

## **TOLLING AGREEMENT**

The undersigned counsel (“Counsel”) and their respective Clients (as defined below) have entered into this tolling agreement (“Agreement”) regarding claims and legal proceedings arising from, relating to, or in connection with the Clients’ involvements in the San Francisco General Hospital Rebuild Program, 1001 Potrero Avenue, located in the City and County of San Francisco (the “Proceedings”). For purposes of this Agreement, “Client” and “Clients” mean the City and County of San Francisco, acting by and through San Francisco Public Works; Fong & Chan Architects; and their respective affiliated, associated, and successor entities (each a “Party” and together “the Parties”). “Counsel” means their respective counsel (together with the consultants retained by counsel) who sign this Agreement or later agree in writing to be bound by it. “Action” means the ongoing litigation, including any cross-complaints, between, among others, Keenan, Hopkins, Suder and Stowell Contractors, Inc.; Webcor Construction L.P.; and the City and County of San Francisco, *Keenan, Hopkins, Suder and Stowell Contractors, Inc. vs. Webcor Construction L.P. et al.*, San Francisco Superior Case No. CGC-16-555423.

### **I. Tolling Provision.**

All statutes of limitation, statutes of repose, notice requirements, doctrines of laches, and all other time limitations, bars, and other time defenses under any applicable law, whether statutory, contractual, equitable, or otherwise, collectively the “Time Defenses,” relating to the Proceedings are hereby tolled and suspended until the settlement of, dismissal of, or entry of final judgment in the Action, provided that any Party may give 60 days’ written notice to all of the other Parties that such Party is terminating the tolling and suspension of the Time Defenses. The Parties agree that this provision constitutes compliance with any statute, rule, or other law requiring a written waiver of the Time Defenses.

### **II. Modification**

This Agreement can be extended or otherwise modified only in writing signed by the parties. This Agreement shall constitute the entire understanding between the parties concerning the subject matter of this Agreement.

### **III. Sole Purpose of the Agreement; No Effect on Liability.**

Except as specifically stated in this Agreement, this Agreement shall in no way affect, waive or limit any rights, claims, or defenses of any of the parties to this Agreement, other than Time Defenses, if any. This Agreement shall not be deemed to constitute an admission of any liability by any of the parties hereto. This Agreement cannot be introduced into evidence in any action in court, arbitration, or mediation, except to enforce its terms.

### **IV. Applicability.**

This Agreement shall bind and benefit each of the parties and their respective predecessors, successors, and assigns, as applicable.

### **V. Governing Law.**

This Agreement shall be governed by and interpreted pursuant to the law of the State of California.

**VI. Severability of Provisions.**

If any provision of this Agreement is found to be unenforceable or unlawful, the remaining provisions of this Agreement shall remain fully effective and enforceable.

**VII. Counterparts.**

This Agreement may be signed in counterparts and each signed counterpart shall be deemed an original document, but all of which together shall constitute one and the same instrument.

**VIII. Entire Agreement.**

This Agreement is the entire agreement of all who are bound by it with respect to the matters addressed herein.

**IX. Understanding and Interpretation.**

Each Client, Counsel, or other person bound by this Agreement has read and understood this Agreement and so warrants. Each Client, Counsel, or other person bound by this Agreement has received independent legal advice about the advisability of signing this Agreement. All parties to this Agreement agree that the rule of construction of contracts that ambiguities shall be resolved against the drafter shall not be used or applied in interpretation of any provision of this Agreement. Headings in this Agreement are inserted for convenience only and shall not constitute part hereof for any purpose whatever.

**X. Binding Agreement.**

Each person signing this Agreement warrants that he or she has authority to bind the entity on whose behalf he or she signs. This Agreement shall be binding upon and inure to the benefit of each Client and Counsel signing it and their respective successors, assigns, and legal representatives.

IN WITNESS WHEREOF, Clients and Counsel have executed this Agreement as of the \_\_\_ day of February, 2018, which be the effective date of this Tolling Agreement.

///

///

///

///

**CLIENTS:**



Fong & Chan Architects

By: Chiu Lin Tse-Chan, FAIA, LEED AP

Title: Principal

\_\_\_\_\_  
City and County of San Francisco

By: Mohammed Nuru

Title: Director  
San Francisco Public Works

**COUNSEL:**



\_\_\_\_\_  
[NAME]

Severson & Werson  
Counsel to Fong & Chan Architects

DENNIS J. HERRERA

\_\_\_\_\_  
[NAME]

Deputy City Attorney  
City and County of San Francisco