

AGREEMENT FOR SALE OF REAL ESTATE

by and between

CITY AND COUNTY OF SAN FRANCISCO,
as Seller

and

Oceanwide Center, LLC,
as Buyer

For the sale and purchase of

Vacated portions of Jessie Street and Elim Alley,
San Francisco, California

July 11, 2016

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LIST OF EXHIBITS

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EXHIBIT B	DEPICTION OF PROPERTY, BUYER LAND, AND EASEMENT AREAS
EXHIBIT C	LEGAL DESCRIPTION OF BUYER LAND
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EXHIBIT F-2	TERMINATION OF DECLARATION

AGREEMENT FOR SALE OF REAL ESTATE
(Vacated Portions of Jessie Street and Elim Alley, San Francisco)

THIS AGREEMENT FOR SALE OF REAL ESTATE (this "Agreement") dated for reference purposes only as of July 11, 2016, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), and OCEANWIDE CENTER, LLC, a Delaware limited liability company ("Buyer").

RECITALS

A. City owns that certain real property in San Francisco, California, comprised of an approximate 3,575 square foot portion of Jessie Street between First Street and Ecker Place, and an approximate 1,284 square foot portion of Elim Alley between First Street and Ecker Place, as more particularly described in the attached Exhibit A and depicted in the attached Exhibit B, which together with all of City's interest in any rights, privileges, and easements incidental or appurtenant thereto, shall be referred to herein as the "**Property**".

B. Buyer owns certain real property bordered by First Street, Mission Street, Stevenson Street, and Ecker Place, as depicted in the attached Exhibit B and more particularly described in the attached Exhibit C (the "**Buyer Land**"), which is adjacent to and near the Property and comprised of seven (7) separate legal parcels that Buyer intends to merge and improve with a mixed-use development known as Oceanwide Center (the "**Project**").

C. Buyer wishes to acquire fee interest in the Property for the Project, but such acquisition would require that City, acting in its regulatory capacity, vacate the Property as part of the public right of way and then, acting in its proprietary capacity, sell the Property to Buyer. Buyer acknowledges that to protect public safety and welfare, any vacation and sale of the Property would be conditioned on City holding a temporary easement over the Property for street and utility purposes, easements over a portion of the Property for emergency and commercial vehicle access, Buyer providing public pedestrian access over a portion of the Property, and City holding easements over a portion of the Buyer Land for overland water flow purposes and for public pedestrian and vehicular access.

D. Due to the small and fragmentary nature of the Property and such vacation regulatory requirements, it would be impractical for City to sell the Property through a competitive bidding process and Buyer, which owns the real property abutting the Property, is willing to pay the full appraised value of the Property.

E. The Property is not a separate legal parcel, but City is able to sell the Property to Buyer pursuant to California Government Code Section 66428(a)(2).

F. In partial consideration of City's agreement to sell the Property to Buyer, Buyer agrees to increase the twenty percent (20%) inclusionary housing fee that would normally be applicable to the Project under San Francisco Planning Code Section 415 (the "**Section 415 Fee**") to a thirty-three percent (33%) affordable housing fee (the "**Affordable Housing Payment**"), and City has agreed to waive the Section 415 Fee and a portion of the Jobs-Housing Linkage Program Fee Buyer would normally pay for the Project under San Francisco Planning Code Section 413 ("**Partial JHLP Fee**") and place the Section 415 Fee and the Partial JHLP Fee in a special City fund to be used solely for the acquisition, rehabilitation or construction of permanently affordable housing within one-mile radius of the Project site for the ten (10) year period specified in this Agreement.

G. Buyer desires to purchase the Property and City is willing to sell the Property, subject to approval by City's Board of Supervisors, on the terms and conditions set forth hereinbelow.

ACCORDINGLY, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Buyer hereby agree as follows:

1. SALE AND PURCHASE; VACATION REQUIREMENTS

1.1 Property Included in Sale

Subject to the terms, covenants and conditions set forth herein, City agrees to sell to Buyer, and Buyer agrees to purchase from City, City's interest in the Property.

1.2 Street Vacation Easements and Use Restrictions

(a) At Closing and immediately after the recordation of the Deed (as defined in Section 5.1), City shall reserve a temporary easement in the Property for street and utility purposes, as further specified in the Deed. After Closing, Buyer shall complete the Utility Work (as defined in the Deed) to the extent it is not completed prior to Closing, which obligation shall survive Closing.

(b) At Closing and immediately after the recordation of the Deed, Buyer shall cause Title Company to record a non-exclusive easement to City for overland water flow in favor of City (the "**Overflow Easement**"). The Overflow Easement shall encumber the portion of the Buyer Land described as the "City Easement Area" on the attached Exhibit B (the "**City Easement Area**") and shall not be subject to any lien, encumbrance or interest that would adversely affect the use of the Overflow Easement or could extinguish the Overflow Easement on foreclosure or other remedial action (except to the extent City obtains a subordination and non-disturbance agreement, with terms and conditions reasonably acceptable to City to protect its rights hereunder from each party that holds such liens on or prior to Closing). The Overflow Easement will require that Buyer improve and maintain the City Easement Area in a manner that diverts any overland water flowing southerly along Jessie Street from Ecker Place over the City Easement Area to Mission Street, rather than over the vacated portion of Jessie Street to First Street. Buyer acknowledges the Overflow Easement will require Buyer to obtain the prior written approval of City's Public Utilities Commission ("**SFPUC**") **[To be revised if this easement is to be placed under SFPW's jurisdiction. If so, overflow easement will likely be combined with the public access easement]** to Buyer's initial and final drawings and specifications for improving the City Easement Area, SFPUC's inspection during the construction of such improvements, SFPUC's final approval of any installed improvements, and SFPUC's prior written approval to any modifications to such installed improvements for the purpose of ensuring that they will properly and safely accommodate any overland water flow. The form of the Overflow Easement and the legal description for the City Easement Area shall be mutually approved by City and Buyer prior to Closing.

(c) At Closing and immediately after the recordation of the Deed, Buyer shall cause Title Company to record a non-exclusive easement to City for public pedestrian and vehicular access (the "**Public Access Easement**"). The Public Access Easement shall encumber the City Easement Area, up to a height of fourteen feet (14') above the ground surface, and shall not be subject to any lien, encumbrance or interest that would adversely affect the use of the Public Access Easement or could extinguish the Public Access Easement on foreclosure or other remedial action (except to the extent City obtains a subordination and non-disturbance agreement, with terms and conditions reasonably acceptable to City to protect its rights hereunder from each party that holds such liens on or prior to Closing). The Public Access Easement will require Buyer to improve the City Easement Area with a pedestrian and vehicular access roadway from Jessie Street to Mission Street (the "**Road Improvements**"), maintain the Road Improvements in good working condition at its sole cost, and obtain the prior written approval of City's Public Works ("**SFPW**") and City's Municipal Transportation Agency ("**SFMTA**") to Buyer's initial and final drawings and specifications for the Road Improvements, as well as SFPW's and SFMTA's inspection and final approval of the installed Road

Improvements, to ensure they will properly and safely accommodate such pedestrian and vehicular access. City acknowledges that the construction and/or maintenance of the Road Improvements will not need to be performed by Buyer pursuant to a major encroachment permit; provided, however, that Buyer shall obtain the appropriate permit from SFPW for City's review of Buyer's proposed design of the Road Improvements. The form of the Public Access Easement and the legal description for the City Easement Area shall be mutually approved by City and Buyer prior to Closing.

(d) At Closing and immediately after the recordation of the Deed, Buyer shall cause Title Company to record a non-exclusive emergency vehicle access easement in favor of City in the form attached hereto as Exhibit D (the "**Emergency Access Easement**"), which shall encumber the 20-foot wide portion of the Property, up to a height of sixty-eight and one-half feet (68.5') above the ground surface with the certain exclusions as stated in the agreement therefor, depicted as the "Emergency Access Easement Area" on the attached Exhibit B (the "**Emergency Access Easement Area**"). The legal description for the Emergency Access Easement Area shall be mutually approved by City and Buyer prior to Closing, and the Emergency Access Easement shall only be subject to the matters described as Exception Nos. _____ in the preliminary report for the Property issued by the Title Company under Order No. 15-36916705 dated August 26, 2015 (the "**Property Preliminary Report**").

(e) At Closing and immediately after the recordation of the Deed and the Emergency Access Easement, Buyer shall cause Title Company to record a declaration of covenants and restrictions for public pedestrian access (the "**Public Access Declaration**"), which shall encumber the Emergency Access Easement Area up to a height of sixty-eight and one-half feet (68.5') above the ground surface with the certain exclusions as stated in the agreement therefor, and the entire portion of the Property described and depicted as "Parcel 1" on the attached Exhibit A (the "**Elim Alley Parcel**") between First Street and the City Easement Area. The form of the Public Access Declaration shall be mutually approved by City and Buyer prior to Closing, and the Public Access Declaration shall only be subject to the matters described as Exception Nos. _____ in the Property Preliminary Report.

(f) At Closing and immediately after the recordation of the Deed, Buyer shall cause Title Company to record a non-exclusive easement to City for public commercial vehicular access (the "**Commercial Vehicle Easement**"). The Commercial Vehicle Easement shall encumber the Emergency Access Easement Area up to a height of twenty feet (20') above the ground surface, serve as a private road to commercial establishments in the manner contemplated by California Vehicle Code Section 21107.6, and incorporate the mitigation measures for such commercial vehicle access specified in the Improvement Measures and Mitigation Monitoring and Reporting Program ("**IMMMRP**") that was attached as an exhibit to Planning Commission Motion Nos. 19635, 19636, and 19637, adopted on May 5, 2016, specifically, but not limited to, Measure Nos. 8 and 10 of the IMMMRP. The Commercial Vehicle Easement will require Buyer to, at its sole cost, improve the Emergency Access Easement Area in a manner that sufficiently accommodates public commercial vehicles traveling from Jessie Street to First Street (the "**Vehicle Improvements**"), maintain the Vehicle Improvements in good working condition, and obtain the prior written approval of SFPW and SFMTA to Buyer's initial and final drawings and specifications for the Vehicle Improvements, as well as SFPW's and SFMTA's inspection and final approval of the installed Vehicle Improvements, to ensure they will properly and safely accommodate such commercial vehicular access. The form of the Commercial Vehicle Easement shall be mutually approved by City and Buyer prior to Closing, and the Commercial Vehicle Easement shall only be subject to the matters described as Exception Nos. _____ in the Property Preliminary Report.

(g) On or before the fifteenth (15th) day immediately after the full execution of this Agreement, Buyer shall deliver to City a current extended coverage preliminary report on the City Easement Area, issued by Title Company (the "**City Easement Preliminary Report**"), accompanied by copies of all documents referred to in the City Easement Preliminary Report.

Buyer shall use its good faith efforts to remove any exceptions described in the City Easement Preliminary Report to be removed from title if City reasonably determines such exceptions would or could negatively materially and adversely impact City's rights under the Overflow Easement or the Public Access Easement, provided that City shall notify Buyer of such determination in writing within fifteen (15) days after the City's receipt of the City Easement Preliminary Report. If Buyer fails to remove any such objectionable exceptions from title prior to the Closing, and City is unwilling to take title subject thereto, Buyer shall be in default hereunder and City shall have the rights and remedies provided herein or at law or in equity, including right to terminate this Agreement, but shall not have the right to pursue any claim for monetary damages against Buyer unless Buyer fails to comply with any of its other obligations that expressly survive the termination of this Agreement, including, but not limited to, Buyer's obligation to timely pay any City Costs (as defined in Section 4.1 below).

1.3 Inspection of City Easement Area

City has been given or will be given before the Closing Date (as defined in Section 8.2 below), a full opportunity to investigate the City Easement Area, either independently or through agents of City's own choosing, including, without limitation, the opportunity to conduct such inspections, tests, verifications, investigations and other due diligence regarding the physical, environmental, title and legal conditions of the City Easement Area as City deems fit, as well as the suitability of the City Easement Area for the uses specified in the Overflow Easement and the Public Access Easement. City and its Agents may commence due diligence investigations on the City Easement Area pursuant to this Agreement on or after the Effective Date (as defined in Section 12.19 below). Notwithstanding anything in this Agreement to the contrary, City shall have the right to terminate this Agreement at any time prior to Closing on written notice to Buyer if City determines the condition of the City Easement Area is not suitable for the uses specified in the Overflow Easement and the Public Access Easement, provided however, that (a) the incompleteness of the improvements that are necessary for the City's use of the City Easement Area as of Closing shall not deem the City Easement Area unsuitable and shall not provide the City the right to terminate this Agreement pursuant to this Section, (b) City shall exercise commercially reasonable efforts to determine the suitability of the City Easement Area as soon as reasonably possible after the Effective Date and thereafter and prior to any termination of this Agreement pursuant to this Section, City shall have promptly provided Buyer written notice of the facts and reasons that have caused City to deem the City Easement Area unsuitable for the purposes stated herein and allowed Buyer a reasonable opportunity of no less than thirty (30) days to cure such facts and/or reasons causing the City Easement Area to be so unsuitable, and Buyer shall have failed to cure the said unsuitability within the said thirty (30) day period, or if the nature of the facts and/or reasons causing the City Easement Area to be unsuitable are such that cannot reasonably be cured within a thirty (30) days period, Buyer shall have failed to commence such cure within the thirty (30) day period and diligently proceed to cure it thereafter. Upon such termination by City, neither City nor Buyer shall have any further rights or obligations hereunder, except for those that expressly survive the termination of this Agreement. This Section is subject to, and shall not serve to modify or limit, any right or remedy of City arising under Section 7 below.

1.4 "As-Is" Grant

CITY SPECIFICALLY ACKNOWLEDGES AND AGREES THAT BUYER IS GRANTING THE OVERFLOW EASEMENT AND THE PUBLIC ACCESS EASEMENT TO CITY ON AN "AS-IS WITH ALL FAULTS" BASIS, EXCEPT FOR THE IMPROVEMENTS TO BE COMPLETED BY BUYER UNDER THE TERMS OF SUCH EASEMENTS. CITY IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM BUYER OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE BUYER LAND, ITS SUITABILITY FOR CITY'S INTENDED USES OR ANY OF THE PROPERTY CONDITIONS. BUYER DOES NOT GUARANTEE THE LEGAL, PHYSICAL,

GEOLOGICAL, ENVIRONMENTAL OR OTHER CONDITIONS OF THE CITY EASEMENT AREA, NOR DOES IT ASSUME ANY RESPONSIBILITY FOR THE COMPLIANCE OF THE CITY EASEMENT AREA OR ITS USE WITH ANY STATUTE, ORDINANCE OR REGULATION. IT IS CITY'S SOLE RESPONSIBILITY TO DETERMINE ALL BUILDING, PLANNING, ZONING AND OTHER REGULATIONS RELATING TO THE CITY EASEMENT AREA AND THE USES TO WHICH IT MAY BE PUT.

2. PURCHASE PRICE

The purchase price for the Property is Twenty-Two Million Six Hundred Nineteen Thousand Dollars (\$22,619,000) (the "**Purchase Price**"); provided, however, that (i) if Closing does not occur on or before the nine (9) month anniversary of the effective date of Ordinance No. _____, adopted by the City's Board of Supervisors on _____, 2016 (the "**Sale Ordinance**"), the Purchase Price shall be Twenty-Three Million Two Hundred Ninety-Seven Thousand Five Hundred Seventy Dollars (\$23,297,570) ("**Purchase Price Adjustment**"), and (ii) if Closing does not occur on or before June 30, 2017, as a result of a Litigation Event (as defined in Section 8.2), the Purchase Price shall be increased by another two percent (2%) for each six (6) month period (or portion thereof) that occurs between June 30, 2017 and the date of Closing. Notwithstanding the above, no Purchase Price Adjustment shall be applied if the failure to conduct Closing on or before to the above-stated nine (9) month anniversary date is solely due to City's failure to deposit any of the items it is required to provide into escrow pursuant to Section 8.3 below. Buyer shall pay the Purchase Price to City at Closing in immediately available funds of lawful money of the United States of America.

3. AFFORDABLE HOUSING FUNDING

3.1 Affordable Housing Payments

Under Section 413 et seq. of the San Francisco Planning Code (the "**Jobs Housing Linkage Ordinance**"), Buyer would normally pay a project fee calculated on all commercial square footage in the Project pursuant to the procedures and methodologies of Planning Code Section 413.6 (the "**JHL Fee**"). The City has waived approximately \$7,000,000 of the JHL Fee (the "**Regulatory Commercial Payment**") pursuant to the Sale Ordinance and Buyer agrees to pay the Regulatory Commercial Payment as required under this Agreement and to pay the unwaived portion of the JHL Fee as required under the Jobs Housing Linkage Ordinance. The parties acknowledge that the Regulatory Commercial Payment will be no less than \$7,000,000, with the exact amount to be determined in the manner specified in the Sale Ordinance.

Under Section 415 et seq. of the San Francisco Planning Code, Buyer would normally be required to construct affordable housing, or pay a twenty percent (20%) affordable housing fee (the "**Regulatory Housing Payment**"), with respect to the Project. As partial consideration for City's sale of the Property to Buyer, in lieu of constructing affordable housing or making the Regulatory Housing Payment, Buyer shall pay City an affordable housing fee calculated by the Planning Department in consultation with the Mayor's Office of Housing and Community Development pursuant to the procedures and methodologies set forth in Planning Code Section 415.5 et seq. but using a thirty-three percent (33%) factor rather than the twenty percent (20%) factor described in Planning Code Section 415.5(b)(1) (the "**Residential Payment**"). The calculation of the Regulatory Commercial Payment and the Residential Payment (collectively, the "**Affordable Housing Payments**") shall use the rates set forth in the San Francisco Citywide Development Impact Fee Register in effect when the payments are made.

Buyer shall pay the Affordable Housing Payments to City on or before the issuance of the applicable first construction document (as defined in San Francisco Building Code Section 107A.13.1) for the Project (the "**Applicable Construction Document**"). The parties anticipate the Applicable Construction Document will be Addendum 1 to the site permit Buyer intends to obtain for the Project's Subgrade Stage/Mission Street Tower. If City issues an Applicable

Construction Document without receiving the full Affordable Housing Payments from Buyer, such issuance shall not be deemed to be a waiver of the full payment of the Affordable Housing Payments and Buyer shall pay any outstanding portion of the Affordable Housing Payments within thirty (30) days of City's written demand therefor.

Concurrently with the earlier to occur of Buyer's submission of the first Project excavation and shoring permit or Addendum 1 (Load Bearing Elements) to the site permit Buyer intends to obtain for the Project's Subgrade Stage/Mission Street Tower to City's Department of Building Inspection ("**DBI**"), Buyer shall send written notice of such submission to City's Director of Property, Public Works Director, and Director of DBI at the addresses set forth in Section 12.1 below. Buyer shall additionally deliver written notice to City's Director of Property if it learns the Applicable Construction Document will be any document other than Addendum 1 to the Project's Subgrade Stage/Mission Street Tower site permit.

3.2 Use of Affordable Housing Funds

The "**City Fund**" shall mean the City fund established exclusively used for the acquisition, rehabilitation or new construction of permanently affordable housing within a one-mile radius of the Project site pursuant to the Sale Ordinance. The Affordable Housing Payments shall be placed in the City Fund, and any portion of City Fund that has not been expended or committed within ten years of the date of the effective date of the Sale Ordinance shall thereafter be placed in, and be available for any authorized use of, the Citywide Affordable Housing Fund per Administrative Code Section 10.100-49.

4. CITY COSTS

4.1 Reimbursement

(a) Buyer has applied for various discretionary approvals required from the City for the Project (the "**Requested Approvals**"), including but not limited to conditional use authorizations or variances, a street vacation, a merger, a final map, and a subdivision. As a condition of this Agreement, Buyer agrees to reimburse City for all actual and reasonable costs (collectively, the "**City Costs**") incurred by any City department, agency, board, commission, and bureau for any of the Requested Approvals (each, a "**City Agency**") in preparing, approving or amending of this Agreement, performing its obligations under this Agreement, filing any McEnerney Action (as defined in Section 5.4 below), coordinating any of the City Agency approvals needed by Buyer for the Project (including reasonable attorneys' fees and costs, but excluding any costs otherwise reimbursed by Buyer through any applications submitted by Buyer to City for the Project), or defending its actions under this Agreement or with respect to any Third-Party Challenge (as defined in Section 4.2) or any of the Requested Approvals. The City Costs shall be determined on a time and materials basis and include the fees and expenses of the City Attorney's Office staff at the rates charged by the City Attorney's Office ("**CAO**") to third party outside developers from time to time.

(b) Except as otherwise set forth in Section 4.2, at Closing, Buyer shall reimburse City for the City Costs incurred by City up to the [redacted]-day period immediately preceding the Closing Date. City will provide Buyer with an invoice of such City Costs no less than [redacted] days prior to the scheduled Closing Date, which invoice shall indicate the then-hourly rate for each City Agency staff member listed on such invoice, the total number of hours spent by each City Agency staff member on the tasks during the invoice period, any additional costs incurred by the City and a brief non-confidential description of the work completed (provided, for the City Attorney's Office, the billing statement will be reviewed and approved by the City but the cover invoice forwarded to Buyer will not include a description of the work).

If this Agreement is terminated before Closing, Buyer shall reimburse City for the City Costs incurred by City up to such termination date. City will provide Buyer with an initial

invoice of such City Costs, which invoice shall indicate the then-hourly rate for each City Agency staff member listed on such invoice, the total number of hours spent by each City Agency staff member on the tasks during the invoice period, any additional costs incurred by the City and a brief non-confidential description of the work completed (provided, for the City Attorney's Office, the billing statement will be reviewed and approved by the City's Director of Property but the cover invoice forwarded to Buyer will not include a description of the work).

(c) If Closing occurs, except as otherwise set forth in Section 4.2, City will provide Buyer with quarterly invoices of the City Costs. These invoices shall indicate the then-hourly rate for each City Agency staff member listed on such invoice, the total number of hours spent by each City Agency staff member on the tasks during the invoice period, any additional costs incurred by the City and a brief non-confidential description of the work completed (provided, for the City Attorney's Office, the billing statement will be reviewed and approved by City's Director of Property but the cover invoice forwarded to Buyer will not include a description of the work). At Buyer's request, City shall provide an estimate of the anticipated City Costs for any work to be completed; provided, however, that Buyer acknowledges the actual City Costs may exceed such estimate.

Buyer shall pay the invoiced amount of City Costs within forty-five (45) calendar days of receipt from City. If Buyer in good faith disputes any portion of an invoice, then within sixty (60) calendar days of receipt of the invoice Buyer shall provide written notice of the amount disputed and the reason for the dispute, and the parties shall use good faith efforts to reconcile the dispute as soon as practicable. Buyer shall have no right to withhold the disputed amount. If any dispute is not resolved within ninety (90) days of Buyer's notice to City of the dispute, Buyer may pursue all remedies at law or in equity to recover the disputed amount. Buyer shall have no obligation to reimburse City for any cost that is not invoiced to Buyer within twelve (12) months after the date the cost was incurred.

(d) All sums payable under this Section shall be paid in immediately available funds of lawful money of the United States of America. Buyer's obligations under this Section shall survive the Closing.

4.2 Indemnification

Buyer shall indemnify, reimburse, and hold harmless the City and its officers, agents and employees (the "**City Parties**") from and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims ("**Losses**") to the extent arising or resulting directly or indirectly from (i) any administrative, legal or equitable action or proceeding is instituted by any party other than the City or Buyer challenging the validity or performance of any provision of this Agreement, the Project, the Requested Approvals, the Sale Ordinance, any actions taken pursuant to CEQA with respect to the Project or other approvals under applicable laws relating to the Project, any action taken by the City or Buyer in furtherance of this Agreement, or any combination thereof relating to the Project or any portion thereof ("**Third-Party Challenge**"), (ii) any dispute between Developer, its contractors or subcontractors relating to the construction of any part of the Project, and (iii) any dispute between Buyer and any subsequent owner of the Property or any of the Buyer Land (each, a "**Transferee**") relating to any assignment of this Agreement or the obligations that run with the land, or any dispute between Buyer and any Transferee or other person relating to which party is responsible for performing certain obligations under this Agreement, each regardless of the negligence of and regardless of whether liability without fault is imposed or sought to be imposed on the City or any of the City Parties, except to the extent that such indemnity, defense and hold harmless obligation is void or otherwise unenforceable under applicable law, and except to the extent any such Losses is the result of the negligence or willful misconduct of the City Parties. The foregoing indemnity shall include, without limitation, reasonable attorneys' fees and costs and the City's reasonable cost of investigating any claims against the City or the City Parties that are actually incurred by City, excluding any lost profits or other special damages. All

indemnifications set forth in this Agreement shall survive the expiration or termination of this Agreement, to the extent such indemnification obligation arose from an event occurring before the expiration or termination of this Agreement. To the extent the indemnifications relate to Buyer's obligations that survive the expiration or termination of this Agreement, the indemnifications shall survive for the term of the applicable obligation plus four years. This indemnification obligation shall not apply to the extent of the City's breach of this Agreement, negligence, or willful misconduct.

4.3 Cooperation in Third-Party Challenges

If there is any Third-Party Challenge, the Parties shall cooperate in defending against such challenge. Buyer shall assist and cooperate with the City at Buyer's own expense in connection with any Third-Party Challenge. The City Attorney's Office may use its own legal staff or outside counsel in connection with defense of the Third-Party Challenge, at the City Attorney's sole discretion. To the extent possible, City will obtain Buyer's consent in any decision in the context of a Third-Party Challenge that could adversely impact the Buyer or the Project. Buyer shall reimburse the City for its actual costs in defense of the action or proceeding, including but not limited to the time and expenses of the City Attorney's Office (at the non-discounted rates then charged by the City Attorney's Office) and any consultants; provided, however, Buyer shall have the right to monthly invoices for all such costs.

To the extent that any such action or proceeding challenges or a judgment is entered limiting Buyer's right to proceed with the Project or any material portion thereof under this Agreement (whether the Project commenced or not), including the City's actions taken pursuant to CEQA or any other land use approval, Buyer may elect to terminate this Agreement. Upon any such termination (or, upon the entry of a judgment terminating this Agreement, if earlier), the City and Buyer shall jointly seek to have the Third-Party Challenge dismissed and Buyer shall have no obligation to reimburse City defense costs that are incurred after the dismissal.

5. TITLE

5.1 Conditions of Title

At the Closing City shall quitclaim interest in and to the Property to Buyer by quitclaim deed in the form of Exhibit E attached hereto (the "**Deed**"). Title to the Property shall be subject to (a) liens of local real estate taxes and assessments, (b) all existing exceptions and encumbrances, whether or not disclosed by a current preliminary title report or the public records or any other documents reviewed by Buyer pursuant to Section 6.1 hereof, and any other exceptions to title which would be disclosed by an accurate and thorough investigation, survey, or inspection of the Property, (c) all items of which Buyer has actual or constructive notice or knowledge, (d) lack of a valid decree establishing title under the provisions of the Destroyed Lands Records Relief Law (the "**McEnerney Act**"), (e) the temporary public street and utilities easement reserved to City in the Deed, (f) the Emergency Access Easement with respect to the Emergency Access Easement Area, (g) the Public Access Declaration with respect to the Elim Alley Parcel and the Emergency Access Easement Area, and (h) the Project Declaration (as defined in Section 5.5 below. All of the foregoing exceptions to title shall be referred to collectively as the "**Buyer Conditions of Title**". Without limiting the foregoing, Buyer acknowledges receipt of the Property Preliminary Report and approves all of the exceptions contained therein. If Buyer determines prior to Closing that the condition of title to the Property is not acceptable to Buyer, acting in good faith, then Buyer shall have the right to terminate this Agreement upon written notice to the City. In the event of such termination, neither party shall have any further rights or obligations under this Agreement other than those that expressly survive the termination of this Agreement, including, but not limited to, Buyer's obligation to timely reimburse City for any City Costs pursuant to Section 4 above.

5.2 Buyer's Responsibility for Title Insurance

Buyer understands and agrees that the right, title and interest in the Property shall not exceed that vested in City, and City is under no obligation to furnish any policy of title insurance in connection with this transaction. Buyer recognizes that any fences or other physical monument of the Property's boundary lines may not correspond to the legal description of the Property. City shall not be responsible for any discrepancies in the parcel area or location of the property lines or any other matters which an accurate survey or inspection might reveal. It is Buyer's sole responsibility to obtain a survey from an independent surveyor and a policy of title insurance from a title company, if desired.

5.3 Legal Descriptions; Parcel Legal Status; Permit Applications

The Property is not a separate legal parcel and the parties agree to use the legal description for the Property attached hereto as Exhibit A to effect the Closing. Buyer shall have the right to take all appropriate and necessary action (a "**Subdivision Action**") to cause the Property to satisfy the provisions of California Government Code Section 66410 *et seq.* (the "**Subdivision Map Act**"), provided that such action shall be at Buyer's sole cost and responsibility. Buyer acknowledges and agrees that City is conveying the Property to Buyer pursuant to this Agreement in its proprietary capacity, not its regulatory capacity, and that (a) City makes no representations or warranties whether City, acting in its regulatory capacity, or any other party will require that the Property comply with the Subdivision Map Act prior to or after Closing, or as to any costs or liabilities that Buyer may incur as a result of a Subdivision Action, (b) any City department reviewing any application or documents submitted by Buyer for a Subdivision Action (the "**Subdivision Documentation**") shall do so in its sole discretion without any obligation to provide special consideration thereto, and (c) City's Board of Supervisors and Mayor shall have no obligation to approve of any ordinance or resolution (as applicable) submitted for a Subdivision Action, which shall be subject to their sole discretion.

Buyer and its Agents may make all inquiries with and applications to the City, acting in its regulatory capacity, necessary to effect the Subdivision Action. City shall have no obligation to assist in, effect, or approve of any Subdivision Documentation, provided, however, that if Buyer wishes to effect the Subdivision Action prior to Closing, City shall, in its proprietary capacity as owner of the Property, execute any Subdivision Documentation completed by Buyer prior to Closing and necessary to effect the Subdivision Action if such Subdivision Documentation (i) does not require City, in its proprietary capacity as owner of the Property, to incur any costs or liability and (ii) will not become effective unless and until the Closing occurs.

Buyer and its Agents may also make all inquiries with and applications to the City, acting in its regulatory capacity, that are necessary for the construction of the Project ("**Permit Documentation**"), including without limitation, site and building permit applications to DBI sidewalk and/or other permit applications to SFPW. City shall have no obligation to assist in, effect, or approve of any Permit Documentation, provided, however, that if Buyer wishes to obtain approval and issuance of Permit Documentation prior to Closing, City shall, in its proprietary capacity as owner of the Property, execute any Permit Documentation completed by Buyer prior to Closing as necessary to effect the approval and issuance thereof if such Permit Documentation does not require City, in its proprietary capacity as owner of the Property, to incur any costs or liability, and the Permit Documentation with respect to the Property will not become effective unless and until the Closing occurs, with the exception of the permits described in Section 7.1(d) and the permits that are necessary for the Utility Work.

5.4 McEnerney Action

Buyer has determined there are gaps in title with respect to the City Property due to the lost or destroyed City real property records. To facilitate the construction start date for the Project, Buyer may request that City file, at Buyer's sole cost, a quiet title action with respect to

such title gaps under Section 751 of the California Code of Civil Procedure (a "**McEnerney Action**") prior to Closing. If Buyer wishes to have the CAO file the McEnerney Action prior to Closing, Buyer shall have its separate counsel prepare and submit all necessary materials and filings for the McEnerney Action for CAO's review (the "**McEnerney Materials**"). If approved by the CAO, the CAO shall file the McEnerney Action with the San Francisco Superior Court. Buyer acknowledges and agrees that it shall rely on its separate counsel on the completeness and accuracy of the McEnerney Materials, and the CAO shall have no duty to ensure, and makes no representation as to, the completeness or accuracy of the McEnerney Materials. Buyer further acknowledges and agrees that any filed McEnerney Action may not be completed prior to Closing, and City shall have no obligation to continue the McEnerney Action after Closing, provided that City shall cooperate with Buyer's efforts to complete the McEnerney Action after Closing at no out of pocket expense to City.

5.5 Housing Project Declaration

(a) Any undefined, initially-capitalized term used in this subsection (a) shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. If Buyer uses the Property for the construction, rehabilitation or expansion of three (3) or more residential units (a "**Housing Project**"), the requirements of San Francisco Administrative Code Section 23.62 (the "**Local Hiring Requirements**") will apply to the Housing Project. Buyer shall contact City's Office of Economic Workforce and Development ("**OEWD**") before starting any work on a Housing Project to confirm the specific requirements and otherwise coordinate on the successful completion of the Local Hiring Requirements.

For a Housing Project, Buyer shall include, and shall require its Contractors and Subcontractors to include, a requirement to comply with the Local Hiring Requirements in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.62. Each such Construction Contract shall name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Buyer shall cooperate, and require its Contractors and Subcontractors to cooperate, with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Local Hiring Requirements when required. Buyer's failure to comply with its obligations under this Section shall constitute a material breach of this Agreement. In addition, City shall have the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party (i.e., Buyer, a Contractor, or a Subcontractor, as applicable).

(b) Any undefined, initially-capitalized term used in this subsection (b) shall have the meaning given to such term in San Francisco Administrative Code Section 23.61. If Buyer uses the Property for the construction of a Housing Project that will exceed the Threshold Amount, Buyer shall, and require its Contractors and Subcontractors to, comply with the applicable requirements in San Francisco Administrative Code Section 23.61, including, but not limited to, (1) paying workers performing such work not less than the Prevailing Rate of Wages, (2) providing the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, (3) complying with certain record keeping, posting, and audit requirements, and (4) employing Apprentices (collectively, "**Prevailing Wage Requirements**"). Buyer agrees to cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

Buyer shall include, and shall require its Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract shall name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any

Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Buyer's failure to comply with its obligations under this Section shall constitute a material breach of this Agreement. A Contractor's or Subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party. For the current Rate of Prevailing Wages, see www.sfgov.org/olse/prevailingwages or call the City's Office of Labor Standard Enforcement ("**OLSE**") at 415-554-6235.

(c) At Closing, Buyer and City shall record against the Property in the Official Records of San Francisco a declaration in the form attached as Exhibit F-1 (the "**Project Declaration**"). On or before Buyer's receipt of a final certificate of occupancy for the Housing Project, Buyer shall notify OEWD **and OLSE**¹ of its completion of the Housing Project and deliver any documents or material not previously delivered to confirm Buyer's satisfaction of the Local Hiring Requirements **and the Prevailing Wage Requirements**. On OEWD's confirmation that Buyer satisfied the Local Hiring Requirements **and OLSE's confirmation that Buyer satisfied the Prevailing Wage Requirements**, OEWD **and OLSE** shall execute and deliver to Buyer within ten (10) days after the Buyer's delivery of documentation evidencing compliance thereof a release of the Project Declaration in the form attached as Exhibit F-2 (the "**Release of Declaration**"). OEWD **and OLSE** shall also execute and deliver the Release of Declaration to Buyer if Buyer decides to build something other than a Housing Project on the Property, obtains entitlements for the alternative project, and receives a final certificate of occupancy for such alternative project, or if the Project entitlements are otherwise revoked or rescinded. The terms of this Section shall survive the Closing until the delivery of the Release of Declaration to Buyer by OEWD **and OLSE**.

6. "AS-IS" PURCHASE; RELEASE OF CITY

6.1 Buyer's Independent Investigation

Buyer represents and warrants to City that Buyer has performed a diligent and thorough inspection and investigation of each and every aspect of the Property, either independently or through agents of Buyer's choosing, including, without limitation, the following matters (collectively, the "**Property Conditions**"):

- (a) All matters relating to title including, without limitation, the existence, quality, nature and adequacy of City's interest in the Property and the existence of physically open and legally sufficient access to the Property.
- (b) The zoning and other legal status of the Property, including, without limitation, the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances and private or public covenants, conditions and restrictions, and all governmental and other legal requirements such as taxes, assessments, use permit requirements and building and fire codes.
- (c) The quality, nature, adequacy and physical condition of the Property.
- (d) The quality, nature, adequacy, and physical, geological and environmental condition of the Property (including soils and any groundwater), and the presence or absence of any Hazardous Material (as defined in Section 9.1(l)) in, on, under or about the Property or any other real property in the vicinity of the Property.
- (e) The suitability of the Property for Buyer's intended uses. Buyer represents

¹ To be confirmed if OLSE wants to be included in this declaration.

and warrants that its intended use of the Property is for the Project.

- (f) The economics and development potential, if any, of the Property.
- (g) All other matters of material significance affecting the Property.

6.2 Property Disclosures

(a) California law requires sellers to disclose to buyers the presence or potential presence of certain Hazardous Materials. Accordingly, Buyer is hereby advised that occupation of the Property may lead to exposure to Hazardous Materials such as, but not limited to, gasoline, diesel and other vehicle fluids, vehicle exhaust, office maintenance fluids, tobacco smoke, methane and building materials containing chemicals, such as formaldehyde. By execution of this Agreement, Buyer acknowledges that the notices and warnings set forth above satisfy the requirements of California Health and Safety Code Section 25359.7 and related statutes.

(b) The Property is in a seismic hazard zone (as defined in Public Resources Code Section 2696) and an earthquake fault zone (as defined in Public Resources Code Section 2622), as further disclosed under the California Natural Hazard Disclosure Statement provided by City to Buyer prior to the Effective Date. **[RED to confirm and to provide NHDS to Buyer before signing agreement]**

6.3 Entry and Indemnity

The Property is currently a public right of way and may be accessed by Buyer or its Agents to the same extent as any other member of the public. If Buyer wishes to perform any inspections of the Property prior to Closing that are invasive or would restrict or otherwise interfere with use of the Property by the general public, Buyer shall not do so without first obtaining the appropriate permit for such inspection from SFPW, which may withhold or condition its approval of such permit in its sole discretion. After Closing, Buyer acknowledges that until the termination of the temporary street easement reserved by City in the Deed, Buyer must obtain appropriate permits to perform any such inspection or other activities in the affected portion of the Property (i.e. not including the airspace above or the sub-grade area below that portion of the Property used for the said temporary street easement purposes) from SFPW and SFMTA, as applicable, each of which may withhold or condition its approval of such permit in its sole discretion to the extent necessary to ensure the use of the temporary street easement or an alternative thereto. If Buyer or its agents, employees or contractors take any sample from the Property prior to Closing in connection with any testing approved by SFPW, Buyer shall provide to City a portion of such sample being tested to allow City, if it so chooses, to perform its own testing. City or its representative may be present to observe any testing or other inspection performed on the Property. Buyer shall promptly deliver to City copies of any reports relating to any testing or other inspection of the Property performed by Buyer or its agents, employees or contractors prior to Closing, but shall not deliver copies of any such reports to any other person or entity without Buyer's prior written approval. Buyer shall keep all test results and information strictly confidential, and shall indemnify, reimburse, defend and hold City harmless from and against any loss, cost, expense, or damage resulting from Buyer's failure to keep any information obtained from an inspection or testing of the Property strictly confidential; provided, however, Buyer shall not be liable if and to the extent Buyer is required to disclose such information pursuant to a court order or applicable law. Buyer shall comply with all laws, ordinances, rules, regulations, orders and the like in connection with any entry onto or testing of the Property.

Buyer's obligation to provide City with a copy of any testing results or information with respect to the Property pursuant to the foregoing paragraph may include providing such results or information to the City's Department of Public Health ("SFDPH") and/or to other City departments to the extent such disclosure is required by any City ordinance applicable to the

Project or the Property and/or by any motion, condition or other requirement for the Project, including without limitation any mitigation and improvement measures applicable to the Project or the Property, or as is necessary in furtherance of the permitting for the Project; provided further, that the Buyer shall not be liable for any such disclosure to SFDPH or any other City department.

Buyer shall maintain, and shall require that its Agents maintain, public liability and property damage insurance in amounts and in form and substance adequate to insure against all liability of Buyer and its Agents, arising out of any entry or inspection of the Property in connection with the transaction contemplated hereby, and Buyer shall provide City with evidence of such insurance coverage upon request from City.

To the fullest extent permitted under law, Buyer shall indemnify, defend and hold harmless City, its Agents, and each of them, from and against any liabilities, costs, damages, losses, liens, claims and expenses (including, without limitation, reasonable fees of attorneys, experts and consultants and related costs), but excluding any lost profits, to the extent caused by any entry on, under or about the Property by Buyer, its Agents, contractors and subcontractors in performing the inspections, testing or inquiries prior to Closing provided for in this Agreement, whether prior to the date of this Agreement or during the term hereof, including, without limitation, any injuries or deaths to any persons (including, without limitation, Buyer's Agents) and damage to any property. The foregoing indemnity shall survive beyond the Closing, or, if the sale is not consummated, beyond the termination of this Agreement. Notwithstanding anything to the contrary contained herein, the foregoing indemnity, defense and hold harmless obligations do not apply to losses, damages, claims, expenses and other liabilities to the extent caused by acts of negligent omissions of City, any of its Agents or any party other than Buyer or its Agents, contractors or subcontractors.

6.4 "As-Is" Purchase

BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS SELLING AND BUYER IS PURCHASING CITY'S INTEREST IN THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS. BUYER IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE PROPERTY, ITS SUITABILITY FOR BUYER'S INTENDED USES OR ANY OF THE PROPERTY CONDITIONS. CITY 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. IT IS BUYER'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.

6.5 Release of City

As part of its agreement to purchase the Property in its "As-Is With All Faults" condition, Buyer, on behalf of itself and its successors and assigns, waives any right to recover from, and forever releases and discharges, City, its officers, employees, agents, contractors and representatives, and their respective heirs, successors, legal representatives and assigns, from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) Buyer's and its Agents and customer's past, present and future use of the Property, (ii) the physical, geological or environmental condition of the Property, including, without limitation, any Hazardous Material

in, on, under, above or about the Property, and (iii) any federal, state, local or administrative law, rule, regulation, order or requirement applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended by Superfund Amendments and Reauthorization Act of 1986 ("SARA") (42 U.S.C. Sections 9601-9657), the Resource Conservation and Recovery Act of 1976, as amended by the Solid Waste and Disposal Act of 1984 (collectively, "RCRA") (42 U.S.C. Sections 6901-6987), the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (collectively the "Clean Water Act") (33 U.S.C. Section 1251 et seq.), the Toxic Substances Control Act ("TSCA") (15 U.S.C. Sections 2601-2629), Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Carpenter-Presley-Tanner Hazardous Substance Account Law (commonly known as the "California Superfund" law) (California Health and Safety Code Sections 25300-25395), Hazardous Waste Control Act (California Health and Safety Code Section 25100 et seq.), Hazardous Materials Release Response Plans and Inventory Law (commonly known as the "Business Plan Law") (California Health and Safety Code Section 25500 et seq.), Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.), Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65") (California Health and Safety Code Section 25249.5 et seq.).

In connection with the foregoing release, Buyer 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, BUYER SPECIFICALLY ACKNOWLEDGES AND CONFIRMS THE VALIDITY OF THE RELEASES MADE ABOVE AND THE FACT THAT BUYER WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THE ABOVE RELEASES.

INITIALS: BUYER: _____

7. CONDITIONS PRECEDENT

7.1 Buyer's Conditions Precedent

Buyer's obligation to purchase the Property is conditioned upon the following ("**Buyer's Conditions Precedent**"), provided that Buyer shall have the right to waive any or all of these conditions, in whole or in part in Buyer's sole and absolute discretion:

(a) No event of default (or event which upon the giving of notice or the passage of time or both shall constitute an event of default) shall exist on the part of City under this Agreement.

(b) There shall be no pending or threatened (i) condemnation, environmental or other pending governmental proceedings, including without limitation administrative appeals on the Requested Approvals for the Project, in respect of Property that would materially and adversely affect Buyer's intended use thereof or (ii) litigation affecting the Property, and the statute of limitations for litigation and for the filing of a legal challenge against the Project shall have ended with respect to any Requested Approvals issued or granted for the Project pursuant to the San Francisco Planning Code and the Project's review under the California Environmental

Quality Act.

(c) The Sale Ordinance shall have become effective, with the applicable statute of limitations for the filing of a legal challenge to the Sale Ordinance ending with no action or challenge thereto being filed during such period or, if filed, no longer pending.

(d) Site permit application nos. 201510301303 (for 50 First Street), 201510301302 (for 526 Mission Street), and 201510301311 (for 78 First Street), and the CSM wall permit (which shall be submitted by Buyer to City no later than October 31, 2016), for the construction of the Project shall have been approved and issued by DBI.

(e) Buyer shall have approved, acting reasonably, the final legal descriptions of the City Easement Area and the Emergency Access Easement Area, and the final form of the Overflow Easement, the Public Access Easement, the Commercial Vehicle Easement, and the Public Access Declaration.

(f) Title Company shall be irrevocably committed to issue an ALTA (2006) form of title insurance policy in favor of Buyer, insuring Buyer's interest in the Property, subject only to the exceptions approved by Buyer under Section 5.1 above.

7.2 City's Condition Precedent

The following are conditions precedent to City's obligation to sell the Property to Buyer ("**City's Conditions Precedent**"):

(a) Buyer shall have performed all of its obligations hereunder that are required to be performed prior to Closing, and all of Buyer's representations and warranties in this Agreement shall be true and correct in all material respects.

(b) The Sale Ordinance shall have become effective.

(c) City shall have approved, acting reasonably, the final legal descriptions of the City Easement Area and the Emergency Access Easement Area, and the final form of the Overflow Easement, the Public Access Easement, the Emergency Access Easement, the Commercial Vehicle Easement, and the Public Access Declaration, and shall have determined the condition of the City Easement Area is sufficient for the uses specified in the Overflow Easement and the Public Access Easement, provided that the incompleteness of the improvements that are necessary for the City's use of the City Easement Area on or before Closing shall not be considered an insufficiency with respect to the condition of the City Easement Area. Buyer agrees that it is reasonable for City to reject any legal descriptions of the City Easement Area and the Emergency Access Area if City determines, in its regulatory capacity, they are not sufficient for City's regulatory needs or requirements; provided that City shall exercise commercially reasonable efforts to make such determination as soon as reasonably possible after the Effective Date and shall thereafter promptly notify Buyer in writing of such determination.

(d) Title Company shall be irrevocably committed, immediately following the recordation of the Deed, to record the Overflow Easement, the Public Access Easement, the Emergency Access Easement, the Public Access Declaration, the Commercial Vehicle Easement, and the Housing Project Declaration.

(e) The Title Company shall be irrevocably committed to issue, on payment by _____ of all required premiums, an ALTA extended coverage owner's policy of title insurance (2006 form) with all endorsements required by City and in the amount of the \$ _____ (the "**City Title Policy**"), insuring City's interest in the Overflow Easement and Public Access Easement free of the liens of any and all deeds of trust, mortgages, assignments of

rents, financing statements, creditors' claims, rights of tenants or other occupants, exceptions, liens and encumbrances that would adversely affect the use of the Overflow Easement or the Public Access Easement or could extinguish the Overflow Easement or the Public Access Easement on foreclosure or other remedial action (except to the extent City obtains a subordination and non-disturbance agreement, with terms and conditions reasonably acceptable to City to protect its rights hereunder from each party that holds such liens on or prior to Closing). The City Title Policy shall provide full coverage against mechanics' and materialmen's liens arising out of the construction, repair or alteration of any of the City Easement Area, and shall contain an affirmative endorsement that there are no violations of restrictive covenants, if any, affecting the City Easement Area and such special endorsements as City may reasonably request. The City Title Policy shall also provide for reinsurance with direct access with such companies and in such amounts as City may reasonably request.

(f) There shall be no pending or threatened (i) condemnation, environmental or other pending governmental proceedings in respect to any of the Property, excluding any condemnation proceedings by City, that would materially and adversely affect use of the City Easement Area pursuant to the Overflow Easement or the Public Access Easement, (ii) litigation regarding the ownership or title to the Buyer Land, or (iii) court injunction prohibiting the sale of the Property.

7.3 Failure of Conditions Precedent

Each of City's Conditions Precedent are intended solely for the benefit of City. If any of City's Conditions Precedent are not satisfied as provided above, City may, at its option, terminate this Agreement. Each of Buyer's Conditions Precedent are intended solely for the benefit of Buyer. If any of Buyer's Conditions Precedent are not satisfied as provided above, Buyer may, at its option, terminate this Agreement. Upon any such termination by City or Buyer under this Section, neither party shall have any further rights or obligations hereunder except as provided in Sections 4 [City Costs], 6.3 [Entry and Indemnity], 9.2 [Representations and Warranties], 11.2 [Brokers], or 12.4 [Authority of Buyer] or as otherwise expressly provided herein.

8. ESCROW AND CLOSING

8.1 Escrow

On the date within three (3) days after the parties hereto execute this Agreement, Buyer and City shall deposit an executed counterpart of this Agreement with the Title Company, and this instrument shall serve as the instructions to the Title Company as the escrow holder for consummation of the purchase and sale contemplated hereby. City and Buyer agree to execute such supplementary escrow instructions as may be appropriate to enable the Title Company to comply with the terms of this Agreement; provided, however, in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control.

8.2 Closing Date

Subject to the satisfaction or waiver of the City's Conditions Precedent and the Buyer's Conditions Precedent, the closing hereunder (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 the Title Company on (a) the earlier day to occur of (i) the tenth (10th) business day immediately following the satisfaction or waiver of the last Buyer's Condition Precedent under Section 7.1 above, and (ii) June 30, 2017, before 1:00 p.m. San Francisco time, provided however, that in the event that as of June 29, 2017, litigation that would materially and negatively affect the construction of the Project or the use or sale of the Property is pending (a "**Litigation Event**"), the above-stated June 30, 2017 date shall automatically be extended to the

earlier to occur of the date that is thirty (30) business days after the conclusion of any such litigation and June 30, 2018, or (b) such later date and time as Buyer and City may mutually agree upon in writing (the "**Closing Date**"). Such date and time may not be extended without the prior written approval of both City and Buyer.

8.3 Deposit of Documents and Funds

(a) At or before the Closing, City shall deposit into escrow the following items:

(i) the duly executed and acknowledged Deed conveying the Property to Buyer subject to the Conditions of Title; and

(ii) the duly executed and acknowledged Emergency Access Easement, Overflow Easement, Public Access Easement, the Commercial Vehicle Easement, and the Project Declaration.

(b) At or before the Closing, Buyer shall deposit into escrow the following items:

(i) the funds necessary to close this transaction, including, but not limited to, the funds necessary to pay the Purchase Price, the City Costs incurred up to the [redacted] day immediately preceding the Closing Date, and the costs and fees described in Section 11.1; and

(ii) the duly executed and acknowledged Deed, Emergency Access Easement, Overflow Easement, Public Access Easement, the Public Access Declaration, the Commercial Vehicle Easement, and the Project Declaration.

(c) City and Buyer shall each deposit such other instruments as are reasonably required by the Title Company or otherwise required to close the escrow and consummate the purchase of the Property in accordance with the terms hereof.

9. REPRESENTATIONS AND WARRANTIES

9.1 Buyer Representations and Warranties

As used herein, Buyer's knowledge means the current actual knowledge of any of [key *OWC personnel names to be inserted*] without any duty of independent investigation or inquiry. Actual knowledge shall not be deemed to exist merely by assertion by City of a claim that any of the foregoing persons should have known of such facts or circumstances, if such person did not have actual knowledge thereof. Buyer represents and warrants to City as follows as of the Buyer's execution of this Agreement as of the Closing Date (except in each case where expressly limited to one of such dates or expressly referencing another date):

(a) Buyer is a Delaware limited liability company duly organized and validly existing and in good standing under the laws of the State of Delaware. Buyer has duly authorized by all necessary action the execution, delivery and performance of this Agreement. Buyer has duly executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with the terms hereof.

(b) Buyer 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 Buyer 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.

(c) To the Buyer's knowledge, no document or instrument furnished or to be furnished by the Buyer to the City in connection with this Agreement contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

(d) To the Buyer's knowledge, there are now, and at the time of the Closing will be, no material physical or mechanical defects of the City Easement Area, and no violations of any laws, rules or regulations applicable to the City Easement Area, provided however that the City Easement Area cannot be used and operated for Overflow Easement and Public Access Easement purposes at the time of Closing since the necessary improvements to the City Easement Area, including the Road Improvements, will be constructed and completed after Closing in connection with the construction of the Project.

(e) [Intentionally deleted]²

(f) To the Buyer's knowledge, there is not any condemnation, either instituted or planned to be instituted by any governmental or quasi-governmental agency other than City, which could detrimentally affect the use or operation of the City Easement Area.

(g) [Intentionally deleted]³

(h) There are now, and at the time of Closing will be, no leases or other occupancy agreements affecting or relating to any of the City Easement Area.

(i) There is no litigation pending or, to the Buyer's knowledge, threatened, against Buyer or any basis therefor that arises out of the ownership of the City Easement Area or that might detrimentally affect the use or operation of the City Easement Area for the Overflow Easement or the Public Access Easement or the ability of Buyer to perform its obligations under this Agreement, with the exception of a lawsuit by GTE Mobilnet of California Limited Partnership, d/b/a Verizon Wireless, pending in the San Francisco County Superior Court under case no. CGC-16.552607.

(j) [Intentionally deleted]⁴

(k) To the Buyer's knowledge, Buyer knows of no facts nor has Buyer failed to disclose any known fact that would prevent City from using and operating the City Easement Area after Closing in accordance with the terms of the Overflow Easement and the Public Access Easement, each of which shall reflect that none of the improvements in the City Easement Area that are necessary for the use and operation of the Overflow Easement or the Public Access Easement will be completed prior to Closing.

(l) With the exception of any and all information included in the Phase I Environmental Site Assessment reports prepared for the Buyer Land or a portion thereof that includes the City Easement Area, consisting of a Phase I report by URS Corporation, dated October 22, 2014, a Phase I Addendum by URS Corporation, dated November 18, 2014, and a

² Deleted rep was identical to rep. (c).

³ Covered by City Title Policy.

⁴ Covered by City Title Policy.

Phase I report by PES Environmental, Inc., dated November 24, 2014, , the information included in the Maher Ordinance application(s) submitted by the Buyer to SFDPH on or about June 8, 2015, and the contamination and/or Hazardous Materials identified or discussed in the above-mentioned documents. **(Documents under review by City)** Buyer hereby represents and warrants to and covenants with City that the following statements are true and correct and will be true and correct as of the Closing Date, to the Buyer's knowledge: (i) neither the City Easement Area nor to the Buyer's knowledge any adjacent real estate owned by Buyer is in violation of any Environmental Laws; (ii) the City Easement Area is not now, nor to the Buyer's knowledge has it ever been, used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material; (iii) there has been no release and there is no threatened release of any actionable levels of Hazardous Materials in, on, under or about the City Easement Area; (iv) 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 City Easement Area; (v) the City Easement Area does not consist of any landfill or of any building materials that contain Hazardous Material; and (vi) the City Easement Area 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 City Easement Area, or the migration of Hazardous Material from or to other property. As used herein, the following terms shall have the meanings below:

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

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

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

9.2 [Intentionally deleted]⁵

⁵ Carol, Since City is selling the Property to Buyer and Buyer is only granting two easements to City under this Agreement, Buyer has more at stake if City is in breach of its obligations under the Agreement. Thus, if blanket

9.3 Covenants of City

During the term of this Agreement, City at its sole cost and expense, shall (i) operate and maintain the Property in a manner consistent with current practices, (ii) not convey any interest in the Property, or subject the Property to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters, and (iii) reasonably cooperate with Buyer in connection with the Subdivision Action or the McEnerney Action pursuant to the terms contained hereunder.

10. RISK OF LOSS

10.1 Loss

City shall give Buyer notice of the occurrence of damage or destruction of, or the commencement of condemnation proceedings affecting, any portion of the Property. In the event that all or any portion of the Property is condemned, or destroyed or damaged by fire or other casualty prior to the Closing, then Buyer may, at its option to be exercised within ten (10) days of City's notice of the occurrence of the damage or destruction or the commencement of condemnation proceedings, either terminate this Agreement or consummate the purchase for the full Purchase Price as required by the terms hereof. If Buyer elects to terminate this Agreement or fails to give City notice within such ten (10)-day period that Buyer will proceed with the purchase, then this Agreement shall terminate at the end of such ten (10)-day period, and neither party shall have any further rights or obligations hereunder except as provided in Sections 4 [City Costs], 6.3 [Entry and Indemnity], 9.2 [Representations and Warranties], 11.2 [Brokers], 12.4 [Authority of Buyer] or otherwise expressly provided herein. If City delivers notice of any commencement of condemnation proceedings affecting the Property and Buyer elects to proceed with the purchase of the Property, then upon the Closing, Buyer shall receive a credit against the Purchase Price payable hereunder equal to the amount of any condemnation awards actually collected by City as a result of any such condemnation, less any sums expended by City toward the restoration or repair of the Property. If the awards have not been collected as of the Closing, then City shall assign such awards to Buyer, except to the extent needed to reimburse City for sums expended to collect such awards or restore the Property, and Buyer shall not receive any credit against the Purchase Price with respect to such awards.

10.2 Self-Insurance

Notwithstanding anything to the contrary above, Buyer acknowledges that City self-insures and shall not be obligated to purchase any commercial liability insurance or property insurance for the Property.

11. EXPENSES

11.1 Expenses

Buyer shall pay any transfer taxes applicable to the sale, personal property taxes, escrow fees and recording charges, the premium for the City Title Policy, and any other costs and charges of the escrow for the sale.

indemnity clause in connection with the performance of the Agreement is include, as was drafted under this Section 9.2, such clause needs to at least be mutual. However, since there is already specific indemnity clause throughout the Agreement (e.g., Section 6.3 and now 4.2), we would suggest taking out Section 9.2.

11.2 Brokers

The parties represent and warrant to each other that no broker or finder was instrumental in arranging or bringing about this transaction and that there are no claims or rights for brokerage commissions or finder's fees in connection with the transactions contemplated by this Agreement. If any person brings a claim for a commission or finder's fee based on any contact, dealings, or communication with Buyer or City, then the party through whom such person makes a claim shall defend the other party from such claim, and shall indemnify the indemnified party from, and hold the indemnified party against, any and all costs, damages, claims, liabilities, or expenses (including, without limitation, reasonable attorneys' fees and disbursements) that the indemnified party incurs in defending against the claim. The provisions of this Section shall survive the Closing, or, if the purchase and sale is not consummated for any reason, any termination of this Agreement.

12. GENERAL PROVISIONS

12.1 Notices

Any notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, or (c) by U.S. Express Mail or commercial overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be addressed as follows:

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: Oceanwide Center

Office of Economic and Workforce
Development
City Hall, Room 448
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Director of OEWD
Re: Oceanwide Center

San Francisco Public Works
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Public Works Director
Re: Oceanwide Center

Director of DBI
City and County of San Francisco
1660 Mission St.
San Francisco, CA 94103
Re: Oceanwide Center

with a copy to:

Carol Wong

BUYER:

Oceanwide Center LLC
88 First Street
San Francisco, CA 94104
Attn: Mr. Chen Wu

with a copy to:

Nixon Peabody LLP
One Embarcadero Center, Suite 1800
San Francisco, CA 94111
Attn: Paul Schrier

and

Reuben, Junius & Rose LLP
One Bush Street, Suite 600
San Francisco, CA 94102
Attn: Tuija Catalano

Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Re: Oceanwide Center

or such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed given when actually delivered if such delivery is in person, two (2) days after deposit with the U.S. Postal Service if such delivery is by certified or registered mail, and the next business day after deposit with the U.S. Postal Service or with the commercial overnight courier service if such delivery is by overnight mail.

12.2 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, legal representatives, administrators and assigns. Buyer's rights and obligations hereunder shall not be assignable without the prior written consent of City; provided, however, even if City approves any such proposed assignment, in no event shall Buyer be released of any of its obligations hereunder. Notwithstanding the foregoing, Buyer may assign this Agreement to any party who acquires fee ownership in all of the Buyer Land or to any Buyer Affiliate (defined as follows) without obtaining the consent of City by giving City written notice of its intent thereof at least fifteen (15) business days before the proposed effective date of such transfer. "**Buyer's Affiliate**" shall mean, any of the following: (a) any person or entity owning, directly or indirectly, fifty percent (50%) or more of the ownership interests of Buyer (an "**Owning Party**"), (b) any entity, fifty percent (50%) or more of the ownership interests of which are owned, directly or indirectly, by any Owning Party, (c) any entity, fifty percent (50%) or more of the ownership interests of which are owned, directly or indirectly, by Buyer. Any assignment to a Buyer Affiliate pursuant to this Section shall not release Buyer of any of its obligations hereunder.

12.3 Amendments

This Agreement may be amended or modified only by a written instrument signed by the Buyer and City.

12.4 Authority of Buyer

Buyer represents and warrants to City that Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of California. Buyer further represents and warrants to City that this Agreement and all documents executed by Buyer which are to be delivered to City at Closing: (a) are or at the time of Closing will be duly authorized, executed and delivered by Buyer; (b) are or at the time of Closing will be legal, valid and binding obligations of Buyer; and (c) do not and at the time of Closing will not violate any provision of any agreement or judicial order to which Buyer is a party or to which Buyer is subject. Notwithstanding anything to the contrary in this Agreement, the foregoing representations and warranties and any and all other representations and warranties of Buyer contained herein or in other agreements or documents executed by Buyer in connection herewith, shall survive the Closing Date.

12.5 Governing Law

This Agreement shall be governed by, subject to, and construed in accordance with the laws of the State of California and City's Charter and Administrative Code.

12.6 Merger of Prior Agreements

This Agreement, together with the exhibits hereto, contain any and all representations, warranties and covenants made by Buyer and City and constitutes the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are replaced in total by this Agreement together with the exhibits hereto.

12.7 Parties and Their Agents

The term "Buyer" as used herein shall include the plural as well as the singular. If Buyer consists of more than one (1) individual or entity, then the obligations under this Agreement imposed on Buyer shall be joint and several. As used herein, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors and representatives of such party.

12.8 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.

12.9 Attorneys' Fees

If either party hereto fails to perform any of its respective obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default or in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements. For purposes of this Agreement, the reasonable fees of attorneys of the Office of the City Attorney of the City and County of San Francisco 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 City Attorney's Office.

12.10 Time of Essence

Time is of the essence with respect to the performance of the parties' respective obligations contained herein.

12.11 No Merger

The obligations contained herein shall not merge with the transfer of title to the Property but shall remain in effect until fulfilled.

12.12 Non-Liability of City Officials, Employees and Agents

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

12.13 Conflicts of Interest

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

12.14 Notification of Limitations on Contributions

Through its execution of this Agreement, Buyer 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. Buyer 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. Buyer further acknowledges that the prohibition on contributions applies to each Buyer; each member of Buyer's board of directors, and Buyer's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Buyer; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Buyer. Additionally, Buyer acknowledges that Buyer must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Buyer further agrees to provide to City the names of each person, entity or committee described above prior to the adoption of the Sale Ordinance.

12.15 Sunshine Ordinance

Buyer 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. Buyer hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

12.16 Tropical Hardwood and Virgin Redwood Ban

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

12.17 MacBride Principles - Northern Ireland

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

12.18 No Recording

Neither this Agreement nor any memorandum or short form thereof may be recorded by Buyer.

12.19 Effective Date

As used herein, the term "**Effective Date**" shall mean the date that each of the following conditions is satisfied: (i) the Sale Ordinance is effective, and (ii) this Agreement is fully executed by both parties.

12.20 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.

12.21 Acceptance by Buyer

This Agreement shall be null and void unless it is accepted by Buyer and two (2) fully executed copies hereof are returned to City on or before 5:00 p.m. San Francisco time within fifteen (15) days of the date, if any, the Board of Supervisors adopts the Sale Ordinance.

12.22 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.

12.23 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, BUYER ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL THE SALE ORDINANCE IS DULY ENACTED. THEREFORE, ANY

OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF THE APPROVAL ORDINANCE, 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 THE TRANSACTIONS CONTEMPLATED HEREBY BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT THE SALE ORDINANCE WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY:
CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation

BUYER:
OCEANWIDE CENTER,
a Delaware limited liability company

By: _____
JOHN UPDIKE
Director of Property

By: [Signature]
[NAME]

Date: _____

Its: Vice president of Construction.

Date: 7/13/2016.

By: _____
OLSON LEE
Director, Mayor's Office of Housing

By: _____
[NAME]

Date: _____

Its: _____

Date: _____

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Carol Wong
Deputy City Attorney

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

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

EXHIBIT B

**DEPICTION OF PROPERTY, BUYER LAND, EMERGENCY ACCESS EASEMENT
AREA, AND CITY EASEMENT AREA**

EXHIBIT C

BUYER LAND LEGAL DESCRIPTION

EXHIBIT D

EMERGENCY VEHICLE ACCESS EASEMENT

EXHIBIT E
QUITCLAIM DEED

EXHIBIT F-1

HOUSING PROJECT DECLARATION

EXHIBIT F-2

TERMINATION OF DECLARATION