

File No. 131035

Committee Item No. 8

Board Item No. 30

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: 11/06/2013

Board of Supervisors Meeting

Date: NOVEMBER 19, 2013

Cmte Board

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Completed by: Victor Young Date November 1, 2013

Completed by: Victor Young Date _____

1 [Real Property Purchase and Sale Agreement - 201-229 Eddy Street - \$4,200,000]

2
3 **Resolution authorizing the execution and performance of an Agreement of**
4 **Purchase and Sale for Real Estate between the City and County of San**
5 **Francisco and Tenderloin Neighborhood Development Corporation, a California**
6 **nonprofit public benefit corporation, for the purchase of real property located**
7 **at 201-229 Eddy Street, San Francisco, in the amount of \$4,200,000 for the**
8 **rehabilitation of 105 units of affordable housing for low and very low income**
9 **persons; authorizing the execution and performance of a Ground Lease**
10 **between the City and County of San Francisco and Franciscan Towers**
11 **Associates L.P., a California limited partnership, for a term of 75 years, to**
12 **commence following Board approval, at an annual rate of \$420,000; adopting**
13 **findings under the California Environmental Quality Act; and adopting findings**
14 **that the conveyance is consistent with the City's General Plan, and eight**
15 **priority policies of City Planning Code, Section 101.1.**

16 WHEREAS, Tenderloin Neighborhood Development Corporation ("Seller")
17 purchased the property located at 201-229 Eddy Street (Assessor's Block 0339, Lot
18 017) (the "Property") in 1989 and has operated the building located thereon (the
19 "Improvements") as affordable housing for low and very low income persons with
20 ground floor commercial use; and,

21 WHEREAS, Seller received assistance for the acquisition of the Property and
22 rehabilitation of the Improvements in the form of loans from the City and County of
23 San Francisco ("City") and the former San Francisco Redevelopment Agency whose
24 current balances total approximately \$6,200,000 in principal and approximately
25 \$3,100,000 in accrued interest (the "Existing Debt"); and,

1 WHEREAS, In April 2011, the Improvements suffered extensive damage
2 caused by fire and was deemed uninhabitable; and

3 WHEREAS, One hundred and twenty seven (127) low and very low income
4 residents of the Improvements were forced to evacuate due to the fire and were
5 relocated into other properties owned by Seller; and

6 WHEREAS, Seller has been working with the Mayor's Office of Housing and
7 Community Development ("MOHCD") to develop a financing plan to rehabilitate the
8 Improvements (the "Project") in order to return it to a habitable state in compliance
9 with all applicable law, so as to provide 105 units of affordable rental housing that
10 shall only be made available to qualifying households with incomes no higher than
11 60% of the Area Median Income (as determined by the U.S. Department of Housing
12 and Urban Development and as calculated by MOH) (the "Occupancy Restrictions");
13 and

14 WHEREAS, In order to further the City's general plan priority of preserving and
15 enhancing the supply of affordable housing, MOHCD negotiated a purchase
16 agreement (the "Purchase Agreement") with the Seller and agreed to purchase the
17 fee interest in the underlying Property land in exchange for the assumption and
18 cancellation of \$4,200,000 of the Existing Debt (the "Purchase Price"), subject to the
19 conditions described in the Purchase Agreement, a copy of which is on file with the
20 Clerk of the Board of Supervisors in File No. 131035; and

21 WHEREAS, MOHCD has additionally agreed to forgive approximately
22 \$1,700,000 in accrued interest from the Existing Debt in order to help make the
23 Project financially feasible; and

24 WHEREAS, Seller established a separate entity named Franciscan Towers
25 Associates, L.P., a California limited partnership (the "LP"), to acquire the fee interest
in the Improvements and to own and manage the Project; and

1 WHEREAS, The Purchase Price for the fee interest in the Property land has
2 been determined by the Director of Property to be fair market value as substantiated
3 by an appraisal; and

4 WHEREAS, MOHCD has negotiated a long-term ground lease of the
5 underlying Property land with the LP (the "Ground Lease"), subject to the conditions
6 described in the Ground Lease, a copy of which is on file with the Clerk of the Board
7 of Supervisors in File No. 131035; and

8 WHEREAS, The Ground Lease includes: (i) a term of 75 years with an
9 extension option for 24 additional years; (ii) the LP's acceptance of the Property "as
10 is" without representation or warranty; (iii) annual base rent in the amount of Fifteen
11 Thousand Dollars (\$15,000); and (iv) the Occupancy Restrictions; and

12 WHEREAS, During the Lease term, the LP shall maintain and repair the
13 Property and Improvements at no cost to the City, as further set forth in the Ground
14 Lease; and

15 WHEREAS, In order to consummate the purchase and ground lease of the
16 Property, the Board of Supervisors desires to authorize the execution, delivery and
17 performance of the Purchase Agreement and Ground Lease; and

18 WHEREAS, By letter dated July 8, 2013, the Department of City Planning
19 adopted and issued a General Plan Consistency Finding, a copy of which is on file
20 with the Clerk of the Board in File No. 131035, wherein the Department of City
21 Planning found that the acquisition and ground lease of the Property are consistent
22 with the City's General Plan and with the Eight Priority Policies under Planning Code
23 Section 101.1; and on July 8, 2013, the Department of City Planning also found that
24 acquisition and ground lease of the Property are categorically exempt from
25 Environmental Review; now, therefore, be it

1 RESOLVED, That the Board of Supervisors hereby adopts the findings
2 contained in the document dated July 8, 2013, from the Department of City Planning
3 regarding the California Environmental Quality Act, and hereby incorporates such
4 findings by reference as though fully set forth in this Resolution; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors hereby finds that the
6 purchase and ground lease of the Property are consistent with the General Plan, and
7 with the eight Priority Policies of Planning Code Section 101.1 for the same reasons
8 as set forth in the letter of the Department of City Planning, dated July 8, 2013, and
9 hereby incorporates such findings by reference as though fully set forth in this
10 Resolution; and, be it

11 FURTHER RESOLVED, That in accordance with the recommendation of the
12 Director of Property, the execution, delivery and performance of the Purchase
13 Agreement and the Ground Lease is hereby approved and the Director of Property
14 (or his designee) and the Director of the Mayor's Office of Housing and Community
15 Development are hereby authorized to execute the Purchase Agreement and the
16 Ground Lease, in substantially the form of such Purchase Agreement and Ground
17 Lease on behalf of the City and any such other documents that are necessary or
18 advisable to complete the transaction contemplated by the Purchase Agreement and
19 the Ground Lease and effectuate the purpose and intent of this Resolution; and, be it

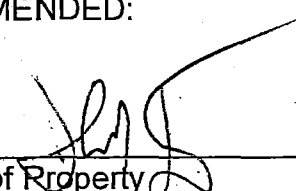
20 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director
21 of Property (or his designee) and the Director of the Mayor's Office of Housing and
22 Community Development, in consultation with the City Attorney, to enter into any
23 additions, amendments or other modifications to the Purchase Agreement, the
24 Ground Lease and any other documents or instruments necessary in connection
25 therewith, that the Director of Property determines are in the best interests of the City,
do not materially decrease the benefits to the City with respect to the Property, do not

1 materially increase the obligations or liabilities of the City, and are necessary or
2 advisable to complete the transaction contemplated in the Purchase Agreement and
3 the Ground Lease and that effectuate the purpose and intent of this Resolution, such
4 determination to be conclusively evidenced by the execution and delivery by the
5 Director of Property (or his designee) of any such additions, amendments, or other
6 modifications; and, be it

7 FURTHER RESOLVED, That all actions authorized and directed by this
8 Resolution and heretofore taken are hereby ratified, approved and confirmed by this
9 Board of Supervisors; and, be it

10 FURTHER RESOLVED, That within thirty (30) days of the agreements being
11 fully executed by all parties the Director of Property shall provide the executed
12 agreements to the Clerk of the Board for inclusion into the official file.

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14
15 RECOMMENDED:

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18 _____
19 Director of Property
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<p>Item 8 File 13-1035</p>	<p>Department: Mayor's Office of Housing and Community Development</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • The proposed resolution would (1) authorize the execution of a Purchase and Sale Agreement between the City and the nonprofit Tenderloin Neighborhood Development Corporation (TNDC) for the purchase by the City from TNDC of 201-229 Eddy Street; (2) authorize the execution of a ground lease between the City and Franciscan Towers Associates, L.P., a California limited partnership; (3) adopt findings under the California Environmental Quality Act (CEQA); and (4) adopt findings that the purchase of the property by the City and the associated ground lease is consistent with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • TNDC owns the land and building at 201-229 Eddy Street, known as Franciscan Towers, which includes 105 housing units and ground floor commercial space. A fire in April 2011 severely damaged the building, requiring the relocation of the tenants. Under the proposed Purchase and Sale Agreement, the City would purchase the land at 201-229 Eddy Street, but TNDC would retain ownership of the building. • TNDC will rehabilitate the building, which will provide 104 affordable housing units for low-income and very low-income individuals, and one manager's housing unit. Financing of the rehabilitation, estimated to cost \$35.1 million, includes Mayor's Office of Housing and Community Development (MOHCD) loans, insurance proceeds, and tax credit equity. • TNDC formed a limited partnership, Franciscan Towers Associates, L.P., which would operate the affordable housing units at 201-229 Eddy Street. The proposed resolution would approve a 75-year ground lease between the City and Franciscan Towers Associates for 201-229 Eddy Street, with one 24-year option to extend the ground lease for a total of 99 years, under which Franciscan Towers Associates would be required to maintain and operate the building at 201-229 Eddy Street as affordable housing. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • The purchase price of the land at 201-229 Eddy Street is \$4,200,000, which the City will pay TNDC by forgiving the principal on outstanding loans previously made by MOHCD to TNDC between 1989 and 1997. These loans were funded by federal grants (\$4,030,187) and local tax increment funds (\$169,813). • The annual rent to be paid by Franciscan Towers Associates to MOHCD under the ground lease includes \$15,000 in base rent and \$405,000 in residual rent. Under MOHCD's Residual Receipts Policy, in order to ensure the long-term affordability and maintenance of safe and secure housing, affordable housing developers and operators are only required to pay residual rent if the housing development generates sufficient surplus cash to make these payments. Franciscan Towers Associates will pay estimated residual rent of \$101,856 in the first year, or 25 percent of the residual rent amount of \$405,000. 	
<p style="text-align: center;">Recommendation</p>	
<ul style="list-style-type: none"> • Based on prior policy decisions of the Board of Supervisors, approve the proposed resolution. 	

MANDATE STATEMENT/ BACKGROUND

Administrative Code Section 23.1 requires Board of Supervisors' approval of all resolutions and ordinances approving real property transactions, including the purchase of real property. Administrative Code Section 23.4 requires Board of Supervisors' approval of the purchase of real property before the Director of Real Estate can accept the deed to the property.

Charter Section 9.118 requires Board of Supervisors' approval for any lease of real property for a period of ten years or more.

BACKGROUND

The Tenderloin Neighborhood Development Corporation (TNDC), a nonprofit corporation, owns and operates the Franciscan Towers at 201-229 Eddy Street, which is a six-story mixed-use building containing 105 units of affordable housing¹, and ground floor commercial spaces occupied by TNDC's offices and the TNDC-operated Tenderloin After School Program. The Franciscan Towers affordable housing units are currently vacant due to a fire in April 2011 that extensively damaged the building. The commercial spaces, which were rehabilitated and reoccupied in June 2011, pay combined rent of \$7,856 per month, but the housing units cannot be occupied until rehabilitation of the building is completed. The 127 residents of the Franciscan Towers were relocated to other TNDC properties, but have the option to return to the Franciscan Towers once rehabilitation is completed.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would (1) authorize the execution of a Purchase and Sale Agreement between the City and TNDC for the purchase by the City from TNDC of land at 201-229 Eddy Street for the rehabilitation of 104 affordable housing units for low and very low income individuals, and one manager's unit; (2) authorize the execution of a ground lease between the City and Franciscan Towers Associates, L.P., a California limited partnership formed by TNDC; (3) adopt findings under the California Environmental Quality Act (CEQA); and (4) adopt findings that the purchase of the property by the City and the associated ground lease is consistent with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1.

Terms of the Purchase and Sale Agreement

According to the March 19, 2013 appraisal by Joseph J. Blake and Associates, Inc., commissioned by TNDC and reviewed by the City's Director of Real Estate, 201-229 Eddy Street has an appraised value of \$6,600,000, of which \$4,200,000 is the value of the land and

¹ Five one-bedroom units, 75 efficiency studios, and 25 large studios.

\$2,400,000 is the value of the building. Under the proposed Purchase and Sale Agreement between the City and TNDC, the City would purchase from TNDC the land at 201-229 Eddy Street for \$4,200,000. TNDC would retain ownership of the building.

The purchase price of \$4,200,000 for the land would be paid by the City by forgiving the principal on outstanding loans previously made by the City to TNDC as shown in Table 1 below.

Table 1: Balance on Loans Made by City to TNDC from 1989 to 1997

Date of Loan	Funding Source		Principal Balance as of January 2014 ²	Principal Forgiveness in Exchange for Land Purchase	Remaining Loan Balance
Feb 1989	Federal	Community Development Block Grant	\$883,339	(\$883,339)	\$0
Dec 1989	Federal	Community Development Block Grant	1,060,333	(255,707)	804,626
Dec 1992	Local	Redevelopment Agency Tax Increment	169,813	(169,813)	0
Dec 1992	Federal	Community Development Block Grant	1,174,000	0	1,174,000
Jan 1997	Federal	Federal HOME Grant	2,891,141	(2,891,141)	0
Total			\$6,178,626	(\$4,200,000)	\$1,978,626

Under the terms of the Purchase and Sale Agreement, TNDC will pay all closing costs associated with the transaction, including property taxes owed prior to the closing date, applicable transfer taxes, title policies for both parties, and all other applicable title, escrow and recording fees.

Terms of the Ground Lease

TNDC has formed a limited partnership, Franciscan Towers Associates, L.P., who will enter into a ground lease with the City for 201-229 Eddy Street. The terms of the ground lease are shown in Table 2 below.

Table 2: Proposed Ground Lease Terms between the City and Franciscan Towers Associates

Initial Lease Term	75 years
Option to Extend the Lease	24 years
Total Possible Term	99 years
Annual Rent Payable by Franciscan Towers Associates to the City	\$420,000
Rent Adjustments During Initial Lease Term	Adjusted every 5 years to 10% of appraised land value
Rent Adjustment During 24-Year Extension	Negotiated
Utilities, Taxes, Maintenance, Insurance, Debt Service and Other Operating Costs	Paid by Franciscan Towers Associates.

² According to Ms. Ruby Harris, Mayor's Office of Housing and Community Development Project Manager, loan balances are presented as of January 2014 because a date certain was needed in order to complete necessary underwriting and approvals. The transaction is estimated to close in mid-December and no later than January 1, 2014.

Base and Residual Rent

Under the proposed ground lease, Franciscan Towers Associates will pay base rent to the City of \$15,000 per year and residual rent of up to \$405,000 per year, totaling \$420,000 per year for the land. In accordance with the Mayor’s Office of Housing and Community Development (MOHCD) Residual Receipts Policy, Franciscan Towers Associates will only be required to pay residual rent if they generate surplus cash in a given year, in which annual operating revenues exceed operating expenses.

Required Property Uses

Under the proposed ground lease, TNDC must renovate the building at 201-229 Eddy Street to provide 104 affordable rental housing units and one manager’s unit, totaling 105 units. Approximately 80 percent of the affordable rental housing units (84 units) must be allocated to low-income households and approximately 20 percent of the affordable rental housing units (20 units) must be allocated to very low-income households.³

Renovation of the Building

Under the proposed ground lease, the building at 201-299 Eddy Street is expected be completed and 95 percent occupied by December 2015, as shown in Table 3 below.

Table 3: Timeline for Renovation and Occupancy of 201-299 Eddy Street

	Estimated or Actual Date
Selection of development team by TNDC	April 2011 through July 2011
CEQA review and General Plan referral	October 2013
Other planning, design, permitting, and preconstruction	March 2012 through March 2014
Site acquisition	December 2013
Construction commencement	May 2014
Substantial completion of construction	July 2015
Certificate of Occupancy	July 2015
95% occupancy of units	December 2015

³ Low income is equal to 60 percent of the area median income, which in San Francisco in 2013 is \$42,500 for an individual and \$60,700 for a family of four. Very low income is equal to 50 percent of the area median income, which in San Francisco in 2013 is \$35,450 for an individual and \$50,600 for a family of four.

FISCAL IMPACT**Loans Previously Issued by the City to TNDC**

The City has previously loaned funds to TNDC for 201-229 Eddy Street, with outstanding principal and interest of \$11,432,643 as of January 2014, as shown in Table 4 below.

Table 4: Prior City Loans to TNDC for 201-229 Eddy Street

	Loan Balances as of January 2014	To be Forgiven by the City	Remaining
<u>Loans Issued from 1989 to 1997</u>			
Principal (see Table 1)	\$6,178,626	(\$4,200,000)	\$1,978,626
Interest	3,120,081	(1,698,707)	1,421,374
<i>Loans Issued from 1989 to 1997 Subtotal⁴</i>	9,298,707	(5,898,707)	3,400,000
<i>Loan Issued in March 2012 Subtotal</i>	2,133,936	0	2,133,936
Total	\$11,432,643	(\$5,898,707)	\$5,533,936

The Mayor's Office of Housing and Community Development (MOHCD) will forgive \$4,200,000 of the outstanding principal in exchange for the purchase of the land at 201-229 Eddy Street and \$1,698,707 in interest, resulting in the following remaining loan balances owed by TNDC to the City:

- **\$3,400,000** remaining balance for loans issued by the City to TNDC between 1989 and 1997. In the October 18, 2013 meeting of the Citywide Affordable Housing Loan Committee, the Committee approved forgiving \$4,200,000 of principal on loans to TNDC as payment for the land at 201-229 Eddy Street, and \$1,698,707 in associated interest on these loans, as shown in Table 4 above.

According to Ms. Ruby Harris, MOHCD Project Manager, forgiving \$1,698,707 in interest was negotiated between MOHCD and TNDC in order to make rehabilitation of 201-229 Eddy Street fiscally feasible and to retain the property as affordable housing. According to a memorandum from MOHCD staff to the October 18, 2013 Citywide Affordable Housing Loan Committee, the City's subsidy for the rehabilitation of 201-229 Eddy Street of \$5,098,707, which includes the remaining loan balance of \$3,400,000 and the

⁴ Of the \$9,298,707 in loans, \$441,813 were local funds (tax increment from the former San Francisco Redevelopment Agency), and \$8,856,894 were federal funds (Community Development Block Grant and HOME Grant). Of the \$441,813 in local funds, \$169,813 is principal that will be applied to the purchase of the land at 201-229 Eddy Street, and \$272,000 is interest that MOHCD is forgiving in order to make the project fiscally feasible.

related interest of \$1,698,707, is less than the City's subsidy to comparable affordable housing projects.

- **\$2,133,936** Community Development Block Grant loan issued by the City to TNDC in March 2012 to pay the predevelopment costs for the rehabilitation of the building at 201-229 Eddy Street due to the fire in April 2011. As shown in Table 5 below, this loan plus any accrued interest will be fully repaid to the City as part of the project costs.

Sources and Uses of Funds to Rehabilitate 201-229 Eddy Street

Estimated project costs to rehabilitate 201-229 Eddy Street are \$35,102,636, as shown in Table 5 below, which equals \$334,311 per unit for 105 housing units, or approximately 1 percent less than MOHCD's average cost per affordable housing unit of \$338,155.⁵

Table 5: Sources and Uses of Funds

Sources	
<u>City Loans</u>	
Loans Issued Between 1989 to 1997	\$3,400,000
Loan Issued in March 2012	2,133,936
Subtotal	\$5,533,936
<u>Non-City Sources</u>	
Insurance Proceeds	5,900,967
Tax Credit Equity	22,273,272
Other	1,394,461
Subtotal	29,568,700
Total Sources	\$35,102,636
Uses	
<u>Initial Costs</u>	
Acquisition of Building from TNDC by Franciscan Towers, L.P. ^a	\$3,400,000
Repayment of Predevelopment Loan	2,133,936
Subtotal, Initial Costs	5,533,936
<u>Planning, Permitting, Design, and Related Project Costs</u>	
Architecture and Engineering	1,404,591
Financing Costs	2,228,761
Legal Costs	137,500
Other Planning, Permitting, and Related Costs	1,578,202
Contingency (6% of planning, permitting, design and related project costs)	336,054
Subtotal	5,685,108
<u>Construction Costs</u>	
Construction	17,463,809
Contingency (20% of construction costs) ^b	3,492,762
Subtotal	20,956,571
<u>Reserves and Other Costs</u>	
Reserves ^c	781,521
Developer Costs ^d	2,020,500
Syndication Costs ^e	125,000
Subtotal	2,927,021
Total Uses	\$35,102,636

⁵ Based on MOHCD staff memorandum to October 18, 2013 Citywide Affordable Housing Loan Committee.

^a According to Ms. Harris, acquisition of the building at 201-229 Eddy Street from TNDC by Franciscan Towers Associates at the price of \$3,400,000 is \$1,000,000 more than the appraised value of \$2,400,000 based on a formula used by TNDC and the Franciscan Towers Associates in accordance with Internal Revenue Service rules.

^b The 20 percent construction contingency includes the construction contingency (15%) and bid contingency (5%), consistent with MOHCD's loan underwriting guidelines.

^d Reserves include three months of operating expenses and one-year's tenant assistance payments in the unlikely event that federal Shelter Plus Care subsidies cease to exist in the future.

^d Developer costs include a developer fee to TNDC and financial consultant and construction management fees.

^e Syndication costs include legal, consultant, and audit costs associated with the tax credit syndication closing.

Annual Operating Costs

Based on MOHCD's projected annual operating income and expenses for 201-229 Eddy Street and as shown in Table 6 below, MOHCD will receive estimated ground lease annual residual rent of \$101,856 in the first year of operations, which is 25 percent of the potential residual rent of up to \$405,000 provided by the ground lease. According to TNDC's 20-year cash flow projections, the building will generate surplus cash for the first 13-years of operation with total estimated residual rent payments to the City of \$756,470 over this time period.⁶

Table 6: Projected Annual Operating Income and Expenses

Income	
Tenant Rents	\$646,515
Tenant Assistance Payments	473,764
Commercial Rent and Other Payments	174,847
Total	\$1,295,126
Operating Expenses	
Management Fee	\$100,960
Staff Salaries and Benefits	394,843
Administration	86,448
Utilities, Taxes, Insurance, Other	157,487
Maintenance and Repair	201,109
Supportive Services	93,359
Total	\$1,034,206
Net Operating Income	\$260,920
Uses of Net Operating Income	
Ground Lease Base Rent	\$15,000
Replacement Reserve	42,000
Partnership management fee and asset management fee	24,100
Sponsor Distribution	52,500
MOHCD Loan Repayment Distribution	25,464
MOHCD Ground Lease Residual Rent	101,856
Total	\$260,920

⁶ The first year residual rent of \$101,856 is expected to decrease in subsequent years due to inflation-adjusted increases in operating expenses, resulting in estimated residual rent over the first 13-years of the ground lease of \$756,470.

The projected uses of net operating income are consistent with the proposed ground lease between the City and Franciscan Towers Associates, which sets the priorities for uses of net operating income. According to Ms. Harris,

- The replacement of reserves is required by the lenders who financed the project;
- The partnership management fee and asset management fee are consistent with MOHCD policy and compensate the general partner and limited partner in the limited partnership for annual costs associated with maintaining the partnership's legal reporting requirements;
- The sponsor distribution equals one-third of net operating income or \$500 per unit, whichever is less in a given year, to be distributed after payment of base rent, replacement reserves, and partner and asset management fees, and is intended to be used in San Francisco on activities associated with new construction and Community Development Block Grant-eligible activities and payments to tax credit investors, consistent with tax law; and
- The MOHCD loan repayment distribution and ground lease residual rent equal to the balance of surplus cash or two-thirds of net operating income, after ground lease base rent, replacement reserves, and partner and asset management fees, are allocated to repayment of MOHCD debt⁷ and residual rent.

POLICY CONSIDERATION

Under MOHCD's Residual Receipts Policy, affordable housing developers and operators are only required to pay residual rent and principal and interest on outstanding loans if the affordable housing development generates sufficient surplus cash to make these payments. According to the Residual Receipts Policy, MOHCD requires repayment of loans to the extent that such repayment is feasible and does not jeopardize the long-term affordability or maintenance of safe and secure housing for its residents. MOHCD expects the residual receipts, after payment of expenses, service of other debt, and replacement of reserves, to be directed toward repayment of MOHCD's investment. The Board of Supervisors has previously approved ground leases with similar provisions, including the 255 Broadway (File 13-0234), and 1180 Fourth Street (File 12-0572).

According to Ms. Harris, MOHCD requires that 100 percent of residual receipts allocated to MOHCD go toward residual rent payments unless otherwise necessary for external lenders and investors underwriting purposes. MOHCD negotiated the terms of the ground lease with Franciscan Towers Associates to require that of the residual receipts allocated to MOHCD (a) 20 percent be applied to repayment of the loan of \$3,400,000; and (b) 80 percent be applied to residual rent.

RECOMMENDATION

Based on prior policy decisions of the Board of Supervisors, approve the proposed resolution.

⁷ According to Ms. Harris, MOHCD debt consists of \$3,400,000 that will be assumed by Franciscan Towers Assoc.



SAN FRANCISCO PLANNING DEPARTMENT

General Plan Referral

Date: July 8, 2013
Case No. 2013.0639R
201-229 Eddy Street Acquisition and Lease of Property

Block/Lot No: 0339/017

Project Sponsors: John Updike, Acting Director
San Francisco Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

Applicant: Same as Above

Staff Contact: Claudia Flores- (415) 558-6473
claudia.flores@sfgov.org

Recommendation: Finding the project, on balance, is in conformity with the
General Plan

*Recommended
By:*


John Rahaim, Director of Planning

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

Reception:
415.558.6378

Fax:
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PROJECT DESCRIPTION

On May 17, 2013, the Planning Department (herein "the Department") received a request from the City and County of San Francisco Real Estate Division for a Mayor's Office of Housing acquisition and ground lease of 201-229 Eddy Street. The Mayor's Office of Housing is proposing to acquire the property from Tenderloin Neighborhood Development Center (TNDC) and leasing it back to an affiliate of TNDC for management of the property. TNDC plans to commence a rehabilitation project of the property in 2014.

The Planning Department has re-issued this General Plan referral findings from its previous June 14, 2013 letter; please refer to this updated letter.

**GENERAL PLAN REFERRAL
ACQUISITION AND LEASE OF PROPERTY
201-229 EDDY STREET**

CASE NO. 2013.0639

ENVIRONMENTAL REVIEW

On 07/03/13, the Environmental Planning Division of the Planning Department determined that the proposed acquisition of 201 - 229 Eddy Street is Categorical Exempt from Environmental Review as a Categorical Exemption Class 1; defined by CEQA, per CEQA Guidelines Section 15301: Existing Facilities. Future physical improvements proposed for this location will receive their own CEQA clearance. This means that the CEQA clearance is only for the acquisition component not the rehabilitation project, if any were needed.

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

As described below, the Project is consistent with the Eight Priority Policies of Planning Code Section 101.1 and is, on balance, in-conformity with the following Objectives and Policies of the General Plan:

Note: General Plan Objectives and Policies are in bold font; General Plan text is in regular font. Staff comments are in *italic font*.

Housing Element

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

POLICY 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

POLICY

1.3

Work proactively to identify and secure opportunity sites for permanently affordable housing.

Eight Priority Policies Findings

The subject project is found to be consistent with the Eight Priority Policies of Planning Code Section 101.1 in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.
The retrofit project will temporarily displace 2 existing retail tenants but they would return after completion.
2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhood.
The project will not affect housing, and would enhance neighborhood character.
3. That the City's supply of affordable housing be preserved and enhanced.
The project would have no adverse effect on the City's supply of affordable housing. When the project is rehabilitated it will contribute towards maintaining the supply of affordable housing.
4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.
The project would not result in commuter traffic impeding MUNI's transit service, overburdening the streets or altering current neighborhood parking.
5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for residential employment and ownership in these sectors be enhanced.
The project would not affect the existing economic base in this area.
6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.
The project would not affect the City's preparedness to protect against injury and loss of life in an earthquake.
7. That landmarks and historic buildings be preserved.
The project will not affect landmarks or historic buildings, the rehabilitation would enhance the building's character defining features.
8. That our parks and open space and their access to sunlight and vistas be protected from development.
The proposed project would not affect City parks or open spaces, or their access to sunlight and vistas.

RECOMMENDATION:	Finding the Project, on balance, in conformity with the General Plan
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cc: Olson Lee, Mayor's Office of Housing

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SAN FRANCISCO PLANNING DEPARTMENT

October 10, 2013

NOTE TO FILE

CASE NO. 2013.0639R

ACQUISITION & LEASE PROPERTY: 201-229 EDDY STREET.

On July 8th, 2013, the Planning Department completed a General Plan Referral on a proposal for the Mayor's Office of Housing to acquire the property at 201-229 Eddy Street, an existing 105-unit residential building, and lease it back to an affiliate of TNDC for management of the property. As part of the project, the building would undergo rehabilitation due to a major fire in April 2011. The property's units are intended to be preserved as affordable units and extend the affordability restrictions for another 55 years.

Since the release of this General Plan Referral, the project description has changed to include the building rehabilitation work. On 10/09/13, the Planning Department determined that the proposed acquisition, leasing and building rehabilitation work of 201-229 Eddy Street is Categorical Exempt from Environmental Review as a Categorical Exemption Class 1 as defined by CEQA, per CEQA Guidelines Section 15301: Existing Facilities.

This Note to the File clarifies that the findings of Case No. 2013.0639R are not affected by the change in project description, and still stand in light of the refined project description.

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AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE

by and between

TENDERLOIN NEIGHBORHOOD DEVELOPMENT CORPORATION,
as Seller

and

CITY AND COUNTY OF SAN FRANCISCO,
as Buyer

For the purchase and sale of

201-229 Eddy Street
San Francisco, California

[DATE]

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LIST OF EXHIBITS

- EXHIBIT A – Real Property Description
- EXHIBIT B – Grant Deed
- EXHIBIT C – Certificate of Transferor Other Than An Individual (FIRPTA Affidavit)
- EXHIBIT D – Designation Agreement
- EXHIBIT E – Preliminary Title Report

AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE
(201-229 Eddy Street, San Francisco)

THIS AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE (this "Agreement") dated for reference purposes only as of _____, 2013 is by and between TENDERLOIN NEIGHBORHOOD DEVELOPMENT CORPORATION, a California nonprofit public benefit corporation ("Seller"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, acting by and through the Mayor's Office of Housing and Community Development ("Buyer" or "City").

IN CONSIDERATION of the payments and the respective agreements contained herein below, 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 one fifth (1/5) acres of land, located in the City and County of San Francisco, commonly known as 201-229 Eddy Street, San Francisco, CA and more particularly described in Exhibit A attached hereto (the "Land"); and

(b) any and all rights, privileges, and easements incidental or appurtenant to the Land, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Land, as well as any and all 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, and any and all of Seller's right, title and interest in and to all roads and alleys adjoining or servicing the Land (collectively, the "Appurtenances").

All of the items referred to in Subsections (a) and (b), above are collectively referred to as the "Property." City hereby acknowledges that the Property does not include the improvements and fixtures located on the Land (the "Improvements"), and that Seller (or its transferee) shall remain the fee owner of such Improvements after the Closing Date.

2. PURCHASE PRICE

2.1 Purchase Price

The total purchase price for the Property is Four Million Two Hundred Thousand Dollars (\$4,200,000) (the "Purchase Price").

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. The Purchase Price shall be paid entirely by City canceling \$4,200,000 of the existing debt secured by the Property that is currently owed to the City by Seller.

Seller acknowledges and agrees that if Seller fails at Closing to deliver to City the documents required under Subsection 6.3, 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 and the Appurtenances, by duly executed and acknowledged grant deed in the form attached hereto as Exhibit B (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 Insurance Company (the "Title Company") to issue to City an ALTA 2006 extended coverage owner's policy of title insurance (the "Title Policy") in the amount of the Purchase Price, insuring fee simple title to the Land and the Appurtenances 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 following (such exceptions approved by City are collectively referred to herein as the "Accepted Conditions of Title"): (i) the lien of real property taxes, not yet due or payable, provided City shall be shown as exempt from such taxes in the Title Policy; and (ii) exception numbers 1-6 in Schedule B of the preliminary title report attached hereto as Exhibit E. 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, 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. INTENTIONALLY OMITTED

5. ENTRY

At all times prior to the Closing Date Seller shall afford City and its Agents reasonable access to the Property for the purposes of satisfying City with respect to the representations, warranties and covenants of Seller contained herein and the satisfaction of the Conditions Precedent including, without limitation, the drilling of test wells and the taking of soil borings. City hereby agrees to indemnify and hold Seller harmless from any damage or injury to persons or property caused by the negligence or willful misconduct of City or its Agents during any such entries onto the Property prior to the Closing, except to the extent such damage or injury is caused by the acts or omissions of Seller or any of its Agents. The foregoing Indemnity 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. In the event this Agreement is terminated for any reason other than Seller's default hereunder, City shall restore the Property to substantially the condition it was found subject to applicable laws. This indemnity shall survive the termination of this Agreement or the Closing.

5.1 City's Conditions to Closing

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

(a) 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 when made 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.

(b) The physical condition of the Property shall be substantially the same on the Closing Date as on the date of City's execution of this Agreement, 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.

(c) 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].

(d) 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 transaction, on or before December 3, 2013.

(e) 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 (e) 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 d and e 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 by the Closing Date, 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. Seller hereby irrevocably authorizes City and its Agents to make all inquiries with and applications to any person or entity, including, without limitation, any regulatory authority with jurisdiction as City may reasonably require to complete its due diligence investigations.

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 275 Battery Street, Suite 1500, San Francisco, California 94111, on December 5, 2013, or on such earlier date as City and Seller may mutually agree (the "Closing Date"), subject to the provisions of Article 5 [Conditions Precedent]. The Closing Date may not be extended without the prior written approval of both Seller and City, except as otherwise expressly provided in this Agreement. 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) a properly executed affidavit pursuant to Section 1445(b)(2) of the Federal Tax Code in the form attached hereto as Exhibit C, 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;

(c) 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;

(d) 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;

(e) closing statement in form and content satisfactory to City and Seller; and

(f) 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

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

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 D and, in any event, shall comply with the requirements of Section 6045(e) of the Federal Tax Code and the regulations promulgated thereunder.

7. EXPENSES AND TAXES

7.1 Rent and Other Apportionments

Because Seller shall remain the fee interest owner of the Improvements, no Property charges shall be apportioned on the Closing Date.

7.2 Closing Costs

Seller shall pay the cost of any desired 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 Land 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 Land 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) To the best of Seller's knowledge, there are now, and at the time of the Closing will be, no material physical or mechanical defects of the Property, and no violations of any laws, rules or regulations applicable to the Property.

(b) All of the documents furnished to City pertaining to the condition and operation of the Property are and at the time of Closing, to best of Seller's knowledge, will be true, correct and complete copies of such documents.

(c) 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.

(d) 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.

(e) To Seller's knowledge, upon completion of the anticipated rehabilitation of the Improvements, all water, sewer, gas, electric, telephone, and drainage facilities and all other utilities required by law or by the normal use and operation of the Property are and at the time of Closing will be installed to the property lines of the Property and are and at the time of Closing will be adequate to service the Property.

(f) 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.

(g) Except for the current subrogation action by TNDC's insurer against a third party manufacturer related to the fire that damaged the existing Improvements, 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.

(h) 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.

(i) Seller is a nonprofit public benefit corporation duly organized and validly existing under the laws of the State California and is in good standing under the laws of the State of California; 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.

(j) 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.

(k) 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.

(l) Seller hereby represents and warrants to and covenants with City that the following statements are true and correct and will be true and correct as of the Closing Date: (i) neither the Property nor to the best of Seller's knowledge any real estate in the vicinity of the Property is in violation of any Environmental Laws; (ii) the Property is not now, nor to the best of Seller's knowledge has it ever been, used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material, except as described in the Phase I environmental assessment prepared by AEW Engineers, Inc. dated February 2012 ("Seller's Environmental Disclosure"); (iii) to the best of Seller's knowledge, there has been no release and there is no threatened release of any Hazardous Material in, on, under or about the Property; (iv) to the best of Seller's knowledge, there have not been and there are not now any underground storage tanks, septic tanks or wells or any aboveground storage tanks at any time used to store Hazardous Material located in, on or under the Property; (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:

(m) "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.

(n) "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.

(o) "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).

(p) 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 the Property 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. To Seller's knowledge, 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 Title Policy.

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

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, except to the extent caused by the negligence or willful misconduct of the City. 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 One Million Dollars (\$1,000,000) (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 eighty (180) 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, insuring against all insurable risks, including, without limitation, fire, vandalism, malicious mischief, lightning, windstorm, water, 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 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, 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 date Seller executes this Agreement, Seller shall not enter into any Lease or contract, or any amendment thereof without in each instance obtaining City's prior written consent thereto. City agrees that it shall not unreasonably withhold or delay any such consent.

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, (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:

Mayor's Office of Housing and Community
Development
City and County of San Francisco
1 So. Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn: Director
Re: 217 Eddy Street
Facsimile No.: (415) 701-5501

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: 217 Eddy Street
Facsimile No.: (415) 554-4745

Seller:

TNDC
201 Eddy Street
San Francisco, CA 94102
Attn: Executive Director
Facsimile No.: (415) 776-3952

with a copy to:

Gubb & Barshay LLP
505 14th Street, Suite 1050
Oakland, CA 94612
Attn: Scott Barshay
Facsimile No.: (415) 781-6967

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. In the event that any 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 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.

11.17 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.

11.18 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.

11.19 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.

11.20 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.

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

SELLER:

Tenderloin Neighborhood Development Corporation,
a California nonprofit public benefit corporation

By: _____

Its: _____

Date: _____

CITY:

CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation

By: _____
John Updike
Director of Property

By: _____
OLSON LEE
Director of Mayor's Office of Housing
and Community Development

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
EVAN GROSS
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 D) 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:

OLD REPUBLIC 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:

[LEGAL DESCRIPTION TO COME FROM PRELIMINARY REPORT]

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. 017-0339)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Tenderloin Neighborhood Development Corporation, a California nonprofit public benefit corporation, 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 C

**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 Tenderloin Neighborhood Development Corporation a California nonprofit public benefit corporation ("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 TNDC, 201 Eddy Street, San Francisco, CA 94102

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:

TENDERLOIN NEIGHBORHOOD
DEVELOPMENT CORPORATION,

a California nonprofit public benefit
corporation

By: _____
[NAME]

Its: _____

EXHIBIT D

DESIGNATION AGREEMENT

This DESIGNATION AGREEMENT (the "Agreement") dated as of _____, 20____, is by and between TENDERLOIN NEIGHBORHOOD DEVELOPMENT CORPORATION, a California nonprofit public benefit corporation ("Seller"), the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), and OLD REPUBLIC 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. 0227010833-DP, 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:

Tenderloin Neighborhood Development
Corporation
201 Eddy Street
San Francisco, CA 94102
Attn: Executive Director
Facsimile No.: (415) 766-3952

CITY:

Mayor's Office of Housing and Community
Development
1 So. Van Ness Ave., 5th Floor
San Francisco, CA 94103
Attn: Director
Facsimile No.: (415) 701-5501

TITLE COMPANY:

Old Republic Title Company
275 Battery Street, Suite 1500
San Francisco, CA 94111
Attn: David Phillips
Facsimile No.: (415) 397-0199

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:

TENDERLOIN NEIGHBORHOOD
DEVELOPMENT CORPORATION, a
California nonprofit public benefit corporation

201 Eddy Street
San Francisco, CA 94102
Attn: Executive Director
Facsimile No.: (415) 766-3952

Date: _____

By: _____

Its: _____

CITY:

CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation

By: _____
John Updike
Director of Property

Date: _____

Title Company:

OLD REPUBLIC TITLE COMPANY

Date: _____

By: _____

Its: _____

EXHIBIT E
PRELIMINARY TITLE REPORT

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Attachments to Ground Lease

1. Legal Description of Site
2. Schedule of Performance
3. City Consent of Leasehold Mortgage
4. Certificate of Preference Policy
5. Memorandum of Ground Lease
6. Form of Tenant Income Certification

1 GROUND LEASE

2 This ground lease ("Ground Lease") is dated as of, _____ 2013, by and between
3 the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City" or
4 "Landlord"), represented by the Mayor, acting by and through the Mayor's Office of Housing and
5 Community Development ("MOHCD"), and FRANCISCAN TOWERS ASSOCIATES, L.P., a
6 California limited partnership, as tenant (the "Tenant").

7 RECITALS

8 A. The City is the fee owner of the land described in Attachment 1 attached hereto
9 ("Site"). The Tenant is currently the fee owner of the existing improvements on the Site, and
10 desires to rehabilitate said improvements in order to retain its current use as a 105-unit
11 multifamily rental housing development serving low- and very low-income households, including
12 35 Shelter Plus Care units, with 7,005 square feet of ground floor commercial, which will be
13 known as 201-229 Eddy Street (the "Project").

14 B. The City has established an affordable housing program to promote the
15 retention and development of housing which is affordable to low- and very low-income
16 households.

17 C. The City believes that the fulfillment of the terms and conditions of this
18 Ground Lease are in the vital and best interests of the City and the health, safety, morals and
19 welfare of its residents, and in full accord with the public purposes and provisions of applicable
20 State and Federal laws and requirements.

21 **NOW THEREFORE**, in consideration of the mutual obligations of the parties hereto, the
22 City hereby leases to Tenant, and Tenant hereby leases from the City, the Site, for the Term (as
23 defined in Article 2), and subject to the terms, covenants, agreements and conditions hereinafter

1 set forth, to each and all of which the City and Tenant hereby mutually agree.

2 **ARTICLE 1: DEFINITIONS**

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

5 **1.01 Agreement Date** means the date set forth on the cover page.

6 **1.02 Area Median Income** (or "AMI") means area median income as determined by
7 the United States Department of Housing and Urban Development for the San Francisco area,
8 adjusted solely for household size, but not high housing cost area.

9 **1.03 Effective Date** means the date the City records a Memorandum of Ground Lease
10 against the Site, but in no event shall the date be prior to the approval of the Ground Lease by the
11 City's Board of Supervisors and Mayor.

12 **1.04 First Lease Payment Year** means the year in which rehabilitation activities are
13 completed on the Project, as evidenced by a NOC (as defined in Section 10.14 of this Ground
14 Lease).

15 **1.05 First Mortgage Lender** means any lender and its successors, assigns and
16 participants or other entity holding the first deed of trust on the Leasehold Estate.

17 **1.06 Ground Lease** means this Ground Lease of the Site to the Tenant from the City, as
18 amended from time to time.

19 **1.07 Improvements** means all physical construction, including all structures, fixtures
20 and other improvements to be rehabilitated on the Site.

21 **1.08 Law** means all statutes, laws, ordinances, regulations, orders, writs, judgments,
22 injunctions, decrees or awards of the United States or any state, county, municipality or

1 governmental agency.

2 **1.09 Lease Year** means each calendar year during the term hereof, beginning on
3 January 1 and ending on December 31, provided that the “First Lease Year” shall commence on
4 the Effective Date and continue through December 31st of that same calendar year. Furthermore,
5 the “Last Lease Year” shall end upon the expiration of the Term hereof.

6 **1.10 Leasehold Estate** means the estate held by the Tenant pursuant to and created by
7 this Ground Lease.

8 **1.11 Leasehold Mortgage** means any mortgage, deed of trust, trust indenture, letter of
9 credit or other security instrument, and any assignment of the rents, issues and profits from the
10 Site, or any portion thereof, which constitute a lien on the Leasehold Estate created by this
11 Ground Lease and will be approved in writing by the City.

12 **1.12 Lender** means any entity holding a Leasehold Mortgage.

13 **1.13 Loan Documents** means those certain loan agreements, notes, deeds of trust and
14 declarations and any other documents executed and delivered in connection with the construction
15 and permanent financing for the Project.

16 **1.14 Low-Income Households** means households earning no more than sixty percent
17 (60%) of Area Median Income.

18 **1.15 MOHCD** means the Mayor’s Office of Housing and Community Development for
19 the City.

20 **1.16 Occupant** means any person or entity authorized by Tenant to occupy a residential
21 unit on the Site, or any portion thereof.

22 **1.17 Permitted Limited Partner** means Bank of America, N.A., a national banking

1 association, as investor limited partner and Banc of America CDC Special Holding
2 Company, Inc., a North Carolina corporation, as the special limited partner.

3 **1.18 Premises** means the Site together with any Improvements thereon.

4 **1.19 Project** means the rehabilitation of the existing Improvements, consisting of 105
5 units of multifamily rental housing plus community space and common areas serving low and
6 very low income households. If indicated by context, Project means the leasehold interest in the
7 Site and the fee interest in the Improvements on the Site.

8 **1.20 Project Expenses** means all charges incurred by Tenant in the operation of the
9 Project including but not limited to: (a) lease payments, utilities, real estate and/or possessory
10 interest taxes, assessments, and liability, fire and other hazard insurance premiums; (b) salaries,
11 wages and other compensation due and payable to the employees or agents of Tenant who
12 maintain, administer, operate or provide services in connection with the Project, including all
13 withholding taxes, insurance premiums, Social Security payments and other payroll taxes or
14 payments required for such employees; (c) payments of required interest and principal, if any, on
15 any construction or permanent financing secured by the Project; (d) all other expenses incurred by
16 Tenant to cover routine operating and services provision costs of the Project, including
17 maintenance and repair and the reasonable fee of any managing agent; (e) any extraordinary
18 expenses as approved in advance by the Agency; and (f) deposits to reserves accounts required to
19 be established under the Loan Documents, and (g) an asset management fee in the amount of
20 \$17,200 per year 2013, which fee shall increase by 3.5% per year.

21 **1.21 Project Income** means all revenue, income receipts, and other consideration
22 actually received from the operation of leasing the Improvements and Project, including non-

1 residential and/or commercial uses of the Site. Project Income shall include but not be limited to:
2 all rents, fees and charges paid by tenants or users of any portion of the Site; Section 8 or other
3 rental subsidy payments received for the dwelling units; supportive services funding, if
4 applicable; commercial lease income; deposits forfeited by tenants; all cancellation fees, price
5 index adjustments and any other rental adjustments to leases or rental agreements; proceeds from
6 vending and laundry room machines; and the proceeds of business interruption or similar
7 insurance. Project Income shall not include tenants' security deposits, loan proceeds, capital
8 contributions or similar advances.

9 **1.22 Site** means the real property as more particularly described in the Site Legal
10 Description, Attachment 1.

11 **1.23 Subsequent Owner** means any successor (including a Lender or an affiliate or
12 assignee of a Lender as applicable) to the Tenant's interest in the Leasehold Estate and the
13 Improvements who acquires such interest as a result of a foreclosure, deed in lieu of foreclosure,
14 or transfer from a Lender, its affiliate, and any successors to any such person or entity.

15 **1.24 Surplus Cash** means the excess of Project Income over Project Expenses. All
16 permitted uses and distributions of Surplus Cash shall be governed by Section 6.02(g) of this
17 Ground Lease.

18 **1.25 Tenant** means Franciscan Towers Associates, L.P., a California limited
19 partnership and its successors and assigns (or a Subsequent Owner, where appropriate).

20 **1.26 Very Low-Income Households** means households earning no more than fifty
21 percent (50%) of Area Median Income.

22 Whenever an Attachment is referenced under this Ground Lease, it means an attachment

1 to this Ground Lease unless otherwise specifically identified. Whenever a section, article or
2 paragraph is referenced, it is a reference to this Ground Lease unless otherwise specifically
3 referenced.

4 **ARTICLE 2: TERM**

5 (a) Initial Term. The term of this Ground Lease shall commence upon the Effective
6 Date and shall end seventy five (75) years from that date ("Term"), unless extended pursuant to
7 section (b) below or earlier terminated pursuant to the terms hereof.

8 (b) Option for Extension. Provided that the Tenant is not in default under the terms of
9 this Ground Lease and the Loan Documents, beyond any notice, grace or cure period, either at the
10 time of giving of an Extension Notice (as defined below), as described in subparagraph (c) below,
11 or on the last day of the Term (the "Termination Date"), the Term may be extended at the option
12 of the Tenant for one twenty four (24) year period as provided below. If the Term is extended
13 pursuant to this section, all references in this Ground Lease to the "Term" shall mean the Term as
14 extended by this extension period.

15 (c) Notice of Extension. Tenant shall have one (1) option to extend the term of this
16 Ground Lease for a period of twenty four (24) years from the Termination Date. Not later than
17 one hundred eighty (180) days prior to the Termination Date, the Tenant may notify the City in
18 writing that it wishes to exercise its option to extend the term of this Ground Lease (an "Extension
19 Notice"). In the event that Tenant fails to deliver timely the Exercise Notice, City shall deliver to
20 Tenant written notice of Tenant's failure to deliver timely the Exercise Notice (the "Reminder
21 Extension Notice") and Tenant shall have an additional one hundred eighty (180) days after
22 receipt of the Reminder Extension Notice to exercise the option to extend the term of this Ground

1 Lease. Upon Tenant's exercise of this option, the Initial Term shall be extended for twenty four
2 (24) years from the Termination Date for a total Ground Lease term of not to exceed ninety-nine
3 (99) years.

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

6 (e) Right of First Refusal. If during the Term or extended term of this Ground Lease,
7 the City desires to sell its interest in the Site, the Tenant will have the right of first refusal to
8 negotiate for the purchase of the Site as set forth in Section 14.02 provided that the Tenant agrees
9 to maintain the Site as a low and very low income housing development for fifty-five (55) years
10 from the date of purchase.

11 (f) Holding Over. Any holding over after expiration of the Term or, if applicable,
12 extended term without the City's written consent will constitute a default by Tenant and entitle
13 the City to exercise any or all of its remedies as provided in this Ground Lease, even if the City
14 elects to accept one or more payments of Annual Rent.

15 ARTICLE 3: FINANCING

16 Tenant shall submit to the City in accordance with the dates specified in the Schedule of
17 Performance, Attachment 2, for approval by the City, evidence satisfactory to the City that Tenant
18 has sufficient equity capital and commitments for construction and permanent financing, and/or
19 such other evidence of capacity to proceed with the rehabilitation of the Improvements in
20 accordance with this Ground Lease, as is acceptable to the City. City hereby acknowledges that
21 as of the Effective Date, Tenant has satisfied this requirement.

22 ARTICLE 4: RENT

1 **4.01 Annual Rent**

2 (a) Tenant shall pay to the City Four Hundred Twenty Thousand (\$420,000) (the
3 “Annual Rent”) per year for each year of the Term of this Ground Lease, which is equal to ten
4 percent (10%) of the appraised value of the Site as of the Agreement Date. Annual Rent consists
5 of Base Rent and Residual Rent, as defined in Section 4.02 below, without offset of any kind
6 (except as otherwise permitted by this Lease) and without necessity of demand, notice or invoice.
7 Annual Rent shall be re-determined on the fifteenth (15th) anniversary of the date of the First
8 Lease Payment Year and every fifteen (15) years thereafter, and shall be equal to ten percent
9 (10%) of the appraised value of the Site as determined by an MAI appraiser selected by and at the
10 sole cost of the City.

11 (b) If the Tenant elects to extend the term of this Ground Lease pursuant to Article 2
12 above, Annual Rent (along with any potential future adjustments) during any such extended term
13 shall be set by mutual agreement of the parties, taking into account the affordable housing
14 restrictions contained in Section 9.02, project debt (including any surplus cash debt obligations)
15 and the annual income expected to be generated by the Project; provided however that Annual
16 Rent during the extended term shall in no event be less than the Annual Rent set forth in 4.01(a)
17 above. If the parties cannot agree on Annual Rent during any extended term, either party may
18 invoke a neutral third-party process and shall agree on a neutral third-party appraiser to set the
19 Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving
20 similar rent determination disputes in San Francisco taking into account the affordable housing
21 restrictions contained in Section 9.02 Project debt (including any surplus cash debt obligations)
22 and the annual income expected to be generated by the Project or, in the event that there is no

1 then-prevailing practice, in accordance with the rules of the American Arbitration Association.
2 Provided, however, that after the neutral third party process, Tenant, in its sole discretion may
3 rescind the Extension Notice if it does not wish to extend the Term of this Ground Lease. The
4 costs associated with such third-party process shall be paid solely by the City.

5 4.02 Base Rent

6 (a) "Base Rent", means, in any given Lease Year, FIFTEEN THOUSAND DOLLARS
7 (\$15,000) per annum. Base Rent shall be due and payable in arrears on January 31st of each
8 Lease Year, however no Base Rent shall be due until after completion of the Project. The first
9 Base Rent payment shall be due on the January 31st of the calendar year following the First Lease
10 Payment Year, and shall be equal to \$15,000 times the number of days in the year following
11 receipt of the initial certificate of occupancy for the Improvements, divided by 365; and provided,
12 further, that in the event that the Tenant or any Subsequent Owner fails, after notice and
13 opportunity to cure, to comply with the provisions of Section 9.02, Base Rent shall be increased
14 to the full amount of Annual Rent. Additionally, in the event that a Subsequent Owner elects
15 pursuant to Section 26.06(ii) to operate the Project without being subject to Section 9.02 or any
16 Subsequent Owner elects, pursuant to Section 26.06(ii), to operate the Project without compliance
17 with such provisions, Annual Rent shall be adjusted as provided in Section 26.07.

18 (b) If the Project does not have sufficient Project Income to pay Base Rent and the
19 City has received written notice from Tenant regarding its inability to pay Base Rent from Project
20 Income, the unpaid amount shall be deferred and all such deferred amounts shall accrue without
21 interest until paid ("**Base Rent Accrual**"). The Base Rent Accrual shall be due and payable each
22 year from and to the extent Surplus Cash is available to make such payments and, in any event,

1 upon the earlier of sale of the Project or termination of this Ground Lease.

2 (c) If Tenant has not provided City with written notice that it cannot pay Base Rent
3 due to insufficient Project Income, the City shall assess a late payment penalty of two percent
4 (2%) for each month or any part thereof that any Base Rent payment is delinquent. The Tenant
5 may request in writing that the City waive such penalties by describing the reasons for Tenant's
6 failure to pay Base Rent and Tenant's proposed actions to insure that Base Rent will be paid in
7 the future. The City may, in its sole discretion, waive in writing all or a portion of such penalties
8 if it finds that Tenant's failure to pay Base Rent was beyond Tenant's control and that Tenant is
9 diligently pursuing reasonable solutions to such failure to pay.

10 **4.03 Residual Rent**

11 "Residual Rent" means, in any given Lease Year, FOUR HUNDRED FIVE
12 THOUSAND DOLLARS (\$405,000), subject to any periodic adjustments pursuant to Section
13 4.01(a). Residual Rent shall be due in arrears on April 15th following each Lease Year. Except
14 as otherwise provided in Section 26.07(a), Residual Rent shall be payable only to the extent of
15 Surplus Cash as provided in Section 6.02(g) below, and any unpaid Residual Rent shall not
16 accrue. However, in the event that Surplus Cash is insufficient to pay the full amount of the
17 Residual Rent, Tenant shall certify to the City in writing by April 15 that available Surplus Cash
18 is insufficient to pay Residual Rent and Tenant shall provide to City any supporting
19 documentation reasonably requested by City to allow City to verify the insufficiency.

20 **4.04 Triple Net Lease**

21 This Ground Lease is a triple net lease and the Tenant shall be responsible to pay all costs,
22 charges, taxes, impositions and other obligations related thereto accruing after the Agreement

1 Date. If the City pays any such amounts, whether to cure a default or otherwise protect its
2 interests hereunder, the City will be entitled to be reimbursed by Tenant the full amount of such
3 payments as additional rent within thirty (30) days of written demand by City. Failure to timely
4 pay the additional rent shall be an event of default.

5 **ARTICLE 5: CITY COVENANTS**

6 The City is duly created, validly existing and in good standing under the Law, and has full
7 right, power and authority to enter into and perform its obligations under this Ground Lease. City
8 covenants and warrants that the Tenant and its tenants shall have, hold and enjoy, during the lease
9 term, peaceful, quiet and undisputed possession of the Site leased without hindrance or
10 molestation by or from anyone so long as the Tenant is not in default under this Ground Lease.

11 **ARTICLE 6: TENANT COVENANTS**

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

14 **6.01 Limited Partnership Authority**

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

17 **6.02 Use of Site and Rents**

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

1 **6.02(a) Permitted Uses**

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

6 **6.02(b) Non-Discrimination**

7 Tenant shall not discriminate against or segregate any person or group of persons
8 on account of race, color, creed, religion, ancestry, national origin, sex, gender identity, marital or
9 domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the
10 sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Site or the
11 Improvements, or any part thereof, nor shall Tenant itself or any person claiming under or through
12 it establish or permit any such practice or practices of discrimination or segregation with
13 reference to the selection, location, number, use or occupancy, of Occupants, subtenants or
14 vendees on the Site or Improvements, or any part thereof, except to the extent permitted by law or
15 required by funding source. Tenant shall not discriminate against tenants with certificates or
16 vouchers under the Section 8 program or any successor rent subsidy program.

17 **6.02(c) Non-Discriminatory Advertising**

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

21 **6.02(d) Access for Disabled Persons**

22 Comply with all applicable laws providing for access for persons with disabilities,

1 including, but not limited to, the Americans with Disabilities Act and Section 504 of the
2 Rehabilitation Act of 1973.

3 **6.02(e) Equal Opportunity Marketing Plan**

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

7 **6.02(f) Lead Based Paint**

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

12 **6.02(g) Permitted Uses of Surplus Cash**

13 All annual Project Income, prior to the calculation of Surplus Cash, shall be used
14 to pay Project Expenses. If the Tenant is in compliance with all applicable requirements and
15 agreements under this Ground Lease, Tenant shall then use any Surplus Cash to make the
16 following payments:

- 17 i. First to Base Rent Accrual payments, if any;
- 18 ii. Second, to replenish the operating reserve account, if necessary, up to the
19 amount required by Lenders;
- 20 iii. Third, to a partnership management fee of \$17,220 increasing at an annual
21 rate of three and a half percent (3.5%);

- 1 iv. Fourth, to an asset management fee to the limited partner of Tenant in the
2 annual amount of \$5,000;
- 3 v. Then, one-third (1/3) of remaining Surplus Cash in an amount not to exceed
4 \$500 per unit per year may be retained by Tenant and may be used by Tenant
5 to pay distributions or other payments in accordance with Tenant's
6 partnership agreement; provided however that, except for that portion of the
7 funds allocated to Tenant's Permitted Limited Partner, all of the funds
8 distributed under this subsection (v) must be used either for new construction
9 in San Francisco or for activities in San Francisco that would be eligible uses
10 of "Project Income" under program regulations for the federal Community
11 Development Grant Block Program;
- 12 vi. The remaining two-thirds (2/3) of Surplus Cash, together with any remaining
13 Surplus Cash after payment of the Tenant's allocation above, shall be
14 allocated to the City. 80% of the City's portion of Surplus Cash will be
15 applied first to the Residual Rent, and 20% will be applied to repayment of
16 any City loans.

17 **6.03 City Deemed Beneficiary of Covenants**

18 In amplification, and not in restriction, of the provisions of the preceding subsections, it is
19 intended and agreed that the City shall be deemed beneficiary of the agreements and covenants
20 provided in this Article 6 for and in its own right and also for the purposes of protecting the
21 interests of the community and other parties, public or private, in whose favor or for whose
22 benefit such agreements and covenants have been provided. Such agreements and covenants shall

1 run in favor of the City for the entire period during which such agreements and covenants shall be
2 in force and effect, without regard to whether the City has at any time been, remains, or is an
3 owner of any land or interest therein to, or in favor of, which such agreements and covenants
4 relate. The City shall have the right, in the event of any breach of any such agreements or
5 covenants, in each case, after notice and the expiration of cure periods, to exercise all the rights
6 and remedies and to maintain any actions at law or suits in equity or other proper proceedings to
7 enforce the curing of such breach of covenants, to which it or any other beneficiaries of such
8 agreements or covenants may be entitled.

9 **ARTICLE 7: ANNUAL INCOME COMPUTATION AND CERTIFICATION**

10 Forty-five (45) days after recordation of a NOC (as defined in Section 10.14) by the
11 Tenant for the Improvements, and not later than December 31st of each year thereafter, Tenant
12 will furnish to the City a list of the persons who are Occupants of the Improvements, the specific
13 unit which each person occupies, the household income of the Occupants of each unit, the
14 household size and the rent being charged to the Occupants of each unit along with an income
15 certification, in the form set forth in Attachment 6, for each Occupant. In addition, each
16 Occupant must be required to provide any other information, documents or certifications deemed
17 necessary by the City to substantiate the Occupant's income. If any state or federal agency
18 requires an income certification for Occupants of the Improvements containing the above-
19 referenced information, the City agrees to accept such certification in lieu of Attachment 6 as
20 meeting the requirements of this Ground Lease. In addition to such initial and annual list and
21 certification, Tenant agrees to provide the same information and certification to the City regarding
22 each Occupant of the Improvements not later than twenty (20) business days after such Occupant

1 commences occupancy.

2 **ARTICLE 8: CONDITION OF SITE - "AS IS"**

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

10 **ARTICLE 9: IMPROVEMENTS AND PERMITTED USES**

11 **9.01 Schedule of Performance**

12 Tenant agrees to undertake and complete all physical construction on the Site, if any, as
13 approved by the City, in accordance with the Schedule of Performance, Attachment 2

14 **9.02 Permitted Uses and Occupancy Restrictions**

15 The permitted uses of the Project are limited to 104 units of affordable rental housing plus
16 one manager's unit (collectively, the "Residential Units"), common areas and two ground floor
17 commercial spaces. At all times during the Term, eighty percent (80%) of the units in the Project,
18 which the parties agree shall be 84 units, shall be occupied or held vacant and available for rental
19 by Low Income Households and at least twenty percent (20%) of the units in the Project, which
20 the parties agree shall be 20 units, shall be occupied or held vacant and available for rental by
21 Very Low Income Households. Residential Units shall be occupied and rented in accordance
22 with all applicable restrictions imposed on the Project by Lenders for so long as such restrictions

1 are required by the applicable Lender.

2 **ARTICLE 10: CONSTRUCTION OF IMPROVEMENTS**

3 **10.01 General Requirements and Rights of City**

4 All construction documents, including but not limited to preliminary and final plans and
5 specifications for the construction of the Improvements by Tenant (collectively the “Construction
6 Documents”) shall be prepared by a person registered in and by the State of California to practice
7 architecture and shall be in conformity with this Ground Lease, including any limitations
8 established in the City’s reasonable approval of the schematic drawings, if any, preliminary
9 construction documents, and final construction documents for the Premises, and all applicable
10 Federal, State and local laws and regulations. The architect shall use, as necessary, members of
11 associated design professions, including engineers and landscape architects.

12 **10.02 City Approvals and Limitation Thereof**

13 The Construction Documents must be approved by the City in the manner set forth
14 below:

15 **10.02(a) Compliance with Ground Lease**

16 The City’s approval with respect to the Construction Documents is limited to
17 determination of their compliance with this Ground Lease, including, if applicable, the Scope of
18 Development. The Construction Documents shall be subject to general architectural review and
19 guidance by City as part of this review and approval process.

20 **10.02(b) MOHCD Does Not Approve Compliance with Construction**
21 **Requirements**

22 The City’s approval is not directed to engineering or structural matters or

1 compliance with building codes and regulations, the Americans with Disabilities Act, or any other
2 applicable State or Federal law relating to construction standards or requirements.

3 **10.02(c) City Determination Final and Conclusive**

4 The City's determination respecting the compliance of the Construction
5 Documents with this Ground Lease shall be final and conclusive (except that it makes no
6 determination and has no responsibility for the matters set forth in Section 10.02(b), above).

7
8 **10.03 Construction to be in Compliance with Construction Documents and Law**

9 **10.03(a) Compliance with City Approved Documents**

10 The construction shall be in strict compliance with the City-approved Construction
11 Documents.

12 **10.03(b) Compliance with Local, State and Federal Law**

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

15 **10.04 Approval of Construction Documents by City**

16 Tenant shall submit and City shall approve or disapprove the Construction Documents
17 referred to in this Ground Lease within the times established in the Schedule of Performance.
18 Failure by City either to approve or disapprove within the times established in the Schedule of
19 Performance shall entitle Tenant to a day for day extension of time for completion of any
20 activities delayed as a direct result of City's failure to timely approve or disapprove the
21 Construction Documents. City hereby acknowledges that as of the Effective Date, City has
22 approved the Construction Documents.

1 **10.05 Disapproval of Construction Documents by City**

2 If the City disapproves the Construction Documents in whole or in part as not being in
3 compliance with this Ground Lease, Tenant shall submit new or corrected plans which are in
4 compliance within thirty (30) days after written notification to it of disapproval, and the provision
5 of this section relating to approval, disapproval and re-submission of corrected Construction
6 Documents shall continue to apply until the Construction Documents have been approved by the
7 City; provided, however, that in any event Tenant must submit satisfactory Construction
8 Documents (i.e., approved by City) no later than the date specified therefor in the Schedule of
9 Performance.

10 **10.06 Intentionally Omitted**

11 **10.07 Issuance of Building Permits**

12 Tenant shall have the sole responsibility for obtaining all necessary building
13 permits and shall make application for such permits directly to the City's Department of Building
14 Inspection. The City understands and agrees that Tenant may use the Fast Track method of
15 permit approval for rehabilitation of the Improvements.

16 **10.08 Performance and Payment Bonds**

17 Prior to commencement of construction of the Improvements, Tenant shall deliver to City
18 performance and payment bonds, each for the full value of the cost of construction of the
19 Improvements, which bonds shall name the City as co-obligee, or such other completion security
20 which is acceptable to the City. The payment and performance bonds may be posted by Tenants'
21 general contractor and name Tenant and City as co-obligees.

22 **10.09 City Approval of Changes after Commencement of Construction**

1 Once construction has commenced, the only Construction Document matters subject to
2 further review by the City will be requests for any material changes in the Construction
3 Documents which affect matters previously approved by the City. Permission to make such
4 changes shall be requested by Tenant in writing directed to MOHCD, Attention: Senior Project
5 Manager/Construction Supervisor or his or her designee. MOHCD shall reply in writing giving
6 approval or disapproval of the changes within ten (10) business days after receiving such request.
7 If the request is disapproved, the reply must specify the reasons for the disapproval. The failure
8 of the City to respond within the 10-day period shall be deemed an approval by the City.

9 **10.10 Times for Construction**

10 Tenant agrees for itself, and its successors and assigns to or of the Leasehold Estate or any
11 part thereof, that Tenant and such successors and assigns shall promptly begin and diligently
12 prosecute to completion the rehabilitation of the Improvements upon the Site, and that such
13 construction shall in any event commence and thereafter diligently continue and shall be
14 completed no later than the dates specified in the Schedule of Performance, subject to force
15 majeure, unless such dates are extended by the City.

16 **10.11 Force Majeure**

17 For the purposes of any of the provisions of this Ground Lease, and notwithstanding
18 anything to the contrary, neither the City nor Tenant, as the case may be, shall be considered in
19 breach or default of its obligations, nor shall there be deemed a failure to satisfy any conditions
20 with respect to the beginning and completion of construction of the Improvements, or progress in
21 respect thereto, in the event of enforced delay in the performance of such obligations or
22 satisfaction of such conditions, due to unforeseeable causes beyond its control and without its

1 fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts of the
2 Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes,
3 freight embargoes, general scarcity of materials and unusually severe weather or delays of
4 subcontractors due to such causes; it being the purposes and intent of this provision that in the
5 event of the occurrence of any such enforced delay, the time or times for the satisfaction of
6 conditions to this Ground Lease including those with respect to construction of the Improvements,
7 shall be extended for the period of the enforced delay; provided, however, that the party seeking
8 the benefit of the provisions of this paragraph shall have notified the other party thereof in writing
9 of the cause or causes thereof within thirty (30) days after the beginning of any such enforced
10 delay and requested an extension for the period of the enforced delay; and, provided further, that
11 this paragraph shall not apply to, and nothing contained in this paragraph shall extend or shall be
12 construed to extend, the time of performance of any of Tenant's obligations to be performed prior
13 to the commencement of construction, nor shall the failure to timely perform pre-commencement
14 of construction obligations extend or be construed to extend Tenant's obligations to commence,
15 prosecute and complete construction of the Improvements in the manner and at the times
16 specified in this Ground Lease.

17 **10.12 Reports**

18 **10.12(a)** Commencing when construction of the Improvements commences
19 and continuing until completion of construction of the Improvements, Tenant shall make a report
20 in writing to the City every month, in such detail as may reasonably be required by the City, as to
21 the actual progress of the Tenant with respect to such construction. Such reporting requirements
22 may be satisfied by Tenant's provision of draw requests as required pursuant to the terms of the

1 Loan Agreement. Commencing as of the Effective Date and continuing until completion of the
2 construction of the Improvements, Tenant shall be subject to inspection by representatives of the
3 City, at reasonable times and upon reasonable advance notice.

4 **10.12(b)** Tenant will have the right to have an employee, agent, or other
5 representative of Tenant accompany the City representative at all times while the Landlord
6 representative is present on the Site. The City and its representatives will exercise due care in
7 entering upon and/or inspecting the Site, and will perform all entry and inspection in a
8 professional manner and so as to preclude any damage to the Site or Improvements, or any
9 disruption to the work of construction or operation of the Improvements. The City and its
10 respective representatives will abide by any reasonable safety and security measures Tenant
11 imposes.

12 **10.13 Access to Site**

13 Commencing as of the Effective Date, Tenant shall permit access to the Site to the City
14 whenever and to the extent necessary to carry out the purposes of the provisions of this Ground
15 Lease, at reasonable times and upon reasonable advance notice. In accessing the Site, City shall
16 comply with Section 10.12(b).

17 **10.14 Notice of Completion**

18 Promptly upon completion of the construction of the Improvements in accordance with the
19 provisions of this Ground Lease, Tenant shall file a Notice of Completion (“NOC”), which shall
20 be recorded in the San Francisco Recorder’s Office.

21 **10.15 Completion of Improvements by New Developer**

22 In the event Lender or a successor thereto forecloses, obtains a deed in lieu of

1 foreclosure or otherwise realizes upon the Premises and undertakes construction of the
2 Improvements (“New Developer”) (A) such New Developer shall not be bound by the provisions
3 of the Schedule of Performance with respect to any deadlines for the completion of the
4 Improvements but shall only be required to complete the Improvements with due diligence and in
5 conformance with a new Schedule of Performance as agreed upon by the New Developer and the
6 City, (B) such New Developer shall only be required to complete the Improvements in accordance
7 with all applicable building codes and ordinances, and the approved Construction Documents
8 with such changes that are mutually agreed upon by the City and the New Developer pursuant to
9 Subsection (C) hereof; and (C) City and New Developer shall negotiate in good faith such
10 reasonable amendments and reasonable modifications to Section 10 of this Lease as the parties
11 mutually determine to be reasonably necessary based upon the financial and construction
12 conditions then existing.

13 **ARTICLE 11: COMPLETION OF IMPROVEMENTS**

14 **11.01 Certificate of Completion – Issuance**

15 Promptly after completion of the construction of the Improvements in accordance with the
16 provisions of this Ground Lease, and upon the request of Tenant, the City will furnish Tenant
17 with an appropriate instrument so certifying (the “Certificate of Completion”). Such certification
18 by the City shall be a conclusive determination of satisfaction and termination of the agreements
19 and covenants of this Ground Lease with respect to the obligation of Tenant, and its successors
20 and assigns, to construct the Improvements in accordance with City approved Construction
21 Documents and the dates for the beginning and completion thereof; provided, however, that such
22 determination shall only be withheld because of failure to carry out specific requirements of this

1 Ground Lease; provided further, that such certification and such determination shall not constitute
2 evidence of compliance with or satisfaction of any obligation of Tenant to any Lender, or any
3 insurer of a mortgage, securing money loaned to finance the construction or any part thereof;
4 provided further, that City issuance of any Certificate of Completion does not relieve Tenant or
5 any other person or entity from any and all City requirements or conditions to occupancy of the
6 Improvements, which requirements or conditions must be complied with separately.

7 City may elect to issue to Tenant a Certificate of Completion if no events of default by
8 Tenant are then existing under this Agreement and Tenant has completed the Improvements in
9 accordance with this Agreement, except for: (1) punch list items; (2) landscaping and other
10 outside areas of the Improvements; and (3) other items that do not adversely affect or impair
11 Tenant's use and occupancy of the Improvements for the purposes contemplated by this
12 Agreement and that do not preclude the City's issuance of a certificate of occupancy or other
13 certificate or authorization of Tenant's use and occupancy of the Improvements. However, City
14 will not be obligated to issue a Certificate of Completion in these circumstances unless and until
15 Tenant has provided to the City, at the City's request, a bond, letter of credit, certificate of
16 deposit, or other security reasonably acceptable to the City in an amount equal to 110% of the
17 estimated cost of completing the items described in clauses (1) through (3) above, as reasonably
18 determined by the City.

19 **11.02 Certifications to be Recordable**

20 All certifications provided for in this section shall be in such form as will enable them to
21 be recorded with the Recorder of the City.

1 **11.03 Certification of Completion - Non-Issuance Reasons**

2 If MOHCD shall refuse or fail to provide any certification in accordance with the
3 provisions of Section 11.01, the City shall provide Tenant with a written statement, within fifteen
4 (15) days after written request by Tenant, indicating in adequate detail in what respects Tenant
5 has failed to complete the construction of the Improvements in accordance with the provisions of
6 this Ground Lease or is otherwise in default hereunder and what measures or acts will be
7 necessary, in the opinion of the City, for Tenant to take or perform in order to obtain such
8 certification. Failure by the City to either issue a Certificate of Completion or a written statement
9 within the times provided herein will entitle Tenant to a day for day extension of time for the
10 period of delay caused by City.

11 **ARTICLE 12: CHANGES TO THE IMPROVEMENTS**

12 **12.01 Post Completion Changes**

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

21 **12.02 Definition of Change**

22 'Change' as used in this Article means any alteration, modification, addition and/or

1 substitution of or to the Site, the Improvements, and/or the density of development which differs
2 materially from that which existed upon the completion of construction of the Improvements in
3 accordance with this Ground Lease, and shall include without limitation the exterior design and
4 exterior materials. For purposes of the foregoing, exterior shall mean and include the roof of the
5 Improvements. Changes shall not include repairs, maintenance and interior alterations in the
6 normal course of operation of the Project, tenant improvements made by tenants to the
7 commercial space pursuant to commercial leases, or as may be required in an emergency to
8 protect the safety and well-being of the Project's Occupants.

9 **12.03 Enforcement**

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

14 **ARTICLE 13: TITLE TO IMPROVEMENTS**

15 City acknowledges that fee title to the Improvements is vested in Tenant. City and Tenant
16 hereby agree that fee title to the Improvements shall remain vested in Tenant during the Term,
17 subject to Section 14.01 below; provided however that, subject to the rights of any Lenders and as
18 further consideration for the City entering into this Ground Lease, at the expiration or earlier
19 termination of this Ground Lease, Tenant shall convey fee title to all the Improvements to the City
20 without any obligation by the City to pay any compensation therefor to Tenant. Upon expiration
21 or sooner termination of this Ground Lease, Tenant shall execute, acknowledge, and deliver to the
22 City a good and sufficient grant deed with respect to Tenant's fee interest in the Improvements.

1 **ARTICLE 14: ASSIGNMENT, SUBLEASE OR OTHER CONVEYANCE**

2 **14.01 Assignment, Sublease or Other Conveyance by Tenant**

3 Tenant may not sell, assign, convey, sublease, or transfer in any other mode or form all or
4 any part of its interest in this Ground Lease or in the Improvements or any portion thereof, other
5 than to Lender(s), or allow any person or entity to occupy or use all or any part of the Site, other
6 than leases to residential tenants in the ordinary course of business nor may it contract or agree to
7 do any of the same, without the prior written approval of the City, which approval shall not be
8 unreasonably withheld or delayed. Notwithstanding anything contained herein to the contrary,
9 Tenant may sell, assign, convey, sublease or transfer any or all of its interests in and to this
10 Ground Lease to Tenderloin Neighborhood Development Corporation ("TNDC"), or to an
11 affiliate or successor of TNDC, and may change, assign, acquire, or liquidate partnership interests
12 in Tenant, as permitted under Article 47 of this Ground Lease. The City reserves the right to
13 review and approve any commercial leases for the Site, which approval shall not be unreasonably
14 withheld, conditioned or delayed.

15 **14.02 Assignment, Sublease or Other Conveyance by City**

16 The parties acknowledge that any sale, assignment, transfer or conveyance of all or any
17 part of the City's interest in the Site, the Improvements, or this Ground Lease, is subject to this
18 Ground Lease. The City will require that any purchaser, assignee or transferee expressly assume
19 all of the obligations of the City under this Ground Lease by a written instrument recordable in
20 the Official Records of the City. This Ground Lease shall not be affected by any such sale, and
21 Tenant shall attorn to any such purchaser or assignee. In the event that the City intends to sell all
22 or any part of the Site, the City shall notify Tenant of the proposed terms of such sale not later

1 than ninety (90) days before the anticipated close of escrow. Tenant shall have sixty (60) days
2 from the giving of such notice to exercise a right of first refusal to purchase the Site on the same
3 terms and conditions of such proposed sale, provided that any sale of City's interest in the Site
4 shall be subject to the prior approval of the City's Board of Supervisors and Mayor.

5 **ARTICLE 15: TAXES**

6 Tenant agrees to pay, or cause to be paid, when due to the proper authority, any and all
7 valid taxes, assessments and similar charges on the Site which become effective after the
8 Effective Date of this Ground Lease, including all taxes levied or assessed on the possession, use
9 or occupancy, as distinguished from the ownership, of the Site. Tenant shall not permit any such
10 taxes, charges or other assessments to become a defaulted lien on the Site or the Improvements
11 thereon; provided, however, that in the event any such tax, assessment or similar charge is
12 payable in installments, Tenant may make, or cause to be made, payment in installments; and,
13 provided further, that Tenant may contest the legal validity or the amount of any tax, assessment
14 or similar charge, through such proceedings as Tenant considers necessary or appropriate, and
15 Tenant may defer the payment thereof so long as the validity or amount thereof shall be contested
16 by Tenant in good faith and without expense to the City. In the event of any such contest, Tenant
17 shall protect, defend and indemnify the City against all loss, cost, expense or damage resulting
18 there from, and should Tenant be unsuccessful in any such contest, Tenant shall forthwith pay,
19 discharge, or cause to be paid or discharged, such tax, assessment or other similar charge. The
20 City shall furnish such information as Tenant shall reasonably request in connection with any
21 such contest provided that such information is in the City's possession, control or is otherwise
22 available to the public. City hereby consents to and shall reasonably cooperate and assist with

1 Tenant applying for and obtaining any applicable exemptions from taxes or assessments levied on
2 the Site, the Improvements or on Tenant's interest thereon.

3 **ARTICLE 16: UTILITIES**

4 Tenant shall procure water and sewer service from the City and electricity, telephone,
5 natural gas and any other utility service from the City or utility companies providing such
6 services, and shall pay all connection and use charges imposed in connection with such services.
7 From and after the Effective Date, as between the City and Tenant, Tenant shall be responsible
8 for the installation and maintenance of all facilities required in connection with such utility
9 services to the extent not installed or maintained by the City or the utility providing such service.

10 **ARTICLE 17: MAINTENANCE**

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

17 **ARTICLE 18: LIENS**

18 Tenant shall use its best efforts to keep the Site free from any liens arising out of any work
19 performed or materials furnished by itself or its subtenants. In the event that Tenant shall not
20 cause the same to be released of record or bonded around within twenty (20) days following
21 written notice from the City of the imposition of any such lien, the City shall have, in addition to
22 all other remedies provided herein and by law, the right but not the obligation to cause the same to

1 be released by such means as it shall deem proper, including payment of the claim giving rise to
2 such lien. All sums paid by the City for such purpose, and all reasonable expenses incurred by it
3 in connection therewith, shall be payable to the City by Tenant on demand; provided, however,
4 Tenant shall have the right, upon posting of an adequate bond or other security, to contest any
5 such lien, and the City shall not seek to satisfy or discharge any such lien unless Tenant has failed
6 so to do within ten (10) days after the final determination of the validity thereof. In the event of
7 any such contest, Tenant shall protect, defend, and indemnify the City against all loss, cost,
8 expense or damage resulting therefrom.

9 **ARTICLE 19: GENERAL REMEDIES**

10 **19.01 Application of Remedies**

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

13 **19.02 Notice and Cure Rights for Tenant**

14 (a) The City may not exercise its remedies under this Ground Lease for a
15 default by the Tenant unless and until: (i) the City has given written notice of any such default, in
16 accordance with the notice provisions of Article 38, to Tenant and Permitted Limited Partners
17 who have requested notice as set forth below, and (ii) such default has not been cured within sixty
18 (60) days or such longer period as may be set forth herein, following the giving of such notice or,
19 if such default cannot be cured within such 60-day period, such longer period as is reasonably
20 necessary to cure such default, provided that such cure has been commenced within such 60-day
21 period and is being prosecuted diligently to completion. If a Permitted Limited Partner cannot
22 cure a default due to an automatic stay in Bankruptcy court because the general partner of the

1 Tenant is in bankruptcy, any cure period will be tolled during the pendency of such automatic
2 stay.

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

7 (c) Unless otherwise provided for herein, any limited partner wishing to become a
8 Permitted Limited Partner other than any Permitted Limited Partner identified in Section 38 must
9 provide five (5) days written notice to the City in accordance with the notice provisions of this
10 Ground Lease, setting forth a notice address and providing a copy of such notice to the Tenant
11 and all of the Tenant's partners. Such limited partner will become a Permitted Limited Partner
12 upon the expiration of the five-day period. A limited partner will not be afforded the protections
13 of this section with respect to any default occurring prior to the time such limited partner becomes
14 a Permitted Limited Partner.

15 **19.03 Breach by City**

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

1 action for damages; (iii) seeking specific performance of this Ground Lease; or (iv) any other
2 remedy available at law or equity.

3 **19.04 Breach by Tenant**

4 **19.04(a) Default by Tenant**

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

7 (1) Tenant fails to comply with the Permitted Uses and Occupancy Restrictions
8 set forth in Section 9.02;

9 (2) Tenant voluntarily or involuntarily assigns, transfers or attempts to transfer
10 or assign this Ground Lease or any rights in this Ground Lease, or in the Improvements, except as
11 permitted by this Ground Lease or otherwise with the approval of the City;

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

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

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

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

11 **19.04(b) Notification and City Remedies**

12 Upon the happening of any of the events described in Section 19.04(a) above, and
13 prior to exercising any remedies, the City shall notify Tenant, the Permitted Limited Partners, and
14 each Lender in writing of the Tenant's purported breach, failure or act in accordance with the
15 notice provisions of Article 38, giving Tenant sixty (60) days from receipt of such notice to cure
16 such breach, failure or act. In the event Tenant does not cure or, if the breach, failure or act is not
17 reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60)
18 days and thereafter diligently prosecute such cure to completion, then, subject to the rights of any
19 Lender and subject to Section 19.02 and Article 26, the City thereafter shall be afforded all of its
20 rights at law or in equity, including any or all of the following remedies: (1) terminating in
21 writing this Ground Lease; (2) prosecuting an action for damages; (3) seeking specific
22 performance of this Ground Lease; or (4) in the case of default under Section 19.04(a)(1),

1 increasing the Base Rent to the full amount of the Annual Rent.

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

5 **ARTICLE 20: DAMAGE AND DESTRUCTION**

6 **20.01 Insured Casualty**

7 If the Improvements or any part thereof are damaged or destroyed by any cause covered
8 by any policy of insurance required to be maintained by Tenant hereunder, Tenant shall promptly
9 commence and diligently complete the restoration of the Improvements as nearly as possible to
10 the condition thereof prior to such damage or destruction; provided, however, that if more than
11 fifty percent (50%) of the Improvements are destroyed or are so damaged by fire or other casualty
12 and if the insurance proceeds do not provide at least ninety percent (90%) of the funds necessary
13 to accomplish the restoration, Tenant, with the written consent of Lender, may terminate this
14 Ground Lease within thirty (30) days after the later of (i) the date of such damage or destruction,
15 or (ii) the date on which Tenant is notified of the amount of insurance proceeds available for
16 restoration. In the event Tenant is required or elects to restore the Improvements, all proceeds of
17 any policy of insurance required to be maintained by Tenant under this Ground Lease shall,
18 subject to any rights of Lenders, be used by Tenant for that purpose and Tenant shall make up
19 from its own funds or obtain additional financing as reasonably approved by the City any
20 deficiency between the amount of insurance proceeds available for the work of restoration and the
21 actual cost thereof. In the event Tenant elects to terminate this Ground Lease pursuant to its right
22 to do so under this Section 20.01, or elects not to restore the Improvements, the insurance

1 proceeds shall be divided in the order set forth in Section 20.03.

2 **20.02 Uninsured Casualty**

3 If (i) more than 50% of the Improvements are damaged or destroyed and ten percent
4 (10%) or more of the cost of restoration is not within the scope of the insurance coverage; and (ii)
5 in the reasonable opinion of Tenant, the undamaged portion of the Improvements cannot be
6 completed or operated on an economically feasible basis; and (iii) there is not available to Tenant
7 any feasible source of third party financing for restoration reasonably acceptable to Tenant; then
8 Tenant may, with the written consent of each Lender, other than the City, terminate this Ground
9 Lease upon ninety (90) days written notice to the City. If it appears that the provisions of this
10 Section 20.02 may apply to a particular event of damage or destruction, Tenant shall notify the
11 City promptly and not consent to any settlement or adjustment of an insurance award without the
12 City's written approval, which approval shall not be unreasonably withheld or delayed. In the
13 event that Tenant terminates this Ground Lease pursuant to this Section 20.02, all insurance
14 proceeds and damages payable by reason of the casualty shall be divided among City, Tenant and
15 Lenders in accordance with the provisions of Section 20.03. If Tenant does not have the right, or
16 elects not to exercise the right, to terminate this Ground Lease as a result of an uninsured casualty,
17 Tenant shall promptly commence and diligently complete the restoration of the Improvements as
18 nearly as possible to their condition prior to such damage or destruction in accordance with the
19 provisions of Section 20.01 and shall, subject to any applicable rights of Lenders, be entitled to all
20 available insurance proceeds.

21 **20.03 Distribution of the Insurance Proceeds**

22 In the event of an election by Tenant to terminate and surrender as provided in either

1 Sections 20.01 or 20.02, the priority and manner for distribution of the proceeds of any insurance
2 policy required to be maintained by Tenant hereunder shall be as follows:

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

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

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

13 (d) The remainder to Tenant.

14 **20.04 Clean Up of Housing Site**

15 In the event the Tenant terminates this Ground Lease pursuant to the provisions of
16 Sections 20.01 or 20.02 and the proceeds of any insurance policy are insufficient to pay the clean-
17 up and other costs described in Article 20.03(b), Tenant shall have the obligation to pay the
18 portion of such costs not covered by the insurance proceeds.

19 **ARTICLE 21: DAMAGE TO PERSON OR PROPERTY; HAZARDOUS MATERIALS;** 20 **INDEMNIFICATION**

21 **21.01 Damage to Person or Property - General Indemnification**

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

15 **21.02 Hazardous Materials – Indemnification**

16 (a) Tenant shall indemnify, defend, and hold the City, and its commissioners, officers,
17 agents and employees (individually, an "Indemnified Party" and collectively, the "Indemnified
18 Parties") harmless from and against any and all losses, costs, claims, damages, liabilities, and
19 causes of action of any nature whatsoever (including, without limitation, the reasonable fees and
20 disbursements of counsel and engineering consultants) incurred by or asserted against any
21 Indemnified Party in connection with, arising out of, in response to, or in any manner relating to
22 violation of any Environmental Law, or any Release threatened Release and any condition of

1 pollution, contamination or Hazardous Substance-related nuisance on, under or from the Site.

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

3 (i) "Hazardous Substance" shall have the meaning set forth in the
4 Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended
5 as of the date of this Agreement, 42 U.S.C. 9601(14), and in addition shall include, without
6 limitation, petroleum (including crude oil or any fraction thereof) and petroleum products,
7 asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing
8 materials, all hazardous substances identified in the California Health & Safety Code 25316 and
9 25281(d), all chemicals listed pursuant to the California Health & Safety Code 25249.8, and any
10 substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant
11 under Environmental Law. The foregoing definition shall not include substances which occur
12 naturally on the Site.

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

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

1. **ARTICLE 22: INSURANCE**

2. **22.01 Insurance**

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

4. **22.01(a) Insurance Requirements for Tenant**

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

10. **22.01(b) Minimum Scope of Insurance**

11. Coverage shall be at least as broad as:

12. (1) Insurance Services Office Commercial General Liability coverage (form
13. CG 00 01 - "Occurrence") or other form approved by the City's Risk Manager.

14. (2) Insurance Services Office Automobile Liability coverage, code 1 (form CA
15. 00 01 - "Any Auto") or other form approved by the City's Risk Manager.

16. (3) Workers' Compensation insurance as required by the State of California
17. and Employer's Liability insurance.

18. (4) Professional Liability Insurance: Tenant shall require that all architects,
19. engineers, and surveyors for the Project have liability insurance covering all negligent acts, errors
20. and omissions. Tenant shall provide the City with copies of consultants' insurance certificates
21. showing such coverage.

22. (5) Insurance Services Office Property Insurance coverage (form CP 10 30 60
23. 95 - "Causes of Loss - Special Form") or other form approved by the City's Risk Manager.

1 (6) Crime Policy or Fidelity Bond covering the Tenant's officers and
2 employees against dishonest with respect to the use of City funds.

3 **22.01(c) Minimum Limits of Insurance**

4 Tenant shall maintain limits no less than:

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

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

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

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

1 surveyors is "claims made" coverage, Tenant shall assure that these minimum limits are
2 maintained for no less than three (3) years beyond completion of the construction or remodeling.

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

6 (6) Pollution Liability and/or Asbestos Pollution Liability: Pollution Liability
7 and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less
8 than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year,
9 this coverage shall be endorsed to include Non-Owned Disposal Site coverage. This policy may
10 be provided by the Tenant's contractor, provided that the policy must be "claims made" coverage
11 and Tenant must require Tenant's contractor to maintain these minimum limits for no less than
12 three (3) years beyond completion of the Project.

13 (7) Property Insurance:

14 (a) Prior to construction:

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

1 (b) During the course of construction:

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

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

14 (c) Upon completion of construction:

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

21 (ii) Boiler and machinery insurance, comprehensive form, covering damage
22 to, loss or destruction of machinery and equipment located on the Site that is used by Tenant for

1 heating, ventilating, air-conditioning, power generation and similar purposes, in an amount not
2 less than one hundred percent (100%) of the actual replacement value of such machinery and
3 equipment.

4 **22.01(d) Deductibles and Self-Insured Retentions**

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

12 **22.01(e) Other Insurance Provisions**

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

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

1 (2) Workers' Compensation and Property Insurance: The insured shall agree to
2 waive all rights of subrogation against the "City and County of San Francisco, and their respective
3 commissioners, members, officers, agents, and employees" for any losses in connection with this
4 Project.

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

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

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

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

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

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

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

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

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

12 **22.01(f) Acceptability of Insurers**

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

15 **22.01(g) Verification of Coverage**

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

22 **22.01(h) Contractor, Subcontractors and Consultants Insurance**

1 Tenant shall include all subcontractors and consultants as additional insureds under
2 its policies or shall furnish separate certificates and endorsements for each. Tenant shall require
3 the subcontractor(s) to provide all necessary insurance and to name the City and County of San
4 Francisco, its officers, agents and employees and the Tenant as additional insureds. All coverage
5 for subcontractors and consultants shall be subject to all of the requirements stated herein unless
6 otherwise approved by the City's Risk Manager.

7 **ARTICLE 23: COMPLIANCE WITH SITE-RELATED AND LEGAL REQUIREMENTS**

8 **23.01 Compliance with Legal Requirements**

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

19 **23.02 Regulatory Approvals**

20 Tenant understands and agrees that the City is entering into this Ground Lease in its
21 capacity as a landowner with a proprietary interest in the Premises and not as a regulatory agency
22 with certain police powers. Tenant understands and agrees that neither entry by the City into this

1 Ground Lease nor any approvals given by the City under this Ground Lease will be deemed to
2 imply that Tenant will obtain any required approvals from City departments, boards or
3 commissions that have jurisdiction over the Premises. By entering into this Ground Lease, the
4 City is in no way modifying or limiting the obligations of Tenant to develop the Project in
5 accordance with all Laws, as provided in this Ground Lease.

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

1 approval, as well as any fines, penalties or corrective actions imposed as a result of Tenant's
2 failure to comply with the terms and conditions of any regulatory approval.

3 With MOHCD's prior written consent, Tenant will have the right to appeal or contest any
4 condition in any manner permitted by law imposed upon any regulatory approval. In addition to
5 any other indemnification provisions of this Ground Lease, Tenant must indemnify the City and
6 its commissioners, officers, agents or employees from and against any and all losses that may
7 arise in connection with Tenant's failure to obtain or comply with the terms and conditions of any
8 regulatory approval or with the appeal or contest of any conditions of any regulatory approval,
9 except to the extent damage arises out of the gross negligence or willful misconduct of the City or
10 its agents.

11 **ARTICLE 24: ENTRY**

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

17 (i) to inspect the work being performed by Tenant in developing the Project.

18 (ii) to determine whether the Premises is in good condition and to inspect the
19 Premises (including soil borings or other Hazardous Material Investigations);

20 (iii) to determine whether Tenant is in compliance with its Ground Lease obligations
21 and to cure or attempt to cure any Tenant default;

1 (iv) to serve, post or keep posted any notices required or allowed under any of the
2 provisions of this Ground Lease;

3 (v) to do any maintenance or repairs to the Premises that the City has the right or the
4 obligation, if any, to perform hereunder; and

5 (vi) to show the Premises to any prospective purchasers, brokers, Lenders or public
6 officials, or, during the last year of the Term of this Lease if notice of extension has not been
7 delivered during the initial Term, exhibit the Premises to prospective tenants or other occupants,
8 and to post any reasonable "for sale" or "for lease" signs in connection therewith.

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

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

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

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

6 **ARTICLE 25: MORTGAGE FINANCING**

7 **25.01 No Encumbrances Except for Development Purposes**

8 Notwithstanding any other provision of this Ground Lease and subject to the prior written
9 consent of the City in the form attached hereto as Attachment 3, which consent shall not be
10 unreasonably withheld, conditioned or delayed, Leasehold Mortgages are permitted to be placed
11 upon the Leasehold Estate only for the purpose of securing loans of funds to be used for financing
12 the acquisition, refinancing of financing use to acquire or rehab the project, design, construction,
13 renovation or reconstruction of the Improvements and any other expenditures reasonably
14 necessary and appropriate to acquire, own, develop, construct, renovate, or reconstruct the
15 Improvements under this Ground Lease and in connection with the operation of the
16 Improvements, and costs and expenses incurred or to be incurred by Tenant in furtherance of the
17 purposes of this Ground Lease.

18 **25.02 Holder Not Obligated to Construct**

19 The holder of any mortgage, deed of trust or other security interest authorized by Section
20 25.01 ("Holder" or "Lender"), including the successors or assigns of such Holder, is not obligated
21 to complete any construction of the Improvements or to guarantee such completion; nor shall any
22 covenant or any other provision of this Ground Lease be construed so to obligate such Holder.

1 However, in the event the Holder does undertake to complete or guarantee the completion of the
2 construction of the Improvements, subject to Section 26.06(ii), nothing in this Ground Lease shall
3 be deemed or construed to permit or authorize any such Holder or its successors or assigns to
4 devote the Site or any portion thereof to any uses, or to construct any Improvements thereon,
5 other than those uses or Improvements authorized under Section 9.02 subject to any reasonable
6 modifications in plans proposed by any Holder or its successors in interest proposed for the
7 viability of the Project, subject to the approval of City which approval shall not be unreasonably
8 withheld. To the extent any Holder or its successors in interest wish to change such uses or
9 construct different improvements, subject to Section 26.06(ii), that Holder or its successors in
10 interest must obtain the written consent of the City.

11 **25.03 Failure of Holder to Complete Construction**

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

20 **25.04 Default by Tenant and City's Rights**

21 **25.04(a) Right of City to Cure a Default or Breach by Tenant under a**
22 **Leasehold Mortgage**

1 In the event of a default or breach by Tenant in or of its obligations under any
2 Leasehold Mortgage, and Tenant's failure to timely commence or diligently prosecute cure of
3 such default or breach, the City may, at its option, cure such breach or default at any time prior to
4 one hundred ten (110) days after the date on which the Lender files a notice of default. In such
5 event, the City shall be entitled to reimbursement from Tenant of all costs and expenses
6 reasonably incurred by the City in curing the default or breach. The City shall also be entitled to
7 a lien upon the Leasehold Estate or any portion thereof to the extent of such costs and
8 disbursements that are not reimbursed by Tenant. Any such lien shall be subject to the lien of any
9 then existing Leasehold Mortgage authorized by this Ground Lease, including any lien
10 contemplated because of advances yet to be made. After ninety (90) days following the date of
11 Lender filing a notice of default, the City shall also have the right to assign Tenant's interest in
12 the Ground Lease to another entity, subject to such Lender's and Permitted Limited Partner's
13 written consent, but which may be conditioned, among other things, upon the assumption by such
14 other entity of all obligations of the Tenant under the Leasehold Mortgage.

15 **25.04(b) Notice of Default to City**

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

19 **25.05 Cost of Mortgage Loans to be Paid by Tenant**

20 Tenant covenants and affirms that it shall bear all of the costs and expenses in connection
21 with (i) the preparation and securing of any Leasehold Mortgage, (ii) the delivery of any

1 instruments and documents and their filing and recording, if required, and (iii) all taxes and
2 charges payable in connection with any Leasehold Mortgage.

3 **ARTICLE 26: PROTECTION OF LENDER**

4 **26.01 Notification to City**

5 Promptly upon the creation of any Leasehold Mortgage and as a condition precedent to the
6 existence of any of the rights set forth in this Article 26, each Lender shall give written notice to
7 the City of the Lender's address and of the existence and nature of its Leasehold Mortgage.
8 Execution of Attachment 3 shall constitute City's acknowledgement of Lender's having given
9 such notice as is required to obtain the rights and protections of a Lender under this Ground
10 Lease. The City hereby acknowledges that Bank of America, N.A. has given such notice as First
11 Mortgage Lender.

12 **26.02 Lender's Rights to Prevent Termination**

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

21 **26.03 Lender's Rights When Tenant Defaults**

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

5 (i) If such event of default is a failure to pay a monetary obligation of Tenant (not
6 including obligations arising from indemnification obligations of Tenant (“Indemnification
7 Obligations”)), Lender shall have failed to cure such default within sixty (60) days from the date
8 of written notice from the City to Lender; or

9 (ii) If such event of default is not a failure to pay a monetary obligation of Tenant,
10 Lender shall have failed, within sixty (60) days of receipt of said written notice, either (a) to
11 remedy such default; or (b) to obtain title to Tenant's interest in the Site in lieu of foreclosure; or
12 (c) to commence foreclosure or other appropriate proceedings in the nature thereof (including the
13 appointment of a receiver) and thereafter diligently prosecute such proceedings to completion, in
14 which case such event of default shall be remedied or deemed remedied in accordance with
15 Article 26.04 below.

16 All rights of the City to terminate this Ground Lease as the result of the occurrence of any
17 such event of default shall be subject to, and conditioned upon, the City having first given Lender
18 written notice of such event of default and Lender having failed to remedy such default or acquire
19 Tenant's Leasehold Estate created hereby or commence foreclosure or other appropriate
20 proceedings in the nature thereof as set forth in and within the time specified by this Section
21 26.03, and upon the Permitted Limited Partners having failed to proceed as permitted under
22 Sections 19.02(b) or 26.06(iv).

1 **26.04 Default Which Cannot be Remedied by Lender**

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

12 **26.05 Court Action Preventing Lender's Action**

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

21 **26.06 Lender's Rights to Record, Foreclose and Assign**

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

1 (i) the Lender may cause same to be recorded and enforced, and upon foreclosure, sell
2 and assign the Leasehold Estate created hereby to an assignee from whom it may accept a
3 purchase price; subject, however, to Lender's first securing written approval from City, which
4 approval shall not be unreasonably withheld, and if the Subsequent Owner has elected to maintain
5 the use restrictions of Article 9, said Subsequent Owner shall be controlled by a California
6 nonprofit public benefit corporation exempt from tax under Section 501(c)(3) of the Internal
7 Revenue Code such that the Premises receive an exemption from state property taxes as provided
8 under Section 214 of the California Revenue and Taxation Code. Lender, furthermore, may
9 acquire title to the Leasehold Estate in any lawful way, and if the Lender shall become the
10 assignee, may sell and assign said Leasehold Estate subject to City approval, which shall not be
11 unreasonably withheld, and to the City's rights under Article 25.04; and

12 (ii) each Subsequent Owner shall take said Leasehold Estate subject to all of the
13 provisions of this Ground Lease, and shall, so long as and only so long as it shall be the owner of
14 such estate, except as provided elsewhere in this Ground Lease, assume all of the obligations of
15 Tenant under this Ground Lease; provided, however, that, subject to the rent provisions of Section
16 26.07 below, the Subsequent Owner may operate and maintain the one hundred five (105)
17 Residential Units without any limitations on the rents charged or the income of the occupants
18 thereof.

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

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

5 **26.07 Ground Lease Rent after Lender Foreclosure or Assignment**

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

8 (a) Any accrued Annual Rent at the time of foreclosure shall be forgiven by the City,
9 and shall not remain an obligation of the Lender, its assignee, or the Subsequent Owner.
10 Subsequent to foreclosure or assignment of the Leasehold Estate to the Lender in lieu of
11 foreclosure, if the Lender continues to operate the Project subject to the use and occupancy
12 restrictions of Section 9.02, then Annual Rent otherwise due may, at the option of the Lender, be
13 deferred until the date of the Lender's sale or assignment of the Project to a Subsequent Owner
14 that does not agree to operate the Project subject to such restrictions or the date that is sixty (60)
15 days after Lender ceases to operate the Project in accordance with such restrictions. All deferred
16 Annual Rent shall accrue, with simple interest at six percent (6%) per annum until paid.

17 (b) If the Subsequent Owner exercises its rights under Section 26.06(ii) to operate the
18 Project without being subject to Section 9.02, Annual Rent shall be set at the then fair market
19 rental value taking into account any affordability restrictions agreed to by the Subsequent Owner,
20 if any, and the Base Rent shall be increased to the new fair market rent pursuant to Section
21 26.07(b) and the provisions of Section 6.02(g) shall be suspended; provided, however, that the
22 City shall be entitled to reduce Annual Rent by any dollar amount (but not below zero) in its sole

1 discretion and, in such case, the Subsequent Owner will be required to reduce rent charged to
2 tenants on a dollar for dollar basis, with respect to such aggregate units occupied by Very Low
3 Income Households as the City and the Subsequent Owner shall agree. The fair market rental
4 value shall be determined by a jointly-commissioned appraisal (instructions prepared jointly by
5 the Subsequent Owner and the City, with each party paying one half of the appraiser's fee) that
6 will include a market land valuation, as well as a market land lease rent level. Absent a market
7 land lease rent determination, the Annual Rent will be set at an amount equal to ten percent (10%)
8 of the then appraised market land value. If the parties cannot agree on the joint appraisal
9 instructions, either party may invoke a neutral third-party process to set the Annual Rent at fair
10 market rent in accordance with the then-prevailing practice for resolving similar rent
11 determination disputes in San Francisco or, in the event that there is no then-prevailing practice,
12 in accordance with the rules of the American Arbitration Association. Provided, however, that
13 after the neutral third party process, the Lender, in its sole discretion may rescind its written
14 notification of intent to not comply with Section 9.02 of this Ground Lease.

15 **26.08 Permitted Uses After Lender Foreclosure**

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

19 **26.09 Preservation of Leasehold Benefits**

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

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

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

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

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

20 **26.10 No Merger**

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

4 **26.11 City Bankruptcy**

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

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

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

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

1 **ARTICLE 27: CONDEMNATION AND TAKINGS**

2 **27.01 Parties' Rights and Obligations to be Governed by Agreement**

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

7 **27.02 Total Taking**

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

10 **27.03 Partial Taking**

11 If any portion of the Site is taken by condemnation, this Ground Lease shall remain in
12 effect, except that Tenant may, with Lender's written consent, which consent shall not be
13 unreasonably withheld, conditioned or delayed, elect to terminate this Ground Lease if, in
14 Tenant's reasonable judgment, the remaining portion of the Improvements is rendered unsuitable
15 for Tenant's continued use of the Site. If Tenant elects to terminate this Ground Lease, Tenant
16 must exercise its right to terminate pursuant to this paragraph by giving notice to the City within
17 thirty (30) days after the City notifies Tenant of the nature and the extent of the taking. If Tenant
18 elects to terminate this Ground Lease as provided in this Section 27.03, Tenant also shall notify
19 the City of the date of termination, which date shall not be earlier than thirty (30) days nor later
20 than six (6) months after Tenant has notified the City of its election to terminate; except that this
21 Ground Lease shall terminate on the date the condemnor has the right to possession of the Site if
22 such date falls on a date before the date of termination as designated by Tenant. If Tenant does

1 not terminate this Ground Lease within such thirty (30) day notice period, this Ground Lease shall
2 continue in full force and effect.

3 **27.04 Effect on Rent**

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

8 **27.05 Restoration of Improvements**

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

12 **27.06 Award and Distribution**

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

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

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

20 **27.07 Payment to Lenders**

21 In the event the Improvements are subject to the lien of a Leasehold Mortgage on the date
22 when any compensation resulting from a condemnation or threatened condemnation is to be paid

1 to Tenant, such award shall be disposed of as provided in the Leasehold Mortgage.

2 **ARTICLE 28: ESTOPPEL CERTIFICATE**

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

14 **ARTICLE 29: QUITCLAIM**

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

19 **ARTICLE 30: EQUAL OPPORTUNITY**

20 In the selection of all contractors and professional consultants for the Project, Tenant must
21 comply with the City's procurement requirements and procedures as described in the MOHCD
22 Contracting Manual and with the requirements of Chapter 14B of the San Francisco

1 Administrative Code (“LBE Ordinance”) according to the procedures established by the City's
2 Human Rights Commission. The Project is subject to the requirements of Section 3 of the Housing
3 and Community Development Act of 1968 and of the San Francisco Section 3 program. Federal
4 Section 3 requirements state that contracts and opportunities for job training and employment be
5 given, to the greatest extent feasible, to local low-income residents. Local residents for this project
6 are San Francisco residents. In addition, this project will be required to comply with hiring
7 requirements as incorporated into the local Section 3 program and in conjunction with the City’s
8 low-income hiring requirements pursuant to San Francisco’s First Source Hiring Ordinance (San
9 Francisco Administrative Code Chapter 83). The goals for hiring of Section 3-eligible workers on the
10 project will be 20% of new hires, moving towards a goal of 20% of total work hours. The Contractor
11 shall also make a best faith effort to meet these goals.

12 **ARTICLE 31: CERTIFICATE OF PREFERENCE PROGRAM**

13 Tenant agrees to comply with the requirements of the Certificate of Preference Program,
14 as it may be amended from time to time, and as set forth on Attachment 4.

15 **ARTICLE 32: LABOR STANDARDS PROVISIONS**

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

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

5 **ARTICLE 33: CONFLICT OF INTEREST**

6 No commissioner, official, or employee of the City shall have any personal or financial interest,
7 direct or indirect, in this Ground Lease, nor shall any such commissioner, official, or employee
8 participate in any decision relating to this Ground Lease which affects his or her personal interests
9 or the interests of any corporation, partnership, or association in which he or she is directly or
10 indirectly interested.

11 **ARTICLE 34: NO PERSONAL LIABILITY**

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

16 **ARTICLE 35: ENERGY CONSERVATION**

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

20 **ARTICLE 36: WAIVER**

21 The waiver by the City or Tenant of any term, covenant, agreement or condition herein
22 contained shall not be deemed to be a waiver of any subsequent breach of the same or any other

1 term, covenant, agreement or condition herein contained, nor shall any custom or practice which
2 may grow up between the parties in the administration of the terms hereof be construed to waive
3 or to lessen the right of the City or Tenant to insist upon the performance by the other in strict
4 accordance with the said terms. The subsequent acceptance of rent or any other sum of money
5 hereunder by the City shall not be deemed to be a waiver of any preceding breach by Tenant of
6 any term, covenant, agreement or condition of this Ground Lease, other than the failure of Tenant
7 to pay the particular rent or other sum so accepted, regardless of the City's knowledge of such
8 preceding breach at the time of acceptance of such rent or other sum.

9 **ARTICLE 37: TENANT RECORDS**

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

18 **ARTICLE 38: NOTICES AND CONSENTS**

19 All notices, demands, consents or approvals which may be or are required to be given by
20 either party to the other hereunder shall be in writing and shall be deemed to have been fully
21 given when delivered in person to such representatives of Tenant and the City as shall from time
22 to time be designated by the parties for the receipt of notices, or when deposited in the United

1 States mail, certified, postage prepaid, or by express delivery service with a delivery receipt and
2 addressed

3 if to Tenant at: Franciscan Towers Associates, L.P.
4 201 Eddy Street
5 San Francisco, CA 94102
6 Attn: Executive Director
7

8 With a copy to the Permitted Limited Partner:
9

10
11 Bank of America, N.A.
12 Community Development Banking Group
13 5 Park Plaza, 5th Floor
14 Irvine, CA 92614
15 Attention: Joseph Siu
16 Facsimile: (949) 794-7422
17

18 And:
19

20 Banc of America CDC Special Holding Company, Inc.
21 c/o Bank of America, N.A.
22 Tax Credit Investments Asset Management
23 100 N. Tryon Street
24 Charlotte, NC 28255-0001
25 Attention: Nicole Baldon
26

27 And:
28

29 Buchalter Nemer PC
30 1000 Wilshire Boulevard
31 Suite 1500
32 Los Angeles, CA 90017
33 Attn: Michael A. Williamson, Esq.
34

35 Facsimile: (213) 630-5799

36 if to the City at: San Francisco Mayor's Office of Housing and Community
37 Development
38 One South Van Ness Avenue, 5th Floor
39 San Francisco, California 94103
40 Attn.: Director

1 or to such other address with respect to either party as that party may from time to time
2 designate by notice to the other given pursuant to the provisions of this Article 38. Any notice
3 given pursuant to this Article 38 shall be effective on the date of delivery or the date delivery is
4 refused as shown on the delivery receipt.

5 **ARTICLE 39: HEADINGS**

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

9 **ARTICLE 40: SUCCESSORS AND ASSIGNS**

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

18 **ARTICLE 41: TIME**

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

21 **ARTICLE 42: PARTIAL INVALIDITY**

22 If any provisions of this Ground Lease shall be determined to be illegal or unenforceable,

1 such determination shall not affect any other provision of this Ground Lease and all such other
2 provisions shall remain in full force and effect.

3 **ARTICLE 43: APPLICABLE LAW**

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

6 **ARTICLE 44: ATTORNEYS' FEES**

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

10 **ARTICLE 45: EXECUTION IN COUNTERPARTS**

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

14 **ARTICLE 46: RECORDATION OF MEMORANDUM OF GROUND LEASE**

15 This Ground Lease shall not be recorded, but a memorandum of this Ground Lease shall
16 be recorded in the form attached hereto as Attachment 5. The parties shall execute the
17 memorandum in form and substance as required by a title insurance company insuring Tenant's
18 leasehold estate or the interest of any Leasehold Mortgagee, and sufficient to give constructive
19 notice of the Ground Lease to subsequent purchasers and mortgagees.

20 **ARTICLE 47: TRANSFER OF PARTNERSHIP INTERESTS IN TENANT**

21 Neither the transfer of any limited partner of Tenant interests in the Tenant or the admission of a
22 successor limited partner or partners pursuant to the terms of the Tenant's partnership agreement

1 shall constitute an event of default under the Ground Lease nor require the City's consent. The
2 withdrawal or removal of a general partner of the Tenant pursuant to the terms of the Tenant's
3 partnership agreement shall not require City consent, and shall not constitute a default under the
4 Lease provided that any replacement general partner shall require the prior written consent of the
5 City which consent shall not be unreasonably withheld, conditioned or delayed.

6 **ARTICLE 48: CITY PROVISIONS**

7 **48.1 Non-Discrimination**

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

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

1 to comply with the obligations in this subsection shall constitute a material breach of this Ground
2 Lease.

3 (c) Non-Discrimination in Benefits. Tenant does not as of the date of this
4 Ground Lease and will not during the Term, in any of its operations in San Francisco or with
5 respect to its operations under this Ground Lease elsewhere within the United States, discriminate
6 in the provision of bereavement leave, family medical leave, health benefits, membership or
7 membership discounts, moving expenses, pension and retirement benefits or travel benefits
8 (collectively “Core Benefits”), as well as any benefits other than Core Benefits, between
9 employees with domestic partners and employees with spouses, and/or between the domestic
10 partners and spouses of such employees, where the domestic partnership has been registered with
11 a governmental entity pursuant to state or local law authorizing such registration, subject to the
12 conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

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

17 (e) Incorporation of Administrative Code Provisions by Reference. The
18 provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-
19 discrimination by Parties contracting for the lease of City property are incorporated in this Section
20 by reference and made a part of this Ground Lease as though fully set forth herein. Tenant shall
21 comply fully with and be bound by all of the provisions that apply to this Ground Lease under
22 such Chapters of the Administrative Code, including but not limited to the remedies provided in

1 such Chapters. Without limiting the foregoing, Tenant understands that pursuant to Section
2 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each
3 calendar day during which such person was discriminated against in violation of the provisions of
4 this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

5 **48.2 MacBride Principles – Northern Ireland.** The City and County of San Francisco
6 urges companies doing business in Northern Ireland to move toward resolving employment
7 inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco
8 Administrative Code Section 12F.1 et seq. The City and County of San Francisco also urges San
9 Francisco companies to do business with corporations that abide by the MacBride Principles.
10 Tenant acknowledges that it has read and understands the above statement of the City and County
11 of San Francisco concerning doing business in Northern Ireland.

12 **48.3 Conflicts of Interest.** Tenant states that it is familiar with the provisions of
13 Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the City's Campaign and
14 Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the
15 Government Code of the State of California, certifies that it knows of no facts which would
16 constitute a violation of such provisions and agrees that if Tenant becomes aware of any such fact
17 during the term of this Lease Tenant shall immediately notify the City. Tenant further certifies
18 that it has made a complete disclosure to the City of all facts bearing on any possible interests,
19 direct or indirect, which Tenant believes any officer or employee of the City presently has or will
20 have in this Lease or in the performance thereof or in any portion of the profits thereof. Willful
21 failure by Tenant to make such disclosure, if any, shall constitute grounds for City's termination
22 and cancellation of this Ground Lease.

1 **48.4 Charter Provisions.** This Ground Lease is governed by and subject to the
2 provisions of the Charter of the City and County of San Francisco. Accordingly, Tenant
3 acknowledges and agrees that no officer or employee of the City has authority to commit the City
4 to this Ground Lease unless and until an resolution of the City's Board of Supervisors has been
5 duly enacted approving this Ground Lease. Therefore, any obligations or liabilities of the City
6 under this Ground Lease are contingent upon enactment of an resolution, and this Ground Lease
7 will be null and void unless the City's Mayor and the Board of Supervisors approve this Ground
8 Lease, in their respective sole and absolute discretion, and in accordance with all applicable Laws.
9 Approval of this Ground Lease by any City department, commission or agency may not be
10 deemed to imply that an resolution will be enacted or create any binding obligations on the City.

11 **48.5 Tropical Hardwood/Virgin Redwood Ban.** Pursuant to Section 804(b) of the
12 San Francisco Environment Code, the City and County of San Francisco urges companies not to
13 import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood
14 product, virgin redwood or virgin redwood wood product. Except as permitted by the application
15 of Sections 802(b) and 803(b) of the San Francisco Environment Code, Tenant shall not use any
16 items in the rehabilitation, development or operation of the Premises or otherwise in the
17 performance of this Lease which are tropical hardwoods, tropical hardwood wood products,
18 virgin redwood or virgin redwood wood products.

19 **48.6 Tobacco Product Advertising Ban.** Tenant acknowledges and agrees that no
20 advertising of cigarettes or tobacco products may be allowed on the Premises. The foregoing
21 prohibition will include the placement of the name of a company producing, selling or distributing
22 cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion

1 of any event or product, or on any sign. The foregoing prohibition will not apply to any
2 advertisement sponsored by a state, local or nonprofit entity designed to communicate the health
3 hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop
4 smoking.

5 **48.7 Pesticide Ordinance.** Tenant shall comply with the provisions of Section 308 of
6 Chapter 3 of the San Francisco Environment Code (the "Pesticide Ordinance") which (i) prohibit
7 the use of certain pesticides on City property, (ii) require the posting of certain notices and the
8 maintenance of certain records regarding pesticide usage, and (iii) require Tenant to submit to the
9 City's Department of the Environment an integrated pest management ("IPM") plan that (A) lists,
10 to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may
11 need to apply to the Premises during the Term of this Ground Lease, (b) describes the steps
12 Tenant will take to meet the City's IPM Policy described in Section 39.1 of the Pesticide
13 Ordinance, and (c) identifies, by name, title, address and telephone number, an individual to act as
14 the Tenant's primary IPM contact person with City. In addition, Tenant shall comply with the
15 requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing herein shall
16 prevent Tenant, acting through the City, from seeking a determination from the City's
17 Commission on the Environment that Tenant is exempt from complying with certain portions of
18 the Pesticide Ordinance as provided in Section 307 thereof.

19 **48.8 Compliance with City's Sunshine Ordinance.** Tenant understands and agrees
20 that under the City's Sunshine Ordinance (S.F. Admin. Code, Chapter 67) and the State Public
21 Records Law (Cal. Gov. Code §§ 6250 et seq.), this Agreement and any and all records,
22 information and materials submitted to the City hereunder are public records subject to public

1 disclosure. Tenant hereby authorizes the City to disclose any records, information and materials
2 submitted to the City in connection with this Ground Lease as required by Law. Further, Tenant
3 specifically agrees to conduct any meeting of its governing board that addresses any matter
4 relating to the Project or to Tenant's performance under this Ground Lease as a passive meeting.

5 **48.9 Notification of Limitations on Contributions.** Through its execution of this
6 Ground Lease, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco
7 Campaign and Governmental Conduct Code, which prohibits any person who contracts with the
8 City for the selling or leasing any land or building to or from the City whenever such transaction
9 would require approval by a City elective officer or the board on which that City elective officer
10 serves, from making any campaign contribution to the officer at any time from the
11 commencement of negotiations for such contract until the termination of negotiations for such
12 contract or three (3) months has elapsed from the date the contract is approved by the City
13 elective officer, or the board on which that City elective officer serves.

14 **48.10 Requiring Health Benefits for Covered Employees.** Unless exempt, Tenant
15 agrees to comply fully with and be bound by all of the provisions of the Health Care
16 Accountability Ordinance (the "HCAO"), as set forth in San Francisco Administrative Code
17 Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be
18 amended from time to time. The provisions of Chapter 12Q are incorporated in this Ground
19 Lease by reference and made a part of this Ground Lease as though fully set forth. The text of
20 the HCAO is available on the web at www.sfgov.org/oca/lwlh.htm. Capitalized terms used in this
21 Section and not defined in this Lease have the meanings assigned to them in Chapter 12Q.

1 Notwithstanding this requirement, City recognizes that the residential housing component of the
2 Improvements is not subject to the HCAO.

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

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

9 (c) Tenant's failure to comply with the HCAO will constitute a material breach
10 of this Lease. If Tenant fails to cure its breach within thirty (30) days after receiving the City's
11 written notice of a breach of this Lease for violating the HCAO or, if the breach cannot
12 reasonably be cured within the 30-day period, Tenant fails to commence efforts to cure within the
13 30-day period, or thereafter fails diligently to pursue the cure to completion, the City will have the
14 right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies will be
15 exercisable individually or in combination with any other rights or remedies available to the City.

16 (d) Any sublease entered into by Tenant for commercial space in the Project
17 must require the subtenant to comply with the requirements of the HCAO and must contain
18 contractual obligations substantially the same as those set forth in this Section. Tenant must
19 notify the City's Purchasing Department when Tenant enters into a sublease and must certify to
20 the Purchasing Department that Tenant has notified the subtenant of the obligations under the
21 HCAO and has imposed the requirements of the HCAO on subtenant through the sublease.
22 Tenant will be responsible for its subtenants' compliance with this Chapter. If a subtenant fails to

1 comply, the City may pursue the remedies set forth in this Section against Tenant based on the
2 subtenant's failure to comply, provided that City has first provided Tenant with notice and an
3 opportunity to obtain a cure of the violation.

4 (e) Tenant may not discharge, reduce in compensation, or otherwise
5 discriminate against any employee for notifying the City with regard to Tenant's compliance or
6 anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed
7 by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or
8 enforce any rights under the HCAO by any lawful means.

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

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

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

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

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

20 (k) If Tenant is exempt from the HCAO when this Lease is executed because
21 its amount is less than \$25,000 (\$50,000 for nonprofits), but Tenant later enters into an agreement
22 or agreements that cause Tenant's aggregate amount of all agreements with the City to reach

1 \$75,000, all the agreements will be thereafter subject to the HCAO. This obligation arises on the
2 effective date of the agreement that causes the cumulative amount of agreements between Tenant
3 and MOHCD to be equal to or greater than \$75,000 in the fiscal year.

4 **48.11 Public Access to Meetings and Records.** If Tenant receives a cumulative total
5 per year of at least \$250,000 in City funds or City-administered funds and is a non-profit
6 organization as defined in Chapter 12L of the San Francisco Administrative Code, Tenant shall
7 comply with and be bound by all the applicable provisions of that Chapter. By executing this
8 Ground Lease, Tenant agrees to open its meetings and records to the public in the manner set
9 forth in Sections 12L.4 and 12L.5 of the Administrative Code. Tenant further agrees to make
10 good-faith efforts to promote community membership on its Board of Directors in the manner set
11 forth in Section 12L.6 of the Administrative Code. Tenant acknowledges that its material failure
12 to comply with any of the provisions of this paragraph shall constitute a material breach of this
13 Ground Lease. Tenant further acknowledges that such material breach of the Lease shall be
14 grounds for City to terminate and/or not renew this Ground Lease, partially or in its entirety.

15 **48.12 Resource-Efficient Building Ordinance.** Tenant acknowledges that the City and
16 County of San Francisco has enacted San Francisco Environment Code Chapter 7 relating to
17 resource-efficient City buildings and resource-efficient pilot projects. Tenant hereby agrees it
18 shall comply with the applicable provisions of such code sections as such sections may apply to
19 the Premises.

20 **48.13 Drug Free Work Place.** Tenant acknowledges that pursuant to the Federal Drug-
21 Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a
22 controlled substance is prohibited on City premises. Tenant agrees that any violation of this

1 prohibition by Tenant, its Agents or assigns shall be deemed a material breach of this Ground
2 Lease.

3 **48.14 Preservative Treated Wood Containing Arsenic.** Tenant may not purchase
4 preservative-treated wood products containing arsenic in the performance of this Ground Lease
5 unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code
6 is obtained from the Department of the Environment under Section 1304 of the Code. The term
7 "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that
8 contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited
9 to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or
10 ammoniacal copper arsenate preservative. Tenant may purchase preservative-treated wood
11 products on the list of environmentally preferable alternatives prepared and adopted by the
12 Department of the Environment. This provision does not preclude Tenant from purchasing
13 preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater
14 immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities
15 that are partially or totally immersed in saltwater.

16 **48.15 Nondisclosure of Private Information.** Tenant agrees to comply fully with and
17 be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the
18 "Nondisclosure of Private Information Ordinance"), including the remedies provided. The
19 provisions of the Nondisclosure of Private Information Ordinance are incorporated herein by
20 reference and made a part of this Agreement as though fully set forth. Capitalized terms used in
21 this section and not defined in this Agreement shall have the meanings assigned to such terms in

1 the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the
2 Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:

3 (a) Neither Tenant nor any of its subcontractors shall disclose Private
4 Information, unless one of the following is true:

5 (i) The disclosure is authorized by this Ground Lease;

6 (ii) Tenant received advance written approval from the Contracting
7 Department to disclose the information; or

8 (iii) The disclosure is required by law or judicial order.

9 (b) Any disclosure or use of Private Information authorized by this Ground
10 Lease shall be in accordance with any conditions or restrictions stated in this Ground Lease. Any
11 disclosure or use of Private Information authorized by a Contracting Department shall be in
12 accordance with any conditions or restrictions stated in the approval.

13 (c) Private Information shall mean any information that: (1) could be used to
14 identify an individual, including without limitation, name, address, social security number,
15 medical information, financial information, date and location of birth, and names of relatives; or
16 (2) the law forbids any person from disclosing.

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

21 **48.16 Graffiti.** Graffiti is detrimental to the health, safety and welfare of the community
22 in that it promotes a perception in the community that the laws protecting public and private

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

9 Tenant shall remove all graffiti from the Premises and any real property owned or
10 leased by Tenant in the City and County of San Francisco within forty eight (48) hours of the
11 earlier of Tenant's (a) discovery or notification of the graffiti or (b) receipt of notification of the
12 graffiti from the Department of Public Works. This section is not intended to require Tenant to
13 breach any lease or other agreement that it may have concerning its use of the real property. The
14 term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked,
15 etched, scratched, drawn or painted on any building, structure, fixture or other improvement,
16 whether permanent or temporary, including by way of example only and without limitation, signs,
17 banners, billboards and fencing surrounding construction Premises, whether public or private,
18 without the consent of the owner of the property or the owner's authorized agent, and which is
19 visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is
20 authorized by, and in compliance with, the applicable requirements of the San Francisco Public
21 Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any
22 mural or other painting or marking on the property that is protected as a work of fine art under the

1 California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual
2 art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.). Any failure of
3 Tenant to comply with this section of this Ground Lease shall constitute an event of default of this
4 Ground Lease.

5 **48.17 Incorporation.** Each and every provision of the San Francisco Administrative
6 Code described or referenced in this Ground Lease is hereby incorporated by reference as though
7 fully set forth herein. Failure of Tenant to comply with any provision of this Ground Lease
8 relating to any such code provision shall be governed by Article 19 of this Ground Lease, unless
9 (i) such failure is otherwise specifically addressed in this Ground Lease or (ii) such failure is
10 specifically addressed by the applicable code section.

11 **48.18 Food Service Waste Reduction.** Tenant agrees to comply fully with and be
12 bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the
13 San Francisco Environment Code, Chapter 16, including the remedies provided therein, and
14 implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by
15 reference and made a part of this Ground Lease as though fully set forth herein. This provision is
16 a material term of this Ground Lease. By entering into this Ground Lease, Tenant agrees that if it
17 breaches this provision, City will suffer actual damages that will be impractical or extremely
18 difficult to determine. Without limiting City's other rights and remedies, Tenant agrees that the
19 sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred
20 Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred
21 Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable
22 estimate of the damage that City will incur based on the violation, established in light of the

1 circumstances existing at the time this Ground Lease was made. Such amounts shall not be
2 considered a penalty, but rather agreed monetary damages sustained by City because of Tenant's
3 failure to comply with this provision.

4 **ARTICLE 49: COMPLETE AGREEMENT**

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

8 **ARTICLE 50: ATTACHMENTS**

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

- 10
- 11 1. Legal Description of Site
- 12 2. Schedule of Performance
- 13 3. City Consent of Leasehold Mortgage
- 14 4. Operational Rules for Certificate Holders' Priority
- 15 5. Memorandum of Ground Lease
- 16 6. Income Certification Form
- 17
- 18
- 19

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

3 **TENANT:**

4 **FRANCISCAN TOWERS ASSOCIATES, L.P.**
5 **a California limited partnership**

6
7 **By: Franciscan Towers GP, LLC**
8 **Its: General Partner**

9
10 **By: Turk Street, Inc.**
11 **Its: Sole Member and Manager**

12
13 **By: _____**
14 **Name: _____**
15 **Title: _____**
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19 **CITY AS LANDLORD:**

20 **CITY**
21 **AND COUNTY OF SAN FRANCISCO,**
22 **a municipal corporation**
23

24 **By: _____**
25 **Olson Lee**
26 **Director, Mayor's Office of Housing and Community Development**
27
28

29 **APPROVED AS TO FORM:**

30 **DENNIS J. HERRERA**
31 **City Attorney**
32

33 **By: _____**
34 **Evan Gross**

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Deputy City Attorney

Authorized by Board of Supervisors Resolution No. _____, adopted, 2013

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ATTACHMENT 1

Legal Description of the Site

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

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ATTACHMENT 2
SCHEDULE OF PERFORMANCE

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ATTACHMENT 3
City Consent of Leasehold Mortgage

Date:

Mayor's Office of Housing of the
City and County of San Francisco
Attn: Director
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

RE: 201-229 Eddy Street, San Francisco (LEASEHOLD MORTGAGE)

Dear Sir or Madam:

Pursuant to Section 25.01 of the 201-229 Eddy Street Ground Lease, dated _____, 2013, between the City and County of San Francisco ("City") and Franciscan Towers Associates, L.P., a California limited partnership, we are formally requesting the City's consent to our placing a leasehold mortgage upon the leasehold estate of the above referenced development. The following information is provided in order for the City to provide its consent:

Lender: _____
Principal Amount: _____
Interest: _____
Term: _____

Attached hereto are unexecuted draft loan documents, including the loan agreement, promissory note, and all associated security agreements which we understand are subject to the review and approval by the City. Furthermore, we are willing to supply any additional documentation related to the leasehold mortgage which the City deems necessary.

Sincerely,

Printed Name and Title

enc.

By signing this letter, the City consents to the leasehold mortgage, pursuant to the terms and conditions of Section 25.01 of the 201-229 Eddy Street Ground Lease, dated _____, 2013.

Mayor's Office of Housing

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Printed Name and Title

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ATTACHMENT 4
OPERATIONAL RULES FOR
CERTIFICATE HOLDERS' PRIORITY

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

A. The City agrees to furnish the following:

1. Written and/or printed notices to Certificate Holders advising them that such units will soon be available;
2. Assistance to Certificate Holders in filing applications; and
3. Verification to the Owner that applicant has been displaced.

B. The Owner agrees to the following:

1. To supply the City ninety (90) days prior to accepting lease applications with the information listed below. This information shall not be changed without providing the Agency with ten (10) days written notice.
 - a. A master unit list with the following information:
 - (1) Apartment number;
 - (2) Number of bedrooms and baths;
 - (3) Square footage; and
 - (4) Initial rent to be charged.
 - b. Estimated itemized cost of utilities and services to be paid by tenant by unit size.
 - c. Detailed description of Owner's rules for tenants, which must include:
 - (1) Minimum and maximum income
 - (2) Pet policy
 - (3) Selection process: To insure no discrimination against Low Income Households and Certificate Holders all criteria and the relative weight to be given to each criterion indicated. The City shall approve or disapprove the selection process criteria within ten (10) working days after submission thereof to the City.

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- (4) Amount of security deposit and all other fees, as well as refund policy regarding same.
- (5) Occupancy requirements must be described in full and found reasonable by the City
- (6) Duration of rental agreement or lease.
- (7) Copy of rental agreement or lease.
- (8) The Owner's rules for tenants shall be acceptable for purposes of this sub-paragraph.
- d. Amount of charge for processing applications, if any.
- e. Description of application process and length of time needed by Owner.
- f. Copy of rental application and copy of all forms to be used for income verification.
- g. Periodic notification to the City of the Owner's office hours for accepting applications and showing model unit(s).

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

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

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

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

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

2 If material supplied in any application by a Certificate Holder indicates ineligibility on its face because of the Owner's rules and regulations, such applicant will be notified within one week, with a copy of the Agency. Any fee charged for processing such application will be refunded in full, notwithstanding, however, that such applicant shall be listed on status report showing application is

1 closed and fee has been returned. If ineligibility can be determined only after a
2 follow-up investigation, the applicant will be notified within one week after such
3 determination is made, with a copy to the City. Any fee charged for processing
4 such applications may be retained by the Owner. These applications will also
5 appear on the status report.
6

7 3. Within ten (10) working days after execution of a lease, the Owner will supply the
8 City with a signed copy of the following for all Certificate Holder tenants:
9

- 10 (1) signed copy of lease;
- 11 (2) copy of complete application; and
- 12 (3) copies of all verification forms used to ascertain income eligibility.
13

14 D. In order to expedite occupancy of housing units nearing completion, the Owner further
15 agrees:
16

- 17 1. To select as prospective tenants eligible Certificate Holders who meet the
18 occupancy requirements of the Owner. Selection will be based on the following
19 descending order of priorities:
20
 - 21 a. Families or individuals who reside on City property in redevelopment
22 areas.
 - 23 b. Families or individuals who were relocated from City property and still
24 have a valid Certificate of Preference.
 - 25 c. Families or individuals displaced by the Department of Health, Public
26 Works, etc. and referred by the City.
27
- 28 2. Applicants who are Certificate Holders who have been accepted and notified by
29 the Owner will have five (5) working days thereafter to accept or reject a unit. If
30 the Certificate Holder fails to affirmatively respond, the application may be closed.
31 Rejection of the unit by a Certificate holder must be shown on current status
32 report.
33
- 34 3. All Certificate Holders found acceptable by the Owner shall have the opportunity
35 to inspect a model or other available completed unit, and be assigned an
36 appropriate unit for future occupancy. Units may be offered to non-Certificate
37 Holders at any time as long as the current status report shows that there are
38 sufficient units available to satisfy applications from Certificate Holders for units
39 of appropriate size in any stage of processing. **ALL OBLIGATIONS TO SHOW
40 MODELS OR OTHER AVAILABLE COMPLETED UNITS SHALL REMAIN
41 IN EFFECT DURING INITIAL OCCUPANCY PERIOD.** Initial Occupancy is
42 defined for all purposes of this Attachment 4 as the earlier of ninety (90) calendar

1 days following the City's receipt of a certified copy of a Certificate (or
2 Certificates) of Occupancy issued by the City and County of San Francisco for the
3 respective unit (or units) to be so approved for occupancy, or the date when all
4 units have been rented to the first occupants thereof. Upon Initial Occupancy the
5 City will certify compliance with this Attachment 4 with a written notice provided
6 ten (10) days after Initial Occupancy. Such certification in no way negates the
7 Owner's continued obligations to provide housing to persons displaced or to be
8 displaced by the Agency's redevelopment activities as vacancies occur amount the
9 units designated for Low Income Households.

10
11 E. Prior to Initial Occupancy, the Owner will deliver at least monthly, or more frequently if
12 available to the Owner from its leasing agent, a rent-up report for all Development units
13 listing the following:

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

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20 F. The Owner agrees that any contract entered into for the management of the residential
21 portions of the Development, both before and after Initial Occupancy, shall be furnished to
22 the City, shall incorporate the provisions of this Attachment 4, and shall bind the
23 management agent to comply with its requirements.

24
25 G. After Initial Occupancy (without regard to whether the City has certified compliance with
26 the obligation of the Owner respecting the period prior to Initial Occupancy), the Owner
27 agrees to notify the City as far as practicable in advance of vacancies, which may occur in
28 Low Income Housing units. The City and the Owner agree to follow the steps set forth in
29 paragraph (D) above with respect to such units. In the event no appropriate Certificate
30 Holder can be found within five (5) working days after receipt of notification by the
31 Owner to the City of availability of a unit, the City agrees that the Owner may lease the
32 unit to Low Income Households, as appropriate, which do not hold a Certificate of
33 Preference.

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35 H. The City reserves the right to waive any of the foregoing conditions, provided however
36 that any such waiver shall not be deemed to have waived any other conditions, nor the
37 same condition subsequently.

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ATTACHMENT 5

Form of Memorandum of Lease

Free Recording Requested Pursuant to
Government Code Section 27383

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

MEMORANDUM OF GROUND LEASE

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

Pursuant to the Lease, City hereby leases to Tenant and Tenant leases from City the real property more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property"). The Lease shall commence on the date set forth above and shall end on the date which is 50 years from the date set forth above, unless terminated earlier or extended pursuant to the terms of the Lease.

It is the intent of the parties to the Lease that the Lease shall create a constructive notice of severance of the Improvements (as defined in the Lease), without the necessity of a deed from Lessor to Lessee, which Improvements are and shall remain real property.

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

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

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

1 shall be deemed an original of this Memorandum.

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

5
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7 TENANT:

8
9 FRANCISCAN TOWERS ASSOCIATES, L.P.
10 a California limited partnership

11
12 By: _____
13 Name: _____
14 Title: _____
15

16
17 CITY:
18 CITY AND COUNTY OF SAN FRANCISCO,
19 a municipal corporation

20
21
22 By:
23 Olson Lee
24 Director, Mayor's Office of Housing
25

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27 APPROVED AS TO FORM:

28
29 DENNIS J. HERRERA, City Attorney
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31
32 By: _____
33 Deputy City Attorney
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ATTACHMENT 6
FORM OF TENANT INCOME CERTIFICATION

BN 14942119v1

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

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information *(Please print clearly.)*

Name of contractor:
Tenderloin Neighborhood Development Corporation, a California nonprofit public benefit corporation

Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.

Tenderloin Neighborhood Development Corporation (TNDC), a California nonprofit public benefit corporation. TNDC has 281 employees and decisions are made by its Board of Directors.

Please see the below Board list to comply with request #1.

- Board of Directors:
- Hydeh Ghaffari, President
 - Noreen Beiro, Vice President
 - Samia Rashed, Treasurer
 - Dina Hilliard, Secretary
 - Ila Afsharipour
 - Nelson Bostrom
 - Dr. Deborrah Bremond
 - Dr. Saul Feldman
 - Lisa Le
 - Dick McNeil Jr.
 - Erica Mohan
 - Josh Mukhopadhyay
 - Patrick Murcia
 - Brad Paul
 - Jan Peters
 - Ascanio Piomelli
 - Nicole Rivera
 - Margaret Schrand
 - David Seiler
 - Pedro Torres
 - Elizabeth Tracey

Executive Officer: Donald S. Falk, Executive Director

Chief Financial Officer: Paul Sussman, Chief Financial Officer

Chief Operating Officer: Elizabeth Orlin, Chief Operating Officer

#3-5 do not apply

Contractor address:
C/O TNDC, 201 Eddy Street, San Francisco, CA. 94102

Date that contract was approved:	Amount of contract: \$4,200,000 Purchase Agreement
Describe the nature of the contract that was approved: Purchase and sale agreement for the City's acquisition of the land at 201-229 Eddy Street from Tenderloin Neighborhood Development Corporation (TNDC) for long term use as affordable housing.	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

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

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information *(Please print clearly.)*

Name of contractor:
Franciscan Towers Associates L.P., a California limited partnership

Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.

Please see the below Board list to comply with request #1.

Board of Directors:

- Hydeh Ghaffari, President
- Noreen Beiro, Vice President
- Samia Rashed, Treasurer
- Dina Hilliard, Secretary
- Ila Afsharipour
- Nelson Bostrom
- Dr. Deborrah Bremond
- Dr. Saul Feldman
- Lisa Le
- Dick McNeil Jr.
- Erica Mohan
- Josh Mukhopadhyay
- Patrick Murcia
- Brad Paul
- Jan Peters
- Ascanio Piomelli
- Nicole Rivera
- Margaret Schrand
- David Seiler
- Pedro Torres
- Elizabeth Tracey

Executive Officer: Donald S. Falk, Executive Director

Chief Financial Officer: Paul Sussman, Chief Financial Officer

Chief Operating Officer: Elizabeth Orlin, Chief Operating Officer

#3-5 do not apply

Contractor address: C/O TNDC, 201 Eddy Street, San Francisco, CA. 94102	
Date that contract was approved:	Amount of contract: Up to \$420,000 annual ground lease payments, as building's revenue allows
Describe the nature of the contract that was approved: 75-year ground lease with a 24-year option to extend with Franciscan Towers Associates L.P. to operate the improvements at 201-229 Eddy Street as affordable housing.	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

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Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed