

**City and County of San Francisco  
Office of Contract Administration  
Purchasing Division  
City Hall, Room 430  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102-4685**

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“Assignment”) is made as of July 1, 2025, in San Francisco, California, by and between THE TIDES CENTER, AS FISCAL SPONSOR FOR DELIVERING INNOVATION IN SUPPORTIVE HOUSING (DISH), a California nonprofit public benefit corporation (“Assignor”), DISH SF, a California nonprofit public benefit corporation (“Assignee”), and City and County of San Francisco, a municipal corporation (“City”).

**Recitals**

WHEREAS, Assignor is a party to the Agreement (as defined below); and

WHEREAS, Assignee previously operated under the name Delivering Innovation in Supportive Housing (DISH); and

WHEREAS, Assignor desires to transfer the Agreement as of July 1, 2025, and Assignee desires to assume the Agreement as of July 1, 2025, each on the terms and conditions set forth herein; and

WHEREAS, such assignment and assumption has been determined by the City that it is consistent with the City’s interest to recognize the Assignee as the successor party to the Agreement; and

WHEREAS, the City’s Board of Supervisors approved this Assignment and Assumption Agreement by Resolution No. 272-25 on June 6, 2025; and

WHEREAS, the City consents to the transfer of the Agreement based on Assignor’s warranties stated herein and under the terms below; and

WHEREAS, the Assignor and Assignee intend for this Agreement to cover the period of July 1, 2025 to February 16, 2028.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Assignment, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor and Assignee agree as follows:

**Article 1      Definitions**

The following definitions apply to this Assignment:

- 1.1 “Agreement” means the Lease and Property Management Agreement dated February 17, 2023 between Assignor and City and County of San Francisco, a municipal corporation. The Agreement and any amendments or modifications is attached to this Assignment as Attachment A and Assignee confirms that terms of the Agreement, including pricing, will remain unchanged.
- 1.2 “Effective Date” means July 1, 2025.
- 1.3 **San Francisco Labor and Employment Code.** As of January 4, 2024, San Francisco Administrative Code Chapters 21C (Miscellaneous Prevailing Wage Requirements), 12B (Nondiscrimination in Contracts), 12C (Nondiscrimination in Property Contracts), 12K (Salary History), 12P (Minimum Compensation), 12Q (Health Care Accountability), 12T (City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions), and 12U (Sweatfree Contracting) are redesignated as Articles 102 (Miscellaneous Prevailing Wage Requirements), 131 (Nondiscrimination in Contracts), 132 (Nondiscrimination in Property Contracts), 141 (Salary History), 111 (Minimum Compensation), 121 (Health Care Accountability), 142 (City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions), and 151 (Sweatfree Contracting) of the San Francisco Labor and Employment Code, respectively. Wherever this Agreement refers to San Francisco Administrative Code Chapters 21C, 12B, 12C, 12K, 12P, 12Q, 12T, and 12U, it shall be construed to mean San Francisco Labor and Employment Code Articles 102, 131, 132, 141, 111, 121, 142, and 151, respectively.
- 1.4 Other terms used and not defined in this Assignment shall have the meanings assigned to such terms in the Agreement.

## **Article 2 Transfer of Agreement**

2.1 **Transfer.** Assignor hereby assigns, transfers and conveys to Assignee all of Assignor’s rights, title, and interest in and to the Agreement and all of Assignor’s duties and obligations thereunder that will arise on or after the Effective Date.

2.2 **Acceptance.** Assignee hereby accepts the transfer and conveyance set forth in Article 2.1 and agrees to perform all of Assignor’s duties and obligations under the Agreement that will arise on or after the Effective Date.

2.3 **Rights to Enforce.** Subject to the terms of the Agreement, this Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their successors and transferees. Nothing in this Assignment, whether express or implied, shall be construed to give any person or entity (other than City and the parties hereto and their respective successors and Assignees) any legal or equitable right, remedy or claim under or in respect of this Assignment or any covenants, conditions or provisions contained herein.

2.4 **Consent of City.** Assignor and Assignee acknowledge that the prior written consent of City to this Assignment is required under the terms of the Agreement. The City consents to the transfer described in this Article 2 based on the evidence provided below, which indicates that Assignee is able to fully perform all obligations that may and will exist under the Agreement. All the evidence is attached to this Assignment as Attachment B.

2.4.1 An authenticated copy of instrument effecting the transaction between the Assignor and Assignee, together with attorney opinion letters with a statement that the transaction was properly affected under the applicable state law.

2.5 **Successor.** The City recognizes the Assignee as the Assignor's successor in interest in and to the Agreement. The Assignee by this Assignment becomes liable for all responsibilities and entitled to all rights, titles, and interests of the Assignor in and to the Agreement that will arise on or after the Effective Date. The City will treat the Assignee as if the Assignee were the original party to the Agreement. Following the Effective Date of this Assignment, the term "Contractor," as used in the Agreement, shall refer to the Assignee. The Agreement shall remain in full force and effect, except as modified by this Assignment. Each party has executed this Assignment as of the day and year first above written.

2.6 **Further Assurances.** From and after the date of this Assignment, Assignor and Assignee agree to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the conveyance contemplated by this Assignment or as may be required by City.

### **Article 3      Obligations and Liabilities**

3.1 **Transfer, Waiver, and Assumption.** The Assignor confirms the transfer to the Assignee, and waives any claims and rights against the City that it now has or may have in the future in connection with the Agreement. The Assignee agrees to be bound by and to perform the Agreement in accordance with the conditions contained therein. The Assignee also assumes all obligations and liabilities of, and all claims against, the Assignor under the Agreement as if the Assignee were the original party to the Agreement. The Assignee ratifies all previous actions taken by the Assignor with respect to the Agreement, with the same force and effect as if the action has been taken by the Assignee. Except as expressly provided in this Assignment, nothing in it shall be construed as a waiver of any rights of the City against the Assignor.

3.2 **Past Payments.** All payments and reimbursements previously made by City to the Assignor, and all other previous actions taken by City under the Agreement, shall be considered to have discharged those parts of City's obligations thereunder. All payments and reimbursements made by City after the date of this Assignment in the name of or to the Assignor shall have the same force and effect as if made to the Assignee, and shall constitute a complete discharge of City's obligations under the Agreement, to the extent of the amounts paid or reimbursed. The Assignor and the Assignee agree and confirm that City is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer of this Assignment, other than those that City in the absence of this transfer would have been obligated to pay or reimburse under the terms of the Agreement.

#### **3.3      Future Obligations. (Reserved.)**

### 3.4 No Release of Assignor. (Reserved.)

## Article 4 Insurance and Indemnification

4.1 **Insurance Certificates.** For this Assignment to be effective, Assignee shall provide to City insurance certificates and endorsements for the identical type and amount of coverage currently required under the Agreement.

### 4.2 City.

4.2.1 Assignor shall, to the fullest extent permitted by law, indemnify, defend and protect City, and hold City harmless from and against any and all liabilities, losses, damages, claims, costs or expenses (including attorneys' fees) arising out of Assignor's failure to comply with any term or obligation of this Assignment or the Agreement. Defense obligations under this Section 4.2 shall be provided immediately following a tender of defense.

4.2.2 Assignee shall, to the fullest extent permitted by law, indemnify, defend and protect City, and hold City harmless from and against any and all liabilities, losses, damages, claims, costs or expenses (including attorneys' fees) arising out of Assignee's failure to comply with any term or obligation of this Assignment or the Agreement. Defense obligations under this Section 4.2 shall be provided immediately following a tender of defense.

4.3 **Assignor.** Assignor shall indemnify, defend and protect Assignee, and hold Assignee harmless from and against, any and all liabilities, losses, damages, claims, costs or expenses (including attorneys' fees) arising out of (i) any failure of Assignor to convey its interest pursuant to Article 2, free and clear of all third-party liens, claims or encumbrances or (ii) any breach by Assignor of the Agreement or any other failure to perform or observe any of the duties or obligations of Assignor thereunder, to the extent such breach or failure arises prior to the Effective Date.

4.4 **Assignee.** Assignee shall indemnify, defend and protect Assignor, and hold Assignor harmless from and against, any and all liabilities, losses, damages, claims, costs or expenses (including attorneys' fees) arising out of any breach by Assignee of the Agreement or any other failure to perform or observe any of the duties or obligations thereunder assumed by Assignee pursuant to this Assignment.

## Article 5 General Provisions

5.1 **Governing Law.** This Assignment shall be governed by the laws of the State of California, without regard to its conflict of laws principles.

5.2 **Headings.** All Section headings and captions contained in this Assignment are for reference only and shall not be considered in construing this Assignment.

5.3 **Notices.** All notices, consents, directions, approvals, instructions, requests and other communications regarding this Assignment or the Agreement shall be in writing, shall be addressed to the person and address set forth below and may be sent by U.S. mail or email, and shall be addressed as follows:

To City:	Department of Homelessness and Supportive Housing 440 Turk Street San Francisco, CA 94102 Attn: Contracts Unit <a href="mailto:hshcontracts@sfgov.org">hshcontracts@sfgov.org</a>
To Assignor:	The TIDES Center 1012 Torney Avenue San Francisco, CA 94129 Attn: Janiece Evans-Page, Chief Executive Officer <a href="mailto:jevanspage@tides.org">jevanspage@tides.org</a>
To Assignee:	DISH SF 1119 Market Street, 2 <sup>nd</sup> Floor San Francisco, CA 94103 Attn: Lauren Hall, Co-Chief Executive Officer <a href="mailto:laurenhall@dishsf.org">laurenhall@dishsf.org</a> Attn: Rahwa Meharena, Co-Chief Executive Officer <a href="mailto:RahwaMeharena@dishsf.org">RahwaMeharena@dishsf.org</a>

Any notice of default must be sent by certified mail or other trackable written communication.

All communications sent in accordance with this Section shall become effective on the date of receipt. From time to time Assignor, Assignee or City may designate a new address for purposes of this Section by notice to the other signatories to this Assignment.

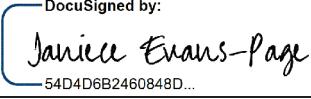
**5.4     Entire Agreement.** This Assignment sets forth the entire agreement between Assignor and Assignee relating to the Agreement and supersedes all other oral or written provisions.

**5.5     Severability.** Should the application of any word, phrase, clause, sentence, paragraph and/or provision of this Assignment to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (i) the validity of other words, phrases, clauses, sentences, paragraphs and/or provisions of this Assignment shall not be affected or impaired thereby and (ii) such words, phrases, clauses, sentences, paragraphs and/or provisions shall be enforced to the maximum extent possible so as to effect the intent of Assignor, Assignee and City.

IN WITNESS WHEREOF, Assignor and Assignee have each duly executed this Assignment as of the date first referenced above.

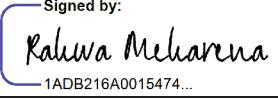
**ASSIGNOR**

**THE TIDES CENTER, AS FISCAL SPONSOR FOR DELIVERING INNOVATION IN SUPPORTIVE HOUSING (DISH) SF, a California nonprofit public benefit corporation**  
**City Supplier ID: 0000009453**

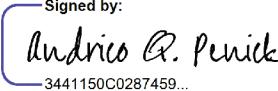
DocuSigned by:  
By  Janiece Evans-Page 6/24/2025  
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Janiece Evans-Page  
Chief Executive Officer

**ASSIGNEE**

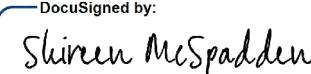
**DISH SF**  
**City Supplier ID: 0000056820**

Signed by:  
By  Rahwa Meharena 6/16/2025  
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Rahwa Meharena  
Co-Chief Executive Officer

City hereby consents to the assignment and assumption described in Article 2 of this Assignment.

Signed by:  
By  Andrico Penick 6/24/2025  
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Andrico Penick  
Real Estate Division  
Director of Property

Recommended by:

DocuSigned by:  
By  Shireen McSpadden 7/25/2025  
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Shireen McSpadden  
Executive Director  
Department of Homelessness and  
Supportive Housing

Approved as to Form:

David Chiu City Attorney

DocuSigned by:  
By  Adam Radtke 6/24/2025  
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Adam Radtke  
Deputy City Attorney

Attached:

Attachment A: Agreement

Attachment B: Documentation of Transfer

**Attachment A**  
**Agreement**

The Agreement dated February 17, 2023 between Contractor and City is attached on the following pages.

**LEASE AND PROPERTY MANAGEMENT AGREEMENT**  
**1321 Mission Street, San Francisco, CA**

This Lease and Property Management Agreement (“**Agreement**”), is entered into as of **February 17, 2023** (the “**Effective Date**”), by and between THE CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the “**City**”), and THE TIDES CENTER, AS FISCAL SPONSOR FOR DELIVERING INNOVATION IN SUPPORTIVE HOUSING (DISH), a California nonprofit public benefit corporation (together, the “**Tenant**”). The City and Tenant together may be referred to herein as the “**Parties**.”

**RECITALS**

A. The City is the fee owner of the real property consisting of approximately 9,208 square feet of land, located in the City and County of San Francisco, commonly known as 1321 Mission Street, Assessor Parcel Number Block 3509, Lot 043 and more particularly described in the attached Exhibit A (“**Site**”), with improvements including an apartment building consisting of 160 apartments, ground floor commercial space, a central lobby, public lounges, common areas, rooftop garden, and other buildings and structures located on the Site and all apparatus, equipment, and appliances used in connection with the operation or occupancy of the Site and its improvements (the “**Project**”, and together with the Site, the “**Premises**”). The Premises is under the jurisdiction of the City’s Department of Homelessness and Supportive Housing (“**HSH**”).

B. Tenant was selected pursuant to Ordinance No. 61-19, which authorizes HSH to enter into contracts without adhering to the Administrative Code provisions regarding competitive bidding and other requirements for construction work, procurement, and personal services relating to the shelter crisis and a competitive solicitation issued by HSH on October 20, 2021, to select a qualified supportive housing provider to operate and manage the Premises.

C. On August 15, 2022, the Civil Service Commission approved the services to be provided by the Tenant for the Premises under Personal Services Contract (PSC) number 43675-22/23 for a period of five (5) years from Effective Date of this Agreement.

D. On November 17, 2022, the City’s Board of Supervisors and the Mayor approved Resolution No 494-22, authorizing the City to enter into this Agreement with the Tenant.

E. The City believes that the fulfillment of the terms and conditions of this Agreement are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in full accord with the public purposes and provisions of applicable laws.

F. City and Tenant wish to enter into this Agreement to provide for Tenant’s leasing, operation, and maintenance of the Premises.

NOW THEREFORE, in consideration of the mutual obligations of the parties hereto, the City and Tenant hereby agree as follows:

**1. DEFINITIONS**

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

- 1.1. Agents** means agents, affiliates, subsidiaries, licensees, contractors, subcontractors, and each of the persons acting by, through or under each of them, and their respective, legal representatives, successors and assigns.
- 1.2. Annual Operating Subsidy** means the funds paid by City to Tenant in accordance with the Annual Operating Budget and Exhibit D hereof, including but not limited to Project Reserve funds released by City in accordance with Exhibit D hereof.
- 1.3. Annual Operating Budget** means the operating budget for the Premises submitted by Tenant and approved by City in the form attached hereto as Exhibit E, as may be amended by Tenant and City from time to time, and subject to appropriations in accordance with this Agreement.
- 1.4. Applicable Legal Requirements** means all applicable statutes, laws, ordinances, regulations, orders, writs, judgments, injunctions, decrees or awards of the United States or any state, county, municipality or governmental agency, including but not limited to fair housing laws.
- 1.5. Commercial Space** means the ground floor commercial space in the Premises.
- 1.6. Coordinated Entry System (CES)** means the system that is designed to assess, match and prioritize people experiencing homelessness to housing. The CES organizes the City's Homelessness Response System with a common, population-specific assessment, centralized data system, and prioritization method. Eligibility criteria for housing varies upon the subsidy funding source and may include meeting a definition of homelessness at the time of referral and placement, enrollment in specific benefits programs, income criteria and/or the ability to live independently within the structure of the housing program. Participants who meet eligibility criteria are prioritized based on various criteria, such as levels of vulnerability, length and history of homelessness, and severity of housing barriers.
- 1.7. Effective Date** means the date that this Agreement is deemed to be entered into and effective, as set forth above.
- 1.8. Existing Occupancy Agreements** has the meaning set forth in Section 5.3.3 hereof.
- 1.9. Existing Residents** means PSH-Eligible Existing Residents and Other Existing Residents.
- 1.10. Housing First Principles** means tenant screening and selection practices that promote accepting applicants regardless of their sobriety or use of substances, completion of treatment, or participation in services, and prohibit rejecting applicants on the basis of poor credit or financial history, poor or lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of "housing readiness," as further described in California Welfare and Institutions Code section 8255.
- 1.11. HSH** means the City's Department of Homelessness and Supportive Housing.
- 1.12. Invitees** means all clients, customers, vendors, invitees, guests, or licensees, but excluding the PSH Residents and the Existing Residents.
- 1.13. Other Existing Residents** means any person who i) is authorized by City to occupy a residential unit on the Premises as of the Effective Date and ii) is not eligible for Permanent Supportive Housing as determined by HSH.

**1.14. Permanent Supportive Housing or PSH** means subsidized housing units that comply with PSH Program Rules and include on-site supportive services, including without limitation, intake and assessment of PSH Residents' needs, outreach to the PSH Residents to assist them with health or social needs, management of the health or social needs of PSH Residents, mediation of disputes with the property management, and referrals for services for the PSH Residents. Eligibility criteria for Permanent Supportive Housing varies upon the subsidy funding source and may include meeting a definition of homelessness at the time of referral and placement, enrollment in specific benefits programs, income criteria and/or the ability to live independently within the structure of the housing program. Individuals who meet eligibility criteria for Permanent Supportive Housing are prioritized based on various criteria, such as levels of vulnerability, length and history of homelessness, and severity of housing barriers.

**1.15. Project Expenses** means the following costs, to be detailed in, and funded by, the Annual Operating Budget: (a) all charges incurred in the operation of the Project for utilities, real estate and/or possessory interest taxes, assessments, and liability, fire, and other hazard insurance premiums; (b) salaries, wages, and other compensation due and payable to the employees or agents of the Tenant who maintain, administer, operate, or provide services in connection with the Permanent Supportive Housing at the Project, including all withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments required for such employees; (c) all other expenses actually incurred by the Tenant to cover any and all operating and services provision costs of the Project, including maintenance and repair, (d) reasonable costs to prepare financial audits and asset management reports required by HSH for City-owned property or funders to the Project, and reasonable legal costs, including costs to enforce Residential Agreements; (e) deposits to reserves accounts required to be established under this Agreement or by HSH under a separate agreement; (f) if applicable, approved annual asset management fees indicated in the Annual Operating Budget and approved in advance by the City; and (g) any extraordinary expenses as approved in advance by the City. Project Expenses does include Commercial Expenses, if applicable.

**1.16. Project Income** means all income and receipts in any form received by the Tenant from the use or operation of the Premises, including, but not limited to, the following: (a) rents, fees, charges, and deposits (other than Resident's refundable security deposits); (b) Section 8 or other rental subsidy payments received for the Residents and/or the Project; (c) price index adjustments and any other rental adjustments to leases or rental agreements; (d) proceeds from vending and laundry room machine; (e) the proceeds of business interruption or other insurance; (f) any accrued interest disbursed from any reserve account required under this Agreement for a purpose other than that for which the reserve account was established; (g) any reimbursements and other charges that may be paid to Tenant in connection with the Project; and (h) other consideration actually received from the Project, including non-residential uses of the Premises. Project Income does not include interest accruing on any Residents' refundable security deposits. Project Income does include Commercial Income, if applicable.

**1.17. Project Operating Account** means the Tenant's separate interest-bearing bank account used to credit and debit all Project Income, other than the security deposit payments, Annual Operating Subsidy, including advances and reimbursements, and Project Expenses. The Project Operating Account should be established in the Tenant's name and include the project name and/or address.

**1.18. Project Reserves** has the meaning set for in Section 6.3 hereof.

**1.19. PSH-Eligible Existing Residents** means any person who is i) authorized by City to occupy a residential unit on the Premises as of the Effective Date and ii) eligible for Permanent Supportive Housing as determined by HSH. PSH-Eligible Existing Residents will become PSH Residents once they execute a PSH Lease with Tenant in accordance with Section 5.3.1 hereof.

**1.20. PSH Lease** has the meaning set forth in Section 5.3.1 hereof.

**1.21. PSH Program Rules** means the program rules and requirements adopted by HSH, as amended from time to time, for the operation and use of Permanent Supportive Housing, including but not limited to the rules and requirements described in HSH's PSH Resident Selection Plan for the Premises, attached hereto as Exhibit C, and the PSH Lease.

**1.22. PSH Residents** means formerly homeless and income-eligible individuals or other households that HSH deems eligible for Permanent Supportive Housing, which are i) referred by City to Tenant through the Coordinated Entry System and/or other initiatives serving high priority individuals in coordination with the Coordinated Entry System, such as Shelter In Place hotel guests needing to be rehoused, high users of multiple systems of care, individuals being discharged from hospitals, or persons with behavioral health conditions and ii) have executed a PSH Lease with Tenant in accordance with Section 5.3.1 hereof.

**1.23. Rehab Funding Agreement** has the meaning set forth in Section 5.7.3 hereof.

**1.24. Residents** means Existing Residents and PSH Residents.

**1.25. Residential Agreements** has the meaning set forth in Section 5.3.3 hereof.

## **2. PREMISES**

**2.1. Premises.** Subject to the provisions of this Agreement, the City hereby leases to Tenant, and Tenant hereby leases from the City, the Premises, together with reasonable rights of ingress and egress to and from the Premises. Tenant has the non-exclusive right to use, together with any other tenants or sub-tenants authorized by City in the Project, the Commercial Space, central lobby, rooftop garden, lounges, corridors, elevators, stairways, and other public areas of the Premises (collectively, the "**Common Areas**"), and the non-exclusive right of access to and from the Premises by the main entrances to the Building and the Premises; provided, however, nothing in this Section shall be deemed to grant, or otherwise permit, any individual member of the general public any right to use or occupy any portion of the Premises.

**2.2. As Is Condition.**

TENANT ACKNOWLEDGES AND AGREES THAT THE PREMISES ARE BEING LEASED AND ACCEPTED IN THEIR "AS IS" CONDITION, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, AND SUBJECT TO ALL APPLICABLE LEGAL REQUIREMENTS GOVERNING THEIR USE, OCCUPANCY, AND POSSESSION. TENANT ACKNOWLEDGES AND AGREES THAT NEITHER CITY NOR ANY OF ITS AGENTS HAVE MADE, AND CITY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE PREMISES, THE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PREMISES, THE PRESENT OR FUTURE SUITABILITY OF THE PREMISES FOR TENANT'S BUSINESS, OR ANY OTHER MATTER WHATSOEVER RELATING TO THE PREMISES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NOTHING IN THIS SECTION SHALL BE DEEMED TO WAIVE, LIMIT, OR OTHERWISE IMPAIR THE CITY'S OBLIGATION TO PROVIDE ANNUAL OPERATING

SUBSIDY IN ACCORDANCE WITH THE ANNUAL OPERATING BUDGET AND EXHIBIT D HEREOF.

### 3. TERM

- 3.1. Term.** The term of this Agreement (“**Term**”) will commence upon the Effective Date and will end on **February 16, 2028** (“**Expiration Date**”), unless sooner terminated or extended as provided in this Agreement. City will deliver the Premises to Tenant on the Effective Date in their then existing as-is condition as provided in Section 2.2, with no obligation of City to make any improvements, repairs, or alterations to the Premises.
- 3.2.** If the combined Annual Operating Subsidy and Project Income are less than the actual Project Expenses for more than one hundred and eighty (180) consecutive days, unless caused by Tenant’s negligence or default under this Agreement, in which case the City reserves the right to withhold payment of Annual Operating Subsidy to remediate Tenant’s negligence or default, or if the City otherwise fails to approve an Annual Operating Budget in accordance with Exhibit D hereof, then City or Tenant will have the right to terminate this Agreement upon at least one hundred and eighty (180) days written notice to the other party and without penalty. After such written notice from either party, and during such one hundred and eighty (180) day period, City will continue to pay for all necessary and reasonable Project Expenses as detailed in the Annual Operating Budget. In the event of any conflict between the terms of this Section and any other provision of this Agreement, the terms of this Section shall control.
- 3.3. Extension Option.** The City and Tenant may mutually agree to extend the Term (the “**Extension Option**”) for up to an additional five (5) years (the “**Extension Term**”) commencing on the Expiration Date. City and Tenant may exercise the Extension Option at any time by mutually executed written notice no later than one hundred eighty (180) days before the Expiration Date, subject to any necessary City approvals. If the Extension Option is exercised, then this Agreement will cover the entire Premises for the Extension Term and will be upon all of the terms, covenants and conditions of this Agreement, and all references to the Term will then include the Extension Term.
- 3.4. Holding Over.** Any holding over after expiration of the Term without the City’s consent will constitute a default by Tenant and will entitle the City to exercise any or all of its remedies at law and/or as provided in this Agreement, even if the City elects to accept one or more payments of rent.
- 3.5. Termination Procedure.** Upon termination of this Agreement, Tenant will assign to City, or to City’s assignee, all security deposits, any insurance proceeds applicable to the Premises, other Project funds (including all funds in the Project Operating Account), and Resident leases or occupancy agreements that have been assumed or entered into by Tenant as of the Effective Date or properly entered into by Tenant in accordance with this Agreement. City will assume all such funds and leases or occupancy agreements as of the date of the termination of this Agreement (“**Assumed Leases**”). In no event will Tenant be required to evict a Resident who has executed a Residential Agreement in conformity with this Agreement at the end of the Term. In addition, prior to termination of this Agreement, Tenant will provide to City a schedule setting forth a list of all other contracts or agreements that Tenant has entered into relating to the Premises, together with true and accurate copies of all such documents, for City’s review. City will advise Tenant which contracts and agreements City has elected that Tenant will assign to City or City’s assignee, and City or City’s assignee will assume upon termination of this Agreement (“**Assumed Contracts**”). At or before the termination of this Agreement, Tenant will terminate

any contracts or agreements other than the Assumed Contracts and the Assumed Leases, without liability to City or City's assignee.

#### 4. RENT

As of the Effective Date, Tenant has paid to the City, as and for rent of the Premises for the Term hereunder, the sum of One Dollar and No/100 (\$1.00), the receipt of which is hereby acknowledged by the City.

#### 5. MANAGEMENT & OPERATIONS

**5.1. Permitted Uses.** Tenant and City hereby acknowledge and agree that during the Term, Tenant will only use the Premises to operate, maintain, and manage the Premises i) as Permanent Supportive Housing in accordance with PSH Program Rules; ii) as residential housing for Existing Residents, if applicable; iii) in accordance with any funding or other agreements between City and Tenant; and iv) in accordance with all applicable restrictions and recorded conditions on title, including but not limited to a Project Homekey Declaration of Restrictive Covenants that will be recorded against the Premises on or after the Effective Date, and for no other purposes. The use of the Commercial Space will be governed by Section 5.14 hereof. City will allow one three-bedroom unit at the Premises to be used as Tenant's staff unit, unless otherwise agreed to by City and Tenant. Tenant and City further agree and acknowledge that the standard of care to be utilized by the Tenant shall be that of a professional property management company and homeless service provider utilizing commercially reasonable efforts to operate Permanent Supportive Housing at the Premises, and nothing in this Agreement shall impose liability on the Tenant for the acts of any Residents except to the extent of the Tenant's negligence, misconduct or Tenant's material breach of any term of this Agreement. In the event of any conflict between the terms of this Section and any other provision of this Agreement, the terms of this Section shall control.

**5.2. Project Income and Project Expenses; Operating Budget.** Tenant will collect all rents from Residents, and deposit all such funds in accordance with Section 6 below, which will be used in accordance with the Annual Operating Budget approved by the City, as described in Exhibit D attached hereto. All Project Income will be used to pay Project Expenses. Tenant will communicate and coordinate with local, state and/or federal agencies, as needed, to process rental subsidies for Residents. For Residents paying a portion of their income towards rent, Tenant will assist with payment arrangements and will comply with PSH Program Rules and other applicable requirements governing the tenant portion of rent.

**5.3. Leasing.**

5.3.1. **New PSH Residents.** Upon referral by HSH to Tenant of a prospective PSH Resident through the Coordinated Entry System or otherwise, and prior to move-in, Tenant will perform application review and execute a lease agreement, including all applicable addenda, which addenda shall include but not be limited to house rules, grievance procedure, and HSH PSH lease addendum, on a form approved by the City (each, a "**PSH Lease**") with each prospective PSH Resident. Tenant will review the PSH Lease in its entirety with each prospective PSH Resident at the time of lease signing, including the applicable grievance policies and procedures and all addenda. Tenant will keep a signed copy of the PSH Lease in each PSH Resident's file. Tenant will document, through photographs and a contemporaneously drafted report, any damage or issues requiring repair or refurbishment prior to move-in of a PSH Resident.

- 5.3.2. **PSH-Eligible Existing Residents.** After the Effective Date, Tenant will use commercially reasonable efforts to enter into a PSH Lease within sixty (60) days of the Effective Date with all PSH-Eligible Existing Residents. Tenant will notify and coordinate with the City in the event that one or more PSH-Eligible Existing Residents do not execute a PSH Lease within sixty (60) days of the Effective Date.
- 5.3.3. **Other Existing Residents.** The rental or occupancy agreements for any Other Existing Residents, if applicable (“**Existing Occupancy Agreements**”, and together with the PSH Leases, the “**Residential Agreements**”), will be assigned to Tenant on the Effective Date using the form of Assignment of Leases attached hereto as Exhibit B.
- 5.3.4. **No Other Occupants.** Tenant will not lease a unit nor enter into a new residential lease or rental agreement with anyone who is not referred to Tenant by HSH or through the SF Coordinated Entry System, unless otherwise agreed to in writing by City.
- 5.3.5. **Housing First Principles, PSH Program Rules, and Applicable Legal Requirements.** Tenant will adhere to and comply with Housing First Principles, PSH Program Rules, and Applicable Legal Requirements at all times, including but not limited to those principles, rules, and requirements regarding tenant intake, HSH housing documentation, reasonable accommodation, fair housing, and transfers when accepting referrals and placing PSH Residents into housing. Referrals may only be denied for reasons described in HSH’s PSH Resident Selection Plan for the Premises, attached hereto as Exhibit C.
- 5.3.6. **Wellness Checks.** Tenant will conduct wellness checks and/or emergency safety checks in accordance with HSH policy, internal agency policies and tenant laws to assess a Resident’s safety when there is a reason to believe the Resident is at immediate and substantial risk due to a medical and/or psychiatric emergency.
- 5.3.7. **Resident Feedback, Complaint and Follow-up Policies.** Tenant will provide means for the Residents to provide input, including the planning, design, and level of satisfaction with services. Feedback methods must include:
  - 5.3.7.1. A complaint process, including a written complaint policy informing the Residents how to report complaints; and
  - 5.3.7.2. A written annual survey provided to the Residents to gather feedback, measure satisfaction, and assess the effectiveness of services and systems provided at the Premises. Tenant will offer assistance to the Residents with survey completion.
- 5.3.8. **Translation and Interpreter Services.** Tenant will ensure that translation and interpreter services are available to Residents, as needed.

#### **5.4. No Resident Displacement.**

- 5.4.1. Tenant will be responsible for enforcing, and will take commercially reasonable actions to enforce, the terms and conditions of all Residential Agreements, including, without limitation, the collection of all such rents when due; the preparation and delivery to Residents of any appropriate late payment, default, or other notices; the conducting of exit interviews and walk-throughs; and the timely disbursement of all security deposits in accordance with this Agreement. Without violating any privacy or other Applicable Legal Requirements, and in accordance with the standard of care described in Section 5.1 above, Tenant will use commercially reasonable efforts to ensure that all Residents comply with the terms and conditions of their respective Residential Agreements.

- 5.4.2. Tenant will not terminate the tenancy or refuse to renew any Residential Agreement, except for material or repeated violations of the terms and conditions of such Residential Agreement, for violation of Applicable Legal Requirements, or other good cause. Any termination or refusal to renew a Residential Agreement for a Resident must be preceded by written notice to the Resident specifying the grounds for the action in accordance with Applicable Legal Requirements.
- 5.4.3. Tenant will at all times use a housing retention approach to enforcement of Residential Agreements, including, but not limited to, proactive engagement in collaboration with support services, conversations and mediations with Residents, and mediation strategies. Tenant will establish written agreements with support services and other service providers that provides services to the Premises to formalize collaboration and roles and responsibilities.
- 5.4.4. If a Resident is facing housing instability, Tenant will coordinate with support services staff to find creative ways to engage with Residents to prevent housing loss. Tenant will participate in individual case conferences and team coordination meetings with appropriate HSH-homeless response system programs as needed, to coordinate and collaborate regarding Residents' housing stability. Tenant will work with support services staff in communicating with and meeting with Residents regarding behaviors and issues that put the Resident at risk for housing instability. Tenant will initiate and participate in regular coordination meetings with support services staff to review Residents at risk for eviction and strategize on how to support Residents in maintaining their housing. Tenant will copy support services staff on all written communications to Residents. Tenant will alert support services staff when Residents give notice to leave the Premises and will keep a record of each Resident's forwarding address, whenever possible.
- 5.4.5. Tenant is required to follow the PSH Resident Selection Plan attached hereto as Exhibit C, and any other applicable PSH Program Rules governing admissions. Except to the extent that the services are to be rendered to a specific population as described in the PSH Resident Selection Plan, such policies must be administered in a manner that the served population is accepted for care without discrimination on the basis of race, color, creed, religion, sex, age, national origin, ancestry, sexual orientation, gender identification, disability, or HIV status. The PSH Resident Selection Plan will be in writing and available to the public.
- 5.4.6. Tenant will integrate harm reduction principles into service delivery and agency structure, as well as adhere to the requirements of Section III.e of the HSH Overdose Prevention Policy.
- 5.4.7. Tenant will provide written notice to Residents regarding issues that may impact housing stability including, but not limited to, non-payment of rent, lease violations or warnings, and conflicts with staff or other Residents.
- 5.4.8. Tenant will at all times comply with all applicable requirements and landlord obligations of the Residential Agreements.
- 5.4.9. Tenant will establish and maintain a written grievance procedure for Residents subject to HSH approval, which will include, at minimum, the following elements:
  - 5.4.9.1. The name or title of the person or persons authorized to make a determination regarding the grievance;

- 5.4.9.2. The opportunity for the aggrieved party to discuss the grievance with those who will be making the determination;
- 5.4.9.3. The amount of time required for each step, including when a participant can expect a response; and
- 5.4.9.4. In accordance with published HSH policies/procedures, the HSH Grievances email address and mailing address for the participant to contact after the participant has exhausted Tenant's internal grievance procedure.
- 5.4.9.5. Tenant will post the grievance procedure at all times in a location visible to Residents, and provide a copy of the procedure and any amendments to HSH. In no event shall the grievance procedure waive, limit, or impair, the Tenant's right to enforce a Residential Agreement in accordance with applicable law. In the event of any conflict between the preceding sentence and any other provision of this Agreement, the preceding sentence shall control.

**5.5. Income Certifications.**

- 5.5.1. Tenant will use commercially reasonable efforts to promptly obtain income certifications for all PSH Residents using the standard certification form if required by HSH to comply with state Project Homekey funding or other City requirements. Annual income re-certifications should generally be completed on the anniversary of a PSH Resident's move-in date, if applicable by HSH or external funding sources, or prior to the submission of the Annual Operating Budget.

**5.6. No Unlawful Uses or Nuisances.**

- 5.6.1. Tenant will not use or occupy any portion of the Premises, or permit the use or occupancy thereof, in violation of any Applicable Legal Requirements, or permit to be carried on any use: (a) in violation of the conditions of any certificate of occupancy or the recorded conditions on title; (b) that is prohibited by the insurance policies carried by Tenant; or (c) that will increase in any way the existing premiums on (or otherwise affect) fire or any other insurance on the Premises or any personal property located on the Premises. Tenant will take all commercially reasonable precautions to eliminate immediately any nuisances or hazards relating to its activities on or about the Premises.
- 5.6.2. Tenant will not cause, and will make commercially reasonable efforts not to permit, any waste, damage, or injury to any portion of the Premises. Tenant will inspect the interiors of the residential units at least once per month, with proper written notice to Residents, and will provide monthly updates of such inspections to the City. Failure to perform such inspections and the corresponding updates to the City shall be considered a material breach of this Agreement.
- 5.6.3. Tenant will not cause or permit the dumping or other disposal on, under, or about the Premises of landfill, refuse or Hazardous Material, except any landfill associated with permitted construction and landscaping activities.

**5.7. Service Objectives.**

- 5.7.1. Tenant will use reasonable efforts, in accordance with the standard of care described in Section 5.1 above, to achieve the following service objectives, which may be amended from time to time by HSH with reasonable notice to Tenant:
  - 5.7.1.1. Tenant will ensure that each unit, upon turnover, is clean and/or repaired within twenty-one (21) days, on average.

- 5.7.1.2. Tenant will collect at least ninety percent (90%) of Residents' portions of monthly rent from occupied units.
- 5.7.1.3. Tenant will maintain a residential occupancy rate at the Premises of at least ninety seven percent (97%).
- 5.7.1.4. Annually with submission of the Annual Operating Budget, Tenant will provide a property management plan and a preventative maintenance plan and schedule to HSH for review and approval, as described in Exhibit D.
- 5.7.1.5. Tenant will submit all required asset management and program reports on a timely basis to HSH and external funders, as applicable.

#### **5.8. Outcome Objectives.**

- 5.8.1. Tenant will use reasonable efforts, in accordance with the standard of care described in Section 5.1 above, to achieve the following outcome objectives, which may be amended from time to time by HSH with reasonable notice to Tenant:
  - 5.8.1.1. Ninety percent (90%) of Residents will maintain their housing for a minimum of twelve (12) months, move to other permanent housing, or be provided with more appropriate placements.
  - 5.8.1.2. Eighty-five percent (85%) of Resident lease violations will be resolved without loss of housing to Residents.
  - 5.8.1.3. At least seventy-five percent (75%) of Residents will complete an annual resident satisfaction survey in accordance with Section 5.3.7.2 above, and of those responsive Residents, eighty percent (80%) of Residents indicate that they are satisfied or very satisfied with Tenant's property management services.

#### **5.9. Construction and Repairs.**

- 5.9.1. Tenant agrees that there will be no physical construction on the Premises during the Term, except in connection with any necessary repairs or alterations necessary to prepare or maintain the Premises or any portion thereof for occupancy as Permanent Supportive Housing. In addition, Tenant will not make or permit any Change (as defined below) in the Premises without the prior written approval of the City and subject to such terms and conditions as the City may reasonably require. The City agrees not to unreasonably withhold, condition, or delay its response to such a request.
- 5.9.2. **“Change”** as used in this Section means any alteration, modification, addition and/or substitution of or to the Premises and/or the density of the Project which differs materially from that which existed upon the Effective Date, and will include without limitation the interior or exterior design, Commercial Space tenant improvements or modifications, exterior materials and/or exterior color. For purposes of the foregoing, exterior will mean and include the roof of the Project. Changes will not include repairs or maintenance in the normal course of operation of the Premises, or as may be required in an emergency to protect the safety and well-being of the Residents, Tenant, or anyone lawfully permitted on the Premises.
- 5.9.3. Tenant will partner with HSH to safeguard the physical and financial health of the Premises and will: provide a capital needs assessment for review by HSH, manage an HSH-approved capital improvement plan for the Premises, and provide other property financial performance and compliance reports detailed in Exhibit D of this Agreement.
- 5.9.4. City may elect to enter into one or more separate funding agreements with Tenant for any agreed upon Changes or other improvements necessary for the long-term operations of the Premises (“**Rehab Funding Agreement**”).

**5.10. Reporting.**

- 5.10.1. In addition to any reports required elsewhere in this Agreement, the Rehab Funding Agreement (if applicable), and/or any other agreement between City and Tenant related to the Premises, Tenant must:
  - 5.10.1.1. Submit annual reports to HSH, and to any other City department indicated in written notice to Tenant, on or before August 1 of each calendar year, indicating the following information, as of June 30 of the previous year: (a) whether a unit is vacant or occupied; (b) the income level of the Residents for each unit; (c) the rental rates for each unit, including any rental subsidies; and (d) any other information reasonably required by the City to comply with Government Accounting Standards Board (GASB) reporting or otherwise.
  - 5.10.1.2. On a monthly basis (no later than the 15th day of the month following each month), submit to HSH a rent roll report reconciled to the rent revenue deposited into Project Operating Account. The rent roll must include resident name or indicate that the unit is vacant, unit number, amount of rent owed, amount of rent collected, date of rent received, and any delinquent rent owed or pre-paid rent, and be submitted in a format required by the City. The first such report will be due no later than the 15th of the month after the Effective Date.
  - 5.10.1.3. Provide any other information to confirm accuracy of rent roll and rent collected including reconciliation to Tenant's bank statements on a monthly basis;
  - 5.10.1.4. Provide an annual report by July 15 of each calendar year with total annual revenue and expenses, including total collected rent revenue and total delinquent rent in a format acceptable to HSH; and
  - 5.10.1.5. Provide a copy of the annual external audit of Program Income, Annual Operating Subsidy, and Expenses every year once completed.
- 5.10.2. Tenant will ensure compliance with the Homeless Management Information System (HMIS) Participation Agreement and HSH Data Quality Standards that may be updated from time to time, as detailed in Exhibit D.
- 5.10.3. Assist with any reporting and compliance obligations for any applicable federal, state, and/or local funding related to the Premises.

**5.11. Communication With City, Trainings and Meetings.** Tenant will keep HSH

informed of program operations on the Premises and comply with HSH policies, training requirements, and participation in meetings, including but not limited to:

- 5.11.1. Regular communication on a schedule to be determined by Tenant and HSH about the implementation of the PSH program at the Premises;
- 5.11.2. Reporting of all critical incidents in accordance with the HSH instructions and published HSH policies/procedures;
- 5.11.3. Attendance at all meetings as required by HSH. This shall include quarterly HSH meetings; and
- 5.11.4. Attendance at all trainings (e.g., overdose prevention training), when required by HSH. Tenant will ensure all of Tenant's site-based or resident-facing staff and Tenant's subcontractors are onboarded and trained to perform the services in accordance with Housing First, Harm Reduction, and Trauma-Informed Principles.

**5.12. General Maintenance and Repair Obligations.** Except as specifically provided herein, and to the extent consistent with the Annual Operating Budget, Tenant assumes full and sole responsibility for the condition, operation, repair, maintenance and management of the Premises and will keep the Premises in good condition as it is on the Effective Date and in a manner otherwise reasonably acceptable to the City. Subject to the approved Annual Operating Budget, Tenant will use commercially reasonable efforts to make all routine repairs and replacements, interior and exterior, foreseen and unforeseen, that are necessary to maintain the Premises at all times in a clean, safe, attractive, and sanitary condition and in good order and repair for safe and sanitary residential housing in accordance with any requirements pursuant to any applicable federal, state, and local funding attached to the Premises and all applicable federal, state, and local laws, including but not limited to California Health and Safety Code 17920.10 and the applicable provisions of 24 CFR Part 35, all to the extent reasonably feasible given the financial and physical condition of the Premises as of the Effective Date. Notwithstanding the foregoing, Tenant shall have sole responsibility for funding any repairs solely caused or exacerbated by its negligence, misconduct, or breach of any term of this Agreement, including but not limited to the standard of care described in Section 5.1 above. In performing these functions, Tenant will:

- (a) Receive and investigate all requests for maintenance and repair from Residents and cause such routine repairs to be promptly and professionally completed when appropriate and warranted in accordance with the standards set forth in this Agreement.
- (b) Annually develop and implement a preventive maintenance schedule taking into account the remaining anticipated life of the units in the Premises. The preventive maintenance schedule will be presented to the City for its reasonable approval together with each year's Annual Operating Budget.
- (c) Contract with qualified independent contractors, in accordance with the Prevailing Wage Requirements and Applicable Legal Requirements, for the maintenance and repair of items that is not performed by regular maintenance employees. Tenant will consult with the HSH Director or its designee, regarding the estimated costs and scope of work, for any expenditure anticipated to exceed \$5,000 in any one instance for labor, materials, or otherwise, in connection with the routine maintenance and repair of the Premises, on which work items may be performed by Tenant's maintenance employees and which work items should be performed by qualified independent contractors; provided, however, that any expenditure of funds for unanticipated and emergency maintenance and repairs will be governed by Section 5.14 below.
- (d) Inform all Residents of the procedures to obtain maintenance and repair services during and after normal office hours, and in cases of an emergency.
- (e) Maintain a log book or other HSH-accessible tracking system containing reports of all service requests and maintenance repairs provided, copies of which will be subject to periodic inspection by the City.
- (f) Purchase all materials, equipment, tools, and appliances, supplies and services necessary to ensure proper maintenance and repair of the Premises.
- (g) Maintain in good condition all landscaping, grounds, and common areas for the Premises.

- (h) Provide pest control services within the Premises as needed and use commercially reasonable efforts to keep the Premises reasonably free of pests at all times, subject to the prohibition on the use of pesticides as set forth below.
- (i) Contract for trash collection with an entity permitted by the City and use commercially reasonable efforts to (i) ensure that the Premises are reasonably free from rubbish, debris, and refuse at all times, and (ii) encourage maximum waste diversion consistent with City policies.
- (j) Comply with any required inspections and apply for any permits as needed in order to allow for all building systems to maintain the appropriate licenses, permits, and certifications to ensure their safe and code compliant operation.
- (k) Identify and submit any necessary entitlement applications to the City's Planning Department, as approved by City, and participate in any applicable public hearings.
- (l) Notify HSH Asset Manager or other designated HSH contact immediately in the event Tenant is given notice violations by the Department of Building Inspection (DBI), Department of Public Health (DPH), or another City agency relating to the Premises.

**5.13. Disaster and Emergency Response Plan.** Tenant will develop and maintain a Disaster and Emergency Response Plan containing site-specific emergency response plan(s) for the Premises per HSH requirements. The Disaster and Emergency Response Plan must address disaster coordination at the Premises. Tenant will update the Disaster and Emergency Response Plan as needed, and Tenant will train all employees regarding the provisions of the Disaster and Emergency Response Plan for the Premises.

**5.14. Unanticipated and Emergency Maintenance and Repairs.** Tenant will notify HSH of any unanticipated and emergency maintenance or repairs within twenty-four (24) hours after discovery of the emergency. Tenant will promptly make all repairs that are immediately necessary for the preservation or protection of the Premises, to maintain occupancy of units or the safety of Residents or other persons in or on the Premises, or as required by Applicable Legal Requirements ("Emergency Repairs") without HSH prior approval; provided, however, that in each such instance Tenant shall, before causing any such Emergency Repairs to be made, use commercially reasonable efforts to obtain the approval of the HSH Director, or Director's designee, of such Emergency Repairs. Tenant's reasonable costs of any such Emergency Repairs will be paid accordance with Article 13 hereof. Tenant will consult with HSH regarding any necessary temporary relocation created by such unanticipated and emergency maintenance and repairs.

**5.15. Issuance of Building Permits.** Tenant will have the sole responsibility for obtaining all necessary building permits and will make application for such permits directly to the City's Department of Building Inspection or the appropriate City department.

**5.16.** Intentionally Omitted.

**5.17. Lead Based Paint.** For any repair or maintenance work performed by Tenant or Managing Agent under this Agreement, Tenant agrees to comply with any Applicable Legal Requirements, including but not limited to California Health and Safety Code 17920.10 and 24 CFR Part 35.

**5.18. Limitation of Liability.**

- 5.18.1. Tenant, on behalf of itself and its Agents and Invitees, covenants and agrees that the City will not be responsible for or liable to Tenant for, and, to the fullest extent allowed by any Applicable Legal Requirements, Tenant hereby waives all rights against the City and releases it from, any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs ("Losses"), whether direct or indirect, known or unknown, foreseen and unforeseen, arising from or related to the (i) the acts or omissions of Tenant, its Agents and Invitees, including any Residents, Commercial Space subtenant(s), or other occupants and (ii) the condition or use of the Premises.
- 5.18.2. Notwithstanding the forgoing, City hereby acknowledges and agrees that Tenant will not be liable for any Losses arising from or related to: (i) the physical or environmental condition of the Premises existing prior to the Effective Date; or (ii) the City's failure to fund reasonable Project Expenses in accordance with the Annual Operating Budget, unless solely caused or exacerbated by Tenant's negligence, misconduct, or material breach of any term of this Agreement.

**5.19. Commercial Space.** Subject to City approval, Tenant will either i) use the Commercial Space as programming space for PSH Residents at the Premises and in accordance with PSH Program Rules, or ii) sublease the Commercial Space to a commercial tenant for commercial services, which sublease will be subject to City's approval in its sole discretion.

**5.20. Utilities.** Tenant will set up and manage utility accounts and services related to the Premises, including but not limited to communications, alarms/security, fire alarm monitoring, garbage, water, and pest control. This may include elevator maintenance, as required.

**5.21. Front Desk Coverage.** Tenant will provide front desk coverage 24 hours per day, seven days per week. Tenant will implement policies and procedures, as approved by HSH, pertaining to site security and emergency backup and will train Tenant staff accordingly.

**5.22. Good Neighbor Policies.** Tenant will maintain a good relationship with the neighborhood surrounding the Premises, including: collaborating with neighbors and relevant City agencies to ensure that neighborhood concerns about the Premises are heard and addressed; responding to neighbors within three (3) business days, if reasonable; and ensuring that a Tenant representative attends all appropriate neighborhood meetings.

**5.23. Smoking Policy.** Tenant will work with HSH to present for HSH review and approval a Smoking Policy that is in compliance with the City's Admin Code/Charter 19M. Upon written notice from City to Tenant, Tenant will enforce a smoking prohibition on all or a portion of the Premises.

**5.24.**  Tenant's failure to comply with any of its obligations under this Article 5 will constitute a material breach of this Agreement; provided, however, the Parties agree and acknowledge that the Tenant's failure to achieve the "Service Objectives" set forth in Section 5.7 or the "Outcome Objectives" set forth in Section 5.8 shall not constitute a breach of this Agreement so long as Tenant has made reasonable efforts, in accordance with the standard of care described in Section 5.1 above, to achieve the objectives, as described in Section 5.7 and Section 5.8 above.

## 6. ACCOUNTS

- 6.1. Project Operating Account.** Tenant will record all Project Income and Project Expenses to Project Operating Account, other than the security deposit payments to be deposited into the Security Deposit Account described below. The Project Operating Account must be reconciled monthly and submitted to the City along with a rent roll as described in Section 5.8.1.2. The Project Operating Account must be held in a depository reasonably acceptable to the City whose deposits are insured by an agency of the federal government or other comparable federally insured program.
- 6.2. Security Deposit Account.** On or around the Effective Date, City will transfer the rights to any existing security deposits to Tenant. Tenant will deposit all security deposits collected in accordance with requirements of the Residential Agreements and PSH Program Rules into a separate interest-bearing security deposit account for the Project established for the benefit of the City, Tenant and Residents (“**Security Deposit Account**”). Funds deposited in the Security Deposit Account may only be disbursed to pay the costs of any unpaid rent, damage, or unreasonable wear and tear caused by a Resident, or to reimburse the Project Operating Account for payment of these costs; or to return to the Residents upon termination of his or her tenancy the portion of the security deposit not used in accordance with this Section. In collecting, handling, and disbursing these funds, Tenant will comply with the requirements of the California Civil Code, Section 1950.5 and Business and Professions Code Section 10145, provided that Tenant will not be liable for any security deposits that were not transferred or collected prior to the Effective Date. The Security Deposit Account must be held in a depository reasonably acceptable to the City whose deposits are insured by an agency of the federal government or other comparable federally insured program.
- 6.3. Reserve Accounts.** Upon written notice from City to Tenant, City may require Tenant to establish operating, replacement, and/or other reserve accounts for the Project (“**Project Reserves**”). The Project Reserves will be listed in the Annual Operating Budget submitted by Tenant and approved by City. Unless otherwise agreed to by City and Tenant, such reserves will be held by City and will require prior City approval for use, as described in Exhibit D.

## 7. TITLE TO IMPROVEMENTS

- 7.1. Improvements.** Except for Tenant’s Personal Property (as defined in Section 7.2), all appurtenances, fixtures, improvements, equipment, additions, and other property used in connection with, attached or affixed to, or installed in the Premises as of the Effective Date or during the Term, will be and remain City’s property. Except if being replaced, Tenant will not remove any such property at any time during or after the Term unless City approves.
- 7.2. Tenant’s Personal Property.** All furniture, office equipment and articles of movable personal property installed in the Premises by or for the account of Tenant, that was not paid for by City or by using Project Income with the approval of the City, and that can be removed without structural or other damage to the Premises (collectively, “**Tenant’s Personal Property**”) will be and remain Tenant’s property. Tenant may remove Tenant’s Personal Property at any time during the Term. Tenant will pay any taxes or other impositions levied or assessed upon Tenant’s Personal Property, at least ten (10) days prior to delinquency, and will deliver satisfactory evidence of such payment to City upon request.

## 8. ASSIGNMENT, SUBLEASE OR OTHER CONVEYANCE

- 8.1.** Tenant will not sell, assign, convey, sublease, or transfer in any other mode or form all or any part of its interest in this Agreement or in the Premises or any portion thereof, or allow any person or entity to occupy or use all or any part of the Premises, other than the Residential

Agreements, occupancy or other agreement for the Tenant staff unit, and sublease for the Commercial Space, if applicable and in accordance with Section 5.14, in the ordinary course of business, without the prior written approval of the City in its sole and absolute discretion. Tenant's failure to comply with its obligations under this Section will constitute a material breach of this Agreement.

## **9. TAXES**

**9.1.** Tenant agrees to pay, or cause to be paid, when due to the proper authority, any and all valid taxes, assessments and similar charges on the Premises which become effective after the Effective Date, including all taxes levied or assessed on the possession, use or occupancy, as distinguished from the ownership, of the Premises. Tenant will not permit any such taxes, charges or other assessments to become a defaulted lien on the Premises; provided, however, that in the event any such tax, assessment or similar charge is payable in installments, without any fee, interest, or penalty, Tenant may make, or cause to be made, payment in installments; and, provided further, that Tenant may contest the legal validity or the amount of any tax, assessment or similar charge, through such proceedings as Tenant considers necessary or appropriate, and Tenant may defer the payment thereof so long as the validity or amount thereof will be contested by Tenant in good faith and without expense to the City. In the event of any such contest, Tenant will protect, defend and indemnify the City against all loss, cost, expense or damage resulting there from, and should Tenant be unsuccessful in any such contest, Tenant will forthwith pay, discharge, or cause to be paid or discharged, such tax, assessment or other similar charge. The City will furnish such information as Tenant will reasonably request in connection with any such contest provided that such information is in City's possession, control or is otherwise available to the public, City hereby consents to and will reasonably cooperate with and assist Tenant in applying for and obtaining any applicable exemptions from taxes or assessments levied on the Premises or on Tenant's interest thereon.

## **10. UTILITIES**

**10.1** Tenant will procure water and sewer service from the City, and electricity, telephone, natural gas, trash collection services, and any other utility service from utility companies providing such services, and will pay all deposits, connection, installation, and use charges imposed in connection with such services as Project Expenses. In accordance with Administrative Code Chapter 99, as may be amended, HSH will coordinate with the San Francisco Public Utilities Commission ("SFPUC") to determine if it is feasible for the SFPUC to provide electricity service for the Premises. If the SFPUC determines, in its sole judgment and at any point during the Term of this Agreement, that it is feasible for the SFPUC to provide electricity service for the Premises, Tenant will purchase all electricity necessary for its operations at the Premises from the SFPUC, at the SFPUC's standard rates charged to third parties. The City will pay for any costs associated with converting to SFPUC-provided electricity service, if applicable. The SFPUC is the provider of electric services to City property, and the SFPUC's Interconnection Services Department will coordinate with Pacific Gas and Electric Company and others to implement this Section. Except as otherwise provided in this Agreement, the City has no responsibility or liability of any kind with respect to any utilities that may be on or about the Premises. Tenant has the sole responsibility to locate any utility facilities within the Premises and protect them from damage resulting from Tenant's use of the Premises.

## **11. LIENS AND ENCUMBRANCES**

**11.1.** No Encumbrances. Notwithstanding any other provision of this Agreement and subject to the prior written consent of the City, in its sole and absolute discretion, no mortgage, deed of trust, assignment of rents, fixture filing, security agreement, or similar security instrument, or other lien or encumbrance or assignment or pledge of an asset is permitted to be placed upon the Premises.

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

## **12. DEFAULT AND REMEDIES**

**12.1. Application of Remedies.** The provisions of this Article 12 will govern the Parties' remedies for breach of this Agreement.

**12.2. Notice and Cure Rights for Tenant.** The City will not exercise its remedies under this Agreement for a default by the Tenant unless and until (i) the City has given written notice of any such default, in accordance with the notice provisions herein, to Tenant, and (ii) such default has not been cured within sixty (60) days, or such longer period as may be set forth herein, following the giving of such notice or, if such default cannot be cured within such 60-day period, such longer period as is reasonably necessary to cure such default, provided that such cure has been commenced within such 60-day period and is being prosecuted diligently to completion.

**12.3. Breach by City.** If Tenant believes that City has materially breached this Agreement, Tenant will first notify the City in writing of the purported breach, giving the City sixty (60) days from receipt of such notice to cure such breach. In the event City does not then cure or, if the breach is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and thereafter diligently prosecute such cure to completion, then Tenant may either (i) terminate in writing this entire Agreement, or (ii) seek specific performance of this Agreement.

**12.4. Breach by Tenant.**

### **12.4.1. Default by Tenant.**

Subject to the notice and cure rights under Section 12.2, the following events each constitute a basis for the City to take action against Tenant (each, an "**Event of Default**"):

- (1) Tenant fails to comply with the permitted uses set forth in Article 5 hereof, or any other Applicable Legal Requirements;
- (2) Tenant voluntarily or involuntarily assigns, transfers or attempts to transfer or assign this Agreement or any rights in this Agreement, or in the Premises, except as permitted by this Agreement;
- (3) Tenant fails to pay real estate taxes or assessments on the Premises or any part thereof

when due, or places thereon any encumbrance or lien unauthorized by this Agreement, or suffers any levy or attachment to be made, or any material supplier's or mechanic's lien or any other unauthorized encumbrance or lien to attach, and such taxes or assessments have not been paid, or the encumbrance or lien removed or discharged; provided, however, that Tenant will have the right to contest any tax or assessment pursuant to this Agreement and, upon the posting of an adequate bond or other security, to contest any such lien or encumbrance. In the event of any such contest, Tenant will protect, indemnify, and hold City harmless against all losses and damages, including reasonable attorneys' fees and costs resulting therefrom;

- (4) Tenant (i) is adjudicated bankrupt or insolvent or made a transfer in defraud of creditors, (ii) makes an assignment for the benefit of creditors, or (iii) brings or has brought against Tenant any action or proceeding of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act and, in the event such proceedings are involuntary, Tenant is not dismissed from the same within sixty (60) days thereafter; or, a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within sixty (60) days;
- (5) Tenant breaches any other material provision of this Agreement;
- (6) Tenant breaches any material provision of the Rehab Funding Agreement (if applicable) or any other agreement between City and Tenant relating to the Premises; or
- (7) Tenant fails to pay any portion of rent or other payments when due in accordance with the terms and provisions of this Agreement.

12.4.2. Notification and City Remedies. Upon the occurrence of an Event of Default, and prior to exercising any remedies, City will notify Tenant in writing at the address listed in Article 24 hereof of the Tenant's purported breach, failure, or act, subject to the cure rights in Section 12.2. Upon the expiration of the applicable notice and cure period described in Section 12.2, City will have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement. In addition, where applicable, City will have the right (but not obligation) to cure (or cause to be cured) on behalf of Tenant any Event of Default; Tenant will pay to City on demand all reasonable, costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City will have the right to offset from any amounts due to Tenant under this Agreement or any other agreement between City and Tenant: (i) all damages, losses, reasonable costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Tenant pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City. This Section 12.4.2 will survive termination of this Agreement.

12.4.3. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy will not preclude or in any way be deemed

to waive any other remedy. Nothing in this Agreement will constitute a waiver or limitation of any rights that City may have under applicable law.

### **13. DAMAGE AND DESTRUCTION**

**13.1.** Notification to City. If the Premises or any part thereof are damaged or destroyed by fire or other casualty, Tenant will notify HSH of such damage or destruction within twenty-four (24) hours of the casualty. Tenant will also comply with the Disaster and Emergency Response Plan, as approved by HSH in accordance with Section 5.13 hereof.

**13.2.** Insured Casualty. If the Premises or any part thereof are damaged or destroyed by any cause that is covered by any policy of insurance required to be maintained by Tenant under this Agreement, Tenant will promptly report the claim to the applicable insurance carrier and thereafter apply any insurance proceeds to promptly commence and diligently complete the restoration of the Premises as nearly as possible to the condition thereof before such damage or destruction. In order to avoid the suspension of necessary services to the Premises, City may, in its sole discretion, advance Annual Operating Subsidy, including but not limited to Project Reserves, to Tenant to ensure timely repairs; provided, however, that Tenant will reimburse City from any insurance proceeds actually received by Tenant. Tenant will provide regular updates to City on the status of such restoration. Tenant shall have no obligation to utilize any other funds or assets of the Tenant to restore the Premises, except Tenant shall have sole responsibility for funding any restoration solely caused or exacerbated by its negligence, misconduct, or breach of any term of this Agreement. Tenant shall use commercially reasonable efforts to obtain the maximum amount of insurance proceeds, or other payment from any insurance provider; provided, however, Tenant will notify the City promptly and will not consent to any settlement or adjustment of an insurance award without the City's written approval, which approval will not be unreasonably withheld or delayed.

**13.3.** Uninsured Casualty. If 1) the Premises or any part thereof are damaged or destroyed by any cause that is not wholly or partially covered by any policy of insurance required to be maintained by Tenant under this Agreement, 2) such damage or destruction is not solely attributable to, or exacerbated by, any act or omission of Tenant, its officers, agents, Invitees (other than Residents) or employees, and 3) Tenant's obligations under this Agreement could not have prevented the damage (subject to the standard of care set forth in Section 5.1), Tenant may request adjustments to the Annual Operating Budget, including but not limited to use of Project Reserves, in accordance with Exhibit D hereof, to pay for all of the reasonable repair costs and expenses, which City may approve in its sole discretion and which may be subject to Board of Supervisors approval. Upon receipt of such funds, Tenant will promptly commence and diligently complete the restoration of the Premises as nearly as possible to the condition thereof before such damage or destruction. Tenant will provide regular updates to City on the status of such restoration. The Parties agree and acknowledge that nothing in this Section shall be deemed to require the Tenant to fund any repair work that is not paid for by insurance proceeds, except to the extent such damage or destruction is solely attributable to, or exacerbated by, any act or omission of Tenant, its officers, agents, Invitees (other than Residents) or employees, Tenant's obligations under this Agreement could have prevented the damage (subject to the standard of care set forth in Section 5.1), and/or such damage or destruction was caused by Tenant's negligence, misconduct, or material breach of any term of this Agreement.

**13.4.** Unavailable Funds. If insurance proceeds or other funds to cover the reasonable repair costs of such damage or destruction cannot be identified within ninety (90) days after the date of such casualty, unless extended by City and Tenant, City or Tenant will have the option to terminate this Agreement as of a date specified in a written notice to the other Party, which date

will be not less than ninety (90) days after notice is given by City or Tenant. In the event of termination of this Agreement, pursuant to this Section, Tenant will pay rent and other amounts due hereunder up to the date of termination, City will continue to pay for all necessary and reasonable Project Expenses as detailed in the Annual Operating Budget until such termination, and termination will be in accordance with Section 3.5 hereof. The termination right set forth in this Section is in addition to, and shall not be limited by, any other termination right set forth elsewhere in this Agreement, including, but not limited to Section 3.2.

**13.5. Casualty Caused by Tenant.** Notwithstanding anything to the contrary in this Agreement, Tenant will be responsible for its proportionate share of the costs of repairing such damage or destruction to the Premises in the event the damage or destruction is attributable to any act or omission of Tenant, its officers, agents, Invitees (other than Residents), or employees, in which event Tenant will indemnify City in accordance with Article 14 hereof and City may opt to immediately terminate this Agreement and thereafter seek all available remedies at law and/or as provided in this Agreement, at no cost to City; provided, however, Tenant shall not be liable for any damage or destruction caused by any acts of a Resident, except to the extent such damage or destruction is solely attributable to, or exacerbated by, any act or omission of Tenant, its officers, agents, Invitees (other than Residents) or employees, Tenant's obligations under this Agreement could have prevented the damage (subject to the standard of care set forth in Section 5.1), and/or such damage or destruction was caused by Tenant's negligence, misconduct, or material breach of any term of this Agreement.

**13.6. Restoration.** Tenant and City may, at City's discretion, collaborate to develop plans to restore the Premises as nearly as possible to the condition thereof immediately before such casualty (taking into account reasonable wear and tear on or about the Premises and the required use of the Premises). Upon City's request, Tenant shall have an affirmative obligation to promptly provide City with restoration plans and proposed costs, and the Tenant's reasonable costs and expenses to prepare such plans shall be deemed to be Project Expenses. Tenant will also consult with City regarding any necessary temporary relocation created by such casualty or restoration, and such reasonable costs and expenses shall be deemed to be Project Expenses.

**13.7. Tenant's Personal Property.** In no event will City be responsible for any damage to Tenant's Personal Property.

**13.8. Waiver.** City and Tenant intend that the provisions of this Section govern fully in the event of any damage or destruction and accordingly, City and Tenant each hereby waive the provisions of Sections 1932(2), 1933(4), 1941 and 1942 of the California Civil Code, as such sections may from time to time be amended, replaced, or restated.

**13.9.** This Article will survive termination of this Agreement. Tenant's failure to comply with its obligations under this Article will constitute a material breach of this Agreement.

#### **14. DAMAGE; HAZARDOUS MATERIALS; INDEMNIFICATION**

**14.1. Damage to Person or Property - General Indemnification.** City will not in any event whatsoever be liable for any injury or damage to any person happening on or about the Site, for any injury or damage to the Premises, or to any property of Tenant, or to any property of any other person, entity or association on or about the Site, unless arising from or related to: (i) physical or environmental condition of the Premises existing prior to the Effective Date, (ii) the City's failure to fund reasonable Project Expenses in accordance with the Annual Operating Budget, unless solely caused or exacerbated by Tenant's negligence or default under this Agreement; or (iii) any gross negligence or willful misconduct of the City or any of its

commissioners, officers, agents or employees. Tenant will immediately defend, hold harmless and indemnify the City and its respective commissioners, officers, agents, and employees, of and from all losses directly or indirectly arising from its tenancy, its use of the Site, including adjoining sidewalks and streets, and any of its operations activities thereon or connected thereto; provided, however, that this Article 14 will not be deemed or construed to and will not impose an obligation to indemnify and save harmless the City or any of its commissioners, officers, agents or employees from any Losses arising from or in any way related to or connected with: (i) physical or environmental condition of the Premises existing prior to the Effective Date; or (ii) gross negligence or willful misconduct of the City or any of its commissioners, officers, agents, or employees. Upon termination of this Agreement, Tenant will indemnify City against and hold City harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees) to the extent arising out of Tenant's negligence or breach of Tenant's obligations under this Agreement prior to the date of termination of this Agreement; provided that nothing in this Section shall obligate Tenant to indemnify City with respect to (i) the physical condition of the Premises as of the Effective Date, including, but not limited to any latent defect existing on or about the Premises as of the Effective Date, or (ii) any claim by any Resident arising after the termination of this Agreement, except to the extent arising out of a breach of Tenant's obligations under the Residential Agreements prior to the termination of this Agreement.

#### **14.2. Hazardous Materials.**

- 14.2.1. Tenant covenants and agrees that it will not, and will take commercially reasonable efforts to ensure that Tenant's Agents and Invitees do not, cause or permit any Hazardous Substance to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or transported to or from the Premises in violation of Environmental Laws (as defined herein) without the prior written approval of the City.
- 14.2.2. Tenant will not, and Tenant will use commercially reasonable efforts to ensure that Tenant's Agents and Invitees do not, cause any Release (as defined herein) of Hazardous Substances in, on, under or about the Premises.
- 14.2.3. Tenant will indemnify, defend, and hold the City, and its commissioners, officers, agents and employees (individually, an "**Indemnified Party**" and collectively, the "**Indemnified Parties**") harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to Tenant's violation of any Environmental Law, or any Release, threatened Release and any condition or Hazardous Substance related nuisance on, under or from the Premises, except to the extent it arises from the existing condition of the Premises as of the Effective Date or any gross negligence or willful misconduct of the City or any of its commissioners, officers, agents or employees.
- 14.2.4. For purposes of this Section, the following definitions will apply:
  - 14.2.4.1. "**Hazardous Substance**" will have the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Agreement, 42 U.S.C. 9601(14), and in addition will include, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code Section 25316 and Section 2528 l(d), all chemicals listed pursuant to the California Health & Safety Code 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition will not include substances which

occur naturally on the Site or that which are reasonably and customarily used in the operation and maintenance of a multifamily housing development.

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

14.2.4.3. “**Release**” will mean any spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substance.

**14.3.** This Article will survive termination of this Agreement. Tenant’s failure to comply with its obligations under this Article will constitute a material breach of this Agreement.

## **15. INSURANCE**

15.1 During the Term, Tenant will procure and maintain insurance against claims for injuries to persons or damage to property that may arise from or in connection with the performance of any work by the Tenant, its agents, representatives, employees or subcontractors and the Tenant’s use and occupancy of the Premises.

15.2 Minimum Scope of Insurance. Without in any way limiting Tenant’s liability pursuant to this Agreement, Tenant must maintain in force, during the Term, and cause its contractors, subcontractors, and/or agents, as appropriate for each, insurance in the following amounts and coverages, as may be amended by City from time to time:

(a) Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations. Policy must include Abuse and Molestation coverage.

(b) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, “Combined Single Limit” for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(c) Workers’ Compensation, in statutory amounts, with Employers’ Liability Limits not less than \$1,000,000 each accident, injury, or illness.

(d) Professional Liability Insurance, applicable to Tenant’s profession, with limits not less than \$2,000,000 for each claim with respect to negligent acts, errors or omissions in connection with this Agreement.

(e) Reserved.

(f) Reserved.

(g) Pollution Liability Insurance applicable to Tenant’s activities and responsibilities under this Agreement with limits not less than \$2,000,000 each occurrence combined single limit, including coverage for on-site third party claims for bodily injury and property damage.

(h) A crime policy or fidelity bond covering Tenant's officers and employees against dishonesty with respect to the funds advanced by the City of no less than 25% of the Annual Operating Budget each loss, with any deductible not to exceed \$5,000 each loss, including the City as additional obligee or loss payee.

(i) Boiler and machinery insurance, comprehensive form, covering damage to, loss or destruction of machinery and equipment located on the Site that is used by Tenant for heating, ventilating, air-conditioning, power generation, and similar purposes, in an amount not less than one hundred percent (100%) of the actual then-current replacement value of such machinery and equipment.

(j) Property insurance, excluding earthquake, in the amount no less than One Hundred Percent (100%) of replacement value of all improvements and City property in the care, custody, and control of the Tenant or its contractor.

15.3 Additional Insured Endorsements

(a) The Commercial General Liability policy must be endorsed to name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(b) The Commercial Automobile Liability Insurance policy must be endorsed to name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(c) The Commercial Automobile Liability Insurance policy must be endorsed to include (i) Auto Pollution Additional Insured Endorsement naming as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees; and (ii) if applicable, Form MCS-90 for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980.

15.4 Waiver of Subrogation Endorsements. The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Tenant, its employees, agents and subcontractors.

15.5 Primary Insurance

(a) The Commercial General Liability policy shall provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom claim is made or suit is brought.

(b) The Commercial Automobile Liability Insurance policy shall provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom claim is made or suit is brought.

(c) The Pollution Liability Insurance policy shall provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with

respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom claim is made or suit is brought.

15.6 Commercial Space. Tenant will require that all nonresidential tenants' liability insurance policies include Tenant and the City as additional insureds, as their respective interests may appear. Throughout the term of any lease of Commercial Space, Tenant will require commercial tenants to maintain insurance as follows:

- (a) to the extent the tenant has "employees" as defined in the California Labor Code, workers' compensation insurance with employer's liability limits not less than One Million Dollars (\$1,000,000) each accident;
- (b) commercial general liability insurance, with limits not less than One Million Dollars (\$1,000,000) each occurrence, combined single limit for bodily injury and property damage, including coverage for contractual liability; personal injury; advertisers' liability; including coverage for loss of income due to an insured peril for twelve (12) months; owners' and contractors' protective; broadform property damage; explosion, collapse and underground (XCU); products and completed operations coverage; if applicable to commercial uses, policy must not exclude Abuse & Molestation.
- (c) business automobile liability insurance, with limits not less than One Million Dollars (\$1,000,000) each occurrence, combined single limit for bodily injury and property damage, including owned, hired and non-owned auto coverage, as applicable;
- (d) with respect to any tenant who has (or is required by Law to have) a liquor license and who is selling or distributing alcoholic beverages and/or food products on the leased premises, to maintain liquor and/or food products liability coverage with limits not less than One Million Dollars (\$1,000,000), as appropriate;
- (e) Property insurance, including vandalism and malicious mischief, in the amount of 100% of the full replacement cost thereof, covering all furnishings, fixtures, equipment, leasehold improvements, alterations and property of every kind of the tenant and of persons claiming through the tenant; and including any plate glass or glass doors on the commercial space. During any period of construction or rehabilitation, Tenant shall also provide "Special Form" (All Risk) Builder's Risk Insurance equal to the full replacement cost on a completed value basis, naming City as loss payee.

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

#### 15.8 Other Insurance Requirements

Any insurance required by this Article 15 must also meet the following requirements:

- (a) Thirty (30) days' advance written notice shall be provided to the City of cancellation, intended non-renewal, or reduction in coverages, except for non-payment

for which no less than ten (10) days' notice shall be provided to City. Notices shall be sent to the City address set forth in Section 11.1 entitled "Notices to the Parties."

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

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

(d) Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

(e) Before the Effective Date, Tenant shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Tenant's liability hereunder.

(f) If Tenant will use any subcontractor(s), Tenant shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Tenant as additional insureds. All coverage for such subcontractor(s) will be subject to all of the requirements stated herein unless otherwise approved by the City.

## **16. COMPLIANCE WITH SITE-RELATED AND LEGAL REQUIREMENTS**

**16.1. Compliance with Legal Requirements.** Tenant will comply with all Applicable Legal Requirements, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, with the requirements of any board of fire underwriters or other similar body now or hereafter constituted, with any direction or occupancy certificate issued pursuant to any law by any public officer or officers, with respect to the condition, use or occupancy of the Premises. In the event Tenant contests any Applicable Legal Requirement, Tenant will not be obligated to comply therewith to the extent that the application of the contested law, statute, ordinance, rule, regulation or requirement is stayed by the operation of law or administrative or judicial order. Tenant will Indemnify City for any Loss relating to any such contest by Tenant.

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

commissions that have jurisdiction over the Premises. By entering into this Agreement, the City is in no way modifying or limiting the obligations of Tenant to develop the Premises in accordance with all Applicable Legal Requirements and as provided in this Agreement.

## **17. ENTRY**

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

- 17.1.1.1. to determine whether the Premises is in good condition and to inspect the Premises;
- 17.1.1.2. to determine whether Tenant is in compliance with its Agreement obligations and to cure or attempt to cure any Tenant default;
- 17.1.1.3. to serve, post or keep posted any notices required or allowed under any of the provisions of this Agreement; and
- 17.1.1.4. to do any maintenance or repairs to the Premises that the City has the right or the obligation, if any, to perform hereunder.

**17.2.** In the event of any emergency, as reasonably determined by the City, at its sole option and without notice, the City may enter the Premises and alter or remove any Tenant's personal property on or about the Premises as reasonably necessary, given the nature of the emergency. The City will have the right to use any and all means the City considers appropriate to gain access to any portion of the Premises in an emergency, in which case, the City will not be responsible for the replacement of any property, and no emergency entry may be deemed to be a forcible or unlawful entry onto or a detainer of the Premises, or an eviction, actual or constructive, of Tenant from the Premises or any portion thereof.

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

**17.4.** Tenant will not be entitled to any abatement in rent or other amounts due under this Agreement if the City exercises any rights reserved in this Section, subject to subsection 17.3 above.

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

## **18. CONDEMNATION AND TAKINGS**

**18.1.** Parties' Rights and Obligations to be Governed by Agreement. If, during the Term, there is any condemnation of all or any part of the Premises is taken by condemnation, the rights and obligations of the parties will be determined pursuant to this Article 18.

**18.2.** Total Taking. If the Premises is totally taken by condemnation, this Agreement will terminate on the date the condemnor has the right to possession of the Premises.

**18.3. Partial Taking.** If any portion of the Premises is taken by condemnation, this Agreement will remain in effect, except that Tenant may elect to terminate this Agreement if, in Tenant's reasonable judgment, the remaining portion of the Premises is rendered unsuitable for Tenant's continued use of the Premises. If Tenant elects to terminate this Agreement, Tenant must exercise its right to terminate pursuant to this paragraph by giving notice to the City within sixty (60) days after the City notifies Tenant of the nature and the extent of the taking. If Tenant elects to terminate this Agreement as provided in this Section 18.3, Tenant also will notify the City of the date of termination, which date will not be earlier than ninety (90) days nor later than six (6) months after Tenant has notified the City of its election to terminate; except that this Agreement will terminate as to the portions of the Premises taken by the condemnor on the date the condemnor takes possession of that portion of the Premises. If Tenant does not terminate this Agreement within such sixty (60) day notice period, this Agreement will continue in full force and effect.

**18.4. Award and Distribution.** Any compensation awarded, paid or received on a total or partial condemnation of the Premises or threat of condemnation of the Premises will belong to and be distributed in the following order:

- 18.4.1. First, to pay the balance due on any outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals and residuals, to the extent provided therein; and
- 18.4.2. Second, to the City.

## **19. SURRENDER**

Upon expiration or sooner termination of this Agreement, Tenant will surrender the Premises to the City in good order and condition, subject to normal wear and tear (taking into consideration the required use of the Premises), and, at the City's request, will execute, acknowledge, and deliver to the City a good and sufficient quitclaim deed with respect to any interest of Tenant in the Premises.

Normal wear and tear will not include any damage or deterioration that would have been prevented had Tenant properly performed its obligations under this Agreement (taking into consideration the required use of the Premises). The Premises will be surrendered free and clear of all liens and encumbrances arising out of Tenant's acts other than liens and encumbrances approved by the City and rights of Residents in units occupied at the end of the Term. Immediately before the expiration or termination of this Agreement, Tenant will remove all of Tenant's Personal Property as provided in this Agreement and repair any damage resulting from such removal. Tenant's obligations under this Section will survive the expiration or termination of this Agreement. Any items of Tenant's Personal Property remaining in the Premises after the expiration or termination of this Agreement may, at the City's option, be deemed abandoned and disposed of in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by Applicable Legal Requirements. The City agrees to assume all Resident leases and occupancy agreements at the end of the Term, entered into by Tenant in conformity with this Agreement. In no event will Tenant be required to evict a Resident who has executed a Residential Agreement in conformity with this Agreement at the end of the Term.

## **20. EQUAL OPPORTUNITY**

In the selection of all contractors and professional consultants for any work on the Premises, Tenant will comply with the requirements of Chapter 14B of the San Francisco Administrative Code ("LBE Ordinance") according to the procedures established by the City's Contract Monitoring Division. If federal funds are used by City or Tenant in connection with the Premises, the Premises will be subject to the requirements of Section 3 of the Housing and Community Development Act of 1968 and of the San Francisco Section 3 program as required. Federal Section 3 requirements state that contracts and opportunities for job training and employment be given, to the greatest extent feasible, to local low-income residents. Local residents for the purposes of this Agreement are San Francisco residents. In

addition, any work on the Premises will be required to comply with hiring requirements as incorporated into the local Section 3 program and in conjunction with the City's low-income hiring requirements pursuant to San Francisco's First Source Hiring Ordinance (San Francisco Administrative Code Chapter 83).

## **21. NO PERSONAL LIABILITY**

No commissioner, official, or employee of the City will be personally liable to Tenant or any successor in interest in the event of any default or breach by the City or for any amount which may become due to Tenant or its successors or on any obligations under the terms of this Agreement. No commissioner, official, or employee of the Tenant will be personally liable to the City or any successor in interest in the event of any default or breach by the Tenant or for any amount which may become due to City or its successors or on any obligations under the terms of this Agreement, except in the event of Tenant's negligence or misconduct or Tenant's default under this Agreement.

## **22. WAIVER**

The waiver by the City or Tenant of any term, covenant, agreement or condition herein contained will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement or condition herein contained, nor will any custom or practice which may grow up between the parties in the administration of the terms hereof be construed to waive or to lessen the right of the City or Tenant to insist upon the performance by the other in strict accordance with the said terms. The subsequent acceptance of rent or any other sum of money hereunder by the City will not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, agreement or condition of this Agreement, other than the failure of Tenant to pay the particular rent or other sum so accepted, regardless of the City's knowledge of such preceding breach at the time of acceptance of such rent or other sum. Any waiver must be in writing and signed by the party that is waiving its rights under this Agreement. Any City consent under this Agreement will not relieve Tenant of any obligation to secure City's consent in any other or future instance as required by this Agreement.

## **23. RECORDS**

Upon reasonable notice during normal business hours, and as often as the City may deem necessary, there will be made available to the City and its authorized representatives for examination all records, reports, data and information made or kept by Tenant regarding its activities or operations on the Premises. To the extent that it is permitted by law to do so, the City will respect the confidentiality requirements of Tenant in regard to the lists furnished by Tenant pursuant to this Agreement, of the names of occupants of the Premises.

## **24. NOTICES AND CONSENTS**

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

if to Tenant at:

The Tides Center  
1012 Torney Ave.  
San Francisco, CA 94129  
Attn: Director, Legal

with a copy to:

Delivering Innovation in Supportive Housing (DISH)  
1119 Market Street, 2nd Floor  
San Francisco, CA 94102  
Attn: Executive Director

if to City at:

Department of Homelessness and Supportive Housing  
440 Turk Street  
San Francisco, CA 94102  
Attn: Administration & Finance Division

with a copy to:

Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682  
Attn: RE/Finance  
Fax No.: (415) 554-4755

or to such other address with respect to either party as that party may from time to time designate by notice to the other given pursuant to the provisions of this Article 24. Any notice given pursuant to this Article 24 will be effective on the date of delivery or the date delivery is refused as shown on the delivery receipt.

## **25. COMPLETE AGREEMENT**

There are no oral agreements between Tenant and the City affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings between Tenant and the City with respect to the Premises, including but not limited to the Agreement between Tenant and City dated as of March 15, 2022, which the parties agree and acknowledge is hereby terminated pursuant to this reference as of the Effective Date, and is of no further force or effect. The parties intend that this Agreement constitutes the complete and exclusive statement of its terms and no extrinsic evidence whatsoever (including prior drafts and changes) may be introduced in any judicial, administrative, or other legal proceeding involving this Agreement. Tenant acknowledges that neither City nor City's Agents have made any representations or warranties with respect to the Premises or this Agreement except as expressly set forth in this Agreement.

## **26. HEADINGS**

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

## **27. SUCCESSORS AND ASSIGNS**

This Agreement will be binding upon and inure to the benefit of the successors and assigns of the City and Tenant and where the term "Tenant" or "City" is used in this Agreement, it will mean and include their respective successors and assigns; provided, however, that the City will have no obligation under this Agreement to, nor will any benefit of this Agreement accrue to, any unapproved successor or assign of Tenant where City approval of a successor or assign is required by this Agreement. At such time as City sells or transfers its interests in the Premises to any third party, City may elect to terminate or assign this Agreement to such third party, provided that if City elects to assign this Agreement to such third party, City will require such third party to assume all of City's

obligations hereunder arising on and after the transfer in writing for the benefit of Tenant and its successors and assigns.

## **28. TIME**

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

## **29. PARTIAL INVALIDITY**

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

## **30. APPLICABLE LAW; NO THIRD PARTY BENEFICIARY**

This Agreement will be governed by and construed pursuant to the laws of the State of California. This Agreement is entered into solely among, between, and for the benefit of, and may be enforced only by, the Parties hereto and does not create rights in any other third party.

## **31. SEVERABILITY**

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, 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, will not be affected thereby, and each other provision of this Agreement will be valid and be enforceable to the fullest extent permitted by Applicable Legal Requirements.

## **32. EXECUTION IN COUNTERPARTS**

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

## **33. AUTHORITY**

Tenant hereby represents and warrants that it is a California nonprofit public benefit corporation and has full rights, power and authority to enter into and perform its obligations under this Agreement.

## **34. PREVAILING WAGE AND WORKING CONDITIONS**

Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.61. Tenant will require its Contractors and Subcontractors performing (i) labor in connection with a “public work” as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, at the Premises to (1) pay workers performing such work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions, and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, “**Prevailing Wage Requirements**”). Tenant will cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

Tenant will include, and will require its subtenants, and Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract must name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Tenant's failure to comply with its obligations under this Section will constitute a material breach of this Agreement. A Contractor's or Subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party. For the current Prevailing Rate of Wages, contact the City's Office of Labor Standards Enforcement.

Tenant will also competitively procure and enter into any necessary professional services contracts in connection with Tenant's maintenance and repair work under this Agreement. Such procurement shall comply with all applicable laws.

## **35. CITY PROVISIONS**

### **35.1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation**

This Agreement is subject to the budget and fiscal provisions of the City's Charter. City shall have no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements or for other City expenditures. No City funds shall be available under this Agreement until prior written authorization certified by the Controller. The amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. Tenant acknowledges that City's obligation to pay Annual Operating Subsidy and any other funds under this Agreement is expressly conditioned on the appropriation of sufficient funds to HSH, which appropriation is subject to HSH's annual operating budget. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Tenant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. This Section controls against any and all other provisions of this Agreement; provided, however, nothing in this Section shall be deemed to waive, limit, or impair Tenant's right to terminate this Agreement as set forth elsewhere in this Agreement.

### **35.2. Public Transit Information**

At its sole expense, Tenant will establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including the distribution of written materials to personnel explaining the convenience and availability of public transportation facilities adjacent or near the Building and encouraging use of them.

### **35.3. Taxes, Assessments, Licenses, Permit Fees, and Liens**

35.3.1. Tenant recognizes and understands that this Agreement may create a possessory interest subject to property taxation and Tenant may be subject to the payment of property taxes levied on its possessory interest. In addition, if the Term, including any extension options, is thirty-five (35) years or more, then Tenant will be obligated to pay real property transfer tax upon execution of the Lease.

35.3.2. Tenant will pay to the proper authority on or before when due all taxes and assessments of every kind, including, but not limited to, possessory interest taxes lawfully assessed on the

leasehold interest created by this Agreement or any subleasehold interest in the Premises, real property transfer taxes, real and personal property taxes, general and special assessments, and all license fees, permit fees, and all other governmental charges of any kind or nature whatsoever, and to pay all other taxes, excises, licenses, permit charges, and assessments based on Tenant's use of the Premises or any transfer of a leasehold interest or subleasehold interest in the Premises (including, but not limited to, any transfer of the leasehold interest in the Premises pursuant to this Agreement) and imposed by Legal Requirements, whether in effect at the time this Agreement is entered into or that become later effective. Without limiting the foregoing, Tenant will pay all real property transfer taxes imposed on any transfer of a leasehold interest or subleasehold interest in the Premises (including but not limited to the transfer of the Premises pursuant to this Agreement). Tenant further recognizes and agrees that its leasehold interest may be subject to the payment of special taxes, including without limitation a levy of special taxes to finance energy efficiency, water conservation, water pollution control and similar improvements under the Special Tax Financing Law in Chapter 43 Article X of the Administrative Code.

- 35.3.3. Tenant will not allow or suffer a lien for any taxes, assessments, or other charges to be imposed on the Premises or on any equipment or property located in the Premises without promptly discharging the lien, provided that Tenant, if it desires, may have reasonable opportunity to contest the legal validity or the amount of any tax, assessment, or similar charge so long as the tax, assessment, or charge does not become a defaulted lien. In the event of any disputed tax, assessment, or similar charge, Tenant will Indemnify City, and their Agents from and against all resulting Claims.
- 35.3.4. San Francisco Administrative Code Sections 23.38 and 23.39 require that certain information relating to the creation, renewal, extension, assignment, sublease, or other transfer of this Agreement be provided to the County Assessor within sixty (60) days after the transaction. Accordingly, Tenant must provide a copy of this Agreement, and any renewals, extensions, Assignment documents, Sublease documents, or any other transfers of the Premises or the Lease to the County Assessor not later than sixty (60) days after the full execution of the foregoing, and any failure of Tenant to timely provide a copy of this Agreement, and any renewals, extensions, Assignment document, Sublease documents, or any other transfers of the Premises or the Lease to the County Assessor will be a default under this Agreement. Tenant will also timely provide any information that City may request to ensure compliance with this or any other reporting requirement.

#### **35.4. Non-Discrimination in City Contracts and Benefits Ordinance**

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

**(b) Subleases and Other Subcontracts.** Tenant will include in all Subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to the Subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Tenant will incorporate by

reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and require all subtenants and other subcontractors to comply with those provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Agreement.

**(c) Non-Discrimination in Benefits.** Tenant does not as of the date of this Agreement and will not during the Term, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for City elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of the employees, where the domestic partnership has been registered with a governmental entity under the Legal Requirements authorizing that registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

**(d) CMD Form.** As a condition to this Agreement, Tenant will execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division. Tenant represents that before execution of this Agreement, **(i)** Tenant executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and **(ii)** the CMD approved the form.

**(e) Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth in this Agreement. Tenant will comply fully with and be bound by all of the provisions that apply to this Agreement under those Chapters of the Administrative Code, including the remedies provided in those Chapters. Without limiting the foregoing, Tenant understands that under Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which the person was discriminated against in violation of the provisions of this Agreement may be assessed against Tenant and/or deducted from any payments due Tenant.

#### **35.4. No Relocation Assistance; Release of Claims**

Tenant acknowledges that it will not be a displaced person at the time this Agreement is terminated or expires by its own terms, and Tenant fully RELEASES AND DISCHARGES forever any and all Claims against, and covenants not to sue, City, its departments, commissions, officers, directors, and employees, and all persons acting by, through or under each of them, under any Legal Requirements, including any and all claims for relocation benefits or assistance from City under federal and state relocation assistance Legal Requirements (including California Government Code Section 7260 et seq.), except as otherwise specifically provided in this Agreement with respect to a Taking/Condemnation.

#### **35.5. MacBride Principles—Northern Ireland**

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

#### **35.6. Tropical Hardwood and Virgin Redwood Ban; Preservative-Treated Wood Containing Arsenic**

City urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment

Code, Tenant will not provide any items to the construction of the Premises or the Alterations, or otherwise in the performance of this Agreement, that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. If Tenant fails to comply with any of the provisions of Chapter 8 of the San Francisco Environment Code, Tenant will be liable for liquidated damages for each violation in any amount equal to Tenant's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment.

### **35.7. Restrictions on the Use of Pesticides**

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

(g) If Tenant or Tenant's contractor would apply pesticides to outdoor areas at the Premises, Tenant will first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("**CDPR**") and the pesticide application will be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, <http://sfenvironment.org/ipm>.

### **35.8. Sunshine Ordinance**

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

### **35.10. Conflicts of Interest**

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

### **35.11. Charter Provisions**

This Agreement is governed by and subject to the provisions of City's Charter and Municipal Code.

### **35.12. Drug-Free Workplace**

Tenant acknowledges that under the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession, or use of a controlled substance under federal Legal Requirements is prohibited on City premises. Tenant will advise the City immediately of any violation. Any violation of this prohibition by Tenant, its Agents, or assigns will be a material breach of this Agreement.

### **35.13. Prohibition of Tobacco Sales and Advertising**

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

### **35.14. Prohibition of Alcoholic Beverage Advertising**

No advertising of alcoholic beverages is allowed on the Premises. For purposes of this Section, "alcoholic beverage" is defined as set forth in California Business and Professions Code Section 23004, and does not include cleaning solutions, medical supplies, and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product.

### **35.15. Requiring Health Benefits for Covered Employees**

**(a)** Unless exempt, Tenant will comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance ("HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as they may be amended from time to time. The provisions of Chapter 12Q are incorporated into this Agreement by reference and made a part of this Agreement as though fully set forth. The text of the HCAO is available on the web at <http://www.sfgov.org/olse/hcao>. Capitalized terms used in this Section and not defined in this Agreement have the meanings assigned to those terms in Chapter 12Q.

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

**(c)** Notwithstanding the above, if the Tenant is a small business as defined in Section 12Q.3(e) of the HCAO, it will have no obligation to comply with subsection (a) above.

**(d)** Tenant's failure to comply with the HCAO will constitute a material breach of this Agreement. City may notify Tenant if a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Tenant fails to cure the breach or, if the breach cannot reasonably be cured within the thirty (30) days period, and Tenant fails to commence efforts to cure within that period, or fails diligently to pursue the cure to completion, then City will have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies will be exercisable individually or in combination with any other rights or remedies available to City.

**(e)** Any Subcontract entered into by Tenant will require the Subcontractor to comply with the requirements of the HCAO and contain contractual obligations substantially the same as those set forth in this Section. Tenant will notify City's Purchasing Department when it enters into a Subcontract and

will certify to the Purchasing Department that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Tenant will be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, City may pursue the remedies set forth in this Section against Tenant based on the Subcontractor's failure to comply, provided that City has first provided Tenant with notice and an opportunity to cure the violation.

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

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

(h) Tenant will keep itself informed of the current requirements of the HCAO.

(i) Tenant will provide reports to City in accordance with any reporting standards promulgated by City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

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

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

(l) If Tenant is exempt from the HCAO when this Agreement is executed because its amount is less than Fifty Thousand Dollars (\$50,000), but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with City to reach Seventy-Five Thousand Dollars (\$75,000), then all the agreements will be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and the Contracting Department to be equal to or greater than Seventy-Five Thousand Dollars (\$75,000) in the fiscal year.

### **35.16. Notification of Prohibition on Contributions**

For the purposes of this Section, a "**City Contractor**" is a party that contracts with, or seeks to contract with, the City for the sale or leasing of any land or building to or from the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves. Through its execution of this Agreement, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits a City Contractor from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for that contract or twelve (12) months after the date that contract is approved. Tenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Tenant further acknowledges that (i) the prohibition on contributions applies to Tenant, each member of Tenant's board of directors, Tenant's chief executive officer, chief financial officer and chief operating officer, any person with an ownership interest of more than ten percent (10%) in Tenant, any subcontractor listed in the contract, and any committee that is sponsored or controlled by Tenant, and (ii) within thirty (30) days of the submission of a proposal for the contract, the City department seeking to enter into the contract must notify the Ethics Commission of the parties and any subcontractor to the contract. Additionally, Tenant certifies it has informed each of the

persons described in the preceding sentence of the prohibitions contained in Section 1.126 by the time it submitted a proposal for the contract to the City, and has provided the names of the persons required to be informed to the City department seeking to enter into that contract within thirty (30) days of submitting its contract proposal to the City department receiving that submittal, and acknowledges the City department receiving that submittal was required to notify the Ethics Commission of those persons.

### **35.17. Public Access to Meetings and Records.**

If Tenant receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Tenant will comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, Tenant agrees to open its meetings and records to the public in the manner set forth in Sections 12L.4 and 121.5 of the Administrative Code. Tenant further agrees to make good-faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 121.6 of the Administrative Code. Tenant acknowledges that its material failure to comply with any of the provisions of this paragraph will constitute a material breach of this Agreement. Tenant further acknowledges that such material breach of the Agreement will be grounds for City to terminate and/or not renew this Agreement, partially or in its entirety.

### **35.18 Resource Efficient City Buildings**

Tenant acknowledges that City has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction, and operation of buildings owned or leased by City. Tenant will comply with all applicable provisions of those code sections.

### **35.19. Food Service and Packaging Waste Reduction Ordinance**

Tenant will comply with and is bound by all of the applicable provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated into this Agreement by reference and made a part of this Agreement as though fully set forth. Accordingly, Tenant acknowledges that City contractors and lessees may not use Food Service Ware for Prepared Food in City Facilities and while performing under a City contract or lease (1) where the Food Service Ware is made, in whole or in part, from Polystyrene Foam, (2) where the Food Service Ware is not Compostable or Recyclable, or (3) where the Food Service Ware is Compostable and not Fluorinated Chemical Free. The capitalized terms (other than Tenant and City) in the previous sentence are defined in San Francisco Environment Code Section 1602.

### **35.20. San Francisco Packaged Water Ordinance**

Tenant will comply with San Francisco Environment Code Chapter 24 (“**Chapter 24**”). Tenant may not sell, provide, or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Agreement or on City property unless Tenant obtains a waiver from City’s Department of the Environment. If Tenant violates this requirement, City may exercise all remedies in this Agreement and the Director of City’s Department of the Environment may impose administrative fines as set forth in Chapter 24.

### **35.21. Criminal History in Hiring and Employment Decisions**

(a) Unless exempt, Tenant will comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions), as amended from time to time (“**Chapter 12T**”), which are incorporated into this Agreement as if fully set forth, with respect to applicants and employees of Tenant who would be or are performing work at the Premises.

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

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

(d) Tenant and subtenants may not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Tenant and subtenants may not require that disclosure or make any inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Tenant and subtenants will state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

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

(g) Tenant and subtenants understand and agree that on any failure to comply with the requirements of Chapter 12T, City will have the right to pursue any rights or remedies available under Chapter 12T or this Agreement, including a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant, or other person as to whom a violation occurred or continued, or termination of this Agreement in whole or in part.

(h) If Tenant has any questions about the applicability of Chapter 12T, it may contact City's Real Estate Division for additional information. City's Real Estate Division may consult with the Director of City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

### **35.22. Vending Machines; Nutritional Standards**

Tenant may not install or permit any vending machine on the Premises without the prior written consent of the HSH Director. Any permitted vending machine will comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code Section 4.9-1(c), as may be amended from time to time (the "**Nutritional Standards Requirements**"). Tenant will incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section will be a material breach of this Agreement. Without limiting Landlord's other rights and remedies under this Agreement, Landlord will have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements.

### **35.23. All-Gender Toilet Facilities**

If applicable, Tenant will comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of the Building where extensive renovations are made. An "all-gender toilet facility" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and "extensive renovations"

means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by Administrative Code Section 4.1-3. If Tenant has any question about applicability or compliance, Tenant should contact the HSH Director of Property for guidance.

#### **35.24. Tenant's Compliance with City Business and Tax Regulations Code**

Tenant acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to Tenant under this Agreement is withheld, then City will not be in breach or default under this Agreement, and the Treasurer and Tax Collector will authorize release of any payments withheld under this paragraph to Tenant, without interest, late fees, penalties, or other charges, upon Tenant coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

#### **35.25. Consideration of Salary History**

In addition to Tenant's obligations as an employer under San Francisco Police Code Article 33J, Tenant must comply with San Francisco Administrative Code Chapter 12K. For each employment application to Tenant for work of eight (8) or more hours per week at the Premises, Tenant must not consider the applicant's current or past salary (a "**Salary History**") in deciding whether to hire the applicant or what salary to offer the applicant unless the applicant voluntarily discloses that Salary History without prompting. In addition, Tenant must not (1) ask those applicants about their Salary History, (2) refuse to hire, or otherwise disfavor, injure, or retaliate against applicants that do not disclose their Salary History, or (3) disclose a current or former employee's Salary History without that employee's authorization unless it is required by law, publicly available, or subject to a collective bargaining agreement.

Tenant is subject to the posting, enforcement, and penalty provisions in Chapter 12K. Information about Chapter 12K is available on the web at <https://sfgov.org/olse/consideration-salary-history>.

#### **35.26. Contractor Vaccination Requirements.**

(1) Tenant acknowledges that it has read the requirements of the 38th Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency ("**Emergency Declaration**"), dated February 25, 2020, and the Contractor Vaccination Policy for City Contractors issued by the City Administrator ("**Contractor Vaccination Policy**"), as those documents may be amended from time to time. A copy of the Contractor Vaccination Policy can be found at: <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors>. Any undefined, initially-capitalized term used in this Section has the meaning given to that term in the Contractor Vaccination Policy.

(2) A Contract as defined in the Emergency Declaration is an agreement between the City and any other entity or individual and any subcontract under such agreement, where Covered Employees of the contractor or subcontractor work in-person with City employees at a facility owned, leased, or controlled by the City. A Contract includes such agreements currently in place or entered into during the term of the Emergency Declaration. A Contract does not include an agreement with a state or federal governmental entity or agreements that does not involve the City paying or receiving funds.

(3) Tenant has read the Contractor Vaccination Policy. In accordance with the Emergency Declaration, if this Agreement is (or becomes) a Contract as defined in the Contractor Vaccination Policy, Tenant agrees that:

(I) Tenant will ensure it complies with the requirements of the Contractor Vaccination Policy pertaining to Covered Employees, as they are defined under the Emergency

Declaration and the Contractor Vaccination Policy, and insure such Covered Employees are fully vaccinated for COVID-19 or obtain an exemption based on medical or religious grounds; and

(II) If Tenant grants Covered Employees an exemption based on medical or religious grounds, Tenant will promptly notify City by completing and submitting the Covered Employees Granted Exemptions Form (“**Exemptions Form**”), which can be found at <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors> (navigate to “Exemptions” to download the form).

### **36. AMENDMENTS**

Neither this Agreement nor any terms or provisions hereof may be changed, waived, discharged, or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge, or termination is sought. No waiver of any breach will affect or alter this Agreement, but each and every term, covenant, and condition of this Agreement will continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Any amendments or modifications to this Agreement, including, without limitation, amendments to or modifications to the exhibits to this Agreement, will be subject to the mutual written agreement of City and Tenant, and City's agreement may be made upon the sole approval of the City's HSH Director, or his or her designee; provided, however, material amendments, or modifications to this Agreement (a) changing the legal description of the Premises, (b) increasing the Term, (c) decreasing the rent, (d) changing the general use of the Premises from the use authorized under this Agreement, and (e) any other amendment or modification which materially increases the City's liabilities or financial obligations under this Agreement, will additionally require the approval of the City's Board of Supervisors.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, TENANT ACKNOWLEDGES AND AGREES THAT NO CITY OFFICER OR EMPLOYEE HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS HAS DULY ADOPTED A RESOLUTION APPROVING THIS AGREEMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY CITY OBLIGATIONS OR LIABILITIES UNDER THIS AGREEMENT ARE CONTINGENT ON ADOPTION OF A RESOLUTION, AND THIS AGREEMENT WILL BE NULL AND VOID IF CITY'S MAYOR AND THE BOARD OF SUPERVISORS DO NOT APPROVE THIS AGREEMENT, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF THIS AGREEMENT BY ANY CITY DEPARTMENT, COMMISSION, OR AGENCY WILL NOT BE DEEMED TO IMPLY THAT A RESOLUTION WILL BE ENACTED, AND NO APPROVAL WILL CREATE ANY BINDING CITY OBLIGATIONS.

[signatures follow]

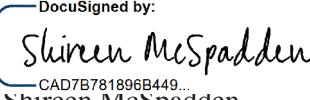
IN WITNESS WHEREOF, City and Tenant have executed this Agreement as of the date first written above.

**CITY:**

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

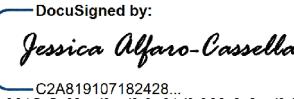
By:   
Andrico Q. Penick  
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Director of Property

Recommended by:

By:   
Shireen McSpadden  
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Shireen McSpadden  
Executive Director  
Department of Homelessness and Supportive Housing

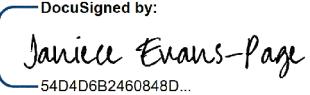
APPROVED AS TO FORM:

DAVID CHIU  
City Attorney

By:   
Jessica Alfaro-Cassella  
C2A819107182428...  
JESSICA ALFARO-CASSELLA  
Deputy City Attorney

**TENANT:**

THE TIDES CENTER, AS FISCAL SPONSOR FOR  
DELIVERING INNOVATION IN SUPPORTIVE  
HOUSING (DISH), a California nonprofit public benefit corporation

By:   
Janiece Evans-Page  
54D4D6B2460848D...  
Janiece Evans-Page  
Chief Executive Officer  
City Supplier 0000009453

## **EXHIBIT A**

### **Legal Description of the Site**

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

Beginning at a point of intersection of the Southwesterly line of 9th Street with the Southeasterly line of Mission Street, running thence Southwesterly along the Southeasterly line of Mission Street 113 feet 4 inches to the Northeasterly line of Washburn Street; thence at a right angle Southeasterly along the Northeasterly line of Washburn Street 81 feet 3 inches, thence at a right angle Northeasterly 113 feet and 4 inches to the Southeasterly line of 9th Street; and thence at a right angle Northwesterly along the Southwesterly line of 9th Street 81 feet and 3 inches to the Southeasterly line of Mission Street and the point of beginning.

Being a portion of Mission Block No. 3.

Assessors Lot/Block: Lot 043; Block 3509

## EXHIBIT B

### Assignment of Existing Resident Occupancy and Rental Agreements (Other Existing Residents)

This ASSIGNMENT (the “Assignment”) is made and entered into as of **February 17, 2023**, by and between CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“Assignor”) and THE TIDES CENTER, AS FISCAL SPONSOR FOR DELIVERING INNOVATION IN SUPPORTIVE HOUSING (DISH), a California nonprofit public benefit corporation (“Assignee”).

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, effective as of the Effective Date (as defined in the Lease and Property Management Agreement between Assignor and Assignee dated as of **February 17, 2023** (the “Agreement”)), Assignor hereby assigns and transfers to Assignee all of Assignor’s right, title, claim and interest in and under certain leases executed with respect to that certain real property commonly known as 1321 Mission Street, San Francisco, and more fully described in Exhibit A to the Agreement (the “Property”) as more fully described in Schedule 1 attached hereto (collectively, the “Leases”). Initially capitalized terms used but not defined in this Assignment have the meanings given to them in the Agreement.

#### ASSIGNOR AND ASSIGNEE FURTHER HEREBY AGREE AND COVENANT AS FOLLOWS:

1. Assignor represents and warrants that, as of the date of this Assignment, the attached Schedule 1 includes all of the Leases to which Assignor is a party affecting any of the Property. As of the date hereof, there are no assignments of or agreements to assign the Leases by Assignor to any other party; and (ii) Assignor has not received any written notice from any Existing Resident alleging any default or breach of a Lease by Assignor (or Assignor’s predecessor-in-interest) under a Lease, except to the extent Assignor has informed Assignee on or before the date hereof, as applicable.
2. Assignor hereby agrees to indemnify Assignee against and hold Assignee harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys’ fees) to the extent arising out of the breach of landlord’s obligations under the Leases prior to the Effective Date; provided that nothing in this Section 2 will obligate Assignor to indemnify Assignee with respect to the physical condition of the Property, which Assignee has agreed to accept in its “as is, where is” condition as of the Effective Date, or any matter for which Assignee has agreed to release Assignor as set forth in the Agreement. Nothing in this Section shall be deemed to waive, limit, or otherwise impair the Assignor’s duties and obligations set forth in the Agreement.
3. Effective as of the Effective Date, Assignee hereby assumes all of the landlord’s obligations under the Leases required to be performed on or subsequent to the Effective Date. Assignee hereby agrees to indemnify Assignor against and hold Assignor harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys’ fees) to the extent arising out of the breach of landlord’s obligations under the Leases on or after the Effective Date.
4. Any rental and other payments under the Leases will be prorated between the parties as provided in the Agreement.
5. This Assignment will be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.
6. This Assignment is governed by and will be construed in accordance with the laws of the State of California.

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

[signatures follow]

Assignor and Assignee have executed this Assignment as of the day and year first written above.

**ASSIGNOR:**

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

DocuSigned by:

By:

*Andrica Q. Penick* \_\_\_\_\_

3441150C0287459...

*Andrica Q. Penick*

Director of Property

Recommended by:

By:

*Shireen McSpadden* \_\_\_\_\_

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*Shireen McSpadden*

Executive Director

Department of Homelessness and Supportive Housing

APPROVED AS TO FORM:

DAVID CHIU,

City Att<sup>t</sup> DocuSigned by:

By:

*Jessica Alfaro-Cassella* \_\_\_\_\_

C2A819107182428...

*JESSICA ALFARO-CASSELLA*

Deputy City Attorney

[signatures continue]

**ASSIGNEE:**

THE TIDES CENTER, AS FISCAL SPONSOR  
FOR DELIVERING INNOVATION IN SUPPORTIVE  
HOUSING (DISH), a California nonprofit public benefit corporation

DocuSigned by:  
By:  Janiece Evans-Page  
54D4D6B246084BD...  
Janiece Evans-Page  
Chief Executive Officer

**SCHEDULE 1**

**LEASES**

Unit Number	Tenant Name
202	
203	
205	
206	
207	
208	
209	
211	
212	
216	
303	
305	
306	
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914	
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916	
1001	
1003	
1006	
1007	
1008	
1009	
1011	
1012	
1014	
1103	
1105	
1107	
1112	
1115	
1116	

## **EXHIBIT C**

### **PSH Resident Selection Plan**

See attached.

# 1321 Mission RESIDENT SELECTION PLAN

## **I. INTRODUCTION**

The purpose of the Resident Selection Plan is to establish fair and equitable guidelines for selecting applicants to occupy permanent supportive housing units at 1321 Mission Street (the “Project”), in accordance with the State of California Department of Housing and Community Development Homekey Program and policies and procedures established by the Department of Homelessness and Supportive Housing for permanent supportive housing programs.

The Project is a supportive housing development targeting Adult over 18 years of age (individuals and couples) and Families who are experiencing homelessness or who are at risk of homelessness defined in Section 578.3 of Title 24 of the Code of Federal Regulations. This project proposes that the 160 units in the building will be occupied by Homekey eligible households, including two (2) employee units.

## **II. POLICY ON NON-DISCRIMINATION**

It is the policy of the City and County of San Francisco (City) to comply fully with Title VI of the Civil Rights Act of 1964, Title VIII and Section 3 of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974), Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Fair Housing Amendments of 1988, American with Disabilities Act, the California Fair Employment and Housing Act, the Unruh Act, Government Code Section 11135, and any legislation which may subsequently be enacted protecting the individual rights of residents, applicants, or staff.

The City shall not discriminate because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, Acquired Immune Deficiency Syndrome (AIDS) or HIV status, primary language, immigration status (except where explicitly prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes, in the leasing, rental, or other disposition of housing or related facilities.

## **III. POLICY ON PRIVACY**

It is the policy of the City to guard the privacy of applicants as conferred by the Federal Privacy Act of 1974, and other applicable confidentiality laws to ensure the protection of such applicants' records maintained. Therefore, neither Owner nor its agents or employees shall disclose any personal information contained in its records to any person or agency unless the individual about whom information is requested shall give written consent to such disclosure. This Privacy Policy in no way limits Owner's ability to collect such information as it may need to determine eligibility, compute rent, or determine an applicant's suitability for tenancy. Consistent with the intent of

Section 504 of the Rehabilitation Act of 1973, any information obtained regarding disability will be treated in a confidential manner.

#### **IV. ELIGIBILITY FOR SELECTION**

<b>Program Type</b>	<b># of Total Units</b>	<b>Income Targeting</b>	<b>Eligibility Requirement</b>
State of California Housing and Community Development Department – Homekey Program	<b>159</b>	N/A	Target Population is identified in HSC Section50675.1.3  Individuals and families who are homeless or at-risk of homelessness as defined by Part 578.3 ofTitle 42 of the United States Code.
Department of Homelessness and Supportive Housing's Permanent Supportive Housing Program		N/A	All new tenants will be referred by the Department of Homelessness and Supportive Housing (HSH) via the Coordinated Entry System.
<b>Unit Breakdown by Population</b>	<b># of Units in the building dedicated to the population</b>	<b>Income Targeting</b>	<b>Eligibility Requirement</b>
Chronically Homeless	<b>60</b>	N/A	60 studio units will serve chronically homeless adults aged 18 and over who are homeless or at-risk of homelessness as defined by Part 578.3 ofTitle 42 of the United States Code. Per HUD, a “chronically homeless” individual is defined to mean a homeless individual with a disability who lives either in a place not meant for human habitation, a safe haven, or in an emergency shelter, or in an institutional care facility if the individual has been living in the facility for fewer than 90 days and had been living in a place not meant for human habitation, a safe haven, or in an emergency shelter immediately before entering the institutional care facility. In order to meet the “chronically homeless” definition, the individual also must have been living as described above continuously for at least 12 months, or on at least four separate occasions

			in the last 3 years, where the combined occasions total a length of time of at least 12 months. Each period separating the occasions must include at least 7 nights of living in a situation other than a place not meant for human habitation, in an emergency shelter, or in a safe haven.
Adults aged 60+	<b>40</b>	N/A	40 studio units are designated to serve households with at least one person who is age 60 and over.
Adults 18+	<b>20</b>	N/A	20 studio units are designated to serve adults over the age of 18, who meet one or more of the following criteria: experiencing homelessness, are chronically homeless as defined by HUD, currently experiencing homelessness, or are at imminent at risk of becoming homelessness.
Families	<b>39</b>	N/A	39 three-bedroom units designated to serve family households with minor children, who are currently experiencing homelessness or at risk of homelessness.

The Owner will employ the core components of Housing First, as set forth in the Welfare and Institutions Code Section 8255. Examples of these core components include:

- a. Tenant screening and selection practices that promote accepting applicants regardless of their sobriety or use of substances, completion of treatment, or participation in services.
- b. Applicants are not rejected on the basis of poor credit or financial history, poor or lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of “housing readiness.”
- c. Supportive services that emphasize engagement and problem solving over therapeutic goals and service plans that are highly tenant-driven without predetermined goals.
- d. Participation in services or program compliance is not a condition of permanent housing tenancy.
- e. Tenants have a lease and all the rights and responsibilities of tenancy, as outlined in California’s Civil, Health and Safety, and Government codes.
- f. The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction.
- g. In communities with coordinated assessment and entry systems, incentives for funding promote tenant selection plans for supportive housing that prioritize eligible tenants based on criteria other than “first-come-first-serve,” including, but not limited to, the duration or chronicity of homelessness, vulnerability to early mortality, or high utilization of crisis services. Prioritization may include triage tools, developed through local data, to identify high-cost, high-need homeless residents.

- h. Case managers and service coordinators who are trained in and actively employ evidence-based practices for client engagement, including, but not limited to, motivational interviewing and client-centered counseling.
- i. Services are informed by a harm-reduction philosophy that recognizes drug and alcohol use and addiction as a part of tenants' lives, where tenants are engaged in nonjudgmental communication regarding drug and alcohol use, and where tenants are offered education regarding how to avoid risky behaviors and engage in safer practices, as well as connected to evidence-based treatment if the tenant so chooses.
- j. The project and specific apartment may include special physical features that accommodate disabilities, reduce harm, and promote health and community and independence among tenants. Units can come equipped with overdose detection devises if the tenant is willing to participate in Brave Button program though this program is voluntary.

#### Income and Rent Restrictions

1. Income and Rent Restrictions. Maximum rent is 30% of applicable maximum income level, adjusted for household size.
2. All Units except for the two staff units must be made available to Homekey eligible households for a period of 55 years pursuant to the recorded Declaration of Restrictions.

Applicants must complete and sign an application form in order to be considered for occupancy. Applicants will be considered conditionally eligible for housing based solely on statements given on the application form and any required third-party verification forms. Background checks (i.e. criminal, credit, or tenant history) shall not be used to screen applicants for housing, however, this information can be used to tailor appropriate support plans for residents after placement into housing.

Applicants shall sign releases and consents authorizing any depository or private sources of income, or any federal, state, or local agency, to furnish or release such information and the applicable program regulations determined to be necessary.

Applicant must meet other program regulated eligibility requirements, if applicable.

#### V. OCCUPANCY STANDARDS

Applicants' household size must be appropriate for the unit sizes available in accordance with the following occupancy standards:

<u>Unit Size</u>	<u>Minimum</u>	<u>Maximum</u>
Studio	1	2
3-Bedroom*	3	4

\*HSH's criteria for family units require a child under the age of 18 in the parent/guardian's care at the time of move into the unit. As per San Francisco Housing Code, children under the age of 6 shall not be counted towards the maximum occupancy standard. Households of three persons, regardless of the age of children in the household,

meet the minimum occupancy.

## **VI. REFERRALS**

There is not an open application process for the units at the Project. No waiting list is being established. The 158 available units are part of the SF Coordinated Entry (CE) process, designated to serve homeless households referred through HSH's Online Navigation and Entry (ONE) system which serves as San Francisco's federally compliant HMIS system). Individuals and families referred to vacancies through CE have been prioritized via an assessment administered by the CE Access Points. Individuals and families who are prioritized for housing meet the definition of homelessness as defined by Part 578.3 of Title 42 of the United States Code. Factors that affect prioritization for housing are vulnerability, chronicity of homelessness, and barriers to housing.

## **VII. APPLICANT INTERVIEWS**

Applicants will be interviewed in the order of referrals received from HSH. Applicants are required to attend the interview. Property management will clarify any information provided and answer any questions applicant may have.

Property Management will conduct the housing interview to review the application documents and eligibility criteria, explain the application process and timeline, answer questions from the applicant and show the building and unit to the applicant. Support Services will make all efforts to meet with the applicant after the housing interview to discuss the services provided and discuss resources available to the applicant.

## **VIII. VERIFICATION PROCEDURES**

The following screening criteria will be used for each applicant:

- Homeless status will be verified in writing and documented in the ONE system.
- All income and assets will be verified in writing from the income source on appropriate income verification forms, including the use of MEDS, CALWIN, and/or CHANGES for verification, in order for the tenant share of rent to be calculated at 30% of income.
- Copies of identifications obtained from government databases will be accepted to process housing applications for residents that don't have original documents.
- Applicant must have the ability to maintain the housing unit in accordance with local health standards. No distinction will be drawn between a person who keeps his/her own unit and one who does so with the assistance of an attendant.
- Written disability verification, when required, to document eligibility (i.e. for applicants who must meet HUD's definition of chronically homeless).

**IX. REASONS FOR DENIAL**

1. Applicant who fails to attend multiple scheduled interviews.
2. Applicant has falsified information on the application.
3. Applicant's household size does not meet the established occupancy standards.
4. Applicant does not meet other program regulated eligibility requirements as described herein.
5. Applicant declines a unit when offered.
6. Applicant has engaged in or exhibited abusive or violent behavior towards staff or Project residents during the housing application process.
7. Applicant is listed in the National Sex Offender Registry and per legal mandates (ex. court order) are unable to reside in the building.

**X. RIGHT TO REASONABLE ACCOMODATION**

If applicant has a disability and as a result of the disability needs: a change in the rules or policies, a change or repair to a unit or a special type of unit, a change or repair to some other part of the Project, that would remove barriers to applicants' ability to live at the Project and use the facilities and take part in any programs offered on-site, or a change in the way Property Management communicates or gives information to applicant, applicant may ask for a Reasonable Accommodation. Property Management will respond to the request for a reasonable accommodation or modification within ten (10) business days. Property Management shall determine if the request for accommodation is reasonable. Property Management will work with the applicant and referring agency to determine if there are ways to accommodate the applicant.

Applicant will be asked to provide documentation of their request, with information from applicant's medical/health care provider for verification that the requested accommodation is necessary due to a disability. If the applicant's disability is obvious and the need for the requested accommodation is apparent, Property Management will make a determination without requesting additional verification. If the request is reasonable and does not pose undue financial or administrative burden to the Project, Property Management shall make the requested changes. If the request is denied, the rejection will explain the reasons in writing.

**XI. SELECTING RESIDENTS AND RIGHT TO APPEAL**

The Resident Selection Criteria discussed above are designed to satisfy the requirements of San Francisco Police Code Article 49, Sections 4901-4920 or the Fair Chance Ordinance. Owner seeks to screen in applicants, rather than screen out. An applicant meeting the eligibility requirements and passing the Project's Resident Selection Criteria will be contacted by Property Management

to finalize all lease documents and to set a move-in date.

If an applicant does not meet the established eligibility criteria, Property Management will issue a written denial letter within two (2) business days of the decision to deny, and will include a clearly identified reason for denial and instructions on how to file an appeal. Upon request, Property Management will provide the applicant with additional information used to make the denial decision, such as an income calculation sheet. Applicants will have fourteen (14) calendar days to appeal the decision to deny, and may work with a Case Manager, Housing Navigator, or community advocate to submit their appeal and any supporting documentation. Property Management will review the appeal and consider the individual circumstances of each applicant and any mitigating factors, and will issue a response within five (5) calendar days of receiving the appeal.

## **XII. MITIGATING CIRCUMSTANCES**

If applicant fails to meet one or more of the Resident Selection Criteria, Property Management will determine whether it is possible to admit applicant through consideration of mitigating circumstances or by applying reasonable accommodation.

Mitigating circumstances are verifiable facts that would overcome or outweigh information already gathered in the resident screening process. The verifier must corroborate the reason(s) given by applicant for the disqualifying circumstances and determine that the prospect for lease compliance in the future is good because the reason for the applicant's disqualifying circumstances is either no longer in effect or otherwise controlled.

If the evidence of mitigating circumstances presented by applicant relates to a change in medical condition or course of treatment, Property Management shall have the right to refer such information to persons qualified to evaluate the evidence and verify the mitigating circumstance(s).

## **XIII. UNIT ASSIGNMENTS**

Property Management, in consultation with Service Provider, makes unit assignment decisions. Consideration must be given to the preferences expressed by applicant at the time of the interview process and any special needs identified and verified at that time.

Accessible units will be offered to eligible applicants with disabilities requiring the accessibility features of the unit in accordance with 24 CFR Paragraph 8.27. Preference/priority will be given based upon verifiable information provided by applicant during the application process. If an accessible unit is offered to an applicant not having a disability, Property Management requires the lease to include a provision requiring a transfer to a non-accessible unit when an applicant or existing resident with disabilities requires the accessibility features of the unit.

## **XIV. LANGUAGE ACCESS**

Reasonable steps will be taken to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits. Property Management ensures meaningful communication with LEP applicants and

residents and their authorized representatives. Interpreters, translators and other aids needed to comply with this policy shall be provided free of charge to the person being served, and residents and their families will be informed of the availability of such assistance. Language assistance will be provided through use of a contracted telephonic interpretation service, competent bilingual staff, staff interpreters, or formal arrangements with local organizations providing interpretation or translation services or technology.

## **XV. SUPPORT FOR RESIDENTS AFTER INITIAL OCCUPANCY**

### **A. HOUSING STABILITY**

On-site Support Services will assess residents' skills and goals at intake and encourage all residents to participate in educational and employment services. The goals of these services are to increase education levels, skill levels, and find employment all geared towards increasing the resident's income. Additionally, clients will be asked to provide written verification of current income and assets to help with goal planning and housing stability support. Support Services will provide assistance to all residents in obtaining or maintaining benefits and income, and in solving problems related to county, state, and federal benefits programs.

Residents will be provided with assistance in identifying, applying for, and establishing appointments with available services such as food programs, medical clinics, in-home support, transportation services, and services for youth and children in the community.

Residents will also receive support in identifying and accessing services available within the community that meet specific needs or support progress toward identified goals. This may include providing information about services, calling to help establish appointments, assisting with the completion of applications, helping with appointment reminders, following up/checking in with clients regarding the process, and, as necessary, re-referral. Youth will be referred to appropriate community resources, and age-appropriate activities and groups will be provided on-site.

The on-site support services will identify residents and their children with unmet behavioral health needs that are impacting their ability to be stably housed. Support Services will also collaborate with property management to identify clients who have not been seen or have shown signs of concern to staff on at least a weekly basis. Outreach efforts shall be used to make contact with and check in with these residents.

### **B. TRANSFERS**

Unit transfers may take precedence over new move-ins. A unit transfer may be approved when a resident is eligible for continued occupancy and when at least one of the following conditions exists:

- a) A resident's dwelling unit has been damaged by fire or other cause(s) to such a degree that the unit is not habitable.
- b) Resident is experiencing an immediate verifiable life safety or violence issue.
- c) To accommodate a person with a disability who has requested a unit transfer subject to the Reasonable Accommodation Policy.

d) Resident is no longer eligible for the unit or the subsidy for the unit.

Priority for unit transfers will be given based upon the following ranking:

1. Unit is not habitable
2. Violence Against Women Act (VAWA)/Life Safety
3. Reasonable Accommodation
4. Eligibility for unit

### **C. EVICTION PREVENTION**

Communication and collaboration between Property Management and Support Services is critical in order for residents to achieve and maintain stability in housing. Property Management and Support Services will meet routinely to resolve issues that put tenants at risk for eviction. If a resident is facing housing instability, Support Services shall coordinate with Property Management to find proactive ways to engage with tenants to prevent housing loss.

Support Services will assist tenants in communicating with, responding to, and meeting with Property Management. This may include helping a tenant to understand the communications from Property Management, helping to write requests, responses, or complaints to Property Management, and attending meetings between the tenant and Property Management to facilitate communication.

Property Management shall ensure there is a process for Support Services to receive timely communication and copies of correspondence (e.g. notices, warning letters, lease violations, etc.) issued. Support Services will outreach to and offer on-site services and/or referrals to all tenants who display indications of housing instability, within a reasonable timeframe. Housing instability indicators include but are not limited to, discontinuance from benefits leading to non-payment of rent, lease violations or warnings from Property Management, and conflicts with staff or other tenants.

Any urgent resident incidents or time-sensitive information shall be communicated as they occur and as needed rather than reserving such communication for ongoing meetings, so that service connections and resources can be made as quickly as possible.

### **D. MOVING ON STRATEGIES**

Support Services will work with residents to identify goals related to income and housing, and create services plans accordingly, to help residents achieve their goals. Households interested in moving to other types of housing in the future will be given linkages to resources and referrals appropriate for their housing goals. Residents may be referred to: job training programs and resume building workshops; agencies in the community that provide financial empowerment such as budgeting and increasing savings, and improving credit scores; affordable housing opportunities and/or opportunities for rental subsidies and housing vouchers. Support Services will assist residents in the application for other housing opportunities, and work with the residents on exit planning to ensure continuity of external services and supports which may be needed to maintain stability.

**EXHIBIT D**

**Funding Requirements**

See attached.

## **EXHIBIT D** **Funding Requirements**

### **I. FUNDING APPROVAL PROCESS**

Except as otherwise agreed to by City and Tenant, the following describes the submittal and approval process for payment of Annual Operating Subsidy by City to Tenant:

**A. Annual Operating Budget, Property Management Plan, Preventative Maintenance Plan Submission.**

No later than January 15th of each City fiscal year of the Term (“Operating Year”) Tenant will prepare and submit to the City a revised Annual Operating Budget covering the upcoming Operating Year, in the same format as Exhibit E attached hereto, for City’s approval. The Annual Operating Budget will be based on the Project Expenses incurred during the previous year, anticipated Project Income and a detailed estimate of all anticipated Project Expenses, as well as any other requested information by City, and the Annual Operating Subsidy. The Annual Operating Budget must include the anticipated costs of general maintenance and repair as described in Section 5.12 and Section 5.7.1.4 of the Agreement. In conjunction with its submission of the Annual Operating Budget, Tenant will also submit an annual property management plan (“Property Management Plan”) and an annual preventative maintenance plan and schedule (“Preventative Maintenance Plan”) for City approval.

**B. City Review and Approval of Annual Operating Budget, Property Management Plan, Preventative Maintenance Plan.**

No later than July 1 of each Operating Year, City will review and if necessary, revise the proposed Annual Operating Budget, Property Management Plan, and Preventative Maintenance Plan. City expects to review and provide initial feedback to Tenant regarding the proposed Annual Operating Budget, Property Management Plan, and Preventative Maintenance Plan by March 1 of each Operating Year. City has the right to audit any and all financial records of Tenant relating to Project Income, Project Expenses, Annual Operating Budget, Property Management Plan, Preventative Maintenance Plan, or any other Tenant files relating to the Premises at any time. City approval of the Annual Operating Budget will remain subject to the budget and fiscal provisions of the City's Charter and sufficient appropriated authority for the applicable fiscal year in the sole discretion of the Mayor and the Board of Supervisors, in accordance with the Agreement. City may adjust the Annual Operating Budget based on the end of Operating Year reconciliation, as described in Section E below.

**C. Annual Advance of Annual Operating Subsidy.**

No later than July 10-15 of each Operating Year, HSH will deposit into the Tenant’s Project Operating Account an annual advance equivalent to 25% of the Annual Operating Subsidy (“Annual Advance”), based on the latest City-approved Annual Operating Budget. Tenant may draw on the Annual Advance to pay for the initial Project Expenses incurred prior to submitting the first month’s invoice in CARBON (as described below) and receiving reimbursement from the City for each Operating Year.

D. **Tenant Payment of Project Expenses.** During each Operating Year, Tenant will timely pay and then bill City for actual monthly Project Expenses in conformity with the City-approved Annual Operating Budget and as described below. Tenant may adjust budget line items in the City-approved Annual Operating Budget by no more than 20% to pay for actual Project Expenses; any adjustments to the budget line items in the City-approved Annual Operating Budget that exceed 20% will require the prior approval of City in CARBON. Notwithstanding the foregoing, under no circumstances will City payment to Tenant exceed the total not-to-exceed amount set forth in the Annual Operating Budget. Any City payments to Tenant will be paid to Tenant's Project Operating Account.

1. **Monthly Invoicing.** Tenant shall submit all invoices and any related required documentation in the format specified below, after costs have been incurred, and within 30 days after the month the expenditures has been incurred. All final invoices must be submitted 30 days after the close of the Operating Year.

Billing Month/Date	Operating Month Begin Date	Operating Month End Date
August 31	July 1	July 31
September 30	August 1	August 31
October 31	September 1	September 30
November 30	October 1	October 31
December 31	November 1	November 30
January 31	December 1	December 31
February 28/29	January 1	January 31
March 31	February 1	February 28/29
April 30	March 1	March 31
May 31	April 1	April 30
June 30	May 1	May 31
July 31	June 1	June 30

- a. Tenant shall submit invoices and all required supporting documentation demonstrating evidence of the expenditure through the HSH's web-based Contracts Administration, Reporting, and Billing Online (CARBON) System at: <https://contracts.sfhsa.org>.
- b. Tenant's Executive Director or Chief Financial Officer shall submit a letter of authorization designating specific users, including their names, emails and phone numbers, who will have access to CARBON to electronically submit and sign for invoices, submit program reports, and view other information that is in CARBON.
- c. Tenant acknowledges that submittal of the invoice by Tenant's designated authorized personnel with proper login credentials

constitutes Tenant's electronic signature and certification of the invoice.

- d. Tenant's authorized personnel with CARBON login credentials shall not share or internally reassign logins.
- e. Tenant's Executive Director or Chief Financial Officer shall promptly notify the assigned HSH Contract Manager, as listed in CARBON, via email or letter regarding any need for the restriction or termination of previously authorized CARBON users and include the name(s), email(s) and phone number(s) of those previously authorized CARBON users.
- f. Tenant may invoice and submit related documentation in the format specified by HSH via paper or email only upon special, written approval from the HSH Contracts Manager.

2. **Project Reserves**. In accordance with Section 6.3 of the Agreement, City will hold any required Project Reserves unless otherwise agreed to by City and Tenant. Such reserves will be listed in the Annual Operating Budget that is submitted by Tenant and approved by City. Except for Emergency Repairs as described in Section 5.14 of the Agreement, Tenant must receive written approval from City before incurring any costs against the reserves listed in the Annual Operating Budget. Once approved, City will allow Tenant to bill against the reserve budget line item/s in CARBON in the next monthly invoice. City will approve uses of such reserves in accordance with the general principles describe below. City may require other information from the Tenant to analyze the requested reallocation including but not limited to a variance analysis between projected annual income and Project Expenses and actual annual Project Income and Project Expenses, and explanations for the cause of any significant variances.

- a. **Operating Reserve**: City may approve release of operating reserve funds solely to alleviate cash shortages resulting from unanticipated and unusually high, yet justified unbudgeted maintenance expenses, unknown costs at the time of the Annual Operating Budget approval (including any and all real estate taxes and assessments), increases to utility costs not accounted for in the Annual Operating Budget, abnormally high vacancies, inability to collect rent from Residents, and other Project Expenses that that are justified as costs greater than the approved Annual Operating Budget.
- b. **Replacement Reserve**: City may approve release of replacement reserve funds solely to fund unusual replacement and repairs, such as replacing or repairing components of the Project, relocation costs due to unanticipated and emergency maintenance and repairs in accordance with Section 5.14 of the Agreement, or replacing furniture, fixtures or

equipment of the Project that are reasonably required to preserve the Project for use as Permanent Supportive Housing.

**E. End of Operating Year Reconciliation Process.**

- i. No later than May 1 of each Operating Year, in the case where the annual advance spend down cannot be fully recovered, by deducting actual expenditures from the Tenant's monthly invoices, by the end of the Operating Year, Tenant shall return to HSH any outstanding balance via check or wire in the amount verified by HSH contracts. Tenant shall return the funds after the final invoice of the Operating Year has been approved.  
Tenant will provide to City a variance analysis of the current Annual Operating Budget, including a budget-to-actual comparison of the Project Expenses, Project Income, and Annual Operating Subsidy for the Operating Year from July 1 through April 1 and projected (based on the actual costs) for April, May and June of that Operating Year. This end of Operating Year reconciliation will be used to make any necessary adjustments to the proposed Annual Operating Budget for final City review and approval.
- ii. By the end of each Operating Year by July 30<sup>th</sup> annually, Tenant must either 1) fully spend the Annual Advance to pay actual Project Expenses or otherwise have incurred Project Expenses that have not yet been paid, or 2) return any City-confirmed outstanding Annual Advance balance as directed by City.

**II. DOCUMENTATION AND RECORD RETENTION**

**A. General Documentation Requirements.**

1. All documentation requested by and submitted to HSH must:
  - a. Be easily searchable (e.g., PDF) or summarized;
  - b. Follow all HSH instructions and ensure that all documentation clearly matches the City-approved Annual Operating Budget line item(s) and eligible activities;
  - c. Not include identifiable served population information (e.g., tenant name, client name, Protected Health Information (PHI), or Personally Identifiable Information (PII)); and
  - d. Include only costs that are reflected in the City-approved Annual Operating Budget other than emergency repairs or costs incurred pursuant to Article 13. City will not pay for costs that are not reflected in the City-approved Annual Operating Budget except as otherwise set forth in the Agreement.
2. In addition to the instructions below, HSH may request and review supporting documentation on the following occasions without modification to this Exhibit: program monitoring, fiscal and compliance monitoring, end of year budget reconciliation, monthly invoice review, as needed per HSH request, and/or as needed to fulfill audit and other monitoring requirements.

Type	Instructions and Examples of Documentation
Salaries & Benefits	<p>Tenant shall maintain and provide documentation for all approved payroll expenses paid to any personnel included in the Annual Operating Budget covered by the Agreement and invoice period each time an invoice is submitted.</p> <p>Documentation shall include, but is not limited to, historical and current payroll information from a payroll service or a payroll ledger from Tenant's accounting system and must include employee name, title, rate, and hours worked for each pay period.</p>
Operating	<p>Tenant shall maintain documentation for all approved Operating costs included in the Annual Operating Budget and submitted in CARBON. Tenant shall provide documentation, as requested by HSH. Each time an invoice is submitted, Tenant shall upload documentation for all subcontractor and consultant costs, if applicable, and documentation for any operating line items that exceed \$10,000.</p> <p>Documentation may include, but is not limited to, receipts of purchases or paid invoices of recurring expenditures, such as lease payments; copies of current leases; subcontractor payments; equipment lease invoices; and utility payments.</p>
Revenue	<p>Tenant shall maintain and provide documentation for all revenues that offset the costs in the Annual Operating Budget covered by the Agreement each time an invoice is submitted. This includes all Project Income as defined in Section 1.16 in the Agreement. All Project Income and Annual Operating Subsidy must be deposited into the Project Operating Account such that monthly Project income and Project expenses can be easily reconciled to the monthly bank statement. Documentation shall include monthly bank statement, monthly rent roll report (tracking tenant name, unit, prior rent receivable balance, current rent owed, date rent/prepaid rent received, and remaining receivable balance for each tenant (delinquent rent) and a notation if unit is vacant), General Ledger report showing itemized revenue receipts including proceeds from any vending and laundry income, copies of Section 8 or other rental subsidy payments and other documentation showing the proper accounting of all revenue associated with the Project.</p>
Security Deposits	Tenant shall maintain and provide documentation for all security deposits each time an invoice is submitted. Security

Type	Instructions and Examples of Documentation
	deposits should be kept in the Security Deposit Account such that the monthly security deposit statements can be easily reconciled to the monthly bank statement. Documentation shall include monthly bank statement, monthly security deposit statements (tracks by tenant and unit, the security deposit amount, type of tenant (i.e., FMR, Flexible Housing Subsidy client), to whom the deposit is owed if the tenant vacates their unit, and monthly change in overall liability), and individual security deposit refund statements for any refunds made that month.

3. If a Tenant has outstanding items due to the City (e.g., Corrective Action Plans/report/document/data input), as specified in any written form from City (e.g., Letter of Correction, Corrective Action Plan), Tenant shall submit and comply with such requirements prior to or in conjunction with invoices unless City otherwise permits in writing later submission. Failure to submit required information or comply by specified deadlines may result in City withholding of Annual Operating Subsidy until such information is received by City.

**B. Permanent Supportive Housing Documentation and Data Collection Requirements.**

1. Tenant shall update applicant referral status information in the Online Navigation and Entry (ONE) System in accordance with HSH policy and instruction, including but not limited to:
  - a. Tenant shall maintain confidential files on the served population, including signed lease agreement and addenda, notices or lease violations issued to the tenant, copies of payment plans or other agreements to support housing stability.
  - b. Tenant shall track receipt and completion of maintenance work orders.
  - c. Tenant shall maintain all eligibility and inspection documentation in the ONE System according to HSH written instruction, and maintain hard copy files with eligibility, including homelessness verification documents.
2. Tenant shall ensure compliance with the Homeless Management Information System (HMIS) Participation Agreement, as may be amended from time to time, including but not limited to:
  - a. Entering all household data within three (3) business days (unless specifically requested to do so sooner);
  - b. Ensuring accurate dates for household enrollment, household exit, and household move in (if appropriate); and
  - c. Running monthly data quality reports and correcting any errors.

- d. Tenant shall maintain updated unit vacancy information on a weekly basis in the data system designated by HSH (Offline Vacancy Tracker and/or ONE System) as required. Changes to vacancy reporting shall be communicated to Tenant in writing from HSH.
  3. Any information shared between Tenant, HSH, and other providers about the served population shall be communicated in a secure manner, with appropriate release of consent forms and in compliance with 24 C.F.R. Part 578, Continuum of Care; 45 C.F.R. Parts 160 and 164, the Health Insurance Portability and Accountability Act (HIPAA) and federal and state data privacy and security guidelines.
4. Tenant shall report unit vacancies to HSH in a timely fashion according to established procedures and process all tenant referrals in the pre-established timeframe. When required by HSH, Tenant shall enter tenant data in the ONE System.
5. Tenant shall report certain measures in CARBON, via secure email, or through uploads to a File Transfer Protocol (FTP) site as required by HSH. Tenant shall submit the monthly, quarterly and/or annual metrics into the CARBON database.
  - i. On a monthly basis, Tenant shall enter the required metrics, including any required templates to be uploaded, into the CARBON database by the 15th of the month following the month of service, including: the occupancy rate; and the number of new placements.
  - ii. On a quarterly basis, Tenant shall enter the required metrics, including any required templates to be uploaded, into the CARBON database by the 15th of the month following the end of each quarter, including: average number of days to turn over units; and the number of tenants receiving lease violations, and the number and percentage of tenant lease violations that were resolved without loss of housing to tenants.
  - iii. On an annual basis, Tenant shall enter the required metrics, including any required templates to be uploaded, into the CARBON database by the 15th of the month following the end of each Operating year, including: the number and percentage of tenants who maintained their housing for a minimum of 12 months, moved to other permanent housing, or were provided with more appropriate placements; the number of program exits; the number and percentage of tenants who completed a written survey to provide feedback on the type and quality of program services;

the tenant satisfaction survey results; and the number of tenants showing housing instability that remained housed.

6. Tenant shall participate in annual Eviction Survey reporting, per the 2015 City and County of San Francisco Tenant Eviction Annual Reports Ordinance (<https://sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances15/o0011-15.pdf>). Tenant shall provide the number of evicted households and eviction notices issued to households residing at the premises through the annual HSH administered Eviction Survey. Tenant shall adhere to all deadlines for submission as required by HSH.
7. Tenant shall submit Facility Inventory data to HSH during the last week of January. Data will include unit/bed inventory, point in time population count of residents, and general characteristic data of residents. Data is used for reporting mandated by the Federal Government under the U.S. Department of Housing and Urban Development (HUD)'s Continuum of Care (CoC) program.
8. Tenant shall provide information requested by City in order to submit reports to HCD as required by Homekey funding, including milestone and annual program reports, and respond to requests in a timely manner to allow City to report to HCD by required milestones.
9. Tenant shall provide information for an annual report on client enrollment in public benefits per the Administrative Code - Permanent Supportive Housing - Rent Contribution Standard (<https://sfgov.legistar.com/View.ashx?M=F&ID=9074560&GUID=FDA1BCF9-1096-42C8-AD19-9143A348AC07>), as instructed by HSH.
10. Tenant shall participate, as required by HSH, with City, State and/or Federal government evaluative studies designed to show the effectiveness of Tenant's services. Tenant agrees to meet the requirements of and participate in the evaluation program and management information systems of the City. The City agrees that any final reports generated through the evaluation program shall be made available to Tenant within 30 working days of receipt of any evaluation report and any Tenant response will become part of the official report.
11. Tenant shall provide any additional reports as required by HSH and will respond to all written requests by HSH in a timely manner.

For assistance with reporting requirements or submission of reports, Tenant should contact the assigned HSH Contract and Program Manager, listed in CARBON.

- C. **Record Retention.** Tenant will keep electronic or hard copy records and documentation of all City approved Project Expenses and any other documentation required by this Exhibit, including, but not limited to, payroll records; paid invoices; receipts; and payments made for the Premises, for a period not fewer than five (5) years after final payment under this Agreement, and shall provide these documents to the City promptly upon written request.

### III. CITY MONITORING

- A. **Program Monitoring.** Tenant will remain subject to program monitoring and/or audits at all times during the Term, including, but not limited to, review of the following: tenant files, Tenant's administrative records, staff training documentation, postings, program policies and procedures, data submitted in program reports, Disaster and Emergency Response Plan and training, personnel and activity reports, proper accounting for funds and other operational and administrative activities, and back-up documentation for reporting progress towards meeting the service and outcome objectives described in the Agreement.
- B. **Fiscal and Compliance Monitoring.** Tenant is subject to fiscal and compliance monitoring, which may include review of the Tenant's organizational budget, the general ledger, quarterly balance sheet, cost allocation procedures and plan, State and Federal tax forms, audited financial statement, fiscal policy manual, supporting documentation for selected invoices, cash receipts and disbursement journals. The compliance monitoring may include review of Personnel Manual, Emergency Operations Plan, Compliance with the Americans with Disabilities Act (ADA), subcontracts and Memoranda of Understanding (MOUs), and the current board roster and selected board minutes for compliance with the Sunshine Ordinance. As required in Section 5.10.1.5 of the Agreement, Tenant will provide, on an annual basis, an annual audit of Project Income, including Annual Operating Subsidy, and Project Expenses, conducted by an audit firm that is a professional certified public accounting firm. The Audited Financial Statements should consist of Balance Sheet, Statement of Operations, and Statement of Cash Flows prepared in accordance with Generally Accepted Auditing Principles (GAAP).

City may modify this Exhibit in its sole and absolute discretion, including but not limited to, situations where Tenant has demonstrated issues with spend down, accuracy, and timeliness of invoices. Any modifications to the requirements described herein will be effective no earlier than thirty (30) days after City's written notice to Tenant of such modifications. Tenant may propose adjustments to the Annual Operating Budget in order to account for any significant modifications to Tenant's responsibilities under this Exhibit, which City will consider in its reasonable discretion; provided, however nothing in this sentence shall be deemed to waive, limit, or otherwise impair the right to terminate as set forth in Section 3.2 of the Agreement.

**EXHIBIT E**

**5-Year and Annual Operating Budget**

See attached.

	A	B	C	D	G	J	M	P	S	AK	
1	<b>DEPARTMENT OF HOMELESSNESS AND SUPPORTIVE HOUSING</b>										
2	<b>Exhibit E – Master Lease &amp; Property Management Budget Template</b>										
3	Document Date	2/17/2023									
4	Contract Term	Begin Date	End Date	Duration (Years)						Page 1 of 12	
5	Current Term	2/17/2023	2/16/2028	5							
7	Provider Name	TIDES Center (Delivering Innovation in Supportive Housing (DCU))									
8	Program	Lease and Property Management at 1321 Mission									
9	FSP Contract ID#	1000027666									
10	Action (select)	New Agreement									
11	Effective Date	12/1/2022									
12	Budget Names	Lease & Property Management, Project Reserves, Real Estate Development Costs									
13		Current	New								
14	Term Budget	\$ -	\$ 16,057,069								
15	Reserves		\$ 2,415,187								
16	Contingency	\$ -	\$ 1,027,744								
17	Not-To-Exceed	\$ -	\$ 19,500,000								
					Start-up & Year 1	Year 2	Year 3	Year 4	Year 5	All Years	
18					2/17/2023 - 6/30/2024	7/1/2024 - 6/30/2025	7/1/2025 - 6/30/2026	7/1/2026 - 6/30/2027	7/1/2027 - 2/16/2028	2/17/2023 - 2/16/2028	
19					New	New	New	New	New	New	
20	Expenditures										
21	Salaries & Benefits	\$ 1,414,147	\$ 1,066,439	\$ 1,098,433	\$ 1,131,385	\$ 733,393	\$ 5,443,797				
22	Operating Expense	\$ 1,857,953	\$ 1,372,856	\$ 1,413,292	\$ 1,454,941	\$ 945,524	\$ 7,044,566				
23	Subtotal	\$ 3,272,100	\$ 2,439,296	\$ 2,511,724	\$ 2,586,326	\$ 1,678,918	\$ 12,488,363				
25	Indirect Cost	\$ 490,815	\$ 365,894	\$ 376,759	\$ 387,949	\$ 251,838	\$ 1,873,254				
26	Other Expenses (Not subject to indirect %)	\$ 656,335	\$ 199,164	\$ 205,139	\$ 211,293	\$ 136,020	\$ 1,407,950				
27	Capital Expenditure	\$ 287,500	\$ -	\$ -	\$ -	\$ -	\$ -				
29	<b>Total Expenditures</b>	<b>\$ 4,706,749</b>	<b>\$ 3,004,354</b>	<b>\$ 3,093,622</b>	<b>\$ 3,185,568</b>	<b>\$ 2,066,775</b>	<b>\$ 16,057,068</b>				
30											
31	Operating Subsidies (select)										
32	State Project Homekey	\$ 3,559,256	\$ 1,969,735	\$ -	\$ -	\$ -	\$ 5,528,991				
34	Prop C	\$ 678,200	\$ 648,249	\$ 2,707,252	\$ 2,799,198	\$ 1,825,294	\$ 8,658,193				
41	<b>Total HSH Revenues</b>	<b>\$ 4,237,456</b>	<b>\$ 2,617,984</b>	<b>\$ 2,707,252</b>	<b>\$ 2,799,198</b>	<b>\$ 1,825,294</b>	<b>\$ 14,187,184</b>				
42	Program Income (to offset Total Expenditures )										
43	Tenant Income	\$ 469,294	\$ 386,370	\$ 386,370	\$ 386,370	\$ 241,481	\$ 1,869,885				
48	<b>Total Program Revenue</b>	<b>\$ 469,294</b>	<b>\$ 386,370</b>	<b>\$ 386,370</b>	<b>\$ 386,370</b>	<b>\$ 241,481</b>	<b>\$ 1,869,885</b>				
49											
50	<b>Total HSH Revenues</b>	<b>\$ 4,706,750</b>	<b>\$ 3,004,354</b>	<b>\$ 3,093,622</b>	<b>\$ 3,185,568</b>	<b>\$ 2,066,775</b>	<b>\$ 16,057,069</b>				
51	Rev-Exp (Budget Match Check)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -				
53	Total Adjusted Salary FTE (All Budgets)		11.90	11.90	11.90	11.90	11.90				











	A	D	G	J	M	P	AH
1	<b>DEPARTMENT OF HOMELESSNESS AND SUPPORTIVE HOUSING</b>						Page 8 of 12
2	<b>OPERATING DETAIL</b>						
3	Document Date	2/17/2023					
4	Provider Name	TIDES Center (Delivering Innovation in Supportive Housing (DISH))					
5	Program	Lease and Property Management at 1321 Mission					
6	FSP Contract ID#	1000027666					
7	Budget Name	Project Reserves					
8							
9							
10							
11							
12	Operating Expenses	Start-up & Year 1	Year 2	Year 3	Year 4	Year 5	All Years
70	Project Reserves (not subject to indirect %)	2/17/2023 - 6/30/2024	7/1/2024 - 6/30/2025	7/1/2025 - 6/30/2026	7/1/2026 - 6/30/2027	7/1/2027 - 2/16/2028	2/17/2023 - 2/16/2028
71	Operating Reserve	New	New	New	New	New	New
72	Replacement Reserve	Budgeted Expense	Budgeted Expense	Budgeted Expense	Budgeted Expense	Budgeted Expense	Budgeted Expense
83							
84	TOTAL OTHER EXPENSES	\$ 631,022	\$ 472,770	\$ 486,953	\$ 501,562	\$ 322,880	\$ 2,415,187
97	HSH #3						7/26/2022



	A	D	G	J	M	P	AH
1	DEPARTMENT OF HOMELESSNESS AND SUPPORTIVE HOUSING						Page 10 of 12
2	OPERATING DETAIL						
3	Document Date	2/17/2023					
4	Provider Name	TIDES Center (Delivering Innovation in Supportive Housing (DISH))					
5	Program	Lease and Property Management at 1321 Mission					
6	F\$P Contract ID#	1000027666					
7	Budget Name	Real Estate Development Costs					
8							
9							
10							
11							
12	Predevelopment Expenses:	Start-up & Year 1	Year 2	Year 3	Year 4	Year 5	All Years
69		2/17/2023 - 6/30/2024	7/1/2024 - 6/30/2025	7/1/2025 - 6/30/2026	7/1/2026 - 6/30/2027	7/1/2027 - 2/16/2028	2/17/2023 - 2/16/2028
70	Other Expenses (not subject to indirect cost %)	New	New	New	New	New	New
72	Architect (all consultants under arch)	\$ 37,500	\$ -	\$ -	\$ -	\$ -	\$ 37,500
73	Permits/new OPOS	\$ 35,000	\$ -	\$ -	\$ -	\$ -	\$ 35,000
74	Entitlement Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
75	Signage revision with Design Build signage vendor	\$ 75,000	\$ -	\$ -	\$ -	\$ -	\$ 75,000
76	soft cost contingency	\$ 19,500	\$ -	\$ -	\$ -	\$ -	\$ 19,500
77	1x Start Up Expenses Carried Over (Cameras, Wifi, Stb)	\$ 195,000	\$ -	\$ -	\$ -	\$ -	\$ 195,000
78	Project Management Fee	\$ 28,700	\$ -	\$ -	\$ -	\$ -	\$ 28,700
82							
83	TOTAL OTHER EXPENSES	\$ 390,700	\$ -	\$ -	\$ -	\$ -	\$ 390,700
84							
85	Capital Expenses						
86	Phase II Rehab Hard Cost:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
87	Guardrail revision	\$ 250,000	\$ -	\$ -	\$ -	\$ -	\$ 250,000
88	contingency	\$ 37,500	\$ -	\$ -	\$ -	\$ -	\$ 37,500
93							
94	TOTAL CAPITAL EXPENSES	\$ 287,500	\$ -	\$ -	\$ -	\$ -	\$ 287,500
96	HSH #3						7/26/2022

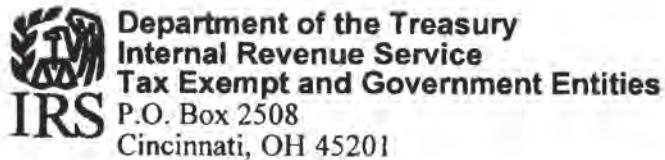
	A	B	C	D	E
1	<b>DEPARTMENT OF HOMELESSNESS AND SUPPORTIVE HOUSING</b>				Page 11 of 12
2	<b>Exhibit E – Master Lease &amp; Property Management Budget Template</b>				
3	Document Date	2/17/2023			
4	Contract Term	Begin Date	End Date	Duration (Years)	
5	Current Term	2/17/2023	2/16/2028	5	
7					
8	<b>Approved Subcontractors</b>				
10	Janitorial Services Vendor				
11					

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S
1	<b>DEPARTMENT OF HOMELESSNESS AND SUPPORTIVE HOUSING</b>																		
2	<b>Exhibit E – Master Lease &amp; Property Management Budget Template</b>																		
3	Document Date	2/17/2023																	
4	Contract Term	Begin Date	End Date	Duration (Years)															
5	Current Term	2/17/2023	2/16/2028	5															
7					Year 1	Year 2	Year 3	Year 4	Year 5										
8	<b>Service Component</b>				2/17/2023 - 6/30/2024	7/1/2024 - 6/30/2025	7/1/2025 - 6/30/2026	7/1/2026 - 6/30/2027	7/1/2027 - 2/16/2028										
10	Leasing & Property Management - Adult Units				120	120	120	120	120										
11	Leasing & Property Management - Family Units				39	39	39	39	39										
12	Leasing & Property Management - Office Unit				1	1	1	1	1										
13																			
14					Total Units	160	160	160	160										

**Attachment B**  
**Documentation of**  
**Transfer**

The following documentation is attached as evidence that Assignee is able to fully perform all obligations that may and will exist under the Agreement:

1. Transition Agreement Between TIDES Center and DISH SF, effective July 1, 2025.
2. Letter from the U.S. Department of the Treasury Internal Revenue Service (IRS) approving 501(c)(3) tax exempt status of non-profit corporation DISH SF, dated May 28, 2024



DISH SF  
1119 MARKET STREET 2ND FLOOR  
SAN FRANCISCO, CA 94103

**Date:**  
May 28, 2024  
**Employer ID number:**  
93-3004468  
**Person to contact:**  
Name: Ginger Jones  
ID number: 31646  
Telephone: 877-829-5500  
**Accounting period ending:**  
June 30  
**Public charity status:**  
170(b)(1)(A)(vi)  
**Form 990 / 990-EZ / 990-N required:**  
Yes  
**Effective date of exemption:**  
July 12, 2023  
**Contribution deductibility:**  
Yes  
**Addendum applies:**  
No  
**DLN:**  
26053752010263

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

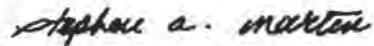
If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

We sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,



Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

## **Transition Agreement Between Tides Center and DISH SF**

THIS TRANSITION AGREEMENT (“Agreement”) is made and entered into as of the date of its full execution (the “Agreement Date”) by and between Tides Center, a California nonprofit public benefit corporation (“Tides”), and DISH SF, a California nonprofit corporation (“DISH SF”).

### **RECITALS**

- A. Tides has implemented its charitable purposes through a project known as Delivering Innovation In Supportive Housing (the “Project”), which is dedicated to providing high-quality, permanent housing to San Franciscans who suffer from serious health issues.
- B. The Board of Directors of Tides has determined that it is in the best interests of Tides that the Project’s activities be transferred to DISH SF.
- C. DISH SF has been recognized by the Internal Revenue Service and the State as a tax-exempt organization described in Sections 501(c)(3) and 509(a)(1) of the Internal Revenue Code (the “Code”).
- D. Tides now desires to contribute certain assets and liabilities of the Project to DISH SF and DISH SF desires to acquire those assets and assume such liabilities, and to continue the operations of the Project on the terms and conditions set forth herein.

### **NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

- 1) Effective Date. This Agreement shall be effective as of the Agreement Date. July 1, 2025 is the “Effective Date” for the transition of the Project, provided that all conditions set forth in Section 9 have been satisfied.
- 2) Contribution of Assets to DISH SF. Upon the terms and subject to the conditions of this Agreement, Tides hereby assigns, transfers, conveys and contributes to DISH SF, on or before the Effective Date, and DISH SF hereby acquires as of the Effective Date, all of Tides’ right, title and interest, in, to and under the Acquired Assets each of which is specifically identified on Schedule 1.
  - a) Acquired and Retained Assets. The term “Acquired Assets” means all of the business, properties, assets, goodwill, copyrights, trademarks and other rights of Tides of whatever kind and nature, real or personal, tangible or intangible, related to the Project and owned by Tides, as of the Effective Date, other than the Retained Assets and the Retained Liabilities. The Acquired Assets shall include, but not be limited to the following:
    - i) the furniture and equipment, including computers listed on Schedule 1, together with Tides’ right, title and interest in the software licensing agreements and related support agreements with third parties for the use of third-party software installed on such computers;
    - ii) Tides’ right, title and interest in the existing contracts, vendor licenses and other agreements entered into by Tides in connection with the Project, including those contracts and other agreements which are listed on Schedule 1;

- iii) all grant agreements and other accounts receivable whether or not reflected on Schedule 1;
  - iv) cash and marketable securities as shown on Schedule 1;
  - v) all books of account, general, financial, accounting and personnel records, files, invoices and similar data owned by Tides related to the Project; provided, however, that Tides shall retain access to such data to the extent necessary to perform its continuing business activities; and
  - vi) all of Tides' right, title and interest in all copyrights, trademarks and service marks (and all goodwill associated therewith), patents, trade secrets and other intellectual property rights related to or necessary to operate the Project, including, without limitation, the registered copyrights, trademarks, service marks and patents described in Schedule 1.
- b) Retained Assets. The term "Retained Assets" means all business, properties, assets, goodwill and rights of Tides of whatever kind and nature, real or personal, tangible or intangible that are not Acquired Assets.
- c) No Representations. No representation is made by Tides to DISH SF concerning the collectability, quality, enforceability or fitness of any Acquired Asset.
- 3) Assumption and Retention of Liabilities.
- a) Assumed Liabilities. Upon the terms and subject to the conditions of this Agreement, DISH SF hereby assumes, effective as of the Effective Date, and agrees to pay, perform and discharge when due and indemnify Tides and hold Tides harmless from and against the Assumed Liabilities. The term "Assumed Liabilities" shall mean all liabilities and obligations of the Project related exclusively to the Acquired Assets and shall include, but shall not be limited to, all contracts, agreements, grant-out agreements (including any installment payments due on or after the Effective Date), and any other liabilities set forth on Schedule 1 where applicable.
- b) Retained Liabilities. The term "Retained Liabilities" shall mean all liabilities other than the Assumed Liabilities. At all times at and after the Effective Date, Tides will retain and be solely responsible for the Retained Liabilities. Tides hereby agrees to pay, perform and discharge when due and indemnify and hold DISH SF harmless from and against the Retained Liabilities.
- 4) Employee Matters and Benefit Plans.
- a) Employee Matters.
- i) Termination of Employees by Tides. As of 11:59 p.m. on the date immediately preceding the Effective Date, each employee identified on Schedule 2 ("Project Employees") shall be terminated as an employee of Tides. DISH SF shall offer employment, as of 12:00 a.m. on the Effective Date, to the Project Employees, initially providing for the performance of services in such positions and for such compensation as is comparable to the services by such employees immediately prior to the Effective Date. The Project Employees who accept employment and

commence employment with DISH SF on the Effective Date are the “Transferred Employees.”

- ii) Tides shall provide Tides’ final paychecks to Project Employees in accordance with applicable law, and shall include all compensation and any other amounts payable to such Project Employees, including, without limitation, any hourly pay, bonus, salary, accrued vacation, fringe, retirement benefits or severance pay for any period relating to the individual’s service with Tides prior to the Effective Date.
- iii) Neither Tides nor any employee benefit plan of Tides shall have any liability or responsibility with respect to the Transferred Employees, including any wages or other compensation of Transferred Employees for services rendered to DISH SF on or after the Effective Date. Additionally, neither Tides nor any employee benefit plan of Tides shall have any liability or responsibility with respect to the Project Employees on or after the Effective Date.

b) Benefit Plans.

- i) Retirement Benefits. As of 11:59 p.m. on the date immediately preceding the Effective Date, Project Employees shall cease to be eligible to contribute to Code Section 403(b)(1) annuities or Code Section 403(b)(7) custodial accounts through salary reduction agreements maintained with Tides.
- ii) Other Employee Benefits. As of 11:59 p.m. on the date immediately preceding the Effective Date, the Project Employees shall cease to be eligible to participate as active employees in health care benefits, life insurance benefits, long-term disability benefits and other benefits under employee welfare benefit plans (as defined in Section (3)(1) of the Employee Retirement Income Security Act of 1974 (“ERISA”)), (with any Code Section 403(b) plan and other retirement plans sponsored by collectively, “Employee Benefits”) under Tides policies, practices and plans.
- iii) The Transferred Employees will be eligible for employee benefits plans sponsored by DISH SF, as may be established and maintained by DISH SF and in accordance with the terms of the applicable benefit plan and applicable law.
- iv) Indemnification. DISH SF shall indemnify and hold harmless Tides and its employee benefit plans against all liability arising out of or in connection with claims by Project Employees and their dependents and beneficiaries with respect to Employee Benefits (including benefits accruing or covered events) arising from DISH SF’s employment of a Transferred Employee on and after the Effective Date. Tides shall indemnify and hold harmless DISH SF and its employee benefit plans against all liability arising out of or in connection with claims by Project Employees and their dependents and beneficiaries with respect to Employee Benefits (including benefits accruing or covered events) arising from Tides employment of a Transferred Employee prior to the Effective Date.
- v) COBRA. Tides shall be responsible for offering COBRA continuation coverage under its Employee Benefits to all employees of the Project who are terminated prior to the Effective Date, and to all Project Employees and their M&A qualified

beneficiaries, and DISH SF shall not be deemed a successor employer for such purpose.

- vi) Information and Cooperation. Tides shall notify the Project Employees of their rights or status following termination and the cessation of active participation in Tides' Employee Benefits plans and shall deliver to DISH SF, for informational purposes only, forms of any letters or other communications which are distributed to the Project Employees.

5) Representations and Warranties.

- a) Representations and Warranties of Tides. Tides hereby represents and warrants to DISH SF as follows:
- i) Organization, Standing and Power. Tides is a corporation duly organized, validly existing and in good standing under the laws of the State of California and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted.
  - ii) Authority. Tides has all requisite power and authority to execute this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of Tides. This Agreement has been duly executed and delivered by Tides and when so executed and delivered will constitute a legal, valid and binding obligation of Tides enforceable against it in accordance with its terms.
  - iii) No Conflict. The execution, delivery and performance by Tides of this Agreement will not in any material respect contravene or violate, result in a material breach of or constitute a material default under (1) the Articles of Incorporation or Bylaws of Tides, (2) any contract, judgment, order or decree applicable to Tides or any of its properties or assets, or (3) any applicable laws.
  - iv) Taxes. All tax returns and other tax reports of Tides required by law to be filed as of the date of this Agreement under the laws of any jurisdiction, domestic or foreign, have been and will be duly and timely filed. All taxes, fees or other governmental charges of any nature (including in lieu taxes), which were required to be paid by Tides as of the Effective Date have been or will be paid, and Tides has not been granted any extension for the payment of any such tax, fee or charge. There are no delinquent or unpaid taxes or any actual or threatened assessments of deficiency or additional taxes or other governmental charges, or any basis for such a claim against Tides. There is no governmental audit in process with respect to Tides' operations by any taxing or other authority in connection with any of its open fiscal years and Tides has no knowledge of any such tax audit, currently pending or threatened, and there are no tax liens on any of the properties of Tides.
  - v) Liens. Tides has good and marketable title to the Acquired Assets free from any lien, claim or encumbrance other than those disclosed to DISH SF on Schedule 5 and expressly assumed by DISH SF. Tides will use all good faith efforts, which

shall include executing and filing such instruments and documents with appropriate regulatory authorities, in order to remove any liens, encumbrances and security interests set forth on Schedule 5 prior to the Effective Date.

- vi) Litigation. With the exception of the Pending Proceedings set forth on Schedule 3, on the Effective Date, Tides is not a party to any pending, or to its knowledge, threatened action, suit, proceeding or investigation (“Proceeding”), at law or in equity or otherwise in, for or by any court, governmental entity, board, commission, arbitration panel, agency, department or office arising from, relating to or in any way affecting the Acquired Assets, whether relating to its assets, employees, or other third parties. Notwithstanding the foregoing, if any Project Employee has knowledge of any threatened Proceeding not disclosed to an executive officer of Tides on or before the Effective Date, the existence of such threatened Proceeding shall not be deemed to be a breach of the representations contained in this Section 5(a)(vi).
  - vii) Licenses, Permits and Authorizations. Tides is not subject to any order, judgment, decree, governmental restriction or proceeding which materially adversely affects Tides, including, without limitation, any proceeding to cancel, withdraw, suspend or revoke any of its licenses, permits or authorizations.
  - viii) Insurance. Schedule 4 contains a complete and correct list of all policies and contracts of insurance of Tides under which the Project and its activities are and will be covered, and Tides shall maintain such insurance in full force and effect through [June 30, 2025], without any material reduction in coverage.
- b) Representations and Warranties of DISH SF. DISH SF hereby represents and warrants to Tides, as follows.
- i) Organization, Standing and Power. DISH SF is a corporation duly organized, validly existing and in good standing under the laws of the State of California and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as proposed to be conducted following the Effective Date of this Agreement.
  - ii) Authority. DISH SF has all requisite power and authority to execute this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action on the part of DISH SF. This Agreement has been duly executed and delivered by DISH SF and when so executed and delivered will constitute a legal, valid and binding obligation of DISH SF enforceable against it in accordance with its terms.
  - iii) No Conflict. The execution, delivery and performance by DISH SF of this Agreement will not in any material respect contravene or violate, result in a material breach of or constitute a material default under the Articles of Incorporation or Bylaws of DISH SF any contract, judgment, order or decree applicable to DISH SF or any of its properties or assets or any applicable laws.

- iv) Litigation. On the Effective Date, DISH SF is not a party to any pending, or to the knowledge of its Directors and Officers, any threatened action, suit, proceeding or investigation, at law or in equity or otherwise, in, for or by any court, governmental entity, board, commission, arbitration panel, agency, department or office arising from, relating to or in any way materially affecting DISH SF, whether relating to its assets, employees, or other third parties.
  - v) Insurance. Except as provided in Schedule 6, on and effective as of the Effective Date, DISH SF, its operations, properties and Project Employees of the Project shall be insured under insurance policies and contracts customary for a business of the type and scope of DISH SF.
- c) Survival of Warranties. The representations, warranties and covenants contained in this Agreement shall survive the Effective Date.
- 6) General Indemnity.
- a) Except as otherwise provided in the following Sections 6(b), (c), and (d), each party to this Agreement (each, an “Indemnitor”) shall, to the maximum extent permitted by California law, indemnify, hold harmless and defend the other party, its directors, officers and agents, and any third party claiming under the other party (collectively, the “Indemnified Parties”) from and against any claim, action, loss, liability, expense, damages, judgment, or amounts paid in settlement, including costs, attorneys’ fees and witness fees (a “Claim”) which arises as a result of the breach of any representation, warranty, covenant or agreement of the Indemnitor set forth in this Agreement or out of the performance of the activities of the Indemnitor after the Effective Date.
  - b) Except as otherwise provided in the following Sections 6(c) and (d), DISH SF shall, to the maximum extent permitted by California law, indemnify, hold harmless and defend Tides, its directors, officers and agents, and any third party claiming under Tides, from and against any claim, action, loss, liability, expense, damages, judgment, or amounts paid in settlement, including costs, attorneys’ fees and witness fees, which arises in whole or part out of the performance of Project activities prior to the Effective Date (a “Project Claim”), except to the extent such Project Claim arises from a negligent, reckless or fraudulent act or omission of an agent or employee of Tides Network, in which case Tides shall bear a share of any such liability or responsibility in proportion to the degree of fault of Tides Network agents or employees. The intention of this provision is to protect the assets of Tides, to the maximum extent permitted by law, from any and all costs arising out of the Project, whether before, on or after the Effective Date, which costs are intended to be borne by DISH SF and its assets.
  - c) An Indemnitor shall not indemnify any Indemnified Party for any Claim or Project Claim made on account of any act or omission of the Indemnified Party which was knowingly fraudulent or deliberately dishonest or that constituted gross negligence or willful misconduct, on account of the Indemnified Party’s acts or omissions that the Indemnified Party knew or should have known to be contrary to the best interests of either Tides or DISH SF, or which involves the absence of good faith on the part of the Indemnified Party, nor to the extent that such Claim or Project Claim is satisfied by a payment actually made to the Indemnified Party under a valid and collectible insurance policy or under a valid and enforceable indemnity clause, bylaw or agreement with another party.

- d) An Indemnitor shall not be required to indemnify any Indemnified Party unless the provisions of this Section 6(d) are complied with. The Indemnified Party shall notify the Indemnitor in writing of any potential Claim or Project Claim within thirty days of the date the Indemnified Party has actual knowledge of the existence of such potential Claim or Project Claim. The Indemnified Party shall permit the Indemnitor to participate in the defense of any such potential Claim or Project Claim; provided, however, that the Indemnitor shall pay all costs of its participation in such defense. The Indemnified Party shall not settle any Claim or Project Claim without the advance written approval of the Indemnitor, which approval shall not be unreasonably withheld.
- e) Neither DISH SF nor Tides shall cause or permit its Articles or Bylaws to limit its ability to indemnify the Indemnified Parties hereunder. The obligation of DISH SF and Tides to indemnify the Indemnified Parties shall survive termination or expiration of this Agreement.

7) Covenants.

- a) Further Assurances.
  - i) On and after the Effective Date, Tides shall (1) give such assurances to DISH SF and shall execute, acknowledge and deliver all such acknowledgments, assignments and other instruments and take such further actions as may be reasonably necessary or appropriate effectively to vest in DISH SF the full legal and equitable title to the Acquired Assets, and (2) use its best efforts to assist DISH SF in the orderly transition of the operations acquired by DISH SF.
  - ii) On and after the Effective Date, DISH SF shall (1) give such further assurances to Tides and shall execute, acknowledge and deliver such further assurances to Tides and shall execute, acknowledge and deliver such acknowledgments and other instruments and take such further actions as may be reasonably necessary to relieve and discharge Tides effectively from the Assumed Liabilities, and (2) use its best efforts to assist Tides in the transfer to DISH SF of the Acquired Assets and Assumed Liabilities.
  - iii) At all times, beginning on the date hereof and continuing until all actions contemplated by this Agreement have been effected, Tides and DISH SF shall, upon request of the other party, use its best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations or otherwise to consummate and effect the transactions contemplated by this Agreement.
- b) Certain Understandings. DISH SF acknowledges that neither Tides nor any other person has made any representation or warranty, express or implied, as to the accuracy or completeness of any information regarding the Acquired Assets or Assumed Liabilities not included in this Agreement or the schedules hereto. DISH SF acknowledges that it will acquire the Acquired Assets without any representation or warranty as to merchantability or fitness for any particular purpose and in an "as is" condition and on a "where is" basis.
- c) Recordation of Intellectual Property Assignments. Tides shall cooperate in assigning and recording in a timely manner, with the Library of Congress, the United States Patent and

Trademark Office, and any other appropriate agencies, the assignment to DISH SF of all registered copyrights, service marks, trademarks, patents and other intellectual property rights related to or necessary to operate the Project. DISH SF agrees to bear the expenses, including legal fees, relating to such assignments.

8) Cash Transfer.

- a) Tides will transfer [\$280,000] [the entire balance] of “unrestricted” cash from Program ID 6000 (“Transfer Amount”) to DISH SF on or before the Effective Date. Cash identified as “restricted” on Schedule 1, which is subject to donor-imposed restrictions with which Tides is contractually obligated to comply, will be transferred to DISH SF within seven business days of the date: (i) Tides receives notice that the relevant donor has authorized the transfer; and (ii) the date DISH SF provides information necessary for reconciliation of expenses related to the relevant grant, if applicable. All transfers will be made by check, ACH, or wire transfer according to DISH SF’s preference.
- b) Reconciliation Period. Tides shall complete a comprehensive spin-related reconciliation of the Acquired Assets, the Retained Assets, the Assumed Liabilities and the Retained Liabilities (including reconciliation of Revenue ID 1001 and all other Project accounts) not later than 60 days following the Effective Date, including to ensure appropriate accounting and payment/recognition of any liabilities or assets of the Project identified after the Effective Date, and to reconcile accounts relating to any “restricted” cash. Tides shall promptly share the results of this reconciliation with DISH SF and the parties shall cooperate and work together in good faith to reconcile any differences in opinion regarding the reconciliation. Tides shall promptly make available to DISH SF any information reasonably requested by DISH SF to verify the reconciliation results. Both parties agree and acknowledge that the Acquired Assets and Assumed Liabilities shall be subject to adjustment as needed in connection with the reconciliation, including in the event of an accounting or administrative error or oversight, or any other circumstances giving rise to a material change in determining the assets and liabilities that are transferred on the Effective Date.

In the event that Tides determines that an adjustment is necessary, Tides shall notify DISH SF in writing of any adjustment required no later than the expiration of such 60-day reconciliation period. An adjustment may be accomplished in any manner agreeable to the parties, including, but not limited to, a transfer of assets, assumption of liabilities or assignment of rights, or assumption of obligations under any contract or agreement. Any positive net balance of “unrestricted” cash and “restricted” cash from Project accounts will be transferred to DISH SF no later than expiration of the 60-day reconciliation period, provided that with respect to “restricted” cash, (i) Tides has received notice that the relevant donor has authorized the transfer; and (ii) DISH SF has provided the information necessary for reconciliation of expenses related to the relevant grant, if applicable. If the reconciliation results in a negative net balance across the Project accounts, DISH SF and Tides will agree upon a reasonable repayment plan for such balance.

All transfers will be made by check, ACH, or wire transfer according to DISH SF’s preference.

- c) Separate and apart from any cash to be transferred from Tides to DISH SF under this agreement, the parties acknowledge and agree that DISH SF may receive gifts, grants,

and contributions directly from third parties (“Direct Contributions”). DISH SF agrees that it shall not spend Direct Contributions on any programmatic activities of the Project prior to the Effective Date. The parties acknowledge and agree that DISH SF may spend Direct Contributions on other matters before the Effective Date, such as startup costs for DISH SF.

9) Conditions Precedent.

- a) Conditions to Obligations of DISH SF. The obligation of DISH SF to accept the Acquired Assets and assume the Assumed Liabilities shall be subject to the satisfaction of the following conditions by the dates specified below, unless expressly waived by DISH SF in writing:
  - i) Representations and Warranties. The representations and warranties of Tides set forth in this Agreement shall be true and correct in all material respects as of the Effective Date, except as otherwise specifically contemplated by this Agreement, and on request, an officer of Tides shall execute and deliver to DISH SF a certificate to that effect.
  - ii) Prior to May 31, 2025, DISH SF will procure either: (i) a minimum of \$4,000,000 in unrestricted contributions; (ii) the procurement of a line of credit or other cash facility of a minimum of \$3,000,000; or (iii) a written commitment by a philanthropic guarantor to provide a minimum of [\$\_\_\_\_].
  - iii) Prior to the Effective Date:
    - (1) Reconciliations and detail itemization of each balance to be assumed. Tides will provide DISH SF prior to the Effective Date a reconciliation which includes the detail of each account the parties contemplate will be assumed by DISH SF. DISH SF and Tides shall cooperate and work together in good faith to reconcile any differences in opinion regarding the reconciliation of asset and liability balances for the six month period between Tides’ December 31, 2024 audited financial statements and the Effective Date. Tides will provide a reconciliation of all accounts as of December 31, 2024 and June 30, 2025.
    - (2) Bill of Sale. Tides shall have delivered to DISH SF a bill of sale conveying the personal property included in the Acquired Assets and such other assignments, instruments of documents as may be necessary or appropriate to confirm the transfer and assignment of the Acquired Assets, to take effect on the Effective Date, in each case in form and substance reasonably satisfactory to DISH SF.
  - iv) As of the Effective Date, the representations and warranties of Tides set forth in this Agreement shall be true and correct in all material respects, except as otherwise specifically contemplated by this Agreement.
- b) Conditions to Obligations of Tides. The obligation of Tides to assign, convey, and deliver the Acquired Assets and transfer the Assumed Liabilities is subject to the satisfaction on and as of the Effective Date of the following conditions, unless waived by Tides:

- i) As of the Effective Date, the representations and warranties of DISH SF set forth in this Agreement shall be true and correct in all material respects except as otherwise specifically contemplated by this Agreement, and on request an officer of DISH SF shall execute and deliver to Tides a certificate to that effect.
  - ii) No Restraining Action. There shall be no litigation or other proceedings pending or threatened against Tides or DISH SF seeking to enjoin, prevent, set aside or otherwise challenge the consummation of the transactions contemplated herein.
- 10) Alternative Transition Planning. If DISH SF is unable to fulfill the condition precedent set forth in Section 9(a)(ii) above, the parties agree to convene forthwith to discuss alternative transition plans to exit the Project from Tides by June 30, 2025.
- 11) Miscellaneous.
- a) Notices. Except as otherwise provided in this Agreement, any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been duly given the first business day after transmission by facsimile or electronic transmission, or three days after mailing if mailed, by first class mail, certified or registered with return receipt requested, postage prepaid to the following addresses:

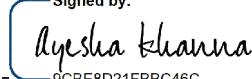
If to DISH SF:	Rahwa Meharena, Co-Chief Executive Officer 1119 Market Street San Francisco, CA 94103 RahwaMeharena@dishesf.org
If to Tides Center Tides Center	Janiece Evans-Page, Chief Executive Officer P.O. Box 889385 Los Angeles, CA 90088-9385 <a href="mailto:contractnotices@tides.org">contractnotices@tides.org</a>
  - b) Headings. The headings appearing at the beginning of the several paragraphs contained herein have been inserted for identification and reference purposes and shall not by themselves determine the construction or interpretation of this Agreement.
  - c) Assignment. This Agreement shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors, legal representatives and assigns of the parties; provided, however, that neither party hereto shall assign its rights or obligations hereunder without the advance written consent of the other party, which consent shall not be unreasonably withheld.
  - d) Enforcement. If any portion of this Agreement shall be determined to be invalid or unenforceable, the remainder shall be valid and enforceable to the maximum extent possible.
  - e) Governing Law. The Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into between California residents and wholly to be performed in California.
  - f) Arbitration. In the event of any dispute under this Agreement, the parties hereto shall attempt to resolve the matter themselves in an amicable manner. Failing such resolution,

any disputes under this Agreement shall be resolved by binding arbitration in San Francisco in accordance with the commercial arbitration rules of the Judicial Arbitration and Mediation Services (JAMS) then in effect, or any other rules mutually agreed to by the parties. Any award or order made in any such arbitration may be entered as a judgment in a court of competent jurisdiction. Any dispute subject to this Section 10(f), and the resolution thereof in any manner, shall be and remain confidential information, and all parties shall protect the confidential information from public disclosure using any and all reasonable legal and technical means.

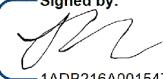
- g) Confidential Information. Neither party hereto shall, without the prior written consent of the other party, divulge or disclose to unauthorized persons, or use for any purpose (other than for the other party's benefit) any confidential or proprietary information relating to the business or operations of the other party, its clients, donors, or other third parties doing business with the other party ("Confidential Information"). Confidential Information shall include, without limitation, all of the party's trade secrets and proprietary information including, without limitation, all of the party's trade secrets and proprietary information including, without limitation, all matters related to software, data, and technical information, and all other matters of a technical nature, software programs, techniques, member lists, donor lists, marketing plans, formulae, ideas, and financial data; provided, however, that Confidential Information shall not include information which is within the public domain, or comes within the public domain, in either event without any breach of this Agreement. Both parties understand the extremely sensitive nature of donor information and financial matters and shall accord the strictest confidence to such information and matters. Confidential Information shall be protected by each party by all reasonable legal and technical means, including without limitation those steps which the party takes to protect its own trade secrets. Nothing in this Section 10(g) shall be construed to limit DISH SF's ability to use and disclose historical financial information and donor lists related solely to the Project in furtherance of its fundraising and business.
- h) Attorneys' Fees. If any action, whether legal or equitable and whether litigation or arbitration or some other proceeding, including an action for declaratory relief, is brought under this Agreement, the prevailing party (as shall be determined by the court or other adjudicator or arbitrator) shall be entitled to recover its reasonable attorneys' fees and costs of suit from the other party in addition to such other relief as may be granted.
- i) Entire Agreement; No Third-Party Beneficiaries. This Agreement constitutes the only agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties hereto with respect to the subject matter hereof and thereof, and all Schedules attached hereto are a material part of this Agreement and are incorporated herein by reference. This Agreement is not intended to confer upon any person than the parties hereto any rights or remedies hereunder.
- j) Modification and Waiver. This Agreement may not be modified, and no provision waived, without the prior written consent of the party against whom enforcement of the amendment or waiver is sought. No delay in exercising any right shall constitute a waiver of that right, but time is of the essence in respect to the covenants contained herein.

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

**TIDES CENTER**

Signed by:  
  
9CBE8D21FBBC46C...  
Name: Ayesha Khanna  
Title: Executive Director

**DISH SF**

Signed by:  
  
1ADB216A0015474...  
Name: Rahwa Meharena  
Title: Co-Chief Executive Officer

## **List of Schedules**

### **Schedules Included (Where Applicable):**

Schedule 1: Acquired Assets and Assumed Liabilities

Schedule 2: Project Employees

Schedule 3: Pending Proceedings

Schedule 4: Tides Center Certificate of Insurance Coverage  
(Insurance Coverage in effective for the Project through the Effective Date)  
(Also serves as suggested Insurance Coverage possibilities for new 501 (c) (3))

Schedule 5: Liens, Mortgages, Encumbrances and Security Interests

Schedule 6: Exceptions to Insurance Coverage

## SCHEDULE 1

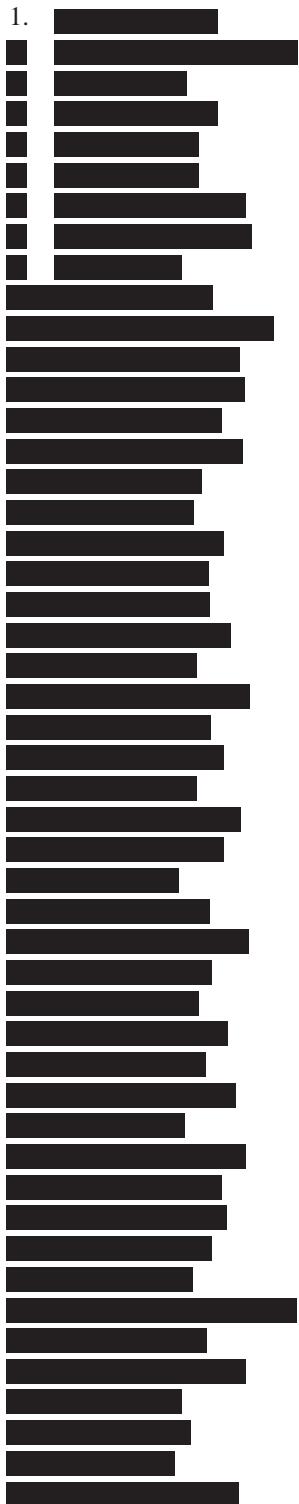
### **Acquired Assets and Assumed Liabilities**

*Schedule 1 – Acquired Assets and Assumed Liabilities – will be provided by Tides to DISH SF as of the Effective Date.*

## SCHEDULE 2

### Project Employees

*Accurate as of April 11, 2025 – subject to change between Agreement Date and Effective Date.*

1.	
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A horizontal bar chart showing the percentage of respondents who have heard of various terms. The y-axis lists 20 terms, and the x-axis shows percentages from 0% to 100% in 10% increments. The bars are dark grey.

Term	Percentage
50.	10
51. <i>honoraria</i>	90
52. <i>honorarium</i>	90
53. <i>honorific</i>	90
54. <i>honorifics</i>	10
55. <i>honorificum</i>	90
56. <i>honorificum</i>	90
57. <i>honorificum</i>	90
58. <i>honorificum</i>	90
59. <i>honorificum</i>	90
60. <i>honorificum</i>	90
61. <i>honorificum</i>	90
62. <i>honorificum</i>	90
63. <i>honorificum</i>	90
64. <i>honorificum</i>	90
65. <i>honorificum</i>	90
66. <i>honorificum</i>	90
67. <i>honorificum</i>	90
68. <i>honorificum</i>	90
69. <i>honorificum</i>	90
70. <i>honorificum</i>	90
71. <i>honorificum</i>	90
72. <i>honorificum</i>	90
73. <i>honorificum</i>	90
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76. <i>honorificum</i>	90
77. <i>honorificum</i>	90
78. <i>honorificum</i>	90
79. <i>honorificum</i>	90
80. <i>honorificum</i>	90
81. <i>honorificum</i>	90
82. <i>honorificum</i>	90
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91. <i>honorificum</i>	90
92. <i>honorificum</i>	90
93. <i>honorificum</i>	90
94. <i>honorificum</i>	90
95. <i>honorificum</i>	90
96. <i>honorificum</i>	90
97. <i>honorificum</i>	90
98. <i>honorificum</i>	90
99. <i>honorificum</i>	90
100. <i>honorificum</i>	90

### **SCHEDULE 3**

## Pending Proceedings

*Accurate as of April 11, 2025 – subject to change between Agreement Date and Effective Date.*

[REDACTED]

## SCHEDULE 4

### **Insurance Policies**

Placed through AHT:

- Management Liability (Directors & Officers, Employment Practices)
- Cyber & Media Liability
- Worker's Compensation/Employers Liability

Placed through One Risk Management and Insurance Services

- Commercial Package
- Excess/Umbrella Liability
- Molestation and Abuse
- Pollution Liability
- General Liability
- Commercial Auto
- Primary E&O
- Excess E&O
- Crime

**SCHEDULE 5**

**Liens, Mortgages, Encumbrances and Security Interests**

## SCHEDULE 6

### **Exceptions to Insurance Coverage**

- 1) Health Insurance. DISH SF does not expect to have in place a health insurance program for the Project Employees until 7/1/2025. The Project Employees listed below have elected on behalf of themselves (and any individuals who constitute qualified beneficiaries under Section 4980B of the Internal Revenue Code) to receive continuation health coverage under Tides' plans pursuant to applicable provisions of ERISA. Payments for such coverage shall be the responsibility of each Project Employee who elects to participate.]

List of Project Employees electing Coverage:

**From:** [Gil, Hailey \(HOM\)](#)  
**To:** [Board of Supervisors \(BOS\)](#)  
**Cc:** [Schneider, Dylan \(HOM\)](#)  
**Subject:** HSH Legislation - Finally Executed Grant Agreement  
**Date:** Thursday, July 3, 2025 1:24:54 PM  
**Attachments:** [TIDES Center-DISH SF - Lease and PM 1321 Mission - P-660 \(executed\).pdf](#)

---

Good afternoon!

Please find attached the finally executed assignment and assumption agreement for the Margot at 1321 Mission, for inclusion in [File No. 250459](#).

Best,  
Hailey



**Hailey Gil (she/her)**

Senior Legislative Analyst

San Francisco Department of Homelessness and Supportive Housing

[hailey.gil@sfgov.org](mailto:hailey.gil@sfgov.org) | P: 628.652.7925 C: 415.926.9264

Learn: [hsh.sfgov.org](http://hsh.sfgov.org) | Follow: [@SF\\_HSH](#) | Like: [@SanFranciscoHSH](#)

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