

PUBLIC IMPROVEMENT AGREEMENT
(1629 MARKET STREET- LOTS 1 AND 2)

This PUBLIC IMPROVEMENT AGREEMENT (1629 Market Street – Lots 1 and 2) (this "**Agreement**") dated for reference purposes only as of _____, 2020, is entered into as of _____, 2020 (the "**Effective Date**"), by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation of the State of California ("**City**") and MARKET STREET 1629 VENTURES, LP, a Delaware limited partnership, its successors and assigns ("**Subdivider**").

RECITALS

A. Subdivider and City are parties to the Development Agreement dated as of April 17, 2018, and recorded in the Official Records of the City and County of San Francisco (the "**Official Records**") on April 25, 2018, as Document No. 2018K607299 (the "**DA**").

B. Subdivider is engaged in subdividing the property that is subject to proposed "Parcel Map No. 9640 ("**Parcel Map**") consisting of approximately 2.2 acres, as shown therein ("**Property**"). A tentative map application, No. 9640, for a tentative map entitled "Tentative Phased Final Map A Merger and 8 Lot Subdivision in 2 Phases, Lots 1, 2 and 5-8 Being a Vertical Subdivision" ("**Tentative Map**"), for the proposed subdivision of the Property was approved by the Director of the Department of Public Works ("**Director**" with references to Director also including the Director's designee where authorized by law), acting as the advisory agency for purposes of the Subdivision Map Act ("**Advisory Agency**"), subject to certain requirements and conditions contained in the Director's corrected Conditions of Approval dated December 17, 2019 ("**Conditions of Approval**").

C. Pursuant to the San Francisco Subdivision Code (the "**Code**") and the San Francisco Subdivision Regulations ("**Subdivision Regulations**"), the Tentative Map, and the Conditions of Approval, the Developer, on the Parcel Map, or by separate instrument, irrevocably offers the public improvements, as described herein.

D. Under Public Works Order No. 202283 no exceptions and modifications to the Code and Subdivision Regulations pertaining to design and construction of Phase 1 Infrastructure was granted and no deferral of improvements except as described in the Public Works Order for the Parcel Map, and as provided in Section 2(c)(ii) below.

E. Pursuant to the DA, Subdivider is obligated to construct horizontal infrastructure and public improvements in the public right of way as described in Exhibit C to the DA, the Project Open Space and Streetscape Plan, as may be amended from time to time, and the Tentative and Parcel Map. Such public improvements are more particularly described in those certain improvement plans identified in Exhibit A (as such plans are revised from time to time, the "**Plans and Specifications**"). The forms of infrastructure mentioned above collectively comprise the Required Infrastructure. The estimated costs of completing the Required Infrastructure are described in Section 3 (Improvement Security) (the "**Estimated Costs**"). Copies of the Plans and Specifications are on file with the San Francisco Department of Public Works ("**Public Works**").

F. The Code provides that before a final subdivision map or parcel map is approved by the City, the Subdivider shall have either (i) installed and completed all of the public improvements required by the City and detailed in the plans and specifications approved by the Director, or (ii) entered into an agreement with the City to install and complete, free of liens, but subject to the Memorandum of Ground Lease dated January 1, 2018 and recorded January 30, 2018, as Document 2018-K573634-00 (the "**Ground Lease**") all of such public improvements within a definite period of time and provided appropriate security to ensure improvement securities to secure satisfactory completion of the work.

G. The City and the Subdivider, desire to enter into this Agreement in order to permit the approval and recordation of the Parcel Map by the City, to implement the Conditions of Approval, and to simultaneously satisfy the security provisions of the Subdivision Map Act, the Code, and the DA.

H. Except as specifically defined herein, capitalized terms shall have the meaning given in (i) the Code, (ii) the DA, (iii) the Subdivision Regulations, and (iv) the Plans and Specifications.

NOW, THEREFORE, in order to ensure satisfactory performance of the Subdivider under the Code, Subdivider and the City agree as follows:

1. Recitals. The above recitals are true and correct, and are incorporated into this Agreement.

2. Subdivider's Obligations.

(a) Required Infrastructure. Subdivider shall, in good and workmanlike manner, furnish all necessary materials and complete the Required Infrastructure in conformity with the Plans and Specifications as described in Exhibit A.

(b) Completion. Subdivider shall complete the Required Infrastructure in accordance with Section 6(a) below on or within two (2) years following the recordation of the Parcel Map. The period of time provided in this condition may be extended upon application by Subdivider and approval by the Director pursuant to Section 4(b) below, or may be extended by operation of Sections 10(c) through (f) below. In reviewing such application for an extension of time, the Director shall consider reasonable construction, access and storage requirements for each adjacent project and subsequent projects.

(c) Other Required Documentation.

(i) Prior to the Director's submittal of this Agreement to the City's Board of Supervisors ("**Board of Supervisors**"), Subdivider has provided executed and recorded copies of all the documents, agreements and notices required pursuant to Exhibit C, unless deferred by the Director, in writing, until the time of a request for a Notice of Completion, pursuant to Section 6(a).

(ii) The Public Works Order for the Parcel Map describes certain tentative map conditions have not been satisfied at the time of Parcel Map approval. These conditions relate to certain public improvements shown in Exhibit D, attached hereto. Subdivider shall enter into an improvement agreement, substantially in the form of this Agreement, as adjusted for such improvements, which Agreement shall be administratively approved and executed by the Director on behalf of the City. The improvement agreement shall

be executed prior to Subdivider completing a lot line adjustment merging into a single combined lot: Lot 1 (as shown on the Parcel Map) with APN 3505-048 and APN 3505-032A, as described in the Notice of Special Restriction executed concurrently with this Agreement.

(iii) At the time of request for a Notice of Completion, pursuant to Section 6(a), for the Required Infrastructure, Subdivider shall provide all documents required pursuant to Exhibit E, plus any other material previously deferred by the Director in item (i) above, unless deferred by the Director in writing until the time of a request for Acceptance pursuant to Section 6(b) below. In addition, the Subdivider shall furnish to Public Works and, if requested, the City Department of Building Inspection, as-built plans of the completed Required Infrastructure or portion thereof, in both electronic (in a reasonably current version of AutoCAD and/or another digital format acceptable to Public Works) and Mylar formats and any reports required by any related Plans and Specifications.

(iv) At the time of a request for Acceptance of the Required Infrastructure pursuant to Section 6(b), Subdivider shall provide all the documents required pursuant to Exhibit F, plus any other materials previously deferred by the Director pursuant to subsections (i) and (ii) above. In addition, as part of compliance with this Section 2, Subdivider shall coordinate with the City and assist in the City's process for the subsequent dedication and Acceptance of the Required Infrastructure by (i) providing necessary maps, legal descriptions and plats for street openings, any proposed easements and/or dedications for right of way or utility purposes and for relinquishment of existing rights of access and utilities associated with on-site and off-site development, and (ii) executing easement agreements or grant deeds or modifying existing easements or grant deeds consistent with the Conditions of Approval.

3. Improvement Security.

(a) Security. Subdivider has furnished and delivered to the Director bonds, in favor of the City, in the form attached as Exhibit G-1 and G-2 and approved by the City Attorney, from an issuer approved by the Director, securing the installation and completion of the Required Infrastructure as follows:

(i) Performance bonds in the amount of **\$1,156,419** (100% of estimated cost of completion of the construction and installation of Required Infrastructure as determined by the DPW Director) to secure the satisfactory performance of Subdivider's obligations (Exhibit G-1); and

(ii) A payment bond or other acceptable security in the amount of **\$578,209.50** (50% of the estimated cost of completion of the Required Infrastructure as determined by the DPW Director) as guarantee of payment for the labor, materials, equipment, and services required for Required Infrastructure (Exhibit G-2).

(iii) Monument bonds [not required as monuments will have already been set].

(b) Other Acceptable Security. In lieu of providing any of the security described in Section 3(a), Subdivider may, subject to the approval of the Director, provide a deposit or other security as described in Section 66499 of the Government Code. Any security provided under Section 3(a) or this Section 3(b) shall be referred to collectively as the "**Security**".

(c) Use of Security. If the Required Infrastructure is not completed within the time periods specified in Section 2(b) and such period is not extended by the City or as otherwise provided under this Agreement, or Subdivider has not satisfactorily corrected all deficiencies during the Warranty Period, the Security may, by resolution of the Board of Supervisors, be used by the City for completion of the Required Infrastructure in accordance with the Plans and Specifications and for the correction of any such deficiencies.

(d) DA Security. The security requirements of this Agreement shall be read and constructed in accordance with the requirements of the Code and the DA. Nothing in this Agreement shall alter the City or Subdivider's rights and remedies under the DA or require duplicative security for the same improvements.

4. Construction of the Required Infrastructure.

(a) Permits and Fees. Subdivider shall not perform any Required Infrastructure work until all required permits have been obtained for the portion of work involved, and all applicable fees, including inspection and testing fees, have been paid. In addition, no work shall commence until the Subdivider has submitted to the City and City has approved all required items described in Section 2(c) and any additional requirements of and authorizations specified in the Code, Subdivision Regulations, Conditions of Approval, and this Agreement, unless the Director, in his or her discretion, has granted a written deferral for one or more of these materials.

(b) Extensions. The Subdivider may request an extension of the time period specified in Section 2(b) for completion of the Required Infrastructure by written request to the Director. A request shall state adequate evidence to justify the extension, and shall be made upon Subdivider's determination that it cannot reasonably meet the deadline in the time remaining for completion. The Director may request additional information, and shall in good faith attempt to determine within thirty (30) days of the request whether to grant an extension of time. The Director's failure to respond within the time specified shall, however, not constitute either a grant or denial of the requested extension. The time for completion additionally shall be automatically extended for the number of days past thirty (30) during which a request for an extension is pending a determination by the Director, as well as during any Excusable Delay or Developer Extension, as provided in Section 10(c) – (e). The Director shall not unreasonably withhold a request for an extension. The Director may reasonably condition an extension subject to the terms of this Agreement and the conditions provided in the Code, including execution of an extension agreement and the extension of any security. No extension approved hereunder shall limit or relieve a surety's liability, or provide an extension on any future obligation under this Agreement or the DA, if applicable, (except as expressly stated in the approved extension).

(c) Revisions to Plans and Specifications. Requests by the Subdivider for revisions, modifications, or amendments to the approved Plans and Specifications (each a "**Plan Revision**") shall be submitted in writing to the Director (with a copy to the Director's designee). Subdivider shall not commence construction of any proposed Plan Revision without approval by

Public Works and until revised plans have been received and approved by the Director (or the Director's designee). If the Director or his or her designee approves an instructional bulletin, such approval shall be considered the Director's approval for purposes of this Subsection.

(i) Any Streetscape Plan amendments or other related documentation required for a Plan Revision, if any, shall be processed with reasonable promptness, and approval of the Plan Revision shall not be deemed final until the amendment or other documentation has been completed.

(ii) Any Plan Revision request shall be accompanied by (A) a statement explaining the need for or purpose of the proposed revision, and (B) drawings and specifications and other related documents showing the proposed Plan Revision in reasonable detail, consistent with the original Plans and Specifications.

5. Release of Security. The Security, or any portions thereof, not required to secure completion of Subdivider's obligation for construction or installation of the Required Infrastructure, to satisfy claims by contractors, subcontractors, and/or persons furnishing materials or equipment, [or if applicable for setting monuments set forth on the Parcel Map] (a form of bond for such monuments is appended hereto as Exhibit G-3), shall be released to the Subdivider, or its successors in interest, or reduced, pursuant to the procedures below as appropriate:

(a) One Year Warranty Bond. Upon the Director's issuance of a Notice of Completion for a portion of the Required Infrastructure in accordance with Section 6(a), the Security shall be reduced as to that portion of the Required Infrastructure in accordance with Section 1770 of the Code. As to that portion of the Required Infrastructure, the Security remaining following such reduction is referred to herein as the "**Remaining Security**," which term shall also refer to all Security remaining after any release under this Subsection following the Director's issuance of a Notice of Completion for the final portion of Required Infrastructure.

(b) Partial Release of Security. Notwithstanding the release provisions in Section 5(a) and except as provided in Sections 5(c), and after written request from the Subdivider, the Security may be reduced in conjunction with completion of any portion of the

Required Infrastructure to the satisfaction of the Director in compliance with Section 6(a) hereof to an amount determined by the Director that equals the actual cost of the completed portion of the Required Infrastructure. Prior to the date that the conditions set forth in Section 5(c) are satisfied, in no event, however, shall the amount of the Security be reduced below the greater of (i) the amount required to guarantee the completion of the remaining portion of the Required Infrastructure and any other obligation imposed by the Subdivision Map Act, the Code or this Agreement; or (ii) ten percent (10%) of the original amount.

(c) Release of Remaining Security. Remaining Security shall be released when all of the following have occurred:

(i) One (1) year following the date of Acceptance (as defined below) of (or, as appropriate, a Certificate of Conformity regarding) the relevant portion the Required Infrastructure, or, with respect to any specific claim of defects or deficiency in Required Infrastructure after such has been Accepted, one (1) year following the date that any such defect or deficiency which the Director identified in the Required Infrastructure in accordance with Section 8(a) has been corrected or waived in writing by the Director; and

(ii) The Clerk of the Board of Supervisors (or the Clerk's designee) certifies that no claims by any contractor, subcontractor or person furnishing labor, materials or equipment for the Required Infrastructure have been filed against the City, all such claims have been satisfied, withdrawn, or otherwise secured by bond or other security approved by the Director (or the Director's designee).

6. Completion and Acceptance.

(a) Director's Inspection. No sooner than ninety (90) days prior to the date that Subdivider intends to request the Director issue a Notice of Completion, Subdivider shall make a written request to the Director of the Subdivider's intent to initiate the Notice of Completion process ("**Letter of Intent to Request Notice of Completion**"). Upon written request from the Subdivider for a "**Notice of Completion**" as defined in the Code, accompanied with any and all materials that are required under Section 2(c)(iii) related to the Notice of Completion and any other materials that the Director deferred in writing at the time of approval

of this Agreement, the Director shall initiate the inspection. If the Subdivider fails to submit a Letter of Intent to Request Notice of Completion, the Director need not consider the Subdivider's request for the Director's issuance of a Notice of Completion until such a Letter of Intent to Request Notice of Completion is submitted to the Director and ninety (90) days have passed from the submission of the Letter; provided, however, that the Director, in his or her discretion, may agree in writing to a period of less than ninety (90) days from receipt of the Letter to consider issuance of a Notice of Completion. If the Director determines that the Required Infrastructure has not been completed or does not satisfy the above requirements, Director shall notify Subdivider of such determination together with a statement setting forth with particularity the basis for that determination. If the Director determines that the Required Infrastructure has been completed and meets the above requirements, the Director shall issue the Notice of Completion.

(b) Acceptance. "**Acceptance**" by the City of the Required Infrastructure, or portion thereof, for public use and maintenance shall be deemed to have occurred when:

(i) The Director has issued a Notice of Completion for the Required Infrastructure, or portion thereof in accordance with Section 6(a);

(ii) The Subdivider submits a written request to the Director to initiate acceptance legislation or other appropriate action, before the Board of Supervisors as appropriate. Such submission shall include any and all materials for which the Director authorized deferral under Section 2(c); and

(iii) The Board of Supervisors by ordinance or other appropriate action, accepts the Required Infrastructure, or portion thereof, for public use and maintenance in accordance with the provisions of San Francisco Administrative Code Section 1.52 and Subdivider's maintenance and warranty obligations under and Section 9(a) of this Agreement.

(c) Offers of Dedication. The owners' statements of the Parcel Map include or shall include certain irrevocable offers of dedication of improvements. In addition, the offers of dedication of improvements shall be made by separate instrument(s). The Board of Supervisors shall accept, conditionally accept, or reject such offers. The Board of Supervisors

shall by ordinance accept, conditionally accept, or reject for public right-of-way and utility purposes the Required Infrastructure (or a portion of the Required Infrastructure) in accordance with Subsection 6(b). Upon the Director's issuance of a Notice of Completion for the Required Infrastructure, or portion thereof, in accordance with Section 6(a) of this Agreement, the Board of Supervisors shall by ordinance or other appropriate action accept, conditionally accept, or reject such offers.

(d) Dedication. In addition to accepting improvements, the City shall, dedicate the Required Infrastructure to public use and shall designate them for their appropriate public uses. Deferred Mazzola Gardens improvements, described in Exhibit D, will be subject to a public access easement and not publicly dedicated.

(e) Temporary Facilities and Private Infrastructure Shall Not Be Publicly Dedicated. [None]

7. Subdivider's Maintenance Responsibility.

(a) General Maintenance and Liability Prior to Acceptance. Prior to Acceptance, Subdivider shall be responsible for the maintenance and repair of the Required Infrastructure and shall bear the liability regarding the same consistent with the Code.

(b) Maintenance and Liability Following Acceptance. Following Acceptance, and subject to Sections 7(c) and 9(a), the City shall assume the responsibility of operating and maintaining and shall be liable for such Accepted Required Infrastructure. City shall indemnify Subdivider and Master Developer and the officers, agents and employees of each of them from and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims by third parties ("**Losses**") to the extent first arising from and after City's Acceptance of any applicable portion of the Required Infrastructure, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except to the extent such Loss is the result of the active negligence or willful misconduct of Subdivider, or a party for whom Subdivider is liable. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs, and the City's cost of investigating any claims against the City. Without limiting the generality of the foregoing, nothing in this

Agreement shall be construed to mean that Subdivider is responsible (or that City shall have right to call upon the Security) for the repair, replacement, restoration, or maintenance of the Required Infrastructure damaged by the actions of third parties following Acceptance by the City or by ordinary wear and tear or harm or damage from improper maintenance or operation of the Required Infrastructure by the City, or any agent or agency of either.

(c) Privately Maintained Public Infrastructure and Private Infrastructure. [None]

(d) Protection of Required Infrastructure. Subdivider may, but shall not be obligated to, allow access by the public to portions of the Required Infrastructure that have been constructed but not Accepted. In order to protect the Required Infrastructure from damage and to minimize Subdivider's exposure to liability until such time as the applicable Required Infrastructure, or portion thereof, is Accepted, Subdivider may erect a construction fence or other physical barrier around areas under construction, to be constructed in the future, or constructed but not Accepted, provided that Subdivider has procured all necessary permits and complied with all applicable laws. However, no construction fence or other physical barrier may be built or maintained if the Director determines that a construction fence or other physical barrier adversely affects public health or safety by unreasonably restricting the ingress and egress of the public to and from a public right of way. For purposes of the preceding sentence, if there exists an alternative means of ingress and egress other than the Required Infrastructure, then the Director may not determine that the construction fence or other physical barrier constitutes an unreasonable restriction of ingress and egress of the public to and from a public right of way.

8. Intentionally Deleted.

9. Warranty and Indemnity.

(a) Warranty. Acceptance of Required Infrastructure by the City shall not constitute a waiver of any defects. Subdivider covenants that all Required Infrastructure constructed or installed by Subdivider shall be free from defects in material or workmanship and shall perform satisfactorily for a period (a "**Warranty Period**") of one (1) year commencing upon the issuance of a Notice of Completion for the Required Infrastructure (or portion thereof) as specified in Section 1751.2 of the Code, except that the Warranty Period for plant materials

and trees planted as part of the Required Infrastructure shall not commence until the Director receives a certification from the City's Construction Manager that a plant establishment period set in accordance with the Plans and Specifications has passed. During the Warranty Period, Subdivider shall, as necessary, and upon receipt of a request in writing from the Director that the work be done, inspect, correct, repair or replace any defects in the Required Infrastructure at its own expense. Should Subdivider fail to act with reasonable promptness to make such inspection, correction, repair or replacement, or should an emergency require that inspection, correction, repair or replacement be made before Subdivider can be notified (or prior to Subdivider's ability to respond after notice), the City may, at its option, upon notice to Subdivider, make the necessary inspection, correction, repair or replacement or otherwise perform the necessary work and Subdivider shall reimburse the City for the actual cost thereof. During the Warranty Period, the City shall hold the Subdivider's Security, reduced as described in Section 5, to secure performance of Subdivider's foregoing warranty obligations. Subdivider's responsibility during the Warranty Period shall include repairing defects and defective material or workmanship, but not ordinary wear and tear or harm or damage from improper maintenance or operation of the Required Infrastructure by the City, or any agent or agency of either.

(b) Indemnity. For purposes of this Subsection, any capitalized term shall be defined consistent with the DA. Consistent with the DA, the indemnity provided in Section 4.7 of the DA shall apply to all work performed under this Agreement. DA Section 4.7 is reproduced here and made a part of this Agreement; such incorporation shall not limit, replace or alter the effect of DA Section 4.7. In the event of any difference between the text of DA Section 4.7 of the DA and the reproduction herein, the DA shall govern.

Sec 4.7 of the DA: Indemnification of City. Developer shall indemnify, reimburse, and hold harmless the City and its officers, agents and employees (the "**City Parties**") from and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims ("**Losses**") arising or resulting directly or indirectly from (i) any third party claim arising from a Default by Developer under this Agreement, (ii) Developer's failure to comply with any Approval, Later Approval or Non-City Approval, (iii) the failure of any improvements constructed pursuant to the Approvals or Later Approvals to comply with any Federal or State Laws, the Existing Standards or any

permitted New City Laws, (iv) any accident, bodily injury, death, personal injury, or loss of or damage to property occurring on the Project Site (or the public right of way adjacent to the Project Site) in connection with the construction by Developer or its agents or contractors of any improvements pursuant to the Approvals, Later Approvals or this Agreement, (v) a Third-Party Challenge instituted against the City or any of the City Parties, (vi) any dispute between Developer, its contractors or subcontractors relating to the construction of any part of the Project, and (vii) any dispute between Developer and any Transferee or any subsequent owner of any of the Project Site relating to any assignment of this Agreement or the obligations that run with the land, or any dispute between Developer and any Transferee or other person relating to which party is responsible for performing certain obligations under this Agreement, each regardless of the negligence of and regardless of whether liability without fault is imposed or sought to be imposed on the City or any of the City Parties, except to the extent that any of the foregoing indemnification obligations is void or otherwise unenforceable under applicable Law, and except to the extent such Loss is the result of the negligence or willful misconduct of the City Parties. The foregoing indemnity shall include, without limitation, reasonable attorneys' fees and costs and the City's reasonable cost of investigating any claims against the City or the City Parties. All indemnifications set forth in this Agreement shall survive the expiration or termination of this Agreement, to the extent such indemnification obligation arose from an event occurring before the expiration or termination of this Agreement. To the extent the indemnifications relate to Developer's obligations that survive the expiration or termination of this Agreement, the indemnifications shall survive for the term of the applicable obligation plus four (4) years.

(c) Limitation on City Liability. The City shall not be an insurer or surety for the design or construction of the Required Infrastructure pursuant to the approved Plans and Specifications, nor shall any officer or employee thereof be liable or responsible for any accident, loss, or damage happening or occurring during the construction of the Required Infrastructure as specified in this Agreement, except as may arise due to the negligence or willful acts or omissions of the City.

10. Miscellaneous.

(a) Parcel Map Recordation. The City, in accordance with the Code, shall record the Parcel Map with the County Clerk in the Official Records of the City and County of San Francisco promptly upon Board of Supervisors' approval of the Parcel Map. The City shall notify Subdivider of the time of recordation. In the event the Parcel Map is not recorded within fifteen (15) days of approval, this Agreement shall be null and void.

(b) Independent Contractor. In performing its obligations under this Agreement, the Subdivider is an independent contractor and not an agent or employee of the City.

(c) Excusable Delay. All time periods in this Agreement shall be extended for Excusable Delay as defined in Section 11.5 of the DA, which is reproduced below. In the event of any difference between the text of DA Section 11.5 and the reproduction herein, the DA as executed shall govern.

11.5. Extension Due to Legal Action or Referendum: Excusable Delay.

11.5.1 Litigation and Referendum Extension. If any litigation is filed challenging this Agreement or an Approval having the direct or indirect effect of delaying this Agreement or any Approval (including but not limited to any CEQA determinations), including any challenge to the validity of this Agreement or any of its provisions, or if this Agreement or an Approval is suspended pending the outcome of an electoral vote on a referendum, then the Term of this and all Approvals shall be extended for the number of days equal to the period starting from the commencement of the litigation or the suspension (or as to Approvals, the date of the initial grant of such Approval) to the end of such litigation or suspension (a "**Litigation Extension**"). The Parties shall document the start and end of a Litigation Extension in writing within thirty (30) days from the applicable dates.

11.5.2 "**Excusable Delay**" means the occurrence of an event beyond a Party's reasonable control which causes such Party's performance of an obligation to be delayed, interrupted or prevented, including, but not limited to: changes in Federal or State Laws;

strikes or the substantial interruption of work because of labor disputes; inability to obtain materials or the substantial interruption of work because of labor disputes; inability to obtain materials; freight embargoes; civil commotion, war or acts of terrorism; inclement weather, fire, floods, earthquakes, or other acts of God; epidemics or quarantine restrictions; litigation; unforeseen site conditions (including archaeological resources or the presence of hazardous materials); or the failure of any governmental agency, public utility or communication service provider to issue a permit, authorization, consent or approval required to permit construction within the standard or customary time period for such issuing authority following Developer's submittal of a complete application for such permit, authorization, consent or approval, together with any required materials. Excusable Delay shall not include delays resulting from failure to obtain financing or have adequate funds, changes in market conditions, or the rejection of permit, authorization or approval requests based upon Developer's failure to satisfy the substantive requirements for the permit, authorization or approval request. In the event of Excusable Delay, the Parties agree that (i) the time periods for performance of the delayed Party's obligations impacted by the Excusable Delay shall be strictly limited to the period of such delay, interruption or prevention and the delayed Party shall, to the extent commercially reasonable, act diligently and in good faith to remove the cause of the Excusable Delay or otherwise complete the delayed obligation, and (ii) following the Excusable Delay, a Party shall have all rights and remedies available under this Agreement, if the obligation is not completed within the time period as extended by the Excusable Delay. If an event which may lead to an Excusable Delay occurs, the delayed Party shall notify the other Party in writing of such occurrence as soon as possible after becoming aware that such event may result in an Excusable Delay, and the manner in which such occurrence is likely to substantially interfere with the ability of the delayed Party to perform under this Agreement.

(d) Developer Extension. All time periods in this Agreement shall be extended for the period of any "Litigation Extension" as defined in Section 11.5 of the DA (which is reproduced in Section 10(c) of this Agreement) and subject to compliance with the Mitigation Measures (as defined in the DA). In the event of any difference between the text of DA Section 11.5 and the reproduction herein, the DA as executed shall govern.

(e) Notification for Invocation of Developer Extension. In the event that Subdivider invokes the Litigation Extension, Subdivider shall promptly provide written notice to the Director. The notice required under this Subsection shall identify the nature of the extension and the length of the extension with respect to Subsection 2(b) of this Agreement.

(f) Attorneys' Fees. Should any party hereto institute any action or proceeding in court or other dispute resolution mechanism ("**DRM**") to enforce any provision hereof or for damages by reason of an alleged breach of any provision of this Agreement, the prevailing party shall be entitled to receive from the losing party, court or DRM costs or expenses incurred by the prevailing party including, without limitation, expert witness fees, document copying expenses, exhibit preparation costs, carrier expenses and postage and communication expenses, and such amount as the court or DRM may adjudge to be reasonable attorneys' fees for the services rendered the prevailing party in such action or proceeding. Attorneys' fees under this Section 10(f) include attorneys' fees on any appeal, and, in addition, a party entitled to attorneys' fees shall be entitled to all other reasonable costs and expenses incurred in connection with such action.

For purposes of this Agreement, reasonable fees of attorneys and any in-house counsel for the City or the Subdivider shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience in the subject matter area of the law for which the City's or the Subdivider's in-house counsel's services were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the City, or, in the case of the Subdivider's in-house counsel, as employed by the outside counsel for the Subdivider.

(g) Notices.

(i) A notice or communication under this Agreement by either party to the other (or by or to the Director) shall be sufficiently given or delivered if dispatched by hand or by registered or certified mail, postage prepaid, addressed as follows:

In the case of a notice or communication to the Director of Public Works:

Director of Public Works
City and County of San Francisco
City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Infrastructure Task Force

With copies to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Public Works General Counsel
Reference: 1629 Market Phase One

And in the case of a notice or communication to the Subdivider:

Market Street 1629 Ventures, LP,
c/o Strada Investment Group
101 Mission Street, Suite 420
San Francisco, CA 94105
Attn: Michael Cohen

Every notice given to a party hereto, pursuant to the terms of this Agreement, must state (or must be accompanied by a cover letter that states) substantially the following:

- (A) the Section of this Agreement pursuant to which the notice is given and the action or response required, if any;
- (B) if applicable, the period of time within which the recipient of the notice must respond thereto;
- (C) if approval is being requested, shall be clearly marked "Request for Approval under the 1629 Market Phase One Public Improvement Agreement"; and
- (D) if a notice of disapproval or an objection which requires reasonableness, shall specify with particularity the reasons therefor.

(ii) Any mailing address may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

(iii) Any notice or request for review, consent, or other determination or action by the Director shall display prominently on the envelope enclosing such request (if any) and the first page of such request, substantially the following words: "1629 MARKET INFRASTRUCTURE: IMMEDIATE ATTENTION REQUIRED."

(h) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto (as set forth in the DA), and upon such transfer, the Subdivider shall be released from its obligations hereunder. Any assignment of Subdivider's rights and obligations under this Agreement shall be in writing, shall clearly identify the scope of the rights and/or obligations assigned and shall be subject to the reasonable approval of the Director; provided, however, that if Subdivider assigns its rights under the DA as "Developer" (as defined therein as it relates to the affected real property), an assignment of this Agreement to the same assignee shall not require the Director's approval so long as: (1) Subdivider provides notice of the intended transfer to the Director within five days of providing any required notice to the City under the DA; (2) Subdivider provides to the Director a copy of the executed DA assignment and assumption (which includes the transfer of rights and obligations under this Agreement); (3) the assignee provides replacement bonds that are consistent with Exhibits G-1 and G-2 in the amount required to secure any remaining obligations; and (4) the assignee provides proof of adequate insurance in the amount previously provided by Subdivider and by an insurer with an equal or better credit rating; and (5) the assignee has obtained all real estate rights and can satisfy all other conditions required to complete the work contemplated by this Agreement.

(i) Development Agreement. The City shall cooperate with the Subdivider consistent with the terms of the Development Agreement, including, without limitation, in obtaining applicable approvals required for the construction of the Required Infrastructure.

(j) Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by another party, or the failure by a party to exercise its rights upon the default of another party, shall not constitute a waiver of such party's right to insist upon and demand strict compliance by the other party with the terms of this Agreement thereafter.

(k) Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the City and the Subdivider, any rights, remedies or claims under or by reason of this Agreement or any covenants, conditions or stipulations hereof; and all covenants, conditions, promises, and agreements in this Agreement contained by or on behalf of the City, or the Subdivider shall be for the sole and exclusive benefit of the named parties.

(l) Amendment. This Agreement may be amended, from time to time, by written supplement or amendment hereto and executed by the City and the Subdivider. The Director of Public Works is authorized to execute on behalf of the City any amendment that the Director determines is in the City's best interests and does not materially increase the City's obligations or materially diminish the City's rights under this Agreement.

(m) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

(n) Interpretation of Agreement. Unless otherwise provided in this Agreement or by applicable law, whenever approval, consent or satisfaction is required of the Subdivider or the City under to this Agreement, it shall not be unreasonably withheld or delayed. Nothing in this Agreement limits the scope of review and certification of completed improvements required under Section 1751.2(b) of the Code. Captions used in this Agreement are for convenience or reference only and shall not affect the interpretation or meaning of this Agreement.

This Agreement shall in no way be construed to limit or replace any other obligations or liabilities which the parties may have in the DA.

11. Insurance. Subdivider shall, at all times prior to Acceptance of the Required Infrastructure, comply with the insurance requirements set forth in the DA and/or any applicable

Permit to Enter. Subdivider shall furnish to the City from time to time upon request by the City's Risk Manager certificate of insurance (and/or, upon request by the City's Risk Manager a complete copy of any policy) regarding each insurance policy required to be maintained by Subdivider.

12. Recording.

(a) Recording Agreement. The Parties to this Agreement acknowledge that this Agreement shall be recorded against the title of the Property.

(b) Purpose and Effect of Recording. This Agreement shall be recorded for the purpose of providing constructive notice to any future owner of the Property of Subdivider's obligations and responsibilities under Sections 2 and 7, respectively. This Agreement shall not be interpreted as creating a lien or security interest against any parcel against which it is recorded, or to effect any secured interest now or in the future, as the obligations hereunder are personal to Subdivider and its successors and assigns as may be authorized pursuant to Section 10(h).

(c) Notice of Termination. At the time all the obligations and requirements specified in this Agreement are fully satisfied as determined by the Director of Public Works in consultation with affected City departments, the Parties shall record a Notice of Termination. . Alternatively, Subdivider may request the Director's authorization to record a Notice of Termination with respect to an individual parcel. In evaluating such a request, approval of which shall be in the Director's reasonable discretion, the Director shall consider with respect to Required Infrastructure necessary to serve the parcel, whether: (i) all Required Infrastructure has been completed and accepted by the City, as applicable; (ii) all corresponding bond amounts have been released; (iii) all defects and punch list items have been addressed; and (iv) all warranty and guarantee periods have terminated.

IN WITNESS WHEREOF, the City, and Subdivider have executed this Agreement in one or more copies as of the day and year first above written.

[SIGNATURES ON NEXT PAGE]

SUBDIVIDER

Market Street 1629 Ventures, LP

By: 

Name: Michael Cohen

Its: President

CITY AND COUNTY OF SAN FRANCISCO

By: Mohammed Nuru

Its: Director of Public Works

APPROVED AS TO FORM:

DENNIS J. HERRERA

CITY ATTORNEY



Deputy City Attorney

LIST OF EXHIBITS

Exhibit A - Plans and Specifications

Exhibit B - Estimated Costs

Exhibit C - Documents required with Public Improvement Agreement

Exhibit D - Deferred Improvements

Exhibit E - List of documents required by City in order to issue a Notice of Completion

Exhibit F - List of documents required by the City in order to make a Request for Acceptance

Exhibit G-1 - Performance Bond

Exhibit G-2 - Payment Bond

EXHIBIT A

Plans and Specifications

The Street Improvement Permit Plans, prepared by BKF Engineers, entitled and dated as follows:

"1613 – 1617 Market Street, Street Improvement Permit Plans", dated 8/23/19;

"1 Brady Street, Building A – Street Improvement Permit Plans", dated 8/21/19; and

"1125 Stevenson Street, Building D – Street Improvement Permit Plans", dated 8/21/19.

EXHIBIT B
Estimated Costs

See Section 3(a)

EXHIBIT C

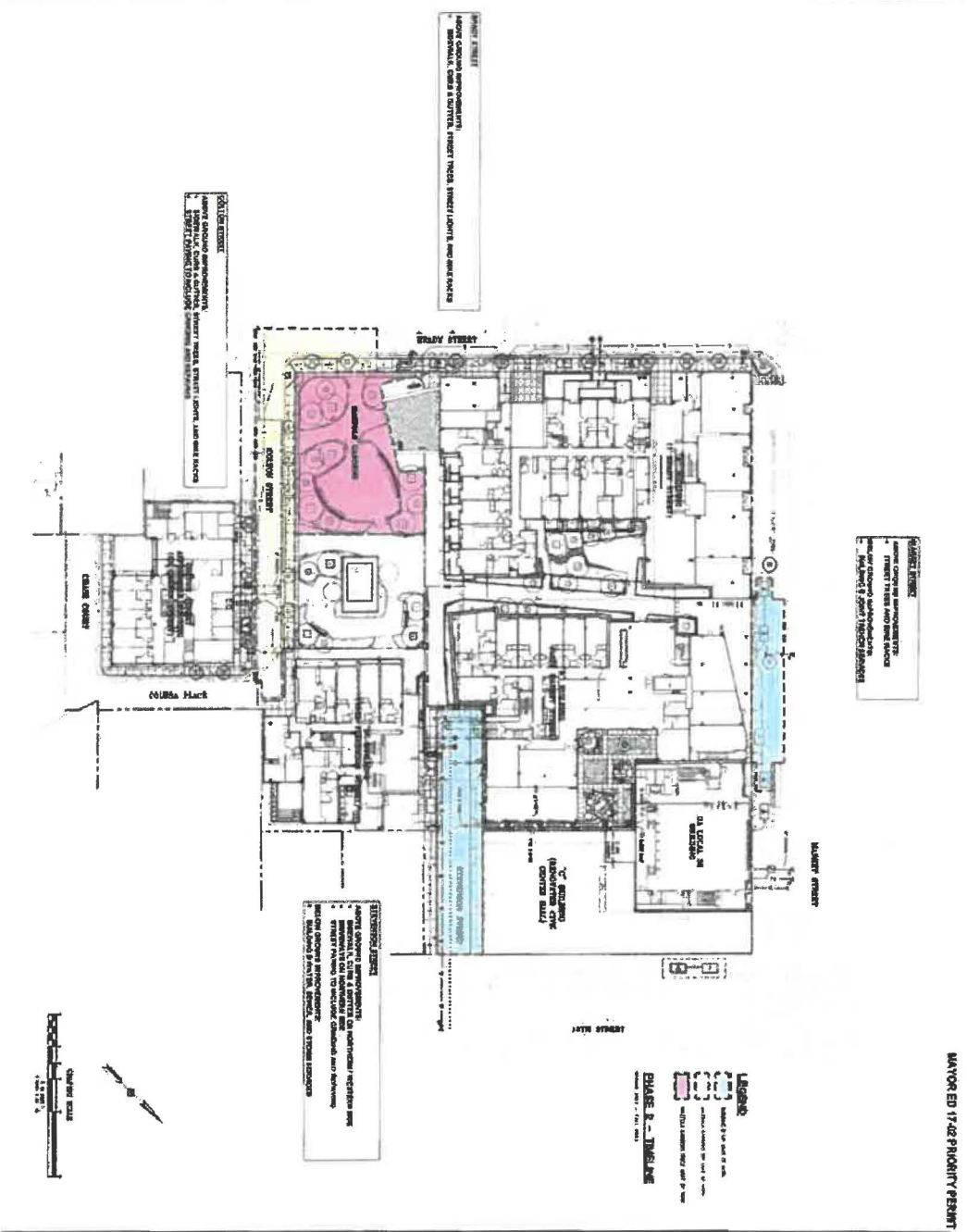
Documentation Required for Public Improvement Agreement

1. Approved Street Improvement Permit
2. Offer of improvements
3. Offer of dedication including quitclaim deed – N/A
4. Public easement agreements N/A
5. Payment and performance bonds [monument bonds – N/A]
6. Maintenance matrix N/A

EXHIBIT D

Description of Deferred Street Improvements

MAYOR ED 17-02 PRIORITY PERMIT



STRADA - MARKET & BRADY

EXHIBIT E

List of documents required by City in order to issue a Notice of Completion

1. Developer Request Letter for Notice of Completeness ("NOC")
2. Contractor Substantial Completion Letter
3. Civil Engineer Completion Notice
4. Geotechnical Engineer Completion Letter
5. Landscape Architect Completion Notice
6. Construction Manager Completion Notice
7. City Final Punch-list Approval
8. Utility Conformance Letter [as applicable]
9. As-Built Plan Approval
10. Recorded Notice of Completion
11. Survey Monuments
12. Test Reports [as applicable]
13. Joint Trench Conduits mandrel test
14. Confirmation of Removal of all Non-Compliance Reports ("NCR")
15. Confirmation of all Change Orders/Instructional Bulletins
16. Confirmation from City that Spare Parts have been provided (as applicable)
17. Operation and Maintenance Manuals
18. NOC Recommendation from Public Works

EXHIBIT F

List of documents required by the City in order to make a Request for Acceptance

1. Developer Request for Acceptance Letter
2. Lien Notification to General Contractor and Subs
3. Utility Bill of Sale [as applicable]
4. 3rd Party Reimbursement Checks-Copies
5. Assignment of Warranties and Guaranties
6. License Agreements (as applicable)
7. Mechanic's Lien Guarantee
8. Modified Offers of Improvements (as applicable)
9. Updated Grant Deeds (as applicable)

EXHIBIT G-1

FORM: FAITHFUL PERFORMANCE BOND

1629 Market Street Project – Phase 1 Required Infrastructure

Whereas, the Board of Supervisors of the City and County of San Francisco, State of California, and MARKET STREET 1629 VENTURES, LP (hereafter designated as "**Principal**") have entered into that certain Public Improvement Agreement 1629 Market Street - Phase 1), dated January 13, 2020 (the "**Agreement**"), which is hereby referred to and made a part hereof, whereby Principal agrees to install and complete certain designated public improvements identified therein as the Required Infrastructure; and

Whereas, Principal is required under the terms of the Agreement to furnish a bond for the faithful performance of the Agreement;

Now, therefore, we, Principal and the undersigned, as corporate surety (hereinafter "**Surety**"), are held and firmly bound unto the **City and County of San Francisco** (hereafter called "**City of San Francisco**") in the penal sum of One Million One Hundred Fifty Six Thousand Four Hundred Nineteen and No/100 Dollars (\$1,156,419.00) lawful money of the United States, for the payment of which we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that the obligation shall become null and void if the above-bounded Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to, abide by, well and truly keep, and perform the covenants, conditions, and provisions in the agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to his or their true intent and meaning, and shall indemnify and save harmless the City of San Francisco, its officers, agents, and employees, as therein stipulated; otherwise, this obligation shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the face amount specified, costs and reasonable expenses and fees shall be included, including reasonable attorneys' fees, incurred

by the City of San Francisco in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement, the work to be performed thereunder, or the specifications accompanying the agreement shall in any way affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration, or addition to the terms of the agreement, the work, or the specifications.

In witness whereof, this instrument has been duly executed by Principal and Surety on January 13, 2020.

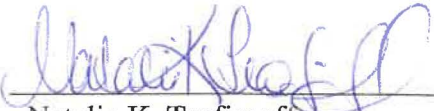
"PRINCIPAL"

"SURETY"

Market Street 1629 Ventures, LP
a Delaware limited partnership

Atlantic Specialty Insurance Company

By: _____
Name: Michael Cohen
Title: President

By:  _____
Natalie K. Trofimoff
Its: Attorney-in-Fact

Address: 605 Highway 169 North

Suite 800

Plymouth, MN 55441

Telephone: (952) 852-2431

Facsimile: (866) 235-0646

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

Civil Code § 1189

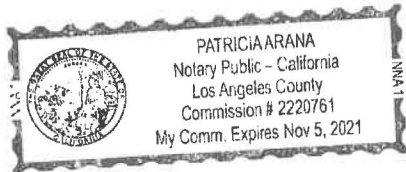
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California)
) ss
County of Los Angeles)

On JAN 13 2020, before me, Patricia Arana, Notary Public, personally appeared Natalie K. Trofimoff, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



(Seal)

Signature: *Patricia Arana*
Patricia Arana, Notary Public

by the City of San Francisco in successfully enforcing the obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement, the work to be performed thereunder, or the specifications accompanying the agreement shall in any way affect its obligations on this bond. The Surety hereby waives notice of any such change, extension of time, alteration, or addition to the terms of the agreement, the work, or the specifications.


In witness whereof, this instrument has been duly executed by Principal and Surety on

January 10, 2020.

"PRINCIPAL"

"SURETY"

Market Street 1629 Ventures, LP
a Delaware limited partnership

By: 
Name: Michael Cohen
Title: President

By: _____

Its: _____

Address: _____

Telephone: _____

Facsimile: _____

California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
 County of San Francisco } s.s.

On January 10th 2020 before me, Ellen Aurora Weaver
Name of Notary Public Title

personally appeared Michael Scott Cohen
Name of Signer (1)

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

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

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Public Improvement Agreement - 1629 Market St. Lots 1 and 2 containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-fact
- Corporate Officer(s) _____
Title(s)
- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer(s) Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

- Additional Signer Signer(s) Thumbprints(s)

EXHIBIT G-2

FORM: LABOR AND MATERIAL BOND

1629 Market Street Project – Phase 1 Required Infrastructure

Whereas, the Board of Supervisors of the City and County of San Francisco, State of California, and MARKET STREET 1629 VENTURES, LP (hereafter designated as "**Principal**") have entered into that certain Public Improvement Agreement (1629 Market Street Project - Phase 1), dated January 13, 2020 (the "**Agreement**"), which is hereby referred to and made a part hereof, whereby Principal agrees to install and complete certain designated public improvements identified therein as the Required Infrastructure; and

Whereas, under the terms of the Agreement, Principal is required before entering upon the performance of the work to file a good and sufficient payment bond with the City and County of San Francisco to secure the claims to which reference is made in Title 15 (commencing with section 3082) of Part 4 of Division 3 of the Civil Code of the State of California;

Now, therefore, we, the Principal and the undersigned, as corporate Surety (hereinafter "**Surety**"), are held and firmly bound unto the City and County of San Francisco and all contractors, subcontractors, laborers, material men, and other persons employed in the performance of the agreement and referred to in Title 15 of the Civil Code in the sum of Five Hundred Seventy Eight Thousand Two Hundred Nine and 50/100 Dollars (\$578,209.50), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that Surety will pay the same in an amount not exceeding the amount set forth. If suit is brought on this bond, Surety will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City and County of San Francisco, in successfully enforcing the obligation, to be awarded and fixed by the Court, to be taxed as costs, and to be included in the judgment rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 15 (commencing with section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

If the condition of this bond is fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension, alteration, or addition.

In witness whereof, this instrument has been duly executed by Principal and Surety on January 13, 2020.


"PRINCIPAL"

Market Street 1629 Ventures, LP
a Delaware limited partnership

By: _____
Name: Michael Cohen
Title: President

"SURETY"

Atlantic Specialty Insurance Company

By: 
Natalie K. Trofimoff
Its: Attorney-in-Fact

Address: 605 Highway 169 North

Suite 800

Plymouth, MN 55441

Telephone: (952) 852-2431

Facsimile: (866) 235-0646

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

Civil Code § 1189

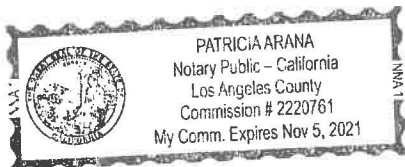
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California)
) ss
County of Los Angeles)

On JAN 13 2020, before me, Patricia Arana, Notary Public, personally appeared Natalie K. Trofimoff, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



(Seal)

Signature: *Patricia Arana*
Patricia Arana, Notary Public



Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Plymouth, Minnesota, does hereby constitute and appoint: **E.S. Albrecht, Jr., C.K. Nakamura, Tim M. Tomko, Noemi Quiroz, Maria Pena, Lisa L. Thornton, Patricia S. Arana, Natalie K. Trofimoff, Jessica Rosser**, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: **sixty million dollars (\$60,000,000)** and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer") may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.

Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the signature of an Authorized Officer, the signature of the Secretary or the Assistant Secretary, and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

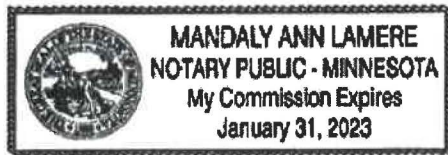
IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this twenty-ninth day of April, 2019.

STATE OF MINNESOTA
HENNEPIN COUNTY



By 
Paul J. Brehm, Senior Vice President

On this twenty-ninth day of April, 2019, before me personally came Paul J. Brehm, Senior Vice President of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, that he is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.

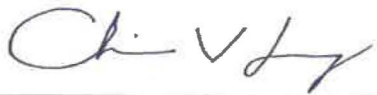



Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated JAN 13 2020 day of _____, _____.




Christopher V. Jerry, Secretary

This Power of Attorney expires
January 31, 2023

If the condition of this bond is fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the agreement shall in any manner affect its obligations on this bond. The Surety hereby waives notice of any such change, extension, alteration, or addition.

In witness whereof, this instrument has been duly executed by Principal and Surety on January 10, 2020.

"PRINCIPAL"

"SURETY"

Market Street 1629 Ventures, LP
a Delaware limited partnership

By: 
Name: Michael Cohen
Title: President

By: _____

Its: _____

Address: _____

Telephone: _____

Facsimile: _____

California All-Purpose Certificate of Acknowledgment

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State of California }
 County of San Francisco } s.s.

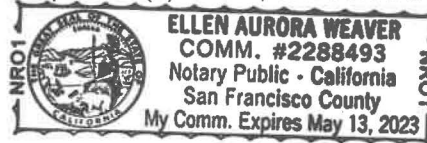
On January 10th 2020 before me, Ellen Aurora Weaver
Name of Notary Public, Title

personally appeared Michael Scott Cohen
Name of Signer (1)

Name of Signer (2)

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

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



WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

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The signer(s) capacity or authority is/are as:

- individual(s)
- Attorney-in-fact
- Corporate Officer(s) _____
Title(s)
- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

- Additional Signer Signer(s) Thumbprints(s)
