately 33 feet by 100 feet, however, an elevator shaft intrudes into this area at the westerly portion of the courtyard. Multiple units facing the courtyard are not provided with the exposure required by this section, including one unit on the second floor, one unit on the third floor, two units on the fourth floor, two units on the fifth floor, and one unit each on the sixth, seventh, and eighth floors. The Project Sponsor is requesting a Variance from the requirements for dwelling unit exposure.

- G. **Off-Street Parking.** Section 151 establishes off-street parking requirements for all uses in all districts. Pursuant to this Section, one independently accessible space is required for each dwelling unit. The Project proposes 75 dwelling units. No parking is required for retail uses measuring less than 5,000 square feet. The Project proposes approximately 2,900 square feet of retail uses, therefore, no retail parking is required. The Project requires a total of 75 off-street parking spaces.

The Project proposes no off-street parking spaces. The Project Site is situated within an area that is well-served by transit, and is within walking distance of retail goods and the employment center of the Financial District. The Project Sponsor is requesting a variance from the requirements for off-street parking.

- H. **Off-Street Loading.** Section 152 provides a schedule of required off-street freight loading spaces for all uses in districts other than C-3 or South of Market. Pursuant to this Section, residential uses of less than 100,000 square feet do not require off-street loading spaces.

The Project proposes less than 100,000 square feet of residential uses, therefore, no off-street loading spaces are required.

- I. **Bicycle Parking.** Section 155.5 requires that developments include more than 50 dwelling units provide 25 Class 1 bicycle parking spaces, plus one additional space for each four additional dwelling units over 50. Therefore, the Project is required to provide 31 bicycle parking spaces.

The Project provides an enclosed bicycle storage area on the first floor that measures approximately 750 square feet. This area is adequate to store a minimum of 31 bicycles, therefore, the Project meets this requirement.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The Project proposes 75 units of affordable housing, in an area that is well-served by transit and is within walking distance of retail services and the employment center of the Financial District. Residents will be able to reach these amenities and the regional as a whole without reliance on private automobile use. In addition, the Project includes approximately 2,900 square feet of ground-floor retail uses along a section of Broadway which currently lacks continuous retail frontage. This retail will introduce streetscape vitality to an important pedestrian linkage between the Northeast Embarcadero and North Beach, and will enliven a mostly-vacant site that was previously occupied by ramps for the Embarcadero Freeway. The height and massing of the Project are compatible with the varied scale of the area, and the building steps with the slope along the Broadway frontage, reflecting the underlying topography and respecting the traditional building form of San Francisco. The Project is necessary and desirable for, and compatible with the neighborhood, community, and City.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The Project Site is regularly shaped and adequately sized to accommodate the proposed uses on the site. Existing development in the vicinity varies in size and intensity, and the Project is generally compatible with the eclectic character of the area. The design of the Project reads as two distinct structures that are sculpted in response to the terrain, such that the building does not present a dominating appearance. While there is not an existing pattern of mid-block open space on the subject block, the rear yard of the Project is configured as a courtyard that will provide relief to the abutting properties to the rear. The shape and size of development on the subject property will not be detrimental to persons or adjacent properties in the vicinity.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The MND prepared for the Project did not identify any significant transportation impacts that would result from the development. The Project proposes no off-street parking, is well-served by transit, and is within walking distance of retail services and employment opportunities. Therefore, it is anticipated that many residents would walk, bicycle, utilize taxis or carsharing services, or seek other means of transportation that do not require the use of a private automobile. The Project should not generate adversely affect traffic patterns in the area.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The Project includes residential and retail uses that will not introduce operational noises or odors that are detrimental, excessive, or atypical for the area. While some temporary increase in noise can be expected during construction, this noise is limited in duration and will be regulated by the San Francisco Noise Ordinance which prohibits excessive noise levels from construction activity and limits the permitted hours of work. The Project Sponsor will be required to comply with the San Francisco Construction Dust Control Ordinance to suppress dust during construction, therefore, these activities should not generate significant airborne dust. The building will not exhibit an excessive amount of glazing or other reflective materials, therefore, the Project is not expected to cause offensive amounts of glare.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

The Project proposes no off-street parking or loading areas. Service areas are enclosed within the building and therefore screened from public view. The Department shall review all lighting, signage, and details of streetscape improvements (including street trees and other landscaping) during building permit review.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

Subject to the granting of the requested Variances, the Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

8. **Planning Code Section 271** establishes criteria for the Planning Commission to consider when reviewing application for projects that exceed the applicable bulk limits, through the Conditional Use Process. Such deviation might occur for one specified positive reasons. The Project appears to meet one of the specified reasons, in that:

- A. Achievement of a distinctly better design, in both a public and a private sense, than would be possible with strict adherence to the bulk limits, avoiding an unnecessary prescription of building form while carrying out the intent of the bulk limits and the principles and policies of the General Plan.

The Project occupies a relatively large lot with three frontages. Given the dimensions of the lot, strict adherence to bulk limits would severely constrain the building envelope and could result in an awkward building form. In addition, the number of affordable dwelling units could be sharply reduced, resulting in less housing in a location that is appropriate for infill development. The Project incorporates facade variations and sculpting on upper floors to reduce the apparent bulk of the building, as discussed below.

On balance, the Project complies with the aforementioned criteria, in that:

- B. The appearance of bulk in the building, structure, or development shall be reduced by means of at least one and preferably a combination of the following factors, so as to produce the impression of an aggregate of parts rather than a single building mass:
- i. Major variations in the planes of wall surfaces, in either depth or direction, that significantly alter the mass.

The Project is articulated as two distinct modules. The western portion generally reads as a more horizontal composition, with a recessed retail base, a middle section of punched windows, and a glassy loggia on the upper floors that create a tripartite arrangement. This western portion rises an additional story near the middle of the Broadway frontage, which further differentiates the massing and steps the building with the terrain. The eastern portion of the Project is expressed as a rhythm of vertical proportions that are incised and defined by a series of lightwells. These distinct building treatments are sharply differentiated and significantly vary the massing of the building.

- ii. Significant differences in the heights of various portions of the building, structure, or development that divide the mass into distinct elements.

The roofline of the Project steps with the sloping terrain along Broadway by three distinct, one-story increases in the height of the building, reinforcing the changes in architectural expression and massing that occur across the sweep of the Project Site.

- iii. Differences in materials, colors, or scales of the facades that produce separate major elements.

The alternating facade treatments and changes in plane create separate major elements within the elevations of the building. As the Project proceeds through the review of building permits, the Project Sponsor will continue to work the Planning staff to refine details regarding materials and colors that will complement and enhance the changes in facade treatment and massing for the Project.

- iv. Compensation for those portions of the building, structure, or development that may exceed the bulk limits by corresponding reduction of other portions below the maximum bulk permitted.

As the height of the building slopes up the terrain, there is a corresponding reduction in the floor plate at each successive story. The bulk limit exceedance is greatest at the fourth, fifth, and sixth floors, but is dramatically reduced at the seventh floor. The eight floor of the building is within the bulk limitations. Across each elevation, the building incorporates changes in plane that, while not strictly reducing the measurement of bulk, serve to animate the facade, create depth and shadow, and reduce the perceived bulk of the building.

- v. In cases where two or more buildings, structures, or tower are contained within a single development, a wide separation between such buildings, structures, or towers.

The Project consists of a single building, therefore, this factor does not apply.

- C. In every case the building, structure, or development shall be made compatible with the character and development of the surrounding area by means of all of the following factors:

- i. A silhouette harmonious with natural landforms and building patterns, including the patterns produced by height limits.

The changes in roofline at the seventh and eight story of the building reflect the underlying topography and reinforce the traditional pattern of stepped buildings in San Francisco. The silhouette of the building, therefore, does not read as a uniform mass, but rather of a series of planes that appear as the aggregation of several smaller structures. The project conforms with the height limit for the District, and complements the eclectic pattern of building heights and styles found in the area.

- ii. Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character.

The existing development pattern in the area consists of both small-scale buildings situated on narrow lots, as well as taller office and residential buildings of a uniform height and massing. The Project, which is fractured into a series of distinct facade treatments, complements this varied character.

- iii. Use of materials, colors, and scales either similar to or harmonizing with those of nearby developments.

Existing buildings in the vicinity exhibit a wide variety of architectural character, materials, and colors, and there are no predominant architectural styles or materials that define the visual character of the neighborhood. The elevations of the Project juxtapose a variety of styles and treatments that reinforce the disparate language of other buildings in the district and avoid a uniform, overpowering scale of the project. As the Project proceeds through the review of building permits, the Project Sponsor will continue to work the Planning staff to refine details regarding materials and colors that will complement the existing built environment of the area.

- iv. Preservation and enhancement of the pedestrian environment by maintenance of pleasant scale and visual interest.

The Project creates streetscape interest through transparent retail storefronts on the Broadway, Sansome Street, and Battery Street frontages, activating an important pedestrian linkage to the Embarcadero. In addition, through the use of two distinct facade treatments and the tripartite arrangement on the eastern portion of the building, the massing of the building avoids a dominating appearance and present a humane scale to the pedestrian.

- D. While the above factors must be present to a considerable degree for any bulk limit to be exceeded, these factors must be present to a greater degree where both the maximum length and the maximum diagonal dimension are to be exceeded than where only one maximum dimension is to be exceeded.

The Project Site is a relatively large corner lot, therefore, strict adherence to bulk limits would severely constrain the building envelope and reduce the number of affordable dwelling units. The Project incorporates significant variations in facade treatments, a well-defined pedestrian realm at the streetscape, and sculpting of the upper stories that reduce the apparent size of the building and achieve compatibility with the eclectic character of the area.

- 9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT:

Objectives and Policies

OBJECTIVE 1

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

Policy 1.1:

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

Policy 1.3

Identify opportunities for housing and mixed-use districts near downtown and former industrial portions of the City.

Policy 1.5

Support development of affordable housing on surplus public lands.

OBJECTIVE 5

INCREASE THE EFFECTIVENESS AND EFFICIENCY OF THE CITY'S AFFORDABLE HOUSING PRODUCTION SYSTEM.

Policy 5.2

Support efforts of for-profit and non-profit organizations and other community-based groups and expand their capacity to produce and manage permanently affordable housing. Non-profit housing development corporations have proven to be effective vehicles for the development of affordable housing. The City should continue to provide them with the technical and financial assistance to increase their production capacity and encourage and invite for-profit developers to build equivalent housing.

The Project would construct 75 affordable housing units on property owned by the San Francisco Redevelopment Agency, in partnership with the Chinatown Community Development Center, on a site that was formerly occupied by ramps for the Embarcadero Freeway. The Project is situated in an area with a variety of land uses, and the introduction of new housing will further diversify the neighborhood and enliven the area throughout the day. The Project Site well-served by transit and is within walking distance of the Financial District. Residents would be able to walk to work and retail services, and readily access the regional transit network, without reliance on private automobile use.

10. Planning Code Section 101.1(b) establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

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

The Project would not displace any retail uses, and will add approximately 2,900 square feet of new retail space. In addition, the residents of the Project will patronize retail services in the area, bolstering the economic viability of the neighborhood.

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

The Project would add affordable housing, and would enliven the neighborhood by the presence of additional residents.

- C. That the City's supply of affordable housing be preserved and enhanced,

The Project would add 75 units of affordable housing.

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

The Project Site is well served by transit. No off-street parking is proposed for the Project, encouraging residents to walk, bicycle, ride transit, or use taxis or carsharing services in lieu of private automobile use. The Project will not adversely affect traffic or parking conditions in the area.

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

The Project would not displace any uses that include industrial or service sector employment. The Project would generate construction-related jobs, as well as new service-sector employment within the retail spaces. Lower-income workers in the industrial or service sectors could occupy the affordable units, therefore, the Project will support the continued viability of these sectors in the City.

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

The Project is designed and would be constructed to conform to the structural and seismic safety requirements of the City Building Code.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The project would have no negative impact on existing parks and open spaces.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2008.0797CV** subject to the following conditions attached hereto as "EXHIBIT A", and in general conformance with plans filed with the Application, stamped "EXHIBIT B" and dated July 22, 2010, which are incorporated herein by reference as though fully set forth.

The Planning Commission has reviewed and considered the MND and the record as a whole and finds that there is no substantial evidence that the Project will have a significant effect on the environment with the adoption of the mitigation measures contained in the MMRP to avoid potentially significant environmental effects associated with the Project, and hereby adopts the MND.

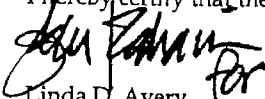
The Planning Commission hereby adopts the MMRP attached hereto as Exhibit C and incorporated herein as part of this Resolution/Motion by this reference thereto. All required mitigation measures identified in the MND and contained in the MMRP are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. _____. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Motion 18154
Hearing Date: July 22, 2010

CASE NO 2008.0797ECKV
235 Broadway

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 22, 2010.


Linda D. Avery
Commission Secretary

AYES: Antonini, Borden, Moore, Olague

NAYS:

ABSENT: Lee, Miguel, Sugaya (Recused)

ADOPTED: July 22, 2010.

Exhibit A

Conditions of Approval

1. This authorization is for Conditional Use Authorization pursuant to Planning Code Sections 271 and 303 to allow exceptions from bulk limitations in association with a project to demolish an existing surface parking lot and construct a new eight-story building containing approximately 75 affordable dwelling units (with a dwelling unit mix of 10 studios, 36 1-bedroom units, 24 2-bedroom units, and 5 3-bedroom units), approximately 2,900 square feet of ground-floor retail use, and no off-street parking, located at 235 Broadway, lot 021 of assessor's block 0165, within the C-2 (Community Business) District, the Washington-Broadway Special Use District No. 2, and the 65-A Height and Bulk District, in general conformance with plans filed with the Application as received on June 17, 2010 and stamped "Exhibit B" included in the docket for Case No. 2008.0797ECKV, reviewed and approved by the Commission on July 22, 2010.

2. MITIGATION MEASURES

Mitigation measures described in the MMRP attached as "Exhibit C" are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

3. COMPLIANCE WITH OTHER REQUIREMENTS

This decision conveys no right to construct. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply. The conditions set forth below shall remain in effect for the life of the Project, unless specifically noted otherwise

4. GENERAL CONDITIONS

- A. **Recordation.** Prior to the issuance of any building permit for the construction of the Project, the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.

- B. **Reporting.** The Project Sponsor shall submit to the Zoning Administrator two copies of a written report describing the status of compliance with the conditions of approval

contained within this Motion every six months from the date of this approval through the issuance of the first temporary certificate of occupancy.

- C. Construction.
- (1). The Project Sponsor shall ensure the construction contractor will coordinate with the City and other construction contractor(s) for any concurrent nearby Projects that are planned for construction so as to minimize, to the extent possible, negative impacts on traffic and nearby properties caused by construction activities.
 - (2). The contractor(s) shall arrange for off-street parking for construction workers.
- D. Performance. The Planning Commission may, in a public hearing, consider the revocation of this conditional use authorization if a site or building permit has not been issued within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued thenceforth diligently to completion. The Commission may also consider revoking this conditional use authorization if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a City, state or federal agency or by appeal of the issuance of such permit.
- E. Severability. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.
- F. First Source. The Project is subject to the requirements of the First Source Hiring Program (Chapter 83 of the Administrative Code) and the Project Sponsor shall comply with the requirements of this Program.
- G. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$250 a day in accordance with Sections 176 and 176.1 of the Planning Code and actions to abate violations of this conditional use authorization in accordance with Section 303(f).
- H. Should monitoring of these Conditions of Approval be required, the Project Sponsor or successors shall pay fees as established in Section 351(e)(1) of the Planning Code.

- I. The Property Owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week
 - J. Signs and exterior lighting for ground floor commercial uses shall be consistent with the approved signage program and shall be reviewed and approved by the Planning Department before they are installed.
 - K. Ground level storefronts in general conformity with Exhibit B shall be maintained in an attractive manner, providing transparency into the tenancy behind. Visibility of the commercial interiors and activity through all storefront windows shall be maintained in order to ensure that the ground level of the building remains visually active, provides visual interest to pedestrians, and enhances sidewalk security. Commercial interior layouts should be designed with these requirements in mind. Generally, storefront windows should not be visually obscured with the following: blinds, shades or curtains; shelving; equipment; darkly tinted, translucent or opaque film; painted, stenciled or adhesive signage applied to individual window surfaces that has an overall transparency of less than 50%, or any signage that covers more than 1/3 of the area of any individual window; full or partial height interior partition walls placed directly against or within 10 feet from the window glazing; or any other items that significantly block the vision of pedestrians through the storefront windows into the occupiable commercial space. Solid roll-down security gates shall not be installed in storefront openings. The Property Owner shall ensure that this condition of approval is incorporated into all commercial leases.
 - L. An enclosed garbage area shall be provided within the Project. All garbage containers shall be kept within the building until pick-up by the disposal company.
5. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A FIRST SITE OR BUILDING PERMIT
- A. Design. The Project Sponsor and the Project architects shall continue to work on design development with the Department. Future submittals shall include details regarding reveal dimensions at all windows, moldings, and other details, as well as building materials and colors.
 - B. A final pedestrian streetscape improvement plan, including landscaping and paving materials and patterns, shall be submitted for review by, and shall be satisfactory to the Planning Director, in consultation with staff from the Department of Public Works, the Department of Parking and Traffic, and the Bureau of Urban Forestry. Other agencies shall be contacted as appropriate. The Project shall include street trees in conformance

BROADWAY SANSOME APARTMENTS GROUND LEASE

by and between the

THE

CITY AND COUNTY OF SAN FRANCISCO

as Landlord

and

BROADWAY SANSOME ASSOCIATES, L.P.,

a California Limited Partnership

as Tenant

Dated as of _____

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AMENDED AND RESTATED GROUND LEASE

This AMENDED AND RESTATED GROUND LEASE (“**Ground Lease**”) is entered into as of _____, 2013, by and between THE CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the “**City**”), represented by the Mayor, acting by and through the Mayor's Office of Housing (“**MOH**”), as landlord, and BROADWAY SANSOME ASSOCIATES, L.P., a California limited partnership, as tenant (the “**Tenant**”).

RECITALS

A. In accordance with the Community Redevelopment Law of the State of California, set forth in California Health and Safety Code Section 330000 et seq. (“**CRL**”), the City created the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic (“**Agency**”), in 1948.

B. In furtherance of the objectives of the CRL, the Agency created programs to redevelop and revitalize blighted areas in the City and County of San Francisco, including the development of affordable housing, which it facilitated by lending or expending tax increment housing set-aside funds and by providing developers with site control necessary for such developments in the form of long-term ground leases.

C. The Agency was the fee owner of the land described in Attachment 1 attached hereto (“**Site**”). Agency and Chinatown Community Development Center, Inc. executed that certain Ground Lease dated July 20, 2010, which was assigned to Tenant pursuant to that certain Assignment and Assumption Agreement dated as of the same date (as assigned, the “**Original Ground Lease**”). Pursuant to terms of the Original Ground Lease, Agency agreed to lease the Site to Tenant for a new construction project which would consist of 74 units of affordable housing, including housing for formerly homeless families, and 2,902 sft of ground level retail

space (the "Project"). Based on preliminary planning, the Project will be a 65-foot tall development with approximately 75 units, comprised of 10 studios, 35 one bedroom, 24 two bedroom, 5 three bedroom units, 1 manager's unit, and other ancillary uses. Proposed on-site amenities include a laundry room, common areas, supportive services office space, bicycle storage, and two retail spaces. The lot is 17,860 sq. feet, and the total gross building square footage will be approximately 85,000.

D. Under California State Assembly Bill No. 1X26 (Chapter 5, Statutes of 2011-12, first Extraordinary Session) ("AB 26"), the Agency dissolved as a matter of law on February 1, 2012, and pursuant to AB 26, as amended by California State Assembly Bill No. 1484 ("AB 1484"), and Resolution No. 11-12, adopted by the City's Board of Supervisors and Mayor on January 26, 2012, Ordinance No. 215-12, adopted by the City's Board of Supervisors and Mayor on October 12, 2012, and the approved housing asset list submitted by City to, and approved by, the State of California Department of Finance pursuant to AB 1484 (Cal. Health & Safety Code Section 34176(a)(2)), City is successor in interest to Agency's fee interest in the Site and to all of the Agency's rights and obligations under the Original Ground Lease.

E. Tenant now intends to close its construction financing for the Project. In anticipation of this transaction, and in light of the dissolution of the Agency and the transfer of all Agency affordable housing assets to City, City and Tenant wish to enter into this Ground Lease to provide for Tenant's lease of the Site, development of the Project and ownership and operation of the Improvements, which Ground Lease shall supersede and replace the Original Ground Lease in its entirety.

NOW THEREFORE, in consideration of the mutual obligations of the parties hereto, the City hereby leases to Tenant, and Tenant hereby leases from the City, the Site, for the term, and

subject to the terms, covenants, agreements and conditions hereinafter set forth, to each and all of which the City and Tenant hereby mutually agree.

ARTICLE 1: DEFINITIONS

Terms used herein have the meanings given them when first used or as set forth in this Article 1, unless the context clearly requires otherwise.

1.01 Agency has the meaning set forth in Recital A.

1.02 Agreement Date means the date that this Ground Lease is deemed to be entered into and effective, as set forth on the first page.

1.03 Area Median Income ("AMI") the area median income as determined by the United States Department of Housing and Urban Development for the San Francisco Primary Metropolitan Statistical Area, adjusted solely for actual household size, and as published annually by MOH.1.04 Intentionally Blank.

1.05 Effective Date means the close of escrow date for all financing required to construct the Project, but in no event shall the date be prior to the approval of the Ground Lease by the City's Board of Supervisors and the Mayor.

1.06 First Lease Payment Year means the year in which the Project receives a Certificate of Occupancy for all residential units.

1.07 First Mortgage Lender means any lender and its successors, assigns and participants or other entity holding the first deed of trust on the Leasehold Estate.

1.08 Ground Lease means this Ground Lease of the Site to the Tenant from the City, as amended from time to time.

1.09 Improvements mean all physical construction, including all structures, fixtures and other improvements to be constructed on the Site.

1.10 Law means all statutes, laws, ordinances, regulations, orders, writs, judgments, injunctions, decrees or awards of the United States or any state, county, municipality or governmental agency.

1.11 Lease Year means each calendar year during the term hereof, beginning on January 1 and ending on December 31, provided that the "First Lease Year" shall commence on the Effective Date and continue through December 31st of that same calendar year. Furthermore, the "Last Lease Year" shall end upon the expiration of the term hereof.

1.12 Leasehold Estate means the estate held by the Tenant pursuant to and created by this Ground Lease.

1.13 Leasehold Mortgage means any mortgage, deed of trust, trust indenture, letter of credit or other security instrument, including but not limited to the deeds of trust securing the First Mortgage Lender and which are part of the Loan Documents, and any assignment of the rents, issues and profits from the Site, or any portion thereof, which constitute a lien on the Leasehold Estate created by this Ground Lease and have been approved in writing by the City.

1.14 Lender means any entity holding a Leasehold Mortgage.

1.15 Loan Documents means those certain loan agreements, notes, deeds of trust and declarations and any other documents executed and delivered in connection with the construction and permanent financing for the Project.

1.16 Local Operating Subsidy Program ("LOSP") means any program of the City that provides operating income to the Project to offset costs associated with the provision of housing and services to very low-income formerly homeless residents.

1.17 LOSP Subsidy Year means any Lease Year in which the Project receives a payment under the LOSP.

1.18 MOH means the Mayor's Office of Housing for the City.

1.19 Occupant means any person or entity authorized by Tenant to occupy a residential unit on the Site, or any portion thereof.

1.20 Original Ground Lease has the meaning set forth in Recital C.

1.21 Permitted Limited Partner has the meaning set forth in Section 19.02. For the purposes of this Ground Lease, Raymond James California Housing Opportunities Fund II L.L.C., a Florida limited liability company and its successors and assigns, shall be deemed to be a Permitted Limited Partner.

1.22 Premises mean the Site together with any Improvements thereon.

1.23 Project means the multi-use development, consisting of 74 units of affordable housing plus 1 manager's unit, community space, support services spaces, common areas, commercial space and other ancillary uses on the Site. If indicated by context, Project means the leasehold interest in the Site and the fee interest in the Improvements on the Site.

1.24 Project Income means all revenue, income receipts, and other consideration actually received from the operation of leasing the Improvements and Project, including non-residential and/or commercial uses of the Site. Project Income shall include but not be limited to: all rents, fees and charges paid by tenants or users of any portion of the Site; Section 8 or other rental subsidy payments received for the dwelling units; supportive services funding, if applicable; commercial lease income; deposits forfeited by tenants; all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; and the proceeds of business interruption or similar insurance. Project Income shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances.

1.25 Site means the real property as more particularly described in the Legal Description attached hereto as Attachment 1.

1.26 Subsequent Owner means any successor (including a Lender or an affiliate or assignee of a Lender as applicable) to the Tenant's interest in the Leasehold Estate and the Improvements who acquires such interest as a result of a foreclosure, deed in lieu of foreclosure, or transfer from a Lender, its affiliate, and any successors to any such person or entity.

1.27 Subsidy Reserve Account means a checking account maintained by Tenant for the purpose of maintaining any Local Operating Subsidy Program funds that were not used during a given LOSP Subsidy Year to be used in the next LOSP Subsidy Year, which shall be held in a bank or savings and loan institution acceptable to the City as a segregated account insured by the Federal Deposit Insurance Corporation or other comparable federal insurance program, and used only for the purposes specified in Section 4.03.

1.28 Surplus Cash means all revenue generated from the Premises remaining in any given Lease Year after deduction of all operating expenses, debt service, and reserve deposits as agreed to in writing by City, the Permitted Limited Partner, and the Lenders. All permitted uses and distributions of Surplus Cash shall be governed by Section 6.02(g) of this Ground Lease.

1.29 Tenant means Broadway Sansome Associates L.P., a California limited partnership and its successors and assigns (or a Subsequent Owner, where appropriate).

1.30 Very Low-Income Households means (a) households earning no more than fifty percent (50%) of Area Median Income, for a term of 55 years from the date on which a certificate of occupancy is issued for the Project, and (b) households earning no more than sixty percent (60%) of Area Median Income for any period of the term (or extended term) of this Ground Lease thereafter, as determined by HUD for the San Francisco area, adjusted solely for actual household size, but not high housing cost area.

Whenever an Attachment is referenced under this Ground Lease, it means an attachment to this Ground Lease unless otherwise specifically identified. Whenever a section, article or paragraph is referenced under this Ground Lease, it is a reference to this Ground Lease unless otherwise specifically referenced.

ARTICLE 2: TERM

(a) **Initial Term.** The term of this Ground Lease shall commence upon the Effective Date and shall end seventy (70) years from that date, unless extended pursuant to section (b) below, or early terminated by the parties.

(b) **Option for Extension.** Provided that the Tenant is not in default of the terms of this Ground Lease, beyond any notice, grace, or cure period, either at the time of giving of an Extension Notice, as described in subparagraph (c) below, or on the last day of the term (the

“**Termination Date**”), the term of this Ground Lease shall be extended at the option of the Tenant for one twenty- nine (29) year period as provided below.

(c) Notice of Extension. Tenant shall have one (1) option to extend the term of this Ground Lease for a period of twenty-nine (29) years from the Termination Date. Not later than one hundred eighty (180) days prior to the Termination Date, the Tenant may notify the City in writing that it wishes to exercise its option to extend the term of this Ground Lease (an “Extension Notice”). In the event Tenant fails to deliver timely the Exercise Notice, City shall deliver to Tenant written notice of Tenant’s failure to deliver timely the Exercise Notice (the “Reminder Extension Notice”) and Tenant shall have an additional one hundred eighty (180) days after receipt of the Reminder Extension Notice to exercise the option to extend the term of this Ground Lease. Upon Tenant’s exercise of this option, the Initial Term shall be extended for twenty-nine (29) years from the Termination Date, for a total Ground Lease term of ninety-nine (99) years.

(d) Rent During Extended Term. Rent for any extended term will be as set forth in Article 4.

(e) Right of First Refusal. If during the term or extended term of this Ground Lease, the City desires to sell its interest in the Site, the Tenant shall have the right of first refusal to purchase the Site as set forth in Section 14.02.

(f) Amended and Restated Ground Lease. The parties hereby acknowledge and agree that this Ground Lease supersedes and replaces the Original Ground Lease in its entirety.

(g) Holding Over. Any holding over after the expiration of the term or extended term of this Ground Lease without the City’s express consent will be construed to extend the Term of this Ground Lease automatically on a year-to-year basis at an Annual Rent equal to two hundred percent (200%) of the latest Annual Rent payable by Tenant hereunder prior to such expiration,

and will otherwise be on the terms and conditions in this Ground Lease specified so far as applicable (except for those pertaining to the Term). Any holding over without the City's consent will constitute a default by Tenant and entitle the City to exercise any or all of its remedies as provided in this Ground Lease, even if the City elects to accept one or more payments of Annual Rent.

ARTICLE 3: FINANCING

Tenant shall submit to the City in accordance with the dates specified in the Schedule of Performance, Attachment 3, for approval by the City, evidence satisfactory to the City that Tenant has sufficient equity capital and commitments for construction and permanent financing, and/or such other evidence of capacity to proceed with the construction of the Improvements in accordance with this Ground Lease, as is acceptable to the City. City hereby acknowledges that as of the Effective Date, Tenant has provided City with sufficient evidence to satisfy this Article 3.

ARTICLE 4: RENT

4.01 Annual Rent

(a) Tenant shall pay the City THREE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$375,000) (the "Annual Rent") per year for each year of the term of this Ground Lease, which shall be equal to ten percent (10%) of appraised value of the Site, and consists of Base Rent and Residual Rent, as defined in Sections 4.02 and 4.03 below, without offset of any kind and without necessity of demand, notice or invoice. Annual Rent shall be re-determined on the fifteenth anniversary of the date of the First Lease Payment Year and every fifteen (15) years

thereafter, and shall be equal to ten percent (10%) of the appraised value of the Site as determined by an MAI appraiser selected by and at the sole cost of the City.

(b) If the Tenant elects to extend the term of this Ground Lease pursuant to Article 2 above, Annual Rent (along with any potential future adjustments) during any such extended term shall be set by mutual agreement of the parties, taking into account the affordable housing restrictions contained in Section 9.02, project debt (including any surplus cash debt obligations) and the annual income expected to be generated by the Project. If the parties cannot agree on the amount of Annual Rent during any extended term, the parties shall invoke a neutral third-party process and shall agree on a neutral third-party appraiser to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco taking into account the affordable housing restrictions contained in Section 9.02, project debt (including any surplus cash debt obligations) and the annual income expected to be generated by the Project or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. Provided, however, that after the neutral third party process and the determination of the new fair market rent, Tenant, in its sole discretion may rescind the Extension Notice if it does not wish to extend the term of this Ground Lease. The costs associated with such third-party process shall be paid for solely by City.

4.02 Base Rent

(a) "Base Rent", means, in any given Lease Year, FIFTEEN THOUSAND DOLLARS (\$15,000) per annum. Base Rent shall be due and payable in arrears on January 31st of each Lease Year, however no Base Rent shall be due until after completion of the Improvements. The first Base Rent payment shall be due on January 31st of the calendar year following the First Lease Payment Year, and shall be equal to \$15,000 times the number of days in the year

following receipt of the initial certificate of occupancy for the Improvements, divided by 365; and provided, further, that in the event that the Tenant or any Subsequent Owner fails, after notice and opportunity to cure, to comply with the provisions of Section 9.02, Base Rent shall be increased to the full amount of Annual Rent. Additionally, in the event that a Subsequent Owner elects pursuant to Section 26.06(ii) to operate the Project without being subject to Section 9.02 or any Subsequent Owner elects, pursuant to Section 26.06(ii), to operate the Project without compliance with such provisions, Annual Rent shall be adjusted as provided in Section 26.07.

(b) If the Project does not have sufficient Project Income (after the payment of operating expenses, required reserves, deposits and fees) to pay Base Rent in any given Lease Year, and the City has received written notice from Tenant regarding its inability to pay Base Rent from Project Income, the unpaid amount shall be deferred and all such deferred amounts shall accrue without interest until paid (“Base Rent Accrual”). The Base Rent Accrual shall be due and payable each year from and to the extent Surplus Cash is available to make such payments and, in any event, upon the earlier of sale of the Project or termination of this Ground Lease.

(c) If Tenant has not provided City with written notice that it cannot pay Base Rent due to insufficient Project Income, the City shall assess a late payment penalty of two percent (2%) for each month or any part thereof that any Base Rent payment is delinquent. This penalty shall not apply to Base Rent Accrual that has been previously approved by the City pursuant to Section 4.02(b). The Tenant may request in writing that the City waive such penalties by describing the reasons for Tenant’s failure to pay Base Rent and Tenant’s proposed actions to insure that Base Rent will be paid in the future. The City may, in its sole discretion, waive in

writing all or a portion of such penalties if it finds that Tenant's failure to pay Base Rent was beyond Tenant's control and that Tenant is diligently pursuing reasonable solutions to remedy such failure to pay.

4.03 Residual Rent

"Residual Rent" means, in any given Lease Year, THREE HUNDRED SIXTY THOUSAND DOLLARS (\$360,000), subject to any periodic adjustments pursuant to Section 4.01(a). Residual Rent shall be due in arrears on April 15th following each Lease Year. Except as otherwise provided in Section 26.07(a)(2)(C), Residual Rent shall be payable only to the extent of Surplus Cash as provided in Section 6.02(g) below, and any unpaid Residual Rent shall not accrue. However, in the event that Surplus Cash is insufficient to pay the full amount of the Residual Rent, Tenant shall certify to the City in writing by April 15 that available Surplus Cash is insufficient to pay Residual Rent and Tenant shall provide to City any supporting documentation reasonably requested by City to allow City to verify the insufficiency.

4.04 Triple Net Lease

This Ground Lease is a triple net lease and the Tenant shall be responsible to pay all costs, charges, taxes, impositions and other obligations related thereto accruing after the Agreement Date. If the City pays any such amounts, whether to cure a default or otherwise protect its interests hereunder, the City will be entitled to be reimbursed by Tenant the full amount of such payments as additional rent within thirty (30) days of written demand by City. Failure to timely pay the additional rent shall be an event of default.

ARTICLE 5: CITY COVENANTS

The City is duly created, validly existing and in good standing under the Law, and has full right, power and authority to enter into and perform its obligations under this Ground Lease. City

covenants and warrants that the Tenant and its tenants shall have, hold and enjoy, during the lease term, peaceful, quiet and undisputed possession of the Site leased without hindrance or molestation by or from anyone so long as the Tenant is not in default under this Ground Lease.

ARTICLE 6: TENANT COVENANTS

Tenant covenants and agrees for itself, and its successors and assigns to or of the Site, or any part thereof, that:

6.01 Limited Partnership/Authority

Tenant is a California limited partnership and has full rights, power and authority to enter into and perform its obligations under this Ground Lease.

6.02 Use of Site and Rents

During the term of this Ground Lease, Tenant and such successors and assigns shall comply with the following requirements:

6.02(a) Permitted Uses

Except as provided in Sections 26.06 and 26.07 of this Ground Lease, Tenant shall devote the Site to, exclusively and in accordance with, the uses specified in this Ground Lease, as specified in Article 9 hereof, which are the only uses permitted by this Ground Lease.

6.02(b) Non-Discrimination Tenant shall not discriminate against or segregate any person or group of persons on account of race, color, creed, religion, ancestry, national origin, sex, gender identity, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Site or the Improvements, or any part thereof, nor shall Tenant itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy,

of Occupants, subtenants or vendees on the Site or Improvements, or any part thereof, except to the extent permitted by law or required by funding source. Tenant shall not discriminate against tenants with certificates or vouchers under the Section 8 program or any successor rent subsidy program.

6.02(c) Non-Discriminatory Advertising

All advertising (including signs) for sublease of the whole or any part of the Site shall include the legend "Equal Housing Opportunity" in type or lettering of legible size and design, or as required by applicable law.

6.02(d) Access for Disabled Persons

Comply with all applicable laws providing for access for persons with disabilities, including, but not limited to, the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

6.02(e) Equal Opportunity Marketing Plan

Tenant shall submit a Fair Housing Marketing Plan to be approved by the City which approval shall not be unreasonably withheld, conditioned or delayed. The Fair Housing Marketing Plan must follow the City's marketing requirements for such plans.

6.02(f) Lead Based Paint

Tenant agrees to comply with the regulations issued by the Secretary of HUD set forth in 24 CFR Part 35 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in certain residential structures undergoing federally assisted construction and require the elimination of lead-based paint hazards.

6.02(g) Permitted Uses of Surplus Cash

All annual Project Income, prior to the calculation of Surplus Cash, shall be used to pay property expenses in the following order: first, to any and all operating expenses including required reserves, deposits, and fees contained in the loan documents evidencing loans, second, to Base Rent, and third, to any required debt service to any First Mortgage Lender (s) including without limitation the City, all as agreed to in writing by City. Any cash remaining after payment of each and all of the above mentioned obligations shall be deemed Surplus Cash. If the Tenant is in compliance with all applicable requirements and agreements under this Ground Lease, Tenant shall use Surplus Cash to make the following payments:

First, to Base Rent Accrual, if any; second, to a limited partner asset management fee; third, to replenish the operating reserve account, if necessary, up the amount required under the City Loan Documents; fourth, to any outstanding deferred developer fee; fifth, to a partnership management fee of \$17,820 increasing at an annual rate of three percent (3.5%); then one-third (1/3) of remaining Surplus Cash shall be retained by Tenant and may be used to pay Tenant's general partner an incentive management fee in an amount not to exceed \$500 per unit per year, to a maximum of \$50,000. The remaining two-thirds (2/3) of Surplus Cash, together with any additional Surplus Cash after payment of the Tenant's incentive management fee, shall be paid proportionately to HCD and the City in accordance with their investment in the Project (including the City's contribution to acquire the Site). The City's portion of Surplus Cash will be applied first to Residual Rent, and if any Surplus Cash remains, to repayment of any City loans. Notwithstanding the forgoing, beginning in the year after the City's loans to the Project have been fully repaid, all Surplus Cash will be split with one-third (1/3) of the remaining Surplus Cash retained by the Tenant and used to pay incentive management fee or for any other purpose

permitted under the Tenant's partnership agreement, and with the remaining two thirds (2/3) of Surplus Cash paid to the City and applied to Residual Rent.

6.03 City Deemed Beneficiary of Covenants

In amplification, and not in restriction, of the provisions of the preceding subsections, it is intended and agreed that the City shall be deemed beneficiary of the agreements and covenants provided in this Article 6 for and in its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the City for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the City has at any time been, remains, or is an owner of any land or interest therein to, or in favor of, which such agreements and covenants relate. The City shall have the right, in the event of any breach of any such agreements or covenants, in each case, after notice and the expiration of cure periods, to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of covenants, to which it or any other beneficiaries of such agreements or covenants may be entitled.

ARTICLE 7: ANNUAL INCOME COMPUTATION AND CERTIFICATION

Forty-five (45) days after recordation of a NOC (as defined in Section 10.14) by the Tenant for the Improvements, and not later than December 31st of each year thereafter, Tenant will furnish to the City a list of all of the names of the persons who are Occupants of the Improvements, the specific unit which each person occupies, the household income of the Occupants of each unit, the household size and the rent being charged to the Occupants of each unit. If any state or federal agency requires an income certification for Occupants of the

Improvements containing the above-referenced information, the City agrees to accept such certification in lieu of an Income Computation and Certification substantially in the form attached hereto as Attachment 7 as meeting the requirements of this Ground Lease. In addition to such initial and annual list and certification, Tenant agrees to provide the same information and certification to the City regarding each Occupant of the Improvements not later than twenty (20) business days after such Occupant commences occupancy.

ARTICLE 8: CONDITION OF SITE - "AS IS"

Neither the City, nor any employee, agent or representative of the City has made any representation, warranty or covenant, expressed or implied, with respect to the Site, its physical condition, the condition of any improvements, any environmental laws or regulations, or any other matter, affecting the use, value, occupancy or enjoyment of the Site other than as set forth explicitly in this Ground Lease, and the Tenant understands and agrees that the City is making no such representation, warranty or covenant, expressed or implied; it being expressly understood that the Site is being leased in an "AS IS" condition with respect to all matters.

ARTICLE 9: IMPROVEMENTS AND PERMITTED USES

9.01 Scope of Development and Schedule of Performance

Tenant agrees to undertake and complete all physical construction on the Site, if any, as reasonably approved by the City, in accordance with the Schedule of Performance, Attachment 3, and the Scope of Development, Attachment 2.

9.02 Permitted Uses and Occupancy Restrictions

(a) The permitted uses of the Project are limited to approximately seventy-four (74) residential dwelling units plus one manager's unit (collectively, the "**Residential Units**"), ground floor support services spaces and common areas and two retail spaces. Upon the completion of

construction, one hundred percent (100%) of the Residential Units in the Project shall be occupied or held vacant and available for rental by Very Low Income Households. Additionally, all Residential Units shall be occupied and rented in accordance with all applicable restrictions imposed on the Project by Lenders for so long as such restrictions are required by the applicable Lender.

ARTICLE 10: CONSTRUCTION OF IMPROVEMENTS

10.01 General Requirements and Rights of City

Construction documents for the construction of the Improvements by Tenant (the "Construction Documents") shall be prepared by a person registered in and by the State of California to practice architecture and shall be in conformity with this Ground Lease, including any limitations established in the City's reasonable approval of the schematic drawings, if any, preliminary construction documents, and final construction documents for the Premises, and all applicable Federal, State and local laws and regulations. The architect shall use, as necessary, members of associated design professions, including engineers and landscape architects.

10.02 City Approvals and Limitation Thereof

The City shall have the authority to review and approve the Construction Documents, which approval shall not be granted until City has confirmed that the Construction Documents comply with Redevelopment Requirements, as described in this section below. City hereby acknowledges and agrees that it has approved the Construction Documents.

10.02(a) Compliance with Ground Lease

The City's approval with respect to the Construction Documents is limited to determination of their compliance with this Ground Lease, including, if applicable, the Scope of Development (these enumerated documents are for convenience sometimes called

“Redevelopment Requirements”). The Construction Documents shall be subject to general architectural review and guidance by the City as part of this review and approval process.

10.02(b) City Does Not Approve Compliance with Construction Requirements

The City’s approval is not directed to engineering or structural matters or compliance with building codes and regulations, the Americans with Disabilities Act, or any other applicable State or Federal law relating to construction standards or requirements.

10.02(c) City Determination Final and Conclusive

The City’s determination respecting the compliance of the Construction Documents with Redevelopment Requirements shall be final and conclusive (except that it makes no determination and has no responsibility for the matters set forth in Section 10.02(b), above).

10.03 Construction to be in Compliance with Construction Documents and Law

10.03(a) Compliance with City and City Approved Documents

The construction shall be in material compliance with the City-approved Construction Documents.

10.03(b) Compliance with Local, State and Federal Law

The construction shall be in material compliance with all applicable local, State and Federal laws and regulations.

10.04 Approval of Construction Documents by MOH

Tenant shall submit to MOH, who shall approve or disapprove the Construction Documents referred to in this Ground Lease within the times established in the Schedule of Performance. Failure by the MOH either to approve or disapprove within the times established in the Schedule of Performance shall entitle Tenant to a day for day extension of time for

completion of those activities delayed as a result of MOH's failure to timely approve or disapprove the Construction Documents.

10.05 Disapproval of Construction Documents by City

If the City disapproves the Construction Documents in whole or in part as not being in compliance with Redevelopment Requirements or this Ground Lease, Tenant shall submit new or corrected plans which are in compliance within thirty (30) days after written notification to it of disapproval, and the provision of this section relating to approval, disapproval and re-submission of corrected Construction Documents shall continue to apply until the Construction Documents have been approved by the City; provided, however, that in any event Tenant must submit satisfactory Construction Documents (i.e., approved by City) no later than the date specified therefor in the Schedule of Performance. The approved Construction Documents including all drawings, specifications and other related documents shall be collectively referred to as the "Final Construction Documents."

10.06 Intentionally Omitted

10.07 Issuance of Building Permits

(a) Tenant shall have the sole responsibility for obtaining all necessary building permits and shall make application for such permits directly to the City's Department of Building Inspection and City shall reasonably cooperate with Tenant in obtaining and applying for such permits. The City understands and agrees that Tenant may use the Fast Track method of permit approval for building the Improvements.

(b) The Tenant is advised that the Central Permit Bureau forwards all building permits to MOH for MOH approval of compliance with Redevelopment Requirements. MOH's approval of compliance with Redevelopment Requirements is limited and does not include

Section 10.02(b) matters. Agency evidences such compliance by signing the permit and returning the permit to the Central Permit Bureau for issuance directly to the Tenant. Approval of any intermediate permit, however, is not approval of compliance with all Redevelopment Requirements necessary for a full and final building permit.

(c) Notwithstanding anything contain in this Section 10.07 to the contrary, the City has obtained, at City's sole cost, the site permit for the Project (the "Site Permit"), and City shall cause the Site Permit to be fully assigned and transferred to the Tenant.

10.08 Performance and Payment Bonds

Prior to commencement of construction of the Improvements, Tenant shall deliver to the City performance and payment bonds, each for the full value of the cost of construction of the Improvements, which bonds shall name the City as co-obligee, or such other completion security which is acceptable to the City.

10.09 City Approval of Changes after Commencement of Construction

Once construction has commenced, the only Construction Document matters subject to further review by MOH will be requests for any material changes in the Construction Documents which affect matters previously approved by MOH. Permission to make such changes shall be requested by Tenant in writing directed to MOH, Attention: Senior Project Manager/Construction Supervisor or his designee. MOH shall reply in writing giving approval or disapproval of the changes within ten (10) days after receiving such request. If the request is disapproved, the reply must specify the reasons for the disapproval.

10.10 Times for Construction

Tenant agrees for itself, and its successors and assigns to or of the Leasehold Estate or any part thereof, that Tenant and such successors and assigns shall promptly begin and diligently

prosecute to completion the redevelopment of the Site through the construction of the Improvements thereon, and that such construction shall in any event commence and thereafter diligently continue and shall be completed no later than the dates specified in the Schedule of Performance, subject to force majeure, unless such dates are extended by the City.

10.11 Force Majeure

For the purposes of any of the provisions of this Ground Lease, neither the City nor Tenant, as the case may be, shall be considered in breach or default of its obligations, nor shall there be deemed a failure to satisfy any conditions with respect to the beginning and completion of construction of the Improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations or satisfaction of such conditions, due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts of the government, compliance with governmental or utility orders or regulations or requirements, acts of the other party, lawsuits, actions, or other proceedings brought against the Tenant or the project by third parties, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, general scarcity of materials and unusually severe weather or delays of subcontractors due to such causes; it being the purposes and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for the satisfaction of conditions to this Ground Lease including those with respect to construction of the Improvements, shall be extended for the period of the enforced delay; provided, however, that the party seeking the benefit of the provisions of this paragraph shall have notified the other party thereof in writing of the cause or causes thereof within thirty (30) days after the beginning of any such enforced delay and requested an extension for the period of the enforced delay.

10.12 Reports

Until completion of construction of the Improvements, Tenant shall make a report in writing to the City every three (3) months, in such detail as may reasonably be required by the City, as to the actual progress of the Tenant with respect to such construction.

10.13 Access to Site

Tenant shall permit access to the Site to the City to the extent necessary to carry out the purposes of the provisions of this Ground Lease, during normal business hours, at reasonable times and upon reasonable advance notice.

10.14 Notice of Completion

Promptly upon completion of the construction of the Improvements in accordance with the provisions of this Ground Lease, Tenant shall timely file a Notice of Completion ("NOC"), and record such NOC in the San Francisco Recorder's Office. Tenant shall provide City with a copy of the recorded NOC.

10.15 Completion of Improvements by New Developer

In the event Lender or a successor thereto forecloses, obtains a deed in lieu of foreclosure or otherwise realizes upon the Premises and undertakes construction of the Improvements ("New Developer") (A) such New Developer shall not be bound by the provisions of the Schedule of Performance with respect to any deadlines for the completion of the Improvements but shall only be required to complete the Improvements with due diligence and in conformance with a new Schedule of Performance as agreed upon by the New Developer and the City, (B) such New Developer shall only be required to complete the Improvements in accordance with all applicable building codes and ordinances, and the approved Construction Documents with such changes that are mutually agreed upon by the City and the New Developer pursuant to Subsection (C) hereof; and (C) City and New Developer shall negotiate in good faith such

reasonable amendments and reasonable modifications to Section 10 of this Lease as the parties mutually determine to be reasonably necessary based upon the financial and construction conditions then existing.

ARTICLE 11: COMPLETION OF IMPROVEMENTS

11.01 Certificate of Completion - Issuance

Promptly after completion of the construction of the Improvements in accordance with the provisions of this Ground Lease, the City will furnish Tenant with an appropriate instrument so certifying. Such certification by the City shall be a conclusive determination of satisfaction and termination of the agreements and covenants of this Ground Lease with respect to the obligation of Tenant, and its successors and assigns, to construct the Improvements in accordance with City approved Final Construction Documents and the dates for the beginning and completion thereof; provided, however, that such determination shall only be withheld because of failure to carry out specific requirements of the Redevelopment Requirements or this Ground Lease; provided further, that such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of Tenant to any Lender, or any insurer of a mortgage, securing money loaned to finance the construction or any part thereof; provided further, that City issuance of any Certificate of Completion does not relieve Tenant or any other person or entity from any and all City requirements or conditions to occupancy of the Improvements, which requirements or conditions must be complied with separately.

11.02 Certifications to be Recordable

All certifications provided for in this section shall be in such form as will enable them to be recorded with the San Francisco Recorder's Office.

11.03 Certification of Completion - Non-Issuance Reasons

If the City shall refuse or fail to provide any certification in accordance with the provisions of Section 11.01, the City shall provide Tenant with a written statement, within fifteen (15) days after written request by Tenant, indicating in adequate detail in what respects Tenant has failed to complete the construction of the Improvements in accordance with the provisions of this Ground Lease and what measures or acts will be necessary, in the opinion of the City, for Tenant to take or perform in order to obtain such certification.

ARTICLE 12: CHANGES TO THE IMPROVEMENTS

12.01 Post Completion Changes

The City has a particular interest in the Site and in the nature and extent of the permitted changes to the Improvements. Accordingly, it desires to and does hereby impose the following particular controls on the Site and on the Improvements: during the term of this Ground Lease, neither Tenant, nor any voluntary or involuntary successor or assign, shall make or permit any Change (as defined in Section 12.02) in the Improvements, unless the express prior written consent for any change shall have been requested in writing from the City and obtained, and, if obtained, upon such terms and conditions as the City may reasonably be require. The City agrees not to withhold, condition or delay its response to such a request unreasonably.

12.02 Definition of Change

“Change” as used in this Article means any alteration, modification, addition and/or substitution of or to the Site, the Improvements, and/or the density of development which differs materially from that which existed upon the completion of construction of the Improvements in accordance with this Ground Lease, and shall include without limitation the exterior design, exterior materials and/or exterior color. For purposes of the foregoing, exterior shall mean and include the roof of the Improvements. Changes shall not include repairs, maintenance and

interior alterations in the normal course of operation of the Project, tenant improvements made by tenants to the commercial space pursuant to commercial leases, or as may be required in an emergency to protect the safety and well-being of the Occupants, the Tenant, Tenant's tenants or subtenants, or anyone lawfully permitted on the Site.

12.03 Enforcement

Subject to Article 19 hereof, City shall have any and all remedies in law or equity (including without limitation restraining orders, injunctions and/or specific performance), judicial or administrative, to enforce the provisions of this Article 12, including without limitation any actual breach or violation thereof.

ARTICLE 13: TITLE TO IMPROVEMENTS

Fee title to any Improvements shall be vested in Tenant and shall remain vested in Tenant during the term of this Ground Lease, subject to Section 14.01 below. Subject to the rights of any Lenders and as further consideration for the City entering into this Ground Lease, at the expiration or earlier termination of this Ground Lease, fee title to all the Improvements shall vest in the City without further action of any party, without any obligation by the City to pay any compensation therefor to Tenant and without the necessity of a deed from Tenant to the City.

ARTICLE 14: ASSIGNMENT, SUBLEASE OR OTHER CONVEYANCE

14.01 Assignment, Sublease or Other Conveyance by Tenant

Tenant may not sell, assign, convey, sublease, or transfer in any other mode or form all or any part of its interest in this Ground Lease or in the Improvements or any portion thereof, other than to Lender(s) or affiliates of Lenders, or allow any person or entity to occupy or use all or any part of the Site, other than leases to residential tenants in the ordinary course of business, or to service providers or vendors, nor may it contract or agree to do any of the same, without the prior

written approval of the City, which approval shall not be unreasonably withheld or delayed. Notwithstanding anything contained herein to the contrary, Tenant may sell, assign, convey, sublease or transfer any or all of its interests in and to this Ground Lease to Chinatown Community Development Center, Inc. ("CCDC"), or to an affiliate or successor of CCDC, and may change, assign, acquire, or liquidate partnership interests in Tenant, as permitted under Article 49 of this Lease. The City reserves the right to review and approve any commercial leases for the Site. Such approval shall not be unreasonably withheld, conditioned or delayed.

14.02 Assignment, Sublease or Other Conveyance by City

The parties acknowledge that any sale, assignment, transfer or conveyance of all or any part of the City's interest in the Site, the Improvements, or this Ground Lease, is subject to this Ground Lease. The City will require that any purchaser, assignee or transferee expressly assume all of the obligations of the City under this Ground Lease by a written instrument recordable in the Official Records of the City. This Ground Lease shall not be affected by any such sale, and Tenant shall attorn to any such purchaser or assignee. In the event that the City intends to sell all or any part of the Site, the City shall notify Tenant of the proposed terms of such sale not later than ninety (90) days before the anticipated close of escrow. Tenant shall have sixty (60) days from the giving of such notice to exercise a right of first refusal to purchase the Site on the same terms and conditions of such proposed sale, provided that any sale of City's interest in the Site shall be subject to the prior approval of the City's Board of Supervisors and Mayor.

ARTICLE 15: TAXES

Tenant agrees to pay, or cause to be paid, when due to the proper authority, any and all valid taxes, assessments and similar charges on the Site which become effective after the Effective Date of this Ground Lease, including all taxes levied or assessed on the possession, use

or occupancy, as distinguished from the ownership, of the Site. Tenant shall not permit any such taxes, charges or other assessments to become a defaulted lien on the Site 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 contest the legal validity or the amount of any tax, assessment or similar charge, through such proceedings as Tenant considers necessary or appropriate, and Tenant may defer the payment thereof so long as the validity or amount thereof shall be contested by Tenant in good faith and without expense to the City. In the event of any such contest, Tenant shall protect, defend and indemnify the City against all loss, cost, expense or damage resulting there from, and should Tenant be unsuccessful in any such contest, Tenant shall forthwith pay, discharge, or cause to be paid or discharged, such tax, assessment or other similar charge. The City shall furnish such information as Tenant shall reasonably request in connection with any such contest provided that such information is in City's possession, control or is otherwise available to the public. City hereby consents to and shall reasonably cooperate and assist with Tenant in applying for and obtaining any applicable exemptions from taxes or assessments levied on the Site, the Improvements or on Tenant's interest thereon.

ARTICLE 16: UTILITIES

Tenant shall procure water and sewer service from the City and electricity, telephone, natural gas and any other utility service from the City or utility companies providing such services, and shall pay all connection and use charges imposed in connection with such services. As between the City and Tenant, Tenant shall be responsible for the installation and maintenance of all facilities required in connection with such utility services to the extent not installed or maintained by the City or the utility providing such service.

ARTICLE 17: MAINTENANCE

Tenant, at all times during the term hereof, shall maintain or cause to be maintained the Premises in good condition and repair, including the exterior, interior, substructure and foundation of the Improvements and all fixtures, equipment and landscaping from time to time located on the Site or any part thereof. The City shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Site or any buildings or to improvements now or hereafter located thereon.

ARTICLE 18: LIENS

Tenant shall use its best efforts to keep the Site free from any liens arising out of any work performed or materials furnished by itself or its subtenants. In the event that Tenant shall not cause the same to be released of record or bonded around within twenty (20) days following written notice from the City of the imposition of any such lien, the City shall have, in addition to all other remedies provided herein and by law, the right but not the obligation to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All sums paid by the City for such purpose, and all reasonable expenses incurred by it in connection therewith, shall be payable to the City by Tenant on demand; provided, however, Tenant shall have the right, upon posting of an adequate bond or other security, to contest any such lien, and the City shall not seek to satisfy or discharge any such lien unless Tenant has failed so to do within ten (10) days after the final determination of the validity thereof. In the event of any such contest, Tenant shall protect, defend, and indemnify the City against all loss, cost, expense or damage resulting therefrom.

ARTICLE 19: GENERAL REMEDIES

19.01 Application of Remedies

The provisions of this Article 19 shall govern the parties' remedies for breach of this Ground Lease.

19.02 Notice and Cure Rights for Tenant and Permitted Limited Partner

(a) The City may not exercise its remedies under this Ground Lease for a default by the Tenant unless and until (i) the City has given written notice of any such default, in accordance with the notice provisions of Article 39, to Tenant and Permitted Limited Partners who have requested notice as set forth below ("Permitted Limited Partners"), and (ii) such default has not been cured within sixty (60) days, or such longer period as may be set forth herein, following the giving of such notice or, if such default cannot be cured within such 60-day period, such longer period as is reasonably necessary to cure such default, provided that such cure has been commenced within such 60-day period and is being prosecuted diligently to completion. If a Permitted Limited Partner cannot cure a default due to an automatic stay in Bankruptcy court because the general partner of the Tenant is in bankruptcy, any cure period will be tolled during the pendency of such automatic stay.

(b) The City will not exercise its remedy to terminate this Ground Lease if a Permitted Limited Partner is attempting to cure the default and such cure requires removal of the General Partner, so long as the Permitted Limited Partner is proceeding diligently to remove the General Partner in order to effect a cure of such default.

(c) Unless otherwise provided for herein, any limited partner wishing to become a Permitted Limited Partner other than the Permitted Limited Partner identified in Section 39 must provide five (5) days written notice to the City in accordance with the notice provisions of this Ground Lease, setting forth a notice address and providing a copy of such notice to the Tenant and all of the Tenant's partners. Such limited partner will become a Permitted Limited Partner

upon the expiration of the five-day period. A limited partner will not be afforded the protections of this section with respect to any default occurring prior to the time such limited partner becomes a Permitted Limited Partner.

19.03 Breach by City

If Tenant believes a material breach of this Ground Lease has occurred, Tenant shall first notify the City in writing of the purported breach, giving the City sixty (60) days from receipt of such notice to cure such breach. In the event City does not then cure or, if the breach is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and thereafter diligently prosecute such cure to completion, then Tenant shall be afforded all of its rights at law or in equity by taking any or all of the following remedies: (i) terminating in writing this entire Ground Lease with the written consent of each Lender; (ii) prosecuting an action for damages; (iii) seeking specific performance of this Ground Lease; or (iv) any other remedy available at law or equity.

19.04 Breach by Tenant

19.04(a) Default by Tenant

Subject to the notice and cure rights under Section 19.02, the following events each constitute a basis for the City to take action against Tenant:

- (1) Tenant fails to comply with the Permitted Uses and Occupancy Restrictions set forth in Section 9.02;
- (2) Tenant voluntarily or involuntarily assigns, transfers or attempts to transfer or assign this Ground Lease or any rights in this Ground Lease, or in the Improvements, except as permitted by this Ground Lease;

(3) Tenant, or its successor in interest, shall fail to pay real estate taxes or assessments on the Premises or any part thereof when due, or shall place thereon any encumbrance or lien unauthorized by this Ground Lease, or shall suffer any levy or attachment to be made, or any material supplier's or mechanic's lien or any other unauthorized encumbrance or lien to attach, and such taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged; provided, however, that Tenant shall have the right to contest any tax or assessment pursuant to Article 15 and Article 18 and, upon the posting of an adequate bond or other security, to contest any such lien or encumbrance. In the event of any such contest, Tenant shall protect, indemnify and hold City harmless against all losses and damages, including reasonable attorneys' fees and costs resulting therefrom;

(4) Tenant shall be adjudicated bankrupt or insolvent or shall make a transfer in defraud of creditors, or make an assignment for the benefit of creditors, or bring or have brought against Tenant any action or proceeding of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act and, in the event such proceedings are involuntary, Tenant is not dismissed from the same within sixty (60) days thereafter; or, a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within sixty (60) days;

(5) Tenant breaches any other material provision of this Ground Lease;

(6) Tenant fails to pay any portion of Annual Rent when due in accordance with the terms and provisions of this Ground Lease.

19.04(b) Notification and City Remedies

Upon the happening of any of the events described in Section 19.04(a) above and prior to exercising any remedies, the City shall notify Tenant, the Permitted Limited Partners and

each Lender in writing of the Tenant's purported breach, failure or act, giving Tenant sixty (60) days from receipt of such notice to cure such breach, failure or act. In the event Tenant does not cure or, if the breach, failure or act is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and thereafter diligently prosecute such cure to completion, then, subject to the rights of any Lender and subject to Section 19.02 and Article 26, the City thereafter shall be afforded all of its rights at law or in equity, including any or all of the following remedies: (1) terminating in writing this Ground Lease; or (2) prosecuting an action for damages or (3) seeking specific performance of this Ground Lease; or (4) in the case of default under Section 19.04(a)(1), increasing the Base Rent to the full amount of the Annual Rent.

Notwithstanding the foregoing, during the 15-year tax credit compliance period, City may only terminate this Ground Lease for a default by Tenant under Section 19.04(a)(6) above.

ARTICLE 20: DAMAGE AND DESTRUCTION

20.01 Insured Casualty

If the Improvements or any part thereof are damaged or destroyed by any cause covered by any policy of insurance required to be maintained by Tenant hereunder, Tenant shall promptly commence and diligently complete the restoration of the Improvements as nearly as possible to the condition thereof prior to such damage or destruction; provided, however, that if more than fifty percent (50%) of the Improvements are destroyed or are so damaged by fire or other casualty and if the insurance proceeds do not provide at least ninety percent (90%) of the funds necessary to accomplish the restoration, Tenant, with the written consent of Lender, may terminate this Ground Lease within thirty (30) days after the later of (i) the date of such damage or destruction, or (ii) the date on which Tenant is notified of the amount of insurance proceeds available for

restoration. In the event Tenant is required or elects to restore the Improvements, all proceeds of any policy of insurance required to be maintained by Tenant under this Ground Lease shall, subject to any rights of Lenders, be used by Tenant for that purpose and Tenant shall make up from its own funds or obtain additional financing as reasonably approved by the City any deficiency between the amount of insurance proceeds available for the work of restoration and the actual cost thereof. In the event Tenant elects to terminate this Ground Lease pursuant to its right to do so under this Section 20.01, or elects not to restore the Improvements, the insurance proceeds shall be disbursed in the order set forth in Section 20.03 below.

20.02 Uninsured Casualty

If (i) more than 50% of the Improvements are damaged or destroyed and ten percent (10%) or more of the cost of restoration is not within the scope of the insurance coverage; and (ii) in the reasonable opinion of Tenant, the undamaged portion of the Improvements cannot be completed or operated on an economically feasible basis; and (iii) there is not available to Tenant any feasible source of third party financing for restoration reasonably acceptable to Tenant; then Tenant may, with the written consent of each Lender, other than the City, terminate this Ground Lease upon ninety (90) days written notice to the City. If it appears that the provisions of this Section 20.02 may apply to a particular event of damage or destruction, Tenant shall notify the City promptly and not consent to any settlement or adjustment of an insurance award without the City's written approval, which approval shall not be unreasonably withheld or delayed. In the event that Tenant terminates this Ground Lease pursuant to this Section 20.02, all insurance proceeds and damages payable by reason of the casualty shall be divided among City, Tenant and Lenders in accordance with the provisions of Section 20.03. If Tenant does not have the right, or elects not to exercise the right, to terminate this Ground Lease as a result of an uninsured casualty,

Tenant shall promptly commence and diligently complete the restoration of the Improvements as nearly as possible to their condition prior to such damage or destruction in accordance with the provisions of Section 20.01 and shall, subject to any applicable rights of Lenders, be entitled to all available insurance proceeds.

20.03 Distribution of the Insurance Proceeds

In the event of an election by Tenant to terminate and surrender as provided in either Sections 20.01 or 20.02, the priority and manner for distribution of the proceeds of any insurance policy required to be maintained by Tenant hereunder shall be as follows:

(a) First to the Lenders, in order of their priority, to control, disburse or apply to any outstanding loan amounts in accordance with the terms their respective Leasehold Mortgages;

(b) Second, to pay for the cost of removal of all debris from the Site or adjacent and underlying property, and for the cost of any work or service required by any statute, law, ordinance, rule, regulation or order of any federal, state or local government, or any agency or official thereof, for the protection of persons or property from any risk, or for the abatement of any nuisance, created by or arising from the casualty or the damage or destruction caused thereby;

(c) Third, to compensate City for any diminution in the value (as of the date of the damage or destruction) of the Site as a raw development site caused by or arising from the damage or destruction; and

(d) The remainder to Tenant.

20.04 Clean Up of Housing Site

In the event the Tenant terminates this Ground Lease pursuant to the provisions of Sections 20.01 or 20.02 and the proceeds of any insurance policy are insufficient to pay the clean-

up and other costs described in Article 20.03(b), Tenant shall have the obligation to pay the portion of such costs not covered by the insurance proceeds.

**ARTICLE 21: DAMAGE TO PERSON OR PROPERTY; HAZARDOUS MATERIALS;
INDEMNIFICATION**

21.01 Damage to Person or Property -General Indemnification

City shall not in any event whatsoever be liable for any injury or damage to any person happening on or about the Site, for any injury or damage to the Premises, or to any property of Tenant, or to any property of any other person, entity or association on or about the Site, unless arising from any gross negligence or willful misconduct of the City or any of its commissioners, officers, agents or employees. Tenant shall defend, hold harmless and indemnify the City and its respective commissioners, officers, agents, and employees, of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising from its tenancy, its use of the Site, including adjoining sidewalks and streets, and any of its operations activities thereon or connected thereto; provided, however, that this Article 21 shall not be deemed or construed to and shall not impose an obligation to indemnify and save harmless the City or any of its commissioners, officers, agents or employees from any claim, loss, damage, liability or expense, of any nature whatsoever, arising from or in any way related to or connected with any willful misconduct or gross negligence of the City, any of its commissioners, officers, agents, employees or by the person or entity seeking such indemnity.

21.02 Hazardous Materials –Indemnification

(a) Tenant shall indemnify, defend, and hold the City, and its commissioners, officers, agents and employees (individually, an "Indemnified Party" and collectively, the

"Indemnified Parties") harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to violation of any Environmental Law, or any Release, threatened Release and any condition or Hazardous Substance related nuisance on, under or from the Site.

(b) For purposes of this Section 21.02, the following definitions shall apply:

(i) "Hazardous Substance" shall have the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Agreement, 42 U.S.C. 9601(14), and in addition shall include, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code Section 25316 and Section 25281(d), all chemicals listed pursuant to the California Health & Safety Code 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition shall not include substances which occur naturally on the Site.

(ii) "Environmental Law" shall include all federal, state and local laws, regulations and ordinances governing hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee or community right-to-know requirements related to the work being performed under this Agreement.

(iii) "Release" shall mean any spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substance.

ARTICLE 22: INSURANCE

22.01 Insurance

The Tenant shall maintain insurance meeting the requirements of this Article.

22.01(a) Insurance Requirements for Tenant

During the term of this Ground Lease, Tenant shall procure and maintain insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of any work hereunder by the Tenant, its agents, representatives, employees or subcontractors and the Tenant's use and occupancy of the Site and the Improvements.

22.01(b) Minimum Scope of Insurance

Coverage shall be at least as broad as:

- (1) Insurance Services Office Commercial General Liability coverage (form CG 00 01 – "Occurrence") or other form approved by the City's Risk Manager.
- (2) Insurance Services Office Automobile Liability coverage, code 1 (form CA 00 01 – "Any Auto") or other form approved by the City's Risk Manager.
- (3) Workers' Compensation Insurance as required by the State of California and Employer's Liability insurance.
- (4) Professional Liability Insurance: Tenant shall require that all architects, engineers, and surveyors for the Project have liability insurance covering negligent

acts, errors and omissions. Tenant shall provide the City with copies of consultants' insurance certificates showing such coverage.

(5) Insurance Services Office Property Insurance coverage (form CP 10 30 60 95 – “Causes of Loss – Special Form”) or other form approved by the City’s Risk Manager.

(6) Crime Policy or Fidelity Bond covering the Borrower’s officers and employees against dishonesty with respect to the use of City funds.

22.01(c) Minimum Limits of Insurance

Tenant shall maintain limits no less than:

(1) General Liability: Commercial General Liability insurance with no less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit for bodily injury and property damage, including coverage for contractual liability; personal injury; fire damage legal liability; advertisers’ liability; owners’ and contractors’ protective liability; products and completed operations; broad form property damage; and explosion, collapse and underground (XCU)coverage during any period in which Tenant is conducting any activity on, alteration or improvement to the Site with risk of explosion, collapse, or underground hazards..

(2) Automobile Liability: Business Automobile Liability insurance with no less than One Million Dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage, including owned, hired and non-owned auto coverage, as applicable.

(3) Workers’ Compensation: Workers’ Compensation, in statutory amounts, with Employers’ Liability limits not less than One Million Dollars (\$1,000,000) each accident, injury, or illness.

(4) Professional Liability: Professional Liability insurance of no less than One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) annual aggregate limit covering all negligent acts, errors and omissions of Tenant's architects, engineers and surveyors.

(5) Crime Policy or Fidelity Bond: Crime Policy or Fidelity Bond of no less than Seventy Five Thousand Dollars (\$75,000) each loss, with any deductible not to exceed Five Thousand Dollars (\$5,000) each loss.

(6) Pollution Liability and/or Asbestos Pollution Liability: Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year, this coverage shall be endorsed to include Non-Owned Disposal Site coverage.

(7) Property and Builder's Risk Insurance:

(a) Prior to construction:

(i) Property insurance, excluding earthquake and flood, in the amount no less than One Hundred Percent (100%) of the replacement value of all improvements prior to commencement of construction and City property in the care, custody and control of the Tenant or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such perils, resulting damage and any applicable law, ordinance or regulation; start up, testing and machinery breakdown including electrical arcing; and with a deductible not to exceed Ten Thousand Dollars (\$10,000) each loss, including the City and all subcontractors as loss payees.

(b) During the course of construction:

(i) Builder's risk insurance, special form coverage, excluding earthquake and flood, for one hundred percent (100%) of the replacement value of all completed improvements and City property in the care, custody and control of the Tenant or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such covered perils, resulting damage and any applicable law, ordinance or regulation; start up, testing and machinery breakdown including electrical arcing, copy of the applicable endorsement to the Builder's Risk policy, if the Builder's Risk policy is issued on a declared-project basis; and with a deductible not to exceed Ten Thousand Dollars (\$10,000) each loss, including the City and all subcontractors as loss payees.

(ii) Performance and payment bonds of contractors, each in the amount of One Hundred Percent (100%) of contract amounts, naming the City and Tenant as dual obligees or other completion security approved by the City in its sole discretion.

(c) Upon completion of construction:

(i) Property insurance, excluding earthquake and flood, in the amount no less than One Hundred Percent (100%) of the then-current replacement value of all improvements and City property in the care, custody and control of the Tenant or its contractor. For rehabilitation/construction projects that are unoccupied by residential or commercial tenants, Tenant must obtain Property Insurance by the date that the project receives a Certificate of Substantial Completion.

(ii) Boiler and machinery insurance, comprehensive form, covering damage to, loss or destruction of machinery and equipment located on the Site 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.

22.01(d) Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions in excess of \$25,000 must be declared to and approved by City's Risk Manager. At the option of City's Risk Manager, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City and County of San Francisco, and their respective commissioners, members, officers, agents, and employees; or the Tenant shall procure a financial guarantee satisfactory to the City's Risk Manager guaranteeing payment of losses and related investigations, claim administration and defense expenses.

22.01(e) Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

(1) General Liability and Automobile Liability Coverage:

(a) The "City and County of San Francisco, and their respective commissioners, members, officers, agents, and employees", are to be covered as additional insured with respect to: liability arising out of activities performed by or on behalf of the Tenant related to the Project; products and completed operations of the Tenant, premises owned, occupied or used by the Tenant related to the Project; and automobiles owned, leased, hired or borrowed by the Tenant for the operations related to the Project. The coverage shall contain no special limitations on the scope of protection afforded to the City and its Commissioners, members, officers, agents or employees.

(2) Workers' Compensation and Property Insurance: The insured shall agree to waive all rights of subrogation against the "City and County of San Francisco, and their

respective commissioners, members, officers, agents, and employees” for any losses in connection with this Project.

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

(4) All Coverage: Each insurance policy required by this Article shall:

(a) Be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given to City, except in the event of suspension for nonpayment of premium, in which case ten (10) days' notice shall be given.

(b) Contain a clause providing that the City and its officers, agents and employees will not be liable for any required premium.

(c) For any claims related to this Ground Lease, the Tenant's insurance coverage shall be primary insurance with respect to the City and its commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by the City or its commissioners, members, officers, agents, or employees shall be in excess of the Tenant's insurance and shall not contribute with it.

(d) The Tenant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(e) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City and its commissioners, members, officers, agents, or employees.

(f) Approval of Tenant's insurance by the City will not relieve or decrease the liability of Tenant under this Ground Lease.

(g) The City reserves the right to require an increase in insurance coverage in the event the City determines that conditions show cause for an increase, unless Tenant demonstrates to the City's satisfaction that the increased coverage is commercially unreasonable and unavailable to Tenant.

22.01(f) Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A-VIII or as otherwise approved by the City's Risk Manager.

22.01(g) Verification of Coverage

Tenant shall furnish City with certificates of insurance and with original endorsements effecting coverage required by this clause at the commencement of this Ground Lease and annually thereafter. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time.

22.01(h) Subcontractors

Tenant shall include all subcontractors and consultants as additional insureds under its policies or shall furnish separate certificates and endorsements for each. Tenant shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San

Francisco, its officers, agents and employees and the Tenant as additional insureds. All coverage for subcontractors and consultants shall be subject to all of the requirements stated herein unless otherwise approved by the City's Risk Manager.

ARTICLE 23: COMPLIANCE WITH SITE-RELATED AND LEGAL REQUIREMENTS

23.01 Compliance with Legal Requirements

Tenant shall at its cost and expense, promptly comply with all Laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, with the requirements of any board of fire underwriters or other similar body now or hereafter constituted, with any direction or occupancy certificate issued pursuant to any law by any public officer or officers, insofar as any thereof relates to or affects the condition, use or occupancy of the Site. In the event Tenant contests any of the foregoing, Tenant shall not be obligated to comply therewith to the extent that the application of the contested law, statute, ordinance, rule, regulation or requirement is stayed by the operation of law or administrative or judicial order and Tenant indemnifies the City against all loss, cost, expense or damage resulting from noncompliance.

23.02 Regulatory Approvals

Tenant understands and agrees that the City is entering into this Ground Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a regulatory agency with certain police powers. Tenant understands and agrees that neither entry by the City into this Ground Lease nor any approvals given by the City under this Ground Lease will be deemed to imply that Tenant will obtain any required approvals from City departments, boards or commissions that have jurisdiction over the Premises. By entering into this Ground Lease, the

City is in no way modifying or limiting the obligations of Tenant to develop the Project in accordance with all Laws, as provided in this Ground Lease.

Tenant understands that its construction of the Improvements on the Premises and development of the Project will require approval, authorization or permit by governmental agencies with jurisdiction, which may include the City's Planning Commission and/or Zoning Administrator and the Department of Building Inspection. Tenant must use good faith efforts to obtain and will be solely responsible for obtaining any such approvals required for the Project in the manner set forth in this Section. Tenant will not seek any regulatory approval without first obtaining MOH's approval, which approval shall not be unreasonably withheld or delayed. Throughout the permit process for any regulatory approval, Tenant will consult and coordinate with MOH in Tenant's efforts to obtain permits. MOH will cooperate reasonably with Tenant in its efforts to obtain permits; provided, however, Tenant may not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit from any other regulatory agency if the City is required to be a co-permittee under the permit or the conditions or restrictions could create any financial or other material obligations on the part of the City whether on or off of the Premises, unless in each instance MOH has approved the conditions previously in writing and in MOH's reasonable discretion. No approval by MOH will limit Tenant's obligation to pay all the costs of complying with conditions under this Section. Tenant must bear all costs associated with applying for and obtaining any necessary regulatory approval, as well as any fines, penalties or corrective actions imposed as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval.

With MOH's prior written consent, Tenant will have the right to appeal or contest any condition in any manner permitted by law imposed upon any regulatory approval. In addition to

any other indemnification provisions of this Ground Lease, Tenant must indemnify the City and its commissioners, officers, agents or employees from and against any and all losses that may arise in connection with Tenant's failure to obtain or comply with the terms and conditions of any regulatory approval or with the appeal or contest of any conditions of any regulatory approval, except to the extent damage arises out of the gross negligence or willful misconduct of the City or its agents.

ARTICLE 24: ENTRY

(a) The City reserves for itself and its authorized representatives the right to enter the Property at all reasonable times during normal business hours upon not less than forty-eight (48) hours' written notice to Tenant (except in the event of an emergency), subject to the rights of the occupants, tenants and others lawfully permitted on the Property, for any of the following purposes:

- (i) to inspect the work being performed by Tenant in developing the Project.
- (ii) to determine whether the Premises is in good condition and to inspect the Premises (including soil borings or other Hazardous Material Investigations);
- (iii) to determine whether Tenant is in compliance with its Ground Lease obligations and to cure or attempt to cure any Tenant default;
- (iv) to serve, post or keep posted any notices required or allowed under any of the provisions of this Ground Lease;
- (v) to do any maintenance or repairs to the Premises that the City has the right or the obligation, if any, to perform hereunder; and

(vi) to show the Premises to any prospective purchasers, brokers, Lenders or public officials, or, during the last year of the Term of this Lease, exhibit the Premises to prospective tenants or other occupants, and to post any reasonable "for sale" or "for lease" signs in connection therewith.

(b) In the event of any emergency, as reasonably determined by the City, at its sole option and without notice, the City may enter the Premises and alter or remove any Improvements or Tenant's personal property on or about the Premises as reasonably necessary, given the nature of the emergency. The City will have the right to use any and all means the City considers appropriate to gain access to any portion of the Premises in an emergency, in which case, the City will not be responsible for any damage or injury to any property, nor for the replacement of any property, and no emergency entry may be deemed to be a forcible or unlawful entry onto or a detainer of the Premises, or an eviction, actual or constructive, of Tenant from the Premises or any portion thereof.

(c) The City will not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of the City's entry onto the Premises, except to the extent damage arises out of the gross negligence or willful misconduct of the City or its agents. The City will be responsible for any losses resulting from its gross negligence or willful misconduct and will repair any resulting damage promptly.

(d) Tenant will not be entitled to any abatement in Annual Rent if the City exercises any rights reserved in this Section, subject to subsection (c) above.

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

ARTICLE 25: MORTGAGE FINANCING

25.01 No Encumbrances Except for Development Purposes

Notwithstanding any other provision of this Ground Lease and subject to the prior written consent of the City in the form attached hereto as Attachment 4, which consent shall not be unreasonably withheld, conditioned or delayed, Leasehold Mortgages are permitted to be placed upon the Leasehold Estate only for the purpose of securing loans of funds to be used for financing the acquisition, design, construction, renovation or reconstruction of the Improvements and any other expenditures reasonably necessary and appropriate to acquire, own, develop, construct, renovate, or reconstruct the Improvements under this Ground Lease and in connection with the operation of the Improvements, and costs and expenses incurred or to be incurred by Tenant in furtherance of the purposes of this Ground Lease. The City hereby acknowledges and accepts Silicon Valley Bank as a Lender, and consents to the Leasehold Mortgage associated with Silicon Valley Bank's construction loan to Tenant for the Project.

25.02 Holder Not Obligated to Construct

The holder of any mortgage, deed of trust or other security interest authorized by Section 25.01 ("Holder" or "Lender"), including the successors or assigns of such Holder, is not obligated to complete any construction of the Improvements or to guarantee such completion; nor shall any covenant or any other provision of this Ground Lease be construed so to obligate such Holder. However, in the event the Holder does undertake to complete or guarantee the completion of the construction of the Improvements, subject to Section 26.06(ii), nothing in this Ground Lease shall be deemed or construed to permit or authorize any such Holder or its successors or assigns to devote the Site or any portion thereof to any uses, or to construct any Improvements thereon, other than those uses or Improvements authorized under Section 9.02 subject to any reasonable

modifications in plans proposed by any Holder or its successors in interest proposed for the viability of the Project, subject to the approval of City which approval shall not be unreasonably withheld. To the extent any Holder or its successors in interest wish to change such uses or construct different improvements, subject to Section 26.06(ii), that Holder or its successors in interest must obtain the written consent of the City.

25.03 Failure of Holder to Complete Construction

In any case where six months after assumption of obligations pursuant to Section 25.02 above, a Holder, having first exercised its option to complete the construction, has not proceeded diligently with completion of the construction, the City shall be afforded the rights against such Holder it would otherwise have against Tenant under this Ground Lease for events or failures occurring after such assumption; provided, however, if Lender has proceeded diligently with construction, the Schedule of Performance shall not apply to Lender if such Schedule of Performance has been replaced by the new Schedule of Performance pursuant to Section 10.15 of this Agreement, which new Schedule of Performance will apply to Lender.

25.04 Default by Tenant and City's Rights

25.04(a) Right of City to Cure a Default or Breach by Tenant under a Leasehold Mortgage

In the event of a default or breach by Tenant in or of its obligations under any Leasehold Mortgage, and Tenant's failure to timely commence or diligently prosecute cure of such default or breach, the City may, at its option, cure such breach or default at any time prior to one hundred ten (110) days after the date on which the Lender files a notice of default. In such event, the City shall be entitled to reimbursement from Tenant of all costs and expenses reasonably incurred by the City in curing the default or breach. The City shall also be entitled to

a lien upon the Leasehold Estate or any portion thereof to the extent of such costs and disbursements that are not reimbursed by Tenant. Any such lien shall be subject to the lien of any then existing Leasehold Mortgage authorized by this Ground Lease, including any lien contemplated because of advances yet to be made. After ninety (90) days following the date of Lender filing a notice of default, the City shall also have the right to assign Tenant's interest in the Ground Lease to another entity, subject to such Lender's and Permitted Limited Partner's written consent, but which may be conditioned, among other things, upon the assumption by such other entity of all obligations of the Tenant under the Leasehold Mortgage.

25.04(b) Notice of Default to City

Tenant shall use its best efforts to require Lender to give the City prompt written notice of any such default or breach and each Leasehold Mortgage shall so provide and shall also contain the City's right to cure as above set forth.

25.05 Cost of Mortgage Loans to be Paid by Tenant

Tenant covenants and affirms that it shall bear all of the costs and expenses in connection with (i) the preparation and securing of any Leasehold Mortgage, (ii) the delivery of any instruments and documents and their filing and recording, if required, and (iii) all taxes and charges payable in connection with any Leasehold Mortgage.

ARTICLE 26: PROTECTION OF LENDER

26.01 Notification to City

Promptly upon the creation of any Leasehold Mortgage and as a condition precedent to the existence of any of the rights set forth in this Article 26, each Lender shall give written notice to the City of the Lender's address and of the existence and nature of its Leasehold Mortgage.

Execution of Attachment 4 shall constitute City's acknowledgement of Lender's having given such notice as is required to obtain the rights and protections of a Lender under this Ground Lease. The City hereby acknowledges that the First Mortgage Lender and the City are deemed to have given such written Notice.

26.02 Lender's Rights to Prevent Termination

Each Lender shall have the right, but not the obligation, at any time prior to termination of this Ground Lease and without payment of any penalty other than the interest on unpaid rent, to pay all of the rents due hereunder, to effect any insurance, to pay any taxes and assessments, to make any repairs and improvements, to do any other act or thing required of Tenant hereunder, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof to prevent a termination of this Ground Lease to the same effect as if the same had been made, done and performed by Tenant instead of by Lender.

26.03 Lender's Rights When Tenant Defaults

Should any event of default under this Ground Lease occur and is continuing, and not be cured within the applicable cure period, the City shall not terminate this Ground Lease nor exercise any other remedy hereunder unless it first gives written notice of such event of default to Lender and

(i) If such event of default is a failure to pay a monetary obligation of Tenant, Lender shall have failed to cure such default within sixty (60) days from the date of written notice from the City to Lender; or

(ii) If such event of default is not a failure to pay a monetary obligation of Tenant, Lender shall have failed, within sixty (60) days of receipt of said written notice, either (a) to

remedy such default; or (b) to obtain title to Tenant's interest in the Site in lieu of foreclosure; or (c) to commence foreclosure or other appropriate proceedings in the nature thereof (including the appointment of a receiver) and thereafter diligently prosecute such proceedings to completion, in which case such event of default shall be remedied or deemed remedied in accordance with Article 26.04 below.

All rights of the City to terminate this Ground Lease as the result of the occurrence of any such event of default shall be subject to, and conditioned upon, the City having first given Lender written notice of such event of default and Lender having failed to remedy such default or acquire Tenant's Leasehold Estate created hereby or commence foreclosure or other appropriate proceedings in the nature thereof as set forth in and within the time specified by this Section 26.03, and upon the Permitted Limited Partners having failed to proceed as permitted under Sections 19.02(b) or 26.06(iv).

26.04 Default Which Cannot be Remedied by Lender

Any event of default under this Ground Lease which in the nature thereof cannot be remedied by Lender shall be deemed to be remedied if (i) within sixty (60) days after receiving notice from the City setting forth the nature of such event of default, or prior thereto, Lender shall have acquired Tenant's Leasehold Estate created hereby or shall have commenced foreclosure or other appropriate proceedings in the nature thereof, (ii) Lender shall diligently prosecute any such proceedings to completion, (iii) Lender shall have fully cured any event of default arising from failure to pay or perform any monetary obligation in accordance with the terms of this Ground Lease, and (iv) after gaining possession of the Improvements, Lender shall diligently proceed to perform all other obligations of Tenant as and when the same are due in accordance with the terms of this Ground Lease.

26.05 Court Action Preventing Lender's Action

If Lender is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the times specified in Sections 26.03 and 26.04 above for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition. If this Ground Lease is terminated or rejected by Tenant in bankruptcy, the City agrees to enter into a new ground lease with the Lender on the same terms set forth in this Ground Lease.

26.06 Lender's Rights to Record, Foreclose and Assign

The City hereby agrees with respect to any Leasehold Mortgage, that

(i) the Lender may cause same to be recorded and enforced, and upon foreclosure, sell and assign the Leasehold Estate created hereby to an assignee from whom it may accept a purchase price; subject, however, to Lender's first securing written approval from City, which approval shall not be unreasonably withheld, and if the Subsequent Owner has elected to maintain the use restrictions of Article 9, said Subsequent Owner shall be controlled by a California nonprofit public benefit corporation exempt from tax under Section 501(c)(3) of the Internal Revenue Code such that the Premises receive an exemption from state property taxes as provided under Section 214 of the California Revenue and Taxation Code. Lender, furthermore, may acquire title to the Leasehold Estate in any lawful way, and if the Lender shall become the assignee, may sell and assign said Leasehold Estate subject to City approval, which shall not be unreasonably withheld, and to the City's rights under Article 25; and

(ii) each Subsequent Owner shall take said Leasehold Estate subject to all of the provisions of this Ground Lease, and shall, so long as and only so long as it shall be the owner of such estate, except as provided elsewhere in this Ground Lease, assume all of the obligations of Tenant under this Ground Lease; provided, however, that, subject to the rent provisions of Section 26.07 below, the Subsequent Owner may operate and maintain the seventy four (74) Residential Units without any limitations on the rents charged or the income of the occupants thereof.

(iii) the City shall mail or deliver to any Lender which has an outstanding Leasehold Mortgage a duplicate copy of all notices which the City may from time to time give to Tenant pursuant to this Ground Lease.

(iv) any Permitted Limited Partners of Tenant shall have the same rights as any Lender under Sections 26.02, 26.03, and 26.06 (iii), and any reference to a Lender in said section shall be deemed to include such limited partners; provided, however, that the rights of such limited partners shall be subordinate to the rights of any Lender.

26.07 Ground Lease Rent After Lender Foreclosure or Assignment

From and after the time that the Subsequent Owner acquires title to the Leasehold Estate, Annual Rent shall be set as follows:

(a) Any accrued Annual Rent at the time of foreclosure shall be forgiven by the City, and shall not remain an obligation of the Lender, its assignee, or the Subsequent Owner. Subsequent to foreclosure or assignment of the Leasehold Estate to the Lender in lieu of foreclosure, if the Lender continues to operate the Project subject to the use and occupancy restrictions of Section 9.02, then Annual Rent otherwise due may, at the option of the Lender, be deferred until the date of the Lender's sale or assignment of the Project to a Subsequent Owner or the date that is sixty (60) days after Lender ceases to operate the Project in accordance with such

restrictions. All deferred Annual Rent shall accrue, with simple interest at six percent (6%) per annum until paid.

(b) If the Subsequent Owner exercises its rights under Section 26.06(ii) to operate the Project without being subject to Section 9.02, Annual Rent shall be set at the then fair market rental value taking into account any affordability restrictions agreed to by the Subsequent Owner, if any, and the Base Rent shall be increased to the new fair market rent pursuant to Section 26.07(b) and the provisions of Section 6.02(g) shall be suspended; provided, however, that the City shall be entitled to reduce Annual Rent by any dollar amount (but not below zero) in its sole discretion and, in such case, the Subsequent Owner will be required to reduce rent charged to tenants on a dollar for dollar basis, with respect to such aggregate units occupied by Very Low Income Households as the City and the Subsequent Owner shall agree. The fair market rental value shall be determined by a jointly-commissioned appraisal (instructions prepared jointly by the Subsequent Owner and the City, with each party paying one half of the appraiser's fee) that will include a market land valuation, as well as a market land lease rent level. Absent a market land lease rent determination, the Annual Rent will be set at an amount equal to ten percent (10%) of the then appraised market land value. If the parties cannot agree on the joint appraisal instructions, either party may invoke a neutral third-party process to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. Provided, however, that after the neutral third party process, the Lender, in its sole discretion may rescind its written notification of intent to not comply with Section 9.02 of this Ground Lease.

26.08 Permitted Uses After Lender Foreclosure

Notwithstanding the above, in the event of a foreclosure and transfer to a Subsequent Owner, the Premises shall be operated in accordance with the uses specified in the building permit with all addenda, as approved by the City's Department of Building Inspection.

26.09 Preservation of Leasehold Benefits

Until such time as a Lender notifies the City in writing that the obligations of the Tenant under its loan documents have been satisfied, the City agrees:

(a) That the City shall not voluntarily cancel or surrender this Ground Lease, or accept a voluntary cancellation or surrender of this Ground Lease by Tenant, or materially amend this Ground Lease to increase the obligations of the Tenant or the rights of the City thereunder, without the prior written consent of the Lender (which will not be unreasonably withheld or delayed);

(b) That the City shall not enforce against a Lender any waiver or election made by the Tenant under this Ground Lease which has a material adverse effect on the value of the Leasehold Estate under this Ground Lease without the prior written consent of the Lender (which will not be unreasonably withheld or delayed);

(c) That, if a Lender makes written request for the same within 15 days after Lender receives written notice of termination of this Ground Lease, the City will enter a new lease with such Lender commencing on the date of termination of the Ground Lease and ending on the normal expiration date of the Ground Lease, on substantially the same terms and conditions as the Ground Lease and subject to the rent provisions set forth in Section 26.07, and with the same priority as against any subleases or other interests in the Premises; provided that such Lender cures all unpaid monetary defaults under the Ground Lease through the date of such termination;

(d) That the City shall provide reasonable prior notice to each Lender of any proceedings for adjustment or adjudication of any insurance or condemnation claim involving the Premises and will permit each Lender to participate therein as an interested party.

26.10 No Merger

The Leasehold Estate in the Premises pursuant to this Ground Lease shall not merge with the fee interest in the Premises, notwithstanding ownership of the leasehold and the fee by the same person, without the prior written consent of each Lender.

26.11 City Bankruptcy

(a) If a bankruptcy proceeding is filed by or against the City, the City shall immediately notify each Lender of such filing and shall deliver a copy of all notices, pleadings, schedules, and similar materials regarding the bankruptcy proceedings to each Lender.

(b) The City acknowledges that (i) the Tenant seeks to construct improvements on the Premises using proceeds of the loans provided by the Lenders, and (ii) it would be unfair to both the Tenant and the Lenders to sell the Premises free and clear of the leasehold. Therefore, the City waives its right to sell the City's fee interest in the Premises pursuant to section 363(f) of the Bankruptcy Code, free and clear of the leasehold interest under this Ground Lease.

(c) If a bankruptcy proceeding is filed by or on behalf of the City, the City agrees as follows: (i) the Tenant shall be presumed to have objected to any attempt by the City to sell the fee interest free and clear of the leasehold under this Ground Lease; (ii) if Tenant does not so object, each Lender shall have the right to so object on its own behalf or on behalf of the Tenant; and (iii) in connection with any such sale, the Tenant shall not be deemed to have received adequate protection under section 363(e) of the Bankruptcy Code, unless it shall have received and paid over to each Lender outstanding balance of the obligations under its respective loan.

(d) City recognizes that the Lenders are authorized on behalf of the Tenant to vote, participate in or consent to any bankruptcy, insolvency, receivership or court proceeding concerning the leasehold interest under this Ground Lease.

ARTICLE 27: CONDEMNATION AND TAKINGS

27.01 Parties' Rights and Obligations to be Governed by Agreement

If, during the term of this Ground Lease, there is any condemnation of all or any part of the Site or any interest in the Leasehold Estate is taken by condemnation, the rights and obligations of the parties shall be determined pursuant to this Article 27, subject to the rights of any Lender.

27.02 Total Taking

If the Site is totally taken by condemnation, this Ground Lease shall terminate on the date the condemnor has the right to possession of the Site.

27.03 Partial Taking

If any portion of the Site is taken by condemnation, this Ground Lease shall remain in effect, except that Tenant may, with Lender's written consent, which consent shall not be unreasonably withheld, conditioned or delayed, elect to terminate this Ground Lease if, in Tenant's reasonable judgment, the remaining portion of the Improvements is rendered unsuitable for Tenant's continued use of the Site. If Tenant elects to terminate this Ground Lease, Tenant must exercise its right to terminate pursuant to this paragraph by giving notice to the City within thirty (30) days after the City notifies Tenant of the nature and the extent of the taking. If Tenant elects to terminate this Ground Lease as provided in this Section 27.03, Tenant also shall notify the City of the date of termination, which date shall not be earlier than thirty (30) days nor later

than six (6) months after Tenant has notified the City of its election to terminate; except that this Ground Lease shall terminate on the date the condemnor has the right to possession of the Site if such date falls on a date before the date of termination as designated by Tenant. If Tenant does not terminate this Ground Lease within such thirty (30) day notice period, this Ground Lease shall continue in full force and effect.

27.04 Effect on Rent

If any portion of the Improvements is taken by condemnation and this Ground Lease remains in full force and effect, then on the date of taking the rent shall be reduced by an amount that is in the same ratio to the rent as the value of the area of the portion of the Improvements taken bears to the total value of the Improvements immediately before the date of the taking.

27.05 Restoration of Improvements

If there is a partial taking of the Improvements and this Ground Lease remains in full force and effect pursuant to Section 27.03, Tenant may, subject to the terms of the Leasehold Mortgage, use the proceeds of the taking to accomplish all necessary restoration to the Improvements.

27.06 Award and Distribution

Any compensation awarded, paid or received on a total or partial condemnation of the Site or threat of condemnation of the Site shall belong to and be distributed in the following order:

(a) First, to pay the balance due on any outstanding Leasehold Mortgages and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals and lease residuals, to the extent provided therein; and

(b) Second, to the Tenant in an amount equal to the actual equity invested by the Tenant.

27.07 Payment to Lenders

In the event the Improvements are subject to the lien of a Leasehold Mortgage on the date when any compensation resulting from a condemnation or threatened condemnation is to be paid to Tenant, such award shall be disposed of as provided in the Loan Documents of the Leasehold Mortgage.

ARTICLE 28: ESTOPPEL CERTIFICATE

The City or Tenant, as the case may be, shall execute, acknowledge and deliver to the other and/or to Lender or a Permitted Limited Partner, promptly upon request, its certificate certifying (a) that this Ground Lease is unmodified and in full force and effect (or, if there have been modifications, that this Ground Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which rent has been paid, (c) whether there are then existing any charges, offsets or defenses against the enforcement by the City or Tenant to be performed or observed and, if so, specifying the same, and (d) whether there are then existing any defaults by Tenant or the City in the performance or observance by Tenant or the City of any agreement, covenant or condition hereof on the part of Tenant or the City to be performed or observed and whether any notice has been given to Tenant or the City of any default which has not been cured and, if so, specifying the same.

ARTICLE 29: QUITCLAIM

Upon expiration or sooner termination of this Ground Lease, Tenant shall surrender the Site to the City and, at the City's request, shall execute, acknowledge, and deliver to the City a good and sufficient quitclaim deed with respect to any interest of Tenant in the Site. Title to the Improvements shall vest automatically in the City as provided in Article 13 herein.

ARTICLE 30: EQUAL OPPORTUNITY

In the selection of all contractors and professional consultants for the Project, Tenant must

comply with the City's procurement requirements and procedures as described in the MOH Contracting Manual and with the requirements of Chapter 14B of the San Francisco Administrative Code ("LBE Ordinance") according to the procedures established by the City's Human Rights Commission. The Project is subject to the requirements of Section 3 of the Housing and Community Development Act of 1968 and of the San Francisco Section 3 program. Federal Section 3 requirements state that contracts and opportunities for job training and employment be given, to the greatest extent feasible, to local low-income residents. Local residents for this project are San Francisco residents. In addition, this project will be required to comply with hiring requirements as incorporated into the local Section 3 program and in conjunction with the City's low-income hiring requirements pursuant to San Francisco's First Source Hiring Ordinance (San Francisco Administrative Code Chapter 83). The goals for hiring of Section 3-eligible workers on the project will be 30% of new hires, moving towards a goal of 30% of total work hours. The Contractor shall also make a best faith effort to meet these goals.

ARTICLE 31: CERTIFICATE OF PREFERENCE PROGRAM

Tenant agrees to comply with the requirements of the Agency's Certificate of Preference Program, as it may be amended from time to time, and as set forth on Attachment 5.

ARTICLE 32: LABOR STANDARDS PROVISIONS

Although the Parties acknowledge that the development of the Project is a private work of improvement, Tenant that any person performing labor in the construction of the Project and any Change to the Premises, which Tenant provides under this Ground Lease, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco,

California. Tenant shall include in any contract for construction of the Project and Change a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Tenant shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of the Project or any Change to the Premises. **ARTICLE 33:**

INTENTIONALLY OMITTED

ARTICLE 34: INTENTIONALLY OMITTED

ARTICLE 35: NO PERSONAL LIABILITY

No commissioner, official, or employee of the City shall be personally liable to Tenant or any successor in interest in the event of any default or breach by the City or for any amount which may become due to Tenant or its successors or on any obligations under the terms of this Ground Lease.

ARTICLE 36: ENERGY CONSERVATION

Tenant agrees that it will use its best efforts to maximize provision of, and incorporation of, both energy conservation techniques and systems and improved waste-handling methodology in the construction of the Improvements.

ARTICLE 37: WAIVER

The waiver by the City or Tenant of any term, covenant, agreement or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement or condition herein contained, nor shall any custom or practice which may grow up between the parties in the administration of the terms hereof be construed to waive or to lessen the right of the City or Tenant to insist upon the performance by the other in strict accordance with the said terms. The subsequent acceptance of rent or any other sum of money

hereunder by the City shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, agreement or condition of this Ground Lease, other than the failure of Tenant to pay the particular rent or other sum so accepted, regardless of the City's knowledge of such preceding breach at the time of acceptance of such rent or other sum.

ARTICLE 38: TENANT RECORDS

Upon reasonable notice during normal business hours, and as often as the City may deem necessary, there shall be made available to the City and its authorized representatives for examination all records, reports, data and information made or kept by Tenant regarding its activities or operations on the Site. Nothing contained herein shall entitle the City to inspect personal histories of residents or lists of donors or supporters. To the extent that it is permitted by law to do so, the City will respect the confidentiality requirements of Tenant in regard to the lists furnished by Tenant pursuant to Article 7 hereof, of the names of occupants of the residential portion of the Site.

ARTICLE 39: NOTICES AND CONSENTS

All notices, demands, consents or approvals which may be or are required to be given by either party to the other hereunder shall be in writing and shall be deemed to have been fully given when delivered in person to such representatives of Tenant and the City as shall from time to time be designated by the parties for the receipt of notices, or when deposited in the United States mail, certified, postage prepaid, or by express delivery service with a delivery receipt and addressed

if to Tenant at: Broadway Sansome Associates, L.P.
 c/o Chinatown Community Development Center
 1525 Grant Avenue
 San Francisco, CA 94133
 Facsimile: (415) 984-1450
 Telephone: (415) 362-7992

Attn: Executive Director

With a copy to

if to City at: Mayor's Office of Housing
One South Van Ness Ave, 5th Floor
San Francisco, California 94103
Attn.: Director

And to Tenant's Permitted
Limited Partner at: Raymond James California Housing Opportunities Fund, II,
LLC
c/o Raymond James Tax Credit Funds, Inc.
880 Carillon Parkway
St. Petersburg, Florida 33716
Facsimile: (727) 567-8455
Attn: Steve Kropf, President

or to such other address with respect to either party as that party may from time to time designate by notice to the other given pursuant to the provisions of this Article 39. Any notice given pursuant to this Article 39 shall be effective on the date of delivery or the date delivery is refused as shown on the delivery receipt.

ARTICLE 40: COMPLETE AGREEMENT

There are no oral agreements between Tenant and the City affecting this Ground Lease, and this Ground Lease supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings between Tenant and the City with respect to the lease of the Site.

ARTICLE 41: HEADINGS

Any titles of the several parts and sections of this Ground Lease are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions. "Paragraph" and "section" may be used interchangeably.

ARTICLE 42: SUCCESSORS AND ASSIGNS

This Ground Lease shall be binding upon and inure to the benefit of the successors and assigns of the City and Tenant and where the term "Tenant" or "City" is used in this Ground Lease, it shall mean and include their respective successors and assigns; provided, however, that the City shall have no obligation under this Ground Lease to, nor shall any benefit of this Ground Lease accrue to, any unapproved successor or assign of Tenant where City approval of a successor or assign is required by this Ground Lease. At such time as City sells the Site to any third party, City shall require such third party to assume all of City's obligations hereunder arising on and after the transfer in writing for the benefit of Tenant and its successors and assigns.

ARTICLE 43: TIME

Time is of the essence in the enforcement of the terms and conditions of this Ground Lease.

ARTICLE 44: PARTIAL INVALIDITY

If any provisions of this Ground Lease shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Ground Lease and all such other provisions shall remain in full force and effect.

ARTICLE 45: APPLICABLE LAW

This Ground Lease shall be governed by and construed pursuant to the laws of the State of California.

ARTICLE 46: ATTORNEYS' FEES

If either of the parties hereto commences a lawsuit to enforce any of the terms of this Ground Lease, the prevailing party will have the right to recover its reasonable attorneys' fees and costs of suit, including fees and costs on appeal, from the other party.

ARTICLE 47: EXECUTION IN COUNTERPARTS

This Ground Lease and any memorandum hereof may be executed in counterparts, each of which shall be considered an original, and all of which shall constitute one and the same instrument.

ARTICLE 48: RECORDATION OF MEMORANDUM OF GROUND LEASE

This Ground Lease shall not be recorded, but a memorandum of this Ground Lease shall be recorded in the form attached hereto as Attachment 6. The parties shall execute the memorandum in form and substance as required by a title insurance company insuring Tenant's leasehold estate or the interest of any Leasehold Mortgagee, and sufficient to give constructive notice of the Ground Lease to subsequent purchasers and mortgagees.

ARTICLE 49: TRANSFER OF PARTNERSHIP INTERESTS IN TENANT

Neither the transfer of any limited partner of Tenant (a "Limited Partner") interests in the Tenant or the admission of a successor limited partner or partners pursuant to the terms of the Partnership Agreement shall constitute an event of default under the Lease nor require the City's consent.

The withdrawal or removal of a general partner of the Tenant pursuant to the terms of the Partnership Agreement shall not require City consent, and shall not constitute a default under the Lease provided that any replacement general partner shall require the consent of the City which consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE 50: CITY PROVISIONS

50.1 Non-Discrimination.

(a) Covenant Not to Discriminate. In the performance of this Ground 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, weight, height or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Tenant, in any of Tenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant.

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

(c) Non-Discrimination in Benefits. Tenant does not as of the date of this Ground Lease and will not during the Term, in any of its operations in San Francisco or with respect to its operations under this Ground Lease elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or

membership discounts, moving expenses, pension and retirement benefits or travel benefits (collectively “Core Benefits”), as well as any benefits other than 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(b) of the San Francisco Administrative Code.

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

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

50.2 MacBride Principles – Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco

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

50.3 Conflicts of Interest. Tenant states that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, certifies that it knows of no facts which would constitute a violation of such provisions and agrees that if Tenant becomes aware of any such fact during the term of this Lease Tenant shall immediately notify the City. Tenant further certifies that it has made a complete disclosure to the City of all facts bearing on any possible interests, direct or indirect, which Tenant believes any officer or employee of the City presently has or will have in this Lease or in the performance thereof or in any portion of the profits thereof. Willful failure by Tenant to make such disclosure, if any, shall constitute grounds for City's termination and cancellation of this Ground Lease.

50.4 Charter Provisions. This Ground Lease is governed by and subject to the provisions of the Charter of the City and County of San Francisco. Accordingly, Tenant acknowledges and agrees that no officer or employee of the City has authority to commit the City to this Ground Lease unless and until an resolution of the City's Board of Supervisors has been duly enacted approving this Ground Lease. Therefore, any obligations or liabilities of the City under this Ground Lease are contingent upon enactment of an resolution, and this Ground Lease will be null and void unless the City's Mayor and the Board of Supervisors approve this Ground Lease, in their respective sole and absolute discretion, and in accordance with all applicable Laws.

Approval of this Ground Lease by any City department, commission or agency may not be deemed to imply that a resolution will be enacted or create any binding obligations on the City.

50.5 Tropical Hardwood/Virgin Redwood Ban. Pursuant to Section 804(b) of the San Francisco Environment Code, the City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Tenant shall not use any items in the rehabilitation, development or operation of the Premises or otherwise in the performance of this Lease which are tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin redwood wood products.

50.6 Tobacco Product Advertising Ban. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products may be allowed on the Premises. The foregoing prohibition will include the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product, or on any sign. The foregoing prohibition will not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

50.7 Pesticide Ordinance. Tenant shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage, and (iii) require Tenant to submit to the City's Department of the Environment an integrated pest management ("IPM") plan that (A) lists,

to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the Term of this Ground Lease, (b) describes the steps Tenant will take to meet the City's IPM Policy described in Section 39.1 of the Pesticide Ordinance, and (c) identifies, by name, title, address and telephone number, an individual to act as the Tenant's primary IPM contact person with City. In addition, Tenant shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing herein shall prevent Tenant, acting through the City, from seeking a determination from the City's Commission on the Environment that Tenant is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 307 thereof.

50.8 Compliance with City's Sunshine Ordinance . Tenant understands and agrees that under the City's Sunshine Ordinance (S.F. Admin. Code, Chapter 67) and the State Public Records Law (Cal. Gov. Code §§ 6250 et seq.), this Agreement and any and all records, information and materials submitted to the City hereunder are public records subject to public disclosure. Tenant hereby authorizes the City to disclose any records, information and materials submitted to the City in connection with this Ground Lease as required by Law. Further, Tenant specifically agrees to conduct any meeting of its governing board that addresses any matter relating to the Project or to Tenant's performance under this Ground Lease as a passive meeting.

50.9 Notification of Limitations on Contributions. Through its execution of this Ground Lease, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing 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 the officer at any time from the

commencement of negotiations for such contract until the termination of negotiations for such contract or three (3) months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves.

50.10 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 (the "HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated in this Ground Lease by reference and made a part of this Ground Lease as though fully set forth. The text of the HCAO is available on the web at www.sfgov.org/oca/lwlh.htm. Capitalized terms used in this Section and not defined in this Lease have the meanings assigned to them in Chapter 12Q. Notwithstanding this requirement, City recognizes that the residential housing component of the Improvements is not subject to the HCAO.

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

(b) If Tenant is a small business as defined in Section 12Q.3(d) of the HCAO, Tenant will have no obligation to comply with Subsection (a) above.

(c) Tenant's failure to comply with the HCAO will constitute a material breach of this Lease. If Tenant fails to cure its breach within thirty (30) days after receiving the City's written notice of a breach of this Lease for violating the HCAO or, if the breach cannot reasonably be cured within the 30-day period, Tenant fails to commence efforts to cure within the

30-day period, or thereafter fails diligently to pursue the cure to completion, the City will have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies will be exercisable individually or in combination with any other rights or remedies available to the City.

(d) Any sublease entered into by Tenant for commercial space in the Project must require the subtenant to comply with the requirements of the HCAO and must contain contractual obligations substantially the same as those set forth in this Section. Tenant must notify the City's Purchasing Department when Tenant enters into a sublease and must certify to the Purchasing Department that Tenant has notified the subtenant of the obligations under the HCAO and has imposed the requirements of the HCAO on subtenant through the sublease. Tenant will be responsible for its subtenants' compliance with this Chapter. If a subtenant fails to comply, the City may pursue the remedies set forth in this Section against Tenant based on the subtenant's failure to comply, provided that City has first provided Tenant with notice and an opportunity to obtain a cure of the violation.

(e) Tenant may not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying the City with regard to Tenant's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in 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 intent of the HCAO.

(g) Tenant must keep itself informed of the current requirements of the HCAO.

(h) Tenant must provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on subtenants, as applicable.

(i) Tenant must provide City with access to records pertaining to compliance with HCAO after receiving a written request from the City to do so and being provided at least five (5) business days to respond.

(j) The City may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant agrees to cooperate with the City when it conducts audits.

(k) If Tenant is exempt from the HCAO when this Lease is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with the City to reach \$75,000, all the agreements will be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and MOH to be equal to or greater than \$75,000 in the fiscal year.

50.11 Public Access to Meetings and Records. If Tenant receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Tenant shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Ground Lease, Tenant agrees to open its meetings and records to the public in the manner set forth in Sections 12L.4 and 12L.5 of the Administrative Code. Tenant further agrees to make good-faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 12L.6 of the Administrative Code. Tenant acknowledges that its material failure

to comply with any of the provisions of this paragraph shall constitute a material breach of this Ground Lease. Tenant further acknowledges that such material breach of the Lease shall be grounds for City to terminate and/or not renew this Ground Lease, partially or in its entirety.

50.12 Resource-Efficient Building Ordinance. Tenant acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Chapter 7 relating to resource-efficient City buildings and resource-efficient pilot projects. Tenant hereby agrees it shall comply with the applicable provisions of such code sections as such sections may apply to the Premises.

50.13 Drug Free Work Place. Tenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City premises. Tenant agrees that any violation of this prohibition by Tenant, its Agents or assigns shall be deemed a material breach of this Ground Lease.

50.14 Preservative Treated Wood Containing Arsenic. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Ground Lease unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the 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, ammoniacal 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 the 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.

50.15 Nondisclosure of Private Information. Tenant agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "Nondisclosure of Private Information Ordinance"), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated herein by reference and made a part of this Agreement as though fully set forth. Capitalized terms used in this section and not defined in this Agreement shall have the meanings assigned to such terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:

- (a) Neither Tenant nor any of its subcontractors shall disclose Private Information, unless one of the following is true:
 - (i) The disclosure is authorized by this Ground Lease;
 - (ii) Tenant received advance written approval from the Contracting Department to disclose the information; or
 - (iii) The disclosure is required by law or judicial order.
- (b) Any disclosure or use of Private Information authorized by this Ground Lease shall be in accordance with any conditions or restrictions stated in this Ground Lease. Any disclosure or use of Private Information authorized by a Contracting Department shall be in accordance with any conditions or restrictions stated in the approval.
- (c) Private Information shall mean any information that: (1) could be used to identify an individual, including without limitation, name, address, social security number,

medical information, financial information, date and location of birth, and names of relatives; or
(2) the law forbids any person from disclosing.

(d) Any failure of Tenant to comply with the Nondisclosure of Private Information Ordinance shall be a material breach of this Ground Lease. In such an event, in addition to any other remedies available to it under equity or law, City may terminate this Ground Lease, debar Tenant, or bring a false claim action against Tenant.

50.16 Graffiti. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Tenant shall remove all graffiti from the Premises and any real property owned or leased by Tenant in the City and County of San Francisco 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 Tenant to breach any lease or other agreement that it may have concerning its use of the real property. The term "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 by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction Premises, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco 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 (California Civil Code Sections 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.). Any failure of Tenant to comply with this section of this Ground Lease shall constitute an event of default of this Ground Lease.

50.17 Incorporation. Each and every provision of the San Francisco Administrative Code described or referenced in this Ground Lease is hereby incorporated by reference as though fully set forth herein. Failure of Tenant to comply with any provision of this Ground Lease relating to any such code provision shall be governed by Article 19 of this Ground Lease, unless (i) such failure is otherwise specifically addressed in this Ground Lease or (ii) such failure is specifically addressed by the applicable code section.

50.18 Food Service Waste Reduction. Tenant agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Ground Lease as though fully set forth herein. This provision is a material term of this Ground Lease. By entering into this Ground Lease, Tenant agrees that if it

breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, 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 Ground 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.

ARTICLE 51: ATTACHMENTS

The following are attached to this Ground Lease and by this reference made a part hereof:

1. Legal Description of Site
2. Scope of Development
3. Schedule of Performance
4. Operational Rules for Certificate Holders' Priority
5. Memorandum of Ground Lease
6. Income Certification Form

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

TENANT:

BROADWAY SANSOME ASSOCIATES, L.P.
a California limited partnership

By: Broadway Family Apartments LLC,
a California limited liability company,
its general partner

By: Chinatown Community Development Center Inc.,
a California nonprofit public benefit corporation,
its managing member

By: _____
Its: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: **Olson Lee**
Director, Mayor's Office of Housing

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: **Evan Gross**
Deputy City Attorney

ATTACHMENT 1

Legal Description of the Site

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

Beginning at the intersection of the Southerly line of Broadway and the Easterly line of Sansome Street; thence along said Southerly line, North $80^{\circ} 54' 41''$ East, 275.54 feet to the intersection of said Southerly line and the Westerly line of Battery Street; thence along said Westerly line, South $9^{\circ} 05' 19''$ East, 50.00 feet to the Northeast corner of that parcel described in document recorded April 17, 1956, in Volume 6827, Page 67, Official Records of the City and County of San Francisco; thence along the Northerly line of said Parcel, South $80^{\circ} 54' 41''$ West, 70.00 feet to the Northwest corner of said Parcel; thence along the Westerly line of said Parcel, South $9^{\circ} 05' 19''$ East, 20.00 feet to the Southerly line of said State Parcel 12933; thence along the Southerly line of said State Parcels 12933, 12934 and 12935, South $80^{\circ} 54' 41''$ West, 107.58 feet; thence North $9^{\circ} 05' 19''$ West, 1.25 feet; thence continuing along said Southerly line, South $80^{\circ} 54' 41''$ West, 20.46 feet to the Southwest corner of said State Parcel 12935; thence leaving said Southerly line and along the Easterly line of said Parcel of the intersection of said Easterly line of that parcel of land known now or formerly as Stevens Alley, South $9^{\circ} 05' 19''$ East, 1.25 feet to the intersection of said Easterly line and the Easterly prolongation of the Southerly line of said State Parcel 12936; thence along said Southerly line and Easterly prolongation thereof, South $80^{\circ} 54' 41''$ West, 77.51 feet to the Easterly line of Sansome Street; thence along said Easterly line, North $9^{\circ} 05' 19''$ West, 70.00 feet to the point of beginning.

APN: 0165-021

ATTACHMENT 2

Scope of Development

The Broadway-Sansome Apartments project is a mid-rise, mixed-use, 100% affordable residential development with retail uses (the "Project") on an approximately 17,850 square-foot, sloping site on Broadway between Sansome and Battery Streets. The eastern portion of the Project site is currently utilized as a commercial surface parking lot, and the western portion is vacant, undeveloped land.

The proposed new construction project consists of 75 units of affordable housing, including housing for formerly homeless families, and 2,902 square feet of ground level retail space. The development will also include supportive services spaces, an at-grade courtyard, and two common roof decks. Bicycle parking will be provided, but no off-street parking is proposed.

The building will be of wood-frame Type III construction, clad in cement plaster, over a concrete, Type I base. A number of sustainable design features will be incorporated, including energy conserving heating/cooling, insulation, lighting, and appliances; water conservation technology in units; indoor air quality enhancements; and recycled/renewable finishes.

The design of Broadway-Sansome Apartments addresses its block long site by responding to the neighborhood context at both the eastern and western ends of the site. From Battery Street and stretching two thirds of the way up the block is a horizontally configured loft-like bar with retail frontage on the Broadway/Battery corner. This simple element has a boldly colored three story middle section over the retail base with a two story glassy loggia above. Sunshades for the raking south and west sun help animate the surfaces of this element. The configuration of the western portion of the block responds to the quite different character and scale of buildings on Sansome Street. Unit plans with recessed bedrooms create deep notches in the building and small, vertically proportioned elements of similar scale to the context buildings on this end of the site. The Broadway/Sansome corner also has retail frontage and the Broadway frontage is animated by the building entrance. The interplay of two compositional strategies related to the surrounding buildings articulates and gives appropriate scale to the only full block frontage on this portion of Broadway.

ATTACHMENT 3

	Performance Milestone	Contractual Deadline
1.	Ground Lease Executed	<u>01/11</u>
2.	Design	
a.	Submittal of Schematic Design & Cost Estimate	<u>09/10</u>
3.	Permits	
a.	Building / Site Permit Application Submitted	<u>05/11</u>
4.	Construction	
a.	Notice to Proceed	<u>06/12</u>
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>12/13</u>
5.	Marketing/Rent-up	
a.	Marketing Plan Submission	<u>04/13</u>
b.	95% Occupancy	<u>2/14</u>

ATTACHMENT 4
OPERATIONAL RULES FOR
CERTIFICATE HOLDERS' PRIORITY

The Owner hereby agrees that priority for units designated for Low Income Households will be given to persons displaced or to be displaced from their homes by Agency redevelopment activities and who have been issued a form described as the "Certificate of Preference" ("Certificate Holder"), establishing a priority right to claim units outlined in the descending order of priority in paragraph D of this Attachment "4". Final acceptance or rejection of Certificate Holders lies with the Owner. The Owner shall notify the Agency and applicant in writing of the reason for rejection. In order to implement this Attachment "4":

- A. The Agency agrees to furnish the following:
1. Written and/or printed notices to Certificate Holders advising them that such units will soon be available;
 2. Assistance to Certificate Holders in filing applications; and
 3. Verification to the Owner that applicant has been displaced.
- B. The Owner agrees to the following:
1. To supply the Agency ninety (90) days prior to accepting lease applications with the information listed below. This information shall not be changed without providing the Agency with ten (10) days written notice.
 - a. A master unit list with the following information:
 - (1) Apartment number;
 - (2) Number of bedrooms and baths;
 - (3) Square footage; and
 - (4) Initial rent to be charged.
 - b. Estimated itemized cost of utilities and services to be paid by tenant by unit size.
 - c. Detailed description of Owner's rules for tenants, which must include:
 - (1) Minimum and maximum income
 - (2) Pet policy
 - (3) Selection process: To insure no discrimination against Low Income Households and Certificate Holders all criteria and the relative weight to be given to each criterion indicated. The Agency shall approve or disapprove the selection process criteria within ten (10) working days after submission thereof to the Agency.
 - (4) Amount of security deposit and all other fees, as well as refund policy regarding same.
 - (5) Occupancy requirements must be described in full and found reasonable by the Agency
 - (6) Duration of rental agreement or lease.
 - (7) Copy of rental agreement or lease.

(8) The Owner's rules for tenants shall be acceptable for purposes of this sub-paragraph.

- d. Amount of charge for processing applications, if any.
- e. Description of application process and length of time needed by Owner.
- f. Copy of rental application and copy of all forms to be used for income verification.
- g. Periodic notification to the Agency of the Owner's office hours for accepting applications and showing model unit(s).

2. The Owner further agrees that some applicants who apply directly to the Owner may be entitled to priority because of previous displacement. The Owner will, therefore, ask the following questions on all applications for occupancy:

"Have you been displaced or do you expect to be displaced by the San Francisco Redevelopment Agency?"

If the applicant answers affirmatively, the address from which displacement occurred is required. Copies of all applications indicating that such displacement either has taken place or will take place must be forwarded to the Agency within five (5) working days of receipt of such application by the Owner. It is agreed that information received on the application will be considered confidential. The Agency will, in turn, determine within ten (10) working days which such applicants are then qualified or will qualify as Certificate Holders, and will establish current Certificate of Preference priority.

- C. 1. During initial lease-up of Low Income Units, the Agency may supply the Owner with a "status report" listing names, addresses and certificate numbers of Certificate Holders for all open applications. The Owner will return the same form within five (5) working days, indicating:

- (1) status of each application as of that date, and
- (2) in case of rejection for any cause, the exact reason thereof.

2. If material supplied in any application by a Certificate Holder indicates ineligibility on its face because of the Owner's rules and regulations, such applicant will be notified within one week, with a copy of the Agency. Any fee charged for processing such application will be refunded in full, notwithstanding, however, that such applicant shall be listed on status report showing application is closed and fee has been returned. If ineligibility can be determined only after a follow-up investigation, the applicant will be notified within one week after such determination is made, with a copy to the Agency. Any fee charged for processing such applications may be retained by the Owner. These applications will also appear on the status report.

3. Within ten (10) working days after execution of a lease, the Owner will supply the Agency with a signed copy of the following for all Certificate Holder tenants:

- (1) signed copy of lease;

- (2) copy of complete application; and
- (3) copies of all verification forms used to ascertain income eligibility.

D. In order to expedite occupancy of housing units nearing completion, the Owner further agrees:

1. To select as prospective tenants eligible Certificate Holders who meet the occupancy requirements of the Owner. Selection will be based on the following descending order of priorities:
 - a. Families or individuals who reside on Agency property in redevelopment areas.
 - b. Families or individuals who were relocated from Agency property and still have a valid Certificate of Preference.
 - c. Families or individuals displaced by the Department of Health, Public Works, etc. and referred by the Agency.
2. Applicants who are Certificate Holders who have been accepted and notified by the Owner will have five (5) working days thereafter to accept or reject a unit. If the Certificate Holder fails to affirmatively respond, the application may be closed. Rejection of the unit by a Certificate holder must be shown on current status report.
3. All Certificate Holders found acceptable by the Owner shall have the opportunity to inspect a model or other available completed unit, and be assigned an appropriate unit for future occupancy. Units may be offered to non-Certificate Holders at any time as long as the current status report shows that there are sufficient units available to satisfy applications from Certificate Holders for units of appropriate size in any stage of processing. ALL OBLIGATIONS TO SHOW MODELS OR OTHER AVAILABLE COMPLETED UNITS SHALL REMAIN IN EFFECT DURING INITIAL OCCUPANCY PERIOD. Initial Occupancy is defined for all purposes of this Attachment "4" as the earlier of ninety (90) calendar days following the Agency's receipt of a certified copy of a Certificate (or Certificates) of Occupancy issued by the City and County of San Francisco for the respective unit (or units) to be so approved for occupancy, or the date when all units have been rented to the first occupants thereof. Upon Initial Occupancy the Agency will certify compliance with this Attachment "4" with a written notice provided ten (10) days after Initial Occupancy. Such certification in no way negates the Owner's continued obligations to provide housing to persons displaced or to be displaced by the Agency's redevelopment activities as vacancies occur amount the units designated for Low Income Households.

E. Prior to Initial Occupancy, the Owner will deliver at least monthly, or more frequently if available to the Owner from its leasing agent, a rent-up report for all Development units listing the following:

1. Unit number rented;
2. Tenant name;
3. Date of move-in; and
4. Rent rate.

- F. The Owner agrees that any contract entered into for the management of the residential portions of the Development, both before and after Initial Occupancy, shall be furnished to the Agency, shall incorporate the provisions of this Attachment "I", and shall bind the management agent to comply with its requirements.
- G. After Initial Occupancy (without regard to whether the Agency has certified compliance with the obligation of the Owner respecting the period prior to Initial Occupancy), the Owner agrees to notify the Agency as far as practicable in advance of vacancies, which may occur in Low Income Housing units. The Agency and the Owner agree to follow the steps set forth in paragraph (D) above with respect to such units. In the event no appropriate Certificate Holder can be found within five (5) working days after receipt of notification by the Owner to the Agency of availability of a unit, the Agency agrees that the Owner may lease the unit to Low Income Households, as appropriate, which do not hold a Certificate of Preference.
- H. The Agency reserves the right to waive any of the foregoing conditions, provided however that any such waiver shall not be deemed to have waived any other conditions, nor the same condition subsequently.

ATTACHMENT 5

Form of Memorandum of Lease

Free Recording Requested Pursuant to
Government Code Section 27383

When recorded, mail to:
Mayor's Office of Housing of the
City and County of San Francisco
1 South Van Ness Avenue, Fifth Floor
San Francisco, California 94103
Attn: Director

MEMORANDUM OF GROUND LEASE

This Memorandum of Ground Lease ("Memorandum") is entered into as of _____, 2013, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City"), acting by and through the Mayor's Office Of Housing ("City"), and BROADWAY SANSOME ASSOCIATES L.P., a California limited partnership ("Tenant"), with respect to that certain Amended and Restated Ground Lease (the "Lease") dated _____, 2013, between City and Tenant.

Pursuant to the Lease, City hereby leases to Tenant and Tenant leases from City the real property more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property"). The Lease shall commence on the date set forth above and shall end on the date which is 70 years from the date set forth above, unless terminated earlier or extended pursuant to the terms of the Lease.

This Memorandum shall incorporate herein all of the terms and provisions of the Lease as though fully set forth herein.

This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the Lease, of which this is a memorandum.

This Memorandum may be signed by the parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts shall be deemed an original of this Memorandum.

Executed as of _____, 2013 in San Francisco, California.

TENANT:
BROADWAY SANSOME ASSOCIATES L.P.,
a California limited partnership

By: BROADWAY FAMILY APARTMENTS LLC,
a California limited liability company
Its managing general partner

By: CHINATOWN COMMUNITY DEVELOPMENT CENTER, INC.,
a California nonprofit public benefit corporation,
Its sole member

By:
Gordon Chin
Executive Director

CITY:
CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By:
Olson Lee
Director, Mayor's Office of Housing

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Deputy City Attorney

ATTACHMENT 6

with Section 143. The street trees planted pursuant to this condition shall be maintained in perpetuity by the Project Sponsor.

6. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF AN ARCHITECTURAL ADDENDUM TO A BUILDING (OR SITE) PERMIT

- A. Except as otherwise provided in this Motion, the Project shall be completed in compliance with the Planning Code and in general conformity with plans dated July 22, 2010, labeled "Exhibit B".
- B. Final detailed building plans shall be reviewed and approved by the Planning Department. Detailed building plans shall include a final site plan, elevations, sections, and a landscape plan, and shall specify final architectural and decorative detailing, materials, glazing, color and texture of exterior finishes, and details of construction.
- C. Highly reflective spandrel glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be used at pedestrian levels.
- D. Pursuant to Planning Code Section 141, rooftop mechanical equipment is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
- E. Signage. The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff. All subsequent sign permits shall conform to the approved signage program. Once approved by Department staff, the signage program information shall be submitted and approved as part of the first building or site permit for the Project.
- F. Lighting. The Project Sponsor shall develop a lighting program for the Project which shall be subject to review and approval by Planning Department staff. The lighting program shall include any lighting required or proposed within the public right-of-way as well as lighting attached to the building. Once approved by Department staff, the lighting program information shall be submitted and approved as part of the first building or site permit for the Project.

7. CONDITIONS TO BE MET PRIOR TO ISSUANCE OF ANY CERTIFICATES OF OCCUPANCY FOR THE PROJECT.

- A. All usable open spaces shall be completed and available for use.

BROADWAY SANSOME APARTMENTS GROUND LEASE

by and between the

THE

CITY AND COUNTY OF SAN FRANCISCO

as Landlord

and

BROADWAY SANSOME ASSOCIATES, L.P.,

a California Limited Partnership

as Tenant

Dated as of _____

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AMENDED AND RESTATED GROUND LEASE

This AMENDED AND RESTATED GROUND LEASE (“**Ground Lease**”) is entered into as of _____, 2013, by and between THE CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the “**City**”), represented by the Mayor, acting by and through the Mayor's Office of Housing (“**MOH**”), as landlord, and BROADWAY SANSOME ASSOCIATES, L.P., a California limited partnership, as tenant (the “**Tenant**”).

RECITALS

A. In accordance with the Community Redevelopment Law of the State of California, set forth in California Health and Safety Code Section 330000 et seq. (“**CRL**”), the City created the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic (“**Agency**”), in 1948.

B. In furtherance of the objectives of the CRL, the Agency created programs to redevelop and revitalize blighted areas in the City and County of San Francisco, including the development of affordable housing, which it facilitated by lending or expending tax increment housing set-aside funds and by providing developers with site control necessary for such developments in the form of long-term ground leases.

C. The Agency was the fee owner of the land described in Attachment 1 attached hereto (“**Site**”). Agency and Chinatown Community Development Center, Inc. executed that certain Ground Lease dated July 20, 2010, which was assigned to Tenant pursuant to that certain Assignment and Assumption Agreement dated as of the same date (as assigned, the “**Original Ground Lease**”). Pursuant to terms of the Original Ground Lease, Agency agreed to lease the Site to Tenant for a new construction project which would consist of 74 units of affordable housing, including housing for formerly homeless families, and 2,902 sft of ground level retail

space (the "Project"). Based on preliminary planning, the Project will be a 65-foot tall development with approximately 75 units, comprised of 10 studios, 35 one bedroom, 24 two bedroom, 5 three bedroom units, 1 manager's unit, and other ancillary uses. Proposed on-site amenities include a laundry room, common areas, supportive services office space, bicycle storage, and two retail spaces. The lot is 17,860 sq. feet, and the total gross building square footage will be approximately 85,000.

D. Under California State Assembly Bill No. 1X26 (Chapter 5, Statutes of 2011-12, first Extraordinary Session) ("AB 26"); the Agency dissolved as a matter of law on February 1, 2012, and pursuant to AB 26, as amended by California State Assembly Bill No. 1484 ("AB 1484"), and Resolution No. 11-12, adopted by the City's Board of Supervisors and Mayor on January 26, 2012, Ordinance No. 215-12, adopted by the City's Board of Supervisors and Mayor on October 12, 2012, and the approved housing asset list submitted by City to, and approved by, the State of California Department of Finance pursuant to AB 1484 (Cal. Health & Safety Code Section 34176(a)(2)), City is successor in interest to Agency's fee interest in the Site and to all of the Agency's rights and obligations under the Original Ground Lease.

E. Tenant now intends to close its construction financing for the Project. In anticipation of this transaction, and in light of the dissolution of the Agency and the transfer of all Agency affordable housing assets to City, City and Tenant wish to enter into this Ground Lease to provide for Tenant's lease of the Site, development of the Project and ownership and operation of the Improvements, which Ground Lease shall supersede and replace the Original Ground Lease in its entirety.

NOW THEREFORE, in consideration of the mutual obligations of the parties hereto, the City hereby leases to Tenant, and Tenant hereby leases from the City, the Site, for the term, and

subject to the terms, covenants, agreements and conditions hereinafter set forth, to each and all of which the City and Tenant hereby mutually agree.

ARTICLE 1: DEFINITIONS

Terms used herein have the meanings given them when first used or as set forth in this Article 1, unless the context clearly requires otherwise.

1.01 Agency has the meaning set forth in Recital A.

1.02 Agreement Date means the date that this Ground Lease is deemed to be entered into and effective, as set forth on the first page.

1.03 Area Median Income ("AMI") the area median income as determined by the United States Department of Housing and Urban Development for the San Francisco Primary Metropolitan Statistical Area, adjusted solely for actual household size, and as published annually by MOH.**1.04** Intentionally Blank.

1.05 Effective Date means the close of escrow date for all financing required to construct the Project, but in no event shall the date be prior to the approval of the Ground Lease by the City's Board of Supervisors and the Mayor.

1.06 First Lease Payment Year means the year in which the Project receives a Certificate of Occupancy for all residential units.

1.07 First Mortgage Lender means any lender and its successors, assigns and participants or other entity holding the first deed of trust on the Leasehold Estate.

1.08 Ground Lease means this Ground Lease of the Site to the Tenant from the City, as amended from time to time.

1.09 Improvements mean all physical construction, including all structures, fixtures and other improvements to be constructed on the Site.

1.10 Law means all statutes, laws, ordinances, regulations, orders, writs, judgments, injunctions, decrees or awards of the United States or any state, county, municipality or governmental agency.

1.11 Lease Year means each calendar year during the term hereof, beginning on January 1 and ending on December 31, provided that the "First Lease Year" shall commence on the Effective Date and continue through December 31st of that same calendar year. Furthermore, the "Last Lease Year" shall end upon the expiration of the term hereof.

1.12 Leasehold Estate means the estate held by the Tenant pursuant to and created by this Ground Lease.

1.13 Leasehold Mortgage means any mortgage, deed of trust, trust indenture, letter of credit or other security instrument, including but not limited to the deeds of trust securing the First Mortgage Lender and which are part of the Loan Documents, and any assignment of the rents, issues and profits from the Site, or any portion thereof, which constitute a lien on the Leasehold Estate created by this Ground Lease and have been approved in writing by the City.

1.14 Lender means any entity holding a Leasehold Mortgage.

1.15 Loan Documents means those certain loan agreements, notes, deeds of trust and declarations and any other documents executed and delivered in connection with the construction and permanent financing for the Project.

1.16 Local Operating Subsidy Program ("LOSP") means any program of the City that provides operating income to the Project to offset costs associated with the provision of housing and services to very low-income formerly homeless residents.

1.17 LOSP Subsidy Year means any Lease Year in which the Project receives a payment under the LOSP.

1.18 MOH means the Mayor's Office of Housing for the City.

1.19 Occupant means any person or entity authorized by Tenant to occupy a residential unit on the Site, or any portion thereof.

1.20 Original Ground Lease has the meaning set forth in Recital C.

1.21 Permitted Limited Partner has the meaning set forth in Section 19.02. For the purposes of this Ground Lease, Raymond James California Housing Opportunities Fund II L.L.C., a Florida limited liability company and its successors and assigns, shall be deemed to be a Permitted Limited Partner.

1.22 Premises mean the Site together with any Improvements thereon.

1.23 Project means the multi-use development, consisting of 74 units of affordable housing plus 1 manager's unit, community space, support services spaces, common areas, commercial space and other ancillary uses on the Site. If indicated by context, Project means the leasehold interest in the Site and the fee interest in the Improvements on the Site.

1.24 Project Income means all revenue, income receipts, and other consideration actually received from the operation of leasing the Improvements and Project, including non-residential and/or commercial uses of the Site. Project Income shall include but not be limited to: all rents, fees and charges paid by tenants or users of any portion of the Site; Section 8 or other rental subsidy payments received for the dwelling units; supportive services funding, if applicable; commercial lease income; deposits forfeited by tenants; all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; and the proceeds of business interruption or similar insurance. Project Income shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances.

1.25 Site means the real property as more particularly described in the Legal Description attached hereto as Attachment 1.

1.26 Subsequent Owner means any successor (including a Lender or an affiliate or assignee of a Lender as applicable) to the Tenant's interest in the Leasehold Estate and the Improvements who acquires such interest as a result of a foreclosure, deed in lieu of foreclosure, or transfer from a Lender, its affiliate, and any successors to any such person or entity.

1.27 Subsidy Reserve Account means a checking account maintained by Tenant for the purpose of maintaining any Local Operating Subsidy Program funds that were not used during a given LOSP Subsidy Year to be used in the next LOSP Subsidy Year, which shall be held in a bank or savings and loan institution acceptable to the City as a segregated account insured by the Federal Deposit Insurance Corporation or other comparable federal insurance program, and used only for the purposes specified in Section 4.03.

1.28 Surplus Cash means all revenue generated from the Premises remaining in any given Lease Year after deduction of all operating expenses, debt service, and reserve deposits as agreed to in writing by City, the Permitted Limited Partner, and the Lenders. All permitted uses and distributions of Surplus Cash shall be governed by Section 6.02(g) of this Ground Lease.

1.29 Tenant means Broadway Sansome Associates L.P., a California limited partnership and its successors and assigns (or a Subsequent Owner, where appropriate).

1.30 Very Low-Income Households means (a) households earning no more than fifty percent (50%) of Area Median Income, for a term of 55 years from the date on which a certificate of occupancy is issued for the Project, and (b) households earning no more than sixty percent (60%) of Area Median Income for any period of the term (or extended term) of this Ground Lease thereafter, as determined by HUD for the San Francisco area, adjusted solely for actual household size, but not high housing cost area.

Whenever an Attachment is referenced under this Ground Lease, it means an attachment to this Ground Lease unless otherwise specifically identified. Whenever a section, article or paragraph is referenced under this Ground Lease, it is a reference to this Ground Lease unless otherwise specifically referenced.

ARTICLE 2: TERM

(a) **Initial Term.** The term of this Ground Lease shall commence upon the Effective Date and shall end seventy (70) years from that date, unless extended pursuant to section (b) below, or early terminated by the parties.

(b) **Option for Extension.** Provided that the Tenant is not in default of the terms of this Ground Lease, beyond any notice, grace, or cure period, either at the time of giving of an Extension Notice, as described in subparagraph (c) below, or on the last day of the term (the

“**Termination Date**”), the term of this Ground Lease shall be extended at the option of the Tenant for one twenty- nine (29) year period as provided below.

(c) Notice of Extension. Tenant shall have one (1) option to extend the term of this Ground Lease for a period of twenty-nine (29) years from the Termination Date. Not later than one hundred eighty (180) days prior to the Termination Date, the Tenant may notify the City in writing that it wishes to exercise its option to extend the term of this Ground Lease (an “Extension Notice”). In the event Tenant fails to deliver timely the Exercise Notice, City shall deliver to Tenant written notice of Tenant’s failure to deliver timely the Exercise Notice (the “Reminder Extension Notice”) and Tenant shall have an additional one hundred eighty (180) days after receipt of the Reminder Extension Notice to exercise the option to extend the term of this Ground Lease. Upon Tenant’s exercise of this option, the Initial Term shall be extended for twenty-nine (29) years from the Termination Date, for a total Ground Lease term of ninety-nine (99) years.

(d) Rent During Extended Term. Rent for any extended term will be as set forth in Article 4.

(e) Right of First Refusal. If during the term or extended term of this Ground Lease, the City desires to sell its interest in the Site, the Tenant shall have the right of first refusal to purchase the Site as set forth in Section 14.02.

(f) Amended and Restated Ground Lease. The parties hereby acknowledge and agree that this Ground Lease supersedes and replaces the Original Ground Lease in its entirety.

(g) Holding Over. Any holding over after the expiration of the term or extended term of this Ground Lease without the City’s express consent will be construed to extend the Term of this Ground Lease automatically on a year-to-year basis at an Annual Rent equal to two hundred percent (200%) of the latest Annual Rent payable by Tenant hereunder prior to such expiration,

and will otherwise be on the terms and conditions in this Ground Lease specified so far as applicable (except for those pertaining to the Term). Any holding over without the City's consent will constitute a default by Tenant and entitle the City to exercise any or all of its remedies as provided in this Ground Lease, even if the City elects to accept one or more payments of Annual Rent.

ARTICLE 3: FINANCING

Tenant shall submit to the City in accordance with the dates specified in the Schedule of Performance, Attachment 3, for approval by the City, evidence satisfactory to the City that Tenant has sufficient equity capital and commitments for construction and permanent financing, and/or such other evidence of capacity to proceed with the construction of the Improvements in accordance with this Ground Lease, as is acceptable to the City. City hereby acknowledges that as of the Effective Date, Tenant has provided City with sufficient evidence to satisfy this Article 3.

ARTICLE 4: RENT

4.01 Annual Rent

(a) Tenant shall pay the City THREE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$375,000) (the "Annual Rent") per year for each year of the term of this Ground Lease, which shall be equal to ten percent (10%) of appraised value of the Site, and consists of Base Rent and Residual Rent, as defined in Sections 4.02 and 4.03 below, without offset of any kind and without necessity of demand, notice or invoice. Annual Rent shall be re-determined on the fifteenth anniversary of the date of the First Lease Payment Year and every fifteen (15) years

thereafter, and shall be equal to ten percent (10%) of the appraised value of the Site as determined by an MAI appraiser selected by and at the sole cost of the City.

(b) If the Tenant elects to extend the term of this Ground Lease pursuant to Article 2 above, Annual Rent (along with any potential future adjustments) during any such extended term shall be set by mutual agreement of the parties, taking into account the affordable housing restrictions contained in Section 9.02, project debt (including any surplus cash debt obligations) and the annual income expected to be generated by the Project. If the parties cannot agree on the amount of Annual Rent during any extended term, the parties shall invoke a neutral third-party process and shall agree on a neutral third-party appraiser to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco taking into account the affordable housing restrictions contained in Section 9.02, project debt (including any surplus cash debt obligations) and the annual income expected to be generated by the Project or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. Provided, however, that after the neutral third party process and the determination of the new fair market rent, Tenant, in its sole discretion may rescind the Extension Notice if it does not wish to extend the term of this Ground Lease. The costs associated with such third-party process shall be paid for solely by City.

4.02 Base Rent

(a) "Base Rent", means, in any given Lease Year, FIFTEEN THOUSAND DOLLARS (\$15,000) per annum. Base Rent shall be due and payable in arrears on January 31st of each Lease Year, however no Base Rent shall be due until after completion of the Improvements. The first Base Rent payment shall be due on January 31st of the calendar year following the First Lease Payment Year, and shall be equal to \$15,000 times the number of days in the year

following receipt of the initial certificate of occupancy for the Improvements, divided by 365; and provided, further, that in the event that the Tenant or any Subsequent Owner fails, after notice and opportunity to cure, to comply with the provisions of Section 9.02, Base Rent shall be increased to the full amount of Annual Rent. Additionally, in the event that a Subsequent Owner elects pursuant to Section 26.06(ii) to operate the Project without being subject to Section 9.02 or any Subsequent Owner elects, pursuant to Section 26.06(ii), to operate the Project without compliance with such provisions, Annual Rent shall be adjusted as provided in Section 26.07.

(b) If the Project does not have sufficient Project Income (after the payment of operating expenses, required reserves, deposits and fees) to pay Base Rent in any given Lease Year, and the City has received written notice from Tenant regarding its inability to pay Base Rent from Project Income, the unpaid amount shall be deferred and all such deferred amounts shall accrue without interest until paid ("Base Rent Accrual"). The Base Rent Accrual shall be due and payable each year from and to the extent Surplus Cash is available to make such payments and, in any event, upon the earlier of sale of the Project or termination of this Ground Lease.

(c) If Tenant has not provided City with written notice that it cannot pay Base Rent due to insufficient Project Income, the City shall assess a late payment penalty of two percent (2%) for each month or any part thereof that any Base Rent payment is delinquent. This penalty shall not apply to Base Rent Accrual that has been previously approved by the City pursuant to Section 4.02(b). The Tenant may request in writing that the City waive such penalties by describing the reasons for Tenant's failure to pay Base Rent and Tenant's proposed actions to insure that Base Rent will be paid in the future. The City may, in its sole discretion, waive in

writing all or a portion of such penalties if it finds that Tenant's failure to pay Base Rent was beyond Tenant's control and that Tenant is diligently pursuing reasonable solutions to remedy such failure to pay.

4.03 Residual Rent

"Residual Rent" means, in any given Lease Year, THREE HUNDRED SIXTY THOUSAND DOLLARS (\$360,000), subject to any periodic adjustments pursuant to Section 4.01(a). Residual Rent shall be due in arrears on April 15th following each Lease Year. Except as otherwise provided in Section 26.07(a)(2)(C), Residual Rent shall be payable only to the extent of Surplus Cash as provided in Section 6.02(g) below, and any unpaid Residual Rent shall not accrue. However, in the event that Surplus Cash is insufficient to pay the full amount of the Residual Rent, Tenant shall certify to the City in writing by April 15 that available Surplus Cash is insufficient to pay Residual Rent and Tenant shall provide to City any supporting documentation reasonably requested by City to allow City to verify the insufficiency.

4.04 Triple Net Lease

This Ground Lease is a triple net lease and the Tenant shall be responsible to pay all costs, charges, taxes, impositions and other obligations related thereto accruing after the Agreement Date. If the City pays any such amounts, whether to cure a default or otherwise protect its interests hereunder, the City will be entitled to be reimbursed by Tenant the full amount of such payments as additional rent within thirty (30) days of written demand by City. Failure to timely pay the additional rent shall be an event of default.

ARTICLE 5: CITY COVENANTS

The City is duly created, validly existing and in good standing under the Law, and has full right, power and authority to enter into and perform its obligations under this Ground Lease. City

covenants and warrants that the Tenant and its tenants shall have, hold and enjoy, during the lease term, peaceful, quiet and undisputed possession of the Site leased without hindrance or molestation by or from anyone so long as the Tenant is not in default under this Ground Lease.

ARTICLE 6: TENANT COVENANTS

Tenant covenants and agrees for itself, and its successors and assigns to or of the Site, or any part thereof, that:

6.01 Limited Partnership/Authority

Tenant is a California limited partnership and has full rights, power and authority to enter into and perform its obligations under this Ground Lease.

6.02 Use of Site and Rents

During the term of this Ground Lease, Tenant and such successors and assigns shall comply with the following requirements:

6.02(a) Permitted Uses

Except as provided in Sections 26.06 and 26.07 of this Ground Lease, Tenant shall devote the Site to, exclusively and in accordance with, the uses specified in this Ground Lease, as specified in Article 9 hereof, which are the only uses permitted by this Ground Lease.

6.02(b) Non-Discrimination Tenant shall not discriminate against or segregate any person or group of persons on account of race, color, creed, religion, ancestry, national origin, sex, gender identity, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Site or the Improvements, or any part thereof, nor shall Tenant itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy,

of Occupants, subtenants or vendees on the Site or Improvements, or any part thereof, except to the extent permitted by law or required by funding source. Tenant shall not discriminate against tenants with certificates or vouchers under the Section 8 program or any successor rent subsidy program.

6.02(c) Non-Discriminatory Advertising

All advertising (including signs) for sublease of the whole or any part of the Site shall include the legend "Equal Housing Opportunity" in type or lettering of legible size and design, or as required by applicable law.

6.02(d) Access for Disabled Persons

Comply with all applicable laws providing for access for persons with disabilities, including, but not limited to, the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

6.02(e) Equal Opportunity Marketing Plan

Tenant shall submit a Fair Housing Marketing Plan to be approved by the City which approval shall not be unreasonably withheld, conditioned or delayed. The Fair Housing Marketing Plan must follow the City's marketing requirements for such plans.

6.02(f) Lead Based Paint

Tenant agrees to comply with the regulations issued by the Secretary of HUD set forth in 24 CFR Part 35 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in certain residential structures undergoing federally assisted construction and require the elimination of lead-based paint hazards.

6.02(g) Permitted Uses of Surplus Cash

All annual Project Income, prior to the calculation of Surplus Cash, shall be used to pay property expenses in the following order: first, to any and all operating expenses including required reserves, deposits, and fees contained in the loan documents evidencing loans, second, to Base Rent, and third, to any required debt service to any First Mortgage Lender (s) including without limitation the City, all as agreed to in writing by City. Any cash remaining after payment of each and all of the above mentioned obligations shall be deemed Surplus Cash. If the Tenant is in compliance with all applicable requirements and agreements under this Ground Lease, Tenant shall use Surplus Cash to make the following payments:

First, to Base Rent Accrual, if any; second, to a limited partner asset management fee; third, to replenish the operating reserve account, if necessary, up the amount required under the City Loan Documents; fourth, to any outstanding deferred developer fee; fifth, to a partnership management fee of \$17,820 increasing at an annual rate of three percent (3.5%); then one-third (1/3) of remaining Surplus Cash shall be retained by Tenant and may be used to pay Tenant's general partner an incentive management fee in an amount not to exceed \$500 per unit per year, to a maximum of \$50,000. The remaining two-thirds (2/3) of Surplus Cash, together with any additional Surplus Cash after payment of the Tenant's incentive management fee, shall be paid proportionately to HCD and the City in accordance with their investment in the Project (including the City's contribution to acquire the Site). The City's portion of Surplus Cash will be applied first to Residual Rent, and if any Surplus Cash remains, to repayment of any City loans. Notwithstanding the forgoing, beginning in the year after the City's loans to the Project have been fully repaid, all Surplus Cash will be split with one-third (1/3) of the remaining Surplus Cash retained by the Tenant and used to pay incentive management fee or for any other purpose

permitted under the Tenant's partnership agreement, and with the remaining two thirds (2/3) of Surplus Cash paid to the City and applied to Residual Rent.

6.03 City Deemed Beneficiary of Covenants

In amplification, and not in restriction, of the provisions of the preceding subsections, it is intended and agreed that the City shall be deemed beneficiary of the agreements and covenants provided in this Article 6 for and in its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the City for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the City has at any time been, remains, or is an owner of any land or interest therein to, or in favor of, which such agreements and covenants relate. The City shall have the right, in the event of any breach of any such agreements or covenants, in each case, after notice and the expiration of cure periods, to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of covenants, to which it or any other beneficiaries of such agreements or covenants may be entitled.

ARTICLE 7: ANNUAL INCOME COMPUTATION AND CERTIFICATION

Forty-five (45) days after recordation of a NOC (as defined in Section 10.14) by the Tenant for the Improvements, and not later than December 31st of each year thereafter, Tenant will furnish to the City a list of all of the names of the persons who are Occupants of the Improvements, the specific unit which each person occupies, the household income of the Occupants of each unit, the household size and the rent being charged to the Occupants of each unit. If any state or federal agency requires an income certification for Occupants of the

Improvements containing the above-referenced information, the City agrees to accept such certification in lieu of an Income Computation and Certification substantially in the form attached hereto as Attachment 7 as meeting the requirements of this Ground Lease. In addition to such initial and annual list and certification, Tenant agrees to provide the same information and certification to the City regarding each Occupant of the Improvements not later than twenty (20) business days after such Occupant commences occupancy.

ARTICLE 8: CONDITION OF SITE - "AS IS"

Neither the City, nor any employee, agent or representative of the City has made any representation, warranty or covenant, expressed or implied, with respect to the Site, its physical condition, the condition of any improvements, any environmental laws or regulations, or any other matter, affecting the use, value, occupancy or enjoyment of the Site other than as set forth explicitly in this Ground Lease, and the Tenant understands and agrees that the City is making no such representation, warranty or covenant, expressed or implied; it being expressly understood that the Site is being leased in an "AS IS" condition with respect to all matters.

ARTICLE 9: IMPROVEMENTS AND PERMITTED USES

9.01 Scope of Development and Schedule of Performance

Tenant agrees to undertake and complete all physical construction on the Site, if any, as reasonably approved by the City, in accordance with the Schedule of Performance, Attachment 3, and the Scope of Development, Attachment 2.

9.02 Permitted Uses and Occupancy Restrictions

(a) The permitted uses of the Project are limited to approximately seventy-four (74) residential dwelling units plus one manager's unit (collectively, the "**Residential Units**"), ground floor support services spaces and common areas and two retail spaces. Upon the completion of

construction, one hundred percent (100%) of the Residential Units in the Project shall be occupied or held vacant and available for rental by Very Low Income Households. Additionally, all Residential Units shall be occupied and rented in accordance with all applicable restrictions imposed on the Project by Lenders for so long as such restrictions are required by the applicable Lender.

ARTICLE 10: CONSTRUCTION OF IMPROVEMENTS

10.01 General Requirements and Rights of City

Construction documents for the construction of the Improvements by Tenant (the "Construction Documents") shall be prepared by a person registered in and by the State of California to practice architecture and shall be in conformity with this Ground Lease, including any limitations established in the City's reasonable approval of the schematic drawings, if any, preliminary construction documents, and final construction documents for the Premises, and all applicable Federal, State and local laws and regulations. The architect shall use, as necessary, members of associated design professions, including engineers and landscape architects.

10.02 City Approvals and Limitation Thereof

The City shall have the authority to review and approve the Construction Documents, which approval shall not be granted until City has confirmed that the Construction Documents comply with Redevelopment Requirements, as described in this section below. City hereby acknowledges and agrees that it has approved the Construction Documents.

10.02(a) Compliance with Ground Lease

The City's approval with respect to the Construction Documents is limited to determination of their compliance with this Ground Lease, including, if applicable, the Scope of Development (these enumerated documents are for convenience sometimes called

“Redevelopment Requirements”). The Construction Documents shall be subject to general architectural review and guidance by the City as part of this review and approval process.

10.02(b) City Does Not Approve Compliance with Construction Requirements

The City’s approval is not directed to engineering or structural matters or compliance with building codes and regulations, the Americans with Disabilities Act, or any other applicable State or Federal law relating to construction standards or requirements.

10.02(c) City Determination Final and Conclusive

The City’s determination respecting the compliance of the Construction Documents with Redevelopment Requirements shall be final and conclusive (except that it makes no determination and has no responsibility for the matters set forth in Section 10.02(b), above).

10.03 Construction to be in Compliance with Construction Documents and Law

10.03(a) Compliance with City and City Approved Documents

The construction shall be in material compliance with the City-approved Construction Documents.

10.03(b) Compliance with Local, State and Federal Law

The construction shall be in material compliance with all applicable local, State and Federal laws and regulations.

10.04 Approval of Construction Documents by MOH

Tenant shall submit to MOH, who shall approve or disapprove the Construction Documents referred to in this Ground Lease within the times established in the Schedule of Performance. Failure by the MOH either to approve or disapprove within the times established in the Schedule of Performance shall entitle Tenant to a day for day extension of time for

completion of those activities delayed as a result of MOH's failure to timely approve or disapprove the Construction Documents.

10.05 Disapproval of Construction Documents by City

If the City disapproves the Construction Documents in whole or in part as not being in compliance with Redevelopment Requirements or this Ground Lease, Tenant shall submit new or corrected plans which are in compliance within thirty (30) days after written notification to it of disapproval, and the provision of this section relating to approval, disapproval and re-submission of corrected Construction Documents shall continue to apply until the Construction Documents have been approved by the City; provided, however, that in any event Tenant must submit satisfactory Construction Documents (i.e., approved by City) no later than the date specified therefor in the Schedule of Performance. The approved Construction Documents including all drawings, specifications and other related documents shall be collectively referred to as the **"Final Construction Documents."**

10.06 Intentionally Omitted

10.07 Issuance of Building Permits

(a) Tenant shall have the sole responsibility for obtaining all necessary building permits and shall make application for such permits directly to the City's Department of Building Inspection and City shall reasonably cooperate with Tenant in obtaining and applying for such permits. The City understands and agrees that Tenant may use the Fast Track method of permit approval for building the Improvements.

(b) The Tenant is advised that the Central Permit Bureau forwards all building permits to MOH for MOH approval of compliance with Redevelopment Requirements. MOH's approval of compliance with Redevelopment Requirements is limited and does not include

Section 10.02(b) matters. Agency evidences such compliance by signing the permit and returning the permit to the Central Permit Bureau for issuance directly to the Tenant. Approval of any intermediate permit, however, is not approval of compliance with all Redevelopment Requirements necessary for a full and final building permit.

(c) Notwithstanding anything contain in this Section 10.07 to the contrary, the City has obtained, at City's sole cost, the site permit for the Project (the "Site Permit"), and City shall cause the Site Permit to be fully assigned and transferred to the Tenant.

10.08 Performance and Payment Bonds

Prior to commencement of construction of the Improvements, Tenant shall deliver to the City performance and payment bonds, each for the full value of the cost of construction of the Improvements, which bonds shall name the City as co-obligee, or such other completion security which is acceptable to the City.

10.09 City Approval of Changes after Commencement of Construction

Once construction has commenced, the only Construction Document matters subject to further review by MOH will be requests for any material changes in the Construction Documents which affect matters previously approved by MOH. Permission to make such changes shall be requested by Tenant in writing directed to MOH, Attention: Senior Project Manager/Construction Supervisor or his designee. MOH shall reply in writing giving approval or disapproval of the changes within ten (10) days after receiving such request. If the request is disapproved, the reply must specify the reasons for the disapproval.

10.10 Times for Construction

Tenant agrees for itself, and its successors and assigns to or of the Leasehold Estate or any part thereof, that Tenant and such successors and assigns shall promptly begin and diligently

prosecute to completion the redevelopment of the Site through the construction of the Improvements thereon, and that such construction shall in any event commence and thereafter diligently continue and shall be completed no later than the dates specified in the Schedule of Performance, subject to force majeure, unless such dates are extended by the City.

10.11 Force Majeure

For the purposes of any of the provisions of this Ground Lease, neither the City nor Tenant, as the case may be, shall be considered in breach or default of its obligations, nor shall there be deemed a failure to satisfy any conditions with respect to the beginning and completion of construction of the Improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations or satisfaction of such conditions, due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts of the government, compliance with governmental or utility orders or regulations or requirements, acts of the other party, lawsuits, actions, or other proceedings brought against the Tenant or the project by third parties, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, general scarcity of materials and unusually severe weather or delays of subcontractors due to such causes; it being the purposes and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for the satisfaction of conditions to this Ground Lease including those with respect to construction of the Improvements, shall be extended for the period of the enforced delay; provided, however, that the party seeking the benefit of the provisions of this paragraph shall have notified the other party thereof in writing of the cause or causes thereof within thirty (30) days after the beginning of any such enforced delay and requested an extension for the period of the enforced delay.

10.12 Reports

Until completion of construction of the Improvements, Tenant shall make a report in writing to the City every three (3) months, in such detail as may reasonably be required by the City, as to the actual progress of the Tenant with respect to such construction.

10.13 Access to Site

Tenant shall permit access to the Site to the City to the extent necessary to carry out the purposes of the provisions of this Ground Lease, during normal business hours, at reasonable times and upon reasonable advance notice.

10.14 Notice of Completion

Promptly upon completion of the construction of the Improvements in accordance with the provisions of this Ground Lease, Tenant shall timely file a Notice of Completion ("NOC"), and record such NOC in the San Francisco Recorder's Office. Tenant shall provide City with a copy of the recorded NOC.

10.15 Completion of Improvements by New Developer

In the event Lender or a successor thereto forecloses, obtains a deed in lieu of foreclosure or otherwise realizes upon the Premises and undertakes construction of the Improvements ("New Developer") (A) such New Developer shall not be bound by the provisions of the Schedule of Performance with respect to any deadlines for the completion of the Improvements but shall only be required to complete the Improvements with due diligence and in conformance with a new Schedule of Performance as agreed upon by the New Developer and the City, (B) such New Developer shall only be required to complete the Improvements in accordance with all applicable building codes and ordinances, and the approved Construction Documents with such changes that are mutually agreed upon by the City and the New Developer pursuant to Subsection (C) hereof; and (C) City and New Developer shall negotiate in good faith such

reasonable amendments and reasonable modifications to Section 10 of this Lease as the parties mutually determine to be reasonably necessary based upon the financial and construction conditions then existing.

ARTICLE 11: COMPLETION OF IMPROVEMENTS

11.01 Certificate of Completion - Issuance

Promptly after completion of the construction of the Improvements in accordance with the provisions of this Ground Lease, the City will furnish Tenant with an appropriate instrument so certifying. Such certification by the City shall be a conclusive determination of satisfaction and termination of the agreements and covenants of this Ground Lease with respect to the obligation of Tenant, and its successors and assigns, to construct the Improvements in accordance with City approved Final Construction Documents and the dates for the beginning and completion thereof; provided, however, that such determination shall only be withheld because of failure to carry out specific requirements of the Redevelopment Requirements or this Ground Lease; provided further, that such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of Tenant to any Lender, or any insurer of a mortgage, securing money loaned to finance the construction or any part thereof; provided further, that City issuance of any Certificate of Completion does not relieve Tenant or any other person or entity from any and all City requirements or conditions to occupancy of the Improvements, which requirements or conditions must be complied with separately.

11.02 Certifications to be Recordable

All certifications provided for in this section shall be in such form as will enable them to be recorded with the San Francisco Recorder's Office.

11.03 Certification of Completion - Non-Issuance Reasons

If the City shall refuse or fail to provide any certification in accordance with the provisions of Section 11.01, the City shall provide Tenant with a written statement, within fifteen (15) days after written request by Tenant, indicating in adequate detail in what respects Tenant has failed to complete the construction of the Improvements in accordance with the provisions of this Ground Lease and what measures or acts will be necessary, in the opinion of the City, for Tenant to take or perform in order to obtain such certification.

ARTICLE 12: CHANGES TO THE IMPROVEMENTS

12.01 Post Completion Changes

The City has a particular interest in the Site and in the nature and extent of the permitted changes to the Improvements. Accordingly, it desires to and does hereby impose the following particular controls on the Site and on the Improvements: during the term of this Ground Lease, neither Tenant, nor any voluntary or involuntary successor or assign, shall make or permit any Change (as defined in Section 12.02) in the Improvements, unless the express prior written consent for any change shall have been requested in writing from the City and obtained, and, if obtained, upon such terms and conditions as the City may reasonably be require. The City agrees not to withhold, condition or delay its response to such a request unreasonably.

12.02 Definition of Change

“Change” as used in this Article means any alteration, modification, addition and/or substitution of or to the Site, the Improvements, and/or the density of development which differs materially from that which existed upon the completion of construction of the Improvements in accordance with this Ground Lease, and shall include without limitation the exterior design, exterior materials and/or exterior color. For purposes of the foregoing, exterior shall mean and include the roof of the Improvements. Changes shall not include repairs, maintenance and

interior alterations in the normal course of operation of the Project, tenant improvements made by tenants to the commercial space pursuant to commercial leases, or as may be required in an emergency to protect the safety and well-being of the Occupants, the Tenant, Tenant's tenants or subtenants, or anyone lawfully permitted on the Site.

12.03 Enforcement

Subject to Article 19 hereof, City shall have any and all remedies in law or equity (including without limitation restraining orders, injunctions and/or specific performance), judicial or administrative, to enforce the provisions of this Article 12, including without limitation any actual breach or violation thereof.

ARTICLE 13: TITLE TO IMPROVEMENTS

Fee title to any Improvements shall be vested in Tenant and shall remain vested in Tenant during the term of this Ground Lease, subject to Section 14.01 below. Subject to the rights of any Lenders and as further consideration for the City entering into this Ground Lease, at the expiration or earlier termination of this Ground Lease, fee title to all the Improvements shall vest in the City without further action of any party, without any obligation by the City to pay any compensation therefor to Tenant and without the necessity of a deed from Tenant to the City.

ARTICLE 14: ASSIGNMENT, SUBLEASE OR OTHER CONVEYANCE

14.01 Assignment, Sublease or Other Conveyance by Tenant

Tenant may not sell, assign, convey, sublease, or transfer in any other mode or form all or any part of its interest in this Ground Lease or in the Improvements or any portion thereof, other than to Lender(s) or affiliates of Lenders, or allow any person or entity to occupy or use all or any part of the Site, other than leases to residential tenants in the ordinary course of business, or to service providers or vendors, nor may it contract or agree to do any of the same, without the prior

written approval of the City, which approval shall not be unreasonably withheld or delayed. Notwithstanding anything contained herein to the contrary, Tenant may sell, assign, convey, sublease or transfer any or all of its interests in and to this Ground Lease to Chinatown Community Development Center, Inc. ("CCDC"), or to an affiliate or successor of CCDC, and may change, assign, acquire, or liquidate partnership interests in Tenant, as permitted under Article 49 of this Lease. The City reserves the right to review and approve any commercial leases for the Site. Such approval shall not be unreasonably withheld, conditioned or delayed.

14.02 Assignment, Sublease or Other Conveyance by City

The parties acknowledge that any sale, assignment, transfer or conveyance of all or any part of the City's interest in the Site, the Improvements, or this Ground Lease, is subject to this Ground Lease. The City will require that any purchaser, assignee or transferee expressly assume all of the obligations of the City under this Ground Lease by a written instrument recordable in the Official Records of the City. This Ground Lease shall not be affected by any such sale, and Tenant shall attorn to any such purchaser or assignee. In the event that the City intends to sell all or any part of the Site, the City shall notify Tenant of the proposed terms of such sale not later than ninety (90) days before the anticipated close of escrow. Tenant shall have sixty (60) days from the giving of such notice to exercise a right of first refusal to purchase the Site on the same terms and conditions of such proposed sale, provided that any sale of City's interest in the Site shall be subject to the prior approval of the City's Board of Supervisors and Mayor.

ARTICLE 15: TAXES

Tenant agrees to pay, or cause to be paid, when due to the proper authority, any and all valid taxes, assessments and similar charges on the Site which become effective after the Effective Date of this Ground Lease, including all taxes levied or assessed on the possession, use

or occupancy, as distinguished from the ownership, of the Site. Tenant shall not permit any such taxes, charges or other assessments to become a defaulted lien on the Site 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 contest the legal validity or the amount of any tax, assessment or similar charge, through such proceedings as Tenant considers necessary or appropriate, and Tenant may defer the payment thereof so long as the validity or amount thereof shall be contested by Tenant in good faith and without expense to the City. In the event of any such contest, Tenant shall protect, defend and indemnify the City against all loss, cost, expense or damage resulting there from, and should Tenant be unsuccessful in any such contest, Tenant shall forthwith pay, discharge, or cause to be paid or discharged, such tax, assessment or other similar charge. The City shall furnish such information as Tenant shall reasonably request in connection with any such contest provided that such information is in City's possession, control or is otherwise available to the public. City hereby consents to and shall reasonably cooperate and assist with Tenant in applying for and obtaining any applicable exemptions from taxes or assessments levied on the Site, the Improvements or on Tenant's interest thereon.

ARTICLE 16: UTILITIES

Tenant shall procure water and sewer service from the City and electricity, telephone, natural gas and any other utility service from the City or utility companies providing such services, and shall pay all connection and use charges imposed in connection with such services. As between the City and Tenant, Tenant shall be responsible for the installation and maintenance of all facilities required in connection with such utility services to the extent not installed or maintained by the City or the utility providing such service.

ARTICLE 17: MAINTENANCE

Tenant, at all times during the term hereof, shall maintain or cause to be maintained the Premises in good condition and repair, including the exterior, interior, substructure and foundation of the Improvements and all fixtures, equipment and landscaping from time to time located on the Site or any part thereof. The City shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Site or any buildings or to improvements now or hereafter located thereon.

ARTICLE 18: LIENS

Tenant shall use its best efforts to keep the Site free from any liens arising out of any work performed or materials furnished by itself or its subtenants. In the event that Tenant shall not cause the same to be released of record or bonded around within twenty (20) days following written notice from the City of the imposition of any such lien, the City shall have, in addition to all other remedies provided herein and by law, the right but not the obligation to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All sums paid by the City for such purpose, and all reasonable expenses incurred by it in connection therewith, shall be payable to the City by Tenant on demand; provided, however, Tenant shall have the right, upon posting of an adequate bond or other security, to contest any such lien, and the City shall not seek to satisfy or discharge any such lien unless Tenant has failed so to do within ten (10) days after the final determination of the validity thereof. In the event of any such contest, Tenant shall protect, defend, and indemnify the City against all loss, cost, expense or damage resulting therefrom.

ARTICLE 19: GENERAL REMEDIES

19.01 Application of Remedies

The provisions of this Article 19 shall govern the parties' remedies for breach of this Ground Lease.

19.02 Notice and Cure Rights for Tenant and Permitted Limited Partner

(a) The City may not exercise its remedies under this Ground Lease for a default by the Tenant unless and until (i) the City has given written notice of any such default, in accordance with the notice provisions of Article 39, to Tenant and Permitted Limited Partners who have requested notice as set forth below ("Permitted Limited Partners"), and (ii) such default has not been cured within sixty (60) days, or such longer period as may be set forth herein, following the giving of such notice or, if such default cannot be cured within such 60-day period, such longer period as is reasonably necessary to cure such default, provided that such cure has been commenced within such 60-day period and is being prosecuted diligently to completion. If a Permitted Limited Partner cannot cure a default due to an automatic stay in Bankruptcy court because the general partner of the Tenant is in bankruptcy, any cure period will be tolled during the pendency of such automatic stay.

(b) The City will not exercise its remedy to terminate this Ground Lease if a Permitted Limited Partner is attempting to cure the default and such cure requires removal of the General Partner, so long as the Permitted Limited Partner is proceeding diligently to remove the General Partner in order to effect a cure of such default.

(c) Unless otherwise provided for herein, any limited partner wishing to become a Permitted Limited Partner other than the Permitted Limited Partner identified in Section 39 must provide five (5) days written notice to the City in accordance with the notice provisions of this Ground Lease, setting forth a notice address and providing a copy of such notice to the Tenant and all of the Tenant's partners. Such limited partner will become a Permitted Limited Partner

upon the expiration of the five-day period. A limited partner will not be afforded the protections of this section with respect to any default occurring prior to the time such limited partner becomes a Permitted Limited Partner.

19.03 Breach by City

If Tenant believes a material breach of this Ground Lease has occurred, Tenant shall first notify the City in writing of the purported breach, giving the City sixty (60) days from receipt of such notice to cure such breach. In the event City does not then cure or, if the breach is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and thereafter diligently prosecute such cure to completion, then Tenant shall be afforded all of its rights at law or in equity by taking any or all of the following remedies: (i) terminating in writing this entire Ground Lease with the written consent of each Lender; (ii) prosecuting an action for damages; (iii) seeking specific performance of this Ground Lease; or (iv) any other remedy available at law or equity.

19.04 Breach by Tenant

19.04(a) Default by Tenant

Subject to the notice and cure rights under Section 19.02, the following events each constitute a basis for the City to take action against Tenant:

- (1) Tenant fails to comply with the Permitted Uses and Occupancy Restrictions set forth in Section 9.02;
- (2) Tenant voluntarily or involuntarily assigns, transfers or attempts to transfer or assign this Ground Lease or any rights in this Ground Lease, or in the Improvements, except as permitted by this Ground Lease;

(3) Tenant, or its successor in interest, shall fail to pay real estate taxes or assessments on the Premises or any part thereof when due, or shall place thereon any encumbrance or lien unauthorized by this Ground Lease, or shall suffer any levy or attachment to be made, or any material supplier's or mechanic's lien or any other unauthorized encumbrance or lien to attach, and such taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged; provided, however, that Tenant shall have the right to contest any tax or assessment pursuant to Article 15 and Article 18 and, upon the posting of an adequate bond or other security, to contest any such lien or encumbrance. In the event of any such contest, Tenant shall protect, indemnify and hold City harmless against all losses and damages, including reasonable attorneys' fees and costs resulting therefrom;

(4) Tenant shall be adjudicated bankrupt or insolvent or shall 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 proceeding of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act and, in the event such proceedings are involuntary, Tenant is not dismissed from the same within sixty (60) days thereafter; or, a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within sixty (60) days;

(5) Tenant breaches any other material provision of this Ground Lease;

(6) Tenant fails to pay any portion of Annual Rent when due in accordance with the terms and provisions of this Ground Lease.

19.04(b) Notification and City Remedies

Upon the happening of any of the events described in Section 19.04(a) above and prior to exercising any remedies, the City shall notify Tenant, the Permitted Limited Partners and

each Lender in writing of the Tenant's purported breach, failure or act, giving Tenant sixty (60) days from receipt of such notice to cure such breach, failure or act. In the event Tenant does not cure or, if the breach, failure or act is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and thereafter diligently prosecute such cure to completion, then, subject to the rights of any Lender and subject to Section 19.02 and Article 26, the City thereafter shall be afforded all of its rights at law or in equity, including any or all of the following remedies: (1) terminating in writing this Ground Lease; or (2) prosecuting an action for damages or (3) seeking specific performance of this Ground Lease; or (4) in the case of default under Section 19.04(a)(1), increasing the Base Rent to the full amount of the Annual Rent.

Notwithstanding the foregoing, during the 15-year tax credit compliance period, City may only terminate this Ground Lease for a default by Tenant under Section 19.04(a)(6) above.

ARTICLE 20: DAMAGE AND DESTRUCTION

20.01 Insured Casualty

If the Improvements or any part thereof are damaged or destroyed by any cause covered by any policy of insurance required to be maintained by Tenant hereunder, Tenant shall promptly commence and diligently complete the restoration of the Improvements as nearly as possible to the condition thereof prior to such damage or destruction; provided, however, that if more than fifty percent (50%) of the Improvements are destroyed or are so damaged by fire or other casualty and if the insurance proceeds do not provide at least ninety percent (90%) of the funds necessary to accomplish the restoration, Tenant, with the written consent of Lender, may terminate this Ground Lease within thirty (30) days after the later of (i) the date of such damage or destruction, or (ii) the date on which Tenant is notified of the amount of insurance proceeds available for

restoration. In the event Tenant is required or elects to restore the Improvements, all proceeds of any policy of insurance required to be maintained by Tenant under this Ground Lease shall, subject to any rights of Lenders, be used by Tenant for that purpose and Tenant shall make up from its own funds or obtain additional financing as reasonably approved by the City any deficiency between the amount of insurance proceeds available for the work of restoration and the actual cost thereof. In the event Tenant elects to terminate this Ground Lease pursuant to its right to do so under this Section 20.01, or elects not to restore the Improvements, the insurance proceeds shall be disbursed in the order set forth in Section 20.03 below.

20.02 Uninsured Casualty

If (i) more than 50% of the Improvements are damaged or destroyed and ten percent (10%) or more of the cost of restoration is not within the scope of the insurance coverage; and (ii) in the reasonable opinion of Tenant, the undamaged portion of the Improvements cannot be completed or operated on an economically feasible basis; and (iii) there is not available to Tenant any feasible source of third party financing for restoration reasonably acceptable to Tenant; then Tenant may, with the written consent of each Lender, other than the City, terminate this Ground Lease upon ninety (90) days written notice to the City. If it appears that the provisions of this Section 20.02 may apply to a particular event of damage or destruction, Tenant shall notify the City promptly and not consent to any settlement or adjustment of an insurance award without the City's written approval, which approval shall not be unreasonably withheld or delayed. In the event that Tenant terminates this Ground Lease pursuant to this Section 20.02, all insurance proceeds and damages payable by reason of the casualty shall be divided among City, Tenant and Lenders in accordance with the provisions of Section 20.03. If Tenant does not have the right, or elects not to exercise the right, to terminate this Ground Lease as a result of an uninsured casualty,

Tenant shall promptly commence and diligently complete the restoration of the Improvements as nearly as possible to their condition prior to such damage or destruction in accordance with the provisions of Section 20.01 and shall, subject to any applicable rights of Lenders, be entitled to all available insurance proceeds.

20.03 Distribution of the Insurance Proceeds

In the event of an election by Tenant to terminate and surrender as provided in either Sections 20.01 or 20.02, the priority and manner for distribution of the proceeds of any insurance policy required to be maintained by Tenant hereunder shall be as follows:

- (a) First to the Lenders, in order of their priority, to control, disburse or apply to any outstanding loan amounts in accordance with the terms their respective Leasehold Mortgages;
- (b) Second, to pay for the cost of removal of all debris from the Site or adjacent and underlying property, and for the cost of any work or service required by any statute, law, ordinance, rule, regulation or order of any federal, state or local government, or any agency or official thereof, for the protection of persons or property from any risk, or for the abatement of any nuisance, created by or arising from the casualty or the damage or destruction caused thereby;
- (c) Third, to compensate City for any diminution in the value (as of the date of the damage or destruction) of the Site as a raw development site caused by or arising from the damage or destruction; and
- (d) The remainder to Tenant.

20.04 Clean Up of Housing Site

In the event the Tenant terminates this Ground Lease pursuant to the provisions of Sections 20.01 or 20.02 and the proceeds of any insurance policy are insufficient to pay the clean-

up and other costs described in Article 20.03(b), Tenant shall have the obligation to pay the portion of such costs not covered by the insurance proceeds.

**ARTICLE 21: DAMAGE TO PERSON OR PROPERTY; HAZARDOUS MATERIALS;
INDEMNIFICATION**

21.01 Damage to Person or Property -General Indemnification

City shall not in any event whatsoever be liable for any injury or damage to any person happening on or about the Site, for any injury or damage to the Premises, or to any property of Tenant, or to any property of any other person, entity or association on or about the Site, unless arising from any gross negligence or willful misconduct of the City or any of its commissioners, officers, agents or employees. Tenant shall defend, hold harmless and indemnify the City and its respective commissioners, officers, agents, and employees, of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising from its tenancy, its use of the Site, including adjoining sidewalks and streets, and any of its operations activities thereon or connected thereto; provided, however, that this Article 21 shall not be deemed or construed to and shall not impose an obligation to indemnify and save harmless the City or any of its commissioners, officers, agents or employees from any claim, loss, damage, liability or expense, of any nature whatsoever, arising from or in any way related to or connected with any willful misconduct or gross negligence of the City, any of its commissioners, officers, agents, employees or by the person or entity seeking such indemnity.

21.02 Hazardous Materials –Indemnification

(a) Tenant shall indemnify, defend, and hold the City, and its commissioners, officers, agents and employees (individually, an "Indemnified Party" and collectively, the

"**Indemnified Parties**") harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to violation of any Environmental Law, or any Release, threatened Release and any condition or Hazardous Substance related nuisance on, under or from the Site.

(b) For purposes of this Section 21.02, the following definitions shall apply:

(i) "Hazardous Substance" shall have the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Agreement, 42 U.S.C. 9601(14), and in addition shall include, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code Section 25316 and Section 25281(d), all chemicals listed pursuant to the California Health & Safety Code 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition shall not include substances which occur naturally on the Site.

(ii) "Environmental Law" shall include all federal, state and local laws, regulations and ordinances governing hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee or community right-to-know requirements related to the work being performed under this Agreement.

(iii)"Release" shall mean any spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substance.

ARTICLE 22: INSURANCE

22.01 Insurance

The Tenant shall maintain insurance meeting the requirements of this Article.

22.01(a) Insurance Requirements for Tenant

During the term of this Ground Lease, Tenant shall procure and maintain insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of any work hereunder by the Tenant, its agents, representatives, employees or subcontractors and the Tenant's use and occupancy of the Site and the Improvements.

22.01(b) Minimum Scope of Insurance

Coverage shall be at least as broad as:

- (1) Insurance Services Office Commercial General Liability coverage (form CG 00 01 – "Occurrence") or other form approved by the City's Risk Manager.
- (2) Insurance Services Office Automobile Liability coverage, code 1 (form CA 00 01 – "Any Auto") or other form approved by the City's Risk Manager.
- (3) Workers' Compensation Insurance as required by the State of California and Employer's Liability insurance.
- (4) Professional Liability Insurance: Tenant shall require that all architects, engineers, and surveyors for the Project have liability insurance covering negligent

acts, errors and omissions. Tenant shall provide the City with copies of consultants' insurance certificates showing such coverage.

(5) Insurance Services Office Property Insurance coverage (form CP 10 30 60 95 – “Causes of Loss – Special Form”) or other form approved by the City’s Risk Manager.

(6) Crime Policy or Fidelity Bond covering the Borrower’s officers and employees against dishonesty with respect to the use of City funds.

22.01(c) Minimum Limits of Insurance

Tenant shall maintain limits no less than:

(1) General Liability: Commercial General Liability insurance with no less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit for bodily injury and property damage, including coverage for contractual liability; personal injury; fire damage legal liability; advertisers’ liability; owners’ and contractors’ protective liability; products and completed operations; broad form property damage; and explosion, collapse and underground (XCU)coverage during any period in which Tenant is conducting any activity on, alteration or improvement to the Site with risk of explosion, collapse, or underground hazards..

(2) Automobile Liability: Business Automobile Liability insurance with no less than One Million Dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage, including owned, hired and non-owned auto coverage, as applicable.

(3) Workers’ Compensation: Workers’ Compensation, in statutory amounts, with Employers’ Liability limits not less than One Million Dollars (\$1,000,000) each accident, injury, or illness.

(4) Professional Liability: Professional Liability insurance of no less than One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) annual aggregate limit covering all negligent acts, errors and omissions of Tenant's architects, engineers and surveyors.

(5) Crime Policy or Fidelity Bond: Crime Policy or Fidelity Bond of no less than Seventy Five Thousand Dollars (\$75,000) each loss, with any deductible not to exceed Five Thousand Dollars (\$5,000) each loss.

(6) Pollution Liability and/or Asbestos Pollution Liability: Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year, this coverage shall be endorsed to include Non-Owned Disposal Site coverage.

(7) Property and Builder's Risk Insurance:

(a) Prior to construction:

(i) Property insurance, excluding earthquake and flood, in the amount no less than One Hundred Percent (100%) of the replacement value of all improvements prior to commencement of construction and City property in the care, custody and control of the Tenant or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such perils, resulting damage and any applicable law, ordinance or regulation; start up, testing and machinery breakdown including electrical arcing; and with a deductible not to exceed Ten Thousand Dollars (\$10,000) each loss, including the City and all subcontractors as loss payees.

(b) During the course of construction:

(i) Builder's risk insurance, special form coverage, excluding earthquake and flood, for one hundred percent (100%) of the replacement value of all completed improvements and City property in the care, custody and control of the Tenant or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such covered perils, resulting damage and any applicable law, ordinance or regulation; start up, testing and machinery breakdown including electrical arcing, copy of the applicable endorsement to the Builder's Risk policy, if the Builder's Risk policy is issued on a declared-project basis; and with a deductible not to exceed Ten Thousand Dollars (\$10,000) each loss, including the City and all subcontractors as loss payees.

(ii) Performance and payment bonds of contractors, each in the amount of One Hundred Percent (100%) of contract amounts, naming the City and Tenant as dual obligees or other completion security approved by the City in its sole discretion.

(c) Upon completion of construction:

(i) Property insurance, excluding earthquake and flood, in the amount no less than One Hundred Percent (100%) of the then-current replacement value of all improvements and City property in the care, custody and control of the Tenant or its contractor. For rehabilitation/construction projects that are unoccupied by residential or commercial tenants, Tenant must obtain Property Insurance by the date that the project receives a Certificate of Substantial Completion.

(ii) Boiler and machinery insurance, comprehensive form, covering damage to, loss or destruction of machinery and equipment located on the Site 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.

22.01(d) Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions in excess of \$25,000 must be declared to and approved by City's Risk Manager. At the option of City's Risk Manager, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City and County of San Francisco, and their respective commissioners, members, officers, agents, and employees; or the Tenant shall procure a financial guarantee satisfactory to the City's Risk Manager guaranteeing payment of losses and related investigations, claim administration and defense expenses.

22.01(e) Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

(1) General Liability and Automobile Liability Coverage:

(a) The "City and County of San Francisco, and their respective commissioners, members, officers, agents, and employees", are to be covered as additional insured with respect to: liability arising out of activities performed by or on behalf of the Tenant related to the Project; products and completed operations of the Tenant, premises owned, occupied or used by the Tenant related to the Project; and automobiles owned, leased, hired or borrowed by the Tenant for the operations related to the Project. The coverage shall contain no special limitations on the scope of protection afforded to the City and its Commissioners, members, officers, agents or employees.

(2) Workers' Compensation and Property Insurance: The insured shall agree to waive all rights of subrogation against the "City and County of San Francisco, and their

respective commissioners, members, officers, agents, and employees” for any losses in connection with this Project.

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

(4) All Coverage: Each insurance policy required by this Article shall:

(a) Be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given to City, except in the event of suspension for nonpayment of premium, in which case ten (10) days' notice shall be given.

(b) Contain a clause providing that the City and its officers, agents and employees will not be liable for any required premium.

(c) For any claims related to this Ground Lease, the Tenant's insurance coverage shall be primary insurance with respect to the City and its commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by the City or its commissioners, members, officers, agents, or employees shall be in excess of the Tenant's insurance and shall not contribute with it.

(d) The Tenant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(e) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City and its commissioners, members, officers, agents, or employees.

(f) Approval of Tenant's insurance by the City will not relieve or decrease the liability of Tenant under this Ground Lease.

The City reserves the right to require an increase in insurance coverage in the event the City determines that conditions show cause for an increase, unless Tenant demonstrates to the City's satisfaction that the increased coverage is commercially unreasonable and unavailable to Tenant.

22.01(f) Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A-VIII or as otherwise approved by the City's Risk Manager.

22.01(g) Verification of Coverage

Tenant shall furnish City with certificates of insurance and with original endorsements effecting coverage required by this clause at the commencement of this Ground Lease and annually thereafter. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time.

22.01(h) Subcontractors

Tenant shall include all subcontractors and consultants as additional insureds under its policies or shall furnish separate certificates and endorsements for each. Tenant shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San

Francisco, its officers, agents and employees and the Tenant as additional insureds. All coverage for subcontractors and consultants shall be subject to all of the requirements stated herein unless otherwise approved by the City's Risk Manager.

ARTICLE 23: COMPLIANCE WITH SITE-RELATED AND LEGAL REQUIREMENTS

23.01 Compliance with Legal Requirements

Tenant shall at its cost and expense, promptly comply with all Laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, with the requirements of any board of fire underwriters or other, similar body now or hereafter constituted, with any direction or occupancy certificate issued pursuant to any law by any public officer or officers, insofar as any thereof relates to or affects the condition, use or occupancy of the Site. In the event Tenant contests any of the foregoing, Tenant shall not be obligated to comply therewith to the extent that the application of the contested law, statute, ordinance, rule, regulation or requirement is stayed by the operation of law or administrative or judicial order and Tenant indemnifies the City against all loss, cost, expense or damage resulting from noncompliance.

23.02 Regulatory Approvals

Tenant understands and agrees that the City is entering into this Ground Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a regulatory agency with certain police powers. Tenant understands and agrees that neither entry by the City into this Ground Lease nor any approvals given by the City under this Ground Lease will be deemed to imply that Tenant will obtain any required approvals from City departments, boards or commissions that have jurisdiction over the Premises. By entering into this Ground Lease, the

City is in no way modifying or limiting the obligations of Tenant to develop the Project in accordance with all Laws, as provided in this Ground Lease.

Tenant understands that its construction of the Improvements on the Premises and development of the Project will require approval, authorization or permit by governmental agencies with jurisdiction, which may include the City's Planning Commission and/or Zoning Administrator and the Department of Building Inspection. Tenant must use good faith efforts to obtain and will be solely responsible for obtaining any such approvals required for the Project in the manner set forth in this Section. Tenant will not seek any regulatory approval without first obtaining MOH's approval, which approval shall not be unreasonably withheld or delayed. Throughout the permit process for any regulatory approval, Tenant will consult and coordinate with MOH in Tenant's efforts to obtain permits. MOH will cooperate reasonably with Tenant in its efforts to obtain permits; provided, however, Tenant may not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit from any other regulatory agency if the City is required to be a co-permittee under the permit or the conditions or restrictions could create any financial or other material obligations on the part of the City whether on or off of the Premises, unless in each instance MOH has approved the conditions previously in writing and in MOH's reasonable discretion. No approval by MOH will limit Tenant's obligation to pay all the costs of complying with conditions under this Section. Tenant must bear all costs associated with applying for and obtaining any necessary regulatory approval, as well as any fines, penalties or corrective actions imposed as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval.

With MOH's prior written consent, Tenant will have the right to appeal or contest any condition in any manner permitted by law imposed upon any regulatory approval. In addition to

any other indemnification provisions of this Ground Lease, Tenant must indemnify the City and its commissioners, officers, agents or employees from and against any and all losses that may arise in connection with Tenant's failure to obtain or comply with the terms and conditions of any regulatory approval or with the appeal or contest of any conditions of any regulatory approval, except to the extent damage arises out of the gross negligence or willful misconduct of the City or its agents.

ARTICLE 24: ENTRY

(a) The City reserves for itself and its authorized representatives the right to enter the Property at all reasonable times during normal business hours upon not less than forty-eight (48) hours' written notice to Tenant (except in the event of an emergency), subject to the rights of the occupants, tenants and others lawfully permitted on the Property, for any of the following purposes:

- (i) to inspect the work being performed by Tenant in developing the Project.
- (ii) to determine whether the Premises is in good condition and to inspect the Premises (including soil borings or other Hazardous Material Investigations);
- (iii) to determine whether Tenant is in compliance with its Ground Lease obligations and to cure or attempt to cure any Tenant default;
- (iv) to serve, post or keep posted any notices required or allowed under any of the provisions of this Ground Lease;
- (v) to do any maintenance or repairs to the Premises that the City has the right or the obligation, if any, to perform hereunder; and

(vi) to show the Premises to any prospective purchasers, brokers, Lenders or public officials, or, during the last year of the Term of this Lease, exhibit the Premises to prospective tenants or other occupants, and to post any reasonable "for sale" or "for lease" signs in connection therewith.

(b) In the event of any emergency, as reasonably determined by the City, at its sole option and without notice, the City may enter the Premises and alter or remove any Improvements or Tenant's personal property on or about the Premises as reasonably necessary, given the nature of the emergency. The City will have the right to use any and all means the City considers appropriate to gain access to any portion of the Premises in an emergency, in which case, the City will not be responsible for any damage or injury to any property, nor for the replacement of any property, and no emergency entry may be deemed to be a forcible or unlawful entry onto or a detainer of the Premises, or an eviction, actual or constructive, of Tenant from the Premises or any portion thereof.

(c) The City will not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of the City's entry onto the Premises, except to the extent damage arises out of the gross negligence or willful misconduct of the City or its agents. The City will be responsible for any losses resulting from its gross negligence or willful misconduct and will repair any resulting damage promptly.

(d) Tenant will not be entitled to any abatement in Annual Rent if the City exercises any rights reserved in this Section, subject to subsection (c) above.

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

ARTICLE 25: MORTGAGE FINANCING

25.01 No Encumbrances Except for Development Purposes

Notwithstanding any other provision of this Ground Lease and subject to the prior written consent of the City in the form attached hereto as Attachment 4, which consent shall not be unreasonably withheld, conditioned or delayed, Leasehold Mortgages are permitted to be placed upon the Leasehold Estate only for the purpose of securing loans of funds to be used for financing the acquisition, design, construction, renovation or reconstruction of the Improvements and any other expenditures reasonably necessary and appropriate to acquire, own, develop, construct, renovate, or reconstruct the Improvements under this Ground Lease and in connection with the operation of the Improvements, and costs and expenses incurred or to be incurred by Tenant in furtherance of the purposes of this Ground Lease. The City hereby acknowledges and accepts Silicon Valley Bank as a Lender, and consents to the Leasehold Mortgage associated with Silicon Valley Bank's construction loan to Tenant for the Project.

25.02 Holder Not Obligated to Construct

The holder of any mortgage, deed of trust or other security interest authorized by Section 25.01 ("Holder" or "Lender"), including the successors or assigns of such Holder, is not obligated to complete any construction of the Improvements or to guarantee such completion; nor shall any covenant or any other provision of this Ground Lease be construed so to obligate such Holder. However, in the event the Holder does undertake to complete or guarantee the completion of the construction of the Improvements, subject to Section 26.06(ii), nothing in this Ground Lease shall be deemed or construed to permit or authorize any such Holder or its successors or assigns to devote the Site or any portion thereof to any uses, or to construct any Improvements thereon, other than those uses or Improvements authorized under Section 9.02 subject to any reasonable

modifications in plans proposed by any Holder or its successors in interest proposed for the viability of the Project, subject to the approval of City which approval shall not be unreasonably withheld. To the extent any Holder or its successors in interest wish to change such uses or construct different improvements, subject to Section 26.06(ii), that Holder or its successors in interest must obtain the written consent of the City.

25.03 Failure of Holder to Complete Construction

In any case where six months after assumption of obligations pursuant to Section 25.02 above, a Holder, having first exercised its option to complete the construction, has not proceeded diligently with completion of the construction, the City shall be afforded the rights against such Holder it would otherwise have against Tenant under this Ground Lease for events or failures occurring after such assumption; provided, however, if Lender has proceeded diligently with construction, the Schedule of Performance shall not apply to Lender if such Schedule of Performance has been replaced by the new Schedule of Performance pursuant to Section 10.15 of this Agreement, which new Schedule of Performance will apply to Lender.

25.04 Default by Tenant and City's Rights

25.04(a) Right of City to Cure a Default or Breach by Tenant under a Leasehold Mortgage

In the event of a default or breach by Tenant in or of its obligations under any Leasehold Mortgage, and Tenant's failure to timely commence or diligently prosecute cure of such default or breach, the City may, at its option, cure such breach or default at any time prior to one hundred ten (110) days after the date on which the Lender files a notice of default. In such event, the City shall be entitled to reimbursement from Tenant of all costs and expenses reasonably incurred by the City in curing the default or breach. The City shall also be entitled to

a lien upon the Leasehold Estate or any portion thereof to the extent of such costs and disbursements that are not reimbursed by Tenant. Any such lien shall be subject to the lien of any then existing Leasehold Mortgage authorized by this Ground Lease, including any lien contemplated because of advances yet to be made. After ninety (90) days following the date of Lender filing a notice of default, the City shall also have the right to assign Tenant's interest in the Ground Lease to another entity, subject to such Lender's and Permitted Limited Partner's written consent, but which may be conditioned, among other things, upon the assumption by such other entity of all obligations of the Tenant under the Leasehold Mortgage.

25.04(b) Notice of Default to City

Tenant shall use its best efforts to require Lender to give the City prompt written notice of any such default or breach and each Leasehold Mortgage shall so provide and shall also contain the City's right to cure as above set forth.

25.05 Cost of Mortgage Loans to be Paid by Tenant

Tenant covenants and affirms that it shall bear all of the costs and expenses in connection with (i) the preparation and securing of any Leasehold Mortgage, (ii) the delivery of any instruments and documents and their filing and recording, if required, and (iii) all taxes and charges payable in connection with any Leasehold Mortgage.

ARTICLE 26: PROTECTION OF LENDER

26.01 Notification to City

Promptly upon the creation of any Leasehold Mortgage and as a condition precedent to the existence of any of the rights set forth in this Article 26, each Lender shall give written notice to the City of the Lender's address and of the existence and nature of its Leasehold Mortgage.

Execution of Attachment 4 shall constitute City's acknowledgement of Lender's having given such notice as is required to obtain the rights and protections of a Lender under this Ground Lease. The City hereby acknowledges that the First Mortgage Lender and the City are deemed to have given such written Notice.

26.02 Lender's Rights to Prevent Termination

Each Lender shall have the right, but not the obligation, at any time prior to termination of this Ground Lease and without payment of any penalty other than the interest on unpaid rent, to pay all of the rents due hereunder, to effect any insurance, to pay any taxes and assessments, to make any repairs and improvements, to do any other act or thing required of Tenant hereunder, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof to prevent a termination of this Ground Lease to the same effect as if the same had been made, done and performed by Tenant instead of by Lender.

26.03 Lender's Rights When Tenant Defaults

Should any event of default under this Ground Lease occur and is continuing, and not be cured within the applicable cure period, the City shall not terminate this Ground Lease nor exercise any other remedy hereunder unless it first gives written notice of such event of default to Lender and

(i) If such event of default is a failure to pay a monetary obligation of Tenant, Lender shall have failed to cure such default within sixty (60) days from the date of written notice from the City to Lender; or

(ii) If such event of default is not a failure to pay a monetary obligation of Tenant, Lender shall have failed, within sixty (60) days of receipt of said written notice, either (a) to

remedy such default; or (b) to obtain title to Tenant's interest in the Site in lieu of foreclosure; or (c) to commence foreclosure or other appropriate proceedings in the nature thereof (including the appointment of a receiver) and thereafter diligently prosecute such proceedings to completion, in which case such event of default shall be remedied or deemed remedied in accordance with Article 26.04 below.

All rights of the City to terminate this Ground Lease as the result of the occurrence of any such event of default shall be subject to, and conditioned upon, the City having first given Lender written notice of such event of default and Lender having failed to remedy such default or acquire Tenant's Leasehold Estate created hereby or commence foreclosure or other appropriate proceedings in the nature thereof as set forth in and within the time specified by this Section 26.03, and upon the Permitted Limited Partners having failed to proceed as permitted under Sections 19.02(b) or 26.06(iv).

26.04 Default Which Cannot be Remedied by Lender

Any event of default under this Ground Lease which in the nature thereof cannot be remedied by Lender shall be deemed to be remedied if (i) within sixty (60) days after receiving notice from the City setting forth the nature of such event of default, or prior thereto, Lender shall have acquired Tenant's Leasehold Estate created hereby or shall have commenced foreclosure or other appropriate proceedings in the nature thereof, (ii) Lender shall diligently prosecute any such proceedings to completion, (iii) Lender shall have fully cured any event of default arising from failure to pay or perform any monetary obligation in accordance with the terms of this Ground Lease, and (iv) after gaining possession of the Improvements, Lender shall diligently proceed to perform all other obligations of Tenant as and when the same are due in accordance with the terms of this Ground Lease.

26.05 Court Action Preventing Lender's Action

If Lender is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the times specified in Sections 26.03 and 26.04 above for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition. If this Ground Lease is terminated or rejected by Tenant in bankruptcy, the City agrees to enter into a new ground lease with the Lender on the same terms set forth in this Ground Lease.

26.06 Lender's Rights to Record, Foreclose and Assign

The City hereby agrees with respect to any Leasehold Mortgage, that

(i) the Lender may cause same to be recorded and enforced, and upon foreclosure, sell and assign the Leasehold Estate created hereby to an assignee from whom it may accept a purchase price; subject, however, to Lender's first securing written approval from City, which approval shall not be unreasonably withheld, and if the Subsequent Owner has elected to maintain the use restrictions of Article 9, said Subsequent Owner shall be controlled by a California nonprofit public benefit corporation exempt from tax under Section 501(c)(3) of the Internal Revenue Code such that the Premises receive an exemption from state property taxes as provided under Section 214 of the California Revenue and Taxation Code. Lender, furthermore, may acquire title to the Leasehold Estate in any lawful way, and if the Lender shall become the assignee, may sell and assign said Leasehold Estate subject to City approval, which shall not be unreasonably withheld, and to the City's rights under Article 25; and

(ii) each Subsequent Owner shall take said Leasehold Estate subject to all of the provisions of this Ground Lease, and shall, so long as and only so long as it shall be the owner of such estate, except as provided elsewhere in this Ground Lease, assume all of the obligations of Tenant under this Ground Lease; provided, however, that, subject to the rent provisions of Section 26.07 below, the Subsequent Owner may operate and maintain the seventy four (74) Residential Units without any limitations on the rents charged or the income of the occupants thereof.

(iii) the City shall mail or deliver to any Lender which has an outstanding Leasehold Mortgage a duplicate copy of all notices which the City may from time to time give to Tenant pursuant to this Ground Lease.

(iv) any Permitted Limited Partners of Tenant shall have the same rights as any Lender under Sections 26.02, 26.03, and 26.06 (iii), and any reference to a Lender in said section shall be deemed to include such limited partners; provided, however, that the rights of such limited partners shall be subordinate to the rights of any Lender.

26.07 Ground Lease Rent After Lender Foreclosure or Assignment

From and after the time that the Subsequent Owner acquires title to the Leasehold Estate, Annual Rent shall be set as follows:

(a) Any accrued Annual Rent at the time of foreclosure shall be forgiven by the City, and shall not remain an obligation of the Lender, its assignee, or the Subsequent Owner.

Subsequent to foreclosure or assignment of the Leasehold Estate to the Lender in lieu of foreclosure, if the Lender continues to operate the Project subject to the use and occupancy restrictions of Section 9.02, then Annual Rent otherwise due may, at the option of the Lender, be deferred until the date of the Lender's sale or assignment of the Project to a Subsequent Owner or the date that is sixty (60) days after Lender ceases to operate the Project in accordance with such

restrictions. All deferred Annual Rent shall accrue, with simple interest at six percent (6%) per annum until paid.

(b) If the Subsequent Owner exercises its rights under Section 26.06(ii) to operate the Project without being subject to Section 9.02, Annual Rent shall be set at the then fair market rental value taking into account any affordability restrictions agreed to by the Subsequent Owner, if any, and the Base Rent shall be increased to the new fair market rent pursuant to Section 26.07(b) and the provisions of Section 6.02(g) shall be suspended; provided, however, that the City shall be entitled to reduce Annual Rent by any dollar amount (but not below zero) in its sole discretion and, in such case, the Subsequent Owner will be required to reduce rent charged to tenants on a dollar for dollar basis, with respect to such aggregate units occupied by Very Low Income Households as the City and the Subsequent Owner shall agree. The fair market rental value shall be determined by a jointly-commissioned appraisal (instructions prepared jointly by the Subsequent Owner and the City, with each party paying one half of the appraiser's fee) that will include a market land valuation, as well as a market land lease rent level. Absent a market land lease rent determination, the Annual Rent will be set at an amount equal to ten percent (10%) of the then appraised market land value. If the parties cannot agree on the joint appraisal instructions, either party may invoke a neutral third-party process to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. Provided, however, that after the neutral third party process, the Lender, in its sole discretion may rescind its written notification of intent to not comply with Section 9.02 of this Ground Lease.

26.08 Permitted Uses After Lender Foreclosure

Notwithstanding the above, in the event of a foreclosure and transfer to a Subsequent Owner, the Premises shall be operated in accordance with the uses specified in the building permit with all addenda, as approved by the City's Department of Building Inspection.

26.09 Preservation of Leasehold Benefits

Until such time as a Lender notifies the City in writing that the obligations of the Tenant under its loan documents have been satisfied, the City agrees:

(a) That the City shall not voluntarily cancel or surrender this Ground Lease, or accept a voluntary cancellation or surrender of this Ground Lease by Tenant, or materially amend this Ground Lease to increase the obligations of the Tenant or the rights of the City thereunder, without the prior written consent of the Lender (which will not be unreasonably withheld or delayed);

(b) That the City shall not enforce against a Lender any waiver or election made by the Tenant under this Ground Lease which has a material adverse effect on the value of the Leasehold Estate under this Ground Lease without the prior written consent of the Lender (which will not be unreasonably withheld or delayed);

(c) That, if a Lender makes written request for the same within 15 days after Lender receives written notice of termination of this Ground Lease, the City will enter a new lease with such Lender commencing on the date of termination of the Ground Lease and ending on the normal expiration date of the Ground Lease, on substantially the same terms and conditions as the Ground Lease and subject to the rent provisions set forth in Section 26.07, and with the same priority as against any subleases or other interests in the Premises; provided that such Lender cures all unpaid monetary defaults under the Ground Lease through the date of such termination;

(d) That the City shall provide reasonable prior notice to each Lender of any proceedings for adjustment or adjudication of any insurance or condemnation claim involving the Premises and will permit each Lender to participate therein as an interested party.

26.10 No Merger

The Leasehold Estate in the Premises pursuant to this Ground Lease shall not merge with the fee interest in the Premises, notwithstanding ownership of the leasehold and the fee by the same person, without the prior written consent of each Lender.

26.11 City Bankruptcy

(a) If a bankruptcy proceeding is filed by or against the City, the City shall immediately notify each Lender of such filing and shall deliver a copy of all notices, pleadings, schedules, and similar materials regarding the bankruptcy proceedings to each Lender.

(b) The City acknowledges that (i) the Tenant seeks to construct improvements on the Premises using proceeds of the loans provided by the Lenders, and (ii) it would be unfair to both the Tenant and the Lenders to sell the Premises free and clear of the leasehold. Therefore, the City waives its right to sell the City's fee interest in the Premises pursuant to section 363(f) of the Bankruptcy Code, free and clear of the leasehold interest under this Ground Lease.

(c) If a bankruptcy proceeding is filed by or on behalf of the City, the City agrees as follows: (i) the Tenant shall be presumed to have objected to any attempt by the City to sell the fee interest free and clear of the leasehold under this Ground Lease; (ii) if Tenant does not so object, each Lender shall have the right to so object on its own behalf or on behalf of the Tenant; and (iii) in connection with any such sale, the Tenant shall not be deemed to have received adequate protection under section 363(e) of the Bankruptcy Code, unless it shall have received and paid over to each Lender outstanding balance of the obligations under its respective loan.

(d) City recognizes that the Lenders are authorized on behalf of the Tenant to vote, participate in or consent to any bankruptcy, insolvency, receivership or court proceeding concerning the leasehold interest under this Ground Lease.

ARTICLE 27: CONDEMNATION AND TAKINGS

27.01 Parties' Rights and Obligations to be Governed by Agreement

If, during the term of this Ground Lease, there is any condemnation of all or any part of the Site or any interest in the Leasehold Estate is taken by condemnation, the rights and obligations of the parties shall be determined pursuant to this Article 27, subject to the rights of any Lender.

27.02 Total Taking

If the Site is totally taken by condemnation, this Ground Lease shall terminate on the date the condemnor has the right to possession of the Site.

27.03 Partial Taking

If any portion of the Site is taken by condemnation, this Ground Lease shall remain in effect, except that Tenant may, with Lender's written consent, which consent shall not be unreasonably withheld, conditioned or delayed, elect to terminate this Ground Lease if, in Tenant's reasonable judgment, the remaining portion of the Improvements is rendered unsuitable for Tenant's continued use of the Site. If Tenant elects to terminate this Ground Lease, Tenant must exercise its right to terminate pursuant to this paragraph by giving notice to the City within thirty (30) days after the City notifies Tenant of the nature and the extent of the taking. If Tenant elects to terminate this Ground Lease as provided in this Section 27.03, Tenant also shall notify the City of the date of termination, which date shall not be earlier than thirty (30) days nor later.

than six (6) months after Tenant has notified the City of its election to terminate; except that this Ground Lease shall terminate on the date the condemnor has the right to possession of the Site if such date falls on a date before the date of termination as designated by Tenant. If Tenant does not terminate this Ground Lease within such thirty (30) day notice period, this Ground Lease shall continue in full force and effect.

27.04 Effect on Rent

If any portion of the Improvements is taken by condemnation and this Ground Lease remains in full force and effect, then on the date of taking the rent shall be reduced by an amount that is in the same ratio to the rent as the value of the area of the portion of the Improvements taken bears to the total value of the Improvements immediately before the date of the taking.

27.05 Restoration of Improvements

If there is a partial taking of the Improvements and this Ground Lease remains in full force and effect pursuant to Section 27.03, Tenant may, subject to the terms of the Leasehold Mortgage, use the proceeds of the taking to accomplish all necessary restoration to the Improvements.

27.06 Award and Distribution

Any compensation awarded, paid or received on a total or partial condemnation of the Site or threat of condemnation of the Site shall belong to and be distributed in the following order:

(a) First, to pay the balance due on any outstanding Leasehold Mortgages and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals and lease residuals, to the extent provided therein; and

(b) Second, to the Tenant in an amount equal to the actual equity invested by the Tenant.

27.07 Payment to Lenders

In the event the Improvements are subject to the lien of a Leasehold Mortgage on the date when any compensation resulting from a condemnation or threatened condemnation is to be paid to Tenant, such award shall be disposed of as provided in the Loan Documents of the Leasehold Mortgage.

ARTICLE 28: ESTOPPEL CERTIFICATE

The City or Tenant, as the case may be, shall execute, acknowledge and deliver to the other and/or to Lender or a Permitted Limited Partner, promptly upon request, its certificate certifying (a) that this Ground Lease is unmodified and in full force and effect (or, if there have been modifications, that this Ground Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which rent has been paid, (c) whether there are then existing any charges, offsets or defenses against the enforcement by the City or Tenant to be performed or observed and, if so, specifying the same, and (d) whether there are then existing any defaults by Tenant or the City in the performance or observance by Tenant or the City of any agreement, covenant or condition hereof on the part of Tenant or the City to be performed or observed and whether any notice has been given to Tenant or the City of any default which has not been cured and, if so, specifying the same.

ARTICLE 29: QUITCLAIM

Upon expiration or sooner termination of this Ground Lease, Tenant shall surrender the Site to the City and, at the City's request, shall execute, acknowledge, and deliver to the City a good and sufficient quitclaim deed with respect to any interest of Tenant in the Site. Title to the Improvements shall vest automatically in the City as provided in Article 13 herein.

ARTICLE 30: EQUAL OPPORTUNITY

In the selection of all contractors and professional consultants for the Project, Tenant must

comply with the City's procurement requirements and procedures as described in the MOH Contracting Manual and with the requirements of Chapter 14B of the San Francisco Administrative Code ("LBE Ordinance") according to the procedures established by the City's Human Rights Commission. The Project is subject to the requirements of Section 3 of the Housing and Community Development Act of 1968 and of the San Francisco Section 3 program. Federal Section 3 requirements state that contracts and opportunities for job training and employment be given, to the greatest extent feasible, to local low-income residents. Local residents for this project are San Francisco residents. In addition, this project will be required to comply with hiring requirements as incorporated into the local Section 3 program and in conjunction with the City's low-income hiring requirements pursuant to San Francisco's First Source Hiring Ordinance (San Francisco Administrative Code Chapter 83). The goals for hiring of Section 3-eligible workers on the project will be 30% of new hires, moving towards a goal of 30% of total work hours. The Contractor shall also make a best faith effort to meet these goals.

ARTICLE 31: CERTIFICATE OF PREFERENCE PROGRAM

Tenant agrees to comply with the requirements of the Agency's Certificate of Preference Program, as it may be amended from time to time, and as set forth on Attachment 5.

ARTICLE 32: LABOR STANDARDS PROVISIONS

Although the Parties acknowledge that the development of the Project is a private work of improvement, Tenant that any person performing labor in the construction of the Project and any Change to the Premises, which Tenant provides under this Ground Lease, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco,

California. Tenant shall include in any contract for construction of the Project and Change a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Tenant shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of the Project or any Change to the Premises..**ARTICLE 33:**

INTENTIONALLY OMITTED

ARTICLE 34: INTENTIONALLY OMITTED

ARTICLE 35: NO PERSONAL LIABILITY

No commissioner, official, or employee of the City shall be personally liable to Tenant or any successor in interest in the event of any default or breach by the City or for any amount which may become due to Tenant or its successors or on any obligations under the terms of this Ground Lease.

ARTICLE 36: ENERGY CONSERVATION

Tenant agrees that it will use its best efforts to maximize provision of, and incorporation of, both energy conservation techniques and systems and improved waste-handling methodology in the construction of the Improvements.

ARTICLE 37: WAIVER

The waiver by the City or Tenant of any term, covenant, agreement or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement or condition herein contained, nor shall any custom or practice which may grow up between the parties in the administration of the terms hereof be construed to waive or to lessen the right of the City or Tenant to insist upon the performance by the other in strict accordance with the said terms. The subsequent acceptance of rent or any other sum of money

hereunder by the City shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, agreement or condition of this Ground Lease, other than the failure of Tenant to pay the particular rent or other sum so accepted, regardless of the City's knowledge of such preceding breach at the time of acceptance of such rent or other sum.

ARTICLE 38: TENANT RECORDS

Upon reasonable notice during normal business hours, and as often as the City may deem necessary, there shall be made available to the City and its authorized representatives for examination all records, reports, data and information made or kept by Tenant regarding its activities or operations on the Site. Nothing contained herein shall entitle the City to inspect personal histories of residents or lists of donors or supporters. To the extent that it is permitted by law to do so, the City will respect the confidentiality requirements of Tenant in regard to the lists furnished by Tenant pursuant to Article 7 hereof, of the names of occupants of the residential portion of the Site.

ARTICLE 39: NOTICES AND CONSENTS

All notices, demands, consents or approvals which may be or are required to be given by either party to the other hereunder shall be in writing and shall be deemed to have been fully given when delivered in person to such representatives of Tenant and the City as shall from time to time be designated by the parties for the receipt of notices, or when deposited in the United States mail, certified, postage prepaid, or by express delivery service with a delivery receipt and addressed

if to Tenant at: Broadway Sansome Associates, L.P.
c/o Chinatown Community Development Center
1525 Grant Avenue
San Francisco, CA 94133
Facsimile: (415) 984-1450
Telephone: (415) 362-7992

Attn: Executive Director

With a copy to

if to City at: Mayor's Office of Housing
One South Van Ness Ave, 5th Floor
San Francisco, California 94103
Attn.: Director

And to Tenant's Permitted
Limited Partner at: Raymond James California Housing Opportunities Fund, II,
LLC
c/o Raymond James Tax Credit Funds, Inc.
880 Carillon Parkway
St. Petersburg, Florida 33716
Facsimile: (727) 567-8455
Attn: Steve Kropf, President

or to such other address with respect to either party as that party may from time to time designate by notice to the other given pursuant to the provisions of this Article 39. Any notice given pursuant to this Article 39 shall be effective on the date of delivery or the date delivery is refused as shown on the delivery receipt.

ARTICLE 40: COMPLETE AGREEMENT

There are no oral agreements between Tenant and the City affecting this Ground Lease, and this Ground Lease supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings between Tenant and the City with respect to the lease of the Site.

ARTICLE 41: HEADINGS

Any titles of the several parts and sections of this Ground Lease are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions. "Paragraph" and "section" may be used interchangeably.

ARTICLE 42: SUCCESSORS AND ASSIGNS

This Ground Lease shall be binding upon and inure to the benefit of the successors and assigns of the City and Tenant and where the term "Tenant" or "City" is used in this Ground Lease, it shall mean and include their respective successors and assigns; provided, however, that the City shall have no obligation under this Ground Lease to, nor shall any benefit of this Ground Lease accrue to, any unapproved successor or assign of Tenant where City approval of a successor or assign is required by this Ground Lease. At such time as City sells the Site to any third party, City shall require such third party to assume all of City's obligations hereunder arising on and after the transfer in writing for the benefit of Tenant and its successors and assigns.

ARTICLE 43: TIME

Time is of the essence in the enforcement of the terms and conditions of this Ground Lease.

ARTICLE 44: PARTIAL INVALIDITY

If any provisions of this Ground Lease shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Ground Lease and all such other provisions shall remain in full force and effect.

ARTICLE 45: APPLICABLE LAW

This Ground Lease shall be governed by and construed pursuant to the laws of the State of California.

ARTICLE 46: ATTORNEYS' FEES

If either of the parties hereto commences a lawsuit to enforce any of the terms of this Ground Lease, the prevailing party will have the right to recover its reasonable attorneys' fees and costs of suit, including fees and costs on appeal, from the other party.

ARTICLE 47: EXECUTION IN COUNTERPARTS

This Ground Lease and any memorandum hereof may be executed in counterparts, each of which shall be considered an original, and all of which shall constitute one and the same instrument.

ARTICLE 48: RECORDATION OF MEMORANDUM OF GROUND LEASE

This Ground Lease shall not be recorded, but a memorandum of this Ground Lease shall be recorded in the form attached hereto as Attachment 6. The parties shall execute the memorandum in form and substance as required by a title insurance company insuring Tenant's leasehold estate or the interest of any Leasehold Mortgagee, and sufficient to give constructive notice of the Ground Lease to subsequent purchasers and mortgagees.

ARTICLE 49: TRANSFER OF PARTNERSHIP INTERESTS IN TENANT

Neither the transfer of any limited partner of Tenant (a "Limited Partner") interests in the Tenant or the admission of a successor limited partner or partners pursuant to the terms of the Partnership Agreement shall constitute an event of default under the Lease nor require the City's consent.

The withdrawal or removal of a general partner of the Tenant pursuant to the terms of the Partnership Agreement shall not require City consent, and shall not constitute a default under the Lease provided that any replacement general partner shall require the consent of the City which consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE 50: CITY PROVISIONS

50.1 Non-Discrimination.

(a) Covenant Not to Discriminate. In the performance of this Ground 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, weight, height or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Tenant, in any of Tenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant.

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

(c) Non-Discrimination in Benefits. Tenant does not as of the date of this Ground Lease and will not during the Term, in any of its operations in San Francisco or with respect to its operations under this Ground Lease elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or

membership discounts, moving expenses, pension and retirement benefits or travel benefits (collectively “Core Benefits”), as well as any benefits other than 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(b) of the San Francisco Administrative Code.

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

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

50.2 MacBride Principles – Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco

Administrative Code Section 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

Tenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

50.3 Conflicts of Interest. Tenant states that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, certifies that it knows of no facts which would constitute a violation of such provisions and agrees that if Tenant becomes aware of any such fact during the term of this Lease Tenant shall immediately notify the City. Tenant further certifies that it has made a complete disclosure to the City of all facts bearing on any possible interests, direct or indirect, which Tenant believes any officer or employee of the City presently has or will have in this Lease or in the performance thereof or in any portion of the profits thereof. Willful failure by Tenant to make such disclosure, if any, shall constitute grounds for City's termination and cancellation of this Ground Lease.

50.4 Charter Provisions. This Ground Lease is governed by and subject to the provisions of the Charter of the City and County of San Francisco. Accordingly, Tenant acknowledges and agrees that no officer or employee of the City has authority to commit the City to this Ground Lease unless and until an resolution of the City's Board of Supervisors has been duly enacted approving this Ground Lease. Therefore, any obligations or liabilities of the City under this Ground Lease are contingent upon enactment of an resolution, and this Ground Lease will be null and void unless the City's Mayor and the Board of Supervisors approve this Ground Lease, in their respective sole and absolute discretion, and in accordance with all applicable Laws.

Approval of this Ground Lease by any City department, commission or agency may not be deemed to imply that an resolution will be enacted or create any binding obligations on the City.

50.5 Tropical Hardwood/Virgin Redwood Ban. Pursuant to Section 804(b) of the San Francisco Environment Code, the City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Tenant shall not use any items in the rehabilitation, development or operation of the Premises or otherwise in the performance of this Lease which are tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin redwood wood products.

50.6 Tobacco Product Advertising Ban. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products may be allowed on the Premises. The foregoing prohibition will include the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product, or on any sign. The foregoing prohibition will not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

50.7 Pesticide Ordinance. Tenant shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage, and (iii) require Tenant to submit to the City's Department of the Environment an integrated pest management ("IPM") plan that (A) lists,

to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the Term of this Ground Lease, (b) describes the steps Tenant will take to meet the City's IPM Policy described in Section 39.1 of the Pesticide Ordinance, and (c) identifies, by name, title, address and telephone number, an individual to act as the Tenant's primary IPM contact person with City. In addition, Tenant shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing herein shall prevent Tenant, acting through the City, from seeking a determination from the City's Commission on the Environment that Tenant is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 307 thereof.

50.8 Compliance with City's Sunshine Ordinance . Tenant understands and agrees that under the City's Sunshine Ordinance (S.F. Admin. Code, Chapter 67) and the State Public Records Law (Cal. Gov. Code §§ 6250 et seq.), this Agreement and any and all records, information and materials submitted to the City hereunder are public records subject to public disclosure. Tenant hereby authorizes the City to disclose any records, information and materials submitted to the City in connection with this Ground Lease as required by Law. Further, Tenant specifically agrees to conduct any meeting of its governing board that addresses any matter relating to the Project or to Tenant's performance under this Ground Lease as a passive meeting.

50.9 Notification of Limitations on Contributions. Through its execution of this Ground Lease, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing 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 the officer at any time from the

commencement of negotiations for such contract until the termination of negotiations for such contract or three (3) months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves.

50.10 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 (the "HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated in this Ground Lease by reference and made a part of this Ground Lease as though fully set forth. The text of the HCAO is available on the web at www.sfgov.org/oca/lwlh.htm. Capitalized terms used in this Section and not defined in this Lease have the meanings assigned to them in Chapter 12Q. Notwithstanding this requirement, City recognizes that the residential housing component of the Improvements is not subject to the HCAO.

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

(b) If Tenant is a small business as defined in Section 12Q.3(d) of the HCAO, Tenant will have no obligation to comply with Subsection (a) above.

(c) Tenant's failure to comply with the HCAO will constitute a material breach of this Lease. If Tenant fails to cure its breach within thirty (30) days after receiving the City's written notice of a breach of this Lease for violating the HCAO or, if the breach cannot reasonably be cured within the 30-day period, Tenant fails to commence efforts to cure within the

30-day period, or thereafter fails diligently to pursue the cure to completion, the City will have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies will be exercisable individually or in combination with any other rights or remedies available to the City.

(d) Any sublease entered into by Tenant for commercial space in the Project must require the subtenant to comply with the requirements of the HCAO and must contain contractual obligations substantially the same as those set forth in this Section. Tenant must notify the City's Purchasing Department when Tenant enters into a sublease and must certify to the Purchasing Department that Tenant has notified the subtenant of the obligations under the HCAO and has imposed the requirements of the HCAO on subtenant through the sublease. Tenant will be responsible for its subtenants' compliance with this Chapter. If a subtenant fails to comply, the City may pursue the remedies set forth in this Section against Tenant based on the subtenant's failure to comply, provided that City has first provided Tenant with notice and an opportunity to obtain a cure of the violation.

(e) Tenant may not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying the City with regard to Tenant's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in 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 intent of the HCAO.

(g) Tenant must keep itself informed of the current requirements of the HCAO.

(h) Tenant must provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on subtenants, as applicable.

(i) Tenant must provide City with access to records pertaining to compliance with HCAO after receiving a written request from the City to do so and being provided at least five (5) business days to respond.

(j) The City may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant agrees to cooperate with the City when it conducts audits.

(k) If Tenant is exempt from the HCAO when this Lease is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with the City to reach \$75,000, all the agreements will be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and MOH to be equal to or greater than \$75,000 in the fiscal year.

50.11 Public Access to Meetings and Records. If Tenant receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Tenant shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Ground Lease, Tenant agrees to open its meetings and records to the public in the manner set forth in Sections 12L.4 and 12L.5 of the Administrative Code. Tenant further agrees to make good-faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 12L.6 of the Administrative Code. Tenant acknowledges that its material failure

to comply with any of the provisions of this paragraph shall constitute a material breach of this Ground Lease. Tenant further acknowledges that such material breach of the Lease shall be grounds for City to terminate and/or not renew this Ground Lease, partially or in its entirety.

50.12 Resource-Efficient Building Ordinance. Tenant acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Chapter 7 relating to resource-efficient City buildings and resource-efficient pilot projects. Tenant hereby agrees it shall comply with the applicable provisions of such code sections as such sections may apply to the Premises.

50.13 Drug Free Work Place. Tenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City premises. Tenant agrees that any violation of this prohibition by Tenant, its Agents or assigns shall be deemed a material breach of this Ground Lease.

50.14 Preservative Treated Wood Containing Arsenic. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Ground Lease unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the 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, ammoniacal 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 the 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.

50.15 Nondisclosure of Private Information. Tenant agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "Nondisclosure of Private Information Ordinance"), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated herein by reference and made a part of this Agreement as though fully set forth. Capitalized terms used in this section and not defined in this Agreement shall have the meanings assigned to such terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:

(a) Neither Tenant nor any of its subcontractors shall disclose Private Information, unless one of the following is true:

(i) The disclosure is authorized by this Ground Lease;

(ii) Tenant received advance written approval from the Contracting Department to disclose the information; or

(iii) The disclosure is required by law or judicial order.

(b) Any disclosure or use of Private Information authorized by this Ground Lease shall be in accordance with any conditions or restrictions stated in this Ground Lease. Any disclosure or use of Private Information authorized by a Contracting Department shall be in accordance with any conditions or restrictions stated in the approval.

(c) Private Information shall mean any information that: (1) could be used to identify an individual, including without limitation, name, address, social security number,

medical information, financial information, date and location of birth, and names of relatives; or
(2) the law forbids any person from disclosing.

(d) Any failure of Tenant to comply with the Nondisclosure of Private Information Ordinance shall be a material breach of this Ground Lease. In such an event, in addition to any other remedies available to it under equity or law, City may terminate this Ground Lease, debar Tenant, or bring a false claim action against Tenant.

50.16 Graffiti. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Tenant shall remove all graffiti from the Premises and any real property owned or leased by Tenant in the City and County of San Francisco 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 Tenant to breach any lease or other agreement that it may have concerning its use of the real property. The term "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 by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction Premises, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco 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 (California Civil Code Sections 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.). Any failure of Tenant to comply with this section of this Ground Lease shall constitute an event of default of this Ground Lease.

50.17 Incorporation. Each and every provision of the San Francisco Administrative Code described or referenced in this Ground Lease is hereby incorporated by reference as though fully set forth herein. Failure of Tenant to comply with any provision of this Ground Lease relating to any such code provision shall be governed by Article 19 of this Ground Lease, unless (i) such failure is otherwise specifically addressed in this Ground Lease or (ii) such failure is specifically addressed by the applicable code section.

50.18 Food Service Waste Reduction. Tenant agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Ground Lease as though fully set forth herein. This provision is a material term of this Ground Lease. By entering into this Ground Lease, Tenant agrees that if it

breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, 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 Ground 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.

ARTICLE 51: ATTACHMENTS

The following are attached to this Ground Lease and by this reference made a part hereof:

1. Legal Description of Site
2. Scope of Development
3. Schedule of Performance
4. Operational Rules for Certificate Holders' Priority
5. Memorandum of Ground Lease
6. Income Certification Form

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

TENANT:

BROADWAY SANSOME ASSOCIATES, L.P.
a California limited partnership

By: Broadway Family Apartments LLC,
a California limited liability company,
its general partner

By: Chinatown Community Development Center Inc.,
a California nonprofit public benefit corporation,
its managing member

By: _____
Its: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By:
Olson Lee
Director, Mayor's Office of Housing

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By:
Evan Gross
Deputy City Attorney

ATTACHMENT 1

Legal Description of the Site

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

Beginning at the intersection of the Southerly line of Broadway and the Easterly line of Sansome Street; thence along said Southerly line, North $80^{\circ} 54' 41''$ East, 275.54 feet to the intersection of said Southerly line and the Westerly line of Battery Street; thence along said Westerly line, South $9^{\circ} 05' 19''$ East, 50.00 feet to the Northeast corner of that parcel described in document recorded April 17, 1956, in Volume 6827, Page 67, Official Records of the City and County of San Francisco; thence along the Northerly line of said Parcel, South $80^{\circ} 54' 41''$ West, 70.00 feet to the Northwest corner of said Parcel; thence along the Westerly line of said Parcel, South $9^{\circ} 05' 19''$ East, 20.00 feet to the Southerly line of said State Parcel 12933; thence along the Southerly line of said State Parcels 12933, 12934 and 12935, South $80^{\circ} 54' 41''$ West, 107.58 feet; thence North $9^{\circ} 05' 19''$ West, 1.25 feet; thence continuing along said Southerly line, South $80^{\circ} 54' 41''$ West, 20.46 feet to the Southwest corner of said State Parcel 12935; thence leaving said Southerly line and along the Easterly line of said Parcel of the intersection of said Easterly line of that parcel of land known now or formerly as Stevens Alley, South $9^{\circ} 05' 19''$ East, 1.25 feet to the intersection of said Easterly line and the Easterly prolongation of the Southerly line of said State Parcel 12936; thence along said Southerly line and Easterly prolongation thereof, South $80^{\circ} 54' 41''$ West, 77.51 feet to the Easterly line of Sansome Street; thence along said Easterly line, North $9^{\circ} 05' 19''$ West, 70.00 feet to the point of beginning.

APN: 0165-021

ATTACHMENT 2

Scope of Development

The Broadway-Sansome Apartments project is a mid-rise, mixed-use, 100% affordable residential development with retail uses (the "Project") on an approximately 17,850 square-foot, sloping site on Broadway between Sansome and Battery Streets. The eastern portion of the Project site is currently utilized as a commercial surface parking lot, and the western portion is vacant, undeveloped land.

The proposed new construction project consists of 75 units of affordable housing, including housing for formerly homeless families, and 2,902 square feet of ground level retail space. The development will also include supportive services spaces, an at-grade courtyard, and two common roof decks. Bicycle parking will be provided, but no off-street parking is proposed.

The building will be of wood-frame Type III construction, clad in cement plaster, over a concrete, Type I base. A number of sustainable design features will be incorporated, including energy conserving heating/cooling, insulation, lighting, and appliances; water conservation technology in units; indoor air quality enhancements; and recycled/renewable finishes.

The design of Broadway-Sansome Apartments addresses its block long site by responding to the neighborhood context at both the eastern and western ends of the site. From Battery Street and stretching two thirds of the way up the block is a horizontally configured loft-like bar with retail frontage on the Broadway/Battery corner. This simple element has a boldly colored three story middle section over the retail base with a two story glassy loggia above. Sunshades for the raking south and west sun help animate the surfaces of this element. The configuration of the western portion of the block responds to the quite different character and scale of buildings on Sansome Street. Unit plans with recessed bedrooms create deep notches in the building and small, vertically proportioned elements of similar scale to the context buildings on this end of the site. The Broadway/Sansome corner also has retail frontage and the Broadway frontage is animated by the building entrance. The interplay of two compositional strategies related to the surrounding buildings articulates and gives appropriate scale to the only full block frontage on this portion of Broadway.

ATTACHMENT 3

	Performance Milestone	Contractual Deadline
1.	Ground Lease Executed	<u>01/11</u>
2.	Design	
a.	Submittal of Schematic Design & Cost Estimate	<u>09/10</u>
3.	Permits	
a.	Building / Site Permit Application Submitted	<u>05/11</u>
4.	Construction	
a.	Notice to Proceed	<u>06/12</u>
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>12/13</u>
5.	Marketing/Rent-up	
a.	Marketing Plan Submission	<u>04/13</u>
b.	95% Occupancy	<u>2/14</u>

ATTACHMENT 4
OPERATIONAL RULES FOR
CERTIFICATE HOLDERS' PRIORITY

The Owner hereby agrees that priority for units designated for Low Income Households will be given to persons displaced or to be displaced from their homes by Agency redevelopment activities and who have been issued a form described as the "Certificate of Preference" ("Certificate Holder"), establishing a priority right to claim units outlined in the descending order of priority in paragraph D of this Attachment "4". Final acceptance or rejection of Certificate Holders lies with the Owner. The Owner shall notify the Agency and applicant in writing of the reason for rejection. In order to implement this Attachment "4":

A. The Agency agrees to furnish the following:

1. Written and/or printed notices to Certificate Holders advising them that such units will soon be available;
2. Assistance to Certificate Holders in filing applications; and
3. Verification to the Owner that applicant has been displaced.

B. The Owner agrees to the following:

1. To supply the Agency ninety (90) days prior to accepting lease applications with the information listed below. This information shall not be changed without providing the Agency with ten (10) days written notice.
 - a. A master unit list with the following information:
 - (1) Apartment number;
 - (2) Number of bedrooms and baths;
 - (3) Square footage; and
 - (4) Initial rent to be charged.
 - b. Estimated itemized cost of utilities and services to be paid by tenant by unit size.
 - c. Detailed description of Owner's rules for tenants, which must include:
 - (1) Minimum and maximum income
 - (2) Pet policy
 - (3) Selection process: To insure no discrimination against Low Income Households and Certificate Holders all criteria and the relative weight to be given to each criterion indicated. The Agency shall approve or disapprove the selection process criteria within ten (10) working days after submission thereof to the Agency.
 - (4) Amount of security deposit and all other fees, as well as refund policy regarding same.
 - (5) Occupancy requirements must be described in full and found reasonable by the Agency
 - (6) Duration of rental agreement or lease.
 - (7) Copy of rental agreement or lease.

- (8) The Owner's rules for tenants shall be acceptable for purposes of this sub-paragraph.
 - d. Amount of charge for processing applications, if any.
 - e. Description of application process and length of time needed by Owner.
 - f. Copy of rental application and copy of all forms to be used for income verification.
 - g. Periodic notification to the Agency of the Owner's office hours for accepting applications and showing model unit(s).
2. The Owner further agrees that some applicants who apply directly to the Owner may be entitled to priority because of previous displacement. The Owner will, therefore, ask the following questions on all applications for occupancy:

"Have you been displaced or do you expect to be displaced by the San Francisco Redevelopment Agency?"

If the applicant answers affirmatively, the address from which displacement occurred is required. Copies of all applications indicating that such displacement either has taken place or will take place must be forwarded to the Agency within five (5) working days of receipt of such application by the Owner. It is agreed that information received on the application will be considered confidential. The Agency will, in turn, determine within ten (10) working days which such applicants are then qualified or will qualify as Certificate Holders, and will establish current Certificate of Preference priority.

1. During initial lease-up of Low Income Units, the Agency may supply the Owner with a "status report" listing names, addresses and certificate numbers of Certificate Holders for all open applications. The Owner will return the same form within five (5) working days, indicating:
 - (1) status of each application as of that date, and
 - (2) in case of rejection for any cause, the exact reason thereof.
2. If material supplied in any application by a Certificate Holder indicates ineligibility on its face because of the Owner's rules and regulations, such applicant will be notified within one week, with a copy of the Agency. Any fee charged for processing such application will be refunded in full, notwithstanding, however, that such applicant shall be listed on status report showing application is closed and fee has been returned. If ineligibility can be determined only after a follow-up investigation, the applicant will be notified within one week after such determination is made, with a copy to the Agency. Any fee charged for processing such applications may be retained by the Owner. These applications will also appear on the status report.
3. Within ten (10) working days after execution of a lease, the Owner will supply the Agency with a signed copy of the following for all Certificate Holder tenants:
 - (1) signed copy of lease;

- (2) copy of complete application; and
- (3) copies of all verification forms used to ascertain income eligibility.

D. In order to expedite occupancy of housing units nearing completion, the Owner further agrees:

1. To select as prospective tenants eligible Certificate Holders who meet the occupancy requirements of the Owner. Selection will be based on the following descending order of priorities:
 - a. Families or individuals who reside on Agency property in redevelopment areas.
 - b. Families or individuals who were relocated from Agency property and still have a valid Certificate of Preference.
 - c. Families or individuals displaced by the Department of Health, Public Works, etc. and referred by the Agency.
2. Applicants who are Certificate Holders who have been accepted and notified by the Owner will have five (5) working days thereafter to accept or reject a unit. If the Certificate Holder fails to affirmatively respond, the application may be closed. Rejection of the unit by a Certificate holder must be shown on current status report.
3. All Certificate Holders found acceptable by the Owner shall have the opportunity to inspect a model or other available completed unit, and be assigned an appropriate unit for future occupancy. Units may be offered to non-Certificate Holders at any time as long as the current status report shows that there are sufficient units available to satisfy applications from Certificate Holders for units of appropriate size in any stage of processing. **ALL OBLIGATIONS TO SHOW MODELS OR OTHER AVAILABLE COMPLETED UNITS SHALL REMAIN IN EFFECT DURING INITIAL OCCUPANCY PERIOD.** Initial Occupancy is defined for all purposes of this Attachment "4" as the earlier of ninety (90) calendar days following the Agency's receipt of a certified copy of a Certificate (or Certificates) of Occupancy issued by the City and County of San Francisco for the respective unit (or units) to be so approved for occupancy, or the date when all units have been rented to the first occupants thereof. Upon Initial Occupancy the Agency will certify compliance with this Attachment "4" with a written notice provided ten (10) days after Initial Occupancy. Such certification in no way negates the Owner's continued obligations to provide housing to persons displaced or to be displaced by the Agency's redevelopment activities as vacancies occur amount the units designated for Low Income Households.

E. Prior to Initial Occupancy, the Owner will deliver at least monthly, or more frequently if available to the Owner from its leasing agent, a rent-up report for all Development units listing the following:

1. Unit number rented;
2. Tenant name;
3. Date of move-in; and
4. Rent rate.

- F. The Owner agrees that any contract entered into for the management of the residential portions of the Development, both before and after Initial Occupancy, shall be furnished to the Agency, shall incorporate the provisions of this Attachment "I", and shall bind the management agent to comply with its requirements.
- G. After Initial Occupancy (without regard to whether the Agency has certified compliance with the obligation of the Owner respecting the period prior to Initial Occupancy), the Owner agrees to notify the Agency as far as practicable in advance of vacancies, which may occur in Low Income Housing units. The Agency and the Owner agree to follow the steps set forth in paragraph (D) above with respect to such units. In the event no appropriate Certificate Holder can be found within five (5) working days after receipt of notification by the Owner to the Agency of availability of a unit, the Agency agrees that the Owner may lease the unit to Low Income Households, as appropriate, which do not hold a Certificate of Preference.
- H. The Agency reserves the right to waive any of the foregoing conditions, provided however that any such waiver shall not be deemed to have waived any other conditions, nor the same condition subsequently.

ATTACHMENT 5

Form of Memorandum of Lease

Free Recording Requested Pursuant to
Government Code Section 27383

When recorded, mail to:
Mayor's Office of Housing of the
City and County of San Francisco
1 South Van Ness Avenue, Fifth Floor
San Francisco, California 94103
Attn: Director

MEMORANDUM OF GROUND LEASE

This Memorandum of Ground Lease ("Memorandum") is entered into as of _____, 2013, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City"), acting by and through the Mayor's Office Of Housing ("City"), and BROADWAY SANSOME ASSOCIATES L.P., a California limited partnership ("Tenant"), with respect to that certain Amended and Restated Ground Lease (the "Lease") dated _____, 2013, between City and Tenant.

Pursuant to the Lease, City hereby leases to Tenant and Tenant leases from City the real property more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property"). The Lease shall commence on the date set forth above and shall end on the date which is 70 years from the date set forth above, unless terminated earlier or extended pursuant to the terms of the Lease.

This Memorandum shall incorporate herein all of the terms and provisions of the Lease as though fully set forth herein.

This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the Lease, of which this is a memorandum.

This Memorandum may be signed by the parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts shall be deemed an original of this Memorandum.

Executed as of _____, 2013 in San Francisco, California.

TENANT:
BROADWAY SANSOME ASSOCIATES L.P.,
a California limited partnership

By: BROADWAY FAMILY APARTMENTS LLC,
a California limited liability company
Its managing general partner

By: CHINATOWN COMMUNITY DEVELOPMENT CENTER, INC.,
a California nonprofit public benefit corporation,
Its sole member

By:
Gordon Chin
Executive Director

CITY:
CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By:
Olson Lee
Director, Mayor's Office of Housing

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Deputy City Attorney

ATTACHMENT 6

TE T INCOME CERTIFICATION QUESTIC AIRE

One Form per Adult Member of the Household

NAME: _____ Initial Certification _____ Re-certification _____ <input type="checkbox"/> Other _____	TELEPHONE NUMBER: () _____ BIN # _____ Unit # _____
---	--

INCOME INFORMATION

	YES	NO		MONTHLY GROSS INCOME
1.	<input type="checkbox"/>	<input type="checkbox"/>	I am self employed. (List nature of self employment) _____	(use <u>net</u> income from self-employment only) \$ _____
2.	<input type="checkbox"/>	<input type="checkbox"/>	I have a job and receive wages, salary, overtime pay, commissions, fees, tips, bonuses, and/or other compensation. List the businesses and/or companies that pay you: <div style="text-align:center"> Name of Employer 1) _____ \$ _____ 2) _____ \$ _____ 3) _____ \$ _____ </div>	
3.	<input type="checkbox"/>	<input type="checkbox"/>	I receive cash contributions of gifts including rent or utility payments, on an ongoing basis from persons not living with me.	\$ _____
4.	<input type="checkbox"/>	<input type="checkbox"/>	I receive unemployment benefits.	\$ _____
5.	<input type="checkbox"/>	<input type="checkbox"/>	I receive Veteran's Administration, GI Bill, or National Guard/Military benefits/income.	\$ _____
6.	<input type="checkbox"/>	<input type="checkbox"/>	I receive periodic social security payments.	\$ _____
7.	<input type="checkbox"/>	<input type="checkbox"/>	The household receives <u>unearned</u> income from family members age 17 or under (example: Social Security, Trust Fund disbursements, etc.).	\$ _____
8.	<input type="checkbox"/>	<input type="checkbox"/>	I receive Supplemental Security Income (SSI).	\$ _____
9.	<input type="checkbox"/>	<input type="checkbox"/>	I receive disability or death benefits other than Social Security.	\$ _____
10.	<input type="checkbox"/>	<input type="checkbox"/>	I receive Public Assistance Income (examples: TANF, AFDC)	\$ _____
11.	<input type="checkbox"/>	<input type="checkbox"/>	I am entitled to receive child support payments.	\$ _____
	<input type="checkbox"/>	<input type="checkbox"/>	I am currently receiving child support payments. If yes, from how many persons do you receive support? _____	\$ _____
	<input type="checkbox"/>	<input type="checkbox"/>	I am currently making efforts to collect child support owed to me. List efforts being made to collect child support: _____ _____	
12.	<input type="checkbox"/>	<input type="checkbox"/>	I receive alimony/spousal support payments	\$ _____
13.	<input type="checkbox"/>	<input type="checkbox"/>	I receive periodic payments from trusts, annuities, inheritance, retirement funds or pensions, insurance policies, or lottery winnings. If yes, list sources: 1) _____ 2) _____	\$ _____ \$ _____
14.	<input type="checkbox"/>	<input type="checkbox"/>	I receive income from real or personal property.	(use <u>net</u> earned income) \$ _____
15.	<input type="checkbox"/>	<input type="checkbox"/>	Student financial aid (public or private, not including student loans) Subtract cost of tuition from Aid received <i>*For Households receiving Section 8 Assistance Only</i>	\$ _____

ASSET INFORMATION

ASSET INFORMATION		INTEREST RATE	CASH VALUE
YES	NO		
16.	<input type="checkbox"/> <input type="checkbox"/>	I have a checking account(s). If yes, list bank(s) 1) _____ 2) _____	_____% _____% \$ _____ \$ _____
17.	<input type="checkbox"/> <input type="checkbox"/>	I have a savings account(s) If yes, list bank(s) 1) _____ 2) _____	_____% _____% \$ _____ \$ _____
18.	<input type="checkbox"/> <input type="checkbox"/>	I have a revocable trust(s) If yes, list bank(s) 1) _____	_____% \$ _____
19.	<input type="checkbox"/> <input type="checkbox"/>	I own real estate. If yes, provide description: _____	\$ _____
20.	<input type="checkbox"/> <input type="checkbox"/>	I own stocks, bonds, or Treasury Bills If yes, list sources/bank names 1) _____ 2) _____ 3) _____	_____% _____% _____% \$ _____ \$ _____ \$ _____
21.	<input type="checkbox"/> <input type="checkbox"/>	I have Certificates of Deposit (CD) or Money Market Account(s). If yes, list sources/bank names 1) _____ 2) _____ 3) _____	_____% _____% _____% \$ _____ \$ _____ \$ _____
22.	<input type="checkbox"/> <input type="checkbox"/>	I have an IRA/Lump Sum Pension/Keogh Account/401K. If yes, list bank(s) 1) _____ 2) _____	_____% _____% \$ _____ \$ _____
23.	<input type="checkbox"/> <input type="checkbox"/>	I have a whole life insurance policy. If yes, how many policies _____	\$ _____
24.	<input type="checkbox"/> <input type="checkbox"/>	I have cash on hand.	\$ _____
25.	<input type="checkbox"/> <input type="checkbox"/>	I have disposed of assets (i.e. gave away money/assets) for less than the fair market value in the past 2 years. If yes, list items and date disposed: 1) _____ 2) _____	\$ _____ \$ _____

STUDENT STATUS

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	Does the household consist of all persons who are <u>full-time</u> students (Examples: K-12, College, Trade School, etc.)?
<input type="checkbox"/>	<input type="checkbox"/>	Does the household consist of all persons who have been a <u>full-time</u> student 5 months in the current calendar year?
<input type="checkbox"/>	<input type="checkbox"/>	Does your household anticipate becoming an all <u>full-time</u> student household in the next 12 months?
<input type="checkbox"/>	<input type="checkbox"/>	If you answered yes to any of the previous three questions are you:
<input type="checkbox"/>	<input type="checkbox"/>	• Receiving assistance under Title IV of the Social Security Act (AFDC/TANF/Cal Works - not SSA/SSI)
<input type="checkbox"/>	<input type="checkbox"/>	• Enrolled in a job training program receiving assistance through the Job Training Participation Act (JTPA) or other similar program
<input type="checkbox"/>	<input type="checkbox"/>	• Married and filing (or are entitled to file) a joint tax return
<input type="checkbox"/>	<input type="checkbox"/>	• Single parent with a dependant child or children and neither you nor your child(ren) are dependent of another individual
<input type="checkbox"/>	<input type="checkbox"/>	• Previously enrolled in the Foster Care program (currently age 18-24)

UNDER PENALTIES OF PERJURY, I CERTIFY THAT THE INFORMATION PRESENTED ON THIS FORM IS TRUE AND ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. THE UNDERSIGNED FURTHER UNDERSTANDS THAT PROVIDING FALSE REPRESENTATIONS HEREIN CONSTITUTES AN ACT OF FRAUD. FALSE, MISLEADING OR INCOMPLETE INFORMATION WILL RESULT IN THE DENIAL OF APPLICATION OR TERMINATION OF THE LEASE AGREEMENT.

PRINTED NAME OF APPLICANT/TENANT _____

SIGNATURE OF APPLICANT/TENANT _____

DATE _____

WITNESSED BY (SIGNATURE OF OWNER/REPRESENTATIVE) _____

DATE _____

TENANT INCOME CERTIFICATION

Initial Certification 1st Recertification Other

Effective Date: _____
 3-in Date: _____
 (MM/DD/YYYY)

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ BIN #: _____
 Address: _____ Unit Number: _____ # Bedrooms: _____

PART II. HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$ _____	\$ _____	\$ _____	\$ _____
Add totals from (A) through (D), above			TOTAL INCOME (E):	\$ _____

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$ _____	\$ _____
Enter Column (H) Total If over \$5000		\$ _____ X	Passbook Rate 2.00%	= (J) Imputed Income \$ _____
Enter the greater of the total of column I, or J: imputed income			TOTAL INCOME FROM ASSETS (K)	\$ _____
(L) Total Annual Household Income from all Sources [Add (E) + (K)]				\$ _____

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature	(Date)	Signature	(Date)
Signature	(Date)	Signature	(Date)

PART DETERMINATION OF INCOME ELIGIBILITY

RECERTIFICATION ONLY:

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES:
From item (L) on page 1

\$

Current Income Limit x 140%:

\$ _____

Household Income exceeds 140% at recertification:

Yes No

Current Income Limit per Family Size: \$ _____

Household Income at Move-in: \$ _____

Household Size at Move-in: _____

PART VI. RENT

Tenant Paid Rent \$ _____
Utility Allowance \$ _____

Rent Assistance: \$ _____
Other non-optional charges: \$ _____

GROSS RENT FOR UNIT:
(Tenant paid rent plus Utility Allowance & other non-optional charges)

\$

Unit Meets Rent Restriction at:
 60% 50% 40% 30% _____%

Maximum Rent Limit for this unit: \$ _____

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

yes no

If yes, Enter student explanation*
(also attach documentation)

Enter
1-5

*Student Explanation:

- 1 AFDC / TANF Assistance
- 2 Job Training Program
- 3 Single Parent/Dependent Child
- 4 Married/Joint Return
- 5 Former Foster Care

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit

See Part V above.

b. HOME

- Income Status*
- ≤ 50% AMGI
 - ≤ 60% AMGI
 - ≤ 80% AMGI
 - OI**

c. Tax Exempt

- Income Status*
- 50% AMGI
 - 60% AMGI
 - 80% AMGI
 - OI**

d. AHDP

- Income Status*
- 50% AMGI
 - 80% AMGI
 - OI**

e. _____
(Name of Program)

- Income Status*
- _____
 - _____
 - OI**

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Move-in Date Enter the date the tenant has or will take occupancy of the unit.

Effective Date Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.

Property Name Enter the name of the development.

County Enter the county (or equivalent) in which the building is located.

BIN # Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).

Address Enter the address of the building.

Unit Number Enter the unit number.

Bedrooms Enter the number of bedrooms in the unit.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of Household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and social security number or alien registration number for each occupant.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List each respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

Column (A) Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.

Column (B) Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.

Column (C) Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).

Column (D) Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.

Row (E) Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F) List the type of asset (i.e., checking account, savings account, etc.)

Column (G) Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).

Column (H) Enter the cash value of the respective asset.

Column (I) Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).

TOTALS Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K) Enter the greater of the total in Column (I) or (J)

Row (L) Total Annual Household Income From all Sources Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V - Determination of Income Eligibility

Total Annual Household Income from all Sources

Enter the number from item (L).

Current Income Limit per Family Size

Enter the Current Move-in Income Limit for the household size.

Household income at move-in
Household size at move-in

For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.

Household Meets Income Restriction

Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Current Income Limit x 140%

For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. **140% is based on the Federal Set-Aside of 20/50 or 40/60, as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc.** Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check "yes". If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

**Full time is determined by the school the student attends.*

Part VIII - Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit	See Part V above.
HOME	If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household's designation.
Tax Exempt	If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household's designation.
AHDP	If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicating the household's designation.
Other	If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

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

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

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

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

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

Sponsor(s):

Supervisor David Chiu

Subject:

Resolution authorizing Mayor's Office of Housing to amend ground lease with Broadway Sansome Apartments.

The text is listed below or attached:

See attached

Signature of Sponsoring Supervisor: David Chiu

For Clerk's Use Only:

130234

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

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: BROADWAY SANSOME ASSOCIATES, L.P.	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
PLEASE SEE ATTACHED	
Contractor address: 1525 Grant Avenue, San Francisco, Ca 94119	
Date that contract was approved: <i>(By the SF Board of Supervisors)</i>	Amount of contracts: \$ 23,900,000
Describe the nature of the contract that was approved: Bond proceeds will pay for construction costs for 75 affordable family units.	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

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

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

Print Name of Board

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

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

Date Signed

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

Date Signed

Board of Directors



Vivian Fei Tsen - Chair
Managing Partner, Tsen Development Group

Ben Golvin - Vice Chair
Principal, Equity Community Builders

Patsy Chan - Secretary
Office Assistant/Transaction Coordinator, Comax Realty, Inc

Gregory Chin -Treasurer
Senior Program Manager, California Housing Partnership Corporation

Pamela Calloway
Principal, Calloway & Associate

Phil Chin
Principal, GreenFuels Inc

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Managing Member and Legal Counsel, Chung Investment, LLC

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Care Navigator, Shanti

Irma Poe
Senior Program Manager, Corporation of Support Housing

Nils Rosenquest
Principal, Rosenquest & Associates

Susie Wong
Director of Operations and Development, San Francisco Network Ministries

Carmen Ye
Student, University of California, Berkeley