

AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE

by and between

BRYANT STREET HOLDINGS LLC, a Delaware limited liability company  
as Seller

and

CITY AND COUNTY OF SAN FRANCISCO,  
as Buyer

For the purchase and sale of

2070 Bryant Street,  
San Francisco, California

\_\_\_\_\_, 2017

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- EXHIBIT A – Real Property Description
- EXHIBIT B – Grant Deed
- EXHIBIT C – Proforma Title Policy
- EXHIBIT D – [reserved]
- EXHIBIT E – Demolition Documents
- EXHIBIT F – Declaration of No-Build Easement
- EXHIBIT G – Special Notice
- EXHIBIT H – Remediation and Demolition Funds Agreement
- EXHIBIT I – [reserved]
- EXHIBIT J – FIRPTA Affidavit
- EXHIBIT K – Designation Agreement

**SCHEDULE 1** – Seller’s Documents



**AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE**  
(2070 Bryant Street, San Francisco)

THIS AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE (this “**Agreement**”) dated for reference purposes only as of \_\_\_\_\_, 2017 is by and between BRYANT STREET HOLDINGS LLC, a Delaware limited liability company (“**Seller**”), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**Buyer**” or “**City**”).

**RECITALS**

This Agreement is made with reference to the following:

- A. Seller is the owner of certain real property located at 2000-2070 Bryant Street in San Francisco (the “**Principal Site**”).
- B. On June 2, 2016, pursuant to Planning Commission Motion No. 19658 (the “**Planning Approval**”), the San Francisco Planning Commission approved Seller’s predecessor-in-interest’s development application for construction of a new six-story mixed use building consisting of approximately 199 dwelling units, up to 7,007 square feet of ground floor retail, and approximately 12,000 square feet of PDR use (the “**Project**”).
- C. The San Francisco Planning Code (“**Planning Code**”) requires market rate residential projects to comply with certain Residential Inclusionary Housing rules designed to create affordable housing in San Francisco (“**Affordability Requirement**”). Seller desires to satisfy the Affordability Requirement for the Project through a land dedication pursuant to Planning Code Section 419.5(a)(2)(A)-(J) (“**Land Dedication Option**”).
- D. Seller and City are entering into this Agreement in order to facilitate satisfaction of the Project of the Affordability Requirement by means of the Land Dedication Option through a transfer to City of the Property (as defined below).
- E. By letter dated May 12, 2016, from the Mayor’s Office of Housing and Community Development (“**MOHCD**”), the City verified the Property as acceptable for dedication pursuant to the Land Dedication Option described above, subject to satisfaction of certain conditions set forth therein.

IN CONSIDERATION of the payment of the nonrefundable sum of One Dollar (\$1.00) by City, the receipt of which is hereby acknowledged by Seller, and the respective agreements contained hereinbelow, Seller and City agree as follows:

## **1. PURCHASE AND SALE**

### **1.1 Property Included in Sale**

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

(a) the real property consisting of approximately nineteen thousand (19,000) square feet of land, located in the City and County of San Francisco, being a portion of Lot 021 on Block 4022, and more particularly described in Exhibit A attached hereto (the “Land”);

(b) subject to Seller’s performance of the Demolition Work as described in Section 5.6(e) below, any improvements remaining on the Land; and

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

All of the items referred to in Subsections (a) and (b) above are collectively referred to as the “Property.” Seller and City hereby acknowledge and agree that the plat and legal description attached as Exhibit A may be adjusted prior to the Closing Date (as defined herein) as necessary to conform to the legal description for the Land approved per the Lot Line Adjustment (as defined herein).

### **1.2 Seller’s Rights to the Property**

Seller and City hereby acknowledge that this Agreement is entered into for the purpose of satisfying the Affordability Requirements for the Project through exercise by Seller of the Land Dedication Option. However, nothing in this Agreement is intended to compel Seller to pursue the Land Dedication Option in order to satisfy the Affordability Requirement for the Project, and if for any reason Seller, in its sole discretion, elects to terminate this Agreement or the Closing under this Agreement does not occur, Seller may, nonetheless, satisfy said Affordability Requirement through the alternative options more specifically set forth in the Planning Approvals.

## 2. PURCHASE PRICE

### 2.1 Purchase Price

The total purchase price for the Property as consideration for Seller's satisfaction of a portion of the Affordability Requirement is One Dollar (\$1.00) (the "Purchase Price").

### 2.2 Payment

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

### 2.3 Funds

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

## 3. TITLE TO THE PROPERTY

### 3.1 Conveyance of Title to the Property

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

### 3.2 Title Insurance

(a) Delivery of title in accordance with the preceding Section shall be evidenced by the issuance by First American Title Company (the "Title Company") to City of an ALTA extended coverage owner's policy of title insurance substantially in the form attached hereto as Exhibit C (the "Proforma Policy"), with the exceptions shown in the Proforma Policy including the Special Notice in the form of Exhibit G and the Declaration of No-Build Easement in the form of Exhibit F, plus those matters shown on the Survey and any matters created by, through or under City and any New Title Objection that is approved or deemed approved by City pursuant to Paragraph (b) below (the "Accepted Conditions of Title").

(b) If, prior to Closing, an update of the status of title to the Property discloses any materially adverse matter not set forth on the Proforma Policy, then no later than ten (10) business days following receipt of such update, City shall have the right to object to any such matter that would have a material adverse impact on future development of an affordable housing project on the Property by written notice to Seller (each, a "New Title Objection") and Seller shall have up to sixty (60) days after receipt of City's notice to cure or attempt to cure such New Title Objection and the Closing Date shall be extended to allow for the stated time period to run; provided, however, notwithstanding the foregoing, Seller shall have no obligation whatsoever to cure or

attempt to cure any New Title Objection except that Seller shall be obligated, at Closing, to cause Title Company to remove any and all deeds of trust, mortgages and other monetary liens and encumbrances (provided that, at Seller's cost and expense, Seller may bond around any New Title Objection to Title Company's reasonable satisfaction or cause Title Company to endorse over such matter to City's reasonable satisfaction upon which, such matter shall be deemed cured). If a New Title Objection is not cured by Seller prior to the Closing Date, City shall, as its sole and exclusive remedy, waiving all other remedies, either: (x) terminate this Agreement upon written notice thereof to Seller, at which time the parties shall have no further rights, liabilities, or obligations under this Agreement (other than those that expressly survive termination including, without limitation, Seller's obligation to satisfy the Affordability Requirement); or (y) waive the uncured New Title Objection by proceeding to Closing and thereby be deemed to have approved the title as shown in the Proforma Policy as updated to include the New Title Objection and such uncured New Title Objection shall become an "Accepted Condition of Title."

### **3.3 Survey**

No later than thirty (30) days after the recordation of the final map in connection with the Lot Line Adjustment or, at Seller's option, after completion of the Demolition Work (as defined below), Seller shall deliver to City an ALTA Survey of the Land (the "Survey"). By written notice to Seller, City shall have fifteen (15) business days following City's receipt of the Survey to object to any encroachment of permanent improvements (i.e., not temporary fences) on adjacent property not owned by City that encroach more than twelve (12) inches over the Property (each, a "Survey Objection"). A Survey Objection cannot consist of a condition that is created in connection with the Demolition Work. If City provides a timely Survey Objection, Seller shall work in good faith to cure such Survey Objection as soon as reasonably practicable thereafter and the Closing shall be extended accordingly to allow for such cure.

## **4. ENTRY**

### **4.1 Entry**

At all times prior to the Closing Date, Seller shall afford City and its Agents reasonable access to the Property for the purposes of satisfying City with respect to the representations, warranties and covenants of Seller contained herein and the satisfaction of the applicable City's Conditions Precedent as set forth in Section 5.1, subject to the terms of this Section 4.1. Buyer rights under this Section shall not include invasive or destructive activities such as the drilling of test wells and the taking of soil borings. In the event this Agreement is terminated for any reason other than Seller's default hereunder, City shall restore the Property to substantially the condition it was found subject to applicable laws. Buyer's obligations under this Section 4.1 shall survive the termination of this Agreement or the Closing, as applicable, provided that Seller must give notice of any claim it may have against City under such indemnity (i) within six (6) months of such termination if the claim is brought by a third party against Seller or (ii) within three (3) months of such termination or the Closing Date, as applicable, if the claim involves damage to Seller's Property or any other claim not brought by a third party against the Seller. Provided that Buyer has complied with the insurance requirements in Section 4.3 and gives Seller at least two

(2) business days prior written notice (e-mail notice alone being sufficient for such purposes if given to the Seller's notice parties identified in Section 11.1 below and also given to Linsey Perlov at linsey@podell.com and Ariel Pasch at ariel@podell.com), and subject to the access and safety requirements and limitations imposed by any contractor retained by Seller to perform the Demolition Work, Seller shall allow Buyer and authorized representatives of Buyer reasonable access, at reasonable times, to the Property for the purposes of inspecting the Property. In performing its examinations and inspections of the Property, Buyer shall not interfere with any demolition or other activities on the Property. Seller shall have the right at all times to have a representative of Seller accompany any of Buyer or Buyer's Agents while such persons are on the Property. Buyer's breach of this Section 4.1 (including any that is not cured within two (2) business days of its receipt of Seller's written notice) shall constitute a material breach and default by Buyer of this Agreement (provided, however, that no such notice and cure period shall apply to any breach of this Section 4.1 that creates an immediate risk of damage to persons or property), and, in such event, Seller may terminate Buyer's rights to access the Property pursuant to this Section 4.1 until such default is cured and pursue an action to recover damages resulting from such breach. All investigations and inspections shall be performed in compliance with this Article 4 and all applicable laws and governmental and regulations. Upon termination of this Agreement by either party due to a failure of a condition, Buyer shall deliver to Seller, without representation or liability for accuracy or suitability, a copy of any third-party reports related to the condition of the Property and any survey of the Land obtained by Buyer.

#### **4.2 Indemnification.**

Notwithstanding anything in this Agreement to the contrary, any entry upon, inspection, or investigation of the Property by Buyer or its Agents (as defined in Section 11.8) shall be performed at the sole risk and expense of Buyer, and Buyer shall be solely and absolutely responsible for the acts or omissions of any of its Agents. Buyer shall protect, indemnify, defend and hold Seller, its affiliates and successors harmless from and against any and all losses, damages, liabilities, third party claims, causes of action, judgments, costs and legal or other expenses (including, but not limited to, reasonable attorneys' fees and costs) (collectively, "**Access Claims**") suffered or incurred by any or all of such indemnified parties to the extent resulting from any act or omission of Buyer or its Agents in connection with: (i) Buyer's inspection or investigations of the Property, or (ii) entry upon the Property by Buyer or its Agents, except to the extent such damage or injury is caused by the acts or omissions of Seller or any of its Agents. The foregoing Indemnity shall not include any Access Claims resulting solely from the discovery or disclosure of pre-existing environmental conditions or the non-negligent aggravation of pre-existing environmental conditions on, in, under or about the Property and not from breach of Buyer's obligations related to its and its Agents' activities on the Property. Buyer's obligations under this Section 4.2 shall survive the termination of this Agreement or the Closing, as the case may be, notwithstanding any other provisions herein to the contrary. Buyer shall, at all times, keep the Property free and clear of any mechanics', materialman's or design professional's claims or liens resulting from its investigations of the Property.



### 4.3 Insurance.

(a) Prior to any entry onto the Property by Buyer or its Agents, any time prior to Closing, Buyer and any of its Agents entering on the Land shall have and maintain in effect for at least twenty four (24) months after the date of this Agreement, the following insurance:

(i) Commercial general liability insurance with a limit of at least \$2,000,000.00 per occurrence per location or per project;

(ii) worker's compensation insurance as required by law and employer's liability insurance with limits not less than \$1,000,000; and

(iii) business automobile liability insurance with a limit of at least \$1,000,000 covering all owned, hired and non-owned vehicles.

(iv) In addition, any Agent engaged by Buyer to perform invasive or destructive testing of, on or under the Property or any other work that involves the handling of hazardous materials, may not enter on the Land unless such Agent provide evidence satisfactory to Seller (and such evidence shall consist of a copy of the declarations pages of the policy, relevant portions of the policy and endorsements) that such Agent has in effect Contractors Pollution Liability Insurance with limits not less than Five Million Dollars (\$5,000,000) annual aggregate, which insurance such Agent shall maintain in full force and effect for no less than two years after Buyer's Agent's entry onto the Property.

(b) Buyer is self-insured and self-funded for the insurance programs described in Sections 4.3(a). All insurance required to be provided by Buyer's Agents shall:

(i) be issued by insurance carriers rated A-/VIII or better by Best's, which are licensed to do business in the State of California;

(ii) contain an "insured contract" provision covering Buyer's Agent's indemnity obligations as set forth in this Agreement;

(iii) name Seller and its members and their respective members, managers, directors, officers, agents and employees as additional insureds (collectively, the "Additional Insureds"), pursuant to policy provisions or endorsements in the form of ISO CG 20 26 11 85, or a combination of forms CG 20 10 10 01 and CG 20 37 10 01, or equivalent. There shall not be any additional provision that limits the insurer's obligation to provide defense or indemnification;

(iv) with respect to the Additional Insureds, be primary and non-contributory for both ongoing and completed operations with any insurance maintained by any Additional Insureds;

(v) apply separately to each insured and Additional Insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(vi) to the extent permitted by law, waive all rights of subrogation against the Additional Insureds;

(vii) provide that the unintentional failure of Buyer's Agents, as applicable, or other named insured or additional insured or loss payee, to disclose all hazards existing at the inception of the policy shall not be a basis for denial of any coverage afforded by such policy, or words of similar import, and not include any provision limiting the insurer's obligations with respect to any insured, additional insured or loss payee due to any violation by any other unaffiliated additional insureds or loss payees of warranties, declarations or conditions of the policy or any application therefor by any other insured, additional insured or loss payee.

## 5. CONDITIONS TO CLOSING

### 5.1 City's Conditions to Closing

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

(a) As of the Closing Date, Seller shall not be in default in the performance of any covenant or agreement to be performed by Seller under this Agreement following notice of such default from City and Seller's failure to cure such default within five (5) business days or such longer period as may be provided in this Agreement, and all of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date. At the Closing Seller shall have delivered to City a certificate (the "**Date-Down Certificate**") certifying that each of Seller's representations and warranties contained in Section 8.1 [Representations and Warranties of Seller] below are true and correct as of the Closing Date; provided that Seller's representation regarding litigation in Section 8.1(d) shall be deemed true and correct notwithstanding any litigation challenging this Agreement or the transaction contemplated herein or governmental actions related to Seller's Project that are threatened or filed following the date this Agreement is executed by Seller and delivered to City.

(b) Subject to Section 5.1(a) above, as of the Closing Date, there shall be no litigation or administrative agency or other governmental proceeding, pending or threatened, which challenges City's acceptance of the Deed.

(c) Prior to the Closing Date, Seller, at its sole cost and expense, shall have demolished the existing improvements on the Property as described in the drawings and specifications attached as or listed on Exhibit E hereto, including removal of all demolition-related debris (the "**Demolition Documents**"), and as of the Closing Date, Seller shall have delivered the Property vacant of tenants (the "**Demolition Work**"). Seller must perform the Demolition Work in accordance with all applicable federal, state and local laws, including but not limited to all Environmental Laws (as defined in Section 8.1 herein). Prior to commencement of the Demolition Work, Seller shall have delivered to City evidence that Seller has obtained at its sole expense a Pollution Policy for the Property in a form previously approved by City (the "**Pollution Policy**"), which also names City as an additional insured. Seller shall

notify City upon completion of the Demolition Work, and City and its Agents shall have the right to inspect the Property. This Buyer's Condition Precedent shall be deemed satisfied upon the delivery to the addressees for notice to City as set forth in Section 11.1 below of a Special Inspection Final Compliance Report issued by the Special Inspector (identified on the demolition permit) stating that the observed demolition work was performed in accordance with the approved plans, specifications, and applicable workmanship provisions of the San Francisco Building Code and following the issuance of such report and the payment by Seller of the amount described in paragraph (e) below, Seller shall have no further obligations or liability under this Agreement related to demolition of the existing improvements.

(d) On or before the Closing Date, Seller shall have deposited the Remediation and Demolition Funds into the Remediation Escrow Account pursuant to the Remediation and Demolition Funds Agreement and Escrow Instructions as further described in Section 8.5 below.

(e) Title Company shall be committed at the Closing to issue to City the Title Policy as provided in Section 3.2 [Title Insurance].

(f) The City's Mayor and the Board of Supervisors, in the respective sole discretion of each, shall have enacted a resolution approving, adopting and authorizing this Agreement and the transaction, contemplated hereby ("City Resolution"). This condition may not be waived by City.

(g) Seller shall have delivered the items described in Section 6.3 [Seller's Delivery of Documents and Funds] and Section 6.5 [Other Documents] on or before the Closing.

(h) Prior to the Closing Date, the following must occur with respect to the creation of the Property as a separate legal parcel: (i) Seller must complete the subdivision of the Principal Site to create the Property as a separate legal parcel and cause the final parcel map to be recorded (collectively, the "Lot Line Adjustment"); and (ii) City must approve of the Survey, pursuant to the terms of Section 3.3 above. These conditions may not be waived by City.

The City's Conditions Precedent contained in the foregoing subsections (a) through (j) are solely for the benefit of City. If any Condition Precedent is not satisfied, City shall have the right in its sole discretion either to waive in writing the City's Condition Precedent in question and proceed with the purchase and accept title to the Property or, in the alternative, terminate this Agreement. In addition, the Closing Date may be extended, at City's option, by notice given at least two (2) business days before the scheduled Closing Date, for a reasonable period of time specified by City, but not in excess of ninety (90) days, to allow such City's Conditions Precedent to be satisfied, subject to City's further right to terminate this Agreement upon the expiration of the period of any such extension if all such City's Conditions Precedent have not been satisfied.

## **5.2 Failure or Satisfaction of City's Conditions**

(a) In the event the sale and purchase of the Property is not consummated because of a default under this Agreement on the part of Seller, or if a City's Condition Precedent cannot be fulfilled because Seller frustrated such fulfillment by some affirmative act



or negligent omission and failed to cure it within five (5) business days following notice from City or such longer period as reasonably may be required, City may, at its sole election, either (1) terminate this Agreement by delivery of notice of termination to Seller and Escrow Agent, whereupon Seller shall reimburse City any reasonable inspection fees incurred by City and any other reasonable out-of-pocket expenses incurred by City in connection with the performance of its due diligence review of the Property, but not more than an aggregate amount of One Hundred Thousand Dollars (\$100,000), and neither party shall have any further rights or obligations under this Agreement that have not arisen or accrued prior to such termination, or (2) continue this Agreement pending City's action for specific performance and/or damages hereunder, including, without limitation, City's costs and expenses incurred hereunder.

(b) Within five (5) business days following Seller's request, City, acting through the Director of Real Estate, shall give notice to Seller either confirming that City's Conditions Precedent have been satisfied or setting forth, in reasonable detail, the actions that remain to be taken or events that have not yet occurred such that the City's Conditions Precedent remain unsatisfied. Notwithstanding anything to the contrary contained in this Section 5.2, City's acknowledgement of the satisfaction or waiver of City's Conditions Precedent shall be deemed given if:

(i) the first correspondence from Seller to City requesting such approval or consent is in an envelope marked "PRIORITY" and contains a bold-faced, conspicuous (in a font size that is not less than fourteen (14)) legend at the top of the first page thereof stating that "FIRST NOTICE: THIS IS A REQUEST FOR ACKNOWLEDGMENT OF THE SATISFACTION OF CITY CONDITIONS PRECEDENT UNDER THE PURCHASE AND SALE AGREEMENT FOR 2070 BRYANT STREET, FAILURE TO RESPOND TO THIS REQUEST WITHIN TEN BUSINESS DAYS MAY RESULT IN THE ACKNOWLEDGMENT BEING DEEMED GIVEN", and is accompanied by the information and documents required above, and any other information reasonably requested by City in writing prior to the expiration of such ten (10) business day period in order to adequately review the same has been delivered; and

(ii) if City fails to respond or to deny such request for approval in writing within the first five (5) business days of such ten (10) business day period, a second notice requesting approval is delivered to City from Seller in an envelope marked "PRIORITY" containing a bold-faced, conspicuous (in a font size that is not less than fourteen(14)) legend at the top of the first page thereof stating that "SECOND AND FINAL NOTICE: THIS IS A REQUEST FOR ACKNOWLEDGMENT OF THE SATISFACTION OF CITY CONDITIONS PRECEDENT UNDER THE PURCHASE AND SALE AGREEMENT FOR 2070 BRYANT STREET, FAILURE TO RESPOND TO THIS REQUEST WITHIN FIVE DAYS MAY RESULT IN THE ACKNOWLEDGMENT BEING DEEMED GIVEN" and City fails to provide a substantive response to such request for acknowledgment within such final five (5) business day period.

### **5.3 Seller's Conditions to Closing**

The following are conditions precedent to Seller's obligation to sell the Property (collectively, "**Seller's Conditions Precedent**"):

(a) As of the Closing, City shall have performed its obligations under this Agreement to be performed on or before the Closing.

(b) Before the Closing, the final Lot Line Adjustment plat and related deeds shall have been approved by the City and have been recorded. This condition may not be waived by Seller.

(c) Before the Closing, City's Mayor and Board of Supervisors, in the respective sole discretion of each, shall have enacted a resolution approving, adopting and authorizing this Agreement and the transaction contemplated hereby.

The Seller's Conditions Precedent contained in the foregoing subsections (a) through (c) are solely for the benefit of Seller. If any Seller's Condition Precedent is not satisfied, Seller shall have the right in its sole discretion either to waive in writing the Seller's Condition Precedent in question and proceed with the Closing or, in the alternative, terminate this Agreement by notice to City and Escrow Agent, whereupon neither party shall have any further rights or obligations under this Agreement that have not arisen or accrued prior to such termination.

### **5.4 Cooperation**

City and Seller shall cooperate and do all acts as may be reasonably requested by the other party with regard to the fulfillment of any Conditions Precedent including, without limitation, execution of any documents, applications or permits, but Seller's representations and warranties to City shall not be affected or released by City's waiver or fulfillment of any Condition Precedent. Seller hereby irrevocably authorizes City and its Agents to make all inquiries with and applications to any person or entity, any regulatory authority with jurisdiction as City may reasonably require to complete its due diligence investigations.

## **6. ESCROW AND CLOSING**

### **6.1 Opening of Escrow**

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

## 6.2 Closing Date

The consummation of the purchase and sale contemplated hereby (the “Closing”) shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of Title Company located at 2755 Campus Dr. Suite 125, San Mateo, CA 94403, after the date all City’s and Seller’s Conditions Precedent have been satisfied or waived, on a date designated by Seller not less than thirty (30) days following notice from Seller to City or on such earlier date as City and Seller may mutually agree (the “Closing Date”), subject to the provisions of Article 5 [Conditions Precedent]. If the Closing has not occurred by December 31, 2017, then Seller may terminate this Agreement by notice to City. If the Closing has not occurred by December 31, 2018, then City may terminate this Agreement by notice to Seller given within ten (10) days following such date. The Closing Date may not be extended without the prior written approval of both Seller and City, except as otherwise expressly provided in this Agreement. In the event the Closing does not occur on or before the Closing Date, Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the depositor thereof items which may have been deposited hereunder. Any such return shall not, however, limit the provisions hereof or otherwise relieve either party hereto of any liability it may have under the terms of this Agreement.

## 6.3 Seller’s Delivery of Documents and Funds

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

- (a) a duly executed and acknowledged Deed;
- (b) a duly executed and acknowledged Declaration of No-Build Easement in the form of Exhibit F, duly executed and acknowledged by Seller;
- (c) a Notice of Special Restrictions in the form of Exhibit G, duly executed and acknowledged by Seller;
- (d) three (3) duly executed counterparts of a Remediation and Demolition Funds Agreement in the form of Exhibit H, duly executed on behalf of Seller;
- (e) a properly executed affidavit pursuant to Section 1445(b)(2) of the Federal Tax Code in the form attached hereto as Exhibit J (the “Affidavit”);
- (f) a properly executed California Franchise Tax Board Form 590 certifying that Seller is a California resident if Seller is an individual or Seller has a permanent place of business in California or is qualified to do business in California if Seller is a corporation or other evidence satisfactory to City that Seller is exempt from the withholding requirements of Section 18662 of the State Tax Code;
- (g) such resolutions, authorizations, or other limited liability company documents or agreements relating to Seller and its members as City or the Title Company may reasonably require to demonstrate the authority of Seller to enter into this Agreement and consummate the

transactions contemplated hereby, and such proof of the power and authority of the individuals executing any documents or other instruments on behalf of Seller to act for and bind Seller;

(h) immediately available funds in the amount of the Remediation and Demolition Funds as set forth in the Remediation and Demolition Funds Agreement;

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

(j) the duly executed Date-Down Certificate as required by Section 5.4(a) hereof;

(k) evidence of the full force and effect of the Pollution Policy;

(l) originals or copies of the Seller's Documents (as defined in Subsection 8.1(a) below); and

(m) closing statement of prorations and adjustments as may be required by this Agreement, prepared by Seller and submitted to City at least three (3) business days prior to the Closing Date, in form and content satisfactory to City and Seller.

#### **6.4 City's Delivery of Documents and Funds**

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

(a) a Certificate of Acceptance of the Deed executed by City's Director of Property, and acknowledged;

(b) three (3) duly executed counterparts of the Remediation and Demolition Funds Agreement; and

(c) the Purchase Price, as provided in Article 2 hereof.

#### **6.5 Other Documents**

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

## **6.6 Close of Escrow**

The Title Company shall close the Escrow by:

- (a) recording the Grant Deed and the Certificate of Acceptance, the Notice of Special Restrictions, the Open Space Declaration in the San Francisco Official Records;
- (b) issuing the Title Policy to Buyer;
- (c) delivering to Buyer counterparts of the Remediation and Demolition Funds Agreement, executed by Seller and by the Title Company, the Affidavit and the Form 593-C;
- (d) retaining the Remediation and Demolition Funds in the Escrow pursuant to the Remediation and Demolition Funds Agreement;
- (e) delivering to Seller a counterparts of the Remediation Demolition Funds Agreement executed by City and by the Title Company;
- (f) depositing the Purchase Price into Seller's account.

## **7. EXPENSES AND TAXES**

### **7.1 Apportionments**

Seller shall be responsible for utilities, liability insurance, security and other costs related to the maintenance and operation of the Property incurred until the date for the Closing as designated by Seller in its notice to City pursuant to Section 6.2.

### **7.2 Closing Costs**

Seller shall pay the cost of the Survey, the premium for the Title Policy, escrow and recording fees. Seller shall pay the cost of any transfer taxes applicable to the sale. Seller shall be responsible for all costs incurred in connection with the prepayment or satisfaction of any loan, bond or other indebtedness secured by the Property including, without limitation, any prepayment fees, penalties or charges. Any other costs and charges of the escrow for the sale not otherwise provided for in this Section or elsewhere in this Agreement shall be borne by Seller.

### **7.3 Real Estate Taxes and Special Assessments**

General real estate taxes payable for the tax year prior to year of Closing and all prior years shall be paid by Seller at or before the Closing. General real estate taxes and assessments payable for the tax year of the Closing shall be prorated through escrow by Seller and City as of the Closing Date. At or before the Closing, Seller shall pay the full amount of any special assessments against the Property, including, without limitation, interest payable thereon, applicable to the period prior the Closing.



#### **7.4 Post-Closing Reconciliation**

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

#### **7.5 Survival**

The provisions of this Article 7 [Expenses and Taxes] shall survive the Closing.

### **8. REPRESENTATIONS AND WARRANTIES**

#### **8.1 Representations and Warranties of Seller**

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

(a) In connection with City's investigation of the Property, Seller heretofore made available to City the documents listed on Schedule 1 attached hereto (collectively, the "**Seller's Documents**"). To Seller's knowledge, the Seller's Documents are true, correct and complete copies of such documents. "**Seller's knowledge**" means the knowledge of Nick Podell and Linsey Perlov without personal liability and without the requirement of independent investigation. Seller discloses that, as described in some of Seller's Documents, there are Hazardous Materials on or beneath the surface of the Land and in the improvements presently existing on the Property, and such Hazardous Materials are or may be on or beneath the Land in violation of any applicable law or regulation of any local, state or federal government or agency thereof as may be disclosed in the Seller's Documents.

(b) No document or instrument prepared by Seller and furnished or to be furnished by the Seller to the City in connection with this Agreement contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made; provided that Seller makes no representation regarding the accuracy of any cost estimate provided to the City by or on behalf of Seller, with the expectation that City will obtain independent peer review(s) of such estimates.

(c) Seller does not have knowledge of any condemnation, instituted by any governmental or quasi-governmental agency other than City, which could materially and detrimentally affect the use of the Property for rental multi-family residential use.

(d) To Seller's knowledge, there are no easements or rights of way which have been acquired by prescription or which are otherwise not of record with respect to the Property, and other than as set forth in instruments recorded in the official records, there are no easements, rights of way, permits, licenses or other forms of written agreement with Seller which afford third parties the right to traverse any portion of the Property to gain access to other real property. To Seller's knowledge, there are no disputes between Seller and other parties with regard to the

location of any fence or other monument of the Property's boundary nor any claims or actions involving the location of any fence or boundary.

(e) There is no litigation pending in which Seller has been served or, to Seller's knowledge, threatened in writing, against Seller that arises out of the ownership of the Property or that might detrimentally affect the use or operation of the Property for its intended purpose or the ability of Seller to perform its obligations under this Agreement.

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

(g) Seller is a limited liability company duly organized and validly existing under the laws of the State of Delaware and is in good standing under the laws of the State of California; this Agreement and all documents executed by Seller which are to be delivered to City at the Closing are, or at the Closing will be, duly authorized, executed and delivered by Seller, are, or at the Closing will be, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, are, and at the Closing will be, sufficient to convey good and marketable title (if they purport to do so), and do not, and at the Closing will not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

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

(i) Seller warrants that the improvements remaining adjacent to Florida Street upon completion of the Demolition Work will be adequate to retain the adjacent properties, including sidewalks so that they do not collapse onto the Property until such time as such improvements are removed or are damaged by third parties or events of force majeure.

(j) Seller hereby represents and warrants to City that, to Seller's knowledge, the following statements are true and correct and will be true and correct as of the Closing Date: (i) except as may be shown in the Seller's Documents listed in **Schedule 1**, the Property is not in violation of any Environmental Laws; (ii) except as may be shown in the Seller's Documents listed in **Schedule 1**, there has been no release and there is no threatened release of any Hazardous Material in, on, under or about the Property; (iii) except as may be shown in the Seller's Documents listed in **Schedule 1**, there have not been and there are not now any underground storage tanks, septic tanks or wells or any aboveground storage tanks at any time used to store Hazardous Material located in, on or under the Property, or if there have been or are any such tanks or wells located on the Property, their location, type, age and content has been

specifically identified in the Seller's Documents listed in **Schedule 1**, they have been properly registered with all appropriate authorities, they are in full compliance with all applicable statutes, ordinances and regulations, and they have not resulted in the release or threatened release of any Hazardous Material into the environment; (iv) except as may be shown in the Seller's Documents listed in **Schedule 1**, the Property does not consist of any landfill or of any building materials that contain Hazardous Material; and (v) except as may be shown in the Seller's Documents listed in **Schedule 1**, the Property is not subject to any claim by any governmental regulatory agency or third party related to the release or threatened release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in, on, under or about the Property, or the migration of Hazardous Material from or to other property. As used herein, the following terms shall have the meanings below:

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

**"Hazardous Material"** shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Improvements or are naturally occurring substances on or about the Property; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids; and "source," "special nuclear" and "by-product" material as defined in the Atomic Energy Act of 1985, 42 U.S.C. Section 3011 et seq.

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

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



## 8.2 Representations and Warranties of City

City is a municipal corporation, duly organized and validly existing under the laws of the State of California and is in good standing under the laws of the State of California. Subject to Section 11.19, this Agreement and all documents executed by City which are to be delivered to Seller at the Closing are, or at the Closing will be, duly authorized, executed and delivered by City, are, or at the Closing will be, legal, valid and binding obligations of City, enforceable against City in accordance with their respective terms, are, and do not, and at the Closing will not, violate any provision of any agreement or judicial order to which City is a party.

[SECTION 8.3 ON FOLLOWING PAGE]

### 8.3 "AS IS" PURCHASE

(a) SUBJECT TO SECTION 8.1, CITY SPECIFICALLY ACKNOWLEDGES AND AGREES THAT SELLER IS SELLING AND CITY IS PURCHASING SELLER'S INTEREST IN THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS. CITY ACKNOWLEDGES AND AGREES THAT EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.1 OF THIS AGREEMENT AND IN SELLER'S CLOSING DOCUMENTS, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, CONCERNING OR WITH RESPECT TO THE PROPERTY INCLUDING, WITHOUT LIMITATION, (A) THE NATURE, QUALITY OR PHYSICAL CONDITION OF THE PROPERTY, (B) THE WATER, SOIL AND GEOLOGY OF THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH CITY MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY GOVERNMENTAL AUTHORITY OR BODY HAVING JURISDICTION THEREOVER, AND (E) ANY MATTER REGARDING HAZARDOUS MATERIALS, AS HEREINAFTER DEFINED, INCLUDING AS SET FORTH IN THE ENVIRONMENTAL DISCLOSURES. EXCEPT FOR SELLER'S REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 8.1, CITY IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SELLER OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE PROPERTY, ITS SUITABILITY FOR CITY'S INTENDED USES, ANY CONDITIONS AFFECTING TITLE, OR ANY OF THE PROPERTY CONDITIONS. SELLER DOES NOT GUARANTEE THE LEGAL, PHYSICAL, GEOLOGICAL, ENVIRONMENTAL OR OTHER CONDITIONS OF THE PROPERTY, NOR DOES IT ASSUME ANY RESPONSIBILITY FOR THE COMPLIANCE OF THE PROPERTY OR ITS USE WITH ANY STATUTE, ORDINANCE OR REGULATION, INCLUDING BUT NOT LIMITED TO THE SUBDIVISION MAP ACT. IT IS CITY'S SOLE RESPONSIBILITY TO DETERMINE ALL BUILDING, PLANNING, ZONING AND OTHER REGULATIONS RELATING TO THE PROPERTY AND THE USES TO WHICH IT MAY BE PUT.

(b) CITY REPRESENTS TO SELLER THAT CITY HAS CONDUCTED, OR WILL CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE PROPERTY, AS CITY DEEMS NECESSARY OR DESIRABLE TO SATISFY ITSELF AS TO ANY MATTER RELATING TO THE PROPERTY AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER, SELLER'S AGENTS, EMPLOYEES OR THIRD PARTIES REPRESENTING OR PURPORTING TO REPRESENT SELLER, WITH RESPECT THERETO. UPON CLOSING, CITY SHALL ASSUME THE RISK THAT ADVERSE MATTERS REGARDING THE PROPERTY MAY NOT HAVE BEEN REVEALED BY CITY'S INVESTIGATIONS,

AND CITY, UPON CLOSING, SHALL BE DEEMED, ON BEHALF OF ITSELF AND ON BEHALF OF ITS TRANSFEREES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO WAIVE, RELINQUISH, RELEASE AND FOREVER DISCHARGE SELLER AND SELLER'S AFFILIATES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, BY REASON OF OR ARISING OUT OF THE PROPERTY, WHETHER PURSUANT TO STATUTES IN EFFECT IN THE STATE OF CALIFORNIA OR ANY OTHER FEDERAL, STATE, OR LOCAL ENVIRONMENTAL OR HEALTH AND SAFETY LAW OR REGULATION. THIS RELEASE INCLUDES CLAIMS OF WHICH CITY IS PRESENTLY UNAWARE AND OF WHICH CITY DOES NOT PRESENTLY SUSPECT TO EXIST WHICH, IF KNOWN BY CITY, WOULD MATERIALLY AFFECT CITY'S RELEASE OF SELLER.

(c) NOTHING IN THIS SECTION 8.3 SHALL BE DEEMED TO RELEASE SELLER FROM (A) SELLER'S INDEMNIFICATION OBLIGATION SET FORTH IN SECTION 8.4 BELOW, OR (B) ANY CLAIM OR CAUSE OF ACTION BY CITY AGAINST SELLER (I) FOR A BREACH OF A REPRESENTATION OR WARRANTY BY SELLER CONTAINED IN THIS AGREEMENT OR IN SELLER'S CLOSING DOCUMENTS, OR (II) FOR FRAUD.

(d) In connection with the foregoing release, City expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows:

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

BY PLACING ITS INITIALS BELOW, CITY SPECIFICALLY ACKNOWLEDGES AND CONFIRMS THE VALIDITY OF THE RELEASES MADE ABOVE AND THE FACT THAT CITY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THE ABOVE RELEASES.

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City's Initials

*NP*  
\_\_\_\_\_  
Seller's Initials

AND CITY, UPON CLOSING, SHALL BE DEEMED, ON BEHALF OF ITSELF AND ON BEHALF OF ITS TRANSFEREES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO WAIVE, RELINQUISH, RELEASE AND FOREVER DISCHARGE SELLER AND SELLER'S AFFILIATES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, BY REASON OF OR ARISING OUT OF THE PROPERTY, WHETHER PURSUANT TO STATUTES IN EFFECT IN THE STATE OF CALIFORNIA OR ANY OTHER FEDERAL, STATE, OR LOCAL ENVIRONMENTAL OR HEALTH AND SAFETY LAW OR REGULATION. THIS RELEASE INCLUDES CLAIMS OF WHICH CITY IS PRESENTLY UNAWARE AND OF WHICH CITY DOES NOT PRESENTLY SUSPECT TO EXIST WHICH, IF KNOWN BY CITY, WOULD MATERIALLY AFFECT CITY'S RELEASE OF SELLER.

(c) NOTHING IN THIS SECTION 8.3 SHALL BE DEEMED TO RELEASE SELLER FROM (A) SELLER'S INDEMNIFICATION OBLIGATION SET FORTH IN SECTION 8.4 BELOW, OR (B) ANY CLAIM OR CAUSE OF ACTION BY CITY AGAINST SELLER (I) FOR A BREACH OF A REPRESENTATION OR WARRANTY BY SELLER CONTAINED IN THIS AGREEMENT OR IN SELLER'S CLOSING DOCUMENTS, OR (II) FOR FRAUD.

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BY PLACING ITS INITIALS BELOW, CITY SPECIFICALLY ACKNOWLEDGES AND CONFIRMS THE VALIDITY OF THE RELEASES MADE ABOVE AND THE FACT THAT CITY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THE ABOVE RELEASES.

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City's Initials

  
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Seller's Initials

#### **8.4 Indemnity**

Subject to the limitations of liability provided in Section 11.14 below, Seller hereby agrees to indemnify, defend and hold harmless City and its Agents from and against any and all liabilities, claims, demands, damages, liens, costs, penalties, losses and expenses, including, without limitation, reasonable attorneys' and consultants' fees, resulting from a breach by Seller of: (a) a representation or warranty made by Seller in Section 8.1 above, or (b) a covenant made by Seller in this Agreement. The foregoing indemnity includes, without limitation, costs incurred in connection with the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, cleanup, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material. The indemnification obligation set forth in this Section 8.4 shall survive Closing or any earlier termination of this Agreement.

#### **8.5 Remediation and Demolition Funds Agreement.**

In March 2013, PES Environmental, Inc. (“PES”) conducted a Phase I Environmental Site Assessment of the Property (“**Phase I Report**”), published on June 18, 2013, in order to evaluate potential environmental conditions at the Property. In April 2013, as recommended by the Phase I, PES conducted Limited Subsurface Investigation of the site, published July 31, 2013 (“**Phase II Report**”). Seller has agreed with City to provide funds to be applied to remediate the conditions identified in the Phase II Report. In addition, Seller has agreed to provide funds to be applied to complete the remaining demolition of the Improvements as further described in the Demolition Documents. The terms and conditions of Seller’s agreement to provide such funds for remediation and demolition (“**Remediation and Demolition Funds**”) to the City are set forth in the Remediation and Demolition Funds Agreement and Escrow Instructions (“**Remediation and Demolition Funds Agreement**”) which is attached hereto as Exhibit H and will be executed and delivered by the parties at Closing as provided herein.

#### **8.6 Disclosure Report.**

Seller has delivered to City a report (a “**Disclosure Report**”) containing the disclosures, if any, which may be required under the Natural Hazard Disclosure Act, California Government Code Sections 8589.3, 8589.4, and 51183.5, California Public Resources Code Sections 2621.9, 2694, and 4136, and California Civil Code Sections 1102.6 and 1103.2, and any successor law. For the purposes of this Agreement, the provisions of Civil Code Section 1102.4 regarding the non-liability of Seller for errors and/or omissions not within its personal knowledge shall be deemed to apply and the preparer of the Disclosure Report shall be deemed to be an expert, dealing with matters within the scope of its expertise with respect to the examination and Disclosure Report. Except for Seller’s obligation to provide the Remediation and Demolition Funds set forth in Section 8.4 above, nothing set forth in this Section 8.6 or in any Disclosure Report shall require Seller to remediate any other matter referred to any Disclosure Report and Seller shall in no event be required to expend funds to remediate any other matters disclosed in any Disclosure Report. City hereby knowingly, voluntarily and intentionally waives its right to disclosure by Seller of natural hazards found in the Natural Hazard Disclosure Act, California Government Code Sections 8589.3, 8589.4, and 51183.5, California Public Resources Code Sections 2621.9, 2694, and 4136, and California Civil Code Sections 1102.6 and 1103.2, and any



successor law. This waiver is a material inducement to Seller's decision to enter into this Agreement and the calculation of the Purchase Price, and City acknowledges that Seller would not have entered into this Agreement but for this waiver. In the event City proceeds with Closing, CITY SHALL BE DEEMED TO HAVE ACKNOWLEDGED TO SELLER THAT IT HAS OBTAINED THE DISCLOSURE REPORT FROM AN EXPERT SATISFYING THE REQUIREMENTS OF CALIFORNIA CIVIL CODE SECTION 1103.4, AND HAS WAIVED ANY OBJECTION TO SUCH DISCLOSURE REPORT. The terms and provisions of this Section 8.6 shall survive the Closing or the expiration or earlier termination of this Agreement.

### **8.7 Site Mitigation Plan and Covenant and Environmental Restriction**

City acknowledges that pursuant to that certain letter from the City Department of Public Health to Linsey Perlov of Nick Podell Company dated October 9, 2013, and subsequent correspondence with the City Department of Public Health (collectively, "DPH Requirements"), in connection with any future development on the Property, the owner of the Property will be required under applicable law to prepare a Site Mitigation Plan related to Hazardous Materials on and under the Property and be responsible for various obligations, including those relating to the removal, transport and disposal of Hazardous Materials from the Property, sampling and reporting, the installation of a vapor intrusion mitigation system and the obligation to record against title to the Property a Covenant and Environmental Restriction in form and in content approved by the City Department of Public Health. As a covenant which survives the Closing if City purchases the Property, City shall assume all responsibilities of Seller arising or to be performed by the owner of the Property from and after the Closing under applicable law and DPH Requirements. City and Seller shall cooperate in executing and delivering such documents as either may reasonably request from time to time implement the provisions of this Section 8.7.

## **9. RISK OF LOSS AND POSSESSION**

### **9.1 Risk of Loss**

In view of Seller's obligation under Section 5.4(b) to cause the Demolition Work to be completed before the Closing Date, City shall be bound to purchase the Property pursuant to the terms of this Agreement notwithstanding any damage to or destruction of the existing improvements on the Land.

### **9.2 Insurance**

Through the Closing Date, Seller shall maintain or cause to be maintained, at Seller's sole cost and expense, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the ownership of the Property as follows: (a) commercial general liability insurance coverage written on an Insurance Services Office (ISO) coverage form CG 00 01 or another occurrence form providing equivalent coverage, with limits of not less than One Million and No/100ths Dollars (\$1,000,000.00) per occurrence. (b) if Seller uses any automobiles, commercial automobile insurance coverage of not less than One Million and No/100ths Dollars (\$1,000,000.00) per occurrence which shall cover liability arising in

connection with any automobile at the Property (including owned, hired and non-owned automobiles), and (c) workers' compensation insurance as required by statute in the State of California and employer's liability insurance of not less than One Million and No/100ths Dollars (\$1,000,000.00) per accident. City has reviewed and approved Seller's insurance and agrees that substantially similar renewals of said insurance programs shall be acceptable and satisfy the requirements of this Section 9.2.

City, its officers, officials, employees, and volunteers shall be named as additional insureds with respect to coverages required by subsections (a) and (b) immediately preceding. If any coverages are written on a claims-made form, the retroactive date must be before the date of this Agreement. Insurance must be issued by an insurance company authorized to do business in the State of California having a rating of at least "A-/VII or VIII" by A.M. Best Company, unless otherwise acceptable to City. Seller shall furnish City with endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf.

### **9.3 Possession**

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

## **10. MAINTENANCE; CONSENT TO NEW CONTRACTS**

### **10.1 Maintenance of the Property by Seller**

Between the date of Seller's execution of this Agreement and the Closing, Seller shall maintain the Property in good order, condition and repair, subject to completion of the demolition of the existing improvements pursuant to the Demolition Documents. After completion of the demolition of existing improvements, Seller shall install a chain-link fence with a secured opening on the Florida Street frontage, in accordance with applicable laws of the City.

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

After the Effective Date, Seller shall not enter into any lease or contract, or any amendment thereof, assignment or agreement pertaining to the Property which would be binding upon City from and after the Closing without in each instance obtaining City's prior written consent thereto. City agrees that it shall not unreasonably withhold or delay any such consent. Seller shall terminate prior to the Closing, at no cost or expense to City, any and all agreements affecting the Property that City does not agree in writing prior to the Closing to assume.

## **11. GENERAL PROVISIONS**

### **11.1 Notices**

Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, against

receipt, (ii) one (1) day after being deposited with a reliable overnight courier service, or (iii) two (2) days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

City: Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, California 94102  
Attn: Director of Property  
Re: 2070 Bryant  
Email: [Sandi.Levine@sfgov.org](mailto:Sandi.Levine@sfgov.org)

with a copy to: Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682  
Re: 2070 Bryant  
Attn: Real Estate/Finance Team  
Email: [keith.nagayama@sfgov.org](mailto:keith.nagayama@sfgov.org)

And to: Mayor's Office of Housing and Community  
Development  
One South Van Ness Avenue, Suite 500  
San Francisco, CA 94103  
Attn: Lydia Ely  
Email: [lydia.ely@sfgov.org](mailto:lydia.ely@sfgov.org)

Seller: BRYANT STREET HOLDINGS LLC  
c/o Nick Podell Company  
22 Battery Street, Suite 404  
San Francisco, CA 94111  
Attn: Nick Podell

With a copy to: BRYANT STREET HOLDINGS LLC  
c/o Junius Real Estate Partners  
320 Park Avenue, 14<sup>th</sup> Floor  
New York, New York 10022  
Attn: John R. Fraser

or to such other address as either party may from time to time specify in writing to the other upon five (5) days prior written notice in the manner provided above.

## **11.2 Brokers and Finders**

Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed



real estate broker or other person who could claim a right to a commission or finder's fee in connection with the purchase and sale contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his or her claim shall be responsible for such commission or fee and shall indemnify and hold harmless the other party from all claims, costs, and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the indemnified party in defending against the same. The provisions of this Section shall survive the Closing.

### **11.3 Successors and Assigns**

This Agreement shall not be assigned by City. This Agreement may be assigned by Seller upon notice to City in connection with the conveyance of the Property and provided that the assignee is the subsequent owner of the Property and assumes all of the Seller's obligations under this Agreement arising or accruing from and after such assignment, and upon such assignment, the assigning Seller shall be released from any liability arising or accruing under this Agreement from and after such assignment. Subject to the foregoing, this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

### **11.4 Amendments**

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

### **11.5 Continuation and Survival of Representations and Warranties**

(a) Any actions or conduct of Seller permitted under this Agreement, all of the representations and warranties of Seller set forth in Subsections 8.1(g), 8.1(h) and 8.1(l), shall survive the Closing and the delivery of the Deed, and the representations and warranties in Subsections 8.1(a) through 8.1(f) and Subsections 8.1(i) through 8.1(k), or in any certificate or other instrument delivered at any time by or on behalf of Seller in conjunction with the transaction contemplated hereby together with all conditions, covenants and indemnities made by Seller in this Agreement, shall survive the Closing and the delivery of the Deed for a period of eighteen (18) months following the Closing Date. Notice of any claim as to a breach of any representation or warranty (other than those under Subsections 8.1(g), 8.1(h) and 8.1(l)) must be made to Seller prior to the expiration of such eighteen (18) month period or it shall be deemed a waiver of City's right to assert such claim. All representations and warranties by the respective parties contained herein or made in writing pursuant to this Agreement are intended to be, and, except for reasons not under the warranting party's control, shall remain, true and correct as of the Closing, shall be deemed to be material, and, together with all conditions, covenants and indemnities made by the respective parties contained herein or made in writing pursuant to this Agreement (except as otherwise expressly limited or expanded by the terms of this Agreement), shall, subject to the limitations set forth above, survive the execution and delivery of this Agreement and the Closing, or, to the extent the context requires, beyond any termination of this Agreement.

(b) Notwithstanding anything to the contrary in this Agreement, City and Seller are prohibited from making any claims against the other party after the Closing with respect to any breaches of the other party's representations, warranties and covenants contained in this Agreement of which the claiming party has knowledge prior to Closing.

#### **11.6 Governing Law**

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

#### **11.7 Merger of Prior Agreements**

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

#### **11.8 Parties and Their Agents; Approvals**

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

#### **11.9 Interpretation of Agreement**

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

#### **11.10 Attorneys' Fees**

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

#### **11.11 Sunshine Ordinance**

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

#### **11.12 Conflicts of Interest**

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

#### **11.13 Notification of Limitations on Contributions**

Through its execution of this Agreement, Seller acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require 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, 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 such contract or six months after the date the contract is approved. Seller acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Seller further acknowledges that the prohibition on contributions applies to each Seller; each member of Seller's board of directors, and Seller's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Seller; any subcontractor to Seller listed in this Agreement as providing services to City; and any committee that is sponsored or controlled by Seller. Additionally, Seller acknowledges that Seller must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Seller further agrees to provide to City the names of each person, entity or committee described above.

#### **11.14 Limitations of Liability**

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

(b) No member, manager or agent of Seller, nor any of their respective members, managers, employees, officers or directors, shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement, or any amendment or amendments to any of the foregoing made at any time or times, heretofore or hereafter, and City and its successors and assigns, shall look solely to the assets of Seller for the payment of any claim or for any performance, and City, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability.

(c) Notwithstanding anything to the contrary contained in this Agreement or any document executed in connection therewith, the aggregate liability of Seller arising pursuant to or in connection with the representations, warranties, indemnifications, covenants or other obligations (whether express or implied) of Seller under this Agreement or in or any document executed in connection therewith shall not exceed Two Million and No/100ths Dollars (\$2,000,000.00).

#### **11.15 Intentionally Omitted.**

#### **11.16 Counterparts**

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

### **11.17 Effective Date**

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

### **11.18 Severability**

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

### **11.19 Acceptance of Agreement by Seller**

This Agreement shall be null and void unless and until approved by resolution of the Board of Supervisors of the City and County of San Francisco and executed by the Mayor.

### **11.20 Cooperative Drafting.**

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

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, SELLER ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL APPROPRIATE LEGISLATION OF CITY’S BOARD OF SUPERVISORS SHALL HAVE BEEN DULY ENACTED APPROVING THIS AGREEMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH LEGISLATION, AND THIS AGREEMENT SHALL BE NULL AND VOID IF CITY’S BOARD OF SUPERVISORS AND MAYOR DO NOT APPROVE THIS AGREEMENT, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH LEGISLATION WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

*[SIGNATURES ON FOLLOWING PAGES]*

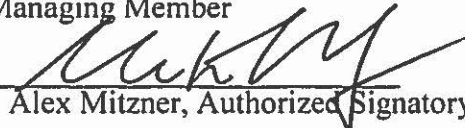


The parties have duly executed this Agreement as of the respective dates written below.

SELLER:

BRYANT STREET HOLDINGS LLC  
a Delaware limited liability company

By: Junius Bryant Mission SPV JV LLC  
a Delaware limited liability company  
Its Managing Member

By:   
Alex Mitzner, Authorized Signatory

By: Super Deluxe With Cheese LLC  
a California limited liability company  
Member

By: \_\_\_\_\_  
Nick Podell, President

Date: \_\_\_\_\_

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

SELLER:

BRYANT STREET HOLDINGS LLC  
a Delaware limited liability company

By: Junius Bryant Mission SPV JV LLC  
a Delaware limited liability company,  
its managing member

By: \_\_\_\_\_  
Alex Mitzner, Authorized Signatory

By: Super Deluxe With Cheese LLC  
a California limited liability company

By: \_\_\_\_\_  
Nick Podell, President

Date: \_\_\_\_\_  
5/9/17

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
JOHN UPDIKE  
Director of Property

Date: \_\_\_\_\_

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:  \_\_\_\_\_

Keith Nagayama  
Deputy City Attorney



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

TITLE COMPANY:

FIRST AMERICAN TITLE COMPANY

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT A

**REAL PROPERTY DESCRIPTION**

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

S-9299  
12-22-16

NEW PARCEL DESCRIPTIONS

PARCEL A: APN 4022-\_\_\_\_ (FORMER APNS 4022-001, 4022-002, AND A PORTION OF 4022-021)

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF 18<sup>TH</sup> STREET (66.00 FEET WIDE) WITH THE EASTERLY LINE OF FLORIDA STREET (80.00 FEET WIDE); THENCE EASTERLY ALONG SAID SOUTHERLY LINE OF 18<sup>TH</sup> STREET 200.00 FEET TO THE WESTERLY LINE OF BRYANT STREET (80.00 FEET WIDE); THENCE AT A RIGHT ANGLE SOUTHERLY ALONG SAID WESTERLY LINE OF BRYANT STREET 230.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET TO SAID EASTERLY LINE OF FLORIDA STREET; THENCE AT A RIGHT ANGLE NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 230.00 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.

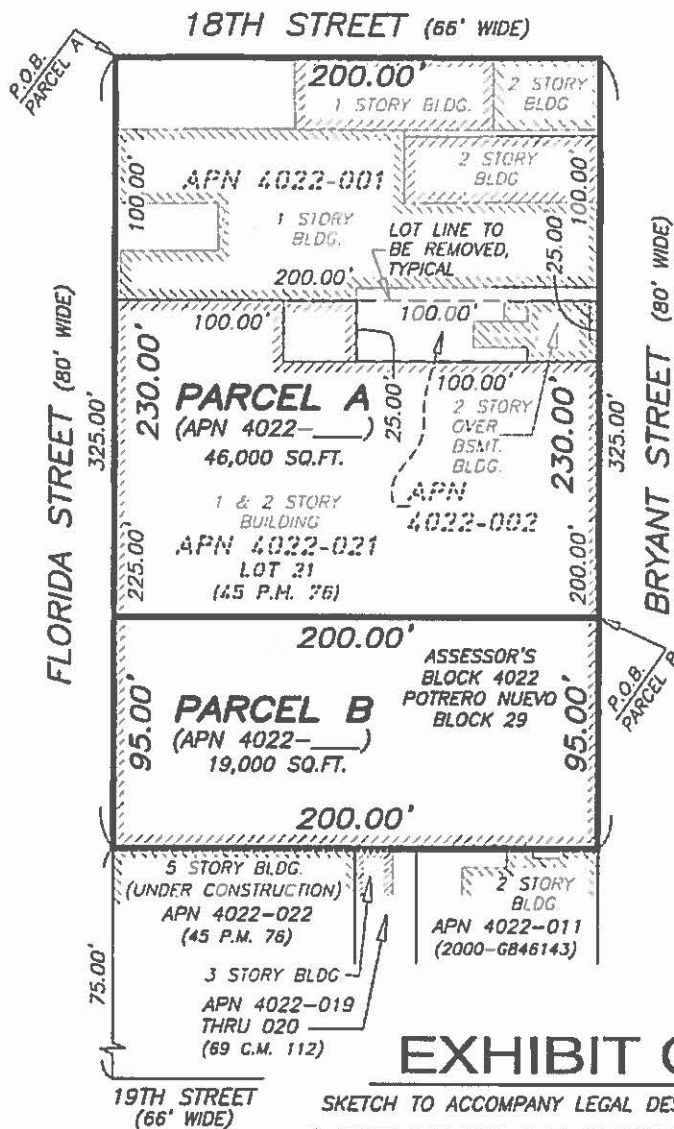
PARCEL B: APN 4022-\_\_\_\_ (FORMER PORTION OF APN 4022-021)

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF BRYANT STREET (80.00 FEET WIDE), DISTANT THEREON 230.00 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF 18<sup>TH</sup> STREET (66.00 FEET WIDE); THENCE SOUTHERLY ALONG SAID LINE OF BRYANT STREET 95.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET TO THE EASTERLY LINE OF FLORIDA STREET (80.00 FEET WIDE); THENCE AT A RIGHT ANGLE NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 95.00 FEET; THENCE AT A RIGHT ANGLE EASTERLY 200.00 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.





**LEGEND**

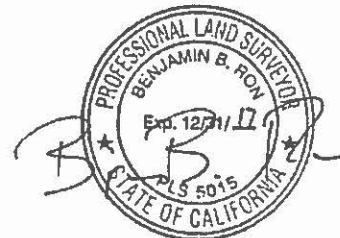
- C.M. CONDOMINIUM MAPS
- P.M. PARCEL MAPS
- APN ASSESSOR'S PARCEL NO.
- P.O.B. POINT OF BEGINNING
- BLDG. BUILDING
- BSMT. BASEMENT

**GENERAL NOTES**

1. ALL PROPERTY LINE ANGLES ARE 90 DEGREES UNLESS NOTED OTHERWISE.
2. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

**NOTE**

ALL ON-SITE BUILDINGS TO BE DEMOLISHED



**EXHIBIT C**

SKETCH TO ACCOMPANY LEGAL DESCRIPTIONS  
**LOT LINE ADJUSTMENT**

BEING A LOT LINE ADJUSTMENT OF THAT REAL PROPERTY DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED SEPTEMBER 3, 2014 IN DOCUMENT NO. 2014-J946006, OFFICIAL RECORDS AND LOT 21 OF THAT CERTAIN PARCEL MAP RECORDED APRIL 18, 2002 IN BOOK 45 OF PARCEL MAPS, PAGE 76, SAN FRANCISCO COUNTY RECORDS BEING A PORTION OF POTRERO NUEVO BLOCK NO. 29 CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA

BY JP CHKD. BR DATE 12-22-16 SCALE 1"=60' SHEET 1 OF 1 JOB NO. S-9299

**MARTIN M. RON ASSOCIATES, INC.**  
LAND SURVEYORS

859 HARRISON STREET  
SAN FRANCISCO, CA. 94107  
(415) 543-4500  
S-8316\_S-9299LLA LOTS 1\_2\_21.dwg

**EXHIBIT B**

**GRANT DEED**

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

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

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

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

**GRANT DEED**

(Assessor's Parcel No. \_\_\_\_\_)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,  
\_\_\_\_\_, a \_\_\_\_\_, hereby grants to the CITY AND  
COUNTY OF SAN FRANCISCO, a municipal corporation, the real property located in the City  
and County of San Francisco, State of California, described on Exhibit A attached hereto and  
made a part hereof (the "Property").

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

This grant is made subject to all matters of record, or which would be disclosed by an  
inspection and/or survey of the property

*[SIGNATURES ON FOLLOWING PAGE]*

Executed as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ a \_\_\_\_\_

By: Junius Bryant Mission SPV JV LLC  
a Delaware limited liability company  
Its Managing Member

By: \_\_\_\_\_  
Alex Mitzner, Authorized Signatory

By: Super Deluxe With Cheese LLC  
a California limited liability company  
Member

By: \_\_\_\_\_  
Nick Podell, President

**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 San Francisco     )

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

\_\_\_\_\_



CERTIFICATE OF ACCEPTANCE

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

Dated: \_\_\_\_\_

By: \_\_\_\_\_

John Updike  
Director of Property

**EXHIBIT C**

**PRROFORMA TITLE POLICY**

(See Attached)

Form No. 1402.06  
ALTA Owner's Policy (6-17-06)  
1100302P050600



Policy Page 1  
Policy Number: 830128

## OWNER'S POLICY OF TITLE INSURANCE

ISSUED BY

### *First American Title Insurance Company*

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at the address shown in Section 18 of the Conditions.

#### COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE D AND THE CONDITIONS, FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
  - (a) A defect in the Title caused by
    - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
    - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
    - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
    - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
    - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
    - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
    - (vii) a defective judicial or administrative proceeding.
  - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
  - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (a) the occupancy, use, or enjoyment of the Land;
  - (b) the character, dimensions, or location of any improvement erected on the Land;
  - (c) the subdivision of land; or
  - (d) environmental protection
 if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental

police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.

7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without knowledge.
9. Title being vested other than as stated in Schedule A or being defective
  - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
  - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
    - (i) to be timely, or
    - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this policy, but only to the extent provided in the Conditions.

#### *First American Title Insurance Company*

Dennis J. Gilmora  
President

Jeffrey S. Robmsen  
Secretary

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to:
  - (i) the occupancy, use, or enjoyment of the land,
  - (ii) the character, dimensions, or location of any improvement erected on the land,
  - (iii) the subdivision of land, or
  - (iv) environmental protection,
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant,
  - (b) not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy,
  - (c) resulting in no loss or damage to the Insured Claimant,
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risks 9 and 10), or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is:
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

- (n) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
- (e) "Insured Claimant" An Insured claiming loss or damage.
- (f) "Knowledge" or "Known" Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (g) "Land" The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (i) "Public Records" Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.
- (j) "Title" The estate or interest described in Schedule A.
- (k) "Unmarketable Title" Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

**2. CONTINUATION OF INSURANCE**

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

**3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT**

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

**4. PROOF OF LOSS**

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

**5. DEFENSE AND PROSECUTION OF ACTIONS**

- (a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.
- (b) The Company shall have the right, in addition to the options contained in

**CONDITIONS**

**1. DEFINITION OF TERMS**

The following terms when used in this policy mean:

- (a) "Amount of Insurance" The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy" The date designated as "Date of Policy" in Schedule A.
- (c) "Entity" A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured" The Insured named in Schedule A:
  - (i) The term "Insured" also includes:
    - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin,
    - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization,
    - (C) successors to an Insured by its conversion to another kind of Entity,
    - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title:
      - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
      - (2) if the grantee wholly owns the named Insured,
      - (3) if the grantee is wholly owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly owned by the same person or Entity, or
      - (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

- (c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

**6. DUTY OF INSURED CLAIMANT TO COOPERATE**

- (a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.
- (b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

**7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY**

In case of a claim under this policy, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Insurance.  
To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay. Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.
- (b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.  
(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay, or  
(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs,

attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

**8. DETERMINATION AND EXTENT OF LIABILITY**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

- (a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of  
(i) the Amount of Insurance, or  
(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.
- (b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,  
(i) the Amount of Insurance shall be increased by 10%, and  
(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.
- (c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

**9. LIMITATION OF LIABILITY**

- (a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.
- (b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.
- (c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

**10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY**

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

**11. LIABILITY NONCUMULATIVE**

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

**12. PAYMENT OF LOSS**

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

**13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT**

- (a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.  
If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

- (b) The Company's right of subrogation includes the rights of the Insured to endorsements, guarantees, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

**14. ARBITRATION**

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

**15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

- (a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
- (b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.
- (c) Any amendment to or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

- (d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

**16. SEVERABILITY**

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

**17. CHOICE OF LAW; FORUM**

- (a) **Choice of Law:** The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefore in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.
- (b) **Choice of Forum:** Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

**18. NOTICES, WHERE SENT**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at 1 First American Way, Santa Ana, CA 92707, Attn: Claims Department.

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## POLICY OF TITLE INSURANCE





## SCHEDULE A

### *First American Title Insurance Company*

Name and Address of the issuing Title Insurance Company:  
First American Title Insurance Company  
2755 Campus Dr. Suite 125  
San Mateo, CA 94403

File No.: **NCS-830128-SM** Policy No.: **830128**

Address Reference: 681 Florida Street, San Francisco, CA 94110

Amount of Insurance: \$22,250,000.00

Date of Policy: \_\_\_\_\_ at \_\_\_\_\_

1. Name of Insured:

City and County of San Francisco, a municipal corporation

2. The estate or interest in the Land that is insured by this policy is:

A Fee

3. Title is vested in:

City and County of San Francisco, a municipal corporation

4. The Land referred to in this policy is described as follows:

Real property in the City of San Francisco, County of San Francisco, State of California, described as follows:

BEGINNING AT A POINT ON THE WESTERLY LINE OF BRYANT STREET (80.00 FEET WIDE), DISTANT THEREON 230.00 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF 18TH STREET (66.00 FEET WIDE); THEN SOUTHERLY ALONG SAID LINE OF BRYANT STREET 95.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET TO THE EASTERLY LINE OF FLORIDA STREET (80.00 FEET WIDE); THENCE AT A RIGHT ANGLE NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 95.00 FEET; THENCE AT A RIGHT ANGLE EASTERLY 200.00 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.

AND BEING DESIGNATED AS PARCEL B OF THE PLAT MARKED EXHIBIT C ATTACHED TO THAT CERTAIN LOT LINE ADJUSTMENT RECORDED \_\_\_\_\_, 2017 AS INSTRUMENT NO. \_\_\_\_\_.

APN: A PORTION OF 26-4022-021-01

**NOTICE: This is a pro-forma policy furnished to or on behalf of the party to be insured. It neither reflects the present status of title, nor is it intended to be a commitment to insure. The inclusion of endorsements as part of the pro-forma policy in no way evidences the willingness of the Company to provide any affirmative coverage shown therein.**

**There are requirements which must be met before a final policy can be issued in the same form as this pro-forma policy. A commitment to insure setting forth these requirements should be obtained from the Company.**

## SCHEDULE B

File No.: **NCS-830128-SM**

Policy No.: **830128**

### EXCEPTIONS FROM COVERAGE

This Policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. General and special taxes and assessments for the fiscal year 2017-2018, a lien not yet due or payable.
2. This item has been intentionally deleted.
3. The lien of special tax assessed pursuant to Chapter 2.5 commencing with Section 53311 of the California Government Code for Community Facilities District No. 90-1, as disclosed by Notice of Special Tax Lien recorded July 05, 1990 as Instrument No. E573343 in Reel F160, Image 1044 of Official Records .

Document(s) declaring modifications thereof recorded July 11, 1990 as Instrument No. E579471, in Reel F165, Image 1 of Official Records.

4. This item has been intentionally deleted.
5. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
6. The terms and provisions contained in the document entitled "Parapet Agreement" recorded December 03, 1992 as Instrument No. F252154 in Reel F766, Image 0647 of Official Records.
7. The terms and provisions contained in the document entitled "Declaration of Use Limitation" recorded January 10, 2002 as Instrument No. 2002-H086830-00 in Reel I051, Image 0339 of Official Records.
8. This item has been intentionally deleted.
9. A document entitled "Notice of Special Restrictions Under The Planning Code" recorded November 15, 2016 as Instrument No. 2016-K357587-00 of Official Records.
10. Water rights, claims or title to water, whether or not shown by the public records.
11. This item has been intentionally deleted.
12. The following matters disclosed by an ALTA/NSPS survey made by \_\_\_\_\_ on \_\_\_\_\_, designated Job No. \_\_\_\_\_:

\_\_\_\_\_

13. The terms and provisions contained in the document entitled "Declaration of No-Build Easement" recorded \_\_\_\_\_, 2017 as Instrument No. \_\_\_\_\_ of Official Records.
  
14. The terms and provisions contained in the document entitled "Restrictive Covenant", executed by and between Bryant Street Holdings LLC, a Delaware limited liability company and City and County of San Francisco, a municipal corporation, recorded \_\_\_\_\_, as Instrument No. \_\_\_\_\_ of Official Records.

**ENDORSEMENT**

**Attached to Policy No. 830128**

**Issued by**

***First American Title Insurance Company***

The policy is amended by deleting paragraph 6 of Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

CLTA Form 110.1-06 (03-09-07)  
ALTA - Owner or Lender



## First American Title

### Privacy Information

#### We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

#### Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

#### Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

#### Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as life insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

#### Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

#### Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

#### Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet.

In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and e-mail address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

#### Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

#### Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.

FirstAm.com uses shared cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

#### Fair Information Values

**Fairness** We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

**Public Record** We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our industry.

**Use** We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

**Accuracy** We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

**Education** We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

**Security** We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

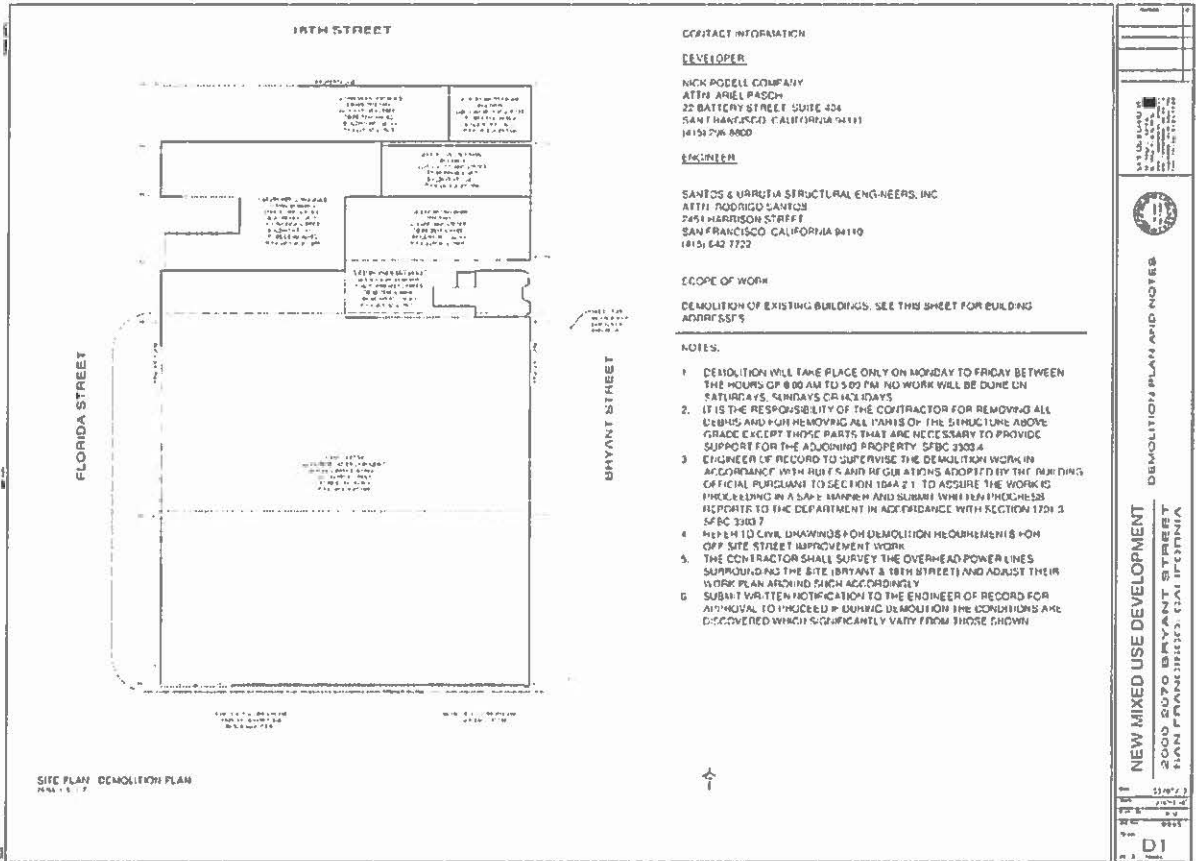


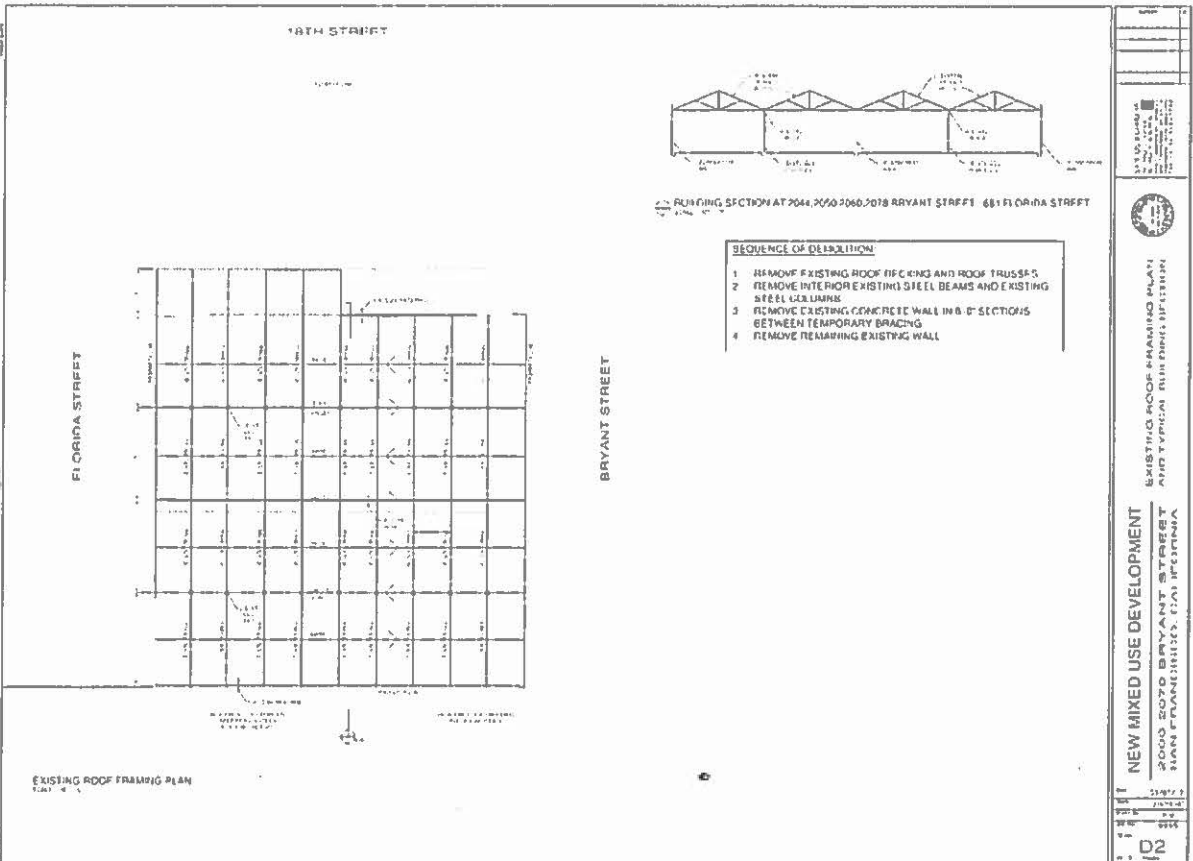
**EXHIBIT D**

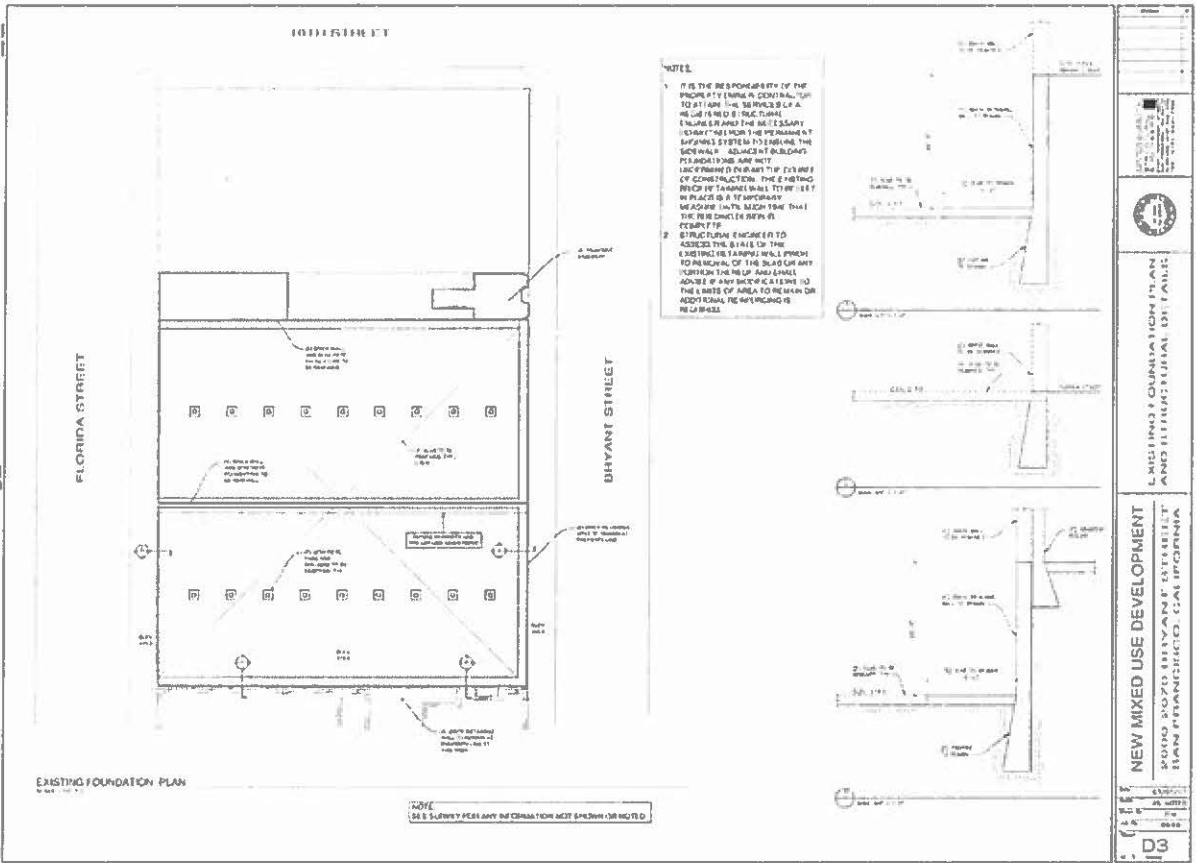
**[reserved]**

# EXHIBIT E

## DEMOLITION DOCUMENTS







**EXHIBIT F**

**DECLARATION OF NO-BUILD EASEMENT**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

\_\_\_\_\_  
c/o Farella Braun + Martel LLP  
235 Montgomery Street  
San Francisco, CA 94104  
Attention: Richard M. Shapiro

APN: Block 4022, Portions of Lots 001, 002 and 021

Space Above This line for Recorder's Use

**DECLARATION OF NO-BUILD EASEMENT**

THIS DECLARATION is made as of \_\_\_\_\_, 2017 by  
\_\_\_\_\_, a \_\_\_\_\_ ("**Declarant**").

**RECITALS**

A. Declarant is the owner of certain real property to be commonly known as 2823 18th Street, San Francisco, California, more particularly described in **Exhibit A** hereto (hereinafter referred to as the "**Burdened Property**"), and that certain real property adjacent to the Burdened Property and commonly known as 2070 Bryant Street, San Francisco, California more particularly described in **Exhibit B** hereto (hereinafter referred to as the "**Benefitted Property**"), and together with the Burdened Property, the "**Properties**").

B. In order that a building or buildings to be constructed on the Benefitted Property be permitted pursuant to current law and governmental regulations to have windows on the property line between the Burdened Property and the Benefitted Property, Declarant desires to establish a no-build easement appurtenant to the Benefitted Property on the portion of the Burdened Property described in **Exhibit C** (the "**No-Build Easement Area**") for the benefit of the Benefitted Property.

C. The City and County of San Francisco (the "**City**") is intended to be a third party beneficiary of the No-Build Easement, such that the written consent of the Director of the City's Department of Building Inspection (the "**Director**") shall be required for the modification, revocation, or termination of the restrictions imposed herein.

NOW, THEREFORE, Declarant hereby declares that each of the Properties shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the No-Build Easement as described herein, which shall run with and burden each of the Properties, and shall be binding on and for the benefit of the Properties, any portion of them and any interest in them, and all persons having or acquiring any rights, title or interest in the Properties, any portion of them, and any interest in them, and their successors, heirs and assigns as follows:

1. No-Build Easement. Declarant establishes an easement appurtenant to the Benefitted Property (the “**No-Build Easement**”) prohibiting construction of habitable structures and other improvements in the No-Build Easement Area. Notwithstanding the foregoing, there may be installed and constructed in the No-Build Easement Area landscaping and other improvements, such as fences, trellises, gazebos, lighting and other site improvements, so long as the existence of such improvements does not result in a requirement under the version of the San Francisco Building Code in effect as of the date of this Declaration that windows and other openings in habitable structures located on the Benefitted Property be closed or provided with fire protection. [Further notwithstanding any limitation in the foregoing, there may be constructed in the No-Build Easement Area those improvements shown on the drawing(s) attached as Exhibit D.]

2. Modification or Termination. The No-Build Easement Area may not be modified, revoked or terminated without the prior written consent of the owners of both the Benefitted Property and the Burdened Property, and any such modification, revocation or termination shall not be effective unless and until the Director or his/her designee consents thereto in writing, and such modification, revocation or termination, executed by the owners of the Properties and on behalf of the City, is recorded in the Official Records of the City.

3. Easements Appurtenant. The No-Build Easement Area shall be appurtenant to, and shall pass with title to, the Burdened Property and the Benefitted Property. Each and all of the foregoing covenants and restrictions (i) shall run with the land; (ii) shall be binding upon, and shall inure to the benefit of the owners of the Benefitted Property and the Burdened Property and any person having or acquiring any interest in any portion of either of the Properties, and all of their respective successive owners and assigns; and (iii) shall be binding upon, and shall inure to the benefit of, either of the Properties, and every portion thereof and interest therein.

4. Third Party Beneficiary. The City is intended to be a third party beneficiary of this Easement, with the right to consent to any modification or revocation hereof and the right and authority, at its sole option, to enforce the provisions hereof (including, but not limited to, remedies for violation for a building permit), provided, however, that the City shall have no liability whatsoever hereunder with respect to the condition of either the Benefitted Property or the Burdened Property.

5. No Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication to the general public or for any public purposes whatsoever, it being the intention that the rights established in this Declaration shall be strictly limited to and for the purposes expressed herein.

[SIGNATURES ON FOLLOWING PAGES]



DECLARANT:

a \_\_\_\_\_  
\_\_\_\_\_

By: Junius Bryant Mission SPV JV LLC  
a Delaware limited liability company  
Its Managing Member

By: \_\_\_\_\_  
Alex Mitzner, Authorized Signatory

By: Super Deluxe With Cheese LLC  
a California limited liability company  
Member

By: \_\_\_\_\_  
Nick Podell, President

APPROVED  
Director of the Department of Building Inspection

By \_\_\_\_\_

APPROVED AS TO FORM  
Dennis J. Herrera, City Attorney

By \_\_\_\_\_

\_\_\_\_\_  
Deputy City Attorney

**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

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**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

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

EXHIBIT A

LEGAL DESCRIPTION OF THE BURDENED PROPERTY

*[REPLACE WITH DESCRIPTION REFERENCING PARCEL A OF THE LOT LINE  
ADJUSTMENT]*

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF  
SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF 18<sup>TH</sup>  
STREET (66.00 FEET WIDE) WITH THE EASTERLY LINE OF FLORIDA STREET  
(80.00 FEET WIDE); THENCE EASTERLY ALONG SAID SOUTHERLY LINE OF 18<sup>TH</sup>  
STREET 200.00 FEET TO THE WESTERLY LINE OF BRYANT STREET (80.00 FEET  
WIDE); THENCE AT A RIGHT ANGLE SOUTHERLY ALONG SAID WESTERLY LINE OF  
BRYANT STREET 230.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET  
TO SAID EASTERLY LINE OF FLORIDA STREET; THENCE AT A RIGHT ANGLE  
NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 230.00 FEET TO  
THE POINT OF BEGINNING.

BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.

(FORMER APNS 4022-001, 4022-002, AND A PORTION OF 4022-021)

EXHIBIT B

LEGAL DESCRIPTION OF THE BENEFITTED PROPERTY

*[REPLACE WITH DESCRIPTION REFERENCING PARCEL B OF THE LOT LINE  
ADJUSTMENT]*

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF  
SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF BRYANT STREET (80.00 FEET  
WIDE), DISTANT THEREON 230.00 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF  
18<sup>TH</sup> STREET (66.00 FEET WIDE); THENCE SOUTHERLY ALONG SAID LINE OF BRYANT  
STREET 95.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET TO THE  
EASTERLY LINE OF FLORIDA STREET (80.00 FEET WIDE); THENCE AT A RIGHT  
ANGLE NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 95.00 FEET;  
THENCE AT A RIGHT ANGLE EASTERLY 200.00 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.

(PORTION OF FORMER APN 4022-021)

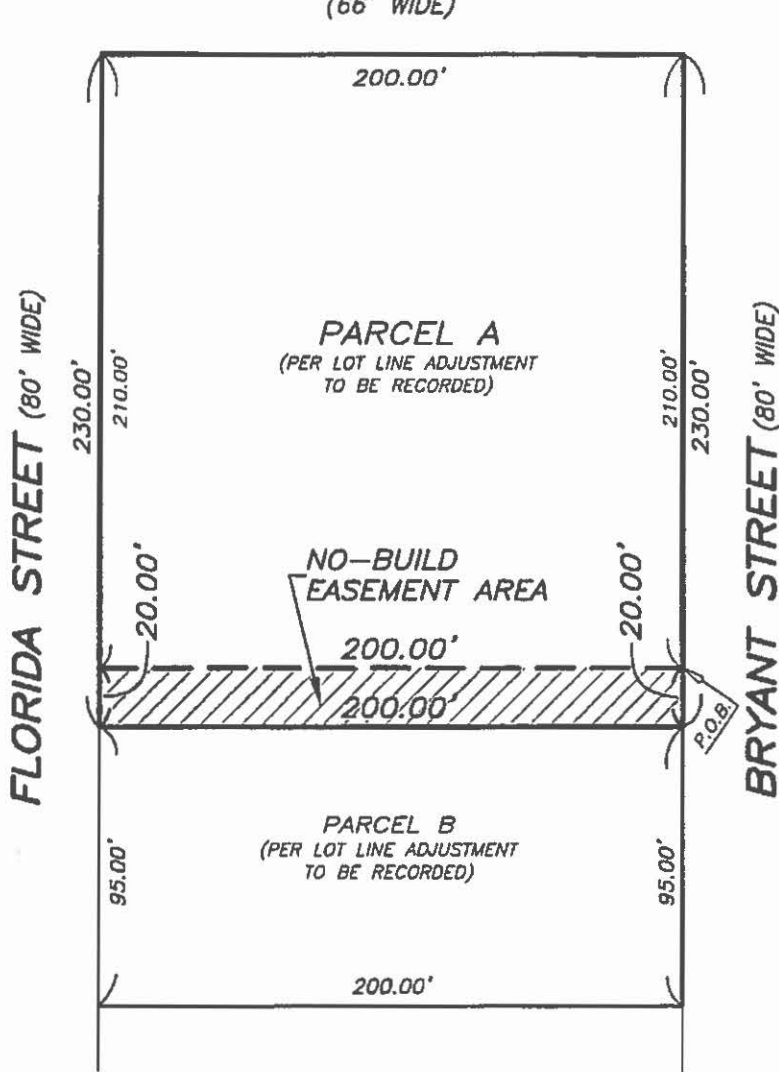
EXHIBIT C

NO-BUILD EASEMENT AREA

(See Attached)



**18TH STREET**  
(66' WIDE)



NORTH

**LEGEND**

APN ASSESSOR'S PARCEL NO.  
P.O.B. POINT OF BEGINNING

**GENERAL NOTES**

1. ALL ANGLES ARE 90 DEGREES UNLESS NOTED OTHERWISE.
2. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

**NO-BUILD EASEMENT**

ASSESSOR'S BLOCK 4022  
SAN FRANCISCO, CALIFORNIA

BY JP CHKD. BR DATE 1-17-17 SCALE 1"=50' SHEET 1 OF 1 JOB NO. S-9299

MARTIN M. RON ASSOCIATES, INC.  
LAND SURVEYORS

859 HARRISON STREET  
SAN FRANCISCO, CA. 94107  
(415) 543-4500  
S-8316\_S-9299 NO BUILD ESMT.dwg

S-9299  
1-16-17

LEGAL DESCRIPTION  
"NO-BUILD EASEMENT"

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

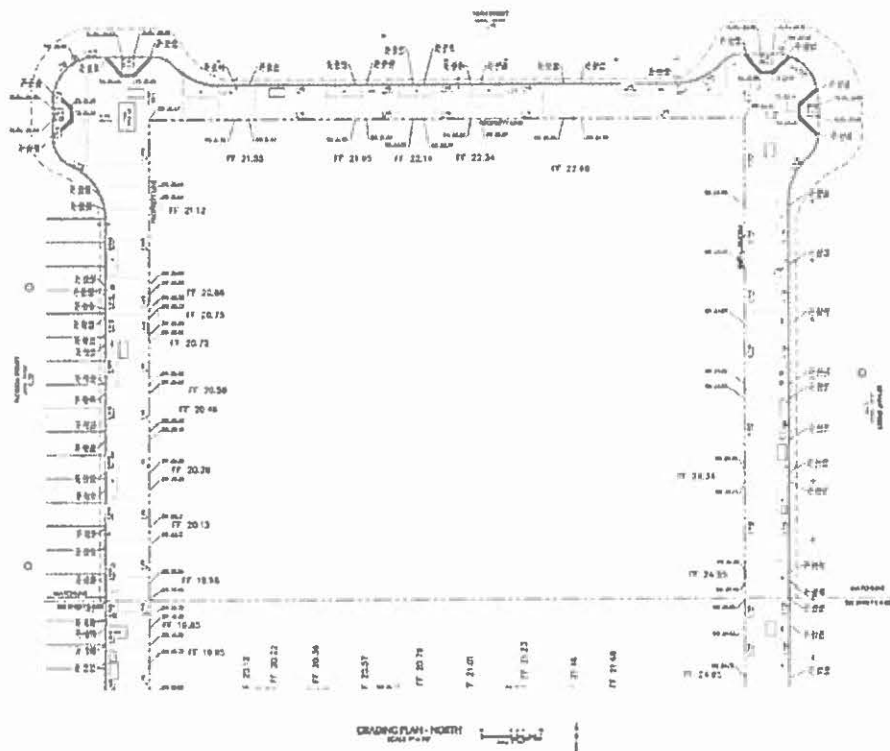
BEGINNING AT A POINT ON THE WESTERLY LINE OF BRYANT STREET (80.00 FEET WIDE), DISTANT THEREON 210.00 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF 18th STREET (66.00 FEET WIDE); THENCE SOUTHERLY ALONG SAID LINE OF BRYANT STREET 20.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET TO THE EASTERLY LINE OF FLORIDA STREET (80.00 FEET WIDE); THENCE AT A RIGHT ANGLE NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 20.00 FEET; THENCE AT A RIGHT ANGLE EASTERLY 200.00 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.

ALSO BEING A PORTION OF ASSESSOR'S BLOCK 4022.

EXHIBIT D

DRAWINGS OF NO-BUILD EASEMENT AREA IMPROVEMENTS



**BDE**  
ENGINEERING

**LANGAN**  
CONSULTANTS

**RICH & BYRANT ET**  
AL  
REGISTERED PROFESSIONAL ENGINEERS  
STATE OF CALIFORNIA

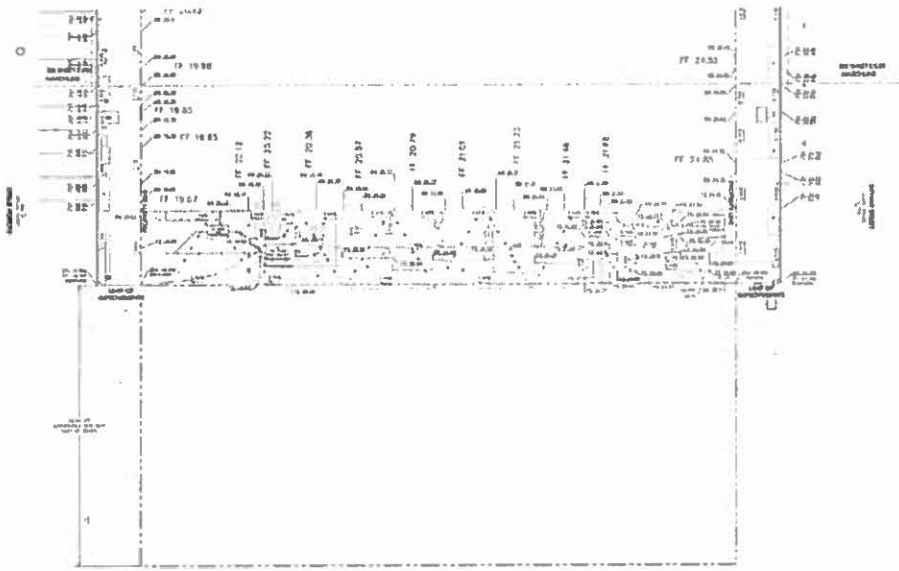
**REVISIONS**

NO.	DATE	DESCRIPTION
1	01/15/11	ISSUED FOR PERMITS
2	02/01/11	REVISIONS TO PERMITS
3	02/15/11	REVISIONS TO PERMITS
4	03/01/11	REVISIONS TO PERMITS
5	03/15/11	REVISIONS TO PERMITS
6	04/01/11	REVISIONS TO PERMITS
7	04/15/11	REVISIONS TO PERMITS
8	05/01/11	REVISIONS TO PERMITS
9	05/15/11	REVISIONS TO PERMITS
10	06/01/11	REVISIONS TO PERMITS
11	06/15/11	REVISIONS TO PERMITS
12	07/01/11	REVISIONS TO PERMITS
13	07/15/11	REVISIONS TO PERMITS
14	08/01/11	REVISIONS TO PERMITS
15	08/15/11	REVISIONS TO PERMITS
16	09/01/11	REVISIONS TO PERMITS
17	09/15/11	REVISIONS TO PERMITS
18	10/01/11	REVISIONS TO PERMITS
19	10/15/11	REVISIONS TO PERMITS
20	11/01/11	REVISIONS TO PERMITS
21	11/15/11	REVISIONS TO PERMITS
22	12/01/11	REVISIONS TO PERMITS
23	12/15/11	REVISIONS TO PERMITS
24	01/01/12	REVISIONS TO PERMITS
25	01/15/12	REVISIONS TO PERMITS
26	02/01/12	REVISIONS TO PERMITS
27	02/15/12	REVISIONS TO PERMITS
28	03/01/12	REVISIONS TO PERMITS
29	03/15/12	REVISIONS TO PERMITS
30	04/01/12	REVISIONS TO PERMITS
31	04/15/12	REVISIONS TO PERMITS
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33	05/15/12	REVISIONS TO PERMITS
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35	06/15/12	REVISIONS TO PERMITS
36	07/01/12	REVISIONS TO PERMITS
37	07/15/12	REVISIONS TO PERMITS
38	08/01/12	REVISIONS TO PERMITS
39	08/15/12	REVISIONS TO PERMITS
40	09/01/12	REVISIONS TO PERMITS
41	09/15/12	REVISIONS TO PERMITS
42	10/01/12	REVISIONS TO PERMITS
43	10/15/12	REVISIONS TO PERMITS
44	11/01/12	REVISIONS TO PERMITS
45	11/15/12	REVISIONS TO PERMITS
46	12/01/12	REVISIONS TO PERMITS
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49	01/15/13	REVISIONS TO PERMITS
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70	12/01/13	REVISIONS TO PERMITS
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73	01/15/14	REVISIONS TO PERMITS
74	02/01/14	REVISIONS TO PERMITS
75	02/15/14	REVISIONS TO PERMITS
76	03/01/14	REVISIONS TO PERMITS
77	03/15/14	REVISIONS TO PERMITS
78	04/01/14	REVISIONS TO PERMITS
79	04/15/14	REVISIONS TO PERMITS
80	05/01/14	REVISIONS TO PERMITS
81	05/15/14	REVISIONS TO PERMITS
82	06/01/14	REVISIONS TO PERMITS
83	06/15/14	REVISIONS TO PERMITS
84	07/01/14	REVISIONS TO PERMITS
85	07/15/14	REVISIONS TO PERMITS
86	08/01/14	REVISIONS TO PERMITS
87	08/15/14	REVISIONS TO PERMITS
88	09/01/14	REVISIONS TO PERMITS
89	09/15/14	REVISIONS TO PERMITS
90	10/01/14	REVISIONS TO PERMITS
91	10/15/14	REVISIONS TO PERMITS
92	11/01/14	REVISIONS TO PERMITS
93	11/15/14	REVISIONS TO PERMITS
94	12/01/14	REVISIONS TO PERMITS
95	12/15/14	REVISIONS TO PERMITS
96	01/01/15	REVISIONS TO PERMITS
97	01/15/15	REVISIONS TO PERMITS
98	02/01/15	REVISIONS TO PERMITS
99	02/15/15	REVISIONS TO PERMITS
100	03/01/15	REVISIONS TO PERMITS

**REVISIONS**

**GRADING PLAN - NORTH**

**C4.01**



GRADING PLAN - SOUTH  
 Scale 1" = 10'

**BDE**  
 CONSULTANTS

**LANGAN**  
 CONSULTANTS

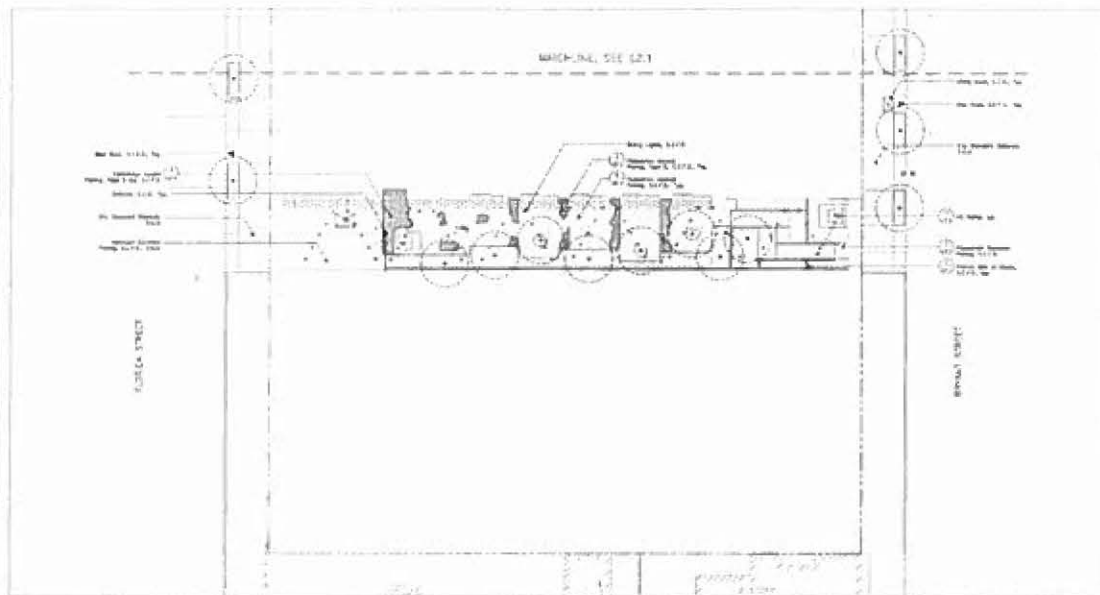
**3000 BRYANT ST**  
 SUITE 100  
 BOSTON, MA 02118

DATE: 01/14/14  
 DRAWN BY: J. W. WILSON  
 CHECKED BY: J. W. WILSON  
 PROJECT NO.: 14-0000  
 SHEET NO.: C4.02

NOT FOR CONSTRUCTION

GRADING PLAN - SOUTH

C4.02



PROJECT: [illegible]  
 SHEET: [illegible]  
 DATE: [illegible]

NOT FOR CONSTRUCTION  
 [illegible]  
 [illegible]

NOT FOR CONSTRUCTION  
 [illegible]  
 [illegible]  
 [illegible]

**EXHIBIT G**

**SPECIAL NOTICE**

**[CONFORM TO JURSDICTIONAL RECORDING REQUIREMENTS]**

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:  
Director of Property Real Estate Division City and County of San Francisco 25 Van Ness  
Avenue, Suite 400 San Francisco, California 94102

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

**SPECIAL NOTICE**

THIS SPECIAL NOTICE is made this \_\_\_ day of \_\_\_\_\_, 201\_, by \_\_\_\_\_ (“**Owner**”), in favor of the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**City**”).

**RECITALS**

A. On \_\_\_\_\_, pursuant to Planning Commission Motion No. \_\_\_\_\_, the San Francisco Planning Commission approved Seller’s development application for construction of \_\_\_\_\_ consisting of \_\_\_\_\_ located at \_\_\_\_\_ Street, San Francisco (the “**Project**”), and more particularly described on **Exhibit A** attached hereto (the “**Property**”).

B. The San Francisco Planning Code (“**Planning Code**”) requires market rate residential projects to comply with certain Residential Inclusionary Housing rules designed to create affordable housing in San Francisco (“**Affordability Requirement**”). Seller has satisfied the Affordability Requirement for the Project through dedication to the City the City Property (as defined below) of land adjacent to the Property in order for the City to develop affordable dwelling units thereon in accordance with Planning Code Sections 419.6 and 419.5(a)(2)(A)-(J).

C. Dedication of land in satisfaction of the Affordability Requirements by Seller was made pursuant to a certain Agreement of Purchase and Sale For Real Estate dated \_\_\_\_\_, 2017 (the “**Sale Agreement**”), by and between Bryant Street Holdings, LLC, predecessor-in-interest to Seller, and City and pursuant to the Sale Agreement, Seller conveyed to City the real

property described on **Exhibit B** attached hereto (the “City Property”). The City Property is immediately adjacent to the Property.

D. Pursuant to the terms of the Sale Agreement, as a condition to City’s agreement to acquire the City Property, Seller agreed to record this Special Notice against the Property.

WITNESSETH, that, as a condition to City’s agreement to acquire the City Property, Seller, and any successor entity or individual who owns a fee interest in all or any portion of the Property, including City, hereby agrees that such property shall hereafter be subject to the express covenant that, prior to the lease or sale of any portion of the Property, written notice shall be given to each and every prospective occupant or purchaser advising each such party that, in accordance with requirements of the Planning Code, the City Property is intended to be developed to create up to 130 affordable dwelling units in a building of up to 85 feet in height.

The foregoing covenant shall run with title to the Property, and shall inure to the benefit of City, and shall be binding upon, Seller and its successors and assigns; provided, however, the covenant contained herein shall automatically terminate on the date that a final certificate of occupancy is issued for any development of the City Property, without further action by Seller or City.

IN WITNESS WHEREOF, Seller has caused this Special Notice to be executed this \_\_\_ day of \_\_\_\_\_, 201\_.

SELLER:

\_\_\_\_\_



## EXHIBIT H

### REMEDICATION AND DEMOLITION FUNDS AGREEMENT AND ESCROW INSTRUCTIONS

THIS REMEDIATION AND DEMOLITION FUNDS AGREEMENT (this "**Agreement**") is entered into as of \_\_\_\_\_, 2017 (the "**Effective Date**") by and among the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), \_\_\_\_\_, a \_\_\_\_\_ ("**Developer**"), and First American Title Company ("**Escrow Agent**").

#### RECITALS

A. Bryant Street Holdings LLC, a Delaware limited liability company, Developer's predecessor-in-interest, and City have entered into that certain Purchase and Sale Agreement and Joint Escrow Instructions (the "**Purchase Agreement**") for the transfer from Developer to City of that certain real property known as 2070 Bryant Street, being a portion of Assessor's Block 4022, Lot 21, located in the City and County of San Francisco and identified as Parcel B on the Lot Line Adjustment drawing attached hereto as Exhibit A (the "**Property**").

B. As set forth in the documents listed in Schedule 1 to the Purchase Agreement, certain hazardous materials have been identified under the Property and mitigation measures associated with future development on the Property have been recommended.

D. As set forth in other documents listed in Schedule 1 to the Purchase Agreement, the estimated cost of such mitigation measures will be \$955,267.

E. Developer has delivered to City the Demolition Plan and Notes identified in Schedule 1, and the costs of demolition of improvements that remain on the Property to eventually be removed in connection with future construction of a building on the Property has been estimated in other documents listed in Schedule 1 to be \$51,685.

F. As part of the Purchase Agreement, Developer has agreed to contribute funds for the costs of the mitigation measures and for the cost of completion of demolition, as more particularly described in this Agreement.

G. Developer and City now wish to enter into this Agreement to set forth the terms regarding the manner in which the funds contributed by Developer will be disbursed by Escrow Agent to City or Developer in accordance with this Agreement.

H. Capitalized terms not otherwise defined in this Agreement shall have the meanings given to such terms in the Purchase Agreement.

#### AGREEMENT

NOW, THEREFORE, in consideration of and in reliance on the mutual promises and undertakings herein made and made in the Purchase Agreement and the mutual benefits to be derived therefrom, Developer, City and Escrow Agent agree as follows:

1. Remediation and Demolition Funds. On or prior to the Closing Date, Developer shall deposit with Escrow Agent: (a) Nine Hundred Fifty Five Thousand, Two Hundred Sixty Seven Dollars (\$955,267) (the "**Remediation Funds**") to be applied towards the costs of remediating hazardous materials contamination at the Property ("**Remediation Activities**"), plus

(b) Fifty One Thousand, Six Hundred Eighty Five Dollars (\$51,685) (the “**Demolition Funds**”) to be applied towards the costs of demolishing the improvements that remain at the Property (the “**Demolition Activities**”). Developer makes no representation or warranty, explicit or implied, regarding the accuracy of the estimates which are the bases of the amounts of the Remediation Funds and the Demolition Funds.

2. Escrow Account. The Remediation Funds and Demolition Funds shall be held by Escrow Agent in an interest-bearing account (the “**Escrow Account**”), and all interest thereon shall be deemed a part of the Remediation Funds. All costs and expenses of Escrow Agent with respect to the establishment, holding and administering of the Escrow Account shall be paid by Developer.

3. Use of Remediation Funds and Demolition Funds. The Remediation Funds shall be made available to the City and its agents or assigns to pay for the Remediation Activities and the Demolition Funds shall be made available to the City and its agents or assigns to pay for the Demolition Activities. The Site Remediation Funds are intended to cover only those costs associated with the handling, off-haul and disposal of contaminated soil in excess of the cost of handling, off-haul and disposal of non-contaminated soil. In order to ensure this is properly accounted for City and its contractor shall obtain a unit price for the handling, loading, trucking and disposal of clean soil. This unit price shall be applied as a credit against the actual costs incurred to ensure the Remediation Funds are not used to pay for work that would otherwise be required in the absence of contamination.

4. Disbursement of Remediation Funds and Demolition Funds. Developer and the City agree that the Escrow Agent is hereby authorized to release to City or its agents or assigns the Remediation Funds to be applied towards the cost of the Remediation Activities and the Demolition Funds to be applied towards the cost of the Demolition Activities, within five (5) business days of submittal by City to Developer and Escrow Agent of evidence in the form of invoices of contractors which relate solely to the Remediation Activities or the Demolition Activities, respectively. Developer shall have no obligation to increase the amount of the Remediation Funds or the Demolition Funds if they are insufficient to cover the actual costs of the Remediation Activities or the Demolition Activities.

5. Term of Agreement. The obligations and rights under this Agreement shall survive the termination of the Purchase Agreement; provided however that upon disbursement of all of the Remediation Funds and the Demolition Funds pursuant to Section 4 above, the Escrow Account shall be closed and this Agreement and all rights and obligations under this Agreement which have not previously accrued shall terminate. Notwithstanding to the contrary in this Agreement or the Purchase Agreement, on the date that is the earlier of (a) the fifth (5<sup>th</sup>) anniversary of the Effective Date or (b) issuance by the San Francisco Department of Public Health of a written acknowledgment that the installation of a vapor mitigation system associated with subsequent development on the Property has been completed and the Demolition Activities have been completed, any funds remaining in the Escrow Account shall be disbursed to Developer and the Escrow Account shall be closed and neither City nor Developer shall have any obligations or rights under this Agreement that have not accrued or arisen prior to such date.

6. Obligations of Escrow Agent. By joining herein, Escrow Agent undertakes only to perform the specific duties and obligations imposed on the Escrow Agent under the terms of this Agreement. Developer and City hereby agree and acknowledge that Escrow Agent shall not at any time be held liable for actions taken or omitted to be taken under this Agreement, except for liability related to the gross negligence or willful misconduct of Escrow Agent. If any controversy arises between the parties to this Agreement, or with any other party, concerning the subject matter of this Agreement, its terms or conditions, Escrow Agent will not be required to determine the controversy or to take any action regarding it. Escrow Agent may hold all documents and funds and may wait for settlement of any such controversy by (a) final appropriate legal proceedings; or (b) by written agreement and notification in writing thereof by Developer and City. In such event, unless due to the gross negligence or willful misconduct of Escrow Agent, Escrow Agent will not be liable for interest or damages. Furthermore, Escrow Agent may at its option, file an action of interpleader requiring the parties to answer and litigate any claims and rights among themselves. Escrow Agent is authorized to deposit with the clerk of the court all documents and funds held in escrow, except all costs, expenses, charges and reasonable attorney fees incurred by Escrow Agent due to the interpleader action and which Developer and City jointly and severally agree to pay.

7. Miscellaneous.

(a) Notices. Any notice pursuant to this Agreement shall be given in writing by (a) personal delivery, (b) reputable overnight delivery service with proof of delivery, (c) United States mail, postage prepaid, certified mail, return receipt requested, sent to the intended addressee at the address set forth below, or to such other address or to the attention of such other person as the addressee shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given upon receipt or refusal to accept delivery, or, in the case of facsimile transmission, as of the date of the facsimile transmission provided that an original of such facsimile is also sent to the intended address by means described in clauses (a), (b) or (c) above. Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:

If to City:	Real Estate Division City and County of San Francisco 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102 Attn: Director of Property Re: 2070 Bryant
with a copy to:	Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4682 Re: 2070 Bryant Attn: Real Estate/Finance Team
and to:	Mayor's Office of Housing and Community Development

Remediation and Demolition Funds and Escrow Agreement 2070 Bryant

One South Van Ness Avenue, Suite 500  
San Francisco, CA 94103  
Attn: Director of MOHCD  
Re: 2070 Bryant

If to Developer: Bryant Midblock Holdings LLC  
c/o Nick Podell Company  
22 Battery Street, Suite 404  
San Francisco, CA 94111  
Attn: Nick Podell

with a copy to: Bryant Midblock Holdings LLC  
c/o Junius Real Estate Partners  
320 Park Avenue, 14<sup>th</sup> Floor  
New York, New York 10022  
Attn: John R. Fraser

If to Escrow Agent: First American Title Company  
2755 Campus Dr. Suite 125  
San Mateo, CA 94403  
Attn: Erwin J. Broekhuis

(b) Attorneys' Fees. In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants or agreements contained herein, then in that event, the prevailing party in such action or dispute, whether by formal judgment or out of court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including actual attorneys' fees. For purposes hereof and for purposes set forth herein, reasonable attorneys' fees of City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience notwithstanding the City's use of its own attorneys.

(c) Entire Agreement and Amendments. This Agreement constitutes the entire understanding between the parties hereto with respect to the transaction contemplated herein and supersedes any and all prior arrangements or understandings between the parties with respect thereto. Any amendment or modification of the provisions of this Agreement shall only be effective upon execution and delivery, by all parties hereto, of a writing incorporating all of the terms of such amendment or modification. No oral amendment or modification of this Agreement shall be binding on any party.

(d) Choice of Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.

(e) Successors. This Agreement shall not be assigned by City without the consent of Developer, which consent shall not unreasonably be withheld. This Agreement may be assigned by Developer upon notice to City and provided that the assignee assumes all of the Seller's obligations under this Agreement arising or accruing from and after such assignment, and upon such assignment, the assigning Developer shall be released from any liability arising or accruing

under this Agreement from and after such assignment. Subject to the foregoing, this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

(f) Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Agreement shall be made against either party except on the basis of a written instrument executed by or on behalf of such party, unless expressly provided to the contrary in the Agreement. The party for whose benefit a condition is herein inserted shall have the unilateral right to waive such condition.

(g) Further Actions. The parties agree to execute such further documents, and take such further actions, as may reasonably be required to carry out the provisions of this Agreement.

(h) Validity of Provisions. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provisions of this Agreement but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein and the same shall be enforceable to the fullest extent permitted by law.

(i) Counterparts. This Agreement may be executed in one or more counterparts and shall become effective when one or more counterparts have been signed by all of the parties; each counterpart shall be deemed an original but all counterparts shall constitute a single instrument.

(j) Business Days. In the event any date described in this Agreement relative to the performance of actions hereunder by City, Developer and/or Escrow Agent falls on a Saturday, Sunday or legal holiday, such date shall be deemed postponed until the next business day thereafter.

(k) Macbride Principles – Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Seller and Escrow Agent each acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

(l) Non Discrimination In City And County Of San Francisco Contracts. In the performance of this Agreement, Developer and Escrow Agent each covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, height, weight or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or



applicant for employment with Developer or Escrow Agent, respectively, in any of such party's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by such party. If applicable, Developer and Escrow Agent each shall include in any subcontract with an environmental consultant relating to this Agreement a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above.

(m) Tropical Hardwoods And Virgin Redwoods. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood, or virgin redwood wood product.

(n) Conflicts Of Interests. Developer and Escrow Agent each states that it is familiar with the provisions of Section 15.103 and C8.105 of the San Francisco Charter and certifies that it knows of no facts which would constitute a violation of such provisions. Developer and Escrow Agent each further certifies that it has made a complete disclosure to the City of all facts bearing on any possible interests, direct or indirect, which Developer or Escrow Agent, respectively, believes any officer or employee of the City presently has or will have in this Agreement or in the performance thereof.

(o) Taxpayer Notification of Limitations on Contributions. San Francisco Campaign and Governmental Conduct Code (the "Conduct Code") Section 3.700 et. seq., and San Francisco Ethics Commission Regulations 3.710(a)-1 – 3.730-1, prohibit the public officials who approved this Agreement from receiving 1) gifts, honoraria, emoluments or pecuniary benefits of a value in excess of \$50; 2) any employment for compensation; or 3) any campaign contributions for any elective office for a period of up to six years from individuals and entities who are "public benefit recipients" of the Agreement. Public benefit recipients of the Agreement are: 1) the individual, corporation, firm, partnership, association, or other person or entity that is a party to the Agreement; 2) an individual or entity that has a direct 10% equity, or direct 10% participation, or direct 10% revenue interest in that party at the time the public benefit is awarded; or 3) an individual who is a trustee, director, partner or officer of the contracting party at the time the public benefit is awarded. Developer and Escrow Agent each understands that any public official who approved this Agreement may not accept campaign contributions, gifts, or future employment from Developer or Escrow Agent except as provided under the Conduct Code. Developer and Escrow Agent each agrees to notify any other individuals or entities that may be deemed "public benefit recipients" under the Conduct Code because of this Agreement. Upon request, Developer and Escrow Agent each agrees to furnish, before this Agreement is entered into, such information as any public official approving this Agreement may require in order to ensure such official's compliance with the Conduct Code. Upon request, the City agrees to provide, before this Agreement is entered into, Developer and Escrow Agent with a list of public officials who, under the Conduct Code, approved this Agreement. Failure of any public official who approved this Agreement to abide by the Conduct Code shall not constitute a breach by either the City, Escrow Agent or Developer of this Agreement. Notwithstanding anything to the contrary in this Agreement, no party hereto shall have the right to terminate the Agreement due to any failure by the other party to provide the information described in this paragraph.

(p) General Provisions. (1) Except as expressly provided to the contrary, all approvals, consents and determinations to be made by City hereunder may be made in the reasonable discretion of City. (2) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. (3) Time is of the essence in all matters relating to this Agreement. (4) If Developer or Escrow Agent, respectively, consists of more than one person then the obligations of each such person shall be joint and several. (5) Developer or Escrow Agent may not record this Agreement or any memorandum hereof.

[SIGNATURES ON FOLLOWING PAGES]



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

DEVELOPER:

a \_\_\_\_\_  
\_\_\_\_\_

By: Junius Bryant Mission SPV JV LLC  
a Delaware limited liability company  
Its Managing Member

By: \_\_\_\_\_  
Alex Mitzner, Authorized Signatory

By: Super Deluxe With Cheese LLC  
a California limited liability company  
Member

By: \_\_\_\_\_  
Nick Podell, President

CITY:

City and County of San Francisco,  
a municipal corporation

By: \_\_\_\_\_  
John Updike, Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: \_\_\_\_\_  
Michelle Sexton  
Deputy City Attorney

**TITLE COMPANY**

FIRST AMERICAN TITLE COMPANY

Date: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Exhibit A

Lot Line Adjustment Drawing

S-9299  
12-22-16

NEW PARCEL DESCRIPTIONS

PARCEL A: APN 4022-\_\_\_\_ (FORMER APNS 4022-001, 4022-002, AND A PORTION OF 4022-021)

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF 18<sup>TH</sup> STREET (66.00 FEET WIDE) WITH THE EASTERLY LINE OF FLORIDA STREET (80.00 FEET WIDE); THENCE EASTERLY ALONG SAID SOUTHERLY LINE OF 18<sup>TH</sup> STREET 200.00 FEET TO THE WESTERLY LINE OF BRYANT STREET (80.00 FEET WIDE); THENCE AT A RIGHT ANGLE SOUTHERLY ALONG SAID WESTERLY LINE OF BRYANT STREET 230.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET TO SAID EASTERLY LINE OF FLORIDA STREET; THENCE AT A RIGHT ANGLE NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 230.00 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.

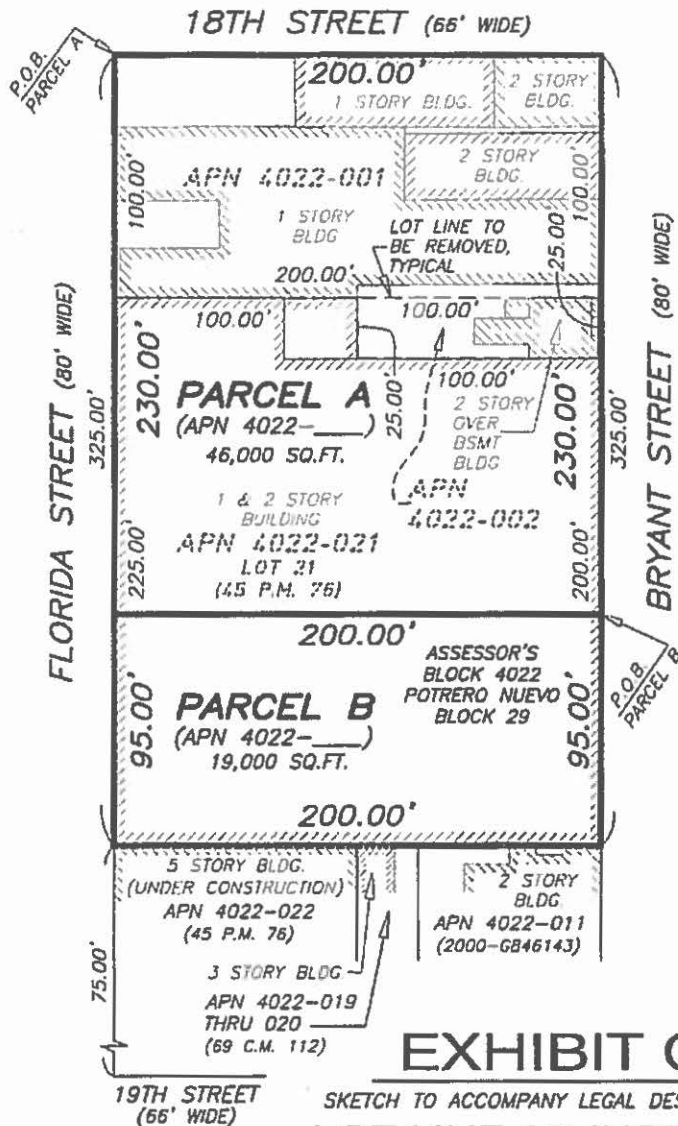
PARCEL B: APN 4022-\_\_\_\_ (FORMER PORTION OF APN 4022-021)

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF BRYANT STREET (80.00 FEET WIDE), DISTANT THEREON 230.00 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF 18<sup>TH</sup> STREET (66.00 FEET WIDE); THENCE SOUTHERLY ALONG SAID LINE OF BRYANT STREET 95.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET TO THE EASTERLY LINE OF FLORIDA STREET (80.00 FEET WIDE); THENCE AT A RIGHT ANGLE NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 95.00 FEET; THENCE AT A RIGHT ANGLE EASTERLY 200.00 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.





**LEGEND**

- C.M. CONDOMINIUM MAPS
- P.M. PARCEL MAPS
- APN ASSESSOR'S PARCEL NO.
- P.O.B. POINT OF BEGINNING
- BLDG. BUILDING
- BSMT. BASEMENT

**GENERAL NOTES**

1. ALL PROPERTY LINE ANGLES ARE 90 DEGREES UNLESS NOTED OTHERWISE.
2. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

**NOTE**

ALL ON-SITE BUILDINGS TO BE DEMOLISHED



**EXHIBIT C**

**SKETCH TO ACCOMPANY LEGAL DESCRIPTIONS  
LOT LINE ADJUSTMENT**

BEING A LOT LINE ADJUSTMENT OF THAT REAL PROPERTY DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED SEPTEMBER 3, 2014 IN DOCUMENT NO. 2014-J946006, OFFICIAL RECORDS AND LOT 21 OF THAT CERTAIN PARCEL MAP RECORDED APRIL 18, 2002 IN BOOK 45 OF PARCEL MAPS, PAGE 76, SAN FRANCISCO COUNTY RECORDS BEING A PORTION OF POTRERO NUEVO BLOCK NO. 29 CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA

BY JP CHKD. BR DATE 12-22-16 SCALE 1"=60' SHEET 1 OF 1 JOB NO. S-9299

MARTIN M. RON ASSOCIATES, INC.  
LAND SURVEYORS

859 HARRISON STREET  
SAN FRANCISCO, CA. 94107  
(415) 543-4500  
S-8316\_S-9299LLA LOTS 1\_2\_21.dwg

**EXHIBIT I**

[reserved]

**EXHIBIT J**

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

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the transferee of certain real property located in the City and County of San Francisco, California, that withholding of tax is not required upon the disposition of such U.S. real property interest by Bryant Midblock Holdings LLC, a Delaware limited liability company ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor's U.S. employer identification number is \_\_\_\_\_; and
3. Transferor's office address is \_\_\_\_\_ LLC, c/o Nick Podell Company, 22 Battery Street, Suite 404, San Francisco, CA 94111.
4. Transferor is not a disregarded entity.

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

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

Dated: \_\_\_\_\_, 20\_\_.



\_\_\_\_\_

a \_\_\_\_\_

By: Junius Bryant Mission SPV JV LLC  
a Delaware limited liability company  
Its Managing Member

By: \_\_\_\_\_  
Alex Mitzner, Authorized Signatory

By: Super Deluxe With Cheese LLC  
a California limited liability company  
Member

By: \_\_\_\_\_  
Nick Podell, President

## EXHIBIT K

### DESIGNATION AGREEMENT

This DESIGNATION AGREEMENT (the "Agreement") dated as of \_\_\_\_\_, 20\_\_\_\_, is by and between \_\_\_\_\_, a \_\_\_\_\_ ("Seller"), the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), and FIRST AMERICAN TITLE COMPANY ("Title Company").

A. Pursuant to that certain Purchase Agreement entered into by and between Seller and City, dated \_\_\_\_\_, 2017 (the "Purchase Agreement"), Seller's predecessor-in-interest, Bryant Street Holdings LLC, has agreed to sell to City, and City has agreed to purchase from Seller, certain real property located in City and County of San Francisco, California, more particularly described in Exhibit A attached hereto (the "Property"). The purchase and sale of the Property is sometimes hereinbelow referred to below as the "Transaction").

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

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

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

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

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

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

3. Title Company hereby requests Seller to furnish to Title Company Seller's correct taxpayer identification number. Seller acknowledges that any failure by Seller to provide Title Company with Seller's correct taxpayer identification number may subject Seller to civil or

criminal penalties imposed by law. Accordingly, Seller hereby certifies to Title Company, under penalties of perjury, that Seller's correct taxpayer identification number is \_\_\_\_\_.

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

SELLER:

\_\_\_\_\_  
c/o Nick Podell Company  
22 Battery Street, Suite 404  
San Francisco, CA 94111  
Attn: Nick Podell

and:

\_\_\_\_\_  
c/o Junius Real Estate Partners  
320 Park Avenue, 14<sup>th</sup> Floor  
New York, New York 10022  
Attn: John R. Fraser

CITY:

Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Attn: Director of Property  
Re: 2070 Bryant

TITLE COMPANY:

First American Title Company  
2755 Campus Dr. Suite 125  
San Mateo, CA 94403  
Attn: Erwin J. Broekhuis

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

*[SIGNATURES ON FOLLOWING PAGE]*

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

SELLER:

\_\_\_\_\_ a \_\_\_\_\_

By: Junius Bryant Mission SPV JV LLC  
a Delaware limited liability company  
Its Managing Member

By: \_\_\_\_\_  
Alex Mitzner, Authorized Signatory

By: Super Deluxe With Cheese LLC  
a California limited liability company  
Member

By: \_\_\_\_\_  
Nick Podell, President

CITY:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
John Updike  
Director of Property

Date: \_\_\_\_\_

Title Company:

FIRST AMERICAN TITLE COMPANY

Date: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**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 San Francisco    )

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**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 San Francisco     )

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

## SCHEDULE 1

### **Seller's Documents**

1. MOH Infrastructure Summary, 2070 Bryant Street, San Francisco. CA, prepared by Langan Treadwell Rollo, dated 4/21/16.
2. Cost Estimate for Site Work, letter prepared by Build Group, dated 4/20/16.
3. Preliminary Title Report for 2070 Bryant Street, prepared by First American Title Company, dated 12/1/16.
4. Site Survey Of A Portion of Assessor's Block No. 4022, 2000-2070 Bryant Street, San Francisco, CA, prepared by Martin M. Ron Associates Land Surveyors, dated 12/12/13 "Added Lots 1 & 2 Boundary Topography, revised 2/14/17 "Added Building on 4022-022".
5. Geotechnical Investigation Report, 2000-2070 Bryant Street, San Francisco, CA, prepared by Langan Treadwell & Rollo, dated March 28<sup>th</sup> 2014.
6. Supplemental Geotechnical Investigation Report, 2000-2070 Bryant Street, San Francisco, CA, prepared by Langan Treadwell & Rollo, dated August 27<sup>th</sup> 2015.
7. Potential Environmental Remediation Associated with MOH Dedicated Affordable Site, at 2000-2070 Bryant Street, San Francisco, prepared by Build Group, dated 1/26/17.
8. Demolition at MOH Dedicated Affordable Site, at 2000-2070 Bryant Street, San Francisco, prepared by Build Group, dated 4/20/17.
9. Land Use Conformance Memo, Re: 2000-2070 Bryant Street land dedication site, prepared by Steven Vettel of Farella Braun + Martell LLP., dated 3/3/16, revised 5/9/16.
10. Phase I Environmental Site Assessment, 2044-2070 Bryant Street, San Francisco, CA, prepared by PES Environmental, Inc. dated June 18<sup>th</sup> 2013.
11. Phase II Limited Subsurface Investigation, 2044-2070 Bryant Street, San Francisco, CA, prepared by PES Environmental, Inc., dated July 31<sup>st</sup> 2013.
12. Phase I Environmental Site Assessment, 2000-2030 Bryant Street / 2813-2815 18<sup>th</sup> Street / 611 Florida Street, San Francisco, CA, prepared by PES Environmental, Inc., dated March 14<sup>th</sup> 2014.

13. PES Phase II Limited Subsurface Investigation, 2000-2030 Bryant Street / 2813-2815 18<sup>th</sup> Street / 611 Florida Street, San Francisco, CA, prepared by PES Environmental, Inc., dated April 10<sup>th</sup> 2014.
14. Environmental Site Mitigation Plan, 2044-2070 Bryant Street, San Francisco, CA, prepared by PES Environmental, Inc., dated August 27<sup>th</sup> 2013.
15. Conditional Site Mitigation Plan Approval Conceptual Planned Development, 2000-2030, 2044-2070 Bryant Street, 2813-2815 18<sup>th</sup> Street, 611 Florida Street San Francisco, CA, letter from the City and County of San Francisco Department of Public Health dated July 21, 2014.
16. Environmental Site Mitigation Plan Addendum, 2000-2070 Bryant Street / 2813-2815 18<sup>th</sup> Street / 611 Florida Street, San Francisco, CA, prepared by PES Environmental, Inc., dated May 21<sup>st</sup> 2014.
17. Asbestos & Lead Survey Report, 2044-2070 Bryant Street, San Francisco, CA prepared by Advantage Environmental & Safety Services Inc., dated March 11 2017.
18. Appraisal of A Portion of 2070 Bryant Street, San Francisco, Ca. A Residential Development Site, prepared by Hamilton, Ricci & Associates, Inc., dated 5/25/16.
19. 2000-2070 Bryant Street Demolition Plan & Notes, prepared by Santos and Urrutia Structural Engineers, dated 3/7/17.
20. Lot Line Adjustment Exhibits A, B & C, prepared by Martin M. Ron Associates Land Surveyors, dated 12/21/16.
21. Build Group Letter to Kate Hartley, Deputy Director – Housing, dated April 20, 2017 regarding cost estimate for remaining walls at Affordable Site.
22. Site Remediation Budget for 681 Florida Street dated May 9, 2017, prepared by Mayor’s Office of Housing and Community Development.