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Director of Real Estate

December 30, 2013

M. Magdalena Ryor, PhD, LEED AP BD+C, PMP, CCM
Project Manager
Department of Public Works
Building Design & Construction (BDC)
City and County of San Francisco
30 Van Ness, 4th Floor
San Francisco, CA 94102

**SUBJECT: 1995 Evans Street Lease
Board File No. 131038, Resolution 390-13**

Dear Magdalena:

As requested, attached is a copy of the fully executed lease agreement for 1995 Evans Street. By copy of this letter, I'm also fulfilling our obligation to the Clerk of the Board to populate the Board file with this information.

Do not hesitate to contact me if you have any questions.

Respectfully,

John Updike, Director

c: Clerk of the Board of Supervisors

enclosure

OFFICE LEASE WITH OPTION TO PURCHASE

between

Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995
Living Trust, dated February 9, 1995,
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,
as Tenant

For the lease of
1995 Evans Street, Lots 004, 005 and 006 in Block 5231, San Francisco County,
San Francisco, California

November 13, 2013

ORIGINAL

82

TABLE OF CONTENTS

	<u>Page</u>
1. BASIC LEASE INFORMATION	1
2. PREMISES	3
2.1 Lease Premises	3
2.2 Common Areas	3
3. TERM 3	
3.1 Term of Lease	3
3.2 Commencement Date and Expiration Date.....	4
3.3 Condition on Delivery.....	4
3.4 Compliance.....	4
3.5 Delay in Delivery of Possession	4
3.6 Extension Option	4
4. RENT	5
4.1 Base Rent	5
5. USE	5
5.1 Permitted Use.....	5
5.2 Observance of Rules and Regulations	6
5.3 Interference with Access.....	6
6. LEASEHOLD IMPROVEMENTS	6
7. ALTERATIONS	6
7.1 Alterations by City.....	6
7.2 Title to Improvements.....	7
7.3 City's Personal Property	7
7.4 Alteration by Landlord.....	7
8. REPAIRS AND MAINTENANCE	7
8.1 Landlord's Repairs.....	7
8.2 City's Repairs.....	8
8.3 Liens	8
9. UTILITIES AND SERVICES	8
9.1 Landlord's Provision of Utilities	8
9.2 Services	8
9.3 Conservation	9
9.4 Disruption in Essential Utilities or Services	9

10.	COMPLIANCE WITH LAWS; PREMISES CONDITION	9
10.1	Premises Condition and Landlord’s Compliance with Laws; Indemnity	9
10.2	City’s Compliance with Laws; Indemnity	10
10.3	City’s Compliance with Insurance Requirements.....	10
11.	SUBORDINATION.....	10
12.	DAMAGE AND DESTRUCTION.....	11
13.	EMINENT DOMAIN	12
13.1	Definitions.....	12
13.2	General.....	12
13.3	Total Taking; Automatic Termination.....	12
13.4	Partial Taking; Election to Terminate.....	13
13.5	Termination of Lease; Rent and Award.....	13
13.6	Partial Taking; Continuation of Lease	13
13.7	Temporary Taking	13
14.	ASSIGNMENT AND SUBLETTING	14
15.	DEFAULT; REMEDIES	14
15.1	Events of Default by City	14
15.2	Landlord’s Remedies	14
15.3	Landlord’s Default.....	15
16.	INDEMNITIES.....	15
16.1	City’s Indemnity	15
16.2	Landlord’s Indemnity.....	15
17.	INSURANCE.....	16
17.1	City’s Self-Insurance	16
17.2	Landlord’s Insurance	16
17.3	Waiver of Subrogation.....	16
18.	ACCESS BY LANDLORD.....	16
19.	ESTOPPEL CERTIFICATES	17
20.	SURRENDER OF PREMISES	17
21.	HAZARDOUS MATERIALS	17
21.1	Definitions.....	17
21.2	Landlord’s Representations and Covenants.....	18
21.3	Landlord’s Environmental Indemnity.....	18

21.4	City’s Covenants.....	18
21.5	City’s Environmental Indemnity.....	19
22.	SPECIAL PROVISIONS.....	19
22.1	Option to Purchase.....	19
23.	GENERAL PROVISIONS.....	22
23.1	Notices.....	22
23.2	No Implied Waiver.....	23
23.3	Amendments.....	23
23.4	Authority.....	23
23.5	Parties and Their Agents; Approvals.....	24
23.6	Interpretation of Lease.....	24
23.7	Successors and Assigns.....	24
23.8	Brokers.....	24
23.9	Severability.....	25
23.10	Governing Law.....	25
23.11	Entire Agreement.....	25
23.12	Attorneys’ Fees.....	25
23.13	Holding Over.....	25
23.14	Cumulative Remedies.....	26
23.15	Time of Essence.....	26
23.16	Survival of Indemnities.....	26
23.17	Signs.....	26
23.18	Quiet Enjoyment and Title.....	26
23.19	Bankruptcy.....	26
23.20	Transfer of Landlord’s Interest.....	27
23.21	Non-Liability of City Officials, Employees and Agents.....	27
23.22	MacBride Principles - Northern Ireland.....	27
23.23	Controller’s Certification of Funds.....	27
23.24	Prevailing Wages for Construction Work.....	27
23.25	Non Discrimination in City Contracts and Benefits Ordinance.....	28
23.26	Tropical Hardwood and Virgin Redwood Ban.....	29
23.27	Bicycle Storage Facilities.....	29
23.28	Resource-Efficient City Buildings and Pilot Projects.....	29

23.29	Counterparts.....	30
23.30	Effective Date	30
23.31	Memorandum of Lease	30
23.32	Sunshine Ordinance	30
23.33	Conflicts of Interest.....	30
23.34	Notification of Limitations on Contributions	30
23.35	Preservative-Treated Wood Containing Arsenic	31
23.36	Cooperative Drafting	31

LIST OF EXHIBITS

EXHIBIT A – Floor Plan(s) of Premises

EXHIBIT B – Notice of Commencement Date

EXHIBIT C – Form of Memorandum of Lease

EXHIBIT D – Purchase and Sale Agreement

OFFICE LEASE

THIS OFFICE LEASE (this "Lease"), dated for reference purposes only as of November 13, 2013, is by and between Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995 ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Tenant").

Landlord and City hereby agree as follows:

1. BASIC LEASE INFORMATION

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

Lease Reference Date:	August 1, 2013
Landlord:	Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995
Tenant:	CITY AND COUNTY OF SAN FRANCISCO
Building (<u>Section 2.1</u>):	A single story building with mezzanine containing approximately 44,210 gross square feet of improvements (the "Building"), located on real property comprised of approximately 89,200 square feet of land having an address of 1995 Evans Street, San Francisco, California, as Assessor's Lots 004, 005 and 006 of Block 5231 (the "Land").
Premises (<u>Section 2.1</u>):	Approximately 44,210 gross square feet of space in the Building plus approximately 89,200 square feet of the Land (collectively, the "Premises").
Improved Area of Premises (<u>Section 2.1</u>):	Approximately 44,210 gross square feet
Term (<u>Section 3</u>):	Estimated Commencement Date: August 1, 2013 Expiration Date: December 31, 2014
Extension Option (<u>Section 3.4</u>):	One (1) option to extend the term of the Lease by two (2) years, exercisable by City by providing written notice to Landlord given not

less than six (6) months prior to the expiration of the initial term, with rent during the extension term to be increased to \$72,100.00 per month.

Base Rent (Section 4.1):

Annual Base Rent: \$840,000 (\$9.41 per sq. ft.)

Monthly payments: \$70,000 (\$0.785 per sq. ft.)

Use (Section 5.1):

Storage, warehouse, parking and industrial uses of any City and County of San Francisco Department, and for testing of soils anywhere within the Premises through soil borings, test wells or trenches of any depth as determined necessary by City, and for testing of building materials on the Premises.

Utilities (Section 9.1):

Landlord to provide utilities to the Premises, City agrees to pay for all utilities consumed by City.

Services (Section 9.2):

City, in its sole discretion, to provide janitorial and security services to the Premises as needed, at City's sole cost.

Notice Address of Landlord (Section 23.1):

Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995
99 South Hill Drive
Brisbane, CA 94005
Fax No.: (415) 468-4579

Key Contact for Landlord:

Joseph Harney

Landlord Contact Telephone No.:

(415) 865-6113

Notice Address for Tenant (Section 23.1):

Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: John Updike,
Director of Property
Re: Forensic Services Project
Fax No.: (415) 552-9216

and to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attn: Hazel M. Brandt
Deputy City Attorney
Re: Forensic Services Project
Fax No.: (415) 554-4755

Key Contact for Tenant:

John Updike

Tenant Contact Telephone No.:

(415) 554-9860

Alternate Contact for Tenant:

Andrico Penick

Alternate Contact Telephone No.:

(415) 554-9871

Brokers (Section 23.8):

Landlord is represented by Joseph Harney with HC&M Commercial Properties, Inc. Tenant is not represented by a broker.

Other Noteworthy Provisions (Section 22):

Landlord shall pay all real property taxes and assessments and cost of insurance on the Premises. There shall be no tenant improvements provided by landlord.

2. PREMISES

2.1 Lease Premises

Landlord leases to City and City leases from Landlord, subject to the provisions of this Lease, those Premises in the Building identified in the Basic Lease Information and shown on the floor plan(s) attached hereto as Exhibit A, along with the Land identified in the Basic Lease Information (collectively, the "Premises"). Unless otherwise provided herein, any statement of square footage set forth in this Lease, or that may have been used in calculating Rent, is an approximation which Landlord and Tenant agree is reasonable and any payments based thereon are not subject to revision whether or not the actual square footage is more or less. The Building, the Land upon which the Building is located and all other improvements on or appurtenances to such land are referred to collectively as the "Property."

2.2 Common Areas

Intentionally Deleted.

3. TERM

3.1 Term of Lease

The Premises are leased for an initial term (the "Initial Term") commencing on the date specified in the Basic Lease Information as the estimated commencement date (the "Estimated Commencement Date"), or such later date or earlier date, with City's written acceptance as Landlord shall have delivered the Premises to City, and City's Mayor and Board of Supervisors shall have approved the transaction contemplated by this Lease, in their respective sole and absolute discretion, as further provided in this Lease. The Initial Term of this Lease shall end on the expiration date specified in the Basic Lease Information, or such earlier date on which this

Lease terminates pursuant to the provisions of this Lease, provided that City shall have the right to extend the Initial Term pursuant to Section 3.4 (Extension Option), below. The word "Term" as used herein shall refer to the Initial Term and any Extended Term if City exercises the Extension Option as provided below.

3.2 Commencement Date and Expiration Date

The dates on which the Term commences and terminates pursuant hereto are referred to respectively as the "Commencement Date" and the "Expiration Date." If the Commencement Date occurs on a date other than the Estimated Commencement Date, then promptly thereafter Landlord shall deliver to City a notice substantially in the form of Exhibit B attached hereto, confirming the actual Commencement Date, but Landlord's failure to do so shall not affect the commencement of the Term.

3.3 Condition on Delivery.

Landlord shall deliver the Premises to Tenant clean and free of debris on the Commencement Date and warrants to City that the existing plumbing, electrical systems, fire sprinkler system, lighting, air conditioning and heating systems and loading doors, if any, in the Premises, other than those constructed by Tenant, shall be in good operating condition on the Commencement Date.

3.4 Compliance.

Landlord expressly makes no representation or warranty as to whether the Premises or the improvements therein complies with all applicable covenants or restrictions of record and applicable building codes, regulations and ordinances, including but not limited to the Americans with Disabilities Act (the "Applicable Requirements").

The Premises have not undergone an inspection by a Certified Access Specialist (CASp).

3.5 Delay in Delivery of Possession

Landlord shall use its best efforts to deliver possession of the Premises to Tenant on the Commencement Date. However, if Landlord is unable to deliver possession of the Premises as provided above, then, subject to the provisions of this Section below, the validity of this Lease shall not be affected by such inability to deliver possession except that City's obligations to pay Base Rent or any other charges shall not commence until such time as Landlord has delivered the Premises as required under this Lease. If the Term commences later or earlier than the Estimated Commencement Date, this Lease shall nevertheless expire on the Expiration Date, unless sooner terminated pursuant to the provisions under this Lease. If Landlord is unable to deliver possession of the Premises to City as required hereunder within thirty (30) days after the Estimated Commencement Date, then City may, at its option, terminate this Lease, upon thirty (30) days advance written notice to Landlord, provided however, if Landlord delivers the Premises within thirty (30) days of receipt of Tenant's notice Tenant's right to terminate shall expire.

3.6 Extension Option

City shall have the right to extend the Initial Term of this Lease (the "Extension Option") for one (1) additional two (2) year time period, as specified in the Basic Lease Information (the "Extended Term"), commencing on the first day after the expiration of the Initial Term and continuing thereafter until the expiration of the Extended Term. Such Extension Option shall be on all of the terms and conditions contained in this Lease, except that the Base Rent for the

Extended Term shall be increased to \$72,100 per month effective as of the first day of the Extended Term. City may exercise the Extension Option, if at all, by giving written notice to Landlord no later than six (6) months prior to expiration of the Initial Term; provided, however, if City is in material default under this Lease on the date of giving such notice and fails to cure such default as provided in this Lease, Landlord may reject such exercise by delivering written notice thereof to City promptly after such failure to cure. Landlord acknowledges and agrees that City's notice of its intent to exercise the Extension Option shall be subject to enactment of a resolution by the City's Board of Supervisors and Mayor, in their respective sole and absolute discretion, approving and authorizing the same, within ninety (90) days after the date such notice of exercise is given.

4. RENT

4.1 Base Rent

Beginning on the Commencement Date, City shall pay to Landlord during the Initial Term the annual Base Rent specified in the Basic Lease Information (the "Base Rent"), with the sole exception that the City shall pay to Landlord rent for the month of August and September, 2013 no later than September 16, 2013. On and after October 1, 2013, the Base Rent shall be payable in equal consecutive monthly payments on or before the tenth (10th) day of each month, in advance, at the address specified for Landlord in the Basic Lease Information, or such other place as Landlord may designate in writing upon not less than thirty (30) days' advance notice. City shall pay the Base Rent without any prior demand and without any deductions or setoff except as otherwise provided in this Lease. If the Commencement Date occurs on a day other than the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for such fractional month shall be prorated based on a thirty (30)-day month.

5. USE

5.1 Permitted Use

City may use the Premises for any industrial, storage, parking or warehouse need of the City and County of San Francisco, which may include providing space for film operations, storage of equipment, parking of vehicles, for testing of soils anywhere within the Premises through soil borings, test wells or trenches of any depth as determined necessary by City, and for testing of building materials on the Premises, and such other uses as may be specified in the Basic Lease Information, and for no other use without the prior written consent of Landlord, which shall not be unreasonably withheld or delayed.

Notwithstanding the foregoing, City and its Agents shall not perform any borings, samplings, soils tests, groundwater tests or other intrusive physical audit procedures on the Property without first providing Landlord at least five (5) days prior written notice (i) describing with specificity the nature, scope, location and purpose of all of such activities to be performed on the Property; (ii) identifying any contractor or other Agent of City performing such activities on the Premises; and (iii) providing to Landlord evidence of insurance of such contractor or Agent of City in connection with such activities, including a certificate of insurance naming Landlord as an additional insured for purposes of the work on the Premises. City and its Agents will use commercially reasonable efforts while performing the work to minimize any damage to the Property. If, despite such efforts, the Property is damaged and if this Agreement is terminated, the City will, at its sole cost and in a timely manner, repair such damage to the extent necessary to restore the Property to a condition substantially similar to the condition it was in immediately prior to such damage; provided, however, City shall have no liability or responsibility to repair or restore any pre-existing damage or conditions. Landlord and City agree that City's indemnity obligations of under this Agreement shall not include any claims

resulting from the discovery or disclosure of pre-existing environmental conditions or the non-negligent aggravation of pre-existing environmental conditions on, in, under or about the Property, including the Improvements.

5.2 Observance of Rules and Regulations

Intentionally Deleted.

5.3 Interference with Access

Landlord shall provide to City access to the Building and the Premises twenty-four (24) hours per day, seven (7) days per week, together with uninterrupted access thereto to the maximum extent possible, including, without limitation, during any power outages affecting the Premises or any portion of the Building; provided, however, that Landlord may, after consultation with the City's Administrator, interrupt City's access to the Premises or the Building in the event of an immediate threat of the Premises, or any other portion of the Building being rendered unsafe for human occupancy. If City's use of any of the Premises or access thereto is interrupted as a result of the Premises, or any other portion of the Building being rendered unsafe for human occupancy due solely to Landlord's failure to comply with its obligations under this Lease other than City's default hereunder, then Landlord shall immediately undertake all necessary steps to correct such condition. In the event such condition continues for five (5) business days after Tenant's written notice to Landlord stating the specific nature of the default and what actions must be taken to rectify same, and such condition(s) impairs City's ability to carry on its business in the Premises, the Rent payable hereunder shall be abated based on the extent to which such default interferes with City's ability to carry on its business at the Premises. If any such default by Landlord shall continue for thirty (30) days or more after City's use is interrupted and impairs City's ability to carry on its business in the Premises, then City shall have the right, without limiting any of its other rights under this Lease to terminate this Lease, unless Landlord supplies City with evidence reasonably satisfactory to City that City's normal and safe use will be restored within sixty (60) days of the date City's use was interrupted, and such use is actually restored within such 60-day period. Nothing in this Section shall limit City's rights with respect to any disruption due to casualty pursuant to Section 12 (Damage and Destruction) hereof.

6. LEASEHOLD IMPROVEMENTS

Intentionally Deleted.

7. ALTERATIONS

7.1 Alterations by City

City shall not make or permit any alterations, installations, additions or improvements (collectively, "Alterations") to the Premises without first obtaining Landlord's written consent, which Landlord shall not unreasonably withhold or delay. However, the installation of furnishings, fixtures, equipment or decorative improvements, none of which affect the Building Systems (as defined in Section 8.1, below) or structural integrity of the Building, and the repainting and recarpeting of the Premises shall not constitute Alterations requiring Landlord's consent. Any Alterations permitted hereunder shall be made at City's cost in compliance with applicable Laws (as defined below). Landlord shall, without cost to itself, cooperate with City in securing building and other permits and authorizations needed in connection with any permitted Alterations. Landlord shall not be entitled to any construction or other administrative fee in connection with any Alteration. City shall not be required to remove any Alterations upon the expiration or sooner termination of this Lease unless Landlord notifies City in writing at the time Landlord approves such Alterations that they must be removed at the Expiration Date.

7.2 Title to Improvements

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

7.3 City's Personal Property

All furniture, furnishings, equipment, trade fixtures and articles of movable personal property installed in the Premises by or for the account of City and that can be removed without structural damage to the Premises (collectively, "City's Personal Property") shall be and remain City's property. At any time during the Term or at the expiration thereof, City may remove any of City's Personal Property, provided City shall repair any damage to the Premises resulting therefrom. Upon the expiration or earlier termination of this Lease, City shall remove City's Personal Property from the Premises in accordance with Section 20 (Surrender of Premises), below. Except as provided herein, any of City's Personal Property not removed on or before the Expiration Date or within ten (10) days after the Expiration Date shall be deemed abandoned, and Landlord may retain or dispose of such personal property as Landlord deems appropriate in its sole discretion. Landlord acknowledges that some of City's Personal Property may be financed by an equipment lease financing otherwise subjected to a security interest, or owned by an equipment company and leased to City. Landlord, upon City's reasonable request, shall execute and deliver a commercially reasonable document required by any supplier, lessor, or lender in connection with the installation in the Premises of any items of City's Personal Property, pursuant to which Landlord waives any rights it may have or acquire with respect to City's Personal Property, so long as the supplier, equipment lessor or lender agrees that it **(i)** will remove the Property from the Premises within thirty (30) days after the Expiration Date (but if it does not remove City's Personal Property within such time it shall have waived any rights it may have had to City's Personal Property), and **(ii)** will repair any damage caused by the removal of City's Personal Property. Landlord shall recognize the rights of any supplier, lessor or lender who has an interest in any items of City's Personal Property to enter the Premises and remove such property at any time during the Term or within thirty (30) days after the Expiration Date.

7.4 Alteration by Landlord

Landlord shall use its best efforts to minimize interference with or disruption to City's use and occupancy of the Premises during any alterations, installations, additions or improvements to the Building, including without limitation any leasehold improvement work for other tenants in the Building, if any. Landlord shall promptly remedy any such interference or disruption upon receiving City's notice thereof.

8. REPAIRS AND MAINTENANCE

8.1 Landlord's Repairs

Landlord shall repair and maintain, at its cost and in good condition, at least comparable to the condition existing as of the Commencement Date, the exterior and structural portions of the Building, including, without limitation, the roof, foundation, bearing and exterior walls and subflooring, and the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security and other mechanical, electrical and communications systems of the Building (collectively, the "Building Systems") and any common areas. Without limiting the foregoing, Landlord shall maintain the Building in a clean, safe and attractive manner, shall provide exterior graffiti removal with reasonable frequency, and shall not permit any other tenants of the Building (if any) to disturb or interfere with City's use of the Premises or permit to be done in or about the Building or the common areas anything that is illegal, is dangerous to persons or property or

constitutes a nuisance. Notwithstanding the foregoing, in the event that the repair to the Building or Building Systems is the result of the negligence or intentional wrongful conduct of Tenant, Tenant shall reimburse Landlord for the uninsured reasonable cost of such repair and/or maintenance, provided Landlord agrees to provide to Tenant written invoices or other documentation reasonably satisfactory to Tenant documenting such cost of repair and/or maintenance.

8.2 City's Repairs

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

8.3 Liens

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

9. UTILITIES AND SERVICES

9.1 Landlord's Provision of Utilities

Landlord shall furnish all utilities and services to the Premises, including without limitation; (a) electric current in amounts required for normal lighting and operation of normal machinery and equipment, on a twenty-four (24) hours a day, three hundred sixty-five (365) days a year basis ("Daily Basis"), and (b) water for lavatory and drinking purposes on a Daily Basis. Without limiting Landlord's obligations hereunder, Landlord shall furnish all utilities and services required under this Lease in a manner consistent with such utilities and services normally provided in other buildings similar to the Building in the San Francisco Produce Market District. City shall be responsible for payment for utilities consumed by City.

9.2 Services

(a) Janitorial Service

City shall provide janitorial services to the Premises, at City's sole cost.

(b) Security Service

City, in its sole discretion, shall provide security for the Premises, at City's sole cost.

9.3 Conservation

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

9.4 Disruption in Essential Utilities or Services

In the event of any failure, stoppage or interruption of any utilities or services to be furnished by Landlord hereunder, Landlord shall immediately notify City of such failure, stoppage or interruption, diligently attempt to restore service as promptly as possible and shall keep City apprised of its efforts. In the event Landlord is unable to supply any of the Building's sanitary, electrical, heating, air conditioning, water, elevator, fire protection and security, audio, video or electronic communications, hazard detection and alarm, or other essential services serving the Premises (collectively, "Essential Services") and such inability of Landlord impairs City's ability to carry on its business in the Premises for a period of five (5) or more business days if such failure is in the reasonable control of Landlord or a period of ten (10) or more consecutive business days if such failure is not within the reasonable control of Landlord, then the Rent shall be abated based on the extent such inability of Landlord impairs City's ability to carry on its business in the Premises, or, alternatively at City's election, City shall have the option to provide such services and offset the reasonable cost thereof against the Rent next due under this Lease. Such abatement, or right to provide the services and offset against Rent, shall continue until the Essential Services have been restored so that the lack of any remaining services no longer materially impairs City's ability to carry on its business in the Premises. Landlord shall use its best efforts to restore disrupted Essential Services as soon as possible. However, if such failure to provide any Essential Services continues for any reason for thirty (30) days and such failure interferes with City's ability to carry on its business in the Premises, then City may, without limiting any of its other rights or remedies hereunder or at law or in equity, terminate this Lease upon written notice to Landlord, unless Landlord supplies City with evidence reasonably satisfactory to City that the Essential Services will be restored within sixty (60) days of the date City's use was interrupted, and the Essential Services are actually restored within such 60-day period. City shall not be entitled to any abatement of Rent or right to terminate if Landlord's inability to supply Essential Services to City is due solely to the acts, omissions or negligence of City and its Agents.

10. COMPLIANCE WITH LAWS; PREMISES CONDITION

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

Landlord represents and warrants to City, and covenants with City, as follows, except as otherwise disclosed in writing, to the best of Landlord's knowledge: (a) the Building is not an unreinforced masonry building, and is now, and as of the Commencement Date will be, in compliance with all applicable federal, state, local and administrative laws, rules, regulations, orders and requirements relating to seismic safety (collectively, "Seismic Safety Laws"); and (b) there are not now, and as of the Commencement Date will not be, any material physical or mechanical defects in the Premises, Building or the Building Systems that would materially adversely affect City's intended use of the Premises.

As used herein, the term Landlord's knowledge shall mean the actual knowledge of Joseph Harney, Landlord's real estate broker and agent, and shall not be construed, by imputation or otherwise, to refer to the knowledge of any other officer, agent, manager, representative or employee of Landlord or to impose upon such person any duty to investigate the matter to which such actual knowledge, or the absence therefrom, pertains. Landlord hereby represents that as of the Effective Date of this Lease Joseph Harney is the individual most knowledgeable about the Property.

10.2 City's Compliance with Laws; Indemnity

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

10.3 City's Compliance with Insurance Requirements

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

11. SUBORDINATION

(a) Without the necessity of any additional document being executed by City for the purpose of effecting a subordination, and subject to subsection (b) below, this Lease shall be subject and subordinate at all times to the following (each an "Encumbrance"): (a) any reciprocal easement agreements, ground leases or other underlying leases that may hereafter be executed affecting Landlord's interest in the Property, or any portion thereof, and (b) the lien of any mortgages or deeds of trust and renewals, modifications, consolidations, replacements and extensions of any of the foregoing that may hereafter be executed by Landlord in any amount for which any part of the Property, any ground lease or underlying lease, or Landlord's interest or estate therein is subject. Notwithstanding the foregoing, if the ground lessor, mortgagee, trustee,

or holder of any such mortgage or deed of trust elects to have City's interest in this Lease be superior to any such instrument, then upon notice thereof to City, this Lease shall be deemed superior, whether this Lease was executed before or after the date of said instrument or the recording thereof. At City's request, the holder of the Encumbrance shall enter into a subordination and nondisturbance agreement with City in a form reasonably acceptable to City evidencing such subordination or superiority of this Lease.

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

12. DAMAGE AND DESTRUCTION

If the Premises, the Building or any Building Systems are damaged by fire or other casualty, Landlord shall repair the same without delay (and if Landlord is then carrying insurance on the Leasehold Improvements (as defined below) or if City at its sole option makes funds available to Landlord, Landlord shall also repair the Leasehold Improvements), provided that such repairs can be made under applicable laws within ninety (90) days after Landlord obtains all necessary permits for such repairs but not later than three hundred sixty-five (365) days after the date of such damage (the "Repair Period"). In such event, this Lease shall remain in full force and effect, except that City shall be entitled to an abatement of Rent while such repairs are being made. Such abatement in Rent shall be based upon the extent to which such damage and the making of such repairs interfere with City's business in the Premises. Landlord's repairs shall not include, and the Rent shall not be abated as a result of, any uninsured damage by fire or other cause to City's Personal Property or any uninsured damage caused by the negligence or willful misconduct of City or its Agents. As used herein, the term "Leasehold Improvements" shall mean any and all improvements and installations in the Premises.

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

Notwithstanding the foregoing, in the event the Premises are damaged or destroyed by reason of flood or earthquake, and such damage or destruction is not fully covered by insurance proceeds payable under the insurance policies Landlord is required to carry hereunder (excluding any deductible, for which Landlord shall be responsible), Landlord may elect to terminate this

Lease by written notice ("Landlord's Notice of Termination") to City within sixty (60) days of the date Landlord receives written notice that such damage is not covered by insurance; provided, however, if City, at its sole option, agrees to either (i) make funds available to Landlord to complete such uninsured repairs, or (ii) waive rental abatement rights City may be entitled to under this Section 12 related to such flood or earthquake damage, then Tenant may elect to keep the Lease in full force and effect by providing written notice to Landlord within thirty (30) days of Tenant's receipt of Landlord's Notice of Termination. Landlord's Notice of Termination shall include adequate written evidence of the denial of insurance coverage. If Landlord does not elect to terminate this Lease as provided above, or if Tenant elects to keep the Lease in effect, this Lease shall remain in full force and effect, and Landlord shall repair and restore the Premises as provided above.

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

Notwithstanding the foregoing, in the event City exercises its Purchase Option pursuant to Section 22.1 below, then, as of the date of City's Exercise Notice, the rights and obligations of the Landlord and City with respect any damage or casualty event affecting the Premises shall be governed by the terms and conditions of Section 22.1.D below.

13. EMINENT DOMAIN

13.1 Definitions

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

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

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

13.2 General

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

13.3 Total Taking; Automatic Termination

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

13.4 Partial Taking; Election to Terminate

(a) If there is a Taking of any portion (but less than all) of the Premises, then this Lease shall terminate in its entirety if all of the following exist: (i) the partial Taking, in City's reasonable judgment, renders the remaining portion of the Premises untenable or unsuitable for continued use by City for its intended purposes or otherwise materially adversely affects City's normal operations in the Premises, (ii) the condition rendering the Premises untenable or unsuitable either is not curable or is curable but Landlord is unwilling or unable to cure such condition, and (iii) City elects to terminate.

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

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

13.5 Termination of Lease; Rent and Award

Upon termination of this Lease in its entirety pursuant to Section 13.3, or pursuant to an election under Section 13.4 above, then: (a) City's obligation to pay Rent shall continue up until the date of termination and thereafter shall cease, and (b) Landlord shall be entitled to the entire Award in connection therewith, except that City shall receive any Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

13.6 Partial Taking; Continuation of Lease

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

13.7 Temporary Taking

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

Notwithstanding the foregoing, in the event City exercises its Purchase Option pursuant to Section 22.1 below, then, as of the date of City's Exercise Notice, the rights and obligations of

the Landlord and City with respect to a Taking of all or any part of the Premises or any interest in this Lease, shall be governed by the terms and conditions of Section 22.1.D below

14. ASSIGNMENT AND SUBLETTING

Except as provided in this Section below, City shall not directly or indirectly sell, assign, encumber, pledge or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Premises or its leasehold estate hereunder or permit all or any portion of the Premises to be occupied by anyone other than itself or sublet all or any portion of the Premises, without Landlord's prior written consent in each instance, which shall not be unreasonably withheld or delayed. City shall have the right from time to time, upon notice to but without the consent of Landlord, to transfer this Lease or use and occupancy of all or any of the Premises to any department, commission or agency of the City and County of San Francisco for uses permitted under this Lease.

15. DEFAULT; REMEDIES

15.1 Events of Default by City

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

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

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

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

15.2 Landlord's Remedies

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

(a) The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate City's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that City proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2.

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

15.3 Landlord's Default

Landlord shall not be deemed in breach of this Lease unless Landlord fails within a reasonable time period to perform an obligation required to be performed by Landlord. For purposes of this Section 15.3, a reasonable period shall be within thirty (30) days after receipt by Landlord, and by any Lender whose name and address shall have been furnished to City in writing for such purpose, of written notice specifying wherein such obligation of Landlord which has not been performed; provided, however, that if the nature of Landlord's obligation is such that more than (30) days are reasonably required for its performance, then Landlord shall not be in breach of this Lease if performance is commenced within such thirty (30) day period following Tenant's notice and thereafter diligently pursued to completion. In the event that neither Landlord nor Lender cures said breach within thirty (30) days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Tenant may elect to cure said breach at Tenant's expense and offset from Rent an amount not to exceed Ten Thousand and no/100 Dollars (\$10,000.00), and to pay an excess of such expense under protest, reserving Tenant's right to reimbursement from Landlord. Tenant shall document the cost of said cure and supply said documentation to Landlord. Notwithstanding the foregoing, if any such default by Landlord continues for sixty (60) days and impairs City's ability to carry on its business within the Premises, then City shall have the right to terminate this Lease upon written notice to Landlord within thirty (30) days after the expiration of such sixty (60) day period. If within such thirty (30) day period Landlord commences such cure and diligently prosecutes such obligation to completion then City's notice of termination shall be deemed null and this Lease shall continue. City's rights hereunder and under Section 3.3 (Delay in Delivery of Possession), Section 5.3 (Interference with Access), and Section 9.4 (Disruption in Essential Services), shall not limit in any way any of its other rights and remedies hereunder or at law or in equity.

16. INDEMNITIES

16.1 City's Indemnity

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

16.2 Landlord's Indemnity

Landlord shall Indemnify City and its Agents against any and all Claims incurred as a result of (a) any default by Landlord in the performance of any of its obligations under this Lease or any breach of any representations or warranties made by Landlord under this Lease, or (b) any negligent acts or omissions of Landlord or its Agents in, on or about the Premises or the Property; provided, however, Landlord shall not be obligated to Indemnify City or its Agents to the extent any Claim arises out of the negligence or willful misconduct of City or its Agents. In any action or proceeding brought against City or its Agents by reason of any Claim Indemnified

by Landlord hereunder, Landlord may, at its sole option, elect to defend such Claim by attorneys selected by Landlord. Landlord shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that City shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. Landlord's obligations under this Section shall survive the termination of this Lease.

17. INSURANCE

17.1 City's Self-Insurance

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

17.2 Landlord's Insurance

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

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

17.3 Waiver of Subrogation

Notwithstanding anything to the contrary contained herein, Landlord hereby waives any right of recovery against City for any loss or damage sustained by Landlord with respect to the Building or the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of City, to the extent such loss or damage is covered by insurance which Landlord is required to purchase under this Lease or is otherwise actually recovered from valid and collectible insurance covering Landlord. Landlord agrees to obtain a waiver of subrogation endorsement from each insurance carrier issuing policies relative to the Building or the Premises; provided, Landlord's failure to do so shall not affect the above waiver.

18. ACCESS BY LANDLORD

Landlord reserves for itself and any designated Agent the right to enter the Premises at all reasonable times and, except in cases of emergency (in which event Landlord shall give any reasonable notice), after giving City at least twenty four (24) hours' advance written or oral

notice, for the purpose of (a) inspecting the Premises, (b) supplying any service to be provided by Landlord hereunder, (c) showing the Premises to any prospective purchasers, mortgagees or, during the last six (6) months of the Term of this Lease, tenants, (d) posting notices of non-responsibility, and (e) altering, improving or repairing the Premises and any portion of the Building, and Landlord may for that purpose erect, use and maintain necessary structures in and through the Premises where reasonably required by the character of the work to be performed, provided that the entrance to the Premises shall not be blocked thereby, and further provided that City's use shall not be interfered with.

19. ESTOPPEL CERTIFICATES

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

20. SURRENDER OF PREMISES

Upon the expiration or sooner termination of this Lease, City shall surrender the Premises to Landlord in good order and condition, reasonable use and wear and damage by fire or other casualty excepted. Within ten (10) days after the Expiration Date, City shall remove from the Premises all of City's Personal Property, City's telecommunications, data and computer facilities and any Alterations City desires or is required to remove from the Premises pursuant to the provisions of Section 7.1 (Alterations by City), above. City shall repair or pay the cost of repairing any damage to the Premises or the Building resulting from such removal. Notwithstanding anything to the contrary in this Lease, City shall not be required to demolish or remove from the Premises any of the Leasehold Improvements. City's obligations under this Section shall survive the expiration or earlier termination of this Lease.

21. HAZARDOUS MATERIALS

21.1 Definitions

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

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

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

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

21.2 Landlord's Representations and Covenants

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

As used herein, the term Landlord's knowledge shall mean the actual knowledge of Joseph Harney, Landlord's real estate broker and agent, and shall not be construed, by imputation or otherwise, to refer to the knowledge of any other officer, agent, manager, representative or employee of Landlord or to impose upon such person any duty to investigate the matter to which such actual knowledge, or the absence therefrom, pertains. Landlord hereby represents that as of the Effective Date of this Lease Joseph Harney is the individual most knowledgeable about the Property.

21.3 Landlord's Environmental Indemnity

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

21.4 City's Covenants

Neither City nor its Agents shall cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or the Property, or transported to or from the Premises or the Property, in violation of any Environmental Laws, provided that City may use such substances in such limited amounts as are customarily used in offices so long as such use is in compliance with all applicable Environmental Laws.

21.5 City's Environmental Indemnity

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

22. SPECIAL PROVISIONS

22.1 Option to Purchase

A. Grant of Option to Purchase

So long as City is not in Default of this Lease, beyond the applicable cure period, Landlord hereby grants to City an exclusive and irrevocable option to purchase (the "Purchase Option") the Property for the price and upon the terms and conditions specified herein. City may exercise the Purchase Option at any time during the Initial Term or Extension Term (the "Option Term") by delivering written notice (the "Exercise Notice") to Landlord. City's purchase of the Property pursuant to the Purchase Option shall be subject to approval by City in its sole discretion of such additional environmental and other investigations of the Property as City may deem appropriate, and approval by City's Board of Supervisors and Mayor, in their respective sole discretion, and due adoption of a resolution authorizing such purchase and ordinance appropriating all necessary funds in accordance with all applicable laws (including CEQA) (collectively, "City's Approval of Purchase"), all within one hundred fifty (150) days after the date of the Exercise Notice. Upon obtaining City's Approval of Purchase, City shall have the right to purchase from Landlord and Landlord shall be obligated to sell and convey to City the Property for the purchase price and on the terms and conditions set forth hereinbelow and otherwise in accordance with the terms and conditions of a purchase and sale agreement substantially in the form attached hereto as Exhibit D (the "Purchase Agreement") and incorporated by this reference.

Tenant shall execute (including initialing Paragraphs 6.6 and 12(d)) and deliver to Landlord and the Title Company a copy of the Purchase Agreement, within ten (10) business days of the later of: (i) the date as of which City obtains City's Approval of Purchase, or (ii) the date as of which City delivers the Exercise Notice; provided however, Tenant's failure to timely execute and deliver shall not invalidate such exercise. Within ten (10) business days of Landlord's receipt of the partially executed Purchase Agreement from Tenant, Landlord shall execute (including initialing Paragraph 6.6) and deliver a fully executed Purchase Agreement to Tenant and Title Company; provided however, Landlord's failure to timely execute and delivery shall not invalidate the exercise.

B. Purchase Price

The total purchase price for the Property shall be Sixteen Million Dollars (\$16,000,000) (the "Purchase Price"), allocated in the amounts of \$6,002,000 toward Lot 4, Block 5231, \$4,999,000 toward Lot 5, Block 5231, and \$4,999,000 toward Lot 6, Block 5231.

C. Closing

The purchase and sale of the Property contemplated by this Article (the "Closing") shall close on or before the date that is one hundred eighty (180) days after the date of City's Approval of Purchase, or such later date as may be agreed to by both Landlord and City (the "Closing

Date") through an escrow opened by City with Old Republic Title Company (the "Title Company"). The City shall provide Landlord not less than sixty (60) days advance written notice of the intended Closing Date. Landlord, at its sole option, shall have the right to extend the Closing Date for a period of thirty (30) days. To exercise this right Landlord shall deliver written notice to City and Title Company not less than thirty (30) days prior to the then scheduled Closing Date. Prior to the Closing Date, Landlord and City shall each deposit in escrow with the Title Company all documents and funds necessary to close the purchase and sale, together with escrow instructions consistent herewith. Landlord shall convey to City by grant deed fee simple title to the Property (or such portion thereof as shall have not been taken by eminent domain in the event of a taking prior to the Closing Date), subject only to the following (collectively, the "Purchase Option Permitted Exceptions"): (i) a lien for real property taxes and assessments not yet due and payable for the tax fiscal year in which the Closing Date occurs, (ii) only those exceptions to title specifically approved by City in its sole discretion, in writing prior to Closing, and (iii) any other easements or title exceptions (excluding any Encumbrances) created or suffered by City or consented to in writing by City in its sole discretion or granted by Landlord solely at City's written request. Landlord shall be responsible for removing any unpermitted title exceptions, at Landlord's sole expense, prior to the Closing Date.

Delivery of title in accordance with the foregoing shall be evidenced by the commitment of the Title Company to issue to City, or its nominee, an ALTA Owner's Policy of Title Insurance (Form B - 1970 amended 4-6-90) (the "Title Policy") in the amount of the Purchase Price insuring fee simple title to the Property in City, or its nominee, free of the liens of all Encumbrances, rights of tenants or other occupants and all other exceptions, liens or encumbrances except solely for Purchase Option Permitted Exceptions. The Title Policy shall contain such special endorsements and provisions on co-insurance or re-insurance as City may reasonably require.

D. Damage or Destruction; Eminent Domain

If prior to the Closing Date any of the Property are damaged or destroyed or if condemnation proceedings are commenced against any of the Property by any entity other than City, then the rights and obligations of City and Landlord hereunder shall be as follows:

(a) If such damage or destruction is fully covered by Landlord's insurance (except for the deductible amount thereunder, which Landlord shall be responsible for), and the insurer agrees to timely pay for the entire cost of such repair, and such damage or destruction would cost less than Five Hundred Thousand Dollars (\$500,000.00) (the "Threshold Damage Amount") to repair or restore, then City shall proceed with the purchase. In such case, City shall receive a credit against the Purchase Price equal to such deductible amount, and Landlord shall assign to City at the Closing all of Landlord's right, title and interest in and to all proceeds of insurance on account of such damage or destruction pursuant to an instrument satisfactory to City.

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

(c) If the cost to repair such damage or destruction equals or exceeds the Threshold Damage Amount, or if condemnation proceedings are commenced against any of the Property by any entity other than City, then City shall have the right, at its election, either to rescind its exercise of the Purchase Option in its entirety, or only as to that portion of the Property damaged or destroyed or subject to condemnation proceedings (in which case there shall be an equitable adjustment to the Purchase Price), or to purchase the Property (or the

portion not damaged or affected by condemnation, as the case may be). City shall have thirty (30) days after an event described in this subsection has occurred to make such election by delivery to Landlord of an election notice. City's failure to deliver such notice within such thirty (30) day period shall be deemed City's election to rescind its exercise of the Purchase Option in its entirety. If the exercise of the Purchase Option is rescinded in its entirety or in part pursuant to this subsection, then City and Landlord shall each be released from all obligations under this Section pertaining to that portion of the Property affected by such rescission. If City does not elect to rescind its exercise of the Purchase Option, Landlord shall notify City of either Landlord's intention to repair such damage or destruction, in which case City shall proceed with the purchase of the Property, or Landlord's intention to give City a credit towards the Purchase Price at the Closing in an amount reasonably determined by City and Landlord (after consultation with unaffiliated experts) to be the cost of repairing such damage or destruction. Any repairs elected to be made by Landlord pursuant to this subsection shall be made within one hundred fifty (150) days following such damage or destruction and the Closing shall be extended until the repairs are substantially completed.

E. Costs and Expenses

City shall pay for the cost of the premium of the extended coverage title insurance policy to be issued to City on the Closing Date. Landlord shall pay any escrow or recording fees for the purchase and sale. Landlord shall pay documentary transfer taxes, if any, on the recordation of the grant deed. Real Estate Taxes shall be prorated as of the Closing Date. Rent and any and all other charges payable hereunder shall be prorated as of the Closing Date.

F. Due Diligence

From and after the Commencement Date of the Lease and continuing through the date occurring ninety (90) days after the date as of which the City and Landlord enter into the Purchase Agreement (as defined in Section 22.1.A above) (the "Due Diligence Period"), City and its Agents shall be permitted to make such examinations, appraisals, tests, audits, verifications, inventories, analyses, investigations, surveys, inquiries and other inspections or due diligence regarding the economic, physical, environmental, title and legal conditions of the Property as City deems fit, as well as the suitability of the Property for City's intended uses.

Landlord agrees to deliver to City all of the Documents (as defined below) by no later than December 31, 2013, provided that if Landlord fails to do so, then the expiration of the Due Diligence Period shall be extended by the number of days after the end of such delivery date that Landlord delivers all such items to City. As used herein, the term "Documents" shall mean the following documents, all to the extent such documents exist and are either in the possession or control of Landlord, or may be obtained by Landlord, through the exercise of commercially reasonable efforts: structural calculations for the Building; site plans; certified copies of the as-built plans and specifications for the Building; recent inspection reports by Landlord's engineers; service contracts; utility contracts; maintenance contracts; employment contracts, management contracts; brokerage and leasing commission agreements which may continue after Closing; certificates of occupancy; presently effective warranties or guaranties received by Landlord from any contractors, subcontractors, suppliers or materialmen in connection with any construction, repair or alteration of the Building or any leasehold improvements; insurance policies, insurance certificates of tenants, and reports of insurance carriers insuring the Property and each portion thereof respecting the claims history of the Property; environmental reports, studies, surveys, tests and assessments; soils and geotechnical reports; and any other contracts or documents of significance to the Property (collectively, the "Documents").

City acknowledges that prior to the execution of this Lease Landlord delivered the following Documents to City:

- i.) Those certain floor plans prepared by TSA Structural Engineering;
- ii.) That certain correspondence, dated August 12, 2005, by Christopher C Gunther, of EMG, to Ken Baker of Interstate Brands re: Asbestos Air Monitoring Report;
- iii.) that certain Environmental Assessment prepared by EMG, dated September 21, 2005;
- iv.) that certain transmittal correspondence, and associated enclosures, dated January 5, 2006, from Neil Klein, Skadden Arps, to William Spencer;
- v.) John Carver Consulting correspondence, dated January 9 2007, by John Carver to Michelle Saenz, concerning Due Diligence Additions; and
- vi.) That certain e-mail memorandum, dated March 26, 2010, from Kent Eickman, San Francisco Water Department, to Tonya Chan, concerning conditions at the Property.

Notwithstanding the foregoing, Landlord makes no representation or warranty as to the truth, accuracy or completeness of any materials, data or information contained in any opinions, reports, documents, or data generated by any third party ("Third Party Materials") and delivered by Landlord to City in connection with the transaction contemplated hereby. City acknowledges and agrees that all such Third Party Materials delivered by Landlord to City in connection with the transaction contemplated hereby are provided to City as a convenience only and that any reliance on or use of such Third Party Materials by City shall be at the sole risk of City, except as otherwise expressly stated herein. Without limiting the generality of the foregoing provisions, City acknowledges and agrees that (a) any environmental or other Third Party Materials with respect to the Property which is delivered by Landlord to Buyer shall be for general informational purposes only, (b) City shall not have any right to rely on any such Third Party Materials delivered by Landlord to City, but rather will rely on its own inspections and investigations of the Property and any reports commissioned by City with respect thereto, and (c) neither Landlord, any affiliate of Landlord nor the person or entity which prepared any such Third Party Materials delivered by Landlord to City shall have any liability to City for any inaccuracy in or omission from any Third Party Materials. Landlord hereby irrevocably authorizes City and its Agents to make all inquiries with and applications to any regulatory authority with jurisdiction over the Premises as City may reasonably require to complete its due diligence investigations on the Premises; provided, however, that no such inquiry or application shall be made prior to the Commencement Date.

Notwithstanding anything in this Lease to the contrary, City shall have the right to rescind its exercise of the Purchase Option in its entirety, at any time during the Due Diligence Period upon written notice to Landlord. If the exercise of the Purchase Option is rescinded in its entirety or in part pursuant to this subsection, then City and Landlord shall each be released from all obligations under this Section pertaining to that portion of the Property affected by such rescission.

23. GENERAL PROVISIONS

23.1 Notices

Except as otherwise specifically provided in this Lease, any notice given under this Lease shall be in writing and given by delivering the notice in person or by commercial courier, or by

sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: (a) City at Tenant's address set forth in the Basic Lease Information; or (b) Landlord at Landlord's address set forth in the Basic Lease Information; or (c) such other address as either Landlord or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice hereunder shall be deemed to have been given and received two (2) days after the date when it is mailed if sent by first-class, certified mail, one day after the date when it is mailed if sent by Express Mail, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given by telefacsimile to the telefacsimile number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile.

23.2 No Implied Waiver

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

23.3 Amendments

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

23.4 Authority

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

23.5 Parties and Their Agents; Approvals

If applicable, the word "Landlord" as used in this Lease shall include the plural as well as the singular. As used in this Lease, the term "Agents" when used with respect to either party shall include the agents, employees, officers and contractors of such party, and the term "Invitees" when used with respect to City shall include the clients, customers, invitees, guests, licensees, assignees or subtenants of City. All approvals, consents or other determinations permitted or required by City under this Lease, including but not limited to the exercise of any option granted to City, shall be made by or through City's Director of Property unless otherwise provided in this Lease, subject to any applicable limitations in the City's Charter.

23.6 Interpretation of Lease

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

23.7 Successors and Assigns

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

23.8 Brokers

Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated herein, except for the broker, if any, identified in the Basic Lease Information, whose commission, if any is due, shall be the sole responsibility of Landlord pursuant to a separate written agreement between Landlord and such broker, and City shall have no liability therefor. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his claim shall be responsible for such commission or fee and shall indemnify the other party from any and all Claims incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Lease.

23.9 Severability

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

23.10 Governing Law

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

23.11 Entire Agreement

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

23.12 Attorneys' Fees

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

23.13 Holding Over

Should City hold over in possession of the Premises after the expiration of the Term with Landlord's consent, such holding over shall not be deemed to extend the Term or renew this Lease, but such tenancy thereafter shall continue as a month-to-month tenancy. Such tenancy shall be on all the terms and conditions set forth in this Lease and at the monthly Base Rent in effect during the last month of the Term of this Lease or such other rental as Landlord and City may mutually agree in writing as a condition to Landlord's consent to such holding over, and City shall continue as a month-to-month tenant until the tenancy shall be terminated by Landlord

giving City or City giving Landlord at least thirty (30) days' prior written notice of termination. Should City hold over without Landlord's consent, the rent payable by City during the period of such holding over shall be one hundred twenty-five percent (125%) of the monthly Base Rent in effect during the last month of the Term of this Lease, and such tenancy shall otherwise be on the terms and conditions contained herein. Nothing contained herein shall be construed as consent by Landlord to any holding over by the City.

23.14 Cumulative Remedies

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

23.15 Time of Essence

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

23.16 Survival of Indemnities

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

23.17 Signs

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

23.18 Quiet Enjoyment and Title

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

23.19 Bankruptcy

Landlord represents and warrants to City that Landlord has neither filed nor been the subject of any filing of a petition under the federal bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors, and, to the best of Landlord's knowledge, no such filing is threatened. Landlord and City agree that City's leasehold estate created hereby includes, without limitation, all rights to receive and enjoy all services, facilities and amenities of the Premises and the Building as provided herein,

and that if any of such services, facilities or amenities are terminated, or materially limited or restricted on account of any such case or proceeding, or for any other reason, City shall have the right to (a) contract directly with any third-party provider of such services, facilities or amenities to obtain the same, and (b) offset against the Base Rent or other charges payable hereunder any and all reasonable costs and expenses incurred by City in obtaining such services, facilities or amenities.

23.20 Transfer of Landlord's Interest

Landlord shall have the right to transfer its interest in the Property, the Building or this Lease to any other financially responsible person or entity. In the event of any such transfer, Landlord shall be relieved, upon notice to City of the name and address of Landlord's successor, of any obligations accruing hereunder from and after the date of such transfer and upon delivering to City an express assumption by the transferee of all of Landlord's obligations hereunder.

23.21 Non-Liability of City Officials, Employees and Agents

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

23.22 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. Landlord acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

23.23 Controller's Certification of Funds

The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the City's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by City under this Lease unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of City after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of Rent and any other payments required under this Lease are not appropriated, then City may terminate this Lease, without penalty, liability or expense of any kind to City, as of the last date on which sufficient funds are appropriated. City shall use its reasonable efforts to give Landlord reasonable advance notice of such termination.

23.24 Prevailing Wages for Construction Work

Landlord agrees that any person performing labor in the construction of the Leasehold Improvements (if any) or other improvements to the Premises, which Landlord provides under this Lease, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and

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

23.25 Non Discrimination in City Contracts and Benefits Ordinance

(a) Covenant Not to Discriminate

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

(b) Subcontracts

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

(c) Non-Discrimination in Benefits

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

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

(e) Incorporation of Administrative Code Provisions by Reference

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

23.26 Tropical Hardwood and Virgin Redwood Ban

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

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

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

23.27 Bicycle Storage Facilities

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

23.28 Resource-Efficient City Buildings and Pilot Projects

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

23.29 Counterparts

This Agreement and any supplement, addendum, or modification, may be executed in two or more counterparts, all of which constitute the same writing.

23.30 Effective Date

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

23.31 Memorandum of Lease

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

23.32 Sunshine Ordinance

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

23.33 Conflicts of Interest

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

23.34 Notification of Limitations on Contributions

Through its execution of this Lease, Landlord acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months

after the date the contract is approved. Landlord acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Landlord further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Landlord's board of directors, chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Landlord; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Landlord. Additionally, Landlord acknowledges that Landlord must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Landlord further agrees to provide to City the names of each person, entity or committee described above.

23.35 Preservative-Treated Wood Containing Arsenic

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

23.36 Cooperative Drafting

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

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

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

LANDLORD:

Claire A Spencer, Surviving Trustee of the
William D Spencer and Claire A Spencer 1995
Living Trust, dated February 9, 1995

By: *Claire A. Spencer*

Name Printed: Claire A. Spencer

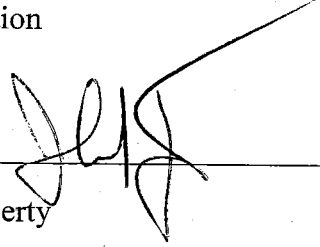
Title: Trustee

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By:

JOHN UPDIKE
Director of Property



APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:

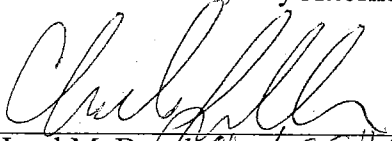

~~Hazel M. Brandt~~ Charles Sullivan
Deputy City Attorney

EXHIBIT A

FLOOR PLAN(S)

CONSISTING OF 2 PAGE(S)

124'

37'

150'

40'

EVANS AVENUE
400'

M/W CORRECT
REMAINDER TO BE SURVEYED

63'

16'

37'

44'

17'

OPEN TO BOW TRUSS

RAMP

LOADING DOCKS

LOW DOCK

HI DOCK

ROCK CLG

AT GRADE

TOLAND STREET
2231

200'

E

TOLAND ST.

EVANS AVE.

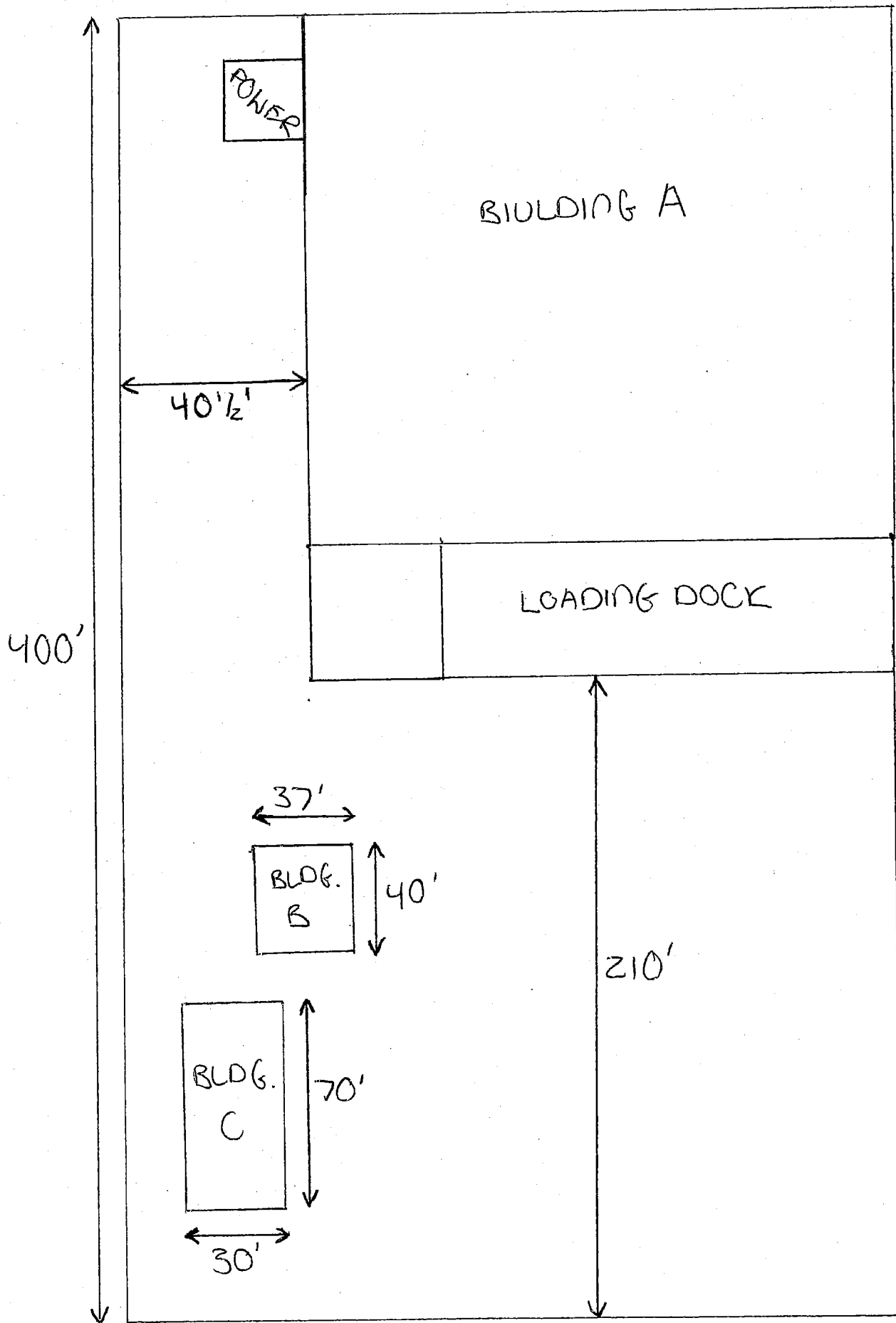


EXHIBIT B

NOTICE OF COMMENCEMENT DATE

[Date]

Mr. John Updike
Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

RE: Acknowledgement of Commencement Date, Lease Between Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995 (Landlord), and the CITY AND COUNTY OF SAN FRANCISCO (Tenant), for premises known as 1995 Evans Street, Lots 004, 005, and 006, Block 5231, City and County of San Francisco _____

Dear Mr. Updike:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Section 3.2 of the Lease) is _____, 20__.

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

Very truly yours,

By: _____
Title: _____

Accepted and Agreed:

By: _____
John Updike
Director of Property

Dated: _____

EXHIBIT C

FORM OF MEMORANDUM OF LEASE

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

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

Exempt from recording fees pursuant to Government
Code Section 27383.

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

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

MEMORANDUM OF LEASE

This Memorandum of Lease ("Memorandum"), dated for reference purposes as of _____, 20__, is by and between Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995 ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City").

Recitals

A. Concurrently herewith, Landlord and City have entered into that certain Lease, dated _____, 20__ (the "Lease"), pursuant to which Landlord leased to City and City leased from Landlord the real property more particularly described in the attached Exhibit A (the "Property"), which is incorporated by this reference.

B. Landlord and City desire to execute this Memorandum to provide constructive notice of the Lease [**and the Purchase Option**] to all third parties, and all of the terms and conditions of the Lease are incorporated herein by reference as if they were fully set forth herein and reference is made to the Lease itself for a complete and definitive statement of the rights and obligations of Landlord and Tenant thereunder.

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

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

2. Lease Terms. The lease of the Property to City is made pursuant to the Lease, which is incorporated in this Memorandum by reference. This Memorandum shall not be deemed to modify, alter or amend in any way the provisions of the Lease. In the event any conflict exists between the terms of the Lease and this Memorandum, the terms of the Lease shall govern. Except as otherwise defined in this Memorandum, capitalized terms shall have the meanings given them in the Lease.

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

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

LANDLORD:

Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995

By:

Name Printed: Claire A. Spencer
Title: Trustee

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation,

By:

JOHN UPDIKE
Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _____

Deputy City Attorney

State of California)
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California)
)
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

Legal Description of Property

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at the point of intersection of the Southeasterly line of Toland Street and the Southwesterly line of Evans Avenue; running thence Southeasterly and along said line of Evans Avenue 400 feet; thence at a right angle Southwesterly 223 feet; thence at a right angle Northwesterly 400 feet to the Southeasterly line of Toland Street; thence at a right angle Northeasterly along said line of Toland Street 223 feet to the point of beginning.

Being part of fractional Block No. 91 O'Neill and Haley Tract and all of Fractional Block No. 91 Tide lands and part of Fairfax Avenue (now closed).

Assessor's Lot 004; Block 5231, Lot 005; Block 5231 and Lot 006; Block 5231

EXHIBIT D

COPY OF PURCHASE AND SALE AGREEMENT



AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE

by and between

Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995
Living Trust, dated February 9, 1995,
as Seller

and

CITY AND COUNTY OF SAN FRANCISCO,
as Buyer

For the purchase and sale of

1995 Evans Street, Lots 4, 5 and 6, Block 5231
San Francisco, California

[DATE]

TABLE OF CONTENTS

	<u>Page</u>
1. PURCHASE AND SALE.....	1
1.1 Property Included in Sale.....	1
2. PURCHASE PRICE	2
2.1 Purchase Price.....	2
2.2 Payment.....	2
2.3 Funds.....	2
3. TITLE TO THE PROPERTY	2
3.1 Conveyance of Title to the Property	2
3.2 Title Insurance	2
4. BUYER'S DUE DILIGENCE INVESTIGATIONS.	3
4.1 Due Diligence	3
4.2 City's Right to Terminate.....	4
4.3 As Is Conveyance; Release.....	4
5. CLOSING CONDITIONS.....	5
5.1 City's Conditions to Closing	6
5.2 Cooperation with City.....	8
6. ESCROW AND CLOSING.....	8
6.1 Opening of Escrow	8
6.2 Closing Date.....	8
6.3 Seller's Delivery of Documents	9
6.4 City's Delivery of Documents and Funds	9
6.5 Other Documents	9
6.6 Liquidated Damages	10
7. EXPENSES AND TAXES	10
7.1 Apportionments.....	10
7.2 Closing Costs	10
7.3 Real Estate Taxes and Special Assessments.....	10
7.4 Post-Closing Reconciliation.....	11
7.5 Survival.....	11
8. REPRESENTATIONS AND WARRANTIES.....	11

8.1	Representations and Warranties of Seller	11
8.2	Indemnity	13
9.	RISK OF LOSS AND POSSESSION	14
9.1	Risk of Loss	14
9.2	Insurance	15
9.3	Possession	15
10.	MAINTENANCE; CONSENT TO NEW CONTRACTS	15
10.1	Maintenance of the Property by Seller.....	15
10.2	City's Consent to New Contracts Affecting the Property; Termination of Existing Contracts	15
11.	GENERAL PROVISIONS	15
11.1	Notices	15
11.2	Brokers and Finders	16
11.3	Successors and Assigns.....	16
11.4	Amendments	17
11.5	Continuation and Survival of Representations and Warranties	17
11.6	Governing Law	17
11.7	Merger of Prior Agreements	17
11.8	Parties and Their Agents; Approvals	17
11.9	Interpretation of Agreement.....	17
11.10	Attorneys' Fees.....	18
11.11	Sunshine Ordinance	18
11.12	Conflicts of Interest.....	18
11.13	Notification of Limitations on Contributions	18
11.14	Non-Liability of City Officials, Employees and Agents	19
11.15	Earned Income Credit (EIC) Forms	19
11.16	Counterparts.....	20
11.17	Memorandum of Agreement.....	20
11.18	Effective Date	20
11.19	Severability	20
11.20	Agreement Not to Market Prior to Effective Date.....	20
11.21	Intentionally Deleted.....	20
11.22	Cooperative Drafting	20

LIST OF EXHIBITS

- EXHIBIT A – Real Property Description
- EXHIBIT B – Grant Deed
- EXHIBIT C – Assignment of Warranties and Guaranties and Other Intangibles
- EXHIBIT D – Certificate of Transferor Other Than An Individual (FIRPTA Affidavit)
- EXHIBIT E – Designation Agreement
- EXHIBIT F – Memorandum of Agreement

AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE
(Lots 4, 5 and 6, in Block 5231, San Francisco County)

THIS AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE (this "Agreement") dated for reference purposes only as of _____, 20__ is by and between Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995 ("Seller"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Buyer" or "City").

RECITALS

A. City currently leases from Seller certain real property in the City and County of San Francisco commonly known as 1995 Evans Street, Lots 4, 5 and 6, in Block 5231, San Francisco County pursuant to the terms of that certain Office Lease between Seller and City dated as of _____, 2013 (the "Lease"). The Lease grants the City the option to purchase the premises pursuant to the terms and conditions set forth in Section 22.1 of the Lease (the "Purchase Option").

B. City exercised the Purchase Option on _____, 20__ (the "Option Exercise Date"), and in accordance with the terms of Purchase Option, City and Seller have executed and do hereby enter into this Agreement.

AGREEMENT

IN CONSIDERATION of the respective agreements contained hereinbelow, Seller and City agree as follows:

1. PURCHASE AND SALE

1.1 Property Included in Sale

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

(a) the real property consisting of approximately 89,200 square feet of land, located in the City and County of San Francisco, commonly known as 1945-1995 Evans Street and more particularly described in Exhibit A attached hereto (the "Land");

(b) all improvements and fixtures located on the Land, including, without limitation, (i) that certain two-story office building containing approximately 44,210 square feet of gross area and known as 1945-1995 Evans Street, as well as all other buildings and structures located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land and its improvements such as heating and air conditioning systems and facilities used to provide any utility, refrigeration, ventilation, garbage disposal or other services, and together with all on-site parking (collectively, the "Improvements");

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

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

2. PURCHASE PRICE

2.1 Purchase Price

The total purchase price for the Property is Sixteen Million and No/100 Dollars (\$16,000,000.00) (the "Purchase Price"). The Purchase Price shall be allocated in the following manner to the Property: \$6,002,000 to Lot 004, Block 5231; \$4,999,000 to Lot 005, Block 5231; \$4,999,000 to Lot 006, Block 5231.

2.2 Payment

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

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

2.3 Funds

All payments made by any party hereto shall be in legal tender of the United States of America, paid by Controller's warrant or in cash or by wire transfer of immediately available funds to Title Company (as defined below), as escrow agent.

3. TITLE TO THE PROPERTY

3.1 Conveyance of Title to the Property

At the Closing Seller shall convey to City, or its nominee, marketable and insurable fee simple title to the Land, the Improvements and the Appurtenances, by duly executed and acknowledged grant deed in the form attached hereto as Exhibit C (the "Deed"), subject to the Accepted Conditions of Title (as defined in Section 3.2 [Title Insurance]).

3.2 Title Insurance

Delivery of title in accordance with the preceding Section shall be evidenced by the commitment of Old Republic Title Company (the "Title Company") to issue to City an ALTA extended coverage owner's policy of title insurance (Form B - 1970 amended 4-6-90) (the "Title Policy") in the amount of the Purchase Price, insuring fee simple title to the Land, the Appurtenances and the Improvements in City free of the liens of any and all deeds of trust, mortgages, assignments of rents, financing statements, creditors' claims, rights of tenants or other occupants and all other exceptions, liens and encumbrances except solely for the Accepted Conditions of Title pursuant to Subsection 5.1(a) below. The Title Policy shall provide full coverage against mechanics' and materialmen's liens arising out of the construction, repair or alteration of any of the Property, shall not contain any exclusion from coverage for creditor's

rights or bankruptcy, and shall contain an affirmative endorsement that there are no violations of restrictive covenants, if any, affecting the Property such special endorsements as City may reasonably request. The Title Policy shall also provide for reinsurance with direct access with such companies and in such amounts as City may reasonably request.

4. BUYER'S DUE DILIGENCE INVESTIGATIONS.

4.1 Due Diligence

City acknowledges and agrees that City is in possession of the Land and Improvements pursuant to the terms of the Lease has been given or will be given before the end of the Due Diligence Period (as defined below), a full opportunity to investigate, either independently or through agents of City's own choosing, the condition of the Property and the suitability of the Property for City's intended use. The period for completion of all such investigations shall expire on the date occurring ninety (90) days after the Effective Date (as defined in Section 13.8 below) of this Agreement (the "Due Diligence Period"), subject to the terms and conditions provided hereinbelow.

Seller confirms and City acknowledges that in accordance with the provisions of Section 22.1 of the Lease, Seller has previously delivered to City the following documents, all to the extent such documents exist and are either in the possession or control of Seller, or may be obtained by Seller, through the exercise of commercially reasonable efforts: structural calculations for the Improvements; site plans; certified copies of the as-built plans and specifications for the Improvements; recent inspection reports by Landlord's engineers; service contracts; utility contracts; maintenance contracts; employment contracts, management contracts; brokerage and leasing commission agreements which may continue after Closing; certificates of occupancy; presently effective warranties or guaranties received by Landlord from any contractors, subcontractors, suppliers or materialmen in connection with any construction, repair or alteration of the Improvements; insurance policies, insurance certificates of tenants, and reports of insurance carriers insuring the Property and each portion thereof respecting the claims history of the Property; environmental reports, studies, surveys, tests and assessments; soils and geotechnical reports; any other contracts or documents of significance to the Property; and any other contracts or documents necessary for the operation of the Property or which will be binding on the Property after the Closing (collectively, the "Documents"). Seller further agrees to promptly deliver to City any such Documents discovered, created or received by Seller, its property manager or its asset manager (each, a "Newly Discovered Document") from the date of such initial delivery through Closing. In addition to the Documents, Seller confirms that Seller has delivered to City a Natural Hazards Disclosure Statement for the Property as required under California law. The Natural Hazards Disclosure Statement was based on a report or reports of a licensed engineer, land surveyor, geologist, or expert in natural hazard discovery, which report or reports was attached to such Natural Hazards Disclosure Statement. City acknowledges that the Natural Hazards Disclosure Statement shall be based solely on the information contained in the report or reports attached thereto, and Seller shall have no liability for any inaccuracy in such reports. In no event shall such Natural Hazards Disclosure Statement or any such report be deemed a representation or warranty of Seller or impose any liability or obligation on Seller.

Notwithstanding the foregoing, Seller makes no representation or warranty as to the truth, accuracy or completeness of any materials, data or information contained in any opinions, reports, documents, or data generated by any third party ("Third Party Materials") and delivered by Seller to City in connection with the transaction contemplated hereby. City acknowledges and agrees that all such Third Party Materials delivered by Seller to City in connection with the transaction contemplated hereby are provided to City as a convenience only and that any reliance on or use of such Third Party Materials by City shall be at the sole risk of City, except as otherwise expressly stated herein. Without limiting the generality of the foregoing provisions,

City acknowledges and agrees that (a) any environmental or other Third Party Materials with respect to the Property which is delivered by Seller to City shall be for general informational purposes only, (b) City shall not have any right to rely on any such Third Party Materials delivered by Seller to City, but rather will rely on its own inspections and investigations of the Property and any reports commissioned by City with respect thereto, and (c) neither Seller, any affiliate of Seller nor the person or entity which prepared any such Third Party Materials delivered by Seller to City shall have any liability to City for any inaccuracy in or omission from any Third Party Materials.

4.2 City's Right to Terminate

If a Newly Discovered Document is delivered to City on or after the date which is ten (10) business days prior to the Option Exercise Date, and such Newly Discovered Document affects or discloses a matter or condition which potentially adversely affects the City's use or occupancy of the Premises as originally intended, then City shall be permitted to rescind the exercise of City's option to purchase the Property, by written notice to Seller given within ten (10) business days after City's receipt of such Newly Discovered Document, and in such event this Agreement shall terminate and City shall have no further obligation to purchase the Property. Notwithstanding the foregoing, Seller shall have five (5) business days after receipt of City's termination notice to notify City in writing ("Seller's Cure Notice") as to what curative action Seller agrees to undertake in order to cure or correct the matter or condition disclosed by the Newly Discovered Document prior to Closing. If Seller does not provide the Seller's Cure Notice to City within such five (5) business day period, Seller shall be deemed to have elected not to cure the matter or condition disclosed by the Newly Discovered Document and in such event this Agreement shall terminate and City shall have no further obligation to purchase the Property. City shall notify Seller in writing within five (5) business days of receipt of Seller's Cure Notice if City reasonably disputes that Seller's proposed curative action would satisfactorily cure the disclosed condition or matter, and in such event this Agreement shall terminate and City shall have no further obligation to purchase the Property. If City does not timely notify Seller that the proposed curative action would be unsatisfactory, Seller shall have thirty (30) days from the date of City's receipt of the Seller Cure Notice to cure or correct the matter or condition disclosed by the Newly Discovered Document to City's reasonable satisfaction. If Seller does not cure or correct the matter or condition disclosed by the Newly Discovered Document to City's reasonable satisfaction within such thirty (30) day period, City may elect to terminate this Agreement by written notice to Seller given within ten (10) days after the expiration of such thirty (30) day period, and in such event this Agreement shall terminate and City shall have no further obligation to purchase the Property. If necessary, the Closing shall be extended to permit the completion of the notice and cure procedure described above, subject however to any timing constraints related to the successful issuance, delivery and sale of the Certificates of Participation (as defined in Section 5.1(e) below). In the event that this Agreement is terminated for any reason, City shall promptly return to Seller the originals of all Documents previously delivered to City by or on behalf of Seller.

4.3 As Is Conveyance; Release.

(a) CITY SPECIFICALLY ACKNOWLEDGES AND AGREES THAT SELLER IS SELLING AND CITY IS PURCHASING THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.1 BELOW, CITY IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SELLER OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE PROPERTY, ITS SUITABILITY FOR CITY'S INTENDED USE OR ANY OF THE PROPERTY CONDITIONS. SELLER DOES NOT GUARANTEE THE LEGAL, PHYSICAL, GEOLOGICAL, ENVIRONMENTAL OR OTHER CONDITIONS OF THE PROPERTY, NOR

DOES IT ASSUME ANY RESPONSIBILITY FOR THE COMPLIANCE OF THE PROPERTY OR ITS USE WITH ANY STATUTE, RESOLUTION OR REGULATION. NEITHER SELLER NOR ITS AGENTS HAVE MADE, AND SELLER HEREBY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE PROPERTY CONDITIONS, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.1 BELOW. WITHOUT LIMITING THE FOREGOING, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.1 BELOW, NEITHER SELLER NOR ITS AGENTS HAVE MADE, AND SELLER HEREBY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE TRUTH, ACCURACY OR COMPLETENESS OF ANY DOCUMENTS.

(b) Without limiting the provisions of subparagraph (a) above, City waives its rights to recover from the Seller, and forever releases, covenants not to sue and discharges the Seller from, any and all damages, demands, claims, losses, liabilities, penalties, fines, liens, judgments, costs or expenses whatsoever, including attorneys' fees and costs incurred by City, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the physical condition of the Property, including, but not limited to, the presence of any Hazardous Materials (as defined in Section 8.1(k)(ii) below) on, in, or under the Property ("Physical Claims"), except for (i) any liability of Seller for Seller's fraud or intentional misrepresentation, or (ii) any breach of any representation or warranty set forth in Section 8.1, below, which liability shall survive the Closing.

(c) Subject to the limitations set forth in Section 4.3(b) above, the release set forth therein includes Physical Claims of which City is presently unaware or which City does not presently suspect to exist which, if known by City, would materially affect City's willingness to enter into the release of the Seller set forth in Section 4.3(b), above. In this connection and to the fullest extent permitted by law, City hereby agrees, represents and warrants that City realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to Physical Claims which are presently unknown, unanticipated and unsuspected, and City further agrees, represents and warrants that the release set forth in Section 4.3(b), above, has been negotiated and agreed upon in light of that realization and that City nevertheless hereby intends to release, discharge and acquit the Seller, in accordance with and subject to the conditions and limitations set forth in Section 4.3(b), from any such unknown Physical Claims, except for (i) any liability of Seller for Seller's fraud or intentional misrepresentation, or (ii) any breach of any representation or warranty set forth in Section 8.1, below, which liability shall survive the Closing. In connection with the release set forth in Section 4.3(b), above, City expressly waives the benefits of Section 1542 of the California Civil Code which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR EXPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN TO HIM OR HER MUST HAVE MATERIALLY AFFECTED THE SETTLEMENT WITH THE DEBTOR.

(d) The provisions of this Section 4.3 shall survive the Closing.

5. CLOSING CONDITIONS

5.1 City's Conditions to Closing

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

(a) City shall have reviewed and approved title to the Property, as follows:

(i) Within twenty (20) days after the Option Exercise Date, Seller shall deliver, or cause to be delivered to City a current extended coverage preliminary report on the Real Property, issued by Title Company, accompanied by copies of all documents referred to in the report (collectively, the "Preliminary Report");

(ii) Within the period referred to in clause (i) above, Seller shall deliver to Buyer copies of any existing or proposed easements, covenants, restrictions, agreements or other documents that affect the Property, and are not disclosed by the Preliminary Report, or, if Seller knows of no such documents, a written certification of Seller to that effect; and

(iii) City may at its option arrange for an "as-built" survey of the Real Property and Improvements prepared by a licensed surveyor (the "Survey"). Such survey shall be acceptable to, and certified to, City and Title Company and in sufficient detail to provide the basis for and the Title Policy without boundary, encroachment or survey exceptions.

City shall advise Seller, prior to the end of the Due Diligence Period, what exceptions to title, if any, City is willing to accept (the "Accepted Conditions of Title"). City's failure to so advise Seller within such period shall be deemed disapproval of title. Seller shall have ten (10) days after receipt of City's notice of any objections to title to give City: (A) evidence satisfactory to City of the removal of all objectionable exceptions from title or that such exceptions will be removed or cured on or before the Closing; or (B) notice that Seller elects not to cause such exceptions to be removed. If Seller gives notice under clause (B), City shall have ten (10) business days to elect to proceed with the purchase or terminate this Agreement. If City shall fail to give Seller notice of its election within such ten (10) days, City shall be deemed to have elected to terminate this Agreement. If Seller gives notice pursuant to clause (A) and fails to remove any such objectionable exceptions from title prior to the Closing Date, and City is unwilling to take title subject thereto, Seller shall be in default hereunder and City shall have the rights and remedies provided herein or at law or in equity.

(b) City's review and approval, within the Due Diligence Period, of the physical and environmental conditions of the Property, including, without limitation, structural, mechanical, electrical and other physical conditions of the Property. Such review may include an examination for the presence or absence of any Hazardous Material (as defined in Subsection 8.1(j)). City shall be responsible for performing or arranging any such reviews at City's expense, provided that if City's consultants reasonably determine that, based upon their Phase I examination, a Phase II examination is necessary with respect to all or a part of the Real Property, City may elect to perform a Phase II examination.

If any of City's investigations reveal any contamination of the Property with any Hazardous Material, then City may, at its sole election, by written notice to Seller on or before the end of the Due Diligence Period: (i) request that Seller, at Seller's sole cost, complete before the Closing through duly licensed contractors approved by City such activities as are necessary to cleanup, remove, contain, treat, stabilize, monitor or otherwise control Hazardous Material located on or under the Property in compliance with all governmental laws, rules, regulations and requirements and in accordance with a written remediation plan approved by City in its sole discretion and by all regulatory agencies with jurisdiction; or (ii) terminate this Agreement. If

City notifies Seller of its election to request that Seller remediate the contamination as provided in clause (i) above, Seller shall have fifteen (15) days after receipt of City's notice, to elect, at Seller's sole option, to provide City with: (iii) Seller's election to remediate the contamination before the Closing pursuant to clause (i) above; or (iv) Seller's election to terminate this Agreement. Seller's failure to provide notice to Buyer within such fifteen (15)-day period shall be deemed notice of termination under clause (iv) above. If Seller chooses to remediate the contamination as provided in clause (iii) above the Closing may be extended for a reasonable time to enable Seller to complete such remediation, provided any such extension shall be subject to City's prior written approval, which City may give or withhold in its sole discretion. Seller shall indemnify City for any claims relating to the remediation of such Hazardous Material pursuant to a separate written agreement in form and substance satisfactory to City.

(c) City's review and approval, within the Due Diligence Period, of the compliance of the Property with all applicable laws, regulations, permits and approvals.

(d) City's review and approval, within the Due Diligence Period, of (i) the Documents; and (ii) such other information relating to the Property that is specifically requested by City of Seller in writing during the Due Diligence Period (collectively, the "Other Information").

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

(f) The physical condition of the Property shall be substantially the same on the Closing Date as on the Option Exercise Date, reasonable wear and tear and loss by casualty excepted (subject to the provisions of Section 9.1 [Risk of Loss]), and, as of the Closing Date, there shall be no litigation or administrative agency or other governmental proceeding, pending or threatened, which after the Closing would materially adversely affect the value of the Property or the ability of City to operate the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the change, redesignation or other modification of the zoning classification of, or of any building or environmental code requirements applicable to, any of the Property.

(g) Title Company shall be committed at the Closing to issue to City, or its nominee, (i) the Title Policy as provided in Section 3.2 [Title Insurance].

(h) The City's Mayor and the Board of Supervisors, in the respective sole discretion of each, shall have enacted a resolution approving, adopting and authorizing this Agreement and the transactions contemplated herein.

(i) Seller shall have delivered the items described in Section 6.3 below [Seller's Delivery of Documents] on or before the Closing.

The Conditions Precedent contained in the foregoing Subsections (a) through (i) are solely for the benefit of City. If any Condition Precedent is not satisfied, City shall have the right in its sole discretion either to waive in writing the Condition Precedent in question and proceed with the purchase or, in the alternative, terminate this Agreement, provided that the

Conditions Precedent described in items (h) above may not be waived. The waiver of any Condition Precedent shall not relieve Seller of any liability or obligation with respect to any representation, warranty, covenant or agreement of Seller. If City shall not have approved or waived in writing all of the Conditions Precedent in items noted above by the end of the Due Diligence Period, then this Agreement shall automatically terminate. In addition, the Closing Date may be extended, at City's option, for a reasonable period of time specified by City, to allow such Conditions Precedent to be satisfied, subject to City's further right to terminate this Agreement upon the expiration of the period of any such extension if all such Conditions Precedent have not been satisfied.

In the event the sale of the Property is not consummated because of a default under this Agreement on the part of Seller or if a Condition Precedent cannot be fulfilled because Seller frustrated such fulfillment by some affirmative act or negligent omission, City may, at its sole election, either (1) terminate this Agreement by delivery of notice of termination to Seller, whereupon Seller shall pay to City any title, escrow, legal and inspection fees incurred by City and any other expenses incurred by City in connection with the performance of its due diligence review of the Property, and neither party shall have any further rights or obligations hereunder, or (2) continue this Agreement pending City's action for specific performance and/or damages hereunder, including, without limitation, City's costs and expenses incurred hereunder.

5.2 Cooperation with City

Seller shall cooperate with City and do all acts as may be reasonably requested by City with regard to the fulfillment of any Conditions Precedent including, without limitation, execution of any documents, applications or permits, but Seller's representations and warranties to City shall not be affected or released by City's waiver or fulfillment of any Condition Precedent.

6. ESCROW AND CLOSING

6.1 Opening of Escrow

On or before the Effective Date (as defined in Article 11 [General Provisions]), the parties shall open escrow by depositing an executed counterpart of this Agreement with Title Company, and this Agreement shall serve as instructions to Title Company as the escrow holder for consummation of the purchase and sale contemplated hereby. Seller and City agree to execute such additional or supplementary instructions as may be appropriate to enable the escrow holder to comply with the terms of this Agreement and close the transaction; provided, however, that in the event of any conflict between the provisions of this Agreement and any additional supplementary instructions, the terms of this Agreement shall control.

6.2 Closing Date

The consummation of the purchase and sale contemplated hereby (the "Closing") shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of Title Company located at _____, San Francisco, California _____, within one hundred eighty (180) days after the Effective Date of this Agreement, or on such earlier or later date as City and Seller may mutually agree (the "Closing Date"), subject to the provisions of Article 5 [Conditions Precedent]. Seller, at its sole option, shall have the right to extend the Closing Date for a period of thirty (30) days. To exercise this right Seller shall deliver written notice to City and Title Company not less than thirty (30) days prior to the then scheduled Closing Date. In the event the Closing does not occur on or before the Closing Date, Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the depositor thereof items which

may have been deposited hereunder. Any such return shall not, however, limit the provisions hereof or otherwise relieve either party hereto of any liability it may have for its wrongful failure to close.

6.3 Seller's Delivery of Documents

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

- (a) a duly executed and acknowledged Deed;
- (b) originals of the Documents and any other items relating to the ownership or operation of the Property not previously delivered to City;
- (c) a properly executed affidavit pursuant to Section 1445(b)(2) of the Federal Tax Code in the form attached hereto as Exhibit H, and on which City is entitled to rely, that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code;
- (d) a properly executed California Franchise Tax Board Form 590 certifying that Seller is a California resident if Seller is an individual or Seller has a permanent place of business in California or is qualified to do business in California if Seller is a corporation or other evidence satisfactory to City that Seller is exempt from the withholding requirements of Section 18662 of the State Tax Code;
- (e) such resolutions, authorizations, or other partnership documents or agreements relating to Seller and its partners as City or the Title Company may reasonably require to demonstrate the authority of Seller to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individuals executing any documents or other instruments on behalf of Seller to act for and bind Seller;
- (f) closing statement in form and content satisfactory to City and Seller; and
- (g) the duly executed certificate regarding the continued accuracy of Seller's representations and warranties as required by Subsection 5.1(e) hereof.

6.4 City's Delivery of Documents and Funds

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

- (a) an acceptance of the Deed executed by City's Director of Property;
- (b) a closing statement in form and content satisfactory to City and Seller; and
- (c) the Purchase Price, as provided in Article 2 hereof.

6.5 Other Documents

Seller and City shall each deposit such other instruments as are reasonably required by Title Company as escrow holder or otherwise required to close the escrow and consummate the purchase of the Property in accordance with the terms hereof, including, without limitation, an agreement (the "Designation Agreement") designating Title Company as the "Reporting Person" for the transaction pursuant to Section 6045(e) of the Federal Tax Code and the regulations promulgated thereunder, and executed by Seller, City and Title Company. The Designation Agreement shall be substantially in the form attached hereto as Exhibit J and, in any event, shall

comply with the requirements of Section 6045(e) of the Federal Tax Code and the regulations promulgated thereunder.

6.6 Liquidated Damages

In the event the sale of the Property contemplated hereby is not consummated solely because of a default under this Agreement on the part of City, then City agrees to pay to Seller the sum of Ten Dollars (\$10.00) as liquidated damages. The parties have agreed that Seller's actual damages, in the event of a default by City, would be extremely difficult or impracticable to determine. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE DEPOSIT HAS BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES AND AS SELLER'S EXCLUSIVE REMEDY AGAINST CITY, AT LAW OR IN EQUITY, IN THE EVENT OF A DEFAULT UNDER THIS AGREEMENT ON THE PART OF CITY.

INITIALS: Seller _____ City _____

7. EXPENSES AND TAXES

7.1 Apportionments

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

(a) Utility Charges

Seller shall cause all the utility meters to be read on the Closing Date, and will be responsible for the cost of all utilities used prior to the Closing Date. All utility deposits paid by Seller shall remain the property of Seller and City shall reasonably cooperate to cause such deposits to be returned to Seller to the extent Seller is entitled thereto.

(b) Other Apportionments

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

7.2 Closing Costs

City shall pay the cost of the Survey, the premium for the Title Policy and the cost of the endorsements thereto, and escrow and recording fees. Seller shall pay the cost of any transfer taxes applicable to the sale. Seller shall be responsible for all costs incurred in connection with the prepayment or satisfaction of any loan, bond or other indebtedness secured by the Property including, without limitation, any prepayment fees, penalties or charges. Any other costs and charges of the escrow for the sale not otherwise provided for in this Section or elsewhere in this Agreement shall be allocated in accordance with the closing customs for San Francisco County, as determined by Title Company.

7.3 Real Estate Taxes and Special Assessments

General real estate taxes payable for the tax year prior to year of Closing and all prior years shall be paid by Seller at or before the Closing. General real estate taxes payable for the tax year of the Closing shall be prorated through escrow by Seller and City as of the Closing Date. At or before the Closing, Seller shall pay the full amount of any special assessments

against the Property, including, without limitation, interest payable thereon, applicable to the period prior the Closing Date.

7.4 Post-Closing Reconciliation

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

7.5 Survival

The provisions of this Section shall survive the Closing.

8. REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of Seller

Seller represents and warrants to and covenants with City as follows:

(a) The Documents and Other Information furnished to City are all of the relevant documents and information pertaining to the condition and operation of the Property to the extent available to Seller, and are and at the time of Closing will be true, correct and complete copies of such documents.

(b) No document or instrument furnished or to be furnished by the Seller to the City in connection with this Agreement contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made. Notwithstanding the foregoing, Seller makes no representation or warranty as to the truth, accuracy or completeness of any Third Party Materials (as defined in Section 4.1 above) generated by any third party.

(c) Seller does not have knowledge of any condemnation, either instituted or planned to be instituted by any governmental or quasi-governmental agency other than City, which could detrimentally affect the use, operation or value of the Property.

(d) There are no easements or rights of way which have been acquired by prescription or which are otherwise not of record with respect to the Property, and there are no easements, rights of way, permits, licenses or other forms of agreement which afford third parties the right to traverse any portion of the Property to gain access to other real property. There are no disputes with regard to the location of any fence or other monument of the Property's boundary nor any claims or actions involving the location of any fence or boundary.

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

(f) Seller is the legal and equitable owner of the Property, with full right to convey the same, and without limiting the generality of the foregoing, Seller has not granted any option or right of first refusal or first opportunity to any third party to acquire any interest in any of the Property.

(g) Sellers are individuals and residents of the State of California, acting in their capacity as authorized trustees under a trust agreement. This Agreement and all documents executed by Seller which are to be delivered to City at the Closing are, or at the Closing will be, duly authorized, executed and delivered by Seller, are, or at the Closing will be, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, are, and at the Closing will be, sufficient to convey good and marketable title (if they purport to do so), and do not, and at the Closing will not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

(h) Seller represents and warrants to City that it has not been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. In the event Seller has been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension, debarment, discipline or prohibition may result in the termination or suspension of this Agreement.

(i) Seller knows of no facts nor has Seller failed to disclose any fact that would prevent City from using and operating the Property after Closing in the normal manner in which it is intended.

(j) Except as otherwise disclosed in the Documents or other writing delivered by Seller to City at least ten (10) business days prior to the expiration of the Due Diligence Period, to Seller's knowledge: (i) during the ownership of Seller of the Property, Seller has not received any written notice from any governmental authority having jurisdiction that the Property is in violation of any applicable law, ordinance or regulation, including, without limitation, any Environmental Laws, which remains uncured and which could reasonably have a material adverse effect on the operation of the Property following Closing; (ii) during the ownership of Seller of the Property, the Property has not been used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material, except for the use of such substances in such limited quantities as are customarily used in offices or warehouses (not including the warehousing of Hazardous Material); (iii) during the ownership of Seller of the Property, there has been no release and there is no threatened release of any Hazardous Material in, on, under or about the Property; (iv) the Property does not contain any underground storage tanks; (v) the Property does not consist of any landfill or of any building materials that contain Hazardous Material; and (vi) the Property is not subject to any claim by any governmental regulatory agency or third party related to the release or threatened release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in, on, under or about the Property, or the migration of Hazardous Material from or to other property. As used herein, the following terms shall have the meanings below:

(i) "Environmental Laws" shall mean any present or future federal, state or local laws, ordinances, regulations or policies relating to Hazardous Material (including, without limitation, their use, handling, transportation, production, disposal, discharge or storage) or to health and safety, industrial hygiene or environmental conditions in, on, under or about the Property, including, without limitation, soil, air and groundwater conditions.

(ii) "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the

Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Improvements or are naturally occurring substances on or about the Property; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids; and "source," "special nuclear" and "by-product" material as defined in the Atomic Energy Act of 1985, 42 U.S.C. Section 3011 et seq.

(iii) "Release" or "threatened release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any of the improvements, or in, on, under or about the Property. Release shall include, without limitation, "release" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601).

(k) There are now, and at the time of Closing will be, no leases or other occupancy agreements affecting any of the Property. At the time of Closing there will be no outstanding written or oral contracts made by Seller for any of the Improvements that have not been fully paid for and Seller shall cause to be discharged all mechanics' or materialmen's liens arising from any labor or materials furnished to the Property prior to the time of Closing. There are no obligations in connection with the Property which will be binding upon City after Closing except for matters which are set forth in the Preliminary Report.

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

As used herein, the term Seller's knowledge shall mean the actual knowledge of Joseph Harney, the real estate broker and agent of the Seller, and shall not be construed, by imputation or otherwise, to refer to the knowledge of any other officer, agent, manager, representative or employee of Landlord or to impose upon such person any duty to investigate the matter to which such actual knowledge, or the absence therefrom, pertains. Seller hereby represents that as of the Effective Date of this Agreement and as of Closing, Joseph Harney is the individual most knowledgeable about the Property.

8.2 Indemnity

Seller, on behalf of itself and its successors and assigns, hereby agrees to indemnify, defend and hold harmless City, its Agents and their respective successors and assigns, from and against any and all liabilities, claims, demands, damages, liens, costs, penalties, losses and expenses, including, without limitation, reasonable attorneys' and consultants' fees, resulting from any misrepresentation or breach of warranty or breach of covenant made by Seller in this Agreement or in any document, certificate, or exhibit given or delivered to City pursuant to or in connection with this Agreement. The foregoing indemnity includes, without limitation, costs incurred in connection with the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, cleanup, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material. The indemnification provisions of this Section shall survive beyond the Closing, or, if title is not transferred pursuant to this Agreement, beyond any termination of this Agreement.

9. RISK OF LOSS AND POSSESSION

9.1 Risk of Loss

If any of the Property is damaged or destroyed prior to the Closing Date, or if condemnation proceedings are commenced against any of the Property, then the rights and obligations of Seller and City hereunder shall be as follows:

(a) If such damage or destruction is fully covered by Seller's insurance except for the deductible amount thereunder, and the insurer agrees to timely pay for the entire cost of such repair, and such damage or destruction would cost less than Five Hundred Thousand and no/100 Dollars (\$500,000.00) (the "Threshold Damage Amount") to repair or restore, then this Agreement shall remain in full force and effect and City shall acquire the Property upon the terms and conditions set forth herein. In such event, City shall receive a credit against the Purchase Price equal to such deductible amount, and Seller shall assign to City at Closing all of Seller's right, title and interest in and to all proceeds of insurance on account of such damage or destruction pursuant to an instrument satisfactory to City.

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

(c) If the cost of such damage or destruction would equal or exceed the Threshold Damage Amount, or if condemnation proceedings are commenced against any of the Property, then, City shall have the right, at its election, either to terminate this Agreement in its entirety, or only as to that portion of the Property damaged or destroyed or subject to condemnation proceedings (in which case there shall be an equitable adjustment to the Purchase Price), or to not terminate this Agreement and purchase the Property (or the portion not damaged or affected by condemnation, as the case may be). City shall have thirty (30) days after Seller notifies City that an event described in this Subsection (c) has occurred to make such election by delivery to Seller of an election notice. City's failure to deliver such notice within such thirty (30)-day period shall be deemed City's election to terminate this Agreement in its entirety. If this Agreement is terminated in its entirety or in part pursuant to this Subsection (c) by City's delivery of notice of termination to Seller, then City and Seller shall each be released from all obligations hereunder pertaining to that portion of the Property affected by such termination. If City elects not to terminate this Agreement, Seller shall notify City of Seller's intention to repair such damage or destruction, in which case this Agreement shall remain in full force and effect, or notify City of Seller's intention to give City a credit against the Purchase Price at the Closing in the amount reasonably determined by City and Seller (after consultation with unaffiliated experts) to be the cost of repairing such damage or destruction and, in the event of a result of such condemnation proceeding, the value of any Property taken as a result of such proceeding, in which case this Agreement shall otherwise remain in full force and effect, and Seller shall be entitled to any proceeds of insurance or condemnation awards. Any repairs elected to be made by Seller pursuant to this Subsection shall be made within one hundred fifty (150) days following such damage or destruction and the Closing shall be extended until the repairs are substantially completed. As used in this Section, the cost to repair or restore shall include the cost of lost rental revenue, including additional rent and base rent.

9.2 Insurance

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

9.3 Possession

Possession of the Property shall be delivered to City on or before the Closing Date.

10. MAINTENANCE; CONSENT TO NEW CONTRACTS

10.1 Maintenance of the Property by Seller

Between the date of Seller's execution of this Agreement and the Closing, Seller shall maintain the Property in good order, condition and repair, reasonable wear and tear excepted, shall perform all work required to be done by the landlord under the terms of any Lease, and shall make all repairs, maintenance and replacements of the Improvements and otherwise operate the Property in the same manner as before the making of this Agreement, as if Seller were retaining the Property.

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

After the Effective Date, Seller shall not enter into any Lease or contract, or any amendment thereof, or permit any tenant of the Property to enter into any sublease, assignment or agreement pertaining to the Property, without in each instance obtaining City's prior written consent thereto. City agrees that it shall not unreasonably withhold or delay any such consent. Seller shall terminate prior to the Closing, at no cost or expense to City, any and all management agreements affecting the Property that City does not agree in writing prior to the Closing to assume.

11. GENERAL PROVISIONS

11.1 Notices

Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, against receipt, (ii) one (1) day after being deposited with a reliable overnight courier service, or (iii) two (2) days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

City:

Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property
Re: FSD/TI
Facsimile No.: (415) 552-9216

with copy to:

Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Re: 1995 Evans Street, San Francisco
Facsimile No.: (415) 554-4755

Seller:

Claire A Spencer, Surviving Trustee of the
William D Spencer and Claire A Spencer 1995
Living Trust, dated February 9, 199

Attn: Clair A. Spencer
99 South Hill Drive
Brisbane, CA 94005

Facsimile No.: (415) 468-4579

With a copy to:

Rentschler / Tursi, LLP
Joseph G. Tursi
411 Borel Avenue, Suite 510
San Mateo, CA 94402

Facsimile No.: (650) 524-1985

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

11.2 Brokers and Finders

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

11.3 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

11.4 Amendments

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

11.5 Continuation and Survival of Representations and Warranties

All representations and warranties by the respective parties contained herein or made in writing pursuant to this Agreement are intended to be, and shall remain, true and correct as of the Closing, shall be deemed to be material, and, together with all conditions, covenants and indemnities made by the respective parties contained herein or made in writing pursuant to this Agreement (except as otherwise expressly limited or expanded by the terms of this Agreement), shall survive the execution and delivery of this Agreement and the Closing, or, to the extent the context requires, beyond any termination of this Agreement. All statements contained in any certificate or other instrument delivered at any time by or on behalf of Seller in conjunction with the transaction contemplated hereby shall constitute representations and warranties hereunder.

11.6 Governing Law

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

11.7 Merger of Prior Agreements

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

11.8 Parties and Their Agents; Approvals

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

11.9 Interpretation of Agreement

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

waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

11.10 Attorneys' Fees

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

11.11 Sunshine Ordinance

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

11.12 Conflicts of Interest

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

11.13 Notification of Limitations on Contributions

Through its execution of this Agreement, Seller acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the

contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Seller acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Seller further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Seller's board of directors, chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Seller; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Seller. Additionally, Seller acknowledges that Seller must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Seller further agrees to provide to City the name of the each person, entity or committee described above.

11.14 Non-Liability of City Officials, Employees and Agents

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

11.15 Earned Income Credit (EIC) Forms

San Francisco Administrative Code Section 12O requires that employers provide their employees with IRS Form W-5 (Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

(a) Seller shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty (30) days following the date on which this Agreement becomes effective (unless Seller has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Seller; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement.

(b) Failure to comply with any requirement contained in Subsection (a) of this Section shall constitute a material breach by Seller of the terms of this Agreement. If, within thirty (30) days after Seller receives written notice of such a breach, Seller fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Seller fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law.

(c) Any Subcontract entered into by Seller shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this Section.

(d) Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

11.16 Counterparts

This Agreement and any supplement, addendum, or modification, including any photocopy or facsimile, may be executed in two or more counterparts, all of which constitute the same writing.

11.17 Memorandum of Agreement

At any time on or after the Effective Date, the parties, upon City's request, shall execute and acknowledge a memorandum hereof, on the form attached hereto as Exhibit F, which will be recorded in the Official Records of the County in San Francisco, California.

11.18 Effective Date

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

11.19 Severability

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

11.20 Agreement Not to Market Prior to Effective Date

Seller agrees that unless and until this Agreement terminates pursuant to its terms, Seller shall not negotiate with any other parties pertaining to the sale of the Property and shall not market the Property to third parties.

11.21 Intentionally Deleted

11.22 Cooperative Drafting.

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

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, SELLER ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL APPROPRIATE LEGISLATION OF CITY'S BOARD OF SUPERVISORS SHALL HAVE BEEN DULY ENACTED APPROVING THIS AGREEMENT

AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH LEGISLATION, AND THIS AGREEMENT SHALL BE NULL AND VOID IF CITY'S BOARD OF SUPERVISORS AND MAYOR DO NOT APPROVE THIS AGREEMENT, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH LEGISLATION WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

Signatures Appear on the Page Next Following / The Remainder of the Page is intentionally left blank.

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

SELLER:

Claire A Spencer, Surviving Trustee of the
William D Spencer and Claire A Spencer 1995
Living Trust, dated February 9, 1995

By: _____
Name Printed: Claire A. Spencer
Title: Trustee

Date: _____

CITY:

CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Hazel M. Brandt
Deputy City Attorney

Title Company agrees to act as escrow holder in accordance with the terms of this Agreement and to execute the Designation Agreement (attached hereto as Exhibit J) and act as the Reporting Person (as such term is defined in the Designation Agreement). Title Company's failure to execute below shall not invalidate the Agreement between City and Seller.

TITLE COMPANY:

_____ TITLE INSURANCE
COMPANY

By: _____

Its: _____

Date: _____

EXHIBIT A

REAL PROPERTY DESCRIPTION

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

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at the point of intersection of the Southeasterly line of Toland Street and the Southwesterly line of Evans Avenue; running thence Southeasterly and along said line of Evans Avenue 400 feet; thence at a right angle Southwesterly 223 feet; thence at a right angle Northwesterly 400 feet to the Southeasterly line of Toland Street; thence at a right angle Northeasterly along said line of Toland Street 223 feet to the point of beginning.

Being part of fractional Block No. 91 O'Neill and Haley Tract and all of Fractional Block No. 91 Tide lands and part of Fairfax Avenue (now closed).

Assessor's Lot 004; Block 5231, Lot 005; Block 5231 and Lot 006; Block 5231

EXHIBIT B

GRANT DEED

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

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

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

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

GRANT DEED

(Assessor's Parcel No. _____)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995, hereby grants to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the real property located in the City and County of San Francisco, State of California, described on Exhibit A attached hereto and made a part hereof (the "Property").

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

Executed as of this _____ day of _____, 20__.

_____, a _____

_____,
NAME By: _____

Its: _____

_____,
NAME By: _____

Its: _____

State of California)
) ss
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACCEPTANCE

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

Dated: _____

By: _____
JOHN UPDIKE
Director of Property

EXHIBIT A TO DEED

Legal Description of Property

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at the point of intersection of the Southeasterly line of Toland Street and the Southwesterly line of Evans Avenue; running thence Southeasterly and along said line of Evans Avenue 400 feet; thence at a right angle Southwesterly 223 feet; thence at a right angle Northwesterly 400 feet to the Southeasterly line of Toland Street; thence at a right angle Northeasterly along said line of Toland Street 223 feet to the point of beginning.

Being part of fractional Block No. 91 O'Neill and Haley Tract and all of Fractional Block No. 91 Tide lands and part of Fairfax Avenue (now closed).

Assessor's Lot 004; Block 5231, Lot 005; Block 5231 and Lot 006; Block 5231

EXHIBIT C

ASSIGNMENT OF WARRANTIES AND GUARANTIES AND OTHER INTANGIBLE PROPERTY

THIS ASSIGNMENT is made and entered into as of this ____ day of _____, 20____, by and between Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995 ("Assignor"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Assignee").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, effective as of the Effective Date (as defined below), Assignor hereby assigns and transfers to Assignee all of Assignor's right, title, claim and interest in and under:

A. all warranties and guaranties made by or received from any third party with respect to any building, building component, structure, system, fixture, machinery, equipment, or material situated on, contained in any building or other improvement situated on, or comprising a part of any building or other improvement situated on, any part of that certain real property described in Exhibit A attached hereto including, without limitation, those warranties and guaranties listed in Schedule 1 attached hereto (collectively, "Warranties");

B. any other Intangible Property (as defined in that certain Agreement of Purchase and Sale of Real Estate dated as of _____, 20____, between Assignor and Assignee (or Assignee's predecessor in interest) (the "Purchase Agreement").

ASSIGNOR AND ASSIGNEE FURTHER HEREBY AGREE AND COVENANT AS FOLLOWS:

1. Assignor hereby agrees to indemnify Assignee against and hold Assignee harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees), originating prior to the Effective Date (as defined below) and arising out of the owner's obligations under the Service Contracts.

2. Except as otherwise set forth in the Purchase Agreement, effective as of the Effective Date (as defined below), Assignee hereby assumes all of the owner's obligations under the Service Contracts and agrees to indemnify Assignor against and hold Assignor harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees), originating on or subsequent to the Effective Date (as defined below) and arising out of the owner's obligations under the Service Contracts.

3. In the event of any litigation between Assignor and Assignee arising out of this Assignment, the losing party shall pay the prevailing party's costs and expenses of such litigation, including, without limitation, attorneys' fees.

4. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

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

6. For purposes of this Assignment, the "Effective Date" shall be the date of the Closing (as defined in the Purchase Agreement).

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

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

ASSIGNOR:

Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995

By: _____

Name Printed: Claire A. Spencer
Title: Trustee

ASSIGNEE:

CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation

By: _____
[NAME]

Its: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
[DEPUTY'S NAME]
Deputy City Attorney

EXHIBIT D

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

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the transferee of certain real property located in the City and County of San Francisco, California, that withholding of tax is not required upon the disposition of such U.S. real property interest by _____

_____, a _____
("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

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

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

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

Dated: _____, 20__.

On behalf of:

[NAME]

a _____

By: _____
[NAME]

Its: _____

EXHIBIT E

DESIGNATION AGREEMENT

This DESIGNATION AGREEMENT (the "Agreement") dated as of _____, 20___, is by and between Claire A Spencer, Surviving Trustee of the William D Spencer and Claire A Spencer 1995 Living Trust, dated February 9, 1995 ("Seller"), the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), and _____ TITLE INSURANCE COMPANY ("Title Company").

A. Pursuant to that certain Purchase Agreement entered into by and between Seller and City, dated _____, 20___ (the "Purchase Agreement"), Seller has agreed to sell to City, and City has agreed to purchase from Seller, certain real property located in City and County of San Francisco, California, more particularly described in Exhibit A attached hereto (the "Property"). The purchase and sale of the Property is sometimes hereinbelow referred to below as the "Transaction").

B. Section 6045(e) of the United States Internal Revenue Code of 1986 and the regulations promulgated thereunder (collectively, the "Reporting Requirements") require an information return to be made to the United States Internal Revenue Service, and a statement to be furnished to Seller, in connection with the Transaction.

C. Pursuant to Subsection 2(b)(i) of the Purchase Agreement, an escrow has been opened with Title Company, Escrow No. _____, through which the Transaction will be or is being accomplished. Title Company is either (i) the person responsible for closing the Transaction (as described in the Reporting Requirements) or (ii) the disbursing title or escrow company that is most significant in terms of gross proceeds disbursed in connection with the Transaction (as described in the Reporting Requirements).

D. Seller, City and Title Company desire to designate Title Company as the "Reporting Person" (as defined in the "Reporting Requirements") with respect to the Transactions.

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Seller, City and Title Company agree as follows:

1. Title Company is hereby designated as the Reporting Person for the Transaction. Title Company shall perform all duties that are required by the Reporting Requirements to be performed by the Reporting Person for the Transaction.

2. Seller and City shall furnish to Title Company, in a timely manner, any information requested by Title Company and necessary for Title Company to perform its duties as Reporting Person for the transaction.

3. Title Company hereby requests Seller to furnish to Title Company Seller's correct taxpayer identification number. Seller acknowledges that any failure by Seller to provide Title Company with Seller's correct taxpayer identification number may subject Seller to civil or criminal penalties imposed by law. Accordingly, Seller hereby certifies to Title Company, under penalties of perjury, that Seller's correct taxpayer identification number is _____.

4. The names and addresses of the parties hereto are as follows:

SELLER:

Claire A Spencer, Surviving Trustee of the

William D Spencer and Claire A Spencer 1995
Living Trust, dated February 9, 1995
Attn: Claire A. Spencer
Facsimile No.: () _____

CITY:

Director of Property
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Facsimile No.: () _____

TITLE COMPANY:

Attn: _____
Facsimile No.: () _____

5. Each of the parties hereto shall retain this Agreement for a period of four (4) years following the calendar year during which the date of closing of the Transaction occurs.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date and year first above written.

SELLER:

Claire A Spencer, Surviving Trustee of the
William D Spencer and Claire A Spencer 1995
Living Trust, dated February 9, 1995

Attn: _____

Facsimile No.: (____) _____

Date: _____

By: _____

Its: _____

CITY:

CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation

By: _____

JOHN UPDIKE
Director of Property

Date: _____

Title Company:

INSURANCE COMPANY TITLE

Date: _____

By: _____

Its: _____

EXHIBIT F

MEMORANDUM OF AGREEMENT

RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO:

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

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

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

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT dated as of _____, 20___, is by and between _____, a

("Seller"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City").

1. Seller is the owner of certain real property located in the City and County of San Francisco, California, commonly known as _____, more particularly described in Exhibit A attached to and incorporated by this reference in this Memorandum of Agreement (the "Real Property").

2. Seller and City have entered into that certain unrecorded Agreement for the Purchase and Sale of Real Estate dated as of _____, 20___ incorporated by this reference into this Memorandum (the "Agreement"), pursuant to which Seller agreed to sell, and City agreed to purchase, the Real Property upon all the terms and conditions set forth in the Agreement.

3. The purpose of this Memorandum of Agreement is to give notice of the Agreement and the respective rights and obligations of the parties thereunder, and all of the terms and conditions of the Agreement are incorporated herein by reference as if they were fully set forth herein.

4. This Memorandum of Agreement shall not be deemed to modify, alter or amend in any way the provisions of the Agreement. In the event any conflict exists between the terms of the Agreement and this instrument, the terms of the Agreement shall govern and determine for all purposes the relationship between Seller and City and their respective rights and duties.

5. This Memorandum of Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective legal representatives, successors and assigns.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Agreement as of the date first written above.

SELLER:

By: _____

Its: _____

By: _____

Its: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____

JOHN UPDIKE
Director of Property

Date: _____

State of California)
) ss
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California)
) ss
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

