6-23-25 Draft

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Pursuant to Government Code
Section 27383)

AND WHEN RECORDED MAIL TO:

Angela Calvillo, Clerk of the Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY AND COUNTY OF SAN FRANCISCO

AND

EQX JACKSON SQ HOLDCO LLC, A DELAWARE LIMITED LIABILITY COMPANY

FOR THE 530 SANSOME MIXED-USE TOWER AND FIRE STATION 13 DEVELOPMENT PROJECT

Block 0206; Lots 013, 014, and 017

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Exhibits

[1] NTD: TOC to be added prior to preparation of execution version.

DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND EQX JACKSON SQ HOLDCO LLC FOR THE 530 SANSOME MIXED-USE TOWER AND FIRE STATION 13 DEVELOPMENT PROJECT

THIS DEVELOPMENT AGREEMENT (this "**Agreement**") dated for reference purposes only as of this _____ day of _____, 202_, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a political subdivision and municipal corporation of the State of California (the "**City**"), acting by and through its Planning Department, and EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company, its permitted successors and assigns ("**Developer**"), pursuant to the authority of Section 65864 *et seq.* of the California Government Code. The City and Developer are also sometimes referred to individually as a "**Party**" and together as the "**Parties**".

RECITALS

This Agreement is made with reference to the following facts:

A. Developer is the owner of those certain real properties known as 425 Washington Street and 439-445 Washington Street and APN Nos. 0206-013 and 0206-014, as more fully described in the attached Exhibit A-1 (together, the "**Developer Parcels**"). Related California Residential, LLC, a Delaware limited liability company that is an Affiliate of Developer's sole member, is also party to an Option and Purchase Agreement for Real Property with Escrow Instructions ("Option Agreement") with Battery Street Holdings, LLC, a Delaware limited liability company, to purchase that certain real property known as 447 Battery Street and APN No. 0206-002, as more fully described in the attached Exhibit A-2 (the "**447 Battery Parcel**").

B. The City is the owner of that certain real property known as 530 Sansome Street and APN No. 0206-017, as more fully described in the attached Exhibit A-3 (the "**City Parcel**"). The City Parcel is currently improved with the two-story San Francisco Fire Station 13 (the "**Existing Fire Station**"). The City Parcel, the Developer Parcels and the 447 Battery Parcel shall be collectively referred to in this Agreement as the "**Project Site**", provided, however, that the 447 Battery Parcel shall not be subject to or benefit from this Agreement until the date, if any, that the City Joinder is recorded in the Official Records pursuant to Section 3.5. The approximately 24,830 square foot Project Site consists of four parcels that comprise the majority of a city block bounded by Sansome Street to the west, Washington Street to the north, Battery Street to the east, and Merchant Street along the southern edge. The Project Site is within the C-3-O (Downtown Commercial) District under the San Francisco Planning Code (the "**Planning Code**").

C. The City has determined that the Existing Fire Station no longer meets the programmatic and resiliency requirements of the San Francisco Fire Department ("**SFFD**"). In an effort to develop affordable housing and secure funding to replace the Existing Fire Station, the Board of Supervisors unanimously adopted two Resolutions (Resolution No. 244-17, effective June 22, 2017, and Resolution No. 143-18, effective May 17, 2018) urging the City's Real Estate Division ("**RED**") to issue a request for proposals to redevelop the fire station through the sale of the City Parcel air rights. The City selected Developer as the most responsive bidder after reviewing the responses to the call for offers.

D. City and Developer entered into a Conditional Property Exchange Agreement dated July 30, 2020, as amended by a First Amendment to Conditional Property Exchange Agreement dated as of July 27, 2022, and a Second Amendment to Conditional Property Exchange Agreement dated as of March 27, 2023 (as amended, the "**Original CPEA**"), for the exchange of the City Parcel for a to-be-created

parcel on the Developer Parcels with a replacement fire station. The Original CPEA was approved and ratified by the Board of Supervisors under Resolution No. 220-19 (effective May 10, 2019), Resolution No. 242-20 (effective June 12, 2020), Resolution No. 543-21 (effective December 10, 2021), and Resolution 096-24 effective March 15, 2024).

E. On December 20, 2019, Developer submitted development applications to the Planning Department for a proposal to demolish the Existing Fire Station and construct on the Developer Parcels and the City Parcel (collectively, the "**Original Project Site**") a four-story replacement fire station and a new 19-story mixed use building reaching a height of approximately 218 feet (approximately 236 feet including rooftop mechanical equipment), including approximately 6,470 square feet of retail/restaurant space, 40,490 square feet of office space, 35,230 square feet of fitness center space, approximately 146,065 square feet of hotel space that would accommodate 200 guest rooms, and three below-grade levels to accommodate 48 vehicle parking spaces, one loading space, vehicle service spaces, class 1 bicycle parking spaces, and utility rooms for the fire station, hotel, and retail/restaurant uses (the "**Commercial Variant**"). Developer's application also included a residential variant for the Original Project Site, which proposed construction of 256 residential units in lieu of the hotel, office, fitness center, and retail/restaurant uses in the 19-story tower (the "**Residential Variant**," and together with the Commercial Variant, the "**Original Project**").

F. On July 29, 2021, the City's Planning Commission approved, through Resolution No. 20954 and Motion Nos. 20955 through 20958 (collectively, the "**Original Approvals**"), a Downtown Project Authorization, Conditional Use Authorization for a hotel use, Office Development Allocation, Shadow Findings, and findings required by CEQA, including adoption of a Mitigated Negative Declaration, for the Original Project. On December 18, 2023, Developer submitted an application to the Planning Commission for an amendment to the Original Approvals, seeking to extend the Original Approvals by five (5) years. On March 21, 2024, the City's Planning Commission approved Motion Nos. 21533 and 21534, extending the term of the Original Approvals by five (5) years.

G. Developer and City have conferred and acknowledge that the development of the Original Project is not feasible due to market conditions and unforeseen design and operational challenges. SFFD has determined that there is no City-owned property suitable for construction of the New Fire Station within the required service area of San Francisco Fire Station 13 other than the City Parcel. Accordingly, Developer explored opportunities to revise the Original Project in a manner that could meet the design, locational, and financial objectives of the Parties. This process resulted in Developer's proposal to modify the Original Project to locate the New Fire Station on the 447 Battery Parcel, which is situated adjacent to the Developer Parcels and on the same block as the City Parcel. The 447 Battery Parcel is improved with a 20,154 square foot, three-story building (the "**447 Battery Building**"), which was designated as a historic landmark under Article 10 of the Planning Code by Ordinance No. 43-22, adopted by the Board of Supervisors on March 15, 2022 (the "**Landmark Ordinance**"), and such landmark designation is hereinafter referred to as the "**Landmark Designation**".

H. On or about August 5, 2024, Developer submitted applications for the Initial Approvals (defined below), proposing a material modification to the Original Project. The "**Project**" is a proposed mixed-use development at the Project Site with all the improvements and uses permitted by the Initial Approvals (as defined below), and any Later Approvals and subsequent modifications to the Initial Approvals permissible under the Conditional Use Authorization (as defined below). The Project would include a mixed-use high-rise building up to 41-stories tall on the Original Project Site with three below-grade levels (the "**Tower**") and the New Fire Station on the 447 Battery Parcel with one below-grade level. The Tower would be approximately 544 feet tall (approximately 574 feet including rooftop mechanical equipment) and would include approximately 7,405 square feet of retail/restaurant space, approximately

10,135 square feet of event space, between approximately 372,035 and 417,230 square feet of office space, and between approximately 127,710 square feet and approximately 188,820 square feet of hotel space ("**Hotel**") that would accommodate between 100 and 200 guest rooms. The New Fire Station would be approximately 55 feet tall (60 feet including rooftop mechanical equipment) and would include approximately 31,200 square feet of space. The three below-grade levels under the Tower would provide approximately 74 accessory vehicle parking spaces, 77 class 1 bicycle parking spaces, and utility rooms. The one below-grade level under the New Fire Station would provide 18 parking spaces, four class 1 bicycle parking spaces, equipment storage spaces, and utility rooms in approximately 6,760 square feet. There would be two loading spaces on the northeastern portion of the first floor of the Tower (with ingress and egress from Washington Street). The Project would also improve the entire portion of Merchant Street between Sansome Street and Battery Street (approximately 9,580 square feet) with non-standard streetscape improvements built and maintained by Developer at its sole cost (as approved by City Agencies with jurisdiction, the "**Merchant Street Improvements**"), and may include public improvements that would be transferred to City on the approval of the City Agencies with jurisdiction as further set forth herein.

I. On December 10, 2024, the Board of Supervisors adopted Resolution No. 629-24, generally endorsing key terms ("**Key Terms**") for a development agreement for the Project that would require an amendment to the Original CPEA to facilitate construction of the New Fire Station on the 447 Battery Parcel rather than on a portion of the Developer Parcels, with any final development agreement, CPEA amendment, and related transaction documents to be negotiated by Developer and City staff and subject to subsequent approval of the Board of Supervisors.

J. On _____, Developer submitted to the Planning Department a letter request (the "**Request Letter**") to enter into a development agreement in general conformance with the Key Terms. The Request Letter is attached as Exhibit B.

K. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Section 65864 et seq. (the "**Development Agreement Statute**"), which authorizes the City to enter into a development agreement with any person having a legal or equitable interest in real property related to the development of such property. Pursuant to the Development Agreement Statute, the City adopted Chapter 56 of the San Francisco Administrative Code ("**Chapter 56"**) establishing procedures and requirements for entering into a development agreement. The Parties are entering into this Agreement in accordance with the Development Agreement Statute and Chapter 56.

L. The Parties intend that all acts referred to in this Agreement be accomplished in a way as to fully comply with CEQA, Chapter 31 of the San Francisco Administrative Code ("**Administrative Code**"), and Chapter 56, the Development Agreement Statute, the General Plan Amendment Ordinance, the Planning Code Amendment Ordinance, and the Enacting Ordinance (the latter three as defined below), and all other applicable laws as of the Effective Date or otherwise applicable to the Project under this Agreement. This Agreement does not limit the City's obligation or ability to comply with applicable environmental laws, including CEQA, before taking any discretionary action regarding the Project, or Developer's obligation to comply with all applicable laws in connection with the development of the Project.

M. On March 17, 2025, the Arts Commission's Civic Design Review Committee held a duly noticed public hearing to review and approve the Conceptual/Phase 1 design of the New Fire Station.

N. On _____, the Planning Commission held a public hearing, duly noticed and conducted under the Planning Code, the Development Agreement Statute, and Chapter 56, to consider the Project, this Agreement, and the General Plan Amendment Ordinance, the Planning Code Amendment Ordinance, and the Enacting Ordinance. Following the public hearing, the Planning Commission, through Motion No. _____, certified the Final Environmental Impact Report prepared for the Project (the "**FEIR**") and, through Motion No. _____, adopted CEQA findings including a statement of overriding considerations for the Project (the "**CEQA Findings**") and the Mitigation Monitoring and Reporting Measures for the Project (the "**Mitigation Measures**"). The FEIR, the CEQA Findings and the Mitigation Measures comply with CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code. The FEIR thoroughly analyzes the Project and Project alternatives, and the Mitigation Measures were designed to mitigate significant impacts to the extent they are susceptible to a feasible mitigation. The information in the FEIR and the CEQA Findings has been considered by the City in connection with approval of this Agreement.

O. On _____, the Historic Preservation Commission held a public hearing, duly noticed and conducted under the Planning Code, to consider the conditional rescission of the Landmark Designation and other historic preservation and rehabilitation provisions in the Planning Code Amendment Ordinance. Following the public hearing, the Historic Preservation Commission, through Resolution No. _____, [recommended/did not recommend] to the Board of Supervisors conditional rescission of the Landmark Designation in accordance with the Planning Code Amendment Ordinance.

P. On _____, the Recreation and Park Commission and Planning Commission held a joint public hearing on and adopted Planning Commission Resolution No. _____ and Recreation and Park Commission Resolution No. _____ raising the absolute cumulative limit for shadows on Maritime Plaza and Sue Bierman Park, two properties under the jurisdiction of the Recreation and Park Department that would be shadowed by the Project. At the same hearing on _____, the General Manager of the Recreation and Park Department, in consultation with the Recreation and Park Commission, recommended to the Planning Commission that the shadows cast by the Project on Maritime Plaza, Sue Bierman Park, Washington Square Park, and Willie "Woo Woo" Wong Playground would not be adverse to the use of those properties.

Q. On _____, the Planning Commission (i) recommended to the Board of Supervisors the adoption of the General Plan Amendment Ordinance (Resolution No. _____), the Planning Code Amendment Ordinance (Resolution No. _____), and the Enacting Ordinance (Resolution No. _____), (ii) approved a Conditional Use Authorization authorizing the Project, including certain modifications to otherwise applicable Planning Code standards and requirements, and delegating authority to the Planning Director to approve certain post-entitlement modifications, all in accordance with the General Plan Amendment Ordinance, Planning Code Amendment Ordinance, and the Enacting Ordinance (Motion No. _____) (the "**Conditional Use Authorization**"), (iii) approved an Office Allocation under Planning Code Sections 320-325 (Motion No. _____) (the "**Project's Office Allocation**") and (iv) following a joint hearing with the Recreation and Park Commission and General Manager of the Recreation and Park Department, adopted shadow findings consistent with Planning Code Section 295 (the "**Shadow Findings"**), as well as findings that the Project and this Agreement would, as a whole, and taken in their entirety, continue to be consistent with the objectives, policies, general land uses and programs specified in the General Plan, as amended, and the policies set forth in Section 101.1 of the Planning Code (such determinations, collectively, the "**General Plan Consistency Findings**").

R. The Project is anticipated to create an annual average of approximately 388 jobs during the construction period and, upon completion, support approximately 1,608 net new permanent on-site jobs.

The Project would also generate development impact fees including approximately $8 million in transportation funding, and approximately $13.5 million in annual net new General Fund revenue to the City.

S. In addition to the significant job creation and economic benefits to the City from the Project, the City has determined that as a result of the development of the Project in accordance with this Agreement and the Initial Approvals, additional, clear benefits to the public will accrue that could not be obtained through application of existing City ordinances, regulations, and policies. Major additional public benefits to the City from the development of the Project under this Agreement include: (i) Developer's construction of the New Fire Station at its sole cost subject to the terms and conditions of the Amended CPEA and Construction Management Agreement, (ii) Developer's construction and maintenance of the Merchant Street Improvements at its sole cost, (iii) Developer's payment of an affordable housing payment that is in addition to the Impact Fees and Exactions and paid significantly earlier than the affordable housing Impact Fees and Exactions are due and regardless of whether the Project is built, and (iv) the requirements of the Workforce Agreement. The City has determined that the public benefits accruing from Developer's construction of the New Fire Station and the lack of alternate locations for such fire station justify rescinding the Landmark Designation so the 447 Battery Building can be replaced with the New Fire Station.

T. On _____, the Board, having received the respective recommendations of the Historic Preservation Commission, the Planning Commission, the Director of Property, the Director of Public Works, the Chief of the SFFD, and the Director of the Office of Economic and Workforce Development, adopted (i) Ordinance No. _____, amending the Special Use District Map, Height & Bulk District Map, and Planning Code, including conditionally rescinding the Landmark Designation (File No. _____) (the "**Planning Code Amendment Ordinance**"), (ii) Ordinance No. _____, amending the Downtown Area Plan of the General Plan (File No. _____) (the "**General Plan Amendment Ordinance**"), (iii) Ordinance No. _____, approving this Agreement and authorizing the Planning Director to execute this Agreement on behalf of the City (File No. _____) (the "**Enacting Ordinance**"), (iv) Resolution No. _____, approving the execution of the Amended CPEA and provide for the land transfers and development and construction of the New Fire Station required for the Project, (v) Ordinance No. _____ (File No. _____), approving the Hotel and Fire Station Development Incentive Agreement to provide for certain incentive payments if the Hotel opens to the public for business, and (vi) Resolution No. _____ (File No. _____), approving a Major Encroachment Permit needed for the Merchant Street Improvements. The Enacting Ordinance took effect on _____.

U. Now therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. GENERAL PROVISIONS

1.1. Incorporation of Preamble, Recitals and Exhibits. The preamble paragraph, Recitals, and Exhibits, and all defined terms contained therein, are hereby incorporated into this Agreement as if set forth in full.

1.2. Definitions. In addition to the definitions set forth in the above preamble paragraph, Recitals and elsewhere in this Agreement, the following definitions shall apply to this Agreement:

1.2.1. "**447 Battery Building**" shall have the meaning set forth in Recital G.

1.2.2. "**447 Battery Parcel**" shall have the meaning set forth in Recital A.

1.2.3. "**Additional Affordable Housing Payment**" shall have the meaning set forth in Section 3.3.4.

1.2.4. "**Administrative Code**" shall have the meaning set forth in Recital L.

1.2.5. "**Affiliate**" shall mean any entity controlling, controlled by, or under common control with Developer (and 'control' and its correlative terms 'controlling', 'controlled by' or 'under common control with' means the possession, directly or indirectly, of the power to direct or cause the direction of the day to day management, policies or activities of Developer, whether through ownership of voting securities, by contract or otherwise (excluding limited partner or non-managing member approval rights).

1.2.6. "**Agreement**" shall have the meaning set forth in the Preamble.

1.2.7. "**Amended CPEA**" shall mean the Amended and Restated Conditional Property Exchange Agreement between City and Developer and dated _____, 202__, approved by the Board of Supervisors by Resolution No. _____.

1.2.8. "**Annual Review Date**" shall have the meaning set forth in Section 8.1.

1.2.9. "**Applicable Impact Fees and Exactions**" shall have the meaning set forth in Section 3.3.1.

1.2.10. **"Applicable Laws"** is defined in Section 4.2.

1.2.11. "**Applicable Rates**" shall have the meaning set forth in Section 3.3.1.

1.2.12. "**Approvals**" means, collectively, the Initial Approvals and any Later Approvals at the time and to the extent they are included pursuant to Section 4.1.

1.2.13. "**Arts Commission**" shall mean the San Francisco Arts Commission.

1.2.14. "**Assignment and Assumption Agreement**" shall have the meaning set forth in Section 10.3.

1.2.15. "**Board of Supervisors**" or "**Board**" shall mean the Board of Supervisors of the City and County of San Francisco.

1.2.16. "**California Environmental Quality Act** (**CEQA**)" California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*) and the CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 *et seq.*).

1.2.17. **"Certificate of Conformity"** is the term used by DPW as of the Effective Date to memorialize the completion of private improvements built pursuant to a street improvement permit.

1.2.18. "**Certificate of Final Completion**" shall mean a written notice of Final Completion delivered by the City's Director of Property to Developer under the Construction Management Agreement.

1.2.19. "**Chapter 31**" shall mean the City's CEQA implementing procedures set forth in Chapter 31 of the Administrative Code.

1.2.20. "**Chapter 56**" shall have the meaning set forth in Recital K.

1.2.21. "**City**" shall have the meaning set forth in the preamble paragraph. Unless the context or text specifically provides otherwise, references to the City shall mean the City acting by and through the Planning Director, or, if required by this Agreement, approval by the Planning Commission or the Board of Supervisors. The City's approval of this Agreement will be evidenced by the signature of the Planning Director.

1.2.22. "**City Agency**" or "**City Agencies**" shall mean, where appropriate, all City departments, agencies, boards, commissions, and bureaus that execute or consent to this Agreement and that have subdivision or other permit, entitlement or approval authority or jurisdiction over the Project or the Project Site, together with any successor to any such City department, agency, board, or commission.

1.2.23. "**City Attorney's Office**" shall mean the Office of the City Attorney of the City and County of San Francisco.

1.2.24. "**City Costs**" shall have the meaning set forth in Section 5.11.1.

1.2.25. "**City Deposit**" shall have the meaning set forth in Section 4.12.1.

1.2.26. "**City Parcel**" shall have the meaning set forth in Recital B.

1.2.27. "**City Party**" and "**City Parties**" shall have the meanings set forth in Section 5.10.

1.2.28. "**City Report**" shall have the meaning set forth in Section 8.2.2.

1.2.29. "**City-Wide"** means all real property within the territorial limits of the City and County of San Francisco, excluding any property owned or controlled by the United States or by the State of California and therefore not subject to City regulation.

1.2.30. "**Commence Construction**," "**Commences Construction**," or "**Commenced Construction**" means groundbreaking in connection with the commencement of physical construction of horizontal infrastructure or, when used in reference to any building, the applicable building foundation, including demolition or partial demolition of existing structures.

1.2.31. "**Commercial Variant**" shall have the meaning set forth in Recital E.

1.2.32 "**Community Benefit**" shall have the meaning defined in Section 3.1.

1.2.33 "**Community Benefits Program**" shall have the meaning defined in Section 3.2.

1.2.34. "**Complete**" and any variation thereof shall mean the following: (a) as to the Tower, "Completion" shall mean a Final Certificate of Occupancy for the entire Tower has been issued, (b) as to the New Fire Station, "Completion" shall mean a Final Certificate of Occupancy has been issued and the City has issued the Certificate of Final Completion under the Construction Management Agreement, and (c) as to the Merchant Street Improvements, "Completion" shall mean that DPW has issued a Certificate of Conformity for the Merchant Street Improvements as required by the Street Permits.

1.2.35. "**Conditional Use Authorization**" shall have the meaning set forth in Recital Q.

1.2.36 "**Construction Management Agreement**" means the Construction Management Agreement as defined in the Amended CPEA, which is to be executed by City and Developer on the CPEA Closing Date.

1.2.37. "**CPEA Closing Date**" means the date that City acquires fee title to the 447 Battery Parcel and Developer acquires fee title to the City Parcel pursuant to the Amended CPEA.

1.2.38. "**Developer**" shall have the meaning set forth in the preamble paragraph.

1.2.39. "**Developer Parcels**" shall have the meaning set forth in Recital A.

1.2.40. "**Developer's Property**" means the Developer Parcels; provided, however, if the CPEA Closing Date occurs, "Developer's Property" shall mean the Developer Parcels and the City Parcel.

1.2.41. "**Development Agreement Statute**" shall have the meaning set forth in the Recital K.

1.2.42. "**Director**" or "**Planning Director**" shall mean the Director of Planning of the City and County of San Francisco.

1.2.43. "**DPW**" means the City's Department of Public Works.

1.2.44. "**Effective Date**" shall have the meaning set forth in Section 1.3.

1.2.45. "**Enacting Ordinance**" shall have the meaning set forth in Recital S.

1.2.46. "**Estoppel Outside Date**" shall have the meaning set forth in Section 7.2.

1.2.47. "**Event of Default**" shall have the meaning set forth in Section 10.3.

1.2.48. "**Excusable Delay**" shall have the meaning set forth in Section 9.4.2.

1.2.49. "**Existing Fire Station**" shall have the meaning set forth in Recital B.

1.2.50. "**Existing Mortgage**" means the deed of trust recorded as Document No. 2022073895 in the Official Records on July 29, 2022.

1.2.51. "**FAR**" shall have the meaning set forth in Section 4.1

1.2.52. "**Final Certificate of Occupancy**" means a certificate of final completion and occupancy issued by City's Department of Building Inspection, as described in Section 109A.7 of the San Francisco Building Code, as may be amended from time to time.

1.2.53. "**First Construction Document**" shall have the meaning set forth in Planning Code Section 403.

1.2.54. "**General Fund**" shall have the meaning set forth in Administrative Code Section 10.194.

1.2.55. "**General Plan**" shall mean the San Francisco General Plan.

1.2.56. "**General Plan Amendment Ordinance**" shall have the meaning set forth in Recital S.

1.2.57. "**General Plan Consistency Findings**" shall have the meaning set forth in Recital Q.

1.2.58. "**Historic Preservation Commission**" shall mean the San Francisco Historic Preservation Commission.

1.2.59. "**Hotel**" shall have the meaning set forth in Recital H.

1.2.60. "**Hotel and Fire Station Development Incentive Agreement**" means the Hotel and Fire Station Development Incentive Agreement between Developer and City and dated as of _____, approved by the Board of Supervisors under Ordinance No. _____on _____.

1.2.61. "**Impact Fees and Exactions**" shall mean any fees, contributions, exactions, impositions, and dedications charged by the City, whether as of the date of this Agreement or at any time thereafter during the Term, in connection with the development of the Project, including but not limited to transportation and transit fees, child care requirements or in-lieu fees, housing (including affordable housing) or open space requirements or fees, dedication or reservation requirements, and obligations for on or off-site improvements. Impact Fees and Exactions shall not include the Mitigation Measures, City Costs, Processing Fees, taxes, special assessments, school district fees, SFPUC Capacity Charges, or any fees, taxes, assessments, or impositions imposed by any non-City Agency, all of which shall be due and payable by Developer as and when due in accordance with applicable Laws.

1.2.62. "**Initial Approvals**" means the City approvals, entitlements, and permits listed on Exhibit C.

1.2.63. "**Key Terms**" shall have the meaning set forth in Recital I.

1.2.64. "**Landmark Designation**" shall have the meaning set forth in Recital G.

1.2.65. "**Landmark Ordinance**" shall have the meaning set forth in Recital G.

1.2.66. "**Later Approval**" or "**Later Approvals**" means any land use approvals, entitlements, or permits from the City or any City Agency, other than the Initial Approvals, that are consistent with the Initial Approvals (except in the case of a Later Approval that properly and expressly

amends an Initial Approval) and necessary or advisable for the implementation of the Project, including all approvals required under the Project SUD, demolition permits, grading permits, site permits, building permits, sewer and water connection permits, major and minor encroachment permits, street and sidewalk modifications, street improvement permits, permits to alter, certificates of occupancy, Subdivision Maps, lot line adjustments and lot mergers. A Later Approval shall also include any amendment to the foregoing land use approvals, entitlements, permits, or any amendment to the Approvals that are sought by Developer and approved by the City in accordance with the applicable standards set forth in this Agreement and the Project SUD.

1.2.67. "**Law(s)**" means, individually or collectively as the context requires, the Constitution and laws of the United States, the Constitution and laws of the State, the laws of the City, any codes, statutes, rules, regulations, or executive mandates under any of the foregoing, and any State or Federal court decision (including any order, injunction or writ) with respect to any of the foregoing, in each case to the extent applicable to the matter presented.

1.2.68. "**Lender**" means any party or parties who are beneficiaries of a Security Instrument, including the Existing Mortgage, or any designee or affiliate of the foregoing.

1.2.69. "**Litigation Extension**" shall have the meaning set forth in Section 9.4.1

1.2.70. "**Losses**" shall have the meaning set forth in Section 5.10.

1.2.71. "**Major Encroachment Permit**" means the Major Encroachment Permit No. _____ and an associated maintenance agreement, both approved under Ordinance _____ adopted by the Board of Supervisors on _____.

1.2.72. "**Material Change**" means any modification to this Agreement or the Approvals that would (i) materially alter the rights, benefits or obligations of the City or Developer under this Agreement, (ii) modify the permitted uses of the Project Site from those permitted under the Approvals (but excluding any modifications permitted under the Project SUD), (iii) extend the Term, (iv) decrease the Community Benefits, (v) increase the maximum height, density, bulk or size of the Project (except to the extent permitted under the Project SUD, or (vi) reduce the Impact Fees and Exactions.

1.2.73. "**Merchant Street Improvements**" shall have the meaning set forth in Recital H.

1.2.74. "**Mitigation Measures**" means the mitigation measures (as defined by CEQA) applicable to the Project as set forth in the MMRP or that are necessary to mitigate adverse environmental impacts identified through the CEQA process as part of a Later Approval.

1.2.75. "**MMRP**" means the Mitigation Monitoring and Reporting Program for the Project.

1.2.76. "**MOHCD**" shall mean the Mayor's Office of Housing and Community Development or successor agency.

1.2.77. "**Municipal Code**" means the San Francisco Municipal Code. All references to any part of the Municipal Code mean that part of the Municipal Code in effect on the Effective Date, as the Municipal Code may be modified by changes and updates that are adopted from time to time in accordance with Section 4.2 or by permitted New City Laws as set forth in Section 4.6.

1.2.78. "**New City Laws**" shall have the meaning set forth in Section 4.6.

1.2.79. "**New Fire Station**" shall have the meaning set forth in Recital D.

1.2.80. "**Notice of Default**" shall have the meaning set forth in Section 10.3.

1.2.81. "**OEWD**" means the San Francisco Office of Economic and Workforce Development.

1.2.82. "**Official Records**" shall mean the official real estate records of the City and County of San Francisco, as maintained by the City's Recorder's Office.

1.2.83. "**Option Agreement**" shall have the meaning set forth in Recital A.

1.2.84. "**Original Approvals**" shall have the meaning set forth in Recital F.

1.2.85. "**Original CPEA**" shall have the meaning set forth in Recital D.

1.2.86. "**Original Project Site**" shall have the meaning set forth in Recital E.

1.2.87. "**Party**" and "Parties" means, individually or collectively as the context requires, the City and Developer (and, as Developer, any Transferee that is made a Party to this Agreement under the terms of an Assignment and Assumption Agreement).

1.2.88. "**Person**" shall mean any natural person or a corporation, partnership, trust, limited liability company, limited liability partnership or other entity.

1.2.89. "**Planning Code**" shall mean the San Francisco Planning Code.

1.2.90. "**Planning Code Amendment Ordinance**" shall have the meaning set forth in Recital T.

1.2.91. "**Planning Commission**" or "**Commission**" shall mean the Planning Commission of the City and County of San Francisco.

1.2.92. "**Planning Department**" shall mean the Planning Department of the City and County of San Francisco.

1.2.93. "**Planning Director**" means the Director of Planning of the City and County of San Francisco.

1.2.94. "**Processing Fees**" means the standard fee imposed by the City upon the submission of an application for a permit or approval, which is not an Impact Fee or Exaction, in accordance with the City practice on a City-Wide basis.

1.2.95. "**Project**" shall have the meaning set forth in Recital H.

1.2.96. "**Project Documents"** is defined in Section 5.10.

1.2.97. "**Project Site**" shall have the meaning set forth in Recital B.

1.2.98. "**Project SUD**" means Planning Code Section 249.11, created by the Planning Code Amendment Ordinance.

1.2.99. "**Project's Office Allocation**" shall have the meaning set forth in Recital Q.

1.2.100. "**RED**" means the Real Estate Division of the City and County of San Francisco.

1.2.101. "**Request Letter**" shall have the meaning set forth in Recital J.

1.2.102. "**Required Certifications**" shall have the meaning set forth in Section 7.2.

1.2.103. "**Residential Variant**" shall have the meaning set forth in Recital E.

1.2.104. "**Security Instrument**" means any of the following: (i) a mortgage, deed of trust, trust indenture, letter of credit, or other security instrument, and any assignment of the rents, issues, and profits, that constitutes a lien on all or a part of the Project Site to secure an obligation made by the applicable property owner, and/or (ii) any pledge of a direct or indirect equity interest in Developer (including mezzanine loans and preferred equity investments), to secure repayment of any loan or investment to, and associated obligations of, a direct or indirect equity-interest holder in Developer.

1.2.105. "**SFFD**" means the San Francisco Fire Department.

1.2.106. "**SFPUC**" means the San Francisco Public Utilities Commission.

1.2.107. "**SFPUC Capacity Charges**" means all water and sewer capacity and connection fees and charges payable to the SFPUC as and when due in accordance with the applicable City requirements.

1.2.108. "**Street Permits**" is defined in Section 3.4.

1.2.109. "**Subdivision Code**" means the San Francisco Subdivision Code.

1.2.110. "**Subdivision Map**" means any map that Developer submits for the Developer's Property with respect to the Project under the Subdivision Map Act and the Subdivision Code, which may include, but not be limited to, tentative or vesting tentative subdivision maps, final or vesting final subdivision maps and any tentative or final parcel map, or transfer map, including for condominium units, and including phased final maps to the extent authorized under an approved subdivision map.

1.2.111. "**Subdivision Map Act**" means the California Subdivision Map Act, California Government Code Section 66410 *et seq*.

1.2.112. "**TDR Requirement**" shall have the meaning set forth in Section 4.1.

1.2.113. "**Temporary Certificate of Occupancy**" shall mean a temporary certificate of occupancy issued by City's Department of Building Inspection, as described in Section 109A.4 of the San Francisco Building Code, as may be amended from time to time.

1.2.114. "**Term**" shall have the meaning set forth in Section 1.4.

1.2.115. "**Third-Party Challenge**" shall have the meaning set forth in Section 7.3.1.

1.2.116. "**Tower**" shall have the meaning set forth in Recital H.

1.2.117. "**Transfer**" shall have the meaning set forth in Section 10.1.

1.2.118. "**Transferee**" shall have the meaning set forth in Section 10.1.

1.2.119. "**Transferred Property**" shall have the meaning set forth in Section 11.1.

1.2.120. "**Workforce Agreement**" shall mean the Workforce Agreement attached hereto as Exhibit F.

1.3. Effective Date. This Agreement shall take effect on _____ ("**Effective Date**"), which is the date of the Parties' full execution of this Agreement.

1.4. Term. The term of this Agreement (the "**Term**") shall commence upon the Effective Date and shall continue in full force and effect until the earlier of (i) the Completion of the Tower, New Fire Station, and Merchant Street Improvements, or (ii) the eight (8) year anniversary of the Effective Date, unless extended or earlier terminated as provided herein.

2. GENERAL RIGHTS AND OBLIGATIONS

2.1. Development of Project. During the Term, Developer shall have the vested right as more fully described in Section 4 to develop the Project in accordance with the terms and conditions of this Agreement, and the City shall consider and process all Later Approvals for development of the Project in accordance with and subject to the provisions of this Agreement. The Parties acknowledge that Developer (i) has obtained all Approvals from the City required to Commence Construction of the Project, other than any required Later Approvals, and (ii) may proceed in accordance with this Agreement with the construction and, upon completion, use and occupancy of the Project as a matter of right, subject to the Initial Approvals and issuance of any required Later Approvals and any required Non-City Regulatory Approvals as set forth in this Agreement.

2.2 Workforce. Developer shall require project sponsors, contractors, consultants, subcontractors and subconsultants, as applicable, to undertake workforce development activities in both the construction and end use phases of the Project in accordance with the Workforce Agreement attached as Exhibit F.

3. PUBLIC BENEFITS; DEVELOPER OBLIGATIONS AND CONDITIONS TO DEVELOPER'S PERFORMANCE

3.1. Community Benefits Exceed Those Required by Existing Ordinances and Regulations. The Parties acknowledge and agree that the development of the Project in accordance with this Agreement provides a number of public benefits to the City ("**Community Benefits**") beyond those achievable through existing Laws, including those set forth in Section 3.2.1. The City acknowledges and agrees that a number of the Community Benefits would not be otherwise achievable without the express agreement of Developer under this Agreement. Developer acknowledges and agrees that, as a result of the benefits to Developer under this Agreement, Developer has received good and valuable consideration for its provision of the Community Benefits, and the City would not be willing to enter into this Agreement without the Community Benefits. Time is of the essence with respect to the completion of the Community Benefits.

3.2. Community Benefits.

3.2.1. Developer shall provide the following Community Benefits (collectively, the "**Community Benefits Program**") at the times specified in this Agreement:

(a) Obtain a Temporary Certificate of Occupancy for the New Fire Station on or before the issuance of a Temporary Certificate of Occupancy for all or any portion of the Tower, and Complete the New Fire Station at its sole cost in compliance with the terms of the Amended CPEA and Construction Management Agreement on or before the issuance of any Final Certificate of Occupancy for all or any portion of the Tower (subject to Section 3.2.2);

(b) Complete the Merchant Street Improvements on or before the issuance of any Final Certificate of Occupancy for all or any portion of the Tower (subject to Section 3.2.2) and maintain the Merchant Street Improvements for the life of the Tower, as required under Section 3.4;

(c) pay to City the Additional Affordable Housing Payment as required under Section 3.3.4; and

(d) perform its obligations under the Workforce Agreement, as further described in Exhibit F.

3.2.2. Performance of Community Benefits Program. Whenever this Agreement requires Completion or payment of a Community Benefit at or before any Final Certificate of Occupancy for all or any portion of the Tower, the City may withhold that Final Certificate of Occupancy until (a) the Additional Affordable Housing Fee is paid and (b) the New Fire Station and Merchant Street Improvements are Completed in accordance with the terms of this Agreement or, in the reasonable discretion of the Director of Joint Development, Developer has alternatively provided collateral to the City to secure Completion of the New Fire Station or Merchant Street Improvement, as applicable, to the extent such collateral is in form and substance mutually satisfactory to the City and Developer. Any dispute regarding the sufficiency of any such collateral proposed by Developer shall be resolved in accordance with Section 5.1 of the Amended CPEA. If the City issues a Final Certificate of Occupancy for all or any portion of the Tower before the Merchant Street Improvements and/or the New Fire Station are Completed or such other Community Benefits are fully satisfied, then Developer shall work diligently and use commercially reasonable efforts to Complete or cause Completion and satisfaction of such items following issuance.

3.3 Impact Fees, Processing Fees, SFPUC Capacity Charges and Additional Affordable Housing Payment. The Project shall only be subject to the Processing Fees and Impact Fees and Exactions as set forth in this Section 3.3 and Exhibit D (Schedule of Impact Fees). The City shall not impose any new Processing Fees or Impact Fees and Exactions on the development of the Project or impose new conditions or requirements for the right to develop the Project (including required contributions of land, public amenities, or services) except as set forth in this Agreement. The Parties acknowledge that the provisions contained in this Section 3.3 are intended to implement the intent of the Parties that Developer has the right to develop the Project pursuant to specified and known criteria and rules and that the City receives the benefits which will be conferred as a result of such development without abridging the right of the City to act in accordance with its powers, duties, and obligations, except as specifically provided in this Agreement.

3.3.1 Applicable Impact Fees and Exactions. During the Term, the only Impact Fees and Exactions that will apply to the Project shall be the Impact Fees and Exactions set forth in Exhibit D (the "**Applicable Impact Fees and Exactions**"). No provision of the Municipal Code that conflicts with the collection and timing for the Applicable Impact Fees and Exactions described in this Agreement shall apply to the Project. Developer will not be subject to any new types of Impact Fees and Exactions that may arise after the Effective Date or that are otherwise not set forth in Exhibit D. Developer shall not be required to

pay any Applicable Impact Fees and Exactions to the extent they are no longer applicable to the Project at the time the Applicable Impact Fee is payable under this Agreement. However, if such fees are expressly replaced with a different fee (as, for example, when the City expressly replaced the Transportation Impact Development Fee (TIDF) with the Transportation Sustainability Fee (TSF)), then Developer shall pay the replacement fee in an amount that is not to exceed the amount Developer would have been obligated to pay under the fee that was replaced. Nothing in the foregoing sentence shall (i) obligate City to return any Applicable Impact Fees and Exactions after they are paid to City pursuant to this Agreement or (ii) abridge or limit Developer's rights to a refund of any paid Applicable Impact Fees and Exactions to the extent the Municipal Code provides the Developer with a right to such a refund.

If the CPEA Closing Date occurs within five (5) years of the Effective Date, then (i) the rate of each of the Applicable Impact Fees and Exactions shall be that shown in Exhibit D (the "**Applicable Rates**"), which reflects the applicable rates under the Planning Code as of the Effective Date reduced by thirty-three percent (33%) and in the case of the Jobs-Housing Linkage Fee in Planning Code Section 413 reflects an additional 50% reduction, (ii) Developer shall not be subject to any increase (including annual inflation adjustments pursuant to Planning Code Section 409) in the Applicable Rates, and (iii) the waiver in Planning Code Section 406(h) shall apply, notwithstanding any earlier sunset or expiration of that code section. If the CPEA Closing Date does not occur within five (5) years of the Effective Date, then the rate of each of the Applicable Impact Fees and Exactions shall be the rate in effect during the year in which the CPEA Closing Date occurs, with the exception of the Jobs-Housing Linkage Fee in Planning Code Section 413, the rate of which shall be the Applicable Rate regardless of when Developer obtains a First Construction Document. As provided in Planning Code Section 403 and Section 107A.13.3 of the San Francisco Building Code, the Project is eligible for the Fee Deferral Program as to the payment of the Applicable Impact Fees and Exactions (but not including the Jobs-Housing Linkage Fee under Planning Code Section 413).

3.3.2. Processing Fees. Developer shall pay all Processing Fees in effect on a City-Wide basis at the time that Developer applies for a Later Approval for which such Processing Fee is payable in connection with the applicable part of the Project.

3.3.3. SFPUC Capacity Charges. Developer shall pay all applicable SFPUC Capacity Charges when due at the rates in effect from time to time in connection with the construction of the Project.

3.3.4. Additional Affordable Housing Payment. Developer shall pay to the City an amount equal to Four Million Three Hundred Ten Thousand Seven Hundred Ten Dollars ($4,310,710.00) for the construction of affordable housing (the "**Additional Affordable Housing Payment**"). Developer shall pay fifty percent (50%) of the Additional Affordable Housing Payment to City on or before the six (6) month anniversary of the Enacting Ordinance becoming effective (provided that (i) in the event the Effective Date occurs more than six months after the Enacting Ordinance becomes effective, then the payment shall be due at execution of this Agreement and (ii) the six-month payment timeline shall toll during the pendency of any Litigation Extension pursuant to Section 9.4.1), and fifty percent (50%) of the Additional Affordable Housing Payment to City on or before the issuance of a First Construction Document for the Tower. For avoidance of confusion, the amount of the Additional Affordable Housing Payment is absolute and is not subject to escalation. City shall have no obligation to return any of the Additional Affordable Housing Payment once it is paid to City pursuant to this subsection. Developer acknowledges that MOHCD is interested in using the Additional Affordable Housing Payment and the Jobs-Housing Linkage Fee identified in Exhibit D to fund (in the following order of priority): new construction of a proposed 100% affordable senior housing project at 772 Pacific Avenue; a 100% affordable housing project elsewhere within District 3; or other 100% affordable housing projects in the City, to the extent that any other project is prepared to proceed with financing when the funds are made available.

3.4. Merchant Street Improvements. As additional consideration for Developer's right to develop the Project under the terms of this Agreement, Developer shall, prior to receipt of a Final Certificate of Occupancy for the Tower (except as provided in Section 3.2.2), Complete the Merchant Street Improvements. If the Developer Completes the Merchant Street Improvements after the issuance of a Temporary Certificate of Occupancy for the New Fire Station, Developer shall ensure the Merchant Street Improvements work does not obstruct vehicular ingress and egress to and from the New Fire Station, except for any temporary obstructions of New Fire Station garage access permitted under the Street Permits or otherwise consented to by the SFFD. Prior to Commencing Construction of the Merchant Street Improvements, Developer shall submit applications for the City Agency permits required for the construction and maintenance of the Merchant Street Improvements (the "**Street Permits**"). Such applications shall contain final plans and specifications for the Merchant Street Improvements ("**Final Merchant Street Plans**") that, in the determination of the Planning Director, conform to the conceptual plans, utility protection standards, and draft operations and maintenance table attached as Exhibit E (the "**Preliminary Merchant Street Plans**").

The Parties acknowledge that the City Agencies with jurisdiction over the Street Permits may require changes to the Preliminary Merchant Street Plans or the Final Merchant Street Plans to comply with Applicable Laws and applicable City policies and standards. The Developer, Planning Director, and jurisdiction-having City Agencies have the right to mutually agreeing to modify the Preliminary Merchant Street Plans and/or Final Merchant Street Plans so long as (i) they each agree that the changes meet the intent of the Preliminary Merchant Street Plans, (ii) the changes conform with applicable City policies and standards and Applicable Laws, and (iii) the changes are subject to any required amendments for those changes in the Street Permits or the Major Encroachment Permit.

The Street Permits may provide for Developer's construction of certain Merchant Street public improvements (including but not limited to water mains, street lights, and traffic signage) to the extent mutually approved by Developer and the Director of Public Works, in consultation with the affected City Agencies. Those Street Permit will require Developer to provide an irrevocable offer of improvements for those public work improvements for future acceptance by City on satisfaction of the Street Permit requirements for those improvements. The Director of DPW has delegated authority to accept those improvements on the conditions specified in the Resolution No. _____, adopted by the Board of Supervisors on _____.

The Parties acknowledge the Street Permits are exempt from the fee otherwise required for major encroachment permits under San Francisco Public Works Code Section 786.7(f) and daily fees and/or assessments otherwise required under Section 724.1 of the San Francisco Public Works Code do not apply to Developer's use of Merchant Street to construct the Merchant Street Improvements pursuant to the Street Permits. Developer shall construct the Merchant Street Improvements and maintain them for the life of the Tower (subject to any City Agency revocation of the Street Permits or the Major Encroachment Permit for any reason other than a Developer default) solely in the manner approved by the City Agencies with jurisdiction and in compliance with the Street Permits, notwithstanding whether the Final Merchant Street Plans included in the Street Permits approved by those City Agencies are materially consistent with the Preliminary Merchant Street Plans or limit the scope of improvements in the Preliminary Merchant Street Plans. Developer's construction and maintenance of the Merchant Street Improvements pursuant to the terms and conditions of this Agreement shall satisfy the requirements of Planning Code Section 138. Developer's obligation to maintain the Merchant Street Improvements at its sole cost for the life of the Tower shall be in accordance with the Conditional Use Authorization, which obligation survives the termination of this Agreement, and subject to the requirements of the Major Encroachment Permit.

3.5 Joinder of 447 Battery Parcel. Notwithstanding anything to the contrary herein, the 447 Battery Parcel is not subject to the terms of this Agreement unless and until it is transferred in fee simple to the City and City executes a joinder to this Agreement substantially in the form attached hereto as Exhibit H ("**City Joinder**") and causes the City Joinder to be recorded in the Official Records. On the recordation of the City Joinder in the Official Records, the 447 Battery Parcel will become subject to the permitted uses, vested rights and other benefits applicable to the 447 Battery Parcel under this Agreement and Approvals, but City shall not assume or have any Developer obligations under this Agreement, which shall remain the obligations of the Developer and any Transferees owning all or any portion of the Developer's Property.

4. VESTING AND CITY OBLIGATIONS

4.1. Vested Rights. By the Initial Approvals, the City has made a policy decision that the Project, as described in and as may be modified in accordance with this Agreement and the Approvals, is in the best interests of the City and promotes public health, safety, and welfare. Developer shall have the vested right to develop the Project as set forth in this Agreement and the Initial Approvals, including with, by way of example, the following vested elements: height and bulk limits, including the maximum density, intensity, gross square footages, permitted uses and buildings, and amount of parking (collectively, with the Existing Uses on the Project Site, the "**Vested Elements**"). The Vested Elements are subject to and shall be governed by Applicable Laws. The expiration of any building permit or Approval shall not limit Developer's right to the Vested Elements, and Developer shall have the right to seek and obtain subsequent building permits or approvals, including any Later Approvals, at any time during the Term, each of which shall be governed by Applicable Laws. Each Later Approval, once granted, shall be deemed an Approval for purposes of this Section 4.1.

As set forth in the Planning Code Amendment Ordinance and Conditional Use Authorization, the Planning Director shall have the authority to administratively grant modifications to the Conditional Use Authorization without further Planning Commission approval. The Planning Director's discretion to approve or deny such a modification is limited to whether, in the reasonable determination of the Planning Director, the proposed modification meets the criteria of Planning Code Section 304.8(f). Such approved modifications shall be deemed to substantially comply with the Approvals and may include, without limitation, an amendment to the Conditional Use Authorization allowing Developer to provide less office space in the Project than what is permitted by the Project's Office Allocation and more hotel space than described in Recital H, provided that the Planning Director's grant of any modifications shall be subject to Section 4.13.1. The City shall take no action under this Agreement or the Later Approvals, nor impose any condition on the Project, that would conflict with this Agreement or the Approvals.

In accordance with the Planning Code Amendment Ordinance, the Conditional Use Authorization waives the obligation for the Project to purchase transferable development rights for a building to achieve a baseline floor area ratio ("**FAR**") greater than 9.0 to 1 in the C-3-O District under Section 123 of the Planning Code (the "**TDR Requirement**") as long as the Project is Constructed in compliance with the requirements of this Agreement and the Approvals.

4.2. Existing Standards. The City, by entering into this Agreement, is limiting its future discretion with respect to the Later Approvals during the Term. The City shall process, consider, and review all Later Approvals in accordance with (i) the Approvals; (ii) the San Francisco General Plan, the Municipal Code (including the Subdivision Code), and all other applicable City policies, rules, and regulations, as each of the foregoing is in effect on the Effective Date ("**Existing Standards**") and as the same may be amended or updated in accordance with Section 4.4.1 or with permitted New City Laws as set forth in Section 4.6; (iii) California and Federal law, as applicable; and (iv) this Agreement (collectively, "**Applicable Laws**"). The Planning Code Amendment Ordinance, General Plan Amendment Ordinance,

and the Enacting Ordinance approving this Agreement includes express waivers and amendments to Chapter 56, consistent with this Agreement.

4.2.1 Waiver of Subdivision and Public Works Code. Nothing in this Agreement constitutes an implied waiver or exemption of the Subdivision Code or the Public Works Code. For any waiver or exemption other than those set forth in the Enacting Ordinance approving this Agreement, Developer shall comply with the City's existing processes to seek any necessary waivers or exemptions (including but not limited to any requirement for the submission of any technical materials). Notwithstanding anything to the contrary in the foregoing, Developer shall have no obligation to offset any aspect of the Merchant Street Improvements shown in the Final Merchant Street Plans if they would require any waiver or exception from the Subdivision Code or Public Works Code and the applicable City Agency does not grant the waiver or exception after Developer has complied with the applicable City process in seeking the waiver or exception. The City's failure to enforce any part of the Subdivision Code or Public Works Code shall not be deemed a waiver of its right to do so thereafter, but it shall not override the Approvals standards set forth in Sections 4.2, 4.3 and 4.4.

4.2.2 General Plan Consistency Findings. The Parties acknowledge the Project is consistent with the City's General Plan and that the General Plan Consistency Findings are intended to support all Later Approvals that are consistent with the Initial Approvals. To the maximum extent practicable, the Planning Department shall rely exclusively on the General Plan Consistency Findings when processing and reviewing all Later Approvals, including proposed Subdivision Maps and any other actions related to the Project requiring General Plan determinations, provided that Developer acknowledges that the General Plan Consistency Findings do not limit the City's discretion in connection with any Later Approval that (i) requires new or revised General Plan consistency findings because of Material Changes, or amendments to any of the Approvals or (ii) is analyzed in the context of a future General Plan amendment that is a non-conflicting New City Law.

4.3. Criteria for Later Approvals. Developer shall be responsible for obtaining all required Later Approvals before the start of any Construction. The City, in granting the Approvals and vesting the Project through this Agreement, is limiting its future discretion with respect to Later Approvals to the extent that they are consistent with the Approvals and this Agreement. The City shall not disapprove applications for Later Approvals based upon an item or element that is consistent with the Approvals and shall consider all such applications in accordance with its customary practices (subject to the requirements of this Agreement). The City shall have the right to condition a Later Approval as necessary to bring the Later Approval into compliance with Applicable Laws. For any part of a Later Approval request that has not been previously reviewed or considered by the applicable City Agency (such as additional details or plans), the City Agency shall exercise its discretion consistent with Applicable Laws and the Approvals and otherwise in accordance with the City's customary practice, subject to the requirements of this Agreement. Nothing in this Agreement shall preclude the City from applying New City Laws for any development that is not within the definition the Project.

4.4. Development Considerations.

4.4.1 City-Wide Building Codes. Notwithstanding anything in this Agreement to the contrary, except as otherwise provided in Section 4.4.2, when considering any application for a Later Approval, the City or the applicable City Agency shall, in accordance with its respective customary practice and procedure, apply the then-applicable provisions, requirements, rules, or regulations that are contained in the Public Works Code, the Subdivision Code, the San Francisco Building Inspection Commission Codes (Building Code, Mechanical Code, Electrical Code, Green Building Code, Housing Code, Plumbing Code, and Existing Building Code) and the Fire Code.

4.4.2 Sidewalks, Streets, and Infrastructure. By entering into this Agreement, the City's Board of Supervisors and the City Agencies have reviewed and approved the conceptual design for the Merchant Street Improvements, including the sidewalk, street width and general right-of-way configuration with respect to location and relationship of major elements, curbs, bicycle facilities, parking, garage access ramps, loading areas, and trees, as set forth in the Approvals (including the plans incorporated in the Approvals) and as consistent with the City's central policy objective of ensuring street safety for all users while maintaining adequate clearances, including for fire apparatus vehicles and utilities. No City Agency with jurisdiction may object to a Later Approval for any of the Merchant Street Improvements due to the proposed width or right-of-way configuration of the sidewalks and street as shown on the Preliminary Merchant Street Plans unless such objection is based upon the applicable City Agency's reserved authority to review Engineering Design for compliance with Applicable Laws or other authority under State law. In the case of such objection, within five (5) business days of the objection being raised (whether raised formally or informally), representatives from Developer, DPW, the Planning Department, and the objecting City Agency shall meet and confer in good faith to attempt to find a mutually satisfactory resolution to the objection. The City Agencies and Developer agree to act in good faith to resolve the matter quickly and in a manner that does not conflict with the City policy, Approvals, this Agreement, or applicable Law. As used in this Agreement, "**Engineering Design**" means professional engineering work as set forth in the Professional Engineers Act, California Business and Professions Code Sections 6700 *et seq*.

4.5. Denial of a Later Approval. If the City denies any application for a Later Approval that implements the Tower, New Fire Station, or Merchant Street Improvements, such denial must be consistent with Applicable Laws, and the City must specify in writing the reasons for such denial and suggest specific modifications required for approval of the application. Any such specified modifications shall be consistent with Applicable Laws, and City staff shall approve the application if it is subsequently resubmitted for City review and corrects or mitigates, to the City's reasonable satisfaction, the stated reasons for the earlier denial in a manner that is consistent and compliant with Applicable Laws and does not include new or additional information or materials that give the City a reason to object to the application under the standards set forth in this Agreement.

4.6 New City Laws. All future changes to Existing Standards and any other Laws, plans, or policies adopted by the City or adopted by voter initiative after the Effective Date ("**New City Laws**") shall apply to the Project and the Project Site except to the extent they conflict with this Agreement or the terms and conditions of the Approvals. In the event of such a conflict, the terms of this Agreement and the Approvals shall prevail, subject to the terms of Section 4.8 (Changes in Federal or State Laws). As used in this Section 4.6, the adjective "material" means a significant and adverse impact to the cost, time, or other term or phrase it modifies, as compared with what the cost, time, or other term or phrase it modifies would be without such impact.

4.6.1 Conflicting New City Laws. New City Laws shall be deemed to conflict with this Agreement and the Approvals if they:

(a) limit, control, reduce the density or intensity of the Project, or any part thereof; otherwise impose any density or square footage requirements; require any reduction in the square footage of the Tower or New Fire Station; change the location of the Tower or New Fire Station; change or reduce other improvements from that permitted under the Approvals; or alter the definition of Gross Floor Area in Planning Code Section 102;

(b) limit or reduce the height, bulk, or massing of the Project otherwise require any reduction in the height, bulk, or massing of the Tower or New Fire Station, including reduced building

floorplates or increased modulation or articulation requirements, or other improvements that are part of the Project under the Approvals;

(c) limit, reduce, or change the amounts of parking and loading spaces, or location [or ramp configuration] of vehicular access, parking, or loading from that permitted under the Approvals;

(d) limit any land uses for the Project and the Project Site from those permitted under the Approvals or the Existing Uses;

(e) materially delay, limit, or control the rate, timing, phasing, or sequencing of the Project, including the demolition of existing buildings at the Project Site, except as expressly set forth in this Agreement and the Amended CPEA;

(f) require the issuance of permits or approvals or impose new conditions to or requirements for the issuance of permits or approvals by the City in addition to those required under the Existing Standards, unless such permits or approvals (i) are required on a City-Wide basis; (ii) relate to the construction of improvements, (iii) do not prevent the construction of improvements; (iv) are not responsible for a material delay in construction; and (v) do not materially increase the costs of design or the costs of construction of the Project as intended by this Agreement;

(g) limit or control the availability of public utilities, services, facilities, or any privileges or rights to public utilities, services, or facilities for the Project but not including the City's ability to implement energy or water conservation standards or other sustainability measures that are required on a City-wide basis; or

(h) impose new or modified Impact Fees and Exactions on the Project as expressly prohibited by Section 3.3, or modify the calculation or timing of the Applicable Impact Fees and Exactions from the calculation or timing specified in Section 3.3.

4.6.2 Developer Election of New City Laws. Developer may elect to have a New City Law that conflicts with this Agreement applied to the Project or the Developer's Property (or in the case of a Transferee, to the portion of the Developer's Property owned by the Transferee) by giving the City written notice of its election to have a New City Law applied, in which case such New City Law shall be deemed to be an Existing Standard as to the Project (or portion thereof) or the Developer's Property (or portion thereof); provided, that if the application of the New City Law would reduce the Community Benefits Program or increase the liability or obligations to the City in the reasonable determination of the Planning Director, then application of the New City Law will require the concurrence of any affected City Agency. The application of a New City Law that would be a Material Change will also require Board approval (which approval may be evidenced by the New City Law expressly applying to approved development agreement projects, unless the Material Change would also require an amendment of the Project SUD, be inconsistent with or require amendments to the MMRP, or require a new or supplemental environmental impact report).

4.7 Subdivision Maps. Subject to the terms and conditions of the Amended CPEA, Developer shall have the right, from time to time and at any time, to file Subdivision Map applications (including phased final map applications and condominium maps) with respect to the City Parcel and Developer Parcels and subdivide, reconfigure, or merge parcels therein as may be necessary or desirable in order to develop a particular part of the Project as permitted by this Agreement, the Approvals, and the Amended CPEA. The specific boundaries of parcels shall be set by Developer and subject to the approval of the City during the subdivision process acting in its regulatory capacity. Nothing in this Agreement shall authorize

Developer to subdivide or use any of the Project Site for purposes of sale, lease, or financing in any manner that conflicts with the Subdivision Map Act or with the Subdivision Code. Nothing in this Agreement shall prevent the City from enacting or adopting changes in the methods and procedures for processing subdivision and parcel maps so long as such changes do not conflict with the provisions of this Agreement or with the Approvals. The City will not withhold its regulatory approval of a tentative map to subdivide the City Parcel and Developer Parcels prior to the CPEA Closing Date solely due to City's ownership of the City Parcel as long as City, acting in its proprietary capacity, has approved the tentative map for the City Parcel pursuant to the Amended CPEA and the tentative map approval is conditioned on Developer's fee ownership of the City Parcel. The City acknowledges that Developer contemplates pursuing a condominium subdivision of the Tower and agrees that such condominium subdivision is consistent with the purposes of this Agreement.

4.8. Changes in Federal or State Laws.

4.8.1. City Exceptions. Notwithstanding any provision in this Agreement to the contrary, each City Agency having jurisdiction over the Project shall exercise its discretion under this Agreement in a manner that is consistent with the public health and safety and shall, at all times, retain its respective authority to take any action that is necessary to protect the physical health and safety of the public (the "**Public Health and Safety Exception**") or reasonably calculated and narrowly drawn to comply with applicable changes in Federal or State Law affecting the physical environment (the "**Federal or State Law Exception**"), including the authority to condition or deny a Later Approval or to adopt a new Law applicable to the Project so long as such condition or denial or new regulation is (i)(a) limited solely to addressing a specific and identifiable issue in each case required to protect the physical health and safety of the public or (b) required to comply with a Federal or State Law and, in each case, not for independent discretionary policy reasons that are inconsistent with the Approvals or this Agreement, and (ii) applicable on a City-Wide basis to the same or similarly situated uses and applied in an equitable and non-discriminatory manner. Developer retains the right to dispute any City reliance on the Public Health and Safety Exception or the Federal or State Law Exception, following the process described in Section 4.8.4.

4.8.2. Change in Federal or State Laws. If Federal or State Laws issued, enacted, promulgated, adopted, passed, approved, made, implemented, amended, or interpreted after the Effective Date have gone into effect and preclude or prevent compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such Federal or State Law. In such event, this Agreement shall be modified only to the extent necessary or required to comply with such Law.

4.8.3. Changes to Development Agreement Statute. This Agreement has been entered into in reliance upon the provisions of the Development Agreement Statute. No amendment of or addition to the Development Agreement Statute which would affect the interpretation or enforceability of this Agreement or increase the obligations or diminish the development rights of Developer hereunder, or increase the obligations or diminish the benefits to the City hereunder, shall be applicable to this Agreement unless such amendment or addition is specifically required by Law or is mandated by a court of competent jurisdiction. If such amendment or change is permissive rather than mandatory, this Agreement shall not be affected unless Developer elects to apply such amendment to the Project in its sole discretion.

4.8.4 Effect on Agreement. If any of the modifications, amendments, or additions described in this Section 4.8 would materially and adversely affect the construction, development, use, operation, or occupancy of the Project, or any material portion thereof, as currently contemplated by the Approvals (a "**Law Adverse to Developer**"), then Developer shall have the right to notify the City and propose amendments or solutions that would maintain the benefit of the bargain (that is this Agreement) for

both Parties. If any of the modifications, amendments, or additions described in this Section 4.8 would materially and adversely affect or limit the Community Benefits (a "**Law Adverse to the City**"), then the City shall have the right to notify Developer and propose amendments or solutions that would maintain the benefit of the bargain (that is this Agreement) for both Parties. If the Parties do not agree on any amendments or solutions proposed under this Section 4.8.4, representatives of the Parties who are vested with decision-making authority shall meet and confer in good faith within fifteen (15) business days after another Party delivers a written request for that meeting to the other Party.

If the Parties cannot resolve the issue within ninety (90) days or such longer period as may be agreed to by the Parties, the Parties shall mutually agree on the selection of an arbiter at JAMS in San Francisco or other arbiter for non-binding arbitration. The arbiter appointed must meet the Arbiters' Qualifications. The "Arbiters' Qualifications" shall be defined as at least ten (10) years of experience in a real property professional capacity, such as a real estate appraiser, broker, real estate economist, or attorney, in the San Francisco Bay Area. Each Party shall, within ten (10) business days after submittal of the dispute to non-binding arbitration, submit a brief with all supporting evidence to the arbiter with copies to the other Party. Evidence may include, but is not limited to, expert or consultant opinions, any form of graphic evidence, including photos, maps or graphs and any other evidence the Parties may choose to submit in their discretion to assist the arbiter in resolving the dispute. Either Party may submit an additional brief within ten (10) business days after distribution of the initial brief. The arbiter thereafter shall hold a telephonic hearing and issue a decision in the matter promptly, but in any event within five (5) business days after the submittal of the last brief, unless the arbiter determines that further briefing is necessary, in which case the additional brief(s) addressing only those items or issues identified by the arbiter shall be submitted to the arbiter (with copies to both Parties) within five (5) business days after the arbiter's request, and thereafter the arbiter shall hold a telephonic hearing and issue a decision promptly but in any event not sooner than two (2) business days after submission of such additional briefs, and no later than thirty-two (32) business days after initiation of the non-binding arbitration. Each Party will give due consideration to the arbiter's decision before pursuing further legal action, and shall retain the sole and absolution discretion in deciding whether to pursue legal action.

4.9. Taxes and Special Assessments. Nothing in this Agreement limits the City's ability to impose new or increased taxes or special assessments, or any equivalent or substitute tax or assessment, provided that (a) to the extent permitted under California and Federal law, the City shall not institute or initiate proceedings for any new or increased special tax or assessment for a land-secured financing district (excluding any business improvement districts or community benefit districts formed by a vote of the affected property owners) that include the Developer Parcels, the City Parcel, or both, unless the new or increased special tax or assessment applies to all similarly-situated property on a City-Wide basis or Developer gives its prior written consent to or requests such proceedings, and (b) no such new or increased special tax or assessment shall be targeted or directed solely at the Project or any part of the Project Site, unless Developer gives its prior written consent to such targeted special tax or assessment. Nothing in this Agreement limits the City's ability to impose new or increased taxes or special assessments, any equivalent or substitute tax or assessment, or assessments for the benefit of business improvement districts or community benefit districts that include the Developer Parcels, the City Parcel, or both, if formed by a vote of the affected property owners.

4.10. Intentionally Omitted.

4.11. Intentionally Omitted.

4.12. Intentionally Omitted.

4.13. CEQA.

4.13.1 No Additional CEQA Review Required; Reliance on FEIR for Future Discretionary Approvals. The Parties acknowledge that the FEIR prepared for the Project complies with CEQA. The Parties further acknowledge that (i) the FEIR contains a thorough analysis of the Project and possible alternatives, (ii) the Mitigation Measures have been adopted to eliminate or reduce to an acceptable level certain adverse environmental impacts of the Project, and (iii) the Board of Supervisors adopted CEQA Findings, including a statement of overriding considerations in connection with the Approvals, pursuant to CEQA Guidelines Section 15093, for those significant impacts that could not be mitigated to a less than significant level. Accordingly, the City shall not conduct any further environmental review or mitigation under CEQA for any Later Approvals or aspect of the Project vested under this Agreement. The City shall rely on the FEIR, to the greatest extent possible in accordance with applicable Laws, in all future discretionary actions related to the Project; provided, however, that nothing shall prevent or limit the discretion of the City to conduct additional environmental review in connection with any Later Approvals to the extent that such approvals are discretionary and additional environmental review is required by applicable Laws, including CEQA.

4.13.2 Compliance with Mitigation Measures. Developer shall comply with all Mitigation Measures imposed as applicable to the Project except for any Mitigation Measures that are expressly identified as the responsibility of a different party or entity. Without limiting the foregoing, Developer shall be responsible for the completion of or for causing the completion of all Mitigation Measures identified as the responsibility of the "owner" or the "project sponsor" as required by the MMRP. The Parties expressly acknowledge that the FEIR and the associated MMRP are intended to be used in connection with each of the Later Approvals to the extent permitted under applicable Law as reasonably determined by the Planning Director. Nothing in this Agreement shall limit the ability of the City to impose conditions on any new, discretionary permit resulting from Material Changes as such conditions are determined by the City to be necessary to mitigate adverse environmental impacts identified through the CEQA process and associated with the Material Changes, or otherwise to address significant environmental impacts as defined by CEQA created by such approval or permit; provided, however, that any such conditions must be in accordance with applicable Law.

5. DEVELOPER REPRESENTATIONS, WARRANTIES AND COVENANTS

5.1. Interest of Developer; Due Organization and Standing. Developer represents that (i) it is the legal owner of the Developer Parcels, (ii) an Affiliate of Developer's sole member is party to the Option Agreement and that Affiliate has agreed to exercise its right under the Option Agreement to have the owner of the 447 Battery Parcel convey it to the City on the CPEA Closing Date (if any), and (iii) all other persons with an ownership or security interest in the Developer Parcels, Developer's conditional right to acquire the City Parcel, and the Affiliate's right to acquire the 447 Battery Parcel have consented to this Agreement. Developer is a Delaware limited liability company. Developer has all requisite power to own its property and authority to conduct its business as presently conducted. Developer has made all required state filings required to conduct business in the State of California and is in good standing in the State of California. Other than the Existing Mortgages, Developer represents and warrants that there is no Security Instrument, existing lien, or encumbrance recorded against the Developer Parcels and, to Developer's actual knowledge, there is no existing lien or encumbrance recorded against the 447 Battery Parcel. The phrase "to Developer's actual knowledge" means the actual knowledge of Matthew Witte and includes information obtained by Matthew Witte. Developer represents that this is the person within Developer's organization that has the most knowledge of the 447 Battery Purchase Agreement, and is therefore in the best position to give these representations.

5.2. No Conflict with Other Agreements; No Further Approvals; No Suits. Developer warrants and represents that it is not a party to any other agreement that would conflict with Developer's obligations under this Agreement. Neither Developer's articles of organization, bylaws, or operating agreement, as applicable, nor any other agreement or Law in any way prohibits, limits, or otherwise affects the right or power of Developer to enter into and perform all of the terms and covenants of this Agreement. No consent, authorization, or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person is required for the due execution, delivery, and performance by Developer of this Agreement or any of the terms and covenants contained in this Agreement. To Developer's knowledge, there are no pending or threatened suits or proceedings or undischarged judgments affecting Developer or any of its members before any court, governmental agency, or arbitrator which might materially adversely affect Developer's business, operations, or assets or Developer's ability to perform under this Agreement.

5.3. No Inability to Perform; Valid Execution. Developer warrants and represents that it has no knowledge of any inability to perform its obligations under this Agreement. The execution and delivery of this Agreement and the agreements contemplated hereby by Developer have been duly and validly authorized by all necessary action. This Agreement will be a legal, valid, and binding obligation of Developer, enforceable against Developer in accordance with its terms.

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

5.5. Notification of Limitations on Contributions. Through its execution of this Agreement, Developer 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, whenever such transaction would require approval by a City elective officer or the board on which that City elective officer 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 that contract or twelve (12) months after the date that contract is approved. San Francisco Ethics Commission Regulation 1.126-1 provides that negotiations are commenced when a prospective contractor first communicates with a City officer or employee about the possibility of obtaining a specific contract. This communication may occur in person, by telephone or in writing, and may be initiated by the prospective contractor or a City officer or employee. Negotiations are completed when a contract is finalized and signed by the City and the contractor. Negotiations are terminated when the City and/or the prospective contractor end the negotiation process before a final decision is made to award the contract. Developer acknowledges that (i) the prohibition on contributions applies to Developer, each member of Developer's board of directors, Developer's chief executive officer, chief financial officer and chief operating officer, any person with an ownership interest of more than ten percent (10%) in Developer, any subcontractor listed in the contract, and any committee that is sponsored or controlled by Developer, and (ii) within thirty (30) days of the submission of a proposal for the contract, the City department seeking to enter into the contract must notify the Ethics Commission of the parties and any subcontractor to the contract. Additionally, Developer certifies it has informed each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 by the time it submitted a proposal for the contract to the City, and has provided the names of the persons required to be informed to the City department seeking to enter into that contract within thirty (30) days of submitting its contract proposal to the City

department receiving that submittal, and acknowledges the City department receiving that submittal was required to notify the Ethics Commission of those persons.

5.6. Other Documents. No document furnished or to be furnished by Developer to the City in connection with this Agreement contains or will contain to Developer's actual knowledge 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.

5.7. No Suspension or Debarment. Neither Developer, nor any of its officers, have been suspended, disciplined, or debarred by, or prohibited from contracting with, the U.S. General Services Administration or any federal, state, or local governmental agency.

5.8. No Bankruptcy. Developer represents and warrants to City that Developer has neither filed nor is the subject of any filing of a petition under the federal bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors, and, to the best of Developer's knowledge, no such filing is threatened.

5.9. Nexus/Reasonable Relationship Waiver. Developer consents to, and waives any rights it may have now or in the future, to challenge with respect to the Project, the legal validity of, the conditions, requirements, policies, or programs required by this Agreement, including, without limitation, any claim that they constitute an abuse of police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax.

5.10. Indemnification of City.

(a) Developer shall, to the maximum extent permitted by law, indemnify, defend, reimburse, and hold harmless the City and its officers, agents, and employees (each, a "**City Party**" and collectively, the "**City Parties**") from and, if requested, shall defend them against any and all actual loss, out-of-pocket cost (including but not limited to City staff time processed as part of City Costs pursuant to Section 5.11), damage (excluding punitive damages), injury, liability, and claims (collectively, "**Losses**") arising or resulting directly or indirectly from (i) any third-party claim arising from an Event of Default by Developer under this Agreement; (ii) Developer's failure to comply with any Approval, Later Approval, or Non-City Approval; (iii) the failure of any improvements constructed pursuant to the Approvals or Later Approvals to comply with any Applicable Laws; (iv) any accident, bodily injury, death, personal injury, or loss of or damage to property occurring in the Project Site or the public right-of-way adjacent to the Project Site in connection with the construction by Developer, its agents, or contractors of any improvements pursuant to the Approvals, Later Approvals, this Agreement, or the Street Permits, including but not limited to claims brought under a theory of inverse condemnation; (v) a Third-Party Challenge instituted against the City or any of the City Parties; (vi) any dispute between Developer, its contractors, or its subcontractors relating to the construction of any part of the Project; (vii) any dispute between or among Developer, Related California Residential, LLC, and Battery Street Holdings LLC, regarding the Option Agreement or the condition of the 447 Battery Parcel, or any claims of parties with the right to use or occupy the 447 Battery Parcel any time before the CPEA Closing Date; and (viii) any dispute between Developer and any Lender, Transferee, or any subsequent owner of any of the Developer's Property relating to any assignment of this Agreement, the obligations that run with the land, or any dispute between Developer and any Transferee or other person relating to which party is responsible for performing certain obligations under this Agreement, each regardless of the negligence of and regardless of whether liability without fault is imposed or sought to be imposed on the City or any of the City Parties, except to the extent that (1) any of the foregoing indemnification obligations is void or otherwise unenforceable under applicable Law, (2) such Loss is the result of the sole negligence, willful misconduct, or fraud of any City Party, or (3) such

Loss is the result an Event of Default by City, to the extent Developer is the prevailing party in any legal action brought by Developer against the City for that Event of Default.

(b) Notwithstanding anything to the contrary in Section 5.10(a), the Amended CPEA and Construction Management Agreement shall govern any Developer indemnity obligations for Losses arising from the construction of the New Fire Station. The indemnity obligations in the Amended CPEA, Construction Management Agreement, Hotel and Fire Station Development Incentive Agreement, and this Agreement (collectively, the "**Project Documents**") are complementary, and Developer's indemnity obligations under (i) this Agreement shall be governed by the terms and conditions of this Agreement, (ii) the Amended CPEA shall be governed by the terms and conditions of the Amended CPEA, and (iii) the Construction Management Agreement shall be governed by the terms and conditions of the Construction Management Agreement. No City Party shall be entitled to recover an amount in excess of any Losses incurred, regardless of whether more than one Project Document permits the City to pursue indemnification for such Losses, it being the intent of the Parties that there be no duplication of recovery for any Losses in the event that any City Party is entitled to indemnification for the same Losses under more than one Project Document.

(c) The indemnity in Section 5.10(a) shall include reasonable attorneys' fees and costs and the City's reasonable cost of investigating any claims against the City or the City Parties. All indemnifications set forth in this Agreement shall survive for a period lasting the later of two (2) years after the expiration or termination of this Agreement or the expiration of the statute of limitations or statute of repose applicable to a particular third-party claim, in any event to the extent such indemnification obligation arose from an event occurring before the expiration or termination of this Agreement. To the extent the indemnifications relate to Developer's obligations that survive the expiration or termination of this Agreement, the indemnifications shall survive for the term of the applicable obligation plus two (2) years.

5.11. Payment of Fees and Costs.

5.11.1. Developer shall pay to the City all City Costs within forty-five (45) days following receipt of a written invoice from the City. OEWD or another City Agency as designated by OEWD shall each City Agency to provide quarterly invoices for all City Costs incurred by the City Agency for reimbursement under this Agreement for that quarter, and OEWD or its designee shall gather all such invoices so as to submit one reasonably detailed City bill for that quarter to Developer for reimbursement under this Agreement, which shall be accompanied by the statements from the applicable City Agencies detailing the hourly rates, the total number of hours spent, any additional costs incurred by the City Agency, and a brief nonconfidential description of the work completed (provided, for the City Attorney's Office, the statement will be reviewed and approved by OEWD but the cover invoice forwarded to Developer will not include a description of the work). To the extent that a City Agency fails to submit invoices to OEWD, then OEWD or its designee shall request and gather such billing information and send a supplemental invoice; provided that any City Cost that is not invoiced to Developer within twelve (12) months from the date the City Cost was incurred shall not be recoverable. "**City Costs**" means the actual and reasonable costs incurred by a City Agency in preparing, adopting, implementing, or amending this Agreement, in performing its obligations or defending its actions under this Agreement or otherwise contemplated by this Agreement, as determined on a reasonable and customary time and materials basis, including reasonable attorneys' fees and costs but excluding (i) Impact Fees or Exactions, (ii) work, hearings, costs or other activities contemplated or covered by the Processing Fees, and (iii) any fees or costs incurred by a City Agency in connection with a City Event of Default, to the extent Developer is the prevailing party in any legal action brought by Developer against the City for that City Event of Default.

5.11.2. Developer's obligation to pay such City Costs of this Agreement will survive termination of this Agreement, subject to the twelve (12) month deadline set forth in Section 5.11.1.

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

6. NO DEVELOPMENT OBLIGATION

There is no requirement under this Agreement that Developer initiate or complete development of the Project or portion thereof. There is also no requirement that development be initiated or completed within any period of time or in any particular order under this Agreement; provided, however, that (i) Developer shall not Commence Construction until after the CPEA Closing Date, and (ii) after Developer Commences Construction, Developer must obtain a Temporary Certificate of Occupancy for New Fire Station before issuance of a Temporary Certificate of Occupancy for all or any portion of the Tower and Complete the New Fire Station in accordance with the Amended CPEA, and Complete the Merchant Street Improvements, before issuance of a Final Certificate of Occupancy for all or any portion of the Tower as set forth in Section 3.2.1 (subject to Section 3.2.2). The development of the Project is subject to numerous factors that are not within the control of Developer or the City, such as availability of financing, interest rates, access to capital, and similar factors. Except as expressly required by this Agreement, including any Later Approval, the City acknowledges that Developer may develop the Project in such order and at such rate and times as Developer deems appropriate within the exercise of its sole and subjective business judgment. In *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), the California Supreme Court ruled that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development and controlling the parties' agreement. It is the intent of the Parties to avoid such a result by acknowledging and providing for the timing of development of the Project in the manner set forth in this Agreement. Accordingly, the Parties agree that except as expressly set forth in this Agreement and any express construction dates set forth in a Later Approval, (i) Developer shall have the right to develop the Project in such order and at such rate and such times as Developer deems appropriate within the exercise of its subjective business judgment, (ii) such a right is consistent with the intent, purpose and understanding of the Parties to this Agreement, and (iii) without such a right, Developer's development of the Project would be subject to the uncertainties sought to be avoided by the Development Agreement Statute, Chapter 56, and this Agreement.

7. MUTUAL OBLIGATIONS

7.1. Notice of Completion or Revocation. Upon the expiration of the Term or revocation of this Agreement, a written statement acknowledging such expiration or revocation, signed by the appropriate agents of City and Developer, shall be recorded in the Official Records.

7.2. Estoppel Certificate. Developer may, at any time, and from time to time, deliver written notice to the Planning Director requesting that the Planning Director certify to Developer and any Lender in writing that to the best of his or her knowledge: (i) this Agreement is in full force and effect and a binding obligation of the Parties; (ii) this Agreement has not been amended or modified either orally or in writing,

or if so amended or modified, identifying the amendments or modifications and stating their date and, if applicable, recording information; (iii) there is no Event of Default by Developer in the performance of its obligations under this Agreement, or if there is an Event of Default by Developer, describing therein the nature and amount of that Event of Default; and (iv) the findings of the City with respect to the most recent annual review performed pursuant to Article 7 below. If Developer requests that the City certify as to any additional matters, the City will confer and work expeditiously and in good faith with Developer to provide such certification that is reasonably satisfactory to Developer and any Lender, provided that the Planning Director shall certify only as to their actual knowledge, and the City shall not have any obligation to certify as to any such matters that are unreasonable, overly broad, inconsistent with this Agreement, involve legal conclusions, or are subjective in nature. The Planning Director, acting on behalf of the City, shall execute and return a certificate addressing items (i)-(iii) (the "**Required Certifications**") within thirty (30) days following receipt of the request (the "**Estoppel Outside Date**"). If the Planning Director fails to execute and return such certificate on or before the Estoppel Outside Date, the Planning Director, acting on behalf of the City, shall be deemed to have certified to Developer and any Lender that the Required Certifications as stated in the submitted certificate are true and correct as of the Estoppel Outside Date. Each Party acknowledges that any Lender, acting in good faith, may rely upon such a certificate. A certificate provided by the City under this Section shall, at the Lender's request, be in recordable form and may be recorded with respect to the affected portion of the Developer's Property subject to that Lender's Security Interest by the requesting Lender at its expense.

7.3. Cooperation in the Event of Third-Party Challenge.

7.3.1. A "**Third-Party Challenge**" means any administrative, legal, or equitable action or proceeding instituted by any party other than the City or Developer challenging the validity or performance of any provision of this Agreement, the Project, the Approvals or Later Approvals, the adoption or certification of the FEIR or other actions taken pursuant to CEQA, other approvals under Laws relating to the Project, any action taken by the City or Developer in furtherance of this Agreement, or any combination thereof relating to the Project or any portion thereof. In the event any Third-Party Challenge, the Parties shall cooperate in defending against such challenge. The City shall promptly notify Developer of any Third-Party Challenge instituted against the City.

7.3.2. Developer shall assist and cooperate with the City at Developer'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. Subject to the requirements of Section 5.10, Developer shall indemnify, defend, reimburse, and hold harmless 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 (at the non-discounted rates then charged by the City Attorney's Office) and any consultants; provided, however, Developer shall have the right to receive monthly invoices for all such costs. This Section 7.3.2 shall survive any judgment invalidating all or any part of this Agreement until the expiration of the applicable statute of limitation or statute of repose for such Third-Party Challenge.

7.3.3. To the extent that any such action, proceeding, challenge, or judgment is entered limiting Developer'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, Developer may elect to terminate this Agreement by written notice thereof to the City, and upon any such termination (or, upon the entry of a judgment terminating this Agreement, if earlier), the Parties will jointly seek to have the Third-Party Challenge dismissed, and Developer shall have no obligation to reimburse City defense costs that are incurred after the dismissal (other than, in the case of a partial termination by Developer, any defense costs with respect to the remaining portions of the Project). Notwithstanding the

foregoing, if Developer conveys or transfers some but not all of the Project or a party takes title to Foreclosed Property constituting only a portion of the Developer's Property, and, therefore, there is more than one party that assumes obligations of "Developer" under this Agreement, then only the Party holding the interest in such portion of the Project shall have the right to terminate this Agreement as to such portion of the Project (and only as to such portion), and no termination of this Agreement by such Party as to such Party's portion of the Project shall effect a termination of this Agreement as to any other portion of the Project.

7.3.4 The filing of any Third-Party Action shall not delay or stop the development, processing, or construction of the Project unless the third party obtains a court order preventing the activity.

7.4. Good Faith and Fair Dealing. The Parties shall cooperate with each other and act in good faith in complying with the provisions of this Agreement and in implementing the Approvals and Later Approvals.

7.5. Other Necessary Acts. Each Party shall use good faith efforts to take such further actions as may be reasonably necessary to carry out this Agreement, the Approvals, and any Later Approvals, in accordance with the terms of this Agreement (and subject to all applicable Laws) in order to provide and secure to each Party the full and complete enjoyment of its rights and privileges hereunder.

7.6 General Cooperation: Agreement to Cooperate. The Parties agree to cooperate with one another to expeditiously implement the Project in accordance with the Approvals and this Agreement and to undertake and complete all actions or proceedings reasonably necessary or appropriate to ensure that the objectives of this Agreement and the Approvals are implemented. Except for ordinary administrative costs of the City, nothing in this Agreement obligates the City to spend any sums of money or incur any costs other than City Costs or costs that Developer reimburses through the payment of Processing Fees.

8. PERIODIC REVIEW OF DEVELOPER'S COMPLIANCE

8.1. Annual Review. Pursuant to Section 65865.1 of the Development Agreement Statute and Administrative Code Section 56.17, at the beginning of the second week of each January following final adoption of this Agreement and for so long as the Agreement is in effect (the "**Annual Review Date**"), the Planning Director shall commence a review to ascertain whether Developer has, in good faith, complied with the Agreement. The failure to commence such review in January shall not waive the Planning Director's right to do so later in the calendar year.

8.2. Review Procedure. In conducting the required initial and annual reviews of Developer's compliance with this Agreement, the Planning Director shall follow the process set forth in this Section 8.2.

8.2.1. Required Information from Developer. Upon request by the Planning Director but not more than sixty (60) days or less than forty-five (45) days before the Annual Review Date, Developer shall provide a letter (a "**Compliance Letter**") to the Planning Director confirming, with appropriate backup documentation, Developer's compliance with this Agreement for the preceding calendar year, including, but not limited to, the status of any Later Approvals and compliance with the requirements regarding the Community Benefits. The burden of proof of compliance, by substantial evidence, is upon Developer. The Planning Director may elect to waive Developer's obligation to provide backup documentation with a Compliance Letter if no significant construction work occurred on the Project during that year, or if such documentation is otherwise not deemed necessary by the Planning Director. The Planning Director shall post a copy of Developer's Compliance Letters on the Planning Department's website.

8.2.2. City Report. Within sixty (60) days after Developer submits a Compliance Letter and the appropriate backup documentation, the Planning Director shall review the information submitted by Developer and all other available evidence regarding Developer's compliance with this Agreement and shall consult with applicable City Agencies as appropriate. Once received by the Planning Director, all such available evidence, including final staff reports, shall be made available as soon as possible to Developer. The Planning Director shall notify Developer in writing whether Developer has complied with the terms of this Agreement (the "**City Report**") and post the City Report on the Planning Department's website. If the Planning Director finds Developer not in compliance with this Agreement, then the City may pursue available rights and remedies in accordance with this Agreement and Chapter 56. The City's failure to initiate or to timely complete the annual review shall not be an Event of Default nor deemed to be a waiver of the right to do so, provided Developer shall not be required to provide more than one Compliance Letter per calendar year. All costs incurred by the City under this Section shall be included in the City Costs.

8.2.3. Effect on Transferees. If a Developer has effectuated a Transfer so that its interest in Developer's Property is divided among multiple Developers at the time of an annual review, then that annual review shall be conducted separately with respect to each Developer. Each Developer shall submit the materials required by this Section 8.2 with respect to the portion of the Developer's Property owned by such Developer and all the Community Benefits, and the City will review the submittals concurrently unless one or more Developers fail to timely submit materials. Notwithstanding the foregoing, the Planning Commission and Board of Supervisors shall make its determinations and take action separately with respect to each Developer pursuant to Chapter 56. If there are multiple Developers and the Board of Supervisors terminates, modifies, or takes such other actions as may be specified in Chapter 56 and this Agreement in connection with a determination that a Developer has not complied with the terms and conditions of this Agreement, such action by the Planning Director, Planning Commission, or Board of Supervisors shall be effective only as to the Party to whom the determination is made and the portions of the Developer's Property owned by that Party.

9. AMENDMENT; TERMINATION; EXTENSION OF TERM

9.1. Amendment or Termination. Except as provided in Section 7.3.3, Section 9.2, Section 10.4, and Section 11.1, this Agreement may only be amended or terminated with the mutual written consent of the Parties. Except as provided in this Agreement to the contrary, the amendment or termination, and any required notice thereof, shall be accomplished in the manner provided in the Development Agreement Statute and Chapter 56. Any amendment to this Agreement that does not constitute a Material Change may be agreed to by the Planning Director (and, to the extent it affects any rights or obligations of a City Agency, with the approval of that City Agency). Any amendment that is a Material Change will require the approval of the Planning Director, the Planning Commission, and the Board of Supervisors (and, to the extent it affects any rights or obligations of a City Agency, after consultation with that City Agency). The determination of whether a proposed change constitutes a Material Change shall be made, on the City's behalf, by the Planning Director following consultation with the City Attorney's Office and any affected City Agency.

9.2. Early Termination Rights.

9.2.1. Developer and City Rights. Developer has the right elect to terminate this Agreement at its sole discretion at any time before the CPEA Closing Date by delivering written notice thereof to the City (the "**Developer Termination Notice**"). City has the right to terminate this Agreement at its sole discretion at any time after the six (6) year anniversary of the Effective Date by written notice

thereof to Developer (the "**City Termination Notice**") unless the CPEA Closing Date has occurred before Developer's receipt of the City Termination Notice.

9.2.2. Effect. If either Party terminates this Agreement pursuant to Section 9.2.1, the termination of this Agreement shall be effective on the first business day (the "**Early Termination Date**") immediately following the delivery of the Developer Termination Notice or City Termination Notice, as applicable. Neither Party shall have any further obligations or rights under this Agreement after any Early Termination Date (with each Party being automatically released from all obligations that would have arisen under this Agreement if such termination had not occurred), including the Developer's right to construct the Project consistent with the Approvals under Section 2.1, but excluding any obligations or rights that survive the termination of this Agreement.

9.3 Termination and Vesting. Any termination under this Agreement shall concurrently cause a termination of the Approvals, except as to any Approval pertaining to an improvement for which Developer has Commenced Construction prior to such termination in reliance thereon. If Developer terminates this Agreement under Section 10.4.2 after the Developer has Commenced Construction of any portion of the Tower, then except to the extent prevented by such City Default, Developer's obligation to complete the New Fire Station and Merchant Street Improvements pursuant to this Agreement shall continue and all relevant and applicable provisions of this Agreement shall be deemed to be in effect as such provisions are reasonably necessary in the construction, interpretation or enforcement to this Agreement as to such surviving obligations. The City's and Developer's rights and obligations under this Section 9.3 shall survive the termination of this Agreement.

9.4 Extension Due to Legal Action, Referendum, or Excusable Delay.

9.4.1. Legal Action or Referendum. If any litigation is filed challenging this Agreement or any of the Approvals (including their validity or any of their provisions), and it directly or indirectly delays either Party's ability to perform under this Agreement or any such Approval, or if this Agreement or any of the Approvals is suspended pending the outcome of an electoral vote on a referendum, then the Term and the effectiveness of each Approval (starting from the date of the initial grant of that Approval) shall be extended for the number of days equal to the period starting from the commencement of the litigation or the suspension to the end of such litigation or suspension (a "**Litigation Extension**"). The Parties shall document the start and end of a Litigation Extension in writing within thirty (30) days from the applicable date, provided that either Party's failure to so document the start and end date shall not affect the duration of the Litigation Extension.

9.4.2. Excusable Delay. In the event of changes in State or Federal Laws or regulations, inclement weather, delays due to strikes, inability to obtain materials, civil commotion, war, acts of terrorism, fire, acts of God, litigation, epidemics, pandemics, or quarantine restrictions, or other circumstances that are beyond the reasonable control of a Party, not proximately caused by the acts or omissions of that Party, and substantially interfere with that Party's performance of any of its obligations under this Agreement (each, an "**Excusable Delay**"), then the delayed Party shall notify the other Party in writing of such occurrence as soon as possible after becoming aware that it may result in an Excusable Delay, describing the manner in which it substantially interferes with the delayed Party's ability to perform under this Agreement (each, a "**Delay Notice**"). Commencing upon the Delay Notice, the time or times for performance of the delayed obligation described in that Delay Notice will be extended for the remaining period of the Excusable Delay. In the event that Developer stops any work as a result of an Excusable Delay, Developer must take commercially reasonable measures to ensure that the affected real property is returned to a safe condition and remains in a safe condition for the duration of the Excusable Delay.

10. ENFORCEMENT OF AGREEMENT; REMEDIES FOR DEFAULT

10.1. Enforcement. As of the Effective Date, the only Parties to this Agreement are the City and Developer. Except as expressly set forth in this Agreement for successors, Transferees, and Lenders, this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person or entity whatsoever.

10.2. Meet and Confer Process. Before sending a Notice of Default in accordance with Section 10.3, the Party which may assert that the other Party has failed to perform or fulfill its obligations under this Agreement shall first attempt to meet and confer with the other Party to discuss the alleged failure and shall permit such Party a reasonable period, but not less than ten (10) days, to respond to or cure such alleged failure; provided, however, the meet and confer process shall not be required (i) for any failure to pay amounts due and owing under this Agreement, or (ii) if a delay in sending a Notice of Default pursuant to Section 10.3 would impair, prejudice or otherwise adversely affect a Party or its rights under this Agreement. The Party asserting such failure shall request that such meeting and conference occur within three (3) business days following the request and if, despite the good faith efforts of the requesting Party, such meeting has not occurred within seven (7) business days of such request, then such Party shall be deemed to have satisfied the requirements of this Section and may proceed in accordance with the issuance of a Notice of Default under Section 10.3.

10.3. Default. For purposes of this Agreement, the following shall constitute an event of default (an "**Event of Default**") under this Agreement: (i) except as otherwise specified in this Agreement, the failure to make any payment within ninety (90) calendar days of when due; and (ii) the failure to perform or fulfill any other material term, provision, obligation, or covenant hereunder, and the continuation of such failure for a period of sixty (60) or more calendar days following a written notice of default that specifies the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured (if at all), and a demand for compliance (a "**Notice of Default**"); provided, however, if a cure of a non-monetary default cannot reasonably be completed within sixty (60) calendar days, then it shall not be considered an Event of Default if a cure is commenced within that sixty (60) calendar day period and diligently prosecuted to completion thereafter. If before the end of the applicable cure period the failure that was the subject of a Notice of Default has been cured to the reasonable satisfaction of the Party that delivered such notice, such Party shall issue a written acknowledgement to the other Party of the cure of such failure.

10.4. Remedies.

10.4.1 Specific Performance and Other Remedies. Subject to, and as limited by, the provisions of Sections 10.4.3, 10.4.4, and 10.5, if there is an Event of a Default, the remedies available to a Party shall include specific performance of this Agreement in addition to any applicable remedy for that Event of Default in the Amended CPEA, DMA or Street Permits and any other remedy available at Law or in equity.

10.4.2. Termination. Subject to, and as limited by, the provisions of Section 10.4.4, if there is an Event of Default and the City is the non-defaulting Party, following a public hearing at the Board of Supervisors regarding such Event of Default and proposed termination, the City may terminate this Agreement by sending a notice of termination to the Developer setting forth the basis for the termination. If there is an Event of Default under this Agreement and the Developer is the non-defaulting Party, Developer may terminate this Agreement without such a public hearing by sending a notice of termination to the City setting forth the basis for the termination. The Agreement will be considered terminated effective upon the date set forth in any notice of termination delivered under this Section, which shall in no event be earlier than thirty (30) days following delivery of the notice. The Party receiving the notice

of termination may take legal action if it believes the other Party's decision to terminate was not legally supportable.

10.4.3. Limited Damages. The Parties have determined that except as set forth in this Section 10.4.3, (i) monetary damages are generally inappropriate; (ii) it would be extremely difficult and impractical to fix or determine the actual damages suffered by a Party as a result of a Default hereunder; and (iii) equitable remedies and remedies at Law, not including damages but including the remedies set forth in Sections 10.4.1 and 10.4.2, are particularly appropriate remedies for enforcement of this Agreement. Consequently, Developer agrees that the City shall not be liable to Developer for damages under this Agreement, and the City agrees that Developer shall not be liable to the City for damages under this Agreement, and each covenants not to sue the other for or claim any damages under this Agreement and expressly waives its right to recover damages under this Agreement, except as follows: (1) either Party shall have the right to recover actual damages only (and not consequential, punitive or special damages, each of which is hereby expressly waived) for a Party's failure to pay sums to the other Party when due under this Agreement, and (2) the City shall have the right to recover actual damages for Developer's failure to make any payment due under any indemnity in this Agreement, and (3) the City shall have the right to administrative penalties or liquidated damages if and only to the extent expressly stated in an Exhibit to this Agreement or in an applicable portion of the Municipal Code referenced in this Agreement.

For purposes of the foregoing, (i) the City may seek monetary damages only from the defaulting Developer (and not from any non-defaulting Developer if there are multiple Developers at that time) and not from a Lender, unless that Lender has assumed Developer's obligations under this Agreement (as described in Article 12) and is liable for those monetary damages, and (ii) "**actual damages**" shall mean the actual amount of the sum due and owing under this Agreement, with interest as provided by Law, together with such judgment collection activities as may be ordered by the judgment, and no additional sums. For the avoidance of doubt, the Parties agree that no liquidated damages or administrative penalties are expressly provided for in any Exhibit to this Agreement other than the Workforce Agreement.

10.4.4. City Processing/Certificates of Occupancy. The City shall not be required to process any requests for approval or take other actions under this Agreement if an Event of Default has occurred and is continuing due to the failure of Developer to make any payment required hereunder; provided, however, if a Lender elects to make such nonpayment or if some but not all of the Developer's Property is owned in fee by a Transferee with more than one party having the obligations of "Developer" under this Agreement, then the City shall continue to process requests and take other actions as to the other portions of the Project owned by any Transferee that is not subject to an Event of Default due to the failure to satisfy its payment obligations to the City.

10.5. Time Limits; Waiver; Remedies Cumulative. Failure by a Party to insist upon the strict or timely performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of any condition or failure of performance, including an Event of Default, shall be effective or binding upon such Party unless made in writing by such Party, and no such waiver shall be implied from any omission by a Party to take any action with respect to such failure. No express written waiver shall affect any other condition, action or inaction or cover any other period of time other than any condition, action or inaction, and/or period of time specified in such express waiver. One or more written waivers under any provision of this Agreement shall not be deemed to be a waiver of any subsequent condition, action or inaction, and the performance of the same or any other term or provision contained in this Agreement. Nothing in this Agreement shall limit or waive any other right or remedy available to a Party to seek injunctive relief or other expedited judicial and/or administrative relief to prevent irreparable harm.

10.6. Attorneys' Fees. Should legal action be brought by either Party against the other for an Event of Default under this Agreement or to enforce any provision herein, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees and costs. For purposes of this Agreement, "reasonable attorneys' fees and costs" shall mean the fees and expenses of counsel to the Party, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, librarians, and others not admitted to the bar but performing services under the supervision of an attorney. The term "reasonable attorneys' fees and costs" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, mediation, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees and costs were incurred. For the purposes of this Agreement, the reasonable fees of attorneys of the City Attorney's Office 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 Office's services were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the City Attorney's Office.

10.7. Joint and Several Liability. If there is more than one Person that comprises any Person that is Developer, the obligations and liabilities under this Agreement imposed on each such Person shall be joint and several (i.e., if more than one Person executes an Assignment and Assumption Agreement as Developer of Transferred Property, then the liability of such Persons shall be joint and several with respect thereto).

10.8. Complementary Remedies. The remedies available for an event of default in the Project Documents (including an Event of Default under this Agreement) are complementary, meaning the Parties' remedies for an Event of Default under this Agreement shall be governed by the terms and conditions of this Agreement, and the Parties remedies for an event of default under the (i) Amended CPEA shall be governed by the terms and conditions of the Amended CPEA, (ii) Construction Management Agreement shall be governed by the terms and conditions of the Construction Management Agreement, and (iii) Hotel and Fire Station Development Incentive Agreement shall be governed by the terms and conditions of the Hotel and Fire Station Development Incentive Agreement.

11. TRANSFER OR ASSIGNMENT; RELEASE; CONSTRUCTIVE NOTICE

11.1. Permitted Transfer of this Agreement. At any time and from time to time, Developer shall have the right to convey, assign or transfer (each, a "**Transfer**") all or any portion of its right, title and interest in the Developer's Property (the "**Transferred Property**") to any Person (each, a "**Transferee**") without the City's consent under this Agreement, provided that (1) Developer contemporaneously transfers to the Transferee all of its right, title and interest under this Agreement with respect to the Transferred Property and (2) the Planning Director reviews and confirms Developer's Assignment and Assumption Agreement (as defined below) meets the requirements of Section 11.3. If Developer transfers less than all of Developer's Property or a portion of its right, title and interest under this Agreement, then such Transfer shall require the City's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the Transfer of 447 Battery Parcel to the City shall be governed by the terms and conditions of the Amended CPEA and shall not require the City's separate consent or additional conditions under this Agreement. Upon (a) Transfer of the 447 Battery Parcel to the City and Transfer of the City Parcel to the Developer pursuant to the Amended CPEA, and (b) Completion of the New Fire Station, this Agreement shall be terminated with respect to the 447 Battery Parcel and Developer shall be released from all obligations and liability under this Agreement with respect to the 447 Battery Parcel.

Nothing herein or in any Approval shall limit the rights of Developer to transfer to the Transferee any or all of its right, title and interest under the Approvals to the extent related to the Transferred Property.

For avoidance of confusion, a "Transfer" may include a long-term ground lease of some or all of the Developer's Property. A Transferee shall be deemed "Developer" under this Agreement to the extent of the rights, interests and obligations assigned to and assumed by such Transferee under the applicable Assignment and Assumption Agreement. Upon execution and delivery of any Assignment and Assumption Agreement, the assignor thereunder shall be released from any future obligation under this Agreement to the extent Transferred under the applicable Assignment and Assumption Agreement. Upon execution and delivery of any Assignment and Assumption Agreement, Transferee assumes no right, title and interest under the Agreement and has no liability or obligation hereunder other than any future obligation hereunder to the extent Transferred under the applicable Assignment and Assumption Agreement. City may terminate this Agreement, upon thirty (30) days prior written notice, if any Transferee (other than the City) elects not to assume this Agreement, and City shall have no obligation to issue any Later Approvals or other permits for the Project during such thirty (30) day period.

The provisions in this Article 11 shall not prohibit or otherwise restrict (a) Developer from (i) granting easements or permits affecting Developer's Property (to the extent Developer is fee owner) to facilitate the development of the Project Site, (ii) entering into occupancy leases, subleases, licenses or permits for portions of the Tower for occupancy upon Completion of the Tower, (iii) encumbering the Developer's Property or any portion of the improvements thereon with any Security Instrument, (iv) entering into agreements with third parties to fulfill Developer's obligations under this Agreement, (v) transferring all or any portion of the Developer's Property to a Lender pursuant to a conveyance in lieu of foreclosure or other remedial action in connection with a Security Instrument, or (vi) selling or transferring any membership or ownership interest (direct or indirect) in the entity that is Developer, or (b) the transfer of all or a portion of any interest in the Developer's Property pursuant to a foreclosure (judicial or pursuant to the power of sale).

11.2. Multiple Developers. Notwithstanding anything to the contrary in this Agreement, if there is a Transfer of some but not all of the Developer's Property (i.e., there is more than one Developer at any time), then (i) each obligation of this Agreement pertaining to the Transferred Property that arises after the effective date of the Transfer shall be the sole responsibility of the applicable Transferee, and (ii) each obligation of this Agreement pertaining to the Transferred Property that arises prior to the effective date of the Transfer shall be the sole responsibility of the applicable Transferee's predecessor. Nothing herein shall entitle any Person that is Developer to enforce this Agreement against any other Person that is Developer. Except as specified in Section 11.1, City consent to any Transfer that includes less than all of the Developer's Property is required.

11.3. Notice of Transfer. Developer shall provide not less than ten (10) business days' notice to the City before any anticipated Transfer, together with the anticipated final assignment and assumption agreement for that Transfer (an "**Assignment and Assumption Agreement**"). The Assignment and Assumption Agreement shall be in recordable form and in substantially the form attached as Exhibit G. Without limiting Developer's rights for a Transfer of all of Developer's Property without the City's consent as set forth in Section 11.1, the final Assignment and Assumption Agreement for a Transfer shall be subject to the review of the Planning Director to confirm that such Assignment and Assumption Agreement meets the requirements of this Agreement and, if there are any material changes to the form attached as Exhibit G, that the Planning Director approves such changes and such division of rights and responsibilities. Such Planning Director approval shall not be unreasonably withheld or conditioned, which may include consideration of the ability of the Transferee to complete any assigned Community Benefit Program obligation. The Planning Director shall grant (through execution of the provided Assignment and Assumption Agreement in the space provided therefor and delivery of same to Developer that provided same) or withhold confirmation (or approval of any such material changes) within ten (10) business days after the Planning Director's receipt of the proposed Assignment and Assumption Agreement. Failure to grant or withhold such confirmation (or approval) in accordance with the foregoing within such period

shall be deemed confirmation (or approval), provided that Developer shall have first provided notice of such failure and a three (3) business day opportunity to cure and such notice shall prominently indicate that failure to act shall be deemed to be confirmation (or approval).

11.4 Release of Liability. Upon execution and delivery of any Assignment and Assumption Agreement (following the City's confirmation (or approval) or deemed confirmation (or approval) pursuant to Section 11.3), the assignor thereunder shall be automatically released (and the City will confirm the same in writing upon written request) from any prospective liability or obligations under this Agreement to the extent Transferred under the applicable Assignment and Assumption Agreement. The foregoing release shall not extend to events, acts or omissions that occurred prior to the date of Transfer.

12. FINANCING; RIGHTS OF LENDERS

12.1. Developer Right to Finance. Nothing in this Agreement limits the right of Developer to mortgage or otherwise encumber all or any portion of the Developer's Property for the benefit of any Lender as security for one or more loans. Prior to Commencing Construction on any aspect of the Project, Developer shall cause the Existing Mortgages, if then still in effect, and any other then-existing Security Instrument(s) to be subordinated to this Agreement. Under no circumstance whatsoever will a Lender place or suffer to be placed any lien or encumbrance on the City Parcel before the CPEA Closing Date or the 447 Battery Parcel after the CPEA Closing Date in connection with any financing permitted hereunder, or otherwise.

12.2 Lender Not Obligated to Construct. Notwithstanding any of the provisions of this Agreement (except as set forth in this Section and Section 12.5), a Lender, including any Lender who obtains title to the Developer's Property or any part thereof as a result of foreclosure proceedings, conveyance or other action in lieu thereof, or other remedial action shall in no way be obligated by the provisions of this Agreement to construct or complete the Project or any part thereof or to guarantee such construction or completion. The foregoing provisions shall not be applicable to any party who, after a foreclosure, conveyance or other action in lieu thereof, or other remedial action obtains title to some or all of the Developer's Property from or through the Lender, or any other purchaser at a foreclosure sale other than the Lender itself, on which the Community Benefits Program must be completed as set forth in Section 3.2.1. Nothing in this Section or any other Section or provision of this Agreement shall be deemed or construed to permit or authorize any Lender or any other person or entity to devote the Developer's Property or any part thereof to any uses other than uses consistent with this Agreement and the Approvals, and nothing in this Section shall be deemed to give any Lender or any other person or entity the right to construct any improvements under this Agreement (other than as set forth above for required Community Benefits or as needed to conserve or protect improvements or construction already made) unless or until such person or entity assumes Developer's obligations under this Agreement.

12.3 Copy of Notice of Default and Notice of Failure to Cure to Lender. Whenever the City shall deliver any notice or demand to the Developer with respect to any Event of Default by the Developer in its obligations under this Agreement, the City shall at the same time forward a copy of such notice or demand to each Lender having a Security Interest on (directly or indirectly) the real property which is the subject of the Event of Default who has previously made a written request to the City therefor, at the last address of such Lender specified by that Lender in such notice. In addition, if such breach or default remains uncured for the period permitted with respect thereto under this Agreement, the City shall deliver a notice of such failure to cure such breach or default to each such Lender at such applicable address. A delay or failure by the City to provide such notice required by this Section shall extend for the number of days until notice is given, the time allowed to the Lender for cure. In accordance with Section 2924b of the California Civil Code, the City requests that a copy of any notice of default and a copy of any notice of sale under any Lender be mailed to the City at the address for notices under this Agreement. Any Lender relying

on the protections set forth in this Article 12 shall send to the City a copy of any notice of default and notice of sale.

12.4 Lender's Option to Cure Defaults. After receiving any notice of failure to cure referred to in Section 12.3, each Lender shall have the right, at its option, to commence within the same period as Developer to remedy or cause to be remedied any Event of Default, plus an additional period of: (a) sixty (60) days to cure a monetary default; and (b) one hundred twenty (120) days to cure a non-monetary event of default which is susceptible of cure by the Lender without obtaining title to the applicable property. If an Event of Default is not cured within the applicable cure period, the City nonetheless shall refrain from exercising any of its remedies with respect to the event of default if, within the Lender's applicable cure period: (i) the Lender notifies the City that it intends to proceed with due diligence to foreclose the Security Interest or otherwise obtain title to the subject property; and (ii) the Lender commences foreclosure proceedings within sixty (60) days after giving such notice, and thereafter diligently pursues such foreclosure to completion; and (iii) after obtaining title, the Lender diligently proceeds to cure those events of default: (A) which are required to be cured by the Lender and are susceptible of cure by the Lender, and (B) of which the Lender has been given notice by the City. Any such Lender or Transferee of a Lender that properly Completes the improvements relating to the Project Site or applicable part thereof shall be entitled, upon written request made to the Agency, to a Certificate of Completion.

12.5 Lender Obligations with Respect to the Property. Notwithstanding anything to the contrary in this Agreement, no Lender shall have any obligations or other liabilities under this Agreement unless and until it acquires title by any method to all or some portion of the Developer's Property (referred to hereafter as "**Foreclosed Property**"). A Lender that, by foreclosure under a Security Interest, acquires title to any Foreclosed Property shall take title subject to all of the terms and conditions of this Agreement, to the extent applicable to the Foreclosed Property, including any claims for payment or performance of obligations which are due as a condition to enjoying the benefits of this Agreement and shall have all of the rights and obligations of Developer under this Agreement as to the applicable Foreclosed Property, including completion of the Community Benefits Program under Section 3.2.1. Upon the occurrence and continuation of an uncured Event of Default by a Lender or Transferee in the performance of any of the obligations to be performed by such Lender or Transferee pursuant to this Agreement, the City shall be afforded all its remedies for such uncured Event of Default as provided in this Agreement.

12.6 No Impairment of Security Interest. No Event of Default by Developer under this Agreement shall invalidate or defeat the lien of any Security Interest. No foreclosure of any Security Interest or other lien shall defeat, diminish, render invalid or unenforceable or otherwise impair Developer's rights or obligations under this Agreement or constitute a default under this Agreement.

12.7 Cured Defaults. Upon the curing of any event of default by any Lender within the time provided in this Article 11 the City's right to pursue any remedies with respect to the cured Event of Default shall terminate

12.8 Collateral Assignment of Agreement. Developer shall have the right to collaterally assign to any Lender all of its rights under this Agreement, and within twenty (20) days following Developer's written request, City shall execute such documents (to the extent such documents are reasonably acceptable to City) as may be reasonably required by such Lender to perfect such collateral assignment and to allow such Lender to enforce the terms and conditions of this Agreement applicable to the portion of Developer's Property encumbered by its Security Instrument, subject to such Lender acquiring fee ownership in such portion of Developer's Property, assuming Developer's rights to have the 447 Battery Parcel transferred to City under the Option Agreement (if such acquisition is before the CPEA Closing Date), and delivering to City an executed Assignment and Assumption Agreement to assume Developer's obligations under this Agreement as they relate to the portion of the Developer's Property acquired by that Lender.

13. MISCELLANEOUS PROVISIONS

13.1. Entire Agreement; Incorporation of Exhibits. This Agreement, including the preamble paragraph, Recitals and Exhibits, constitute the entire understanding and agreement between the Parties with respect to the subject matter contained herein. Except for the Approvals, which are listed solely for the convenience of the Parties, each Exhibit to this Agreement is incorporated herein and made a part hereof as if set forth in full. Each reference to an Exhibit in this Agreement shall mean that Exhibit as it may be updated or amended from time to time in accordance with the terms of this Agreement.

13.2. Binding Covenants; Run With the Land. Pursuant to Section 65868 of the Development Agreement Statute, from and after recordation of this Agreement against any portion of the Project Site, all of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the Parties and, subject to Article 10 above, their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, and all persons or entities acquiring that portion of the Project Site, or any portion thereof, or any interest therein, whether by sale, operation of law, or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All provisions of this Agreement shall be enforceable during the Term as equitable servitudes and constitute covenants and benefits running with the land pursuant to applicable Law, including but not limited to California Civil Code Section 1468.

13.3. Applicable Law and Venue. This Agreement has been executed and delivered in and shall be interpreted, construed, and enforced in accordance with the laws of the State of California. All rights and obligations of the Parties under this Agreement are to be performed in the City and County of San Francisco, and such City and County shall be the venue for any legal action or proceeding that may be brought, or arise out of, in connection with or by reason of this Agreement.

13.4. Construction of Agreement. The Parties have mutually negotiated the terms and conditions of this Agreement, and its terms and provisions have been reviewed and revised by legal counsel for both the City and Developer. Accordingly, no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement and the Parties waive the effect of Section 1654 of the California Civil Code. Language in this Agreement shall be construed as a whole and in accordance with its true meaning. Each reference in this Agreement or to this Agreement in the Approvals shall be deemed to refer to this Agreement or the Approvals as amended from time to time pursuant to the provisions of this Agreement, whether or not the particular reference refers to such possible amendment. In the event of a conflict between the provisions of this Agreement and Chapter 56, the provisions of this Agreement shall govern and control.

Wherever in this Agreement the context requires, references to the masculine shall be deemed to include the feminine and the neuter and vice-versa, and references to the singular shall be deemed to include the plural and vice versa. Unless otherwise specified, whenever in this Agreement, including its Exhibits, reference is made to any Recital, Article, Section, Exhibit, Schedule or defined term, the reference shall be deemed to refer to the Recital, Article, Section, Exhibit, Schedule or defined term of this Agreement. Any reference in this Agreement to a Recital, an Article or a Section includes all subsections and subparagraphs of that Recital, Article or Section. Article, Section and other headings and the names of defined terms in this Agreement are for the purpose of convenience of reference only and are not intended to, nor shall they, modify or be used to interpret the provisions of this Agreement. Except as otherwise explicitly provided herein, the use in this Agreement of the words “including”, “such as” or words of similar import when accompanying any general term, statement or matter shall not be construed to limit such term, statement or matter to such specific terms, statements or matters. In the event of a conflict between the Recitals and the remaining provisions of this Agreement, the remaining provisions shall prevail. Statements and calculations in this Agreement beginning with the words “for example” or

words of similar import are included for the convenience of the Parties only, and in the event of a conflict between such statements or calculations and the remaining provisions of this Agreement, the remaining provisions shall prevail. Words such as "herein", "hereinafter", "hereof," "hereby" and "hereunder" and the words of like import refer to this Agreement, unless the context requires otherwise.

13.5. Project Is a Private Undertaking; No Joint Venture or Partnership.

13.5.1. Except for the New Fire Station, the Project is a private development and no portion shall be deemed a public work. The City has no interest in, responsibility for, or duty to third persons concerning the Project. Developer shall exercise full dominion and control over the Developer's Property, subject only to the limitations and obligations of Developer contained in this Agreement and the Amended CPEA.

13.5.2. Nothing contained in this Agreement, or in any document executed in connection with this Agreement, shall be construed as creating a joint venture or partnership between the City and Developer. Neither Party is acting as the agent of the other Party in any respect hereunder. Developer is not a state or governmental actor with respect to any activity conducted by Developer hereunder.

13.6. Recordation. Pursuant to section 65868.5 of the Development Agreement Statute, the clerk of the Board shall cause a copy of this Agreement or any amendment thereto to be recorded in the Official Records against the Developer's Property within ten (10) business days after the Effective Date of this Agreement or any amendment thereto, as applicable, with costs (if any) to be borne by Developer.

13.7. Obligations Not Dischargeable in Bankruptcy. Developer's obligations under this Agreement are not dischargeable in bankruptcy.

13.8. Signature in Counterparts. This Agreement may be executed in duplicate counterpart originals, each of which is deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

13.9. Time of the Essence. Time is of the essence in the performance of each and every covenant and obligation to be performed by the Parties under this Agreement.

13.10. Notices. Any notice or communication required or authorized by this Agreement shall be in writing and may be delivered personally or by registered mail, with return receipt requested. Notice, whether given by personal delivery or registered mail, shall be deemed to have been given and received upon the actual receipt by any of the addressees designated below as the person to whom notices are to be sent. Either Party to this Agreement may at any time, upon written notice to the other Party, designate any other person or address in substitution of the person or address which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses or email addresses set forth below:

To City:

Director of Planning
San Francisco Planning Department
49 South Van Ness, Suite 1400
San Francisco, California 94103
Re: 530 Sansome Mixed-Use Tower and Fire Station DA

with a copy to:

Office of Economic and Workforce Development
City Hall, Room 448
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Director of Joint Development
Re: 530 Sansome Mixed-Use Tower and Fire Station DA

with a copy to:

David Chiu, Esq.
City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: RE/Finance Team
Re: 530 Sansome Mixed-Use Tower and Fire Station DA

To Developer:

The Related Companies, L.P.
Re: 530 Sansome Street
44 Montgomery, Suite 1300
San Francisco, CA 94104
Attention: Gino Canori

with a copy to:

The Related Companies, L.P.
Re: 530 Sansome Street
30 Hudson Yards, 72nd Floor
New York, New York 10001
Attention: Richard O'Toole

with a copy to:

Jim Abrams, Esq.
J. Abrams Law, P.C.
538 Hayes Street
San Francisco, California, 94102

13.11. Limitations on Actions. Pursuant to Administrative Code Section 56.19, any decision of the Board of Supervisors made pursuant to Chapter 56 shall be final. Any court action or proceeding to attack, review, set aside, void, or annul any final decision or determination by the Board shall be commenced within ninety (90) days after such decision or determination is final and effective. Any court action or proceeding to attack, review, set aside, void, or annul any final decision by (i) the Planning Director made pursuant to Administrative Code Section 56.15(d)(3) or (ii) the Planning Commission pursuant to Administrative Code Section 56.17(e) shall be commenced within ninety (90) days after said decision is final.

13.12. Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, or if any such term, provision, covenant, or condition does not become effective until the approval of any non-City Agency, the remaining provisions of this Agreement shall continue in full force and effect unless enforcement of the remaining portions of the Agreement would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

13.13. Sunshine. Developer understands and agrees that under the City's Sunshine Ordinance (Administrative Code, Chapter 67) and the California Public Records Act (California Government Code Section 7920 *et seq.*), this Agreement and any and all records, information, and materials submitted to the City hereunder are public records subject to public disclosure. To the extent that Developer in good faith believes that any financial materials reasonably requested by the City constitute a trade secret or confidential proprietary information protected from disclosure under the Sunshine Ordinance and other applicable laws, Developer shall mark any such materials as such. When a City official or employee receives a request for information that has been so marked or designated, the City may request further evidence or explanation from Developer. If the City determines that the information does not constitute a trade secret or proprietary information protected from disclosure, the City shall notify Developer of that conclusion and that the information will be released by a specified date in order to provide Developer an opportunity to obtain a court order prohibiting disclosure.

13.14. Approvals and Consents. As used herein, the words "approve", "consent" and words of similar import and any variations thereof refer to the prior written consent of the applicable Party or other Person, including the approval of applications by City Agencies. Whenever any approval or consent is required or permitted to be given by a Party hereunder, it shall not be unreasonably withheld, conditioned or delayed unless the approval or consent is explicitly stated in this Agreement to be within the "sole discretion" (or words of similar import) of such Party. Approval or consent by a Party to or of any act or request by the other Party shall not be deemed to waive or render unnecessary approval or consent to or of any similar or subsequent acts or requests. Unless otherwise provided in this Agreement, approvals, consents or other actions of the City shall be given or undertaken, as applicable, by the Planning Director. Any consent or approval required by the Board of Supervisors, Mayor and/or a City Commission may be given or withheld in the sole discretion of the Board, Mayor or Commission, respectively.

13.15. MacBride Principles. The City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Developer acknowledges that it has read and understands the above statement of the City concerning doing business in Northern Ireland.

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

13.17. Non-Liability of City Officials and Others. Notwithstanding anything to the contrary in this Agreement, no individual board member, director, commissioner, officer, employee, official or agent of City or other City Parties shall be personally liable to Developer, its successors and assigns, in the event of any Default by City, or for any amount which may become due to Developer, its successors and assigns, under this Agreement.

13.18 Non-Liability of Developer Officers and Others. Notwithstanding anything to the contrary in this Agreement, no individual board member, director, officer, employee, official, partner, employee, or agent of Developer or any Affiliate of Developer shall be personally liable to City, its successors and assigns, in the event of any Default by Developer, or for any amount which may become due to City, its successors and assigns, under this Agreement.

13.19 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

13.20. Survival. Following expiration of the Term, this Agreement shall be deemed terminated and of no further force and effect, except for any provision that, by its express terms, survives the expiration or termination of this Agreement.

[Remainder of Page Intentionally Blank; Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By:_____
[_____]
Director of Planning

Approved on _____
Board of Supervisors Ordinance No. _____

Approved as to form:
David Chiu, City Attorney

By:_____
Carol Wong
Deputy City Attorney

Consented to by:

Mayor's Office of Housing and Community Development

By:_____
Daniel Adams, Director

City Administrator's Office, Real Estate Division

By:_____
[_____]
Director of Property

DEVELOPER

EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

EXHIBIT A-1
Developer Parcels Legal Description

S-9745

LEGAL DESCRIPTION

APN 0206-013

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

ALL THAT CERTAIN LOT, PIECE OR PARCEL OF LAND WHICH IS SITUATED AS AFORESAID, AND WHICH IS BOUNDED BY A LINE COMMENCING AT A POINT IN THE SOUTHERLY LINE OF WASHINGTON STREET (AS EXISTED PRIOR TO THE WIDENING THEREOF), DISTANT THEREON 90 FEET AND 3-1/2 INCHES EASTERLY FROM THE POINT OF INTERSECTION OF SAID LINE OF WASHINGTON STREET WITH THE EASTERLY LINE OF SANSOME STREET; RUNNING THENCE EASTERLY ON AND ALONG SAID SOUTHERLY LINE OF WASHINGTON STREET 47 FEET 5-1/2 INCHES; THENCE SOUTHERLY 122 FEET, MORE OR LESS, AND TO A POINT IN THE NORTHERLY LINE OF MERCHANT STREET WHICH IS DISTANT THEREON 137 FEET 9-1/2 INCHES EASTERLY FROM THE POINT OF INTERSECTION OF SAID LINE OF MERCHANT STREET WITH THE EASTERLY LINE OF SANSOME STREET; THENCE WESTERLY, ON AND ALONG SAID LINE OF MERCHANT STREET, 47 FEET AND 6-3/8 INCHES; AND THENCE NORTHERLY 122 FEET TO THE SAID SOUTHERLY LINE OF WASHINGTON STREET AND SAID POINT OF COMMENCEMENT. THE SAME BEING A PORTION OF BEACH AND WATER LOTS NUMBERS 133, 134 AND 135, AS THE SAME ARE NUMBERED, DELINEATED AND SHOWN ON THE OFFICIAL MAP OF SAID CITY AND COUNTY OF SAN FRANCISCO.

EXCEPTING THEREFROM SUCH PORTION OF THE SAME AS IS DESCRIBED IN THAT CERTAIN GRANT DEED TO THE CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION, DATED MAY 14, 1967 AND RECORDED AUGUST 9, 1967 IN BOOK B167, OF OFFICIAL RECORDS, PAGES 723 AND 724.

CONTAINING 4,703± SQ.FT.

THIS DESCRIPTION WAS PREPARED BY ME IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.

B. B. R

JUNE 3, 2025

BENJAMIN B. RON, PLS 5015

S-9745

LEGAL DESCRIPTION

APN 0206-014

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

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF WASHINGTON STREET, DISTANT THEREON 137 FEET AND 9 INCHES EASTERLY FROM THE EASTERLY LINE OF SANSOME STREET; RUNNING THENCE EASTERLY ALONG SAID LINE OF WASHINGTON STREET 40 FEET AND 6 INCHES, MORE OR LESS, TO A POINT ON THE SOUTHERLY LINE OF WASHINGTON STREET, DISTANT THEREON 97 FEET WESTERLY FROM THE WESTERLY LINE OF BATTERY STREET; THENCE AT A RIGHT ANGLE SOUTHERLY 122 FEET TO THE NORTHERLY LINE OF MERCHANT STREET; THENCE WESTERLY ALONG SAID LINE OF MERCHANT STREET 40 FEET AND 6 INCHES, MORE OR LESS, TO A POINT ON THE SAID LINE OF MERCHANT STREET, DISTANT THEREON 137 FEET AND 9-1/2 INCHES EASTERLY FROM THE EASTERLY LINE OF SANSOME STREET; RUNNING THENCE NORTHERLY 122 FEET TO THE SOUTHERLY LINE OF WASHINGTON STREET AND THE POINT OF BEGINNING.

BEING PART OF 50 VARA BLOCK NO. 35

EXCEPTING THEREFROM, THAT PORTION OF SAID LAND CONVEYED TO THE CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION, BY DEED RECORDED MAY 26, 1967, IN BOOK B146, PAGE 875 OF OFFICIAL RECORDS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF WASHINGTON STREET, DISTANT THEREON 137.750 FEET EASTERLY FROM THE EASTERLY LINE OF SANSOME STREET, AND THENCE RUNNING EASTERLY ALONG SAID LINE OF WASHINGTON STREET 40.50 FEET, MORE OR LESS, TO A POINT ON SAID SOUTHERLY LINE OF WASHINGTON STREET, DISTANT THEREON 97 FEET WESTERLY FROM THE WESTERLY LINE OF BATTERY STREET; THENCE AT A RIGHT ANGLE SOUTHERLY 23 FEET; THENCE AT A RIGHT ANGLE WESTERLY 40.50 FEET, MORE OR LESS, TO A LINE DRAWN FROM THE POINT OF BEGINNING TO A POINT ON THE NORTHERLY LINE OF MERCHANT STREET, DISTANT THEREON 137.792 FEET EASTERLY FROM THE EASTERLY LINE OF SANSOME STREET; THENCE RUNNING NORTHERLY ALONG SAID LINE SO DRAWN 23 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

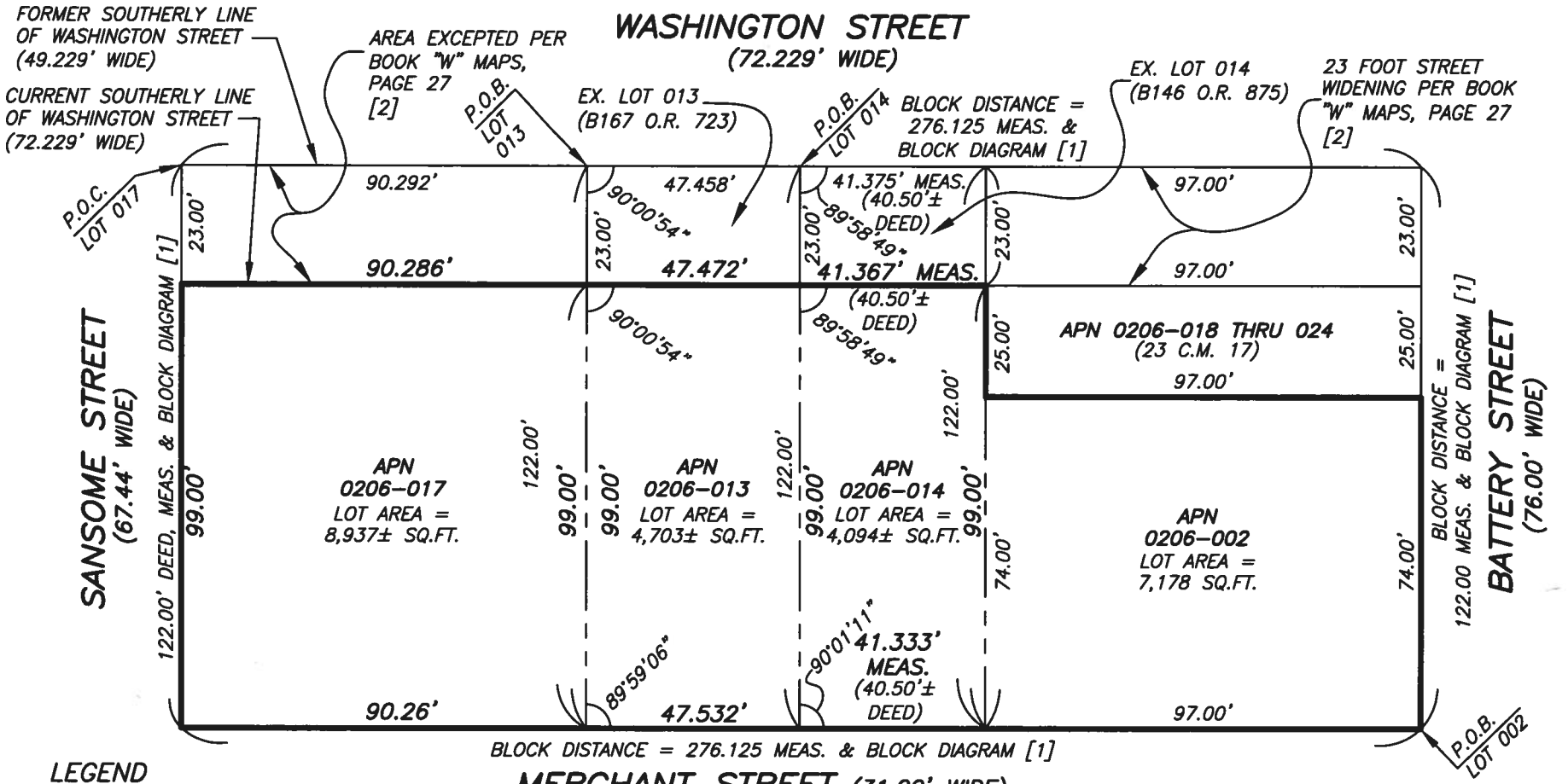
BEING A PORTION OF 50 VARA BLOCK NO. 35

CONTAINING 4,094± SQ.FT.

THIS DESCRIPTION WAS PREPARED BY ME IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.

JUNE 3, 2025

BENJAMIN B. RON, PLS 5015



LEGEND

APN	ASSESSOR'S PARCEL NUMBER
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
EX.	EXCEPTION
MEAS.	MEASURED
O.R.	OFFICIAL RECORDS
C.M.	CONDOMINIUM MAPS
———	PERIMETER PROPERTY LINE
— — —	LOT LINE

MAP REFERENCE

[1] BLOCK DIAGRAM OF 50 VARA BLOCK 35 DATED APRIL 24, 1908 ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.

[2] "MAP SHOWING THE WIDENING OF WASHINGTON STREET FROM BATTERY ST. TO SANSOME ST.", WHICH MAP WAS FILED FOR RECORD SEPTEMBER 11, 1974, IN BOOK "W" OF MAPS, AT PAGE 27.

GENERAL NOTES

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

447 BATTERY AND 530 SANSOME PROJECT

ASSESSOR'S BLOCK 0206
SAN FRANCISCO, CALIFORNIA

BY	CHKD.	DATE	SCALE	SHEET	JOB NO.
JP	BR	6-3-25	NONE	1 OF 1	S-9745

NORTH

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

859 HARRISON STREET
SAN FRANCISCO, CA. 94107
(415) 543-4500

S-9745 BNDY PLAT_LOTS 2-13-14-17.dwg

EXHIBIT A-2
447 Battery Parcel Legal Description

S-9745

LEGAL DESCRIPTION

APN 0206-002

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

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF MERCHANT STREET AND THE WESTERLY LINE OF BATTERY STREET; RUNNING THENCE NORTHERLY ALONG SAID LINE OF BATTERY STREET 74 FEET; THENCE AT A RIGHT ANGLE WESTERLY 97 FEET; THENCE AT A RIGHT ANGLE SOUTHERLY 74 FEET TO THE NORTHERLY LINE OF MERCHANT STREET; AND THENCE AT A RIGHT ANGLE EASTERLY ALONG SAID LINE OF MERCHANT STREET 97 FEET TO THE POINT OF BEGINNING.

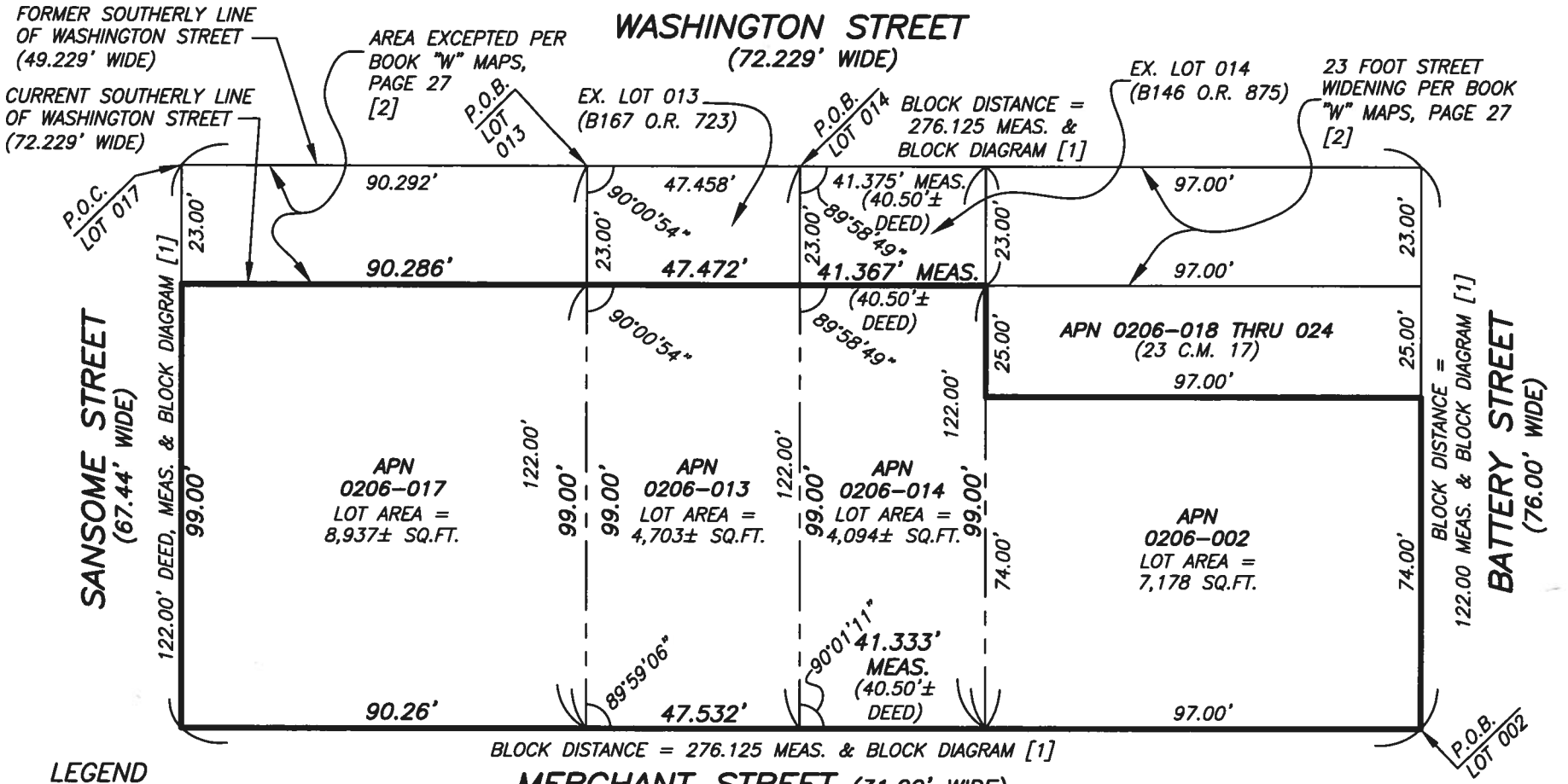
BEING A PART OF 50 VARA BLOCK NO. 35.

CONTAINING 7,178 SQ.FT.

THIS DESCRIPTION WAS PREPARED BY ME IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.

JUNE 3, 2025

BENJAMIN B. RON, PLS 5015



LEGEND

APN	ASSESSOR'S PARCEL NUMBER
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
EX.	EXCEPTION
MEAS.	MEASURED
O.R.	OFFICIAL RECORDS
C.M.	CONDOMINIUM MAPS
———	PERIMETER PROPERTY LINE
— — —	LOT LINE

MAP REFERENCE

[1] BLOCK DIAGRAM OF 50 VARA BLOCK 35 DATED APRIL 24, 1908 ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.

[2] "MAP SHOWING THE WIDENING OF WASHINGTON STREET FROM BATTERY ST. TO SANSOME ST.", WHICH MAP WAS FILED FOR RECORD SEPTEMBER 11, 1974, IN BOOK "W" OF MAPS, AT PAGE 27.

GENERAL NOTES

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

447 BATTERY AND 530 SANSOME PROJECT

ASSESSOR'S BLOCK 0206
SAN FRANCISCO, CALIFORNIA

BY	CHKD.	DATE	SCALE	SHEET	JOB NO.
JP	BR	6-3-25	NONE	1 OF 1	S-9745

NORTH

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

859 HARRISON STREET
SAN FRANCISCO, CA. 94107
(415) 543-4500

S-9745 BNDY PLAT_LOTS 2-13-14-17.dwg

EXHIBIT A-3
City Parcel Legal Description

S-9745

LEGAL DESCRIPTION

530 SANSOME STREET (APN 0206-017)

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, BEING A PORTION OF THE LANDS DESCRIBED IN THAT CERTAIN DEED RECORDED OCTOBER 4, 1967 IN BOOK B182, PAGE 400, OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF WASHINGTON STREET (49.229 FEET WIDE) AND THE EASTERLY LINE OF SANSOME STREET (67.44 FEET WIDE); RUNNING THENCE SOUTHERLY AND ALONG SAID LINE OF SANSOME STREET 122 FEET TO THE NORTHERLY LINE OF MERCHANT STREET (31.00 FEET WIDE); THENCE AT A RIGHT ANGLE EASTERLY ALONG SAID LINE OF MERCHANT STREET 90.26 FEET; THENCE NORTHERLY 122 FEET, MORE OR LESS, TO A POINT ON SAID SOUTHERLY LINE OF WASHINGTON STREET, DISTANT THEREON 90.292 FEET EASTERLY FROM SAID EASTERLY LINE OF SANSOME STREET; THENCE WESTERLY ALONG SAID LINE OF WASHINGTON STREET 90.292 FEET TO THE POINT OF COMMENCEMENT.

BEING A PART OF BEACH AND WATER LOTS 133, 134, AND 135

EXCEPTING THEREFROM THAT PORTION OF WASHINGTON STREET THAT WAS DEDICATED PER RESOLUTION NO. 403-74 DATED JUNE 3, 1974 AND SHOWN AS PARCEL 1 ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF WASHINGTON STREET FROM BATTERY ST. TO SANSOME ST." FILED FOR RECORD SEPTEMBER 11, 1974, IN BOOK "W" OF MAPS, AT PAGE 27, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

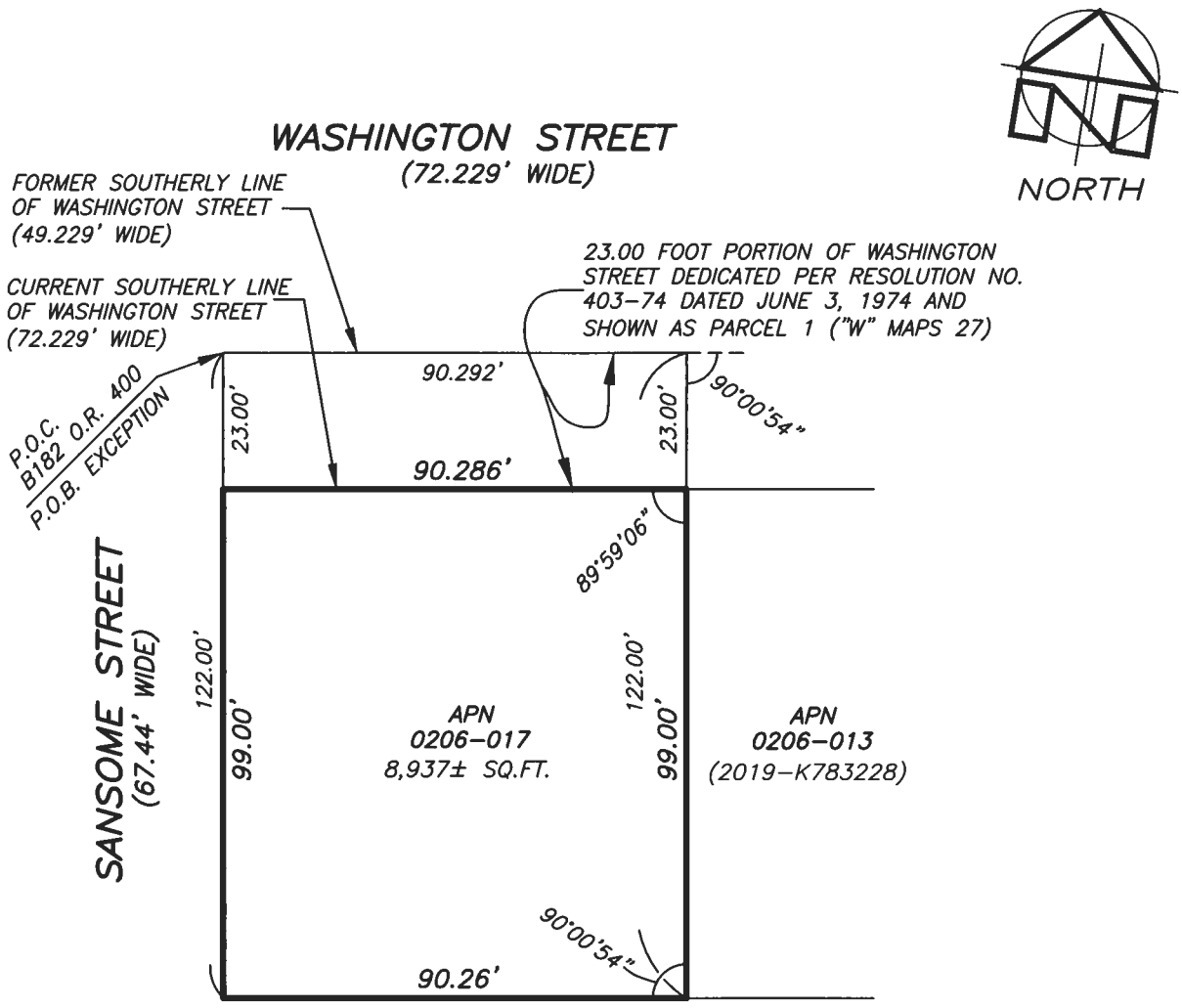
BEGINNING AT THE POINT OF INTERSECTION OF THE FORMER SOUTHERLY LINE OF WASHINGTON STREET (49.229 FEET WIDE) PRIOR TO THE DEDICATION THEREOF PER SAID RESOLUTION NO. 403-74 WITH THE EASTERLY LINE OF SANSOME STREET (67.44 FEET WIDE); THENCE EASTERLY ALONG SAID LINE OF FORMER WASHINGTON STREET 90.292 FEET; THENCE ON A DEFLECTION ANGLE OF 90°00'54" TO THE RIGHT, ALONG A LINE WHOSE END POINT IS ON THE NORTHERLY LINE OF MERCHANT STREET (31.00 FEET WIDE), DISTANT THEREON 90.26 FEET EASTERLY FROM SAID EASTERLY LINE OF SANSOME STREET, 23.00 FEET TO A POINT ON THE CURRENT SOUTHERLY LINE OF WASHINGTON STREET (72.229 FEET WIDE) AFTER THE DEDICATION THEREOF PER SAID RESOLUTION NO. 403-74, SAID SOUTHERLY LINE OF WASHINGTON STREET BEING ON A LINE THAT IS PARALLEL WITH AND PERPENDICULARLY DISTANT SOUTHERLY 23.00 FEET FROM SAID FORMER LINE OF WASHINGTON STREET; THENCE ON A DEFLECTION ANGLE OF 89°59'06" TO THE RIGHT, ALONG SAID CURRENT SOUTHERLY LINE OF WASHINGTON STREET 90.286 FEET TO SAID EASTERLY LINE OF SANSOME STREET; THENCE AT A RIGHT ANGLE NORTHERLY, ALONG SAID LINE OF SANSOME STREET 23.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 8,937± SQ.FT.

THIS DESCRIPTION WAS PREPARED BY ME IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.

JUNE 3, 2025

BENJAMIN B. RON, PLS 5015



LEGEND

APN	ASSESSOR'S PARCEL NUMBER
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
O.R.	OFFICIAL RECORDS

MAP REFERENCE

"MAP SHOWING THE WIDENING OF WASHINGTON STREET FROM BATTERY ST. TO SANSOME ST.", WHICH MAP WAS FILED FOR RECORD SEPTEMBER 11, 1974, IN BOOK "W" OF MAPS, AT PAGE 27.

GENERAL NOTES

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

PROFESSIONAL LAND SURVEYOR
BENJAMIN B. RON
Exp. 12/31/25
PLS 5015
STATE OF CALIFORNIA

ASSESSOR'S BLOCK 0206
SAN FRANCISCO, CALIFORNIA

PLAT TO ACCOMPANY LEGAL DESCRIPTION

BY	CHKD.	DATE	SCALE	SHEET	JOB NO.
JP	BR	5-29-25	NONE	1 OF 1	S-9745

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

859 HARRISON STREET
SAN FRANCISCO, CA. 94107
(415) 543-4500

S-9745 BNDY PLAT_LOT 17.dwg

EXHIBIT B
Request Letter

J. ABRAMS LAW, P.C.

538 Hayes Street
San Francisco, CA 94102

Jim Abrams
jabrams@jabramslaw.com
415-999-4402

VIA EMAIL

June 10, 2025

San Francisco Planning Department
49 South Van Ness Avenue, Suite 1400
San Francisco, California 94103
Attn: Rich Hillis, Director

Re: Application for Development Agreement for the 530 Sansome Street and Fire Station 13 Development Project, Administrative Code § 56.4

Dear Director Hillis:

Pursuant to San Francisco Administrative Code Section 56.4, EQX Jackson Sq Holdco LLC (the "Project Sponsor") submits this application for a Development Agreement with respect to the 530 Sansome Street and Fire Station 13 Development Project (also known as the 447 Battery and 530 Sansome Street project) (the "Project").

The Project is located at 530 Sansome Street, 425 Washington Street, 439-445 Washington Street, and 447 Battery Street (Assessor's Block 0206, Lots 002, 013, 014, and 017) (the "Project Site"). Project Sponsor owns 425 Washington Street (APN No. 0206-013) and 439-445 Washington Street (APN No. 0206-014) (the "Developer Parcels"). An Affiliate of the Project Sponsor is party to an agreement to purchase 447 Battery Street (APN No. 0206-002) (the "447 Battery Parcel").

The City owns 530 Sansome Street (APN No. 0206-017, the "City Parcel"), which is improved with the San Francisco Fire Department's Station 13.

I. BACKGROUND

(1) City Initiates Project to Develop New Fire Station 13

In an effort to develop affordable housing and secure funding to replace the existing Fire Station 13, the Board of Supervisors unanimously adopted two Resolutions (Resolution No. 244-17, effective June 22, 2017, and Resolution No. 143-18, effective May 17, 2018) urging the City's Real Estate Division to issue a request for proposals to redevelop the fire station. The City selected the Project Sponsor as the most responsive bidder after reviewing the responses to the call for offers.

(2) Conditional Property Exchange Agreement

To effectuate the fire station's redevelopment, the City and the Project Sponsor entered into a Conditional Property Exchange Agreement (dated July 30, 2020), as amended by a First Amendment to Conditional Property Exchange Agreement (dated as of July 27, 2022), and a Second Amendment to Conditional Property Exchange Agreement (dated as of March 27, 2023) (as amended, the "Original CPEA"). The CPEA provided for transfer of 530 Sansome Street from the City to the Project Sponsor, in exchange for the Project Sponsor constructing the replacement fire station elsewhere on the project site. The Original CPEA was approved and ratified by the Board of Supervisors under Resolution No. 220-19 (effective May 10, 2019), Resolution No. 242-20 (effective June 12, 2020), Resolution No. 543-21 (effective December 10, 2021), and Resolution 096-24 (effective March 15, 2024).

(3) Project Originally Approved in 2019

On December 20, 2019, the Project Sponsor submitted development applications to the Planning Department for a proposal to demolish the Existing Fire Station and construct on the Developer Parcels and the City Parcel (collectively, the "Original Project Site") a four-story replacement fire station and a new 19-story mixed-use building reaching a height of approximately 218 feet (approximately 236 feet including rooftop mechanical equipment), including approximately 6,470 square feet of retail/restaurant space, 40,490 square feet of office space, 35,230 square feet of fitness center space, approximately 146,065 square feet of hotel space that would accommodate 200 guest rooms, and three below-grade levels to accommodate 48 vehicle parking spaces, one loading space, vehicle service spaces, class 1 bicycle parking spaces, and utility rooms for the fire station, hotel, and retail/restaurant uses (the "Commercial Variant"). The Project Sponsor's application also included a residential variant for the Original Project Site, which proposed construction of 256 residential units in lieu of the hotel, office, fitness center, and retail/restaurant uses in the 19-story tower (the "Residential Variant," and together with the Commercial Variant, the "Original Project").

On July 29, 2021, the City's Planning Commission approved, through Resolution No. 20954 and Motion Nos. 20955 through 20958 (collectively, the "Original Approvals"), a Downtown Project Authorization, Conditional Use Authorization for a hotel use, Office Development Allocation, Shadow Findings, and findings required by CEQA, including adoption of a Mitigated Negative Declaration, for the Original Project. On March 21, 2024, the City's Planning Commission approved Motion Nos. 21533 and 21534, extending the term of the Original Approvals by five (5) years.

(4) Proposed Project

The Project Sponsor and the City have conferred and acknowledged that the development of the Original Project is not feasible due to market conditions and unforeseen design and operational challenges and that there is no City-owned property suitable for construction of the New Fire Station within the required service area of San Francisco Fire Station 13 other than the City Parcel. Accordingly, the Project Sponsor explored opportunities to revise the Original Project in a manner that could meet the design, locational, and financial objectives of the Parties.

This process resulted in the Project Sponsor's proposal to modify the Original Project to locate the New Fire Station on the 447 Battery Parcel, which is currently improved with a 20,154-square-foot, three-story building designated as a historic landmark under Article 10 of the Planning Code by Ordinance No. 43-22, adopted by the Board of Supervisors on March 15, 2022 (the "Landmark Ordinance").

On or about August 5, 2024, the Project Sponsor submitted applications proposing a material modification to the Original Project. The "Project" is a proposed mixed-use development at the Project Site including subsequent modifications permissible under a conditional use authorization approval process to be created by legislation.

The Project would include a mixed-use high-rise building up to 41 stories tall on the Original Project Site with three below-grade levels (the "Tower") and the New Fire Station on the 447 Battery Parcel with one below-grade level. The Tower would be approximately 544 feet tall (approximately 574 feet including rooftop mechanical equipment) and would include approximately 17,540 square feet of retail uses (approximately 7,405 square feet of retail/restaurant space and approximately 10,135 square feet of ballroom/pre-function/meeting space), between approximately 372,580 and 417,770 square feet of office space, and a hotel consisting of between approximately 137,280 and 198,390 square feet of hotel space that would accommodate between 100 and 200 guest rooms (the "Hotel").

The New Fire Station would be approximately 55 feet tall (60 feet including rooftop mechanical equipment) and would include approximately 31,200 square feet of space. The three below-grade levels under the Tower would provide approximately 74 accessory vehicle parking spaces, 77 class 1 bicycle parking spaces, and utility rooms. A single below-grade level under the New Fire Station would provide 18 parking spaces, four class 1 bicycle parking spaces, equipment storage spaces, and utility rooms in approximately 6,760 square feet. There would be two loading spaces on the northeastern portion of the first floor of the Tower (with ingress and egress from Washington Street).

The Project would improve the entirety of Merchant Street between Sansome Street and Battery Street with privately maintained public open space that would be maintained by the Project Sponsor for the life of the Project. (as approved by responsible City Agencies, the "Merchant Street Improvements").

On December 10, 2024, the Board of Supervisors adopted Resolution No. 629-24, generally endorsing key terms for a development agreement for the Project, with any final terms to be negotiated by the Project Sponsor and City staff and subject to subsequent approval of the Board of Supervisors.

(5) Proposed Development Agreement

The Project Sponsor now proposes a Development Agreement, related transactional documents, and associated City approvals, summarized as follows:

(A) General Plan and Planning Code Amendment. The amendments would increase the height limit applicable to the Developer Parcels and the City Parcel from 200 feet to 555 feet, and adopt a special use district and conditional use authorization process applicable to Project Site that would

(1) allow exceptions to the Planning Code to approve the design and use program of the Project, including its proposed height, bulk, and density, (2) rescind the Landmark Ordinance effective upon transfer of fee title of the 447 Battery Parcel to the City, and (3) authorize the Planning Director to approve post-entitlement modifications of the conditional use authorization consistent with the Development Agreement and special use district and conditional use authorization process controls.

(B) New Fire Station. The Development Agreement and an amendment and restatement of the Original CPEA would require the construction of a new Fire Station 13 on the 447 Battery Parcel at the Project Sponsor's sole cost.

(C) Affordable Housing Payments. The Project Sponsor would pay affordable housing funds to the City in amounts and on a schedule set forth in the Development Agreement, with a substantial amount being paid significantly earlier than affordable housing impact fees and exactions are otherwise due and regardless of whether the Project is actually built.

(D) Merchant Street Improvements. The Project Sponsor would construct and maintain the Merchant Street Improvements.

(E) Hotel Incentive Payments. The City would provide for incentive payments to the Project Sponsor based on a percentage of the transient occupancy tax revenue generated by the Hotel for a period of 25-years.

(F) Vesting. In consideration of the changes to the Project and its benefits to the City, the Development Agreement would vest the Project's modified Planning Commission entitlements for eight years from the effective date of the Development Agreement.

The Project Sponsor respectfully submits that execution of a Development Agreement will result in greater overall benefits to the City than the Original Project.

I am available to answer any questions you might have and otherwise look forward to working with you and your staff on this request.

Sincerely,

James Abrams, Esq.
Authorized Agent

cc: Rich Sucre, San Francisco Planning Department
Jonathan Vimr, San Francisco Planning Department
Anne Taupier, Mayor's Office of Economic & Workforce Development
Jonathan Cherry, Mayor's Office of Economic & Workforce Development

EXHIBIT C
Initial Approvals

A. Final approval actions by the City and County of San Francisco Board of Supervisors

1. Ordinance No. _____ approving the General Plan Amendment Ordinance.

2. Ordinance No. _____ approving the Planning Code Amendment Ordinance.

3. Ordinance No. _____ approving the Enacting Ordinance.

4. Resolution No. _____ approving the Amended CPEA.

5. Ordinance No. _____ approving the Hotel and Fire Station Development Incentive Agreement.

6. [Resolution/Ordinance] No. _____ approving Major Encroachment Permit for Merchant Street Improvements.

B. Final and Related Approval Actions of City and County of San Francisco Planning Commission

1. Motion No. _____: certifying the FEIR

2. Motion No. _____: adopting the CEQA Findings

3. Resolution No. _____: Raising the absolute cumulative limit for shadows on Maritime Plaza and Sue Bierman Park, two properties under the jurisdiction of the Recreation and Park Department that would be shadowed by the Project.

4. Motion No. _____: Adopting shadow findings consistent with the Planning Code that the shadows cast by the Project on Maritime Plaza, Sue Bierman Park, Washington Square Park, and Willie "Woo Woo" Wong Playground would not be adverse to the use of those properties.

5. Resolution No. _____: Recommending to the Board of Supervisors adoption of the General Plan Amendment Ordinance.

6. Resolution No. _____: Recommending to the Board of Supervisors of the Planning Code Amendment Ordinance.

7. Resolution No. _____: Recommending to the Board of Supervisors of the Enacting Ordinance.

8. Motion No. _____: Approving the Conditional Use Authorization.

9. Motion No. _____: Approving the Project's Office Allocation.

C. Final and Related Approval Actions of Other City and County of San Francisco Boards, Commission, and Departments

1. Recreation and Park Commission Resolution No. _____: Raising the absolute cumulative limit for shadows on Maritime Plaza and Sue Bierman Park, two properties under the jurisdiction of the Recreation and Park Department that would be shadowed by the Project.

2. Historic Preservation Commission Resolution No. _____" [Recommending / Not recommending] to the Board of Supervisors conditional rescission of the Landmark Designation in accordance with the Planning Code Amendment Ordinance.

3. [Public Works Director Order No. _____: Recommending approval of the Major Encroachment Permit for the Merchant Street Improvements.]

4. San Francisco Public Utilities Commission Resolution No. 25-0013 approving the water supply assessment for the Project

5. Arts Commission Civic Design Review Committee March 17, 2025 approval of the 447 Battery Street (Fire Station 13): Conceptual & Phase 1 Review.

EXHIBIT D

Schedule of Applicable Impact Fees and Exactions (subject to Section 3.3.1 of this Agreement)

Planning Code Section	Title	Applicable Rate
411A	Transportation Sustainability Fee	For Non-Residential Gross Floor Area between 800-99,999 square feet: $18.15 per square foot of Gross Floor Area For Non-Residential Gross Floor Area over 99,999 square feet: $20.56 per square foot of Gross Floor Area
412	Downtown Park Fee	$2.57 per square foot of net addition of office Gross Floor Area
413	Jobs-Housing Linkage Fee	$11.40 per square foot of retail gross square footage $28.21 per square foot of office gross square footage
414	Office - Child Care Impact Fee	$1.59 per square foot of office Gross Floor Area
429	Public Art	0.67% of the construction cost of the Project's building as determined by the Director of DBI (Applies separately to New Fire Station permit and Tower permit)

Notes:

(1) The New Fire Station will be exempt from Planning Code Section 411A because it will be on City property and used by City.

(2) Planning Code Section 406(h) applies to the Project subject to the timeline in Section 3.3.1 of this Agreement.

(3) Developer may elect from the options to fulfill Planning Code Section 429 requirements as set forth in Section 429.3(d).

EXHIBIT E
Preliminary Merchant Street Plans

EQX JACKSON SQ HOLDCO LLC
c/o Related California
44 Montgomery Street, Suite 1300
San Francisco, CA 94104

June 10, 2025

Denny Phan, PE
Bureau Manager
Infrastructure & Development Permitting
San Francisco Public Works
49 South Van Ness Avenue, 9th Floor
San Francisco, CA 94103

Re: 530 Sansome Street and Fire Station 13 Development Project – Merchant Street Improvements
San Francisco Public Works' Consent for Schematic Design & Maintenance Approach

Dear Mr. Phan:

This letter is in reference to a proposed Development Agreement ("DA") by and between The City & County of San Francisco ("City") and EQX JACKSON SQ HOLDCO LLC ("Developer") relative to the development project known as the 530 Sansome Street and Fire Station 13 Development Project ("Project"). Pursuant to the DA, the Developer would construct across the entire existing public right-of-way on Merchant Street between Sansome Street and Battery Street privately-maintained public open space improvements ("Merchant Street Improvements").

The improvements (described in more detail below) would be nonstandard and maintained by Developer in accordance with a future Major Encroachment Permit ("MEP") granted by the Department of Public Works ("Public Works"). The DA provides for Developer, Planning, and jurisdiction-having City departments and agencies to work on the final design of the Merchant Street Improvements. The Board of Supervisors ("BOS") would conditionally approve the MEP at the same time as the Project's DA, subject to Public Works issuing a subsequent Street Improvement Permit ("SIP"), the City and Developer finalizing and executing a Maintenance Agreement ("MEP Maintenance Agreement"), and determining construction completion by issuing a written Notice of Completion.

Impacted City departments including Public Works, SFMTA, San Francisco Fire Department ("SFFD"), SFPUC, and the Planning Department have previously reviewed the preliminary design via the Street Design Advisory Team (SDAT) process. An SDAT Review Letter was issued on November 20, 2024, and the Developer provided a responses letter on January 10, 2025. A March 6, 2025 plan check letter from the Planning Department confirmed no further SDAT review was required. At the request of the City, Developer has since completed an update survey of Merchant Street, the details of which are reflected in the updated site and landscape sheets attached hereto as Attachment A.

The Developer now requests that Public Works (1) confirm that the schematic design submittal in Attachment A (to be attached to the DA) is consistent with the plans previously reviewed by DPW through SDAT and (2) consent to the intent of the schematic design and the MEP proposed for conditional approved by the BOS with the DA. Public Works' consent would be subject to the Developer's application for, and Public Works' design review and processing of a SIP, which will require the final review and approval of impacted City departments, and a MEP approved by Public Works in accordance with BOS' conditional approval. The SIP will approve the detailed design of the Merchant Street Improvements and would be conditioned upon issuance of the MEP.

Existing Conditions

Merchant Street is a public street and currently consists of an asphalt roadway running east-to-west between Battery Street and Sansome Street and is currently accepted by Public Works for maintenance. It is bordered by concrete sidewalks, curbs and gutters on both the north and south sides, with sidewalk widths ranging from approximately 4.68 to 5.95 feet. The street is improved with various existing elements, including traffic signs, bollards, meters, and other street furnishings, as detailed in the demolition plan within the schematic design set. Existing lighting infrastructure includes (i) an overhead fixture mounted onto the northern façade of 500 Sansome Street that will remain and (ii) a freestanding street light on the northwest corner of Merchant Street and Battery Street. There are telecommunication, gas, and electrical utilities located in the street as shown on the survey included in Attachment A; however, other than an 8" SFPUC water line located at the very eastern end of the street, there are no major SFPUC facilities located in the street.

Proposed Merchant Street Improvements Subject to the MEP

The proposed Merchant Street Improvements that will be subject to the MEP will generally feature (i) sidewalks, curbs and gutters constructed of stone and integral color concrete with widened sidewalk ranging from approximately 6.25 to 11.35 feet, (ii) decorative roadway surface treatment including brick, stone setts, and/or concrete unit pavers, (iii) new street tree plantings, (iv) tabletop crosswalks at the entrances on Battery Street and Sansome Street, and (v) other pedestrian- and bike-oriented amenities (e.g. bike racks) to be further defined during the design development and construction documentation process. The proposed lighting plan includes privately owned and maintained overhead string lights spanning the length of Merchant Street in-lieu of standard City streetlights. Final design and installation of the lighting will be subject to review and approval by SFPUC, including submission of a photometrics report, and the SFFD to confirm emergency vehicle access. The Project proposes a 6" water main extension on the eastern half of Merchant that would connect to the new SFFD Fire Station 13. The City will continue to maintain standard infrastructure, as detailed in Attachment B – Draft Maintenance Plan, which may be updated from time to time prior to final execution of the MEP Maintenance Agreement.

As part of the design and engineering assessment, the following utility and infrastructure considerations have been addressed:

- Critical public utility infrastructure (e.g. services from San Francisco Public Utilities Commission ("SFPUC")) is located on other perimeter streets and not on Merchant Street. Utilities such as services provided by Verizon and Pacific Gas & Electric Company ("PG&E") (including a high voltage electric vault) are the only utilities located within Merchant Street.

- Pursuant to the MEP, the Developer or its assignee will be responsible for maintenance and repair of all special paving within the street and sidewalks, including any restoration required following third-party excavations (e.g. PG&E, Verizon, other), or City excavations for water main replacement or any other emergency repairs, in a timely manner pursuant to the Maintenance Agreement

- If required, the Developer or its assignee will bear the full cost of relocating PG&E facilities within Merchant Street.

- The Developer shall coordinate with SFFD to ensure (i) adequate access to the existing and future fire department connections and standpipes on Merchant Street, (ii) adequate ladder access to adjacent buildings and the Project, and (iii) sufficient clearance for the proposed overhead string lights to accommodate emergency operations, including training activities by SFFD Fire Station 13.

- The Developer shall apply for a PG&E power connection for the privately owned and maintained overhead string lights that will be installed in-lieu of standard City streetlights and will be responsible for ensuring the ongoing maintenance and operation of the lighting at all times.

- The proposed curb and gutter design will comply with the currently applicable stormwater design requirements for an existing City street.

Please contact me should you have any questions about the Project's schematic design and maintenance plan for the Merchant Street Improvements. Thank you for your time and consideration.

Sincerely yours,

Jonathan Shum

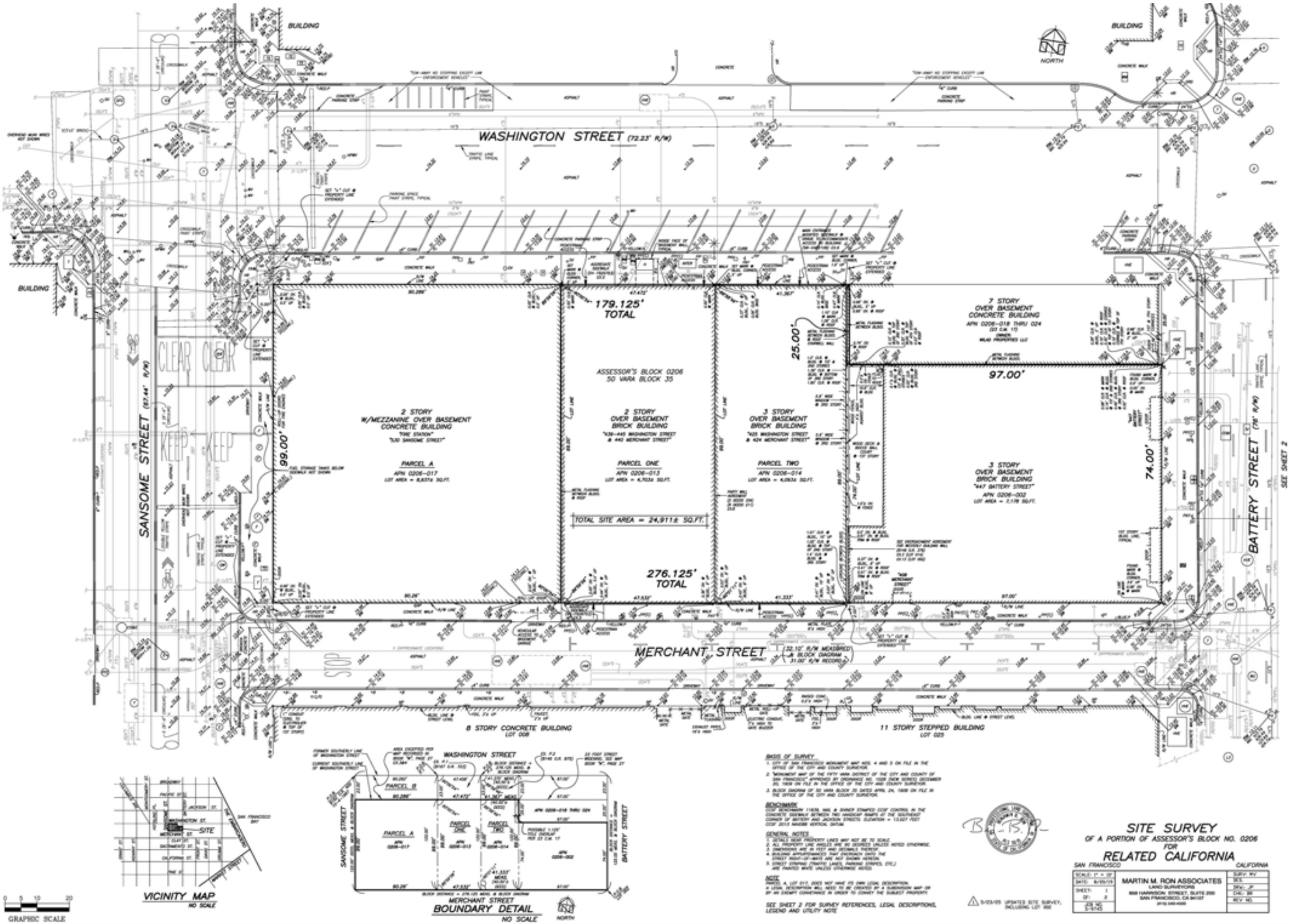
CC:

Jonathan Vimr, Planning Department
Jonathan Cherry, OEWD

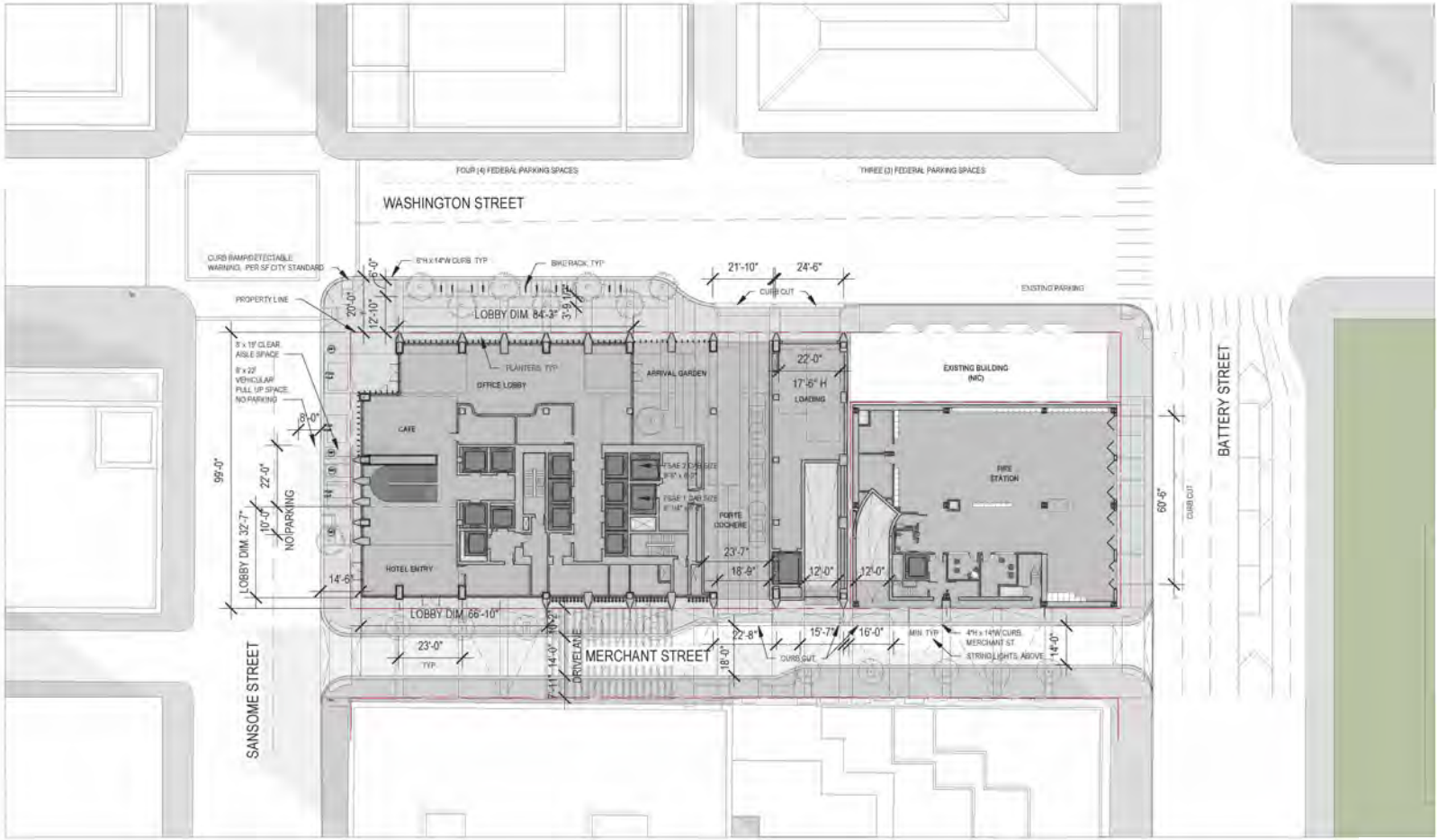
Attachments
A. Schematic Design Set
B. Draft Maintenance Plan

ATTACHMENT A

SCHEMATIC DESIGN SET


WASHINGTON STREET (72.23' R/W)
SANSOME STREET (67.44' R/W)
BATTERY STREET (76' R/W)
MERCHANT STREET
NORTH
BUILDING
CLEAR
KEEP
STOP
179.125'
TOTAL
276.125'
TOTAL
99.00'
25.00'
97.00'
74.00'
ASSESSOR'S BLOCK 0206
50 VARA BLOCK 35
2 STORY
W/MEZZANINE OVER BASEMENT
CONCRETE BUILDING
"FIRE STATION"
"530 SANSOME STREET"
PARCEL A
APN 0206-017
2 STORY
OVER BASEMENT
BRICK BUILDING
PARCEL ONE
APN 0206-013
3 STORY
OVER BASEMENT
BRICK BUILDING
PARCEL TWO
APN 0206-014
7 STORY
OVER BASEMENT
CONCRETE BUILDING
APN 0206-018 THRU 024
3 STORY
OVER BASEMENT
BRICK BUILDING
"447 BATTERY STREET"
APN 0206-002
TOTAL SITE AREA = 24,911± SQ.FT.
8 STORY CONCRETE BUILDING
11 STORY STEPPED BUILDING
SEE SHEET 2
VICINITY MAP
NO SCALE
SITE
BOUNDARY DETAIL
NO SCALE
GRAPHIC SCALE
BASIS OF SURVEY
BENCHMARK
GENERAL NOTES
SITE SURVEY
OF A PORTION OF ASSESSOR'S BLOCK NO. 0206
FOR
RELATED CALIFORNIA
SAN FRANCISCO
CALIFORNIA
MARTIN M. RON ASSOCIATES
LAND SURVEYORS

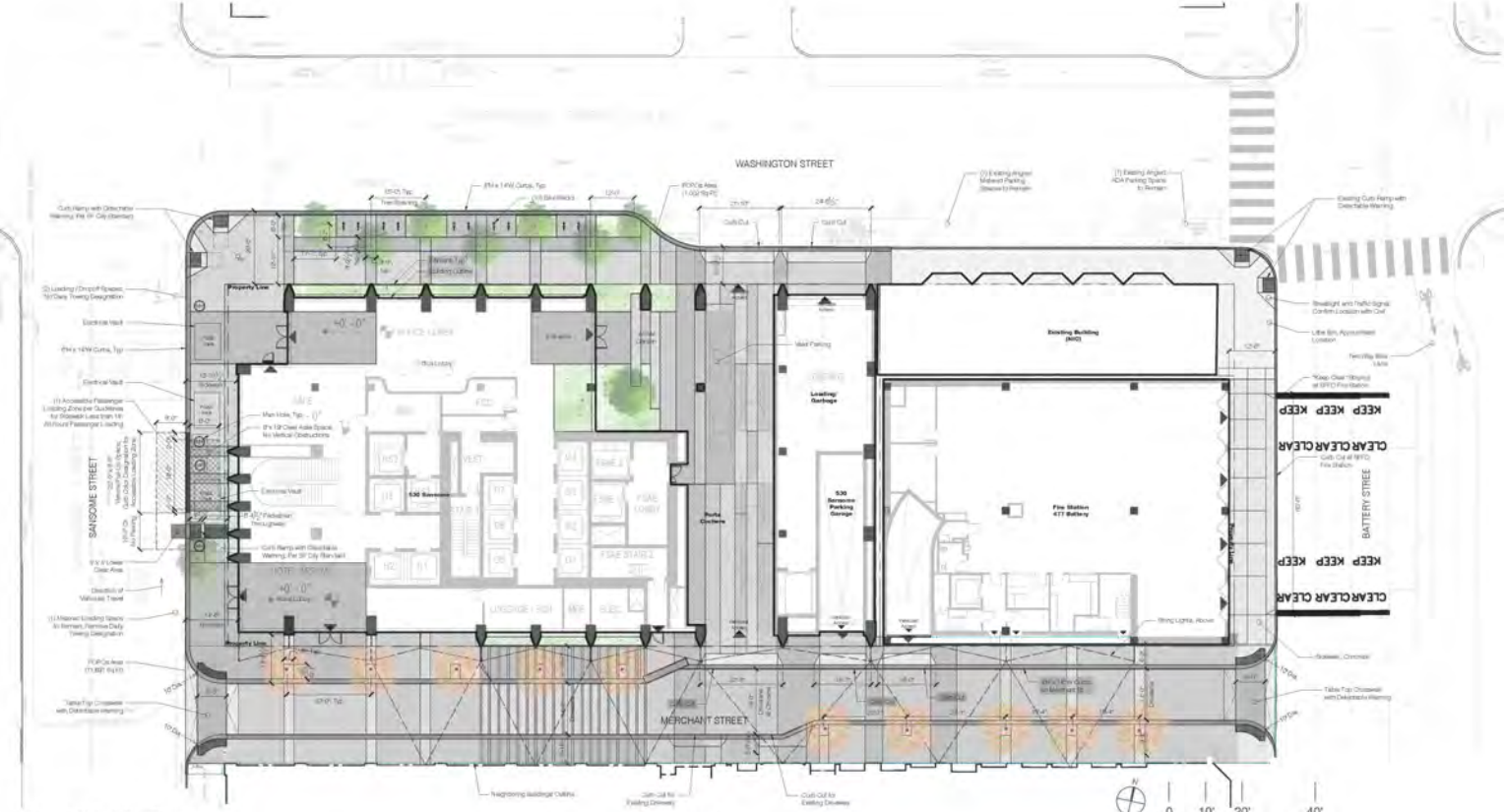
Page 4 of 70



PROJECT APPLICATION (PRJ)
JUNE 2024 I JUNE 2025

SITE PLAN
SCALE: 1/32" = 1'-0"

447 BATTERY & 530 SANSOME
SKIDMORE, OWINGS & MERRILL LLP



Materials and Site Elements

- Curbs on Merchant - Basalt Stone
- Curbs-IntegralColorConcrete
- 10 - Bike Racks
- Long Format Paving - Brick, Stone Setts and Concrete Unit Paver

Tree Legend

- 10 - Higan Cherry Tree, Prunus x subhirtella 'Autumnalis'
- 9 - Primrose Tree, Lagunaria patersonii

POPOs

Approximate Area: 12,700 SqFt

PROJECT APPLICATION (PRJ)
JUNE 2024 I JUNE 2025

PROPOSED LANDSCAPE STREET LEVEL PLAN
SCALE: 1/32"=1'-0"

447 BATTERY & 530 SANSOME
SKIDMORE, OWINGS & MERRILL LLP

ATTACHMENT B

DRAFT MAINTENANCE PLAN

San Francisco Public Utilities Commission = SFPUC
San Francisco Municipal Transportation Agency = SFMTA
Major Encroachment Permit = MEP

Infrastructure Component	Ownership	Maintenance	Maintenance Standard	Instrument Memorializing Maintenance Duties	Maintenance Obligation Security?	Additional Notes
Existing Infrastructure to Remain						
Standard Street Lights	SFPUC	SFPUC	Public Works Code	N/A	N/A	-
Merchant Street Improvements SIP Infrastructure						
6" SFPUC Water Main Extension	SFPUC	SFPUC	Public Works Code	N/A	N/A	Developer responsible for restoring SIP improvements damaged or removed by SFPUC to standards set forth in Operation and Maintenance Manual included in MEP
Nonstandard Street Paving	Developer or Assignee	Developer or Assignee	To standard defined in Operation and Maintenance Manual included in MEP consistent with equivalent Public Works standards	MEP	No	May include traffic-calming features designed to reduce vehicle speed

Infrastructure Component	Ownership	Maintenance	Maintenance Standard	Instrument Memorializing Maintenance Duties	Maintenance Obligation Security?	Additional Notes
Nonstandard Sidewalks	Developer or Assignee	Developer or Assignee	To standard defined in Operation and Maintenance Manual included in MEP consistent with equivalent Public Works standards	MEP	No	-
Driveways	Developer or Assignee	Developer or Assignee	To standard defined in Operation and Maintenance Manual included in MEP consistent with equivalent Public Works standards	MEP	No	Developer will replace all existing driveways on the south side of Merchant (ie serving adjacent properties) each with substantially the same curb cut width
Nonstandard curbs	Developer or Assignee	Developer or Assignee	To standard defined in Operation and Maintenance Manual included in MEP consistent with equivalent Public Works and SFPUC stormwater standards	MEP	No	-
Bicycle Parking Racks	Developer or Assignee	Developer or Assignee	To standard defined in Operation and	MEP	No	-

Infrastructure Component	Ownership	Maintenance	Maintenance Standard	Instrument Memorializing Maintenance Duties	Maintenance Obligation Security?	Additional Notes
			Maintenance Manual included in MEP consistent with equivalent SFMTA and Public Works standards			
Street Trees	Public Works	Developer or Assignee, unless Voluntary Maintenance Agreement revoked	Public Works Code Article 16	Voluntary Maintenance Agreement under Charter 16.129(c) and Public Works Director's Order 187246	No	Developer or Assignee has planting responsibility and must ensure tree is viable through the establishment period before Public Works will assume ownership responsibility
Nonstandard Street Lighting	Developer or Assignee	Developer or Assignee	To standard defined in Operation and Maintenance Manual included in MEP consistent with SFPUC photometric requirements and SFFD emergency vehicle clearance requirements	MEP	No	-

Infrastructure Component	Ownership	Maintenance	Maintenance Standard	Instrument Memorializing Maintenance Duties	Maintenance Obligation Security?	Additional Notes
Standard Roadway and Traffic Routing Signage and Striping	SFMTA	SFMTA	Transportation Code	N/A	No	Any stop signs, speed limit signs, travel lane striping, and crosswalk striping as required in SIP.
Nonstandard living alley signage	Developer or Assignee	Developer or Assignee	To standard defined in Operation and Maintenance Manual included in MEP consistent with SFPUC photometric requirements	MEP	No	Wayfinding and traffic-calming signage, which could be affixed to poles in the right of way or outside the right of way to the adjacent building on the north side of Merchant Street.
City standard trash receptacles	Public Works	Public Works	Public Works Code	MEP	No	To be determined if included in the SIP
Bollards or Other Temporary Street Closure Improvements	Developer or Assignee	Developer or Assignee	To standard defined in Operation and Maintenance Manual included in MEP consistent with equivalent Public Works standards	MEP	No	To be determined if included in the SIP
Non-City Utility Systems	Any 3rd Party Utilities	Utility Owner	As required for Utility Owner	N/A	No	Developer responsible for restoring SIP improvements

Infrastructure Component	Ownership	Maintenance	Maintenance Standard	Instrument Memorializing Maintenance Duties	Maintenance Obligation Security?	Additional Notes
						damaged or removed by Utility Owner to standards set forth in Operation and Maintenance Manual included in MEP
Street furnishings (e.g. seating)	Developer or Assignee	Developer or Assignee	To standard defined in Operation and Maintenance Manual included in MEP consistent with equivalent Public Works standards	MEP	No	-
Any other standard infrastructure installed in accordance with SIP	Jurisdiction-having City Agency	Jurisdiction-having City Agency	Applicable City Code	N/A	No	-
Other nonstandard improvements agreed to by Developer, Planning Director, and Public Works in accordance with DA and approved by SIP	Developer or Assignee	Developer or Assignee	To standard defined in Operation and Maintenance Manual included in MEP consistent with equivalent Public Works standards	MEP	No	-

EXHIBIT F
Workforce Agreement

EXHIBIT F
Workforce Agreement

This Workforce Agreement ("**Workforce Agreement**") is Exhibit F to the 530 Sansome Mixed-Use Tower and Fire Station 13 Development Project Development Agreement (the "**Development Agreement**") by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), and EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company, and its permitted successors and assigns ("**Developer**"), and sets forth the employment and contracting requirements for the construction of the Project. Unless otherwise specified in this Workforce Agreement, rules of interpretation shall be as provided in the Development Agreement, and any capitalized term used in this Workforce Agreement, including its attachments, that is not defined herein shall have the meaning given to such term in the Development Agreement or Chapters 82 ("**Chapter 82**") and 83 ("**Chapter 83**") of the San Francisco Administrative Code, as applicable.

Developer shall require Project Sponsors, Contractors, Consultants, Subcontractors, and Subconsultants (all as defined in the attachments hereto), as applicable, to undertake activities to support workforce development in the construction and operations of the Project, as set forth in this Workforce Agreement.

A. DEFINITIONS

1. "**Commercial Activity**" means retail sales and services, restaurant, hotel, education, hospital, and office uses, biotechnology business, and any other non-profit or for-profit commercial uses. A biotechnology business conducts biotechnology research and experimental development, and operating laboratories for biotechnology research and experimental development, using recombinant DNA, cell fusion, and bioprocessing techniques, as well as the application thereof to the development of diagnostic products and/or devices to improve human health, animal health, and agriculture.

2. "**Commercial Lease**" is any lease, sublease, or other contract allowing a Commercial Tenant to occupy the Tower.

3. "**Commercial Tenant**" means a tenant that enters into a Commercial Lease for more than 25,000 square feet in floor area for a Commercial Activity.

4. "**Construction Work**" means the initial construction of the Tower and New Fire Station to be carried out by a Developer, and any subsequent work that requires a Permit during the Workforce Period. Construction Work does not include the delivery of materials to or from a construction site.

5. "**OEWD**" means the City's Office of Economic and Workforce Development.

6. "**Permit**" means (1) any building permit application for a Commercial Activity over 25,000 square feet in floor area and involving new construction, an addition, or alteration which results in the creation of entry and apprentice level positions for a Commercial Activity; or (2) any application which requires discretionary action by the City's Planning Commission relating

to a Commercial Activity over 25,000 square feet including, but not limited to an office development under San Francisco Planning Code Section 320, *et seq*.

7. "**Workforce Period**" means, with respect to the Tower or New Fire Station, the ten (10) year period following issuance of the first temporary certificate of occupancy for the Tower or the New Fire Station, respectively, and with respect to the Merchant Street Improvements, the ten (10) year period following DPW's issuance of a Certificate of Conformity for the Merchant Street Improvements as required by the Street Permits.

B. FIRST SOURCE HIRING PROGRAM FOR TOWER

1. First Source Hiring for Construction of Tower. From the Effective Date of the Development Agreement until the expiration of the Workforce Period for the Tower, Developer must (i) include in each contract for Construction Work for the Tower a provision requiring each Contractor to enter into a FSHA Construction Agreement in the form attached hereto as Attachment A before beginning any Construction Work, and (ii) provide a signed copy of the FSHA Construction Agreement to the First Source Hiring Administration ("**FSHA**") and CityBuild within ten (10) business days of execution. CityBuild shall provide referrals (as a representative of FSHA) of Qualified Economically Disadvantaged Individuals for Entry Level Positions (all as defined in Chapter 83) on the Construction Work for the Tower and New Fire Station as required under Chapter 83. The First Source Hiring requirements for construction in this Section B.1 shall not apply to the New Fire Station.

a. First Source Hiring for Tower Operations. During the Workforce Period for the Tower, Developer shall include in all Commercial Leases for the Tower a requirement that the Commercial Tenant enter into an FSHA Operations Agreement in the form attached hereto as Attachment B. Developer will require the applicable Commercial Tenant to provide a signed copy of each FSHA Operations Agreement to Developer within ten (10) business days of execution of the Commercial Lease. The FSHA will provide referrals of Qualified Economically Disadvantaged Individuals for permanent Entry Level Positions located within the premises occupied by the applicable Commercial Tenant as required under Chapter 83.

2. Provisions Applicable to First Source Hiring Construction and Operations Requirements.

a. FSHA shall notify any Contractor, Subcontractor, and Commercial Tenant, as applicable, in writing, with a copy to Developer, of any alleged breach on the part of that entity of its obligations under Chapter 83 or its FSHA Construction Agreement or the FSHA Operations Agreement, as applicable, before seeking an assessment of liquidated damages pursuant to Section 83.12 of the Administrative Code. FSHA's sole remedies against a Contractor, Subcontractor, or Commercial Tenant shall be as set forth in Chapter 83, including the enforcement process. Upon FSHA's request, Developer shall reasonably cooperate with FSHA in any such enforcement action against any Contractor, Subcontractor, or Commercial Tenant, provided in no event shall a Project Sponsor be liable for any breach by a Contractor, Subcontractor, or Commercial Tenant.

b. If Developer fulfills its obligations as set forth in this Section B, it shall not be held responsible for the failure of a Contractor, Subcontractor, Commercial Tenant, or any other

person or party to comply with the requirements of Chapter 83 or this Section B. If Developer fails to fulfill its obligations under this Section B, the applicable provisions of Chapter 83 shall apply.

c. This Section B is an approved "First Source Hiring Agreement" as referenced in Section 83.11 of the Administrative Code.

C. LOCAL HIRING REQUIREMENTS FOR NEW FIRE STATION

From the Effective Date of the Development Agreement until the expiration of the Workforce Period for the New Fire Station, Developer and their contractors performing Construction Work (and their subcontractors regardless of tier) must comply with the Local Hiring Requirements set forth in this Section C with respect to Construction Work for the New Fire Station. The Local Hire Requirements set forth in this Section C shall not apply to Construction Work for the Tower. Any capitalized term used in this Section C that is not defined herein shall have the meaning given to such term in Chapter 82.

1. General Provisions.

a. Local Hiring Policy: Developer shall comply with all applicable requirements of the San Francisco Local Hiring Policy for Construction ("**Policy**") as set forth in Section 6.22(g) of the San Francisco Administrative Code and Chapter 82. The provisions of the Policy are incorporated by references into this Workforce Agreement. Developer agrees that Developer has had a full and fair opportunity to review and understand the terms of the Policy.

b. Compliance: Developer shall require the General Contractor (as defined in the Development Agreement) and all contractors or subcontractors performing Construction Work on behalf of the Developer as part of the New Fire Station to comply with all applicable requirements of the Policy.

c. Enforcement: Developer agrees that OEWD will have the authority to enforce all terms of the Policy. Further information on the Policy and its implementation may be found at the OEWD website at: www.workforcedevelopmentsf.org.

2. Local Hire Requirements. Developer shall comply with the following with respect to the Construction Work for the New Fire Station:

a. Local Hire by Construction Trade: Mandatory participation level in terms of Project Work Hours within each trade to be performed by Local Residents is 30%, with a goal of no less than 15% of Project Work Hours within each trade to be performed by Disadvantaged Workers.

b. Local Apprentices: At least 50% of the Project Work Hours performed by apprentices within each construction trade shall be performed by Local Residents, with a goal of no less than 25% of Project Work Hours performed by apprentices within each trade to be performed by Disadvantaged Workers.

c. Conditional Waiver. OEWD may grant conditional waivers of the Local Hire requirements for the New Fire Station if it finds that the General Contractor has participated to the extent feasible in available pipeline and retention mechanisms, the General Contractor has undertaken all corrective actions issued by OEWD, and considering all referral sources and estimates of workers residing in the City, there will be insufficient numbers of qualified and available Local Residents and/or Disadvantaged Workers to enable the General Contractor or its subcontractors to satisfy the Local Hire requirements in Sections C.2.a and C.2.b.

d. Construction Contracts: Developer shall include the terms of this Policy in the contract with the General Contractor and in every construction contract and subcontract entered in to for performance of Construction Work of the New Fire Station. Developer shall notify OEWD immediately upon execution of all construction contracts.

e. Preconstruction Meeting: Prior to commencement of construction of the New Fire Station, General Contractor and all construction subcontractors shall attend a preconstruction meeting convened by OEWD staff. Representatives from General Contractor and all construction subcontractors who attend the pre-construction meeting must have hiring authority.

f. Forms and Payroll Submittal: General Contractor and all construction subcontractors shall utilize the City's web based payroll system to submit all of OEWD's required Local Hiring Forms and Certified Payroll Reports, to the extent such web based payroll system is operational. If the City's web based payroll system is not properly functioning, Developer, General Contractor, and any subcontractors shall not be liable for the failure to submit any information or forms required under this Section C.2.f. The General Contractor shall submit Local Hiring Forms prior to commencement of construction and within fifteen (15) calendar days from award of contract. The General Contractor must submit payroll information on all subcontractors who will perform Construction Work on the New Fire Station regardless of tier and contract amount. The General Contractor and all construction subcontractors shall submit Certified Payroll Reports on a weekly basis.

g. Recordkeeping: General Contractor and all construction subcontractors shall keep, or cause to be kept, for a period of four (4) years from the date of completion of project work, payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing Construction Work on the New Fire Station. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident, and the referral source or method through which the contractor or subcontractor hired or retained that worker for work on the project. General Contractor and all construction subcontractors may verify that a worker is a local resident by following OEWD's domicile policy. All records described in this subsection shall at all times be open to inspection and examination by OEWD.

h. Monitoring: From time to time and in its sole discretion, OEWD may monitor and investigate compliance of General Contractor and all construction subcontractors

performing Construction Work on the New Fire Station. General Contractor shall allow representatives of OEWD, in the performance of their duties, to engage in random inspections of the construction site for the New Fire Station. General Contractor and all construction subcontractors shall also allow representatives of OEWD to have access to employees of General Contractor and all construction subcontractors and the records required to be maintained under the Policy.

i. Noncompliance and Penalties: Failure of General Contractor and/or its construction subcontractors to comply with the requirements of the Policy may subject General Contractor to the consequences of noncompliance specified in Chapter 82.8(f) of the Administrative Code, including but not limited to the penalties prescribed in Chapter 82.8(f)(2). In the event the General Contractor fails to adhere to the penalties administered by OEWD, the Developer will be responsible for penalties for noncompliance. The assessment of penalties for noncompliance shall not preclude the City from exercising any other rights or remedies to which it is entitled. Refer to Chapter 82.8(f)(2)(4) for a description of the recourse procedure applicable to penalty assessments under the Policy.

D. LOCAL BUSINESS ENTERPRISE (LBE) UTILIZATION PROGRAM FOR TOWER AND NEW FIRE STATION

From the Effective Date of the Development Agreement until the expiration of the Workforce Period for the Tower and New Fire Station, as applicable, each Project Sponsor (as defined in Attachment C) of the Tower and New Fire Station, and its respective Contractors and Consultants (both as defined in Attachment C), shall comply with the Local Business Enterprise Utilization Plan set forth in Attachment C hereto.

E. PREVAILING WAGES AND WORKING CONDITIONS FOR CONSTRUCTION OF THE PROJECT

From the Effective Date of the Development Agreement until the expiration of the Workforce Period for the Tower, New Fire Station, and Merchant Street Improvements, as applicable, Developer agrees that all persons performing Construction Work on the Tower, New Fire Station, and Merchant Street Improvements will be (i) paid not less than the Prevailing Rate of Wages as defined in Labor and Employment Code Section 101.1 and established under Labor and Employment Code Section 103.2, and (ii) provided the same hours, working conditions, and benefits as in each case are provided for similar work performed in the City. Developer shall include this requirement in any contract for Construction Work entered into by Developer for the Tower, New Fire Station, or Merchant Street Improvements. Any contractor or subcontractor performing Construction Work for the Tower, New Fire Station, or Merchant Street Improvements must make certified payroll records and other records required under Labor and Employment Code Section 103.3(e) available for inspection and examination by the City with respect to all workers performing covered labor. The City's Office of Labor Standards Enforcement enforces applicable labor laws on behalf of the City, and shall be the lead agency responsible for ensuring that prevailing wages are paid and other payroll requirements are met in connection with the Construction Work, all to the extent required hereunder.

F. ENTIRETY OF LOCAL HIRING, FIRST SOURCE HIRING, LBE, AND PREVAILING WAGE OBLIGATIONS FOR TOWER AND NEW FIRE STATION

The obligations set forth in this Workforce Agreement shall constitute the entirety of the Local Hiring, First Source Hiring, LBE, and prevailing wage obligations with respect to the Project, and no additional Local Hiring, First Source Hiring, LBE, or prevailing wage obligations, or any similar obligations shall be imposed, directly or indirectly, on the Project.

G. GENERAL PROVISIONS

1. **Enforcement**. OEWD shall have the authority to enforce the requirements set forth in Section B and Section C. OEWD staff agree to implement this Workforce Agreement in good faith and in a manner that will create efficiencies and avoid redundancies and will work with all of the Project's stakeholders, including Developer and Transferees, and construction contractors (and subcontractors) in a fair, nondiscriminatory, and consistent manner.

2. **Third Party Beneficiaries**. Each contract for Construction Work shall provide that OEWD shall have third party beneficiary rights thereunder for the limited purpose of enforcing the requirements of this Workforce Agreement applicable to such party directly against such party.

3. **Exclusivity**. The City, OEWD, and Developer have agreed that this Workforce Agreement will constitute the City's exclusive workforce requirements for the Project. Without limiting the generality of the foregoing, if the City implements or modifies any workforce development policy or requirements after the date of this Workforce Agreement, whether relating to construction or operations, that would otherwise apply to the Project and Developer asserts that such change as applied to the Project would be prohibited by the Development Agreement (including an increase in the obligations of Developer or their contractors under any provisions of the Development Agreement), then any rights and remedies provided thereunder, including without limitation the provisions of Section 7.9 (Future Changes to Existing Standards), shall apply.

4. **Successors and Assigns**. This Workforce Agreement is a part of the Development Agreement and shall be binding upon and inure to the benefit of all successors and assigns of Developer under the Development Agreement subject to Article 10 thereof.

Attachments:

Attachment A	**Form of First Source Hiring Agreement for Construction**
	Attachment A, Form 1: CityBuild Workforce Projection
	Attachment A, Form 3: CityBuild Job notice
Attachment B	**Form of First Source Hiring Agreement for Operations**
	Attachment B, Form 1: First Source Workforce Projection
Attachment C	**Local Business Enterprise Utilization Plan**

Attachment A
First Source Hiring for Construction

Attachment A
First Source Hiring Agreement for Construction

This First Source Hiring Agreement (this "**Agreement**"), is made as of , by and between the City and County of San Francisco, a municipal corporation, acting by and through its First Source Hiring Administration (the "**FSHA**"), and the undersigned contractor ("**Contractor**"):

RECITALS

WHEREAS, Contractor has executed or will execute an agreement (the "**Contract**") to construct or oversee a portion of the Construction Work for a new mixed-use high-rise tower (such portion of the Construction Work, the "**Project**") at , Lots in Assessor's Block , San Francisco California ("**Site**"), and a copy of this Agreement is attached as an exhibit to, and incorporated in, the Contract; and

WHEREAS, pursuant to that certain Workforce Agreement attached to that certain Development Agreement between EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company ("**Developer**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "**City**"), dated as of _____ __, 2025 (the "**Workforce Agreement**"), Developer agreed to provide notice in certain construction contracts a requirement that the contractor enter into a FSHA Construction Agreement, substantially in the form attached to the Workforce Agreement as Attachment A;

WHEREAS, as a material part of the consideration given by Contractor under the Contract, Contractor has agreed to execute this Agreement and participate in the San Francisco Workforce Development System established by the City and County of San Francisco, pursuant to Chapter 83 of the San Francisco Administrative Code;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. DEFINITIONS

For purposes of this Agreement, initially capitalized terms shall be defined as follows:

a. "**Collective Bargaining Agreements**" mean any consent decrees, collective bargaining agreements, project labor agreement, project stabilization agreement, existing employment contract or other labor agreement or labor contract applicable to the Project.

b. "**Core**" or "**Existing**" workforce. Contractor's "core" or "existing" workforce shall consist of any worker who appears on the Contractor's active payroll submitted into the City's certified payroll system for at least sixty (60) days of the one hundred (100) working days prior to the award of the Contract.

c. "**Economically Disadvantaged Individual**". An individual who is either (a) eligible for services under the Workforce Investment Act of 1998 (29 U.S.C.A. 2801, *et seq*.), as may be amended from time to time, or (b) designated as "economically disadvantaged" by the Office of Economic and Workforce Development ("OEWD") or FSHA as an individual who is at risk of relying upon, or returning to, public assistance.

d. "**Entry Level Position**". A non-managerial position that requires no education above a high school diploma or certified equivalency, and less than two (2) years training or specific preparation, and shall include temporary and permanent jobs, and construction jobs related to the development of a commercial activity.

e. "**First Opportunity**". Consideration by Contractor of System Referrals for filling Entry Level Positions prior to recruitment and hiring of non-System Referral job applicants.

f. "**Hiring opportunity**". When a Contractor adds workers to its existing workforce for the purpose of performing the work under the Contract, a "hiring opportunity" is created. For example, if the carpentry subcontractor has an existing crew of five carpenters and needs seven carpenters to perform the work, then there are two hiring opportunities for carpentry on the Project.

g. "**Job Classification**". Categorization of employment opportunity or position by craft, occupational title, skills, and experience required, if any.

h. "**Job Notification**". Written notice, in accordance with Section 2(b) below, from Contractor to FSHA for any available Entry Level Position during the term of the Contract.

i. "**New hire**". A "new hire" is any worker who is not a member of Contractor's core or existing workforce.

j. "**Publicize**". Advertise or post available employment information, including participation in job fairs or other forums.

k. "**Qualified**". An Economically Disadvantaged Individual who meets the minimum bona fide occupational qualifications provided by Contractor to the System in the job availability notices required by this Agreement.

l. "**Referral**". A referral is an individual member of the CITYBUILD Referral Program who has received training appropriate to entering the construction industry workforce.

m. "**System**". The San Francisco Workforce Development System established by the City and County of San Francisco, and managed by OEWD, for maintaining (1) a pool of Qualified individuals, and (2) the mechanism by which such individuals are certified and referred to prospective employers covered by the First Source Hiring requirements under Chapter 83 of the San Francisco Administrative Code. Under

this Agreement, CityBuild will act as the representative of the San Francisco Workforce Development System.

n. "**System Referrals**". Referrals by CityBuild of Qualified applicants for Entry Level Positions with Contractor.

o. "**Subcontractor**". A person or entity who has a direct contract with Contractor to perform a portion of the work under the Contract.

p. "**Workforce participation goal**". The workforce participation goal is expressed as a percentage of the Contractor's and its Subcontractors' new hires for the Project.

2. PARTICIPATION OF CONTRACTOR IN THE SYSTEM

a. With respect to the Contract, the Contractor agrees to work in good faith with OEWD's CityBuild Program to achieve the goal of fifty percent (50%) of new hires for employment opportunities in the construction trades and Entry-level Positions related to providing support to the construction industry.

The Contractor shall provide CityBuild the following information about the Contractor's employment needs under the Contract:

i. On the CityBuild Workforce Projection Form 1, Contractor will provide a detailed numerical estimate of journey and apprentice level positions to be employed on the Project for each trade.

ii. Contractor is required to ensure that a CityBuild Workforce Projection Form 1 is also completed by each of its Subcontractors.

iii. Contractor will collaborate with CityBuild staff to identify, by trade, the number of Core workers at Project start and the number of workers at Project peak; and the number of positions that will be required to fulfill the workforce participation goal.

iv. Contractor and Subcontractors will provide documented verification that its Core employees for the Contract meet the definition listed in Section 1.a.

v. Contractor will notify CityBuild of new-hire opportunities by submitting Job Notice Form 3, when hiring opportunities are available.

b. The Contractor shall perform the following in its good faith efforts to meet the workforce participation goal set forth in Section 2.a above:

i. Contractor must (A) give good faith consideration to all CityBuild Referrals, (B) review the resumes of all such referrals, (C) conduct interviews for posted Entry Level Positions in accordance with the non-discrimination provisions of this Agreement, and (D) satisfy the affirmative obligation to notify CityBuild of any new entry-level positions throughout

the life of the project.

ii. Contractor must provide constructive feedback to CityBuild on all System Referrals in accordance with the following:

(A) If Contractor meets the criteria in Section 5(a) below that establishes "good faith efforts" of Contractor, Contractor must only respond orally to follow-up questions asked by the CityBuild account executive regarding each System Referral.

(B) After Contractor has filled at least five (5) hiring opportunities under this Agreement, if Contractor is unable to meet the criteria in Section 5(a) below that establishes "good faith efforts" of Contractor, Contractor will be required to provide written comments on all System Referrals.

c. Contractor must provide timely notification to CityBuild as soon as the job is filled, and identify by whom.

3. CONTRACTOR RETAINS DISCRETION REGARDING HIRING DECISIONS

Contractor agrees to offer the System the First Opportunity to provide qualified applicants for employment consideration in Entry Level Positions, subject to any enforceable Collective Bargaining Agreements. Contractor shall consider all applications of Qualified System Referrals for employment. Provided Contractor utilizes nondiscriminatory screening criteria, Contractor shall have the sole discretion to interview and hire any System Referrals.

4. COMPLIANCE WITH COLLECTIVE BARGAINING AGREEMENTS

Notwithstanding any other provision hereunder, if Contractor is subject to any Collective Bargaining Agreement(s) requiring compliance with a pre-established applicant referral process, Contractor's only obligations with regards to any available Entry Level Positions subject to such Collective Bargaining Agreement(s) during the term of the Contract shall be the following:

a. Contractor shall notify the appropriate union(s) of the Contractor's obligations under this Agreement and request assistance from the union(s) in referring Qualified applicants for the available Entry Level Position(s), to the extent such referral can conform to the requirements of the Collective Bargaining Agreement(s).

b. Contractor shall use "name call" privileges, to the extent set forth in any applicable Collective Bargaining Agreement(s), to seek Qualified applicants from the System for the available Entry Level Position(s).

c. Contractor shall sponsor Qualified apprenticeship applicants, referred through the System, for applicable union membership.

5. CONTRACTOR'S GOOD FAITH EFFORT TO COMPLY WITH ITS OBLIGATIONS HEREUNDER

Contractor will make good faith efforts to comply with its obligations to participate in the System under this Agreement. Determinations of Contractor's good faith efforts shall be in accordance with the following:

a. Contractor shall be deemed to have used good faith efforts if Contractor accurately completes and submits prior to the start of demolition and/or construction CityBuild Workforce Projection Form 1; and ongoing submission of Form 3 Job Notice when new-hire opportunities are available.

b. Contractor's failure to meet the criteria set forth from Section 5(c) to 5(m) does not impute "bad faith." Failure to meet the criteria set forth in Section 5(c) to 5(m) shall trigger a review of the referral process and the Contractor's efforts to comply with this Agreement. Such review shall be conducted by FSHA in accordance with Section 11(c) below.

c. Meet with the Project's owner, developer, general contractor, or CityBuild representative to review and discuss your plan to meet your hiring obligations under San Francisco's First Source Hiring Ordinance (Municipal Code Chapter 83) or the City and County of San Francisco Administrative Code Chapter 6.

d. Contact a CityBuild representative to review your hiring projections and goals for the Project. The Project developer and/or Contractor must take active steps to advise all of its Subcontractors of the hiring obligations on the Project, including, but not limited to, providing CityBuild access and presentation time at each pre-bid, each pre-construction, and if necessary, any progress meeting held throughout the life of the Project.

e. Submit to CityBuild a "Projection of Entry Level Positions" form or other formal written notification specifying your expected hiring needs during the Project's duration.

f. Notify your respective union(s) regarding your hiring obligations and request their assistance in referring qualified San Francisco residents for any available position(s). This step applies to the extent that such referral would not violate your union's Collective Bargaining Agreement(s).

g. Be sure to reserve your "name call" privileges for qualified applicants referred through the CityBuild system. This should be done within the terms of applicable Collective Bargaining Agreement(s).

h. Provide CityBuild with up-to-date list of all trade unions affiliated with any work on the Project in a timely matter in order to facilitate CityBuild's notification to these unions of the Project's workforce requirements.

i. Submit a "Job Request" in the form attached hereto as Attachment A-1, Form 3, to

CityBuild for each apprentice level position that becomes available. Please allow a minimum of three (3) business days for CityBuild to provide appropriate candidate(s). You should simultaneously contact your union about the position as well, and let them know that you have contacted CityBuild as part of your hiring obligations.

j. Contractor has an ongoing, affirmative obligation and must advise each of its Subcontractors of their ongoing obligation to notify CityBuild of any/all apprentice level openings that arise throughout the duration of the Project, including openings that arise from layoffs of existing workforce members. Contractor shall not exercise discretion in informing CityBuild of any given position; rather, CityBuild is to be universally notified, and a discussion between the Contractor and CityBuild can determine whether a CityBuild graduate would be an appropriate placement for any given apprentice level position.

k. Hire qualified candidate(s) referred through the CityBuild system. In the event of the firing/layoff of any CityBuild graduate, Project developer and/or Contractor must notify CityBuild staff within seven (7) days of the decision and provide justification for the layoff; ideally, Project developer and/or Contractor will request a meeting with the Project's employment liaison as soon as any issue arises with a CityBuild placement in order to remedy the situation before termination becomes necessary.

l. Except to the extent prohibited by applicable privacy laws, provide a monthly report and/or any relevant workforce records or data from contractors to identify workers employed on the Project, source of hire, and any other pertinent information as pertaining to compliance with this Agreement.

m. Maintain accurate records of your efforts to meet the steps and requirements listed above. Such records must include the maintenance of an on-site First Source Hiring Compliance binder, as well as records of any new hire made by the Contractor and/or Project developer through a San Francisco community-based organization whom the Contractor believes meets the First Source Hiring criteria, and submittal of core or existing workforce payroll through the City's payroll system. Any further efforts or actions agreed upon by CityBuild staff and the Project developer and/or Contractor on a project-by-project basis.

6. COMPLIANCE WITH THIS AGREEMENT OF SUBCONTRACTORS

In the event that Contractor subcontracts a portion of the work under the Contract, Contractor shall determine how many, if any, of the Entry Level Positions are to be employed by its Subcontractor(s) using Form 1: the CityBuild Workforce Projection Form and the City's online project reporting system (currently Elation), provided, however, that Contractor shall retain the primary responsibility for meeting the requirements imposed under this Agreement. Contractor shall ensure that this Agreement is incorporated into and made applicable to such subcontract.

7. EXCEPTION FOR ESSENTIAL FUNCTIONS

Nothing in this Agreement precludes Contractor from using temporary or reassigned existing employees to perform essential functions of its operation; provided, however, the obligations of this Agreement to make good faith efforts to fill such vacancies permanently with System Referrals remains in effect. For these purposes, "essential functions" means those functions absolutely necessary to remain open for business.

8. CONTRACTOR'S COMPLIANCE WITH EXISTING EMPLOYMENT AGREEMENTS

Nothing in this Agreement shall be interpreted to prohibit the continuation of existing workforce training agreements or to interfere with any Collective Bargaining Agreements. In the event of a conflict between this Agreement and an existing Collective Bargaining Agreement, the terms of the existing Collective Bargaining Agreement shall supersede this Agreement.

9. HIRING GOALS EXCEEDING OBLIGATIONS OF THIS AGREEMENT

Nothing in this Agreement shall be interpreted to prohibit the adoption of hiring and retention goals, first source hiring and interviewing requirements, notice and job availability requirements, monitoring, record keeping, and enforcement requirements and procedures which exceed the requirements of this Agreement.

10. OBLIGATIONS OF CITYBUILD

Under this Agreement, CityBuild shall:

a. Upon signing the CityBuild Workforce Hiring Plan, immediately initiate recruitment and pre-screening activities;

b. Recruit Qualified individuals to create a pool of applicants for jobs who match Contractor's Job Notification and to the extent appropriate train applicants for jobs that will become available through the First Source Program;

c. Screen and refer applicants according to qualifications and specific selection criteria submitted by Contractor;

d. Provide funding for City-sponsored pre-employment, employment training, and support services programs;

e. Follow up with Contractor on outcomes of System Referrals and initiate corrective action as necessary to maintain an effective employment/training delivery system;

f. Provide Contractor with reporting forms for monitoring the requirements of this Agreement; and

g. Monitor the performance of the Agreement by examination of records of Contractor

as submitted in accordance with the requirements of this Agreement.

11. CONTRACTOR'S REPORTING AND RECORD KEEPING OBLIGATIONS

Contractor shall:

a. Maintain accurate records consistent with applicable privacy laws demonstrating Contractor's compliance with the First Source Hiring requirements of Chapter 83 of the San Francisco Administrative Code including, but not limited to, the following:

(1) Applicants
(2) Job offers
(3) Hires
(4) Rejections of applicants

b. Submit completed reporting forms based on Contractor's records to CityBuild quarterly, unless more frequent submittals are reasonably required by FSHA. In this regard, Contractor agrees that if a significant number of positions are to be filled during a given period or other circumstances warrant, CityBuild may require daily, weekly, or monthly reports containing all or some of the above information.

c. If based on complaint, failure to report, or other cause, the FSHA has reason to question Contractor's good faith effort, Contractor shall demonstrate to the reasonable satisfaction of the City that it has exercised good faith to satisfy its obligations under this Agreement.

12. DURATION OF THIS AGREEMENT

This Agreement shall be in full force and effect throughout the term of the Contract. Upon expiration of the Contract, or its earlier termination, this Agreement shall terminate and it shall be of no further force and effect on the parties hereto.

13. NOTICE

All notices to be given under this Agreement shall be in writing and sent by: certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail, a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier, or hand delivery, in which case notice shall be deemed delivered on the date received, all as follows:

If to FSHA: First Source Hiring Administration
OEWD, 1 South Van Ness 5th Fl.
San Francisco, CA 94103
Attn: CityBuild Compliance Manager,
citybuild@sfgov.org

If to CityBuild: CityBuild
OEWD, 1 South Van Ness 5th Fl.
San Francisco, CA 94103
Attn: Compliance Manager,
citybuild@sfgov.org

If to Developer:

Attn:

If to Contractor:

Attn:

a. Any party may change its address for notice purposes by giving the other parties notice of its new address as provided herein. A "business day" is any day other than a Saturday, Sunday or a day in which banks in San Francisco, California are authorized to close.

b. Notwithstanding the forgoing, any Job Notification or any other reports required of Contractor under this Agreement (collectively, "**Contractor Reports**") shall be delivered to the address of FSHA pursuant to this Section via first class mail, postage paid, and such Contractor Reports shall be deemed delivered two (2) business days after deposit in the mail in accordance with this Section.

14. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties to this Agreement and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

15. SEVERABILITY

If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

16. COUNTERPARTS

This Agreement may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

17. SUCCESSORS

This Agreement shall inure to the benefit of and shall be binding upon the parties to this Agreement and their respective heirs, successors and assigns. If there is more than one person comprising Contractor, their obligations shall be joint and several.

18. HEADINGS

Section titles and captions contained in this Agreement are inserted as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions

19. GOVERNING LAW

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

IN WITNESS WHEREOF, the following have executed this Agreement as of the date set forth above.

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, acting by and through the **FIRST SOURCE HIRING ADMINSTRATION**

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

CONTRACTOR:

[_____],
a [_____]

By: _____
Name: _____
Title: _____

CityBuild
Office of Economic and Workforce Development

FIRST SOURCE HIRING PROGRAM
FORM 1: WORKFORCE PROJECTIONS

Instructions

- *The Prime Contractor must complete and submit Form 1 within 30 days of award of contract.*
- *All subcontractors with contracts in excess of $100,000 must complete Form 1 and submit to the Prime Contractor within 30 days of award of contract.*
- *The Prime Contractor is responsible for collecting all completed Form 1's from all subcontractors.*
- *It is the Prime Contractor's responsibility to ensure the CityBuild Program receives completed Form 1's from all subcontractors in the specified time and keep a record of these forms in a compliance binder at the project jobsite.*
- *All contractors and subcontractors are required to attend a preconstruction meeting with CityBuild staff.*
- *All contractors and subcontractors are responsible for submitting a Job Notice Form (Form 3) for all new hires on the project.*

Construction Project Name: _____ Construction Project Address: _____

Projected Start Date: _____ Contract Duration: _____ *(calendar days)*

Company Name: _____ Company Address: _____

Main Contact Name: _____ Main Phone Number: _____

Main Contact Email : _____

Name of Person with Hiring Authority: _____ Hiring Authority Phone Number: _____

Hiring Authority Email: _____

Name of Authorized Representative	Signature of Authorized Representative*	Date

By signing this form, the company agrees to participate in the CityBuild Program and comply with the provisions of the First Source Hiring Agreement pursuant to San Francisco Administrative Code Chapter 83.

Table 1: Briefly summarize your contracted or subcontracted scope of work

Table 2: Complete on the following page

- *List the construction trade crafts that are projected to perform work. Do not list Project Managers, Engineers, Administrative, and any other non-construction trade employees.*
- *Total Number of Workers on the Project: The total number of workers projected to work on the project per construction trade. This number will include existing workers and new hires. For union contractors this total will also include union dispatches.*
- *Total Number of New Hires: List the projected number of New Hires that will be employed on the project. For union contractors, New Hires will also include union dispatches.*

Table 2: List all construction trades projected to perform work

Construction Trades	Journey or Apprentice	Union (Yes or No)	Total Work Hours	Total Number of Workers on the Project	Total Number of New Hires
	J ☐ A ☐	Y ☐ N ☐			
	J ☐ A ☐	Y ☐ N ☐			
	J ☐ A ☐	Y ☐ N ☐			
	J ☐ A ☐	Y ☐ N ☐			
	J ☐ A ☐	Y ☐ N ☐			
	J ☐ A ☐	Y ☐ N ☐			
	J ☐ A ☐	Y ☐ N ☐			
	J ☐ A ☐	Y ☐ N ☐			

Table 3: List your core or existing employees projected to work on the project

- *Please provide information on your projected core or existing employees that will perform work on the jobsite.*
- *"Core" or "Existing" workers are defined as any worker appearing on the Contractor's active payroll for at least 60 out of the 100 working days prior to the award of this Contract. If necessary, continue on a separate sheet.*

Name of Core or Existing Employee	Construction Trade	Journey or Apprentice	City	Zip Code
		J ☐ A ☐		
		J ☐ A ☐		
		J ☐ A ☐		
		J ☐ A ☐		
		J ☐ A ☐		
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FOR CITY USE ONLY: CityBuild Staff: _____ Approved: Yes ☐ No ☐ Date: _____
Reason: _____

CityBuild
Office of Economic and Workforce Development

FORM 3
CITYBUILD JOB NOTICE FORM

Contractors performing work on public works projects, private developments and other construction projects covered by the San Francisco Administrative Code, the Mayor's Office of Housing (MOH) or the Office of Community Investment and Infrastructure (OCII) shall utilize this form to notify CityBuild of all hiring opportunities at least three (3) business days prior to the worker's start date.

INSTRUCTIONS:

1. Complete the information below and email the completed form to citybuild@sfgov.org.
2. Include the assigned CityBuild compliance officer in the email when submitting the completed form.
3. To confirm receipt of the form, contact the Office of Economic and Workforce Development (OEWD) at 415-701-4848.

SECTION A. JOB NOTICE INFORMATION

Trade: _____ # of Journeymen: _____ # of Apprentices: _____

Start Date: _____ Start Time: _____ Job Duration: _____

Brief description of your scope of work: _____

SECTION B. UNION INFORMATION

Is your organization Union signatory? ☐ **YES** *(complete Union information below)* ☐ **NO** *(continue to Section C)*

Local # : ____ Union Contact Name: _____ Union Phone #: _____

ATTENTION: *Please also submit this form to your union or hiring hall if you are required to do so under your collective bargaining agreement or contract. CityBuild is not a Dispatching Hall, nor does this form act as a Request for Dispatch. All formal Requests for Dispatch will be conducted through your union or hiring hall.*

SECTION C. CONTRACTOR INFORMATION

Project Name: _____

Jobsite Location: _____

Contractor: _____ Prime ☐ Sub ☐

Contractor Address: _____

Contact Name: _____ Title: _____

Office Phone: ____ Cell Phone: _____ Email: _____

Alt. Contact: ____ Phone #: _____

Contractor Signature: _____ Date: _____

OEWD USE ONLY	**Able to fill:** YES ☐ NO ☐ **Referral Notes:**

Attachment B

Form of First Source Hiring Program Agreement For Business Commercial Operations, and/or End Use Occupancy for the Tower

This First Source Hiring Agreement (this "**FSHP Operations Agreement**"), is made as of [_____], by and between [_____] (the "**Lessee**"), and the City and County of San Francisco ("**City**"), acting by and through its First Source Hiring Administration, (the "**FSHA**"), collectively the "**Parties**".

RECITALS

WHEREAS, the City and EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company ("**Project Sponsor**"), entered into that certain Development Agreement dated as of _____, 2025 (the "**Development Agreement**") for the 447 Battery and 530 Sansome Street Development Project (the "**Project**"), which Development Agreement was approved by the Board of Supervisors by Ordinance No. _____, dated _____, 2025; and

WHEREAS, under the Workforce Agreement attached to the Development Agreement as Exhibit F (the "**Workforce Agreement**"), Project Sponsor agreed to provide notice in certain Commercial Leases for more than 25,000 square feet entered into during the Workforce Period (as those terms are defined in the Workforce Agreement), a requirement that the Commercial Tenant (as defined in the Workforce Agreement) enter into a FSHA Operations Agreement, substantially in the form attached to the Workforce Agreement as Attachment B; and

WHEREAS, Lessee is a Commercial Tenant, as defined in the Workforce Agreement, and has plans to occupy a portion of the building at 530 Sansome Street (the "**Premises**") under a Commercial Lease that involves the issuance of a permit for more than 25,000 square feet in floor area; and

WHEREAS, as a material part of the consideration given by Lessee under the Commercial Lease, Lessee has agreed to execute this FSHA Operations Agreement and participate in the Workforce System managed by the Office of Economic and Workforce Development ("**OEWD**") as established by the City and County of San Francisco pursuant to Chapter 83 of the San Francisco Administrative Code;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Parties covenant and agree as follows:

1. DEFINITIONS

For purposes of this FSHP Operations Agreement, initially capitalized terms shall be defined as follows:

a. Entry Level Position: Any position that requires less than two (2) years of training or specific preparation, and shall include temporary and permanent jobs.

b. Referral: A member of the Workforce System who has been identified by OEWD as having the appropriate training, background, and skill sets for a Lessee specified Entry Level Position.

c. Workforce System: The System established by the City and managed by OEWD for maintaining (1) A pool of qualified individuals; and (2) The mechanism by which individuals are certified and referred to prospective employers covered by the FSHP requirements under this Chapter.

2. LESSEE OBLIGATIONS

a. Lessee shall notify OEWD of every available Entry Level Position and provide OEWD ten (10) business days to recruit and refer qualified candidates from the Workforce System prior to advertising such position to the general public. Lessee shall provide feedback including but not limited to job seekers interviewed, including name, position, title, starting salary and employment start date of those individuals hired by the Lessee no later than ten (10) business days after date of final interview or hire. Lessee will also provide feedback on reasons as to why referrals were not hired. Lessee shall have the sole discretion to interview any Referral by OEWD and will inform OEWD why specific persons referred were not interviewed. Hiring decisions shall be entirely at the discretion of Lessee.

b. Lessee shall accurately complete and submit the "First Source Employer's Projection of Entry-Level Positions" attached to this FSHP Operations Agreement as Form 1 to OEWD upon execution of this FSHP Operations Agreement.

c. Lessee shall register with OEWD's data system, upon execution of this FSHP Operations Agreement.

d. Lessee shall notify OEWD of all available Entry Level Positions ten (10) business days prior to posting with the general public. The Lessee must identify a single point of contact responsible for communicating Entry-Level Positions and take active steps to ensure continuous communication with OEWD.

e. If Lessee's operations create Entry Level Positions, Lessee will provide good faith efforts to meet the [hiring goals established by the FSHA][1] for filling open Entry Level Positions with First Source referrals.

f. Nothing in this FSHP Operations Agreement shall be interpreted to prohibit the continuation of existing workforce training agreements or to interfere with consent decrees, collective bargaining agreements, or existing employment contracts. In the event of a conflict between this FSHP Operations Agreement and an existing agreement, the terms of the existing agreement shall supersede this FSHP Operations Agreement.

[1] NTD: City to clarify hiring goals.

g. This FSHP Operations Agreement shall be in full force and effect throughout the Lessee's occupancy of the Premises.

h. Lessee's failure to meet the criteria set forth in this FSHP Operations Agreement may trigger a review of the referral process and compliance with this FSHP Operations Agreement. Failure to comply the FSHP Operations Agreement may result in penalties as defined in San Francisco Administrative Code Chapter 83. Lessee agrees to review San Francisco Administrative Code Chapter 83, and execution of this FHSP Operations Agreement denotes that Lessee agrees to its terms and conditions.

3. NOTICE

All notices to be given under this FSHP Operations Agreement shall be in writing and sent via mail or email as follows:

ATTN: Employer Services, Office of Economic and Workforce Development
1 South Van Ness Avenue, 5th Floor, San Francisco, CA 94103
Email: Employer.Services@sfgov.org

4. ADDITIONAL TERMS

This FSHP Operations Agreement contains the entire agreement between the parties and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors. If any term or provision of this FSHP Operations Agreement shall be held invalid or unenforceable, the remainder of this FSHP Operations Agreement shall not be affected. If this FHSP Operations Agreement is executed in one or more counterparts, each shall be deemed an original and all, taken together, shall constitute one and the same instrument. This FHSP Operations Agreement shall inure to the benefit of and shall be binding upon the parties to this FHSP Operations Agreement and their respective heirs, successors and assigns. If there is more than one person comprising Lessee, their obligations shall be joint and several.

Section titles and captions contained in this FHSP Operations Agreement are inserted as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this FHSP Operations Agreement or the intent of any of its provisions. This FHSP Operations Agreement shall be governed and construed by laws of the State of California.

IN WITNESS WHEREOF, the following have executed this FHSP Operations Agreement as of the date set forth above.

Date: _____ Signature: _____

Name of Authorized Signer: _____

Company: _____

Address: _____ City, State, Zip: _____

Phone: _____ Email: _____

Form 1
First Source Workforce Projection

Business Name:_____

Main Contact:_____

Contract ID (If applicable): _____Supplier ID (If applicable):_____

Phone: _____ Email: _____

Date: _____ Signature: _____

Name of Authorized Representative: _____

* By signing this form, the company agrees to participate in the San Francisco Workforce Development System established by the City and County of San Francisco, and comply with the provisions of the First Source Hiring Program pursuant to Chapter 83 of the San Francisco Administrative Code

Instructions:

- This form must be submitted via email to the Office of Economic and Workforce Development at employer.services@sfgov.org with the subject line First Source Hiring Workforce Projection Form
- If an entry-level position becomes available at any time during the term of the lease and/or contract, the company must notify the First Source Hiring Program Administrator at employer.services@sfgov.org

Section 1: Select your Industry:

Accommodation and Food Services	Educational Services	Mining, Quarrying, and Oil and Gas Extraction	Retail Trade
Administrative and Support Services	Finance and Insurance	Manufacturing	Transportation and Warehousing
Agriculture, Forestry, Fishing and Hunting	Health Care and Social Assistance	Professional, Scientific, and Technical Services	Utilities
Arts, Entertainment, and Recreation	Information	Public Administration	Wholesale Trade
Construction	Management of Companies and Enterprises	Real Estate and Rental and Leasing	Other Services (except Public Administration)

Section 2: Indicate Industry NAICS code if known: _____

Section 3: Provide information on all Entry Level Positions:

Entry-level Position Title	Job Description	Number of New Hires	Projected Hiring Date

Section 4: Select the type of First Source Project:

Contractor	Scene in San Francisco Rebate Applicant
Subcontractor	City Contract (Department) _____
City of San Francisco Tenant	Cannabis
Subtenant	Other _____
Developer	

First Source Hiring Program Fact Sheet

What is the First Source Hiring Program?

The First Source Hiring Program (First Source) was enacted in 1998 under Chapter 83 of the City's Administrative Code and is administered by the Office of Economic and Workforce Development (OEWD). The First Source Hiring Program requires that developers, contractors, and employers use good-faith efforts to hire economically disadvantaged San Franciscan residents for new entry-level positions.

The First Source Hiring Program provides a ready supply of qualified workers to employers with employment needs, and it gives economically disadvantaged individuals the first opportunity to apply for entry-level positions in San Francisco. Entry-level positions are defined as those requiring less than two years of training or specific preparation and includes temporary and permanent jobs.

How can the First Source Hiring Program help your business at no cost?

- Promote job announcements to over 2,000 recipients in the San Francisco community
- Connect you with a pool of qualified, pre-screened candidates
- Refer graduates of OEWD-funded industry sector training programs
- Coordinate customized recruitment and hiring events
- Provide access to City-wide recruitment facilities and events

Which Businesses are required to comply with the First Source Hiring Program?

- Businesses who have leases with the City on City Property
- Businesses with City contracts for goods, services, grants or loans in excess of $50,000
- Businesses with City-issued construction contracts in excess of $350,000
- Developers with building permits for residential projects over ten (10) units and all employers engaged in commercial activity to be conducted in said development project, including residential services
- Any building permit application for a commercial activity over 25,000 square feet and involving new construction, an addition, or alteration which results in the expansion of entry and apprentice-level positions for a commercial activity
- Cannabis-related businesses
- Special projects required by the Board of Supervisors and administered by OEWD

I need to comply with the First Source Hiring Program, where do I start?

Step #1: Contact the Business Services Team at the Office of Economic and Workforce Development (OEWD) by emailing to employer.services@sfgov.org You can also call 415-701-4848 and ask to speak with a First Source Hiring Program Specialist.

Step #2: The Business Services Team will assist you with registering your business in the OEWD's data system.

Step #3: Once you have registered with the OEWD's data system, the Business Services Team will assist you with recruitment for your open positions.

What are the penalties for non-compliance with the First Source Hiring Program?

Liquidated damages up to $5,000 can be assessed for each entry-level job improperly withheld from the First Source Hiring Program process

Thank you for your interest in San Francisco's First Source Hiring Program. For more information, please visit us online at https://oewd.org/first-source, email us at employer.services.org, or call us at 415-701-4848 and ask to speak with a First Source Hiring Program Specialist.

Attachment C
Local Business Enterprise Utilization Plan for Construction and Certain Pre-Construction Work

1. Purpose and Scope. This Attachment C ("**LBE Utilization Plan**") governs the Local Business Enterprise obligations of the Project pursuant to San Francisco Administrative Code Section 14B.20 and satisfies the obligations of each Project Sponsor and its Contractors and Consultants for an LBE Utilization Plan as set forth therein. Capitalized terms not defined herein shall have the meanings ascribed to them in the Workforce Agreement or Administrative Code Chapter 14B as applicable. The purpose of the LBE program is to engage construction and pre-construction contracting teams that reflect the diversity of the City and include participation of both businesses and residents from the City's most disadvantaged communities and encourage Micro-LBE participation. In the event of any conflict between Administrative Code Chapter 14B and this LBE Utilization Plan, this LBE Utilization Plan shall govern.

2. Roles of Parties. In connection with the design and construction phases of the Tower and New Fire Station (as those terms are defined in the Development Agreement), the Project will provide community benefits designed to foster employment opportunities for disadvantaged individuals by offering contracting and consulting opportunities to local business enterprises ("**LBEs**") in accordance with this LBE Utilization Plan. Each Project Sponsor shall participate in this local business enterprise program, and the City's Contract Monitoring Division ("**CMD**") will serve the roles as set forth below; provided, however, that, as set forth in Section 5 below, the requirements of this LBE Utilization Plan may be satisfied on a project-wide basis.

3. Definitions. For purposes of this Attachment, the definitions shall be as follows:

a. "**CMD**" shall mean the Contract Monitoring Division of the City Administrator's Office.

b. "**Consultant**" shall mean a person or company that has entered into a professional services contract for monetary consideration with a Project Sponsor to provide advice or services to the Project Sponsor directly related to the architectural or landscape design, physical planning, and/or civil, structural or environmental engineering of the Tower or New Fire Station.

c. "**Contract(s)**" shall mean an agreement, whether a direct contract or subcontract, for Consultant or Contractor services for all or a portion of the Tower or New Fire Station, subject to the exclusions set forth in Section 5 below.

d. "**Contractor**" shall mean a person or entity that enters into a direct Contract with a Project Sponsor to build or construct all or a portion of the Tower or New Fire Station.

e. "**Good Faith Efforts**" shall mean procedural steps taken by the Project Sponsor, Contractor or Consultant with respect to the attainment of the LBE participation goals, as set forth in Section 7 below.

f. "**Local Business Enterprise**" or "**LBE**" means a business that is certified as an LBE under Administrative Code Chapter 14B.

g. "**LBE Liaison**" shall mean the Project Sponsor's primary point of contact with CMD regarding the obligations of this LBE Utilization Plan. Each prime Contractor(s) shall likewise have an LBE Liaison.

h. "**Project Sponsor**" shall mean, initially, Developer under the Development Agreement as to the Project Site, and thereafter, as to any Transferred Property, each Transferee that assumes Developer's rights and obligations under the Development Agreement, including the obligation to comply with this LBE Utilization Program, in accordance with Section 8 of the Development Agreement.

i. "**Subconsultant**" shall mean a person or entity that has a direct Contract with a Consultant to perform a portion of the work under a Contract for the Tower or New Fire Station.

j. "**Subcontractor**" shall mean a person or entity that has a direct Contract with a Contractor to perform a portion of the work under a Contract for the Tower or New Fire Station.

4. Diversity. Developer will be seeking to, whenever practicable, engage contracting teams that reflect the diversity of the City and participation of both businesses and residents from the City's most disadvantaged communities. Developer's compliance with the good faith efforts in Section 7 shall be deemed to satisfy this objective.

5. LBE Participation Goal. Each Project Sponsor agrees to participate in this LBE Utilization Program and CMD agrees to work with each Project Sponsor in this effort, as set forth in this LBE Utilization Plan. As long as this LBE Utilization Plan remains in full force and effect, each Project Sponsor shall make good faith efforts, as defined in Section 6 and Section 7 and elsewhere in this document as applicable, to achieve an overall LBE participation goal of fifteen (15%) of the total cost of all Contracts for the Tower and New Fire Station awarded to LBE Contractors, Subcontractors, Consultants or Subconsultants that are Small and Micro-LBEs, as set forth in Administrative Code Section 14B.8(A). Within the aforementioned fifteen percent (15%) LBE participation goal will be a Micro-LBE participation goal of ten percent (10%) of the total cost of all Contracts for the Tower and New Fire Station. The Parties recognize that achieving these goals may be challenging for the Tower or New Fire Station on an individual basis, and that, therefore, the goals may be satisfied on a Project Sponsor basis rather than on an individual basis for the Tower or New Fire Station.

Notwithstanding the foregoing, CMD's Director may, in his or her discretion, provide for a downward adjustment of the LBE participation goal, depending on LBE participation data presented by the Project Sponsor and its team in quarterly and annual reports and meetings. In addition, where, based on reasonable evidence presented to the Director by a party attempting to achieve the LBE participation goals, there are not sufficient qualified Small and Micro-LBEs available, then, at such party's request, the Director may authorize the applicable party to satisfy the LBE participation goal through the use of Small, Micro or SBA-LBEs (as each such term is defined in Chapter 14B of the Administrative Code), or may set separate subcontractor participation requirements for Small and Micro-LBEs, and for SBA-LBEs.

6. Project Sponsor Obligations. Each Project Sponsor shall comply with the requirements of this LBE Utilization Plan as follows: Upon entering into a Contract with a Contractor or Consultant, each Project Sponsor will include in each such Contract a provision requiring the Contractor or Consultant to comply with the terms of this LBE Utilization Plan, and setting forth the applicable percentage goal for such Contract and provide a signed copy of the Contract to CMD within ten (10) business days of execution. Such Contract shall specify the notice information for the Contractor or Consultant to receive notice pursuant to Section 17. Each Project Sponsor shall identify an LBE Liaison as its main point of contact for outreach/compliance concerns. The LBE Liaison shall be an LBE Consultant and have experience in and responsibility for making recommendations on maximizing engagement of LBEs, including those from disadvantaged communities. The LBE Liaison shall be available to meet with CMD staff on a regular basis or as necessary regarding the implementation of this LBE Utilization Plan. If a Project Sponsor fulfills its obligations as set forth in this Section 6 and otherwise cooperates in good faith at CMD's request with respect to any meet and confer process or enforcement action against a non-compliant Contractor, Consultant, Subcontractor or Subconsultant, then it shall not be held responsible for the failure of a Contractor, Consultant, Subcontractor or Subconsultant or any other person or party to comply with the requirements of this LBE Utilization Plan, nor shall Developer, nor any other Project Sponsor, be responsible for the performance by any other Developer or Project Sponsor of the requirements of this LBE Utilization Plan, including the reporting requirements hereunder.

Developer will use good faith efforts to hire LBEs for ongoing service contracts (e.g., maintenance, janitorial, landscaping, security etc.) within the Tower and advertise such contracting opportunities with CMD except to the extent impractical or infeasible but such contracts shall not be subject to the LBE participation goals or any other requirements of this LBE Utilization Plan. If a master association is responsible for the operation and maintenance of publicly owned improvements within the Project Site, CMD shall refer LBEs to such association for consideration with regard to contracting opportunities for such improvements. Such association will consider, in good faith such LBE referrals, but hiring decisions shall be entirely at the discretion of such association.

7. Good Faith Efforts. City acknowledges and agrees that each Project Sponsor, Contractor, Subcontractor, Consultant and Subconsultant shall have the sole discretion to qualify, hire or not hire LBEs. If a Contractor or Consultant does not meet the LBE hiring goal set forth above, it will nonetheless be deemed to satisfy the good faith effort obligation of this Section 7 and thereby satisfy the requirements and obligations of this LBE Utilization Plan if the Contractor, Consultant and their Subcontractors and Subconsultants, as applicable, perform the good faith efforts set forth in this Section 7 as follows:

a. Advance Notice. Notify CMD in writing of all upcoming solicitations of proposals for work under a Contract at least fifteen (15) business days before issuing such solicitations to allow opportunity for CMD to identify and outreach to any LBEs that it reasonably deems may be qualified for the Contract scope of work.

b. Contract Size. Where practicable and feasible, the Project Sponsor, Contractor, Consultant, Subcontractor or Subconsultant will divide the work in order to encourage maximum LBE and Micro-LBE participation or encourage joint venturing. If the contracting party reasonably determines that it would be efficient for Subcontractors to

perform specific items, then the contracting party will identify those specific items of each Contract that may be performed by Subcontractors.

c. Advertise. The Project Sponsor, Contractor, Consultant, Subcontractor or Subconsultant will (i) advertise for thirty (30) days for professional services and contracting opportunities in media focused on small businesses including the Bid and Contract Opportunities website through the City's SF Supplier Portal and other local and trade publications, and (ii) allow subcontractors to attend outreach events, pre-bid meetings, and invite LBEs to submit bids to Project Sponsor or its prime Contractor or Consultant, as applicable. As practicable, the contractor shall convene pre-bid or pre-solicitation meetings no less than fifteen (15) days prior to the opening of bids and proposals to all for LBEs to ask questions about the selection process and technical specifications/requirements. A Project Sponsor may request CMD's permission to award a contract without advertising if the work consists of specialty services or otherwise does not provide opportunities for LBE participation.

d. CMD Invitation. If a pre-bid meeting or other similar meeting is held with proposed Contractors, Subcontractors, Consultants or Subconsultants, invite CMD to the meeting to allow CMD to explain proper LBE utilization.

e. Public Solicitation. The Project Sponsor or its prime Contractor(s) and/or Consultants, as applicable, will work with CMD to follow up on initial solicitations of interest by contacting LBEs to determine with certainty whether they are interested in performing specific items in a project, have sufficient experience performing similar types of work, and are available during the desired time frame for performance of the work.

f. Outreach and Other Assistance. The Project Sponsor or its prime Contractor(s) and/or Consultants, as applicable, will (a) provide LBEs with plans, specifications and requirements for all or part of the project; and (b) notify LBE trade associations that disseminate bid and contract information and provide technical assistance to LBEs. The designated LBE Liaison(s) will work with CMD to conduct outreach to LBEs for all consulting/contracting opportunities in the applicable trades and services in order to encourage them to participate on the project.

g. Contacts. Make contacts with LBEs, associations or development centers, or any agencies, which disseminate bid and contract information to LBEs and document any other efforts undertaken to encourage participation by LBEs.

h. Good Faith/Nondiscrimination. Make good faith efforts to enter into Contracts with LBEs and give good faith consideration to bids and proposals submitted by LBEs. Use nondiscriminatory selection criteria (for the purpose of clarity, exercise of subjective aesthetic taste in selection decisions for architect and other design professionals shall not be deemed discriminatory and the exercise of its commercially reasonable judgment in all hiring decisions shall not be deemed discriminatory), including, without limitation, assessment of qualifications for the scope of work, ability to obtain bonds and insurance with types and amounts of coverage typical in the general marketplace, availability during the desired time frame for performance of the work, and whether the LBE's proposed

pricing and other terms are commercially reasonable and competitive in the general marketplace.

i. Incorporation into contract provisions. Project Sponsor shall include in prime Contracts provisions that require prospective Contractors and Consultants that will be utilizing Subcontractors or Subconsultants to follow the above good faith efforts to subcontract to LBEs, including the overall LBE participation goal and any LBE percentage that may be required under such Contract.

j. Monitoring. Allow CMD Contract Compliance unit to monitor Consultant/Contractor selection processes and when necessary give suggestions as to how best to maximize LBEs ability to complete and win procurement opportunities.

k. Insurance and Bonding. Recognizing that lines of credit, insurance and bonding are problems common to local businesses, staff will be available to explain the applicable insurance and bonding requirements, answer questions about them, and, if possible, suggest governmental or third party avenues of assistance. Contractor, Subcontractor, Consultant and Subconsultant will work with the Project Sponsor and CMD in good faith to design and implement any commercially reasonable insurance programs that may become available to provide to LBE subcontractors access to the required coverage through either the owner, Owner-Controlled Insurance Policy (OCIP), general contractor, Contractor-Controlled Insurance Policy (CCIP), or other insurance programs.

l. Maintain Records and Cooperation. Maintain records of LBEs that are awarded Contracts, not discriminate against any LBEs, and, if requested, meet and confer with CMD as reasonably required in addition to the meet and confer sessions described in Section 10 below to identify a strategy to meet the LBE goal.

m. Quarterly Reports. During construction, the LBE Liaison(s) shall prepare a quarterly report of LBE participation goal attainment for the Tower and New Fire Station and submit to CMD as required by Section 10 herein.

n. Meet and Confer. Attend the meet and confer process described in Section 10.

8. Good Faith Outreach. Good faith efforts shall be deemed satisfied solely by compliance with Section 7. Notwithstanding anything to the contrary in this LBE Utilization Plan, the Parties acknowledge that the LBE participation goal shall be met on a Project Sponsor basis as set forth in Section 5, such that if the Tower or New Fire stations fails to meet the LBE participation goal of 15% despite the good faith efforts requirements by complying with Section 7, it shall not be a violation of this LBE Utilization Plan. Contractors and Consultants, and Subcontractors and Subconsultants, as applicable, shall also work with CMD to identify from CMD's database of LBEs those LBEs who are most likely to be qualified for each identified opportunity under Section 7.b, and following CMD's notice under Section 9.a, shall undertake reasonable efforts at CMD's request to support CMD's outreach to identified LBEs as mutually agreed upon by CMD and each Contractor or Consultant and its Subcontractors and Subconsultants, as applicable.

9. CMD Obligations. The following are obligations of CMD to implement this LBE Utilization Plan:

a. During the thirty (30) day advertising period for upcoming Contracts required by Section 7.b, CMD will work with the Project Sponsor and its prime Contractor and/or Consultant as applicable to send such notification to qualified LBEs to alert them to upcoming Contracts.

b. Provide detailed technical assistance to Contractors, Subcontractors, Consultants and Subconsultants on good faith outreach to LBEs.

c. Review quarterly reports of LBE participation goals; when necessary give suggestions as to how best to maximize LBEs ability to compete and win procurement opportunities.

d. Perform other tasks as reasonably required to assist the Project Sponsor and its Contractors, Subcontractors, Consultants and Subconsultants in meeting LBE participation goals and/or satisfying good faith efforts requirements.

e. Recognizing that lines of credit, insurance and bonding are problems common to local businesses, CMD staff will be available to explain the applicable insurance and bonding requirements, answer questions about them, and, if possible, suggest governmental or third party avenues of assistance.

10. Meet and Confer Process. Commencing with the first Contract that is executed for the Tower or New Fire Station, and every six (6) months thereafter, or more frequently if requested by either CMD, Project Sponsor or a Contractor or Consultant, each Contractor and Consultant and the CMD shall engage in an informal meet and confer to assess compliance of such Contractor and Consultants and its Subcontractors and Subconsultants as applicable with this LBE Utilization Plan. When deficiencies are noted in this meet and confer process, each such Contractor or Consultant shall further meet and confer with CMD to ascertain and execute plans to increase LBE participation and remediate deficiencies.

11. Prohibition on Discrimination. Project Sponsors shall not discriminate in their selection of Contractors and Consultants, and such Contractors and Consultants shall not discriminate in their selection of Subcontractors and Subconsultants against any person on the basis of race, gender, or any other basis prohibited by law. As part of its efforts to avoid unlawful discrimination in the selection of Subconsultants and Subcontractors, Contractors and Consultants will undertake the Good Faith Efforts and participate in the meet and confer processes as set forth in Sections 7 and 10 above.

12. Collective Bargaining Agreements. Nothing in this LBE Utilization Plan shall be interpreted to prohibit the continuation of existing workforce training agreements or to interfere with consent decrees, collective bargaining agreements, project labor agreement, project stabilization agreement, existing employment contract or other labor agreement or labor contract ("**Collective Bargaining Agreements**"). In the event of a conflict between this LBE Utilization Plan and a Collective Bargaining Agreement, the terms of the Collective Bargaining Agreement shall supersede this LBE Utilization Plan.

13. Reporting and Monitoring. Each Contractor, Consultant, and its Subcontractors and Subconsultants, as applicable, shall maintain accurate records demonstrating compliance with the

LBE participation goals, including keeping track of the date that each response, proposal or bid that was received from LBEs, including the amount bid by and the amount to be paid (if different) to the non-LBE contractor that was selected, and documentation of any efforts regarding good faith efforts as set forth in Section 7. Each Project Sponsor and/or their Contractors and Consultants shall use the City's online project reporting system (currently LCP Tracker) or other CMD approved reporting method. Project Sponsors shall create a reporting method for tracking LBE participation for the Tower and New Fire Station. Data tracked shall include the following (at a minimum):

a. Name/Type of Contract(s) let (e.g. Civil Engineering contract, Environmental Consulting, etc.)

b. Name of prime Contractors (including identifying which are LBEs and non-LBEs)

c. Name of Subcontractors (including identifying which are LBEs and non-LBEs)

d. Scope of work performed by LBEs (e.g. under an Architect, an LBE could be procured to provide renderings)

e. Dollar amounts associated with both LBE and non-LBE Contractors at both prime and Subcontractor levels.

f. Total LBE participation defined as a percentage of total Contract dollars.

g. Performance in engaging LBEs, including LBEs from disadvantaged neighborhoods and Micro-LBEs.

14. Written Notice of Deficiencies. If based on complaint, failure to report, or other cause, the CMD has reason to question the good faith efforts of a Project Sponsor, Contractor, Subcontractor, Consultant or Subconsultant, then CMD shall provide written notice to the Project Sponsor, each affected prime Contractor or Consultant and, if applicable, also to its Subcontractor or Subconsultant. The prime Contractor or Consultant and, if applicable, the Subcontractor or Subconsultant, shall have a reasonable period, based on the facts and circumstances of each case, to demonstrate to the reasonable satisfaction of the CMD that it has exercised good faith to satisfy its obligations under this LBE Utilization Plan. When deficiencies are noted, CMD staff will work with the appropriate LBE Liaison(s) to remedy such deficiencies.

15. Remedies. Notwithstanding anything to the contrary in the Development Agreement, the following process and remedies shall apply with respect to any alleged violation of this LBE Utilization Plan:

Mediation and conciliation shall be the administrative procedure of first resort for any and all compliance disputes arising under this LBE Utilization Plan. The Director of CMD shall have power to oversee and to conduct the mediation and conciliation.

Non-binding arbitration shall be the administrative procedure of second resort utilized by CMD for resolving the issue of whether a Project Sponsor, Contractor, Consultant, Subcontractor or Subconsultant discriminated in the award of one or more LBE Contracts to the extent that such

issue is not resolved through the mediation and conciliation procedure described above. Obtaining a final judgment through arbitration on LBE contract related disputes shall be a condition precedent to the ability of the City or the Project Sponsor, Contractor, Consultant, Subcontractor or Subconsultant to file a request for judicial relief.

If a Project Sponsor, Contractor, Consultant, Subcontractor or Subconsultant is found to be in willful breach of the obligations set forth in this LBE Utilization Plan, assess against the noncompliant Project Sponsor, Contractor, Consultant, Subcontractor or Subconsultant liquidated damages not to exceed $10,000 or twenty five percent (25%) of the Contract, whichever is greater, for each such willful breach. In determining the amount of any liquidated damages to be assessed within the limits described above, the arbitrator or court of competent jurisdiction shall consider the financial capacity of the Project Sponsor, Contractor, Consultant, Subcontractor or Subconsultant. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

For all other violations of this LBE Utilization Plan, the sole remedy for violation shall be specific performance.

16. Duration of this Agreement. This LBE Utilization Plan shall terminate (i) as to Tower or New Fire Station, upon completion of initial construction of the Tower or New Fire Station, respectively, including initial tenant improvements, and (ii) if neither the Tower nor New Fire Station has not commenced before the termination of the Development Agreement, upon the termination of the Development Agreement. Upon such termination, this LBE Utilization Plan shall be of no further force and effect.

17. Notice. All notices to be given under this LBE Utilization Plan shall be in writing and sent by: certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail, a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier, or hand delivery, in which case notice shall be deemed delivered on the date received, all as follows:

If to CMD: _____
_____
_____
Attn: _____

If to Project Sponsor: _____
_____
_____
Attn: _____

If to Contractor: _____
_____
_____
Attn: _____

If to Consultant: _____

_____

_____

Attn: _____

Any party may change its address for notice purposes by giving the other parties notice of its new address as provided herein. A "business day" is any day other than a Saturday, Sunday or a day in which banks in San Francisco, California are authorized to close.

EXHIBIT G
Form of Assignment and Assumption Agreement

EXHIBIT G
Form of Assignment and Assumption Agreement

This instrument is exempt from Recording Fees (CA Govt. Code § 27383)

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

[ASSIGNEE:

_____
_____
_____
Attn: _____]

APN(s): [_____] SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "**Assignment**") is made and entered into as of _____ __, 20__ (the "**Effective Date**") by and between _____, a _____ ("**Assignor**"), and _____, a _____ ("**Assignee**").

RECITALS

A. Reference is hereby made to that certain Development Agreement between the City and County of San Francisco, a municipal corporation (the "**City**"), acting by and through its Planning Department, and _____, a _____, dated as of _____, 202_ and recorded in the Official Records on _____, 202_ as Document No. _____ [DESCRIBE ANY AMENDMENTS OR MODIFICATIONS] (collectively, the "**Agreement**"). All initially capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Agreement.

B. Under Section 11.1 of the Agreement, Developer has the right to Transfer all of its right, title and interest in the Developer's Property to any Person (each, a "**Transferee**") without the City's consent, provided that (1) Developer contemporaneously transfers to the Transferee all of its right, title and interest under the Agreement with respect to the Transferred Property and (2) the Planning Director reviews and, if applicable, approves Developer's Assignment and Assumption Agreement as required in Section 11.3 of the Agreement.

C. Pursuant to Section 11.4 of the Agreement, upon the execution and delivery of any Assignment and Assumption Agreement, Developer shall be automatically released from any prospective liability or obligation under the Agreement to the extent Transferred under such Assignment and Assumption Agreement.

D. Assignor is "Developer" under the Agreement with respect to the [entire] [portion of the] Developer's Property described on Exhibit A attached hereto (the "**Transferred Property**").

E. Contemporaneously herewith, Assignor has Transferred to Assignee Assignor's right, title and interest in and to the Transferred Property.

F. Assignor has agreed to assign to Assignee, and Assignee has agreed to assume, all of Assignor's right, title and interest under the Agreement with respect to the Transferred Property, all as more particularly described in this Assignment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment of Agreement. Subject to the terms and conditions of this Assignment, Assignor hereby assigns to Assignee as of the Effective Date all of Assignor's right, title and interest under the Agreement with respect to the Transferred Property, [including the Community Benefits Program obligations more particularly described on Exhibit B] (collectively, the "**Assigned Rights and Obligations**". [For the avoidance of doubt, Assignor retains all of Assignor's right, title and interest under the Agreement other than the Assigned Rights and Obligations and is released from any prospective liability for the Assigned Rights and Obligations.]

2. Assumption of Agreement. Subject to the terms and conditions of this Assignment, Assignee hereby assumes as of the Effective Date the Assigned Rights and Obligations and agrees to observe and fully perform all of the duties and obligations of Assignor under the Agreement with respect to the Assigned Rights and Obligations and to be subject to all of the terms and conditions of the Agreement with respect to the Assigned Rights and Obligations. Assignee assumes no right, title and interest under the Agreement other than the Assigned Rights and Obligations and has no liability or obligation under the Agreement other than the Assigned Rights and Obligations. Assignor and Assignee acknowledge and agree that Assignee is "Developer" under the Agreement with respect to the Transferred Property.

3. Indemnifications. Assignee hereby consents to and expressly reaffirms any and all indemnification, reimbursement, hold harmless and defense obligations of Developer set forth in the Agreement to the extent applicable to Assignee and the Transferred Property, including Section 5.10 of the Agreement, including resulting from any disputes between Assignee and Assignor.

4. Assignee's Covenants. Assignee hereby covenants and agrees that: (a) Assignee shall not challenge the enforceability of any provision or requirement of the Agreement; and (b) Assignee shall not sue the City in connection with any disputes between Assignor and Assignee arising from this Assignment or the Agreement, including any failure to complete all or any part of the Project by Assignor or Assignee, except to the extent caused by the negligence or willful misconduct of any of the City Parties.

5. Modifications. Assignor and Assignee acknowledge and agree that any modification of any provision of the Agreement that constitutes a modification of the Assigned Rights and Obligations must be in a writing signed by a person having authority to do so on behalf of each of Assignor and Assignee. For the avoidance of doubt, (i) the approval of Assignee shall not be required for any modification of the Agreement that does not constitute a modification of the Assigned Rights and Obligations and (ii) Assignee shall not have the right to modify the Agreement except as provided in the first sentence of this Section 5. Any modification of any provision of this Assignment must be in a writing signed by a person having authority to do so on behalf of each of Assignor and Assignee.

6. Further Assignment; Binding on Successors. Without limiting any requirements under the Agreement, including Article 11 of the Agreement, Assignee shall not assign this Assignment without the prior review and, if applicable, approval of the assignment by the Planning Director and any City approval of the assignment as required under Article 11 of the Agreement. To the extent that Assignee Transfers any of the Assigned Rights and Obligations in accordance with the Agreement to any Person, Assignee shall contemporaneously assign this Assignment to such Person. This Assignment shall run with the Transferred Property, and all of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of Assignor and Assignee and their respective heirs, successors and assigns.

7. Notices. The notice address for Assignee under Section 13.10 of the Agreement as of the Effective Date shall be, subject to change as set forth therein:

_____
_____
_____
Attn: _____

with copy to:

_____
_____
_____
Attn: _____

8. Counterparts. This Assignment may be executed in duplicate counterpart originals, each of which is deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

9. Governing Law. This Assignment and the legal relations of Assignor and Assignee shall be governed by and construed and enforced in accordance with the laws of the State of California, without regard to its principles of conflicts of law.

10. Attorneys' Fees. Should legal action be brought by Assignor or Assignee against the other for a default under this Assignment or to enforce any provision herein, the prevailing party in such action shall be entitled to recover its "reasonable attorneys' fees and costs" (as such phrase is defined in the Agreement) from the non-prevailing party.

11. Severability. If any term, provision, covenant or condition of this Assignment is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Assignment shall continue in full force and effect, except to the extent that enforcement of the remaining provisions of this Assignment would be unreasonable or grossly inequitable under all the circumstances or would frustrate the fundamental purpose of this Assignment or the Agreement.

12. Entire Agreement. Without limiting the Agreement or agreements executed in connection therewith or any separate agreements with respect to the Transferred Property between Assignor and Assignee, this Assignment contains all of the representations and warranties and the entire agreement between Assignor and Assignee with respect to the subject matter of this Assignment. Any prior correspondence, memoranda, agreements, warranties or representations between Assignor and Assignee relating to such subject matter are incorporated into and superseded in total by this Assignment. Notwithstanding the foregoing, this Assignment shall not change or supersede the Agreement or agreements

executed in connection therewith, which remain in full force and effect according to their terms. No prior drafts of this Assignment or changes from those drafts to the executed version of this Assignment shall be introduced as evidence in any litigation or other dispute resolution proceeding by Assignor, Assignee or any other Person, and no court or other body shall consider those drafts in interpreting this Assignment.

13. No Waiver. The waiver or failure to enforce any provision of this Assignment shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

14. Construction of Assignment. Assignor and Assignee have mutually negotiated the terms and conditions of this Assignment, which have been reviewed and revised by legal counsel for each of Assignor and Assignee. Accordingly, no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Assignment. Wherever in this Assignment the context requires, references to the masculine shall be deemed to include the feminine and the neuter and vice-versa, and references to the singular shall be deemed to include the plural and vice versa. Unless otherwise specified, whenever in this Assignment, including its Exhibits, reference is made to any Recital, Article, Section, Exhibit, Schedule or defined term, the reference shall be deemed to refer to the Recital, Article, Section, Exhibit, Schedule or defined term of this Assignment. Any reference in this Assignment to a Recital, an Article or a Section includes all subsections and subparagraphs of that Recital, Article or Section. Section and other headings and the names of defined terms in this Assignment are for the purpose of convenience of reference only and are not intended to, nor shall they, modify or be used to interpret the provisions of this Assignment. Except as otherwise explicitly provided herein, the use in this Assignment of the words "including", "such as" or words of similar import when accompanying any general term, statement or matter shall not be construed to limit such term, statement or matter to such specific terms, statements or matters. In the event of a conflict between the Recitals and the remaining provisions of this Assignment, the remaining provisions shall prevail. Words such as "herein", "hereinafter", "hereof", "hereby" and "hereunder" and the words of like import refer to this Assignment, unless the context requires otherwise. Unless the context otherwise specifically provides, the term "or" shall not be exclusive and means "or, and, or both".

15. Recordation. Assignor and Assignee shall record this Assignment in the Official Records against the Transferred Property promptly following the recordation of the instrument conveying title to the Transferred Property to Assignee.

[Signatures on following page]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the Effective Date.

ASSIGNOR:

[insert signature block]

ASSIGNEE:

[insert signature block]

ACKNOWLEDGED:

City and County of San Francisco, a municipal corporation

By: _____
Planning Director

EXHIBIT A

TRANSFERRED PROPERTY

[To be provided]

EXHIBIT B

ASSIGNED RIGHTS AND OBLIGATIONS

[To be provided if applicable]

EXHIBIT H

RECORDING REQUESTED BY
CLERK OF THE BOARD OF SUPERVISORS
OF THE CITY AND COUNTY OF SAN FRANCISCO

AND WHEN RECORDED MAIL TO:

Angela Calvillo
Clerk of the Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

(Exempt from Recording Fees Pursuant to
Government Code Section 27383)

JOINDER

Any initially-capitalized, undefined terms in this Joinder shall have the meaning given to them in the Development Agreement by and between the City and County of San Francisco, a municipal corporation ("**City**"), and EQX Jackson Sq Holdco LLC, a Delaware limited liability company ("**Developer**"), dated as of _____ ("**Development Agreement**") and recorded in the Official Records of the City and County of San Francisco on _____ as Document No. _____, to which this Joinder is attached. All initially-capitalized, undefined terms used in this Joinder shall have the meanings given to them in the Development Agreement.

City has acquired fee title to that certain real property commonly known as 447 Battery Street in San Francisco, California (APN No. No. 0206-002) and described on the attached Exhibit A (the "**Subject Property**"), and hereby joins in the Development Agreement as of the date this Joinder is recorded in the Official Records of San Francisco County ("**Joinder Date**") until Completion of the New Fire Station.

The Developer caused the transfer of the Subject Property to City pursuant to Developer's obligation under the Amended CPEA, and Developer is obligated to construct the New Fire Station on the Subject Property pursuant to the terms and conditions of the Amended CPEA, Construction Management Agreement, and the Development Agreement. Although City is fee owner of the Subject Property, and it is subject to the Development Agreement and Approvals as of the Joinder Date, City shall have no obligations of Developer under the Development Agreement as to the Subject Property, which are held by Developer and its permitted successors and assigns and Transferees.

[SIGNATURES ON FOLLOWING PAGE]

City has executed this Joinder as of _____.

CITY:

CITY AND COUNTY OF SAN FRANCISCO, a
municipal corporation

By:_____
[_____]
Director of Planning

By:_____
[_____]
Director of Property

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

State of California)
)
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)