

AGREEMENT FOR THE EXCHANGE  
AND CONVEYANCE OF REAL ESTATE

by and between the

CITY AND COUNTY OF SAN FRANCISCO  
("City")

and

234 VAN NESS, LLC  
("234 LLC")

For the conveyance and exchange of  
a portion of City owned real property located at 240 Van Ness Avenue (APN 0811-019)

and

234 LLC owned real property located at 234 Van Ness Avenue (APN 0811-018)

January \_\_, 2021

## AGREEMENT FOR THE EXCHANGE AND CONVEYANCE OF REAL ESTATE

This Agreement for the Exchange and Conveyance of Real Estate (this "**Agreement**"), dated for reference purposes only as of \_\_\_\_\_, 2021, by and between the City and County of San Francisco, a municipal corporation, acting by and through the Director of Property (the "**City**"), and 234 Van Ness, LLC, a California limited liability company ("**234 LLC**"), on the basis of the following facts. The City and 234 LLC are each sometimes referred to herein as a "**Party**" and collectively as the "**Parties**".

### RECITALS

A. The City, under the jurisdiction of the General Services Administration, Real Estate Division ("**RED**") is the owner of the following real property located in San Francisco, California: 240 Van Ness Avenue (Assessor's Parcel Number 0811-019, referred to herein as "**240 VN**" or "**Parcel 2**"), a 50 X 109 foot lot (approximately 5,450 total square feet) with a 50 X 105 foot building currently located on it ("**240 Building**"). 240 VN is further described in the attached **Exhibit A** ("**Current Diagram**").

B. 234 LLC is the owner of the following real property located in San Francisco, California: 234 Van Ness Avenue (Assessor's Parcel Number 0811-018, referred to herein as "**234 VN**" or "**Parcel 3**"), a 25 X 109 foot lot (approximately 2,725 total square feet,) with a 25 X 109 foot building currently located on it ("**234 Building**"). 234 VN is further described in the attached **Exhibit A**.

C. 250 Van Ness, LLC, a California limited liability company ("**250 LLC**"), which is under common ownership with 234 LLC, is the owner of the following property located in San Francisco: 250 Van Ness Avenue (Assessor's Parcel Number 0811-020, referred to herein as "**250 VN**"), with a building currently located on it ("**250 Building**"). 250 VN is further described in the attached **Exhibit A**. Hereinafter the owner of 234 VN or 250 VN may be referred to as "**McBaine**."

D. 234 VN and 250 VN may be referred to collectively, or individually as "**McBaine Property**". 240 VN and the 240 Building and 234 VN and the 234 Building are sometimes collectively referred to as the "**Property**."

E. The City, under the jurisdiction of RED, is the owner of the following real property located in San Francisco, California: 155 Grove Street (Assessor's Parcel Number 0811-016, referred to herein as "**155 Grove**") with a building currently located on it ("**Grove Building**"). 155 Grove is further described in the attached **Exhibit A**.

F. The City, under the jurisdiction of the Mayor's Office of Housing and Community Development ("**MOHCD**"), is the owner of the following real property located in San Francisco, California: 165 Grove Street (Assessor's Parcel Number 0811-021, referred to herein as "**165 Grove**"). 165 Grove is further described in the attached **Exhibit A**.

G. The Parties have identified mutual benefit from exchanging an approximately

25.95 X 105 square foot portion of the 240 VN (“**Parcel B**”) to McBaine, and 234 VN in its entirety to the City, in order to allow for a reconfiguration of the above referenced parcels, and eventual delivery of a single developable parcel to the City (Parcel A) and a new parcel (“Parcel B”) adjacent to 250 VN to McBaine. This new configuration is further described in **Exhibit B** (“**New Diagram**”).

H. Mercy Housing Corporation (“**Mercy**”) has an exclusive negotiation agreement with City, acting by and through the Director of Property, dated November 30, 2019, to negotiate its potential lease of Parcel A for construction of an a f f o r d a b l e housing project (the “**Mercy ENA**”), which was concurred to by The Kelsey, a California non-profit corporation working with Mercy in support of the affordable housing project. By signing this Agreement, Mercy consents to, and The Kelsey concurs with, the reconfiguration of 240 VN as contemplated under this Agreement.

I. To allow for the reconfiguration, the Parties will enter into separate contracts with Mercy for the demolition of the 234 Building, the 240 Building and the Grove Building (collectively referred to herein as the “**Buildings**”).

J. To effectuate this exchange and reconfiguration of the parcels described above, the Parties will cooperate with Mercy to effectuate the conveyance of a deed for 234 VN to City, demolition of the Buildings, application for a lot line adjustment with the relevant City agencies and or departments, recordation of a new parcel map, and recordation and delivery of a Parcel B deed to McBaine and Parcel A deed to City, with jurisdiction to MOHCD. The formal maps and legal descriptions being used in the lot line adjustment application are attached as **Exhibit C** (“**Lot Line Adjustment**”).

K. Each Party acknowledges and agrees that this Agreement is subject to the approval of the Board of Supervisors, and in itself does not grant either Party the right to develop Parcels A or B. Development of any parcel is subject to the approval of the Board of Supervisors, and any relevant City regulatory agencies or departments.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## **ARTICLE 1: PROPERTY EXCHANGE AND ESCROW**

1.1. **Exchange of Property**. Subject to the terms and conditions in this Agreement, McBaine agrees to cause the conveyance of the 234 VN to City. The City agrees to deliver to the McBaine at Closing (as defined below), clear title to the new Parcel B (such actions are the “**Exchange**”).

1.2. **Exchange Values**. The Parties agree that, for purposes of the Exchange, the fair market value for Parcel B shall be deemed to be \$1,900,000 and that the fair market value for 234 VN shall be deemed to be \$1,900,000. Neither City nor McBaine will not be required to pay any consideration towards any purchase price.

1.3. **Effective Date and Escrow**. The Effective Date of this Agreement is the date the Director of Property executes this Agreement. Within ten (10) days following the Effective Date, the Parties shall open an escrow for the Exchange (“**Escrow**”) with Chicago Title Company in San

Francisco (the "**Title Company**") and deposit a fully executed copy of this Agreement with Title Company. This Agreement shall serve as instructions to Title Company as the escrow holder for consummation of the Exchange. McBaine and City agree to execute such additional or supplementary instructions as may be reasonably appropriate to enable the Title Company to comply with the terms of this Agreement and effect Closing; provided, however, that if there is any conflict between the provisions of this Agreement and any additional supplementary instructions, the terms of this Agreement shall control.

## **ARTICLE 2: INVESTIGATION; PROPERTY OPERATION**

### **2.1 Investigation of City Property.**

(a) Entry. At all times prior to the Closing Date (as defined in Section 6.1), City shall afford McBaine and its Agents (as defined in Section 9.14) access to 240 VN so McBaine, at its sole election, may independently conduct its due diligence review of all aspects of 240 VN and verify City's representations, warranties and covenants in this Agreement. McBaine shall give City notice of any planned entry of the 240 VN by email or phone to City at least twenty four (24) hours before such entry and shall conduct such entry and any inspections in a manner that reasonably minimizes interference with the current uses of the 240 VN.

(b) On-Site Testing. Notwithstanding anything to the contrary in this Section 2.1, McBaine shall not perform any on-site testing at the City Property without first obtaining the prior written consent of the Director of City's Administrative Services Real Estate Division (the "**Director of Property**"). To obtain such consent, McBaine shall notify the Director of Property of the identity of the party that will perform the testing, the proposed scope of the testing, and any other information reasonably requested by the Director of Property. City shall have the right to reasonably approve or disapprove of the proposed testing within ten (10) business days after receipt of such notice. In addition, City may condition any such approval on the maintenance of adequate general liability, pollution legal liability, business auto and workers compensation insurance by the entity performing such activities, the naming of City as additional insured under such insurance, and the release of any claims against City by the party performing such testing. . If McBaine or its Agents takes any sample from the 240 VN, upon written request, McBaine shall provide to City a portion of such sample being tested to allow City, if it so chooses, to perform its own testing. City or its representative may be present to observe any testing or other inspection performed on 240 VN. If Closing does not occur for any reason, McBaine shall promptly deliver, or cause to be delivered, to City copies of any reports relating to any testing or other inspection of the 240 VN performed by McBaine or its respective Agents. Neither McBaine nor its Agents shall otherwise disclose such information to other parties unless and except to the extent required by Applicable Law (as defined in Section 9.8).

(c) Insurance. McBaine shall maintain, and shall require that its Agents maintain, public liability and property damage insurance in amounts and in form and substance adequate to insure against all liability of McBaine and its Agents, arising out of any entry or inspection of 240 VN, and McBaine shall provide City with evidence of such insurance coverage upon request from City. If McBaine conducts any on-site testing at 240 VN, McBaine, and any of its Agents performing such testing, shall maintain an occurrence-based commercial general liability insurance policy during the period of such testing, with coverage of at least One Million Dollars (\$1,000,000), to insure against all liability of McBaine and its Agents that arises out of any such testing. McBaine shall provide City with (or cause to be provided to City) evidence of such insurance coverage upon request from City.

(d) Indemnification. McBaine hereby agrees to indemnify, protect, defend and hold harmless City, including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, all of the Agents of City, and their respective heirs, legal representatives, successors and assigns (collectively, the "**City Indemnified Parties**"), from and against any

Losses (defined as follows) arising out of or relating to the conduct of McBaine or its Agents, as applicable, or its or their activities during any entry on, under or about the 240 VN in performing any inspections, testings or inquiries thereof, whether prior to the date of this Agreement or during the term hereof, for any injuries or deaths to any party (including, without limitation, McBaine's Agents) and damage to any property, from McBaine's and its Agents activities, except to the extent caused by the negligence or willful misconduct of City or its Agents. The foregoing indemnity shall not include any claims resulting from the discovery or disclosure of pre-existing environmental conditions or the non-negligent aggravation of pre-existing environmental conditions on, in, under or about 240 VN. If McBaine's investigation of 240 VN causes any material alteration and this Agreement is terminated for any reason other than City's default hereunder, McBaine shall restore the 240 VN to substantially the same condition it was in prior to such investigation, subject to all Applicable Laws. This indemnity shall survive the termination of this Agreement or the Closing, as applicable.

"**Loss**" or "**Losses**" shall mean any and all claims, demands, losses, liabilities, damages (including foreseeable and unforeseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and reasonable costs and expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, or contingent or otherwise, including, without limitation, Attorneys' Fees and Costs. "**Attorneys' Fees and Costs**" shall mean any and all reasonable attorneys' fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and the costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, fees and costs associated with execution upon any judgment or order, and costs on appeal.

## 2.2 Investigation of McBaine Property.

(a) Entry. At all times prior to the Closing Date, McBaine shall afford City and its Agents access to McBaine Property so City, at its sole election, may independently conduct its due diligence review of all aspects of McBaine Property and verify McBaine's representations, warranties and covenants in this Agreement. Such activities may include tests of the environmental condition of McBaine Property, including, without limitation, the drilling of test wells and the taking of soil borings. City shall give McBaine notice of any planned entry of McBaine Property by email or phone to McBaine at least two (2) business days before such entry and shall conduct such entry and any inspections in a manner that reasonably minimizes interference with the current uses of McBaine Property.

(b) On-Site Testing. Notwithstanding anything to the contrary in this Section 2.2, before performing any on-site testing of McBaine Property, City shall obtain McBaine's prior written consent. To obtain such consent, City shall notify McBaine of the identity of the party that will perform the testing, the proposed scope of the testing, and any other information reasonably requested McBaine. McBaine shall have the right to reasonably approve or disapprove the proposed testing within three (3) business days after receipt of such notice. In addition, McBaine may condition any such approval on the maintenance of adequate general liability, pollution legal liability, business auto and workers compensation insurance by the entity performing such activities, the naming of McBaine as additional insured under such insurance, and the release of any claims against McBaine by the party performing such testing. If City or its Agents takes any sample from McBaine Property, upon written request, City shall provide to McBaine a portion of such sample being tested to allow McBaine, if it so chooses, to perform its own testing. McBaine or its representative may be present to observe any testing or other inspection performed on McBaine Property. If Closing does not occur for any reason, City shall promptly deliver, or cause to be delivered, to McBaine all copies of any reports relating to any testing or other inspection of McBaine Property performed by City or its Agents. Neither City

nor its Agents shall otherwise disclose such information to other parties unless and except to the extent required by Applicable Law.

(c) Insurance. McBaine acknowledges that City is self-insured and shall not be required to maintain insurance in connection with City's inspection of McBaine Property; provided, however, that if City's Agents enter McBaine Property in connection with City's inspection of McBaine Property and such Agents are not City employees or officers, City shall require such Agents to maintain the types and amounts of insurance set forth in Section 2.2(b).

(d) Indemnification. City hereby agrees to indemnify, protect, defend and hold harmless McBaine, including, but not limited to, all of its directors, officers, members, managers, employees, agents, and representatives, including all Agents of McBaine, and their respective heirs, legal representatives, successors and assigns (collectively, the "**McBaine Indemnified Parties**"), from and against any Losses arising out of or relating to the conduct of City or its Agents, as applicable, or its or their activities during any entry on, under or about McBaine Property in performing any inspections, testings or inquiries thereof, whether prior to the date of this Agreement or during the term hereof, including, without limitation, any injuries or deaths to any party (including, without limitation, City's Agents) and damage to any property, from any cause whatsoever, except to the extent caused by the negligence or willful misconduct of McBaine. The foregoing indemnity shall not include any claims resulting from the discovery or disclosure of pre-existing environmental conditions or the non-negligent aggravation of pre-existing environmental conditions on, in, under or about McBaine Property. If City's investigation of McBaine Property causes any material alteration and this Agreement is terminated for any reason other than McBaine's default hereunder, City shall restore McBaine Property to substantially the same condition it was in prior to such investigation, subject to all Applicable Laws. This indemnity shall survive the termination of this Agreement or the Closing, as applicable.

2.3 Property Agreements; No New Improvements. From the Effective Date until the Closing or earlier termination of this Agreement, neither Party shall enter into any binding lease or contract with respect to the Property or construct any improvements on the Property without first obtaining the other Party's prior written consent to such action, which consent shall not be unreasonably withheld or delayed.

### ARTICLE 3: [reserved]

### ARTICLE 4: TITLE

#### 4.1 Permitted Title Exceptions to the New Parcel.

(a) Parcel B Permitted Title Exceptions. At the Closing, City shall convey all of its right, title and interest in and to Parcel B to McBaine by using the form of deed attached hereto as **Exhibit D** (the "**City Deed**"). Title to Parcel B shall be subject to (i) liens of local real estate taxes and assessments that are not yet payable, (ii) all existing exceptions and encumbrances, whether or not disclosed by a current preliminary title report or the public records or any other documents reviewed by in its due diligence investigation of Parcel B, but excluding any monetary liens other than for such taxes and assessments, and any other exceptions to title which would be disclosed by an accurate and thorough investigation, survey, or inspection of 240 VN, and (iii) all items of which McBaine has actual or constructive notice or knowledge. All of the foregoing permitted exceptions to title shall be referred to collectively as the "**Parcel B Permitted Title Exceptions**". Without limiting the foregoing, McBaine acknowledges receipt of a preliminary report issued by the Title Company under Order No. \_\_\_\_\_, dated as of \_\_\_\_\_, 202\_, covering 240 VN and approves all of the exceptions contained therein. If McBaine elects to obtain a policy of owner's title insurance for the Parcel, B such insurance shall be at McBaine's sole cost and expense.

(b) McBaine Property Permitted Title Exceptions. Prior to Closing, within ten (10) business days following the adoption and approval of Resolution(s) submitted to the Board of Supervisors and Mayor of San Francisco authorizing this transaction, including the development of Parcel A for affordable housing, McBaine shall convey its right, title and interest in and to 234 VN to City by using the form of deed attached hereto as **Exhibit E** (the "**McBaine Deed**"). Title to McBaine Property shall be subject to (i) pro rated liens of local real estate taxes and assessments that are not yet payable, (ii) the exceptions shown as Item \_\_\_\_\_ in the preliminary report issued by the Title Company for Title No. \_\_\_\_\_, dated \_\_\_\_\_, 202\_, and (iii) any other exceptions approved in writing by City in its sole discretion. All of the foregoing permitted exceptions to title shall be referred to collectively as the "**McBaine Property Permitted Title Exceptions**" and shall be reflected in a CLTA owner's title insurance policy (the "**City Title Policy**") issued by the Title Company to City, with such coinsurance or reinsurance and direct access agreements and endorsements as City may reasonably request, in an amount specified by City to the Title Company, insuring City's fee interest in 234 VN, subject only to McBaine Property Permitted Title Exceptions, all at the sole cost and expense of City.

(c) Title Defect. If at the time scheduled for Closing, any of the Property is (i) subject to possession by others, (ii) subject to rights of possession other than those of McBaine or City, as the case may be, or (iii) encumbered by a lien, encumbrance, covenant, assessment, easement, lease, tax or other matter (except for a Parcel B Permitted Title Exception or a McBaine Property Permitted Title Exception, or anything caused by the action or inaction of the acquiring Party) that would materially affect the proposed development or use of such Property, as determined by the acquiring Party in its sole discretion ("**Title Defect**"), City or McBaine, as the case may be, will have up to sixty (60) days from the date scheduled for Closing to cause the removal of the Title Defect. The Closing will be extended to the earlier of five (5) business days after the Title Defect is removed or the expiration of such sixty (60) day period (the "**Extended Closing**").

(d) Remedies With Respect to Uncured Title Defect. If a Title Defect still exists at the date specified for the Extended Closing, unless the Parties mutually agree to further extend such date, the acquiring Party of such affected Property may by written notice to the other Party either (i) terminate this Agreement or (ii) accept conveyance of such affected Property. If the acquiring Party accepts conveyance of such affected Property, the Title Defect will be deemed waived but solely with respect to any action by the acquiring Party against the other Party. If the acquiring Party does not accept conveyance of the affected Property and fails to terminate this Agreement within seven (7) days after the date specified for the Extended Closing, or any extension provided above, either Party may terminate this Agreement upon three (3) days' written notice to the other Party. If this Agreement is terminated under this Section, neither Party shall have any further remedies under this Agreement against the other Party with respect to such termination nor any other rights or remedies, except for those that expressly survive the termination of this Agreement.

4.2 Responsibility for Title Insurance. Each Party understands and agrees, on behalf of itself and its transferees, that the right, title and interest in the Property conveyed by such Party on the Closing Date shall not exceed that vested in such Party immediately prior to the Closing Date, and neither Party is under any obligation to furnish any policy of title insurance in connection with this transaction. Each Party recognizes that any physical monument of any of the Property's boundary lines may not correspond to the legal description of such Property. Neither Party shall be responsible for any discrepancies in the area or location of the property lines or any other matters that an accurate survey or inspection might reveal. It is the sole responsibility of each Party to obtain a survey and a policy of title insurance, if desired, and to investigate any and all title, survey and inspection matters affecting the Property it intends to acquire under this Agreement.

#### 4.3 Legal Descriptions; Parcel Legal Status.

(a) Parcel B is currently not a separate legal parcel and the Parties agree to use the legal description for Parcel B within **Exhibit C** ("Lot Line Adjustment Application Legal Descriptions and Maps" and the legal description for McBaine Property (the "**McBaine Legal Description**") within **Exhibit C** to effect the Exchange; provided that Parcel B Legal Description shall be amended, if necessary, to conform to the Record Survey.

(b) Parcel B is a portion of 240 VN. As a condition to closing, City shall cause a Record Survey and the City Quitclaim Deed in the form of **Exhibit D** and 234 shall cause the 234 Grant Deed in the form of **Exhibit E** to be recorded in the Official Records of San Francisco County prior to Closing (the "**Record Survey Condition**"). The existing parcel map and the post-Exchange parcel maps are detailed in **Exhibit C**. McBaine acknowledges and agrees that City is accepting McBaine Property from McBaine pursuant to this Agreement in its proprietary capacity, not its regulatory capacity.

(c) The obligations of each Party to convey title to property not currently legally subdivided to the other under this Agreement are conditioned on the approval by the City exercising its regulatory authority of a subdivision creating such property as a legal parcel and the satisfaction of the Record Survey Condition.

### **ARTICLE 5: REPRESENTATIONS AND WARRANTIES**

5.1 Representations and Warranties of McBaine. McBaine represents and warrants to and covenants with City as of the Effective Date and as of the Closing Date as set forth below. "**McBaine's actual knowledge**" means the actual knowledge of Justin McBaine, without a duty of independent inquiry and without personal liability.

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

(b) The copies of the leases affecting 234 VN provided by McBaine to the City are true and complete copies of all leases in effect with respect to 234 VN.

(c) To McBaine's actual knowledge, no condemnation, has either been instituted or planned to be instituted by any governmental or quasi-governmental agency other than City which could detrimentally affect the use, operation or value of McBaine Property.

(d) To McBaine's actual knowledge, McBaine has not received notice of (i) a claim to any easements or rights of way which have been acquired by prescription or which are otherwise not of record with respect to McBaine Property, (ii) a claim to any easements, rights of way, permits, licenses or other forms of agreement which afford third parties the right to traverse any portion of McBaine Property to gain access to other real property, or (iii) any disputes with regard to the location of any fence or other monument of McBaine Property's boundary nor any claims or actions involving the location of any fence or boundary.

(e) There is no litigation pending or, after due and diligent inquiry, to McBaine's actual knowledge, threatened, against McBaine or any basis therefor that arises out of the ownership of McBaine Property or that might detrimentally affect the use or operation of McBaine Property for its intended purpose as an affordable housing site, or the value of McBaine Property or the ability of McBaine to perform its obligations under this Agreement.



(f) McBaine is the legal and equitable owner of McBaine Property, collectively own the entire McBaine Property and have the full right to convey the same, and without limiting the generality of the foregoing, McBaine has not granted any option or right of first refusal or first opportunity to any third party to acquire any interest in any of McBaine Property. The leases between 234 VN and the tenants in the 234 Building include provisions permitting 234 VN to terminate such leases upon no more than 60 days' prior notice and accordingly McBaine will terminate the leases pursuant to such provisions prior to demolition of 234 VN and therefore no entities or individuals will have a claim for relocation assistance related to the conveyance of 234 VN to City.

(g) 234 LLC and 250 LLC are limited liability companies, duly organized and validly existing under the laws of the State of California, and is in good standing under the laws of the State of California; this Agreement and all documents executed by McBaine which are to be delivered to City at the Closing are, or at the Closing will be, duly authorized, executed and delivered by each of the parties that comprise McBaine, are, or at the Closing will be, legal, valid and binding obligations of such party, enforceable against such party in accordance with their respective terms, and do not, and at the Closing will not, violate any provision of any agreement or judicial order to which such party is a party or to which McBaine or the McBaine Property is subject.

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

(i) McBaine hereby represents and warrants to and covenants with City that, to McBaine's actual knowledge, other than as set forth in the Phase 1 ESA and the Pre-Demo Report, the following statements are true and correct and will be true and correct as of the Closing Date: (i) the McBaine Property is not in violation of any Environmental Laws; (ii) the McBaine Property is not now has it ever been used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material; (iii) there has been no release and there is no threatened release of any Hazardous Material in, on, under or about the McBaine Property; (iv) there are not now any underground storage tanks, septic tanks or wells or any aboveground storage tanks at any time used to store Hazardous Material located in, on or under the McBaine Property; (v) the McBaine Property does not consist of any landfill or of any building materials that contain any Hazardous Material; and (vi) the McBaine Property is not subject to any claim by any governmental regulatory agency or third party related to the release or threatened release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in, on, under or about McBaine Property, or the migration of Hazardous Material from or to other property. As used in this Agreement, the following terms shall have the meanings below:

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

(ii) **"Hazardous Material"** shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to

the environment. "Hazardous Material" includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or under Section 25281 or 25316 of the California Health & Safety Code; any "hazardous waste" as defined in Section 25117 or listed under Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials (whether or not such materials are part of the structure of any existing improvements on the Property, any improvements to be constructed on the Property, or are naturally occurring substances on, in or about the Property); and petroleum, including crude oil or any fraction, and natural gas or natural gas liquids. "Hazardous Material" shall not include any material used or stored at the Property in limited quantities and required in connection with the routine operation and maintenance of the Property, if such use and storage complies with all applicable Hazardous Material Laws.

(iii) **"Hazardous Material Laws"** shall mean any present or future federal, state or local laws, rules, regulations or policies relating to Hazardous Material (including, without limitation, its handling, transportation or release) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Property and any other property, including, without limitation, soil, air, air quality, water, water quality and groundwater conditions. "Hazardous Materials Laws" includes, without limitation, CERCLA, as amended by SARA, the RCRA, the Clean Water Act, TSCA, the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the California Superfund law, the Hazardous Waste Control Act (California Health and Safety Code Section 25100 et seq.), the Business Plan Law, Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.), Proposition 65, City's Pesticide Ordinance (Chapter 39 of the San Francisco Administrative Code), and Article 20 of the San Francisco Public Works Code ("Analyzing Soils for Hazardous Waste").

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

(j) At the time of Closing there will be no leases or occupancy agreements to which McBaine is a party affecting 234 VN. At the time of Closing, there will be no outstanding written or oral contracts made by McBaine for any improvements located on 234 VN that have not been fully paid for and McBaine shall cause to be discharged all mechanics' or materialmen's liens arising from any labor or materials furnished to 234 VN on behalf of McBaine or its Agents prior to Closing. There are no obligations in connection with 234 VN incurred prior to Closing which will be binding upon City after Closing.

(k) 234 LLC, 250 LLC, and McBaine are not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code and McBaine is not subject to withholding under Section 18662 of the California Revenue and Taxation Code.

5.2 Hazardous Substance Disclosure. California law requires sellers to disclose to buyers the presence or potential presence of certain Hazardous Materials. Accordingly, each of City and McBaine is hereby advised that occupation of Parcel B or 234 VN may lead to exposure to Hazardous Materials such as, but not limited to, gasoline, diesel and other vehicle fluids, vehicle exhaust, office maintenance fluids, tobacco smoke, methane and building materials containing chemicals, such as formaldehyde. By execution of this Agreement, each of City and McBaine acknowledges that the notices and warnings set forth above satisfy the requirements of California Health and Safety Code Section 25359.7 and related statutes. In addition, each of City and

McBaine acknowledge receipt of that certain Phase 1 Environmental Site Assessment Report dated May 5, 2020 prepared by Partner Engineering and Science, Inc. (the "**Phase 1 ESA**") and that certain Asbestos, Lead, PCBs and Other Hazardous Building Materials Investigation Pre-Demolition Survey Report dated October 2020 prepared by Acumen Industrial Hygiene, Inc. (the "**Pre-Demo Report**").

5.3 As-Is Condition of Parcel B; Release of City. MCBAINES SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS CONVEYING AND MCBAINES IS ACQUIRING CITY'S INTEREST IN PARCEL B ON AN "AS IS WITH ALL FAULTS" BASIS. MCBAINES IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY OR ITS AGENTS AS TO ANY MATTERS CONCERNING PARCEL B, ITS SUITABILITY FOR MCBAINES'S INTENDED USES OR ANY OF THE PROPERTY CONDITIONS THEREOF. MCBAINES ACKNOWLEDGES THAT PARCEL B IS NOT A SEPARATE LEGAL PARCEL AS OF THE EFFECTIVE DATE. CITY DOES NOT GUARANTEE THE LEGAL, PHYSICAL, GEOLOGICAL, ENVIRONMENTAL, ZONING, OTHER CONDITIONS OF PARCEL B OR THE SUITABILITY OF PARCEL B FOR ANY USE, NOR DOES IT ASSUME ANY RESPONSIBILITY FOR THE COMPLIANCE OF PARCEL B OR ITS USE WITH ANY APPLICABLE LAWS. IT IS MCBAINES'S SOLE RESPONSIBILITY TO DETERMINE ALL BUILDING, PLANNING, ZONING AND OTHER REGULATIONS AND APPLICABLE LAWS, INCLUDING ANY PUBLIC TRUST CLAIMS, RELATING TO PARCEL B AND THE USES TO WHICH IT MAY BE PUT.

As part of its agreement to accept Parcel B in its "as is and with all faults" condition, McBaine, on behalf of itself and its successors and assigns, waives any right to recover from, and forever releases and discharges, City or its respective Agents, and their respective heirs, successors, legal representatives and assigns, from any and all Losses, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the use of Parcel B by City or its Agents or invitees, (ii) any failure of Parcel B to comply with the Subdivision Map Act, or (iii) the physical, geological or environmental condition of Parcel B, including, without limitation, any Hazardous Material in, on, under, above or about Parcel B and any federal, state, local or administrative law, rule, regulation, order or requirement applicable thereto, including, without limitation, all Environmental Laws.

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

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

By placing its initials below, McBaine specifically acknowledges and confirms the validity of the releases made above and the fact that McBaine was represented by counsel who explained, at the time of this Agreement was made, the consequences of the above releases.

INITIALS: McBaine: APMB

5.6 As-Is Condition of 234 VN Property; Release of McBaine. CITY SPECIFICALLY ACKNOWLEDGES AND AGREES THAT MCBAINES IS CONVEYING AND CITY IS ACQUIRING MCBAINES'S INTEREST IN 234 VN ON AN "AS IS WITH ALL FAULTS" BASIS. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 4.1 ABOVE, CITY IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY

REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM MCBAIN OR ITS AGENTS AS TO ANY MATTERS CONCERNING 234 VN, ITS SUITABILITY FOR CITY'S INTENDED USES OR ANY OF THE PROPERTY CONDITIONS THEREOF. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 4.1 ABOVE, MCBAIN DOES NOT GUARANTEE THE LEGAL, PHYSICAL, GEOLOGICAL, ENVIRONMENTAL, ZONING, OTHER CONDITIONS OF 234 VN OR THE SUITABILITY OF 234 VN FOR ANY USE, NOR DOES IT ASSUME ANY RESPONSIBILITY FOR THE COMPLIANCE OF 234 VN OR ITS USE WITH ANY APPLICABLE LAWS. IT IS CITY'S SOLE RESPONSIBILITY TO DETERMINE ALL BUILDING, PLANNING, ZONING AND OTHER REGULATIONS AND APPLICABLE LAWS RELATING TO 234 VN AND THE USES TO WHICH IT MAY BE PUT.

As part of its agreement to accept 234 VN in its "as is and with all faults" condition, City, on behalf of itself and its successors and assigns, waives any right to recover from, and forever releases and discharges, McBaine and its respective Agents, and their respective heirs, successors, legal representatives and assigns, from any and all Losses, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the use of 234 VN by McBaine or its Agents or invitees, (ii) any failure of 234 VN to comply with the Subdivision Map Act, or (iii) the physical, geological or environmental condition of 234 VN, including, without limitation, any Hazardous Material in, on, under, above or about 234 VN and any federal, state, local or administrative law, rule, regulation, order or requirement applicable thereto, including, without limitation, all Environmental Laws. In connection with the foregoing release, City expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

By placing its initials below, City specifically acknowledges and confirms the validity of the releases made above and the fact that City was represented by counsel who explained, at the time of this Agreement was made, the consequences of the above releases.

INITIALS: City: \_\_\_\_\_

## ARTICLE 6: CONDITIONS PRECEDENT TO CLOSING

6.1 City's Conditions Precedent. The following are conditions precedent to City's obligations under this Agreement as of the Closing Date to acquire 234 VN and convey Parcel B to McBaine (each, a "**City Condition Precedent**", and collectively, the "**City's Conditions Precedent**"):

(a) No event of default (or event which upon the giving of notice or the passage of time or both shall constitute an event of default) shall exist on the part of McBaine under this Agreement, and each of McBaine's representations and warranties under this Agreement shall be true and correct.

(b) McBaine shall have performed all of the obligations under this Agreement it is required to perform on or before the Closing, including any action required to complete demolition of the 234 Building and the Lot Line Adjustment, depositing into Escrow any sums required to be paid by Company under this Agreement.

(c) The Title Company shall be irrevocably committed to issue the City Title Policy at Closing on payment by City of all required premiums.

(d) There shall be no pending or threatened (i) condemnation, environmental or other pending governmental proceedings in respect of McBaine Property that would materially and adversely affect City's use thereof or (ii) litigation affecting McBaine Property.

(e) There shall be no material adverse change in the condition of McBaine Property from the Effective Date to the Closing Date, unless such change is caused by the acts of City or its Agents.

(f) McBaine shall have removed all of its equipment and personal property from McBaine Property, if any.

(g) The Exchange shall have been finally approved by all applicable City departments and agencies, in their respective sole discretion, on or before the Closing Date.

(h) A Resolution approving of the creation of Parcel B and the Exchange (the "**Resolution**") in accordance with and subject to City's Charter shall have been adopted by City's Board of Supervisors and Mayor, in their respective sole and absolute discretion, and duly enacted (the "**City Approval Condition**").

(i) The Record Survey Condition shall be satisfied.

(j) As of the Closing Date, there shall be no tenants in occupancy of the 234 Building.

(k) Demolition of the 234 Building shall have been completed as evidenced by the approval of final inspection and satisfaction of all conditions imposed in the demolition permit issued by the City.

(l) The filling of the existing basement space following demolition of the 234 Building to adjacent Van Ness Avenue sidewalk grade with engineered compacted fill has been completed as certified to City by the independent engineering consultant which observed such work

(m) All of the forgoing conditions in this Section 6.1 shall have been satisfied by June 30, 2022.

**6.2 Failure of City's Conditions Precedent; Cooperation of McBaine.** Each City Condition Precedent is intended solely for the benefit of City. If any City Condition Precedent is not satisfied by the Closing Date or by the date otherwise provided above, City may, at its sole election and by written notice to McBaine, extend the date for satisfaction of the condition, waive the condition in whole or part, conditionally waive the condition in whole or in part, or terminate this Agreement. Notwithstanding anything to the contrary in the foregoing, if any such conditional waiver is not acceptable to McBaine in its sole discretion, McBaine may reject such conditional waiver, in which event the original City Condition Precedent shall remain effective, and if not satisfied, shall entitle City to terminate this Agreement. If City elects to so terminate this Agreement, then upon any such termination, neither Party shall have any further rights nor obligations hereunder except for those that expressly survive termination of this Agreement.

McBaine shall cooperate with City and do all acts as may be reasonably requested by City to fulfill any City Condition Precedent, including, without limitation, execution of any documents, applications or permits. McBaine's representations and warranties to City shall not be affected or released by City's waiver or fulfillment of any City Condition Precedent.

McBaine hereby irrevocably agrees that City and its Agents may make all inquiries with and applications to any party, including, without limitation, any regulatory authority with jurisdiction as City may reasonably require to complete its due diligence investigations.

6.3 McBaine Conditions Precedent. The following are conditions precedent to McBaine's obligations under this Agreement to acquire Parcel B and to cause 234 VN to be conveyed to City (each, a "**McBaine Condition Precedent**", and collectively, the "**McBaine Conditions Precedent**"):

(a) No event of default (or event which upon the giving of notice or the passage of time or both shall constitute an event of default) shall exist on the part of City under this Agreement and each of City's representations and warranties under this Agreement shall be true and correct.

(b) City shall have performed all of the obligations under this Agreement it is required to perform on or before the Closing, including depositing into Escrow any sums required to be paid by City under this Agreement.

(c) There shall be no pending or threatened (i) condemnation, environmental or other pending governmental proceedings in respect Parcel B that would materially and adversely affect McBaine's intended use thereof or (ii) litigation affecting Parcel B.

(d) There shall be no material adverse change in the condition of Parcel B, from the Effective Date to the Closing Date, that may impact McBaine's intended use of Parcel B.

(e) The City Approval Condition and the Record Survey Condition shall have been completed.

(f) Demolition of the 240 Building shall have been completed as evidenced by the approval of final inspection and satisfaction of all conditions imposed in the demolition permit issued by the City.

(g) The filling of the existing basement space following demolition of the 240 Building to adjacent Van Ness Avenue sidewalk grade with engineered compacted fill has been completed as certified to McBaine by the independent engineering consultant which observed such work.

(h) All of the forgoing conditions in this Section 6.3 shall have been satisfied by June 30, 2022.

6.4 Failure of Any McBaine Conditions Precedent. Each McBaine Condition Precedent is intended solely for the benefit of McBaine. If any McBaine Condition Precedent is not satisfied on or before the required completion date specified therefor (or by the date otherwise provided above or as such date may be extended as permitted hereby), McBaine may, at its option and by written notice to City, extend the date for satisfaction of the condition, waive the condition in whole or in part or conditionally waive in whole or in part, in writing the condition precedent or terminate this Agreement. Notwithstanding anything to the contrary in the foregoing, if any such conditional waiver is not acceptable to City in its sole discretion, City may reject such conditional waiver, in which event the original McBaine Condition Precedent shall remain effective, and if not satisfied, shall entitle McBaine to terminate this Agreement. If McBaine elects to so terminate this Agreement, neither Party shall have any further rights or obligations hereunder except for those that expressly survive the termination of this Agreement.

6.5 Notification Obligation.

(a) From and after the Effective Date through to the Closing Date, City shall promptly deliver written notice to notify McBaine if City becomes aware of or receives notice of any actual or threatened litigation with respect to Parcel B, any violation of Applicable Law affecting or related to Parcel B, or any other material adverse change in the condition of Parcel B. Such notification shall include all material facts known by City relative to such matter.

(b) From and after the Effective Date through to the Closing Date, McBaine shall promptly deliver written notice to City if McBaine becomes aware of or receives notice of any actual or threatened litigation with respect to McBaine Property, any violation of Applicable Law affecting or related to McBaine Property, or any other material adverse change in the condition of McBaine Property. Such notification shall include all material facts known by McBaine relative to such matter.

## ARTICLE 7: CLOSING

7.1 Closing Date. "**Closing**" shall mean the consummation of the Exchange pursuant to the terms and conditions of this Agreement, and the date on which the Closing shall occur shall be on or before the fifth (5<sup>th</sup>) Business Day immediately following the satisfaction of the City Approval Condition (the "**Closing Date**"). The Closing Date may not be extended without the prior written approval of the Parties, except as otherwise expressly provided in this Agreement. If the Closing does not occur on or before the Closing Date, Title Company shall, unless it is notified by both Parties to the contrary within five (5) days after the Closing Date, return each item deposited in Escrow to the Party that deposited such item. Any such return shall not, however, limit the provisions hereof or otherwise relieve either Party of any liability it may have for its wrongful failure to perform its obligations under this Agreement.

### 7.2 Deposit of Documents for Closing.

(a) At least one (1) Business Day before the Closing Date, City shall deposit the following items into Escrow:

(i) Parcel B Deed, duly executed and acknowledged by City and conveying Parcel B to McBaine (or to McBaine's nominee, provided such nominee is reasonably acceptable to City) subject to Parcel B Permitted Title Exceptions;

(ii) any funds City is required to deposit into Escrow in accordance with this Agreement;

(iii) a certified copy of the Resolution;

(iv) an owner's affidavit to the Title Company in a form reasonably acceptable to City, regarding the status of parties in possession and any work of improvement which might be the subject of a mechanics lien and providing indemnification from any such lien on Parcel B; and

(iii) a preliminary closing statement approved by City.

(b) At least one (1) Business Day before the Closing Date, McBaine shall deposit the following items into Escrow:

(i) the 234 VN Deed, duly executed and acknowledged by McBaine and conveying 234 VN to City subject to McBaine Property Permitted Title Exceptions;

(ii) an owner's affidavit to the Title Company in a form reasonably acceptable to City, regarding the status of parties in possession and any work of improvement which might be the subject of a mechanics lien and providing indemnification from any such lien on 234 VN;

(iii) any funds McBaine is required to deposit into Escrow in accordance with this Agreement; and

(iv) a preliminary closing statement approved by McBaine.

(c) City and McBaine shall each deposit such other instruments as are reasonably required by the Title Company or otherwise required to effect Closing in accordance with the terms hereof.

(d) As of Closing, the Title Company shall record in the Official Records the certified copy of the Resolution, any and all documentation requisite to the Lot Line Adjustment and the Parcel B Deed and the 234 Deed.

(e) As of Closing, the Title Company shall issue the City Title Policy to City, at City's expense, and McBaine Title Policy to McBaine, at McBaine's expense.

(f) Unless the Parties otherwise expressly agree in writing at or prior to the Closing Date, as of Closing, all pre-conveyance conditions of the Parties with respect to the Property shall be deemed satisfied or waived by the Party or Parties benefited by such condition.

7.3 Expenses. Any transfer taxes assessed on the conveyance of Parcel B to McBaine and any fees related to the recording of the McBaine Deed pursuant to this Agreement shall be paid by McBaine and any transfer taxes assessed on the conveyance of 234 VN Property to City pursuant to this Agreement and any fees related to recording the Parcel B Deed shall be waived in this transaction. The Parties shall each pay fifty percent (50%) of any Escrow fees for the Closing.

7.4 Prorations. Any real property taxes or assessments for the Property shall be prorated as of the Closing Date. McBaine shall pay for all utilities used at McBaine Property prior to the Closing Date and for all utilities used at Parcel B on and after the Closing Date. City shall pay for all utilities used at Parcel B prior to the Closing Date and for all utilities used at 234 VN on and after the Closing Date. Any utility deposits paid by City for Parcel B prior to the Closing Date shall remain the property of City, and McBaine shall reasonably cooperate to cause the return of such deposits to City to the extent City is entitled thereto. Any utility deposits paid by McBaine for 234 VN prior to the Closing Date shall remain the property of McBaine, and City shall reasonably cooperate to cause the return of such deposits to McBaine to the extent McBaine is entitled thereto. If any of the foregoing prorations cannot be accurately calculated on the Closing Date, they shall be calculated as soon as reasonably feasible after the Closing Date. Either Party owing the other Party a sum of money based on such subsequent prorations shall promptly pay such sum to the other Party.

## **ARTICLE 8: DEFAULT AND REMEDIES**

8.1 Default; Right to Specific Performance. If either Party fails to perform its obligations under this Agreement (except as excused by the other Party's default), including, without limitation, a failure to convey Parcel B or 234 VN at the time and in the manner provided for hereunder, the Party claiming default may, at its sole election, make written demand for performance. If the Party receiving such demand for performance fails to comply with such written demand within thirty (30) days after such notice is delivered, the Party claiming default will have the option to (i) waive such default, (ii) demand specific performance or (iii) terminate this Agreement, in each case by written notice to the defaulting Party. If a Party becomes aware



of a default by the other Party under this Agreement that relates to Parcel B or 234 VN before the Closing Date and the Party elects to proceed with the Closing, then the Party that elects to proceed shall be deemed to have waived the default.

8.2 Termination. If any Party terminates this Agreement pursuant to this Article 8, such Party shall have the right to seek all legal remedies available to such Party.

## ARTICLE 9: GENERAL PROVISIONS

9.1 Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to be delivered upon (i) personal delivery, or the day the addressee refuses to accept such delivery, (ii) one (1) business day after being deposited with a reliable overnight courier service, or (iii) two (2) days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

If to McBaine:	234 Van Ness, LLC c/o AlDiLa Investments 1686 Union Street, Suite 203 San Francisco, CA 94123 Attn: Justin McBaine Telephone: (415) 466-8239
With a copy to:	Farella Braun + Martel LLP 235 Montgomery Street San Francisco, CA 94104 Attn: Richard M. Shapiro Telephone: (415) 954-4934
If to City:	Director of Property City and County of San Francisco 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102 Facsimile: (415) 554-9216 Telephone: (415) 554-9875
With a copy to:	Office of the City Attorney Room 234, City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102 Attn: Heidi Gewertz Facsimile: (415) 554-4755 Telephone: (415) 554-4703 _____

For the convenience of the Parties, copies of notice may also be given by facsimile, but a Party may not give official or binding notice by facsimile and the effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a facsimile copy of the notice.

Every notice given to a Party pursuant to this Agreement must state (or must be accompanied by a cover letter that states) substantially the following: (A) the Section of this Agreement under which the notice is given and the action or response required, if any; (B) if applicable, the period of time within which the recipient of the notice must respond thereto; (C) if approval is being requested, shall be clearly marked "Request for Approval"; and (D) if a

notice of a disapproval or an objection which requires reasonableness, shall specify with particularity the reasons therefor.

Any mailing address or facsimile number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. If delivery of any notice given pursuant to this Agreement is rejected, such notice shall be deemed to have been made on the attempted delivery date.

9.2 Amendments. Except as otherwise provided in this Agreement, this Agreement may be amended or modified only by a written instrument executed by City and McBaine. The Director of Property of City (or any successor City officer as designated by law) shall have the authority to consent to any non-material changes to this Agreement. For purposes hereof, "non-material change" shall mean any change that does not materially reduce the consideration to City under this Agreement or otherwise materially increase the liabilities or obligations of City under this Agreement. Material changes to this Agreement shall require the approval of City's Board of Supervisors by resolution.

9.3 Severability. If any provision of this Agreement, or its application to any party or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other party or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement.

9.4 Non-Waiver. Except as expressly set forth herein to the contrary, a Party's delay or failure to exercise any right under this Agreement shall not be deemed a waiver of that or any other right contained in this Agreement.

9.5 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors, heirs, legal representatives, administrators and assigns. Neither Party's rights or obligations hereunder shall be assignable without the prior written consent of the other Party; provided, however, even if the other Party approves any such proposed assignment, in no event shall the assigning Party be released of any of its obligations hereunder.

9.6 Consents and Approvals. Any approvals or consents of City required under this Agreement may be given by the Director of Property, unless otherwise provided in the City Charter or applicable City ordinances. Any approvals or consents of McBaine required under this Agreement may be given by Justin McBaine.

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

9.8 Applicable Laws. "**Applicable Laws**" shall mean all present and future applicable laws, ordinances, rules, regulations, resolutions, statutes, permits, authorizations, orders, requirements, covenants, conditions and restrictions, whether or not in the contemplation of the Parties, that may affect or be applicable to the Property or any part of the Property (including, without limitation, any subsurface area) or the use of the Property. "Applicable Laws" shall include, without limitation, any environmental, earthquake, life safety and disability laws, and all consents or approvals required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, board of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, having or acquiring jurisdiction of Parcel B or 234 VN, as applicable. The term

"Applicable Law" shall be construed to mean the same as the above in the singular as well as the plural.

9.9 No Brokers or Finders. Each Party warrants to the other Party that no broker or finder was instrumental in arranging or bringing about this transaction and that there are no claims or rights for brokerage commissions or finder's fees in connection with the transactions contemplated by this Agreement. If any party brings a claim for a commission or finder's fee based on any contact, dealings, or communication with McBaine or City, then the Party through whom such party makes a claim shall defend the other Party(ies) from such claim, and shall indemnify, protect, defend and hold harmless the indemnified Party from any Losses that the indemnified Party incurs in defending against the claim. The provisions of this Section shall survive the Closing, or, if the conveyance is not consummated for any reason, any termination of this Agreement.

9.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

9.11 Interpretation of Agreement.

(a) Exhibits. Whenever an "Exhibit" is referenced, it means an attachment to this Agreement unless otherwise specifically identified. All such Exhibits are incorporated herein by reference.

(b) Captions. Whenever a section, article or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The captions preceding the articles and sections of this Agreement have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.

(c) Words of Inclusion. The use of the term "including," "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

(d) References. Wherever reference is made to any provision, term or matter "in this Agreement," "herein" or "hereof" or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered, section or paragraph of this Agreement or any specific subdivision thereof.

(e) Recitals. If there is any conflict or inconsistency between the recitals and any of the remaining provisions of this Agreement, the remaining provisions of this Agreement shall prevail. The Recitals in this Agreement are included for convenience of reference only and are not intended to create or imply covenants under this Agreement.

9.12 Entire Agreement. This Agreement (including the exhibits) contains all the representations and the entire agreement between the Parties with respect to the subject matter herein. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Agreement (and such other agreements to the extent referenced herein). No prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by either Party or any other party and no court or other body shall consider those drafts in interpreting this Agreement.

9.13 Survival. Any and all other representations, warranties and indemnities of the Parties contained herein (including the Exhibits), shall survive the Closing or termination of this Agreement.

9.14 Parties and Their Agents. As used herein, the term "**Agents**" when used with respect to either Party shall include the agents, employees, officers, contractors and representatives of such Party. McBaine is comprised of more than one party, and McBaine's obligations under this Agreement shall be joint and several among such parties.

9.15 Attorneys' Fees. If either Party hereto fails to perform any of its respective obligations under this Agreement or if any dispute arises between the Parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all reasonable Attorneys' Fees and Costs incurred by the other Party on account of such default or in enforcing or establishing its rights hereunder, including without limitation, court costs. Any such Attorneys' Fees and Costs incurred by either Party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment. For purposes of this Agreement, the reasonable fees of attorneys of the Office of City Attorney of the City and County of San Francisco shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which such services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office.

9.16 Time of Essence. Time is of the essence with respect to the performance of the Parties' respective obligations contained herein.

9.17 Non-Liability. Notwithstanding anything to the contrary in this Agreement, no elective or appointive board, commission, member, officer, employee or agent of City shall be personally liable to McBaine or its successors and assigns, if there is any default or breach by City or for any amount which may become due hereunder, or for any obligation of City under this Agreement. Notwithstanding anything to the contrary in this Agreement, no officers, directors, members, shareholders, employees or Agents of McBaine (or of its successors or assigns) shall be personally liable to City, or its successors and assigns, if there is any default or breach by McBaine or for any amount which may become due to City, or its successors and assigns, or for any obligations of McBaine under the terms of this Agreement.

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

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

9.20 MacBride Principles - Northern Ireland. 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.* City also urges companies to do business with corporations that abide by the MacBride Principles. McBaine acknowledges that it has read and understands the above statement of City concerning doing business in Northern Ireland.

9.21 Relationship of the Parties. The relationship between the Parties hereto is solely that of transferor and transferee of real property.

9.22 Prohibition Against Making Contributions to City. McBaine acknowledges that no party that contracts with City for the rendition of personal services, or the furnishing of any material, supplies or equipment to City, or for selling any land or building to City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer or candidate at any time between commencement of negotiations and either the completion of, or the termination of, negotiations for such contract.

9.23 Effective Date. This Agreement shall become effective upon the first day ("**Effective Date**") on which each of the following events has occurred: (i) the Parties have duly executed and delivered this Agreement, and (ii) the City Approval Condition has been satisfied. The Parties shall confirm in writing the Effective Date of this Agreement once such date has been established pursuant to this Section; provided, however, the failure of the Parties to confirm such date in writing shall not have any effect on the validity of this Agreement. Where used in this Agreement or in any of its attachments, references to the "Effective Date" will mean the Effective Date as established and confirmed by the Parties pursuant to this Section.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, MCBAIN ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL A RESOLUTION OF CITY'S BOARD OF SUPERVISORS THAT APPROVES OF THIS AGREEMENT AND AUTHORIZES THE TRANSACTIONS CONTEMPLATED HEREBY HAS BEEN DULY ENACTED. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH A RESOLUTION, AND THIS AGREEMENT SHALL BE NULL AND VOID IF CITY'S BOARD OF SUPERVISORS AND MAYOR DO NOT APPROVE THIS AGREEMENT IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF THE TRANSACTIONS CONTEMPLATED HEREBY BY ANY EMPLOYEES, DEPARTMENTS OR COMMISSIONS OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

[ REMAINDER OF PAGE INTENTIONALLY LEFT BLANK ]

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

**MCBAINE:**

234 VAN NESS, LLC, a California limited liability company

Date: 1/26/21

By: *J. Patterson McBaine*  
J. Patterson McBaine  
Its: Manager

**CITY:**

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

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

By: \_\_\_\_\_  
Andrico Q. Penick  
Director of Property

**MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT:**

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: \_\_\_\_\_  
Heidi J. Gewertz  
Deputy City Attorney

**[CONSENTS ON FOLLOWING PAGE]**

The undersigned (i) consents to the negotiations by the City and McBaine under this Agreement and any Exchange Agreement, (ii) consents to the reconfiguration of the City Property that would occur if McBaine and City enter into and consummate an Exchange Agreement to exchange the City Parcel for McBaine Property, and (iii) agrees the Mercy ENA is modified to approve any reconfiguration of the City Property that occurs if the City exchanges the City Parcel for McBaine Property.

By: MERCY HOUSING CALIFORNIA,  
a California non-profit public benefit corporation

By: \_\_\_\_\_  
Name: Barbara Gualco  
Its: Vice President

**CONCUR:**

The undersigned (i) concurs with the negotiations by the City and McBaine under this Agreement and any Exchange Agreement, (ii) concurs with the reconfiguration of the City Property that would occur if McBaine and City enter into and consummate an Exchange Agreement to exchange the City Parcel for McBaine Property, and

(iii) acknowledges the Mercy ENA is modified to approve any reconfiguration of the City Property that occurs if the City exchanges the City Parcel for McBaine Property.

THE KELSEY,  
a California non-profit corporation

By: \_\_\_\_\_  
Name: Micaela Connery  
Title: CEO

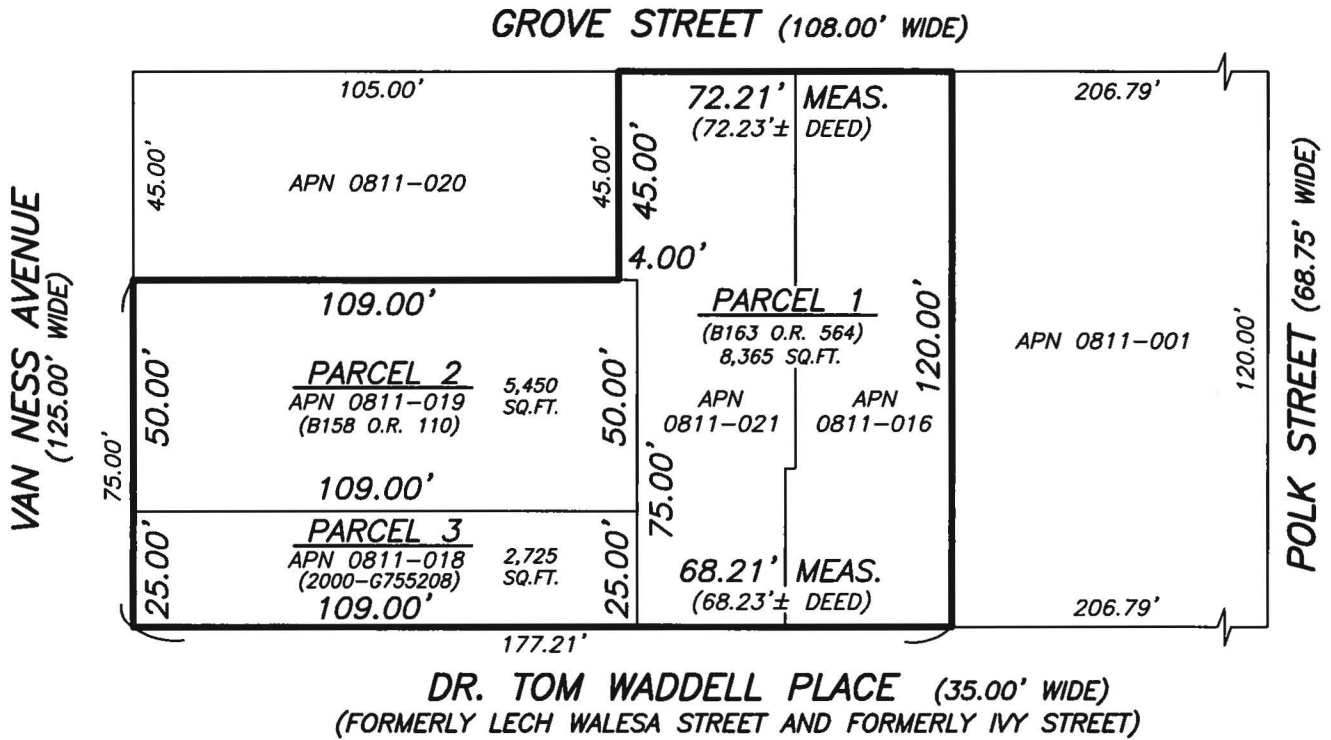
**EXHIBIT A**

**CURRENT PARCEL CONFIGURATION**

**(SEE ATTACHED)**



# EXHIBIT A



**GENERAL NOTES**

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

**LEGEND**

- APN ASSESSOR'S PARCEL NUMBER
- MEAS. MEASURED
- O.R. OFFICIAL RECORDS
- PERIMETER BOUNDARY LINE OF EXISTING PARCELS 1, 2 & 3
- EXISTING LOT LINE

**CURRENT CONFIGURATION**

ASSESSOR'S BLOCK 0811  
SAN FRANCISCO, CALIFORNIA

BY JP CHKD. BR DATE 12-17-20 SCALE 1"=40' SHEET 1 OF 1 JOB NO. S-9956

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

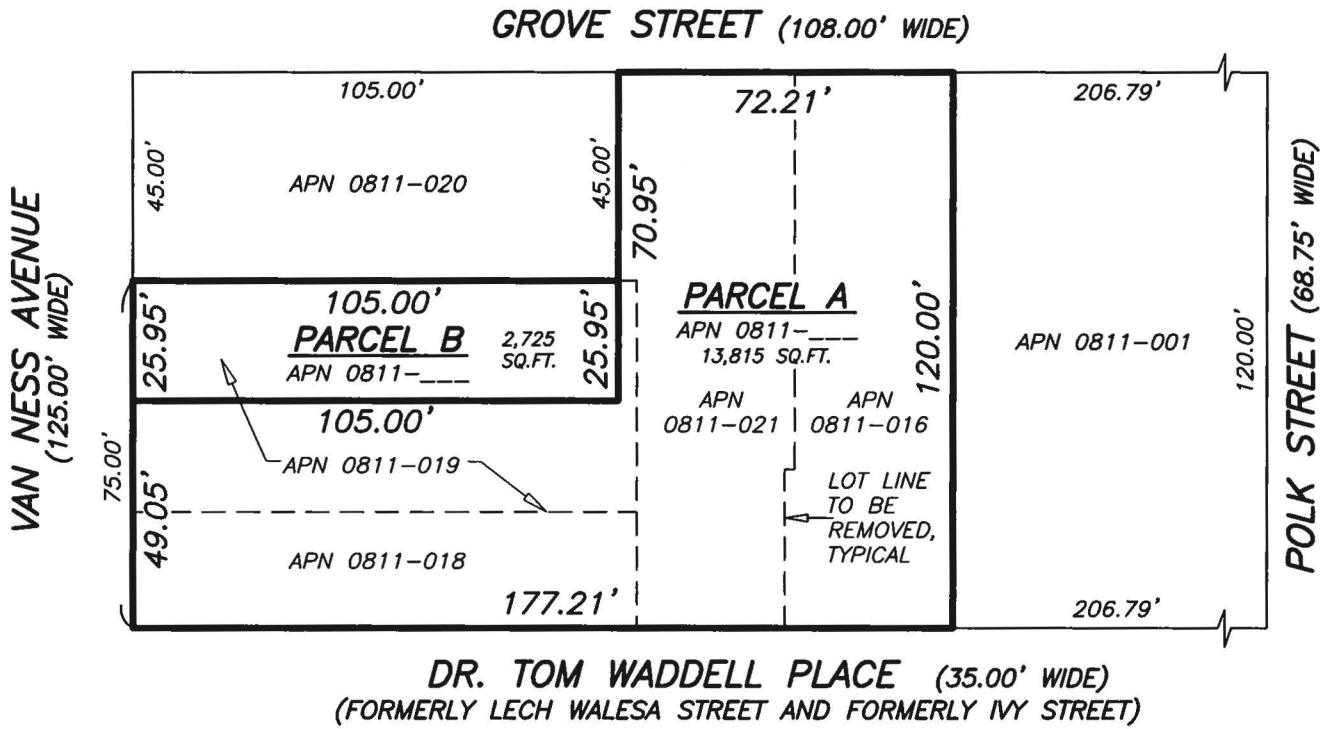
859 HARRISON STREET  
SAN FRANCISCO, CA. 94107  
(415) 543-4500  
S-9956\_BNDY PLAT.DWG

**EXHIBIT B**

**FINAL PARCEL CONFIGURATION**

**(SEE ATTACHED)**

# EXHIBIT B



**GENERAL NOTES**

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

**LEGEND**

- APN ASSESSOR'S PARCEL NUMBER
- BOUNDARY LINE OF PROPOSED PARCELS A & B
- - - EXISTING LOT LINE

**FINAL CONFIGURATION**

ASSESSOR'S BLOCK 0811  
SAN FRANCISCO, CALIFORNIA

BY JP CHKD. BR DATE 12-17-20 SCALE 1"=40' SHEET 1 OF 1 JOB NO. S-9956

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

859 HARRISON STREET  
SAN FRANCISCO, CA. 94107  
(415) 543-4500  
S-9956\_BNDY PLAT.DWG

**EXHIBIT C**

**LOT LINE ADJUSTMENT APPLICATION LEGAL DESCRIPTIONS AND MAP  
(SEE ATTACHED)**

**EXHIBIT "A"**

**EXISTING PARCEL DESCRIPTIONS**

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

**PARCEL 1: APN 0811-016 & 0811-021 (B163 O.R. 564 – 7/26/1967)**

COMMENCING AT A POINT ON THE SOUTHERLY LINE OF GROVE STREET, DISTANT THEREON 105 FEET EASTERLY FROM THE EASTERLY LINE OF VAN NESS AVENUE; RUNNING THENCE EASTERLY ALONG SAID LINE OF GROVE STREET 72 FEET 2-3/4 INCHES, MORE OR LESS, TO A POINT DISTANT THEREON 206 FEET 9-1/2 INCHES WESTERLY FROM THE WESTERLY LINE OF POLK STREET; THENCE AT A RIGHT ANGLE SOUTHERLY 120 FEET TO THE NORTHERLY LINE OF IVY STREET; THENCE AT A RIGHT ANGLE WESTERLY ALONG SAID LINE OF IVY STREET 68 FEET 2-3/4 INCHES, MORE OR LESS, TO A POINT DISTANT THEREON 109 FEET EASTERLY FROM THE EASTERLY LINE OF VAN NESS AVENUE; THENCE AT A RIGHT ANGLE NORTHERLY 75 FEET; THENCE AT A RIGHT ANGLE WESTERLY 4 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 45 FEET TO THE POINT OF COMMENCEMENT.

BEING PART OF WESTERN ADDITION BLOCK NO. 68.

**PARCEL 2: APN 0811-019 (B158 O.R. 110 – 7/7/1967)**

COMMENCING AT A POINT ON THE EASTERLY LINE OF VAN NESS AVENUE DISTANT THEREON 45 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF GROVE STREET; RUNNING THENCE SOUTHERLY ALONG SAID LINE OF VAN NESS AVENUE 50 FEET; THENCE AT A RIGHT ANGLE EASTERLY 109 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 50 FEET; THENCE AT A RIGHT ANGLE WESTERLY 109 FEET TO THE POINT OF COMMENCEMENT.

BEING A PORTION OF WESTERN ADDITION BLOCK NO. 68.

**PARCEL 3: APN 0811-018 (2000-G755208)**

BEGINNING AT A POINT FORMED BY THE INTERSECTION OF THE NORTHERLY LINE OF IVY STREET (LECH WALESA STREET) WITH THE EASTERLY LINE OF VAN NESS AVENUE; RUNNING THENCE NORTHERLY ALONG THE SAID EASTERLY LINE OF VAN NESS AVENUE 25 FEET; THENCE AT A RIGHT ANGLE EASTERLY 109 FEET; THENCE AT A RIGHT ANGLE SOUTHERLY 25 FEET TO THE NORTHERLY LINE OF IVY STREET (LECH WALESA STREET); AND THENCE WESTERLY ALONG THE NORTHERLY LINE OF IVY STREET (LECH WALESA STREET) 109 FEET TO ITS INTERSECTION WITH THE EASTERLY LINE OF VAN NESS AVENUE AND THE POINT OF BEGINNING.

BEING PORTION OF WESTERN ADDITION BLOCK NO. 68.



**EXHIBIT "B"**  
**NEW PARCEL DESCRIPTIONS**

**PARCEL A**

**APN 0811-\_\_\_\_** (FORMERLY APN 0811-016, 0811-018, 0811-021 AND A PORTION OF 0811-019)

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 DR. TOM WADDELL PLACE (FORMERLY  
LECH WALESIA STREET AND FORMERLY IVY STREET)(35.00 FEET WIDE), WITH THE EASTERLY LINE OF VAN NESS  
AVENUE (125.00 FEET WIDE); THENCE NORTHERLY ALONG SAID EASTERLY LINE OF VAN NESS AVENUE 49.05 FEET  
TO A POINT DISTANT THEREON 70.95 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF GROVE STREET (108.00  
FEET WIDE); THENCE AT A RIGHT ANGLE EASTERLY 105.00 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 70.95  
FEET TO SAID SOUTHERLY LINE OF GROVE STREET; THENCE AT A RIGHT ANGLE EASTERLY ALONG SAID SOUTHERLY  
LINE OF GROVE STREET, 72.21 FEET TO A POINT DISTANT THEREON 206.79 FEET WESTERLY FROM THE WESTERLY  
LINE OF POLK STREET (68.75 FEET WIDE); THENCE AT A RIGHT ANGLE SOUTHERLY 120.00 FEET TO SAID  
NORTHERLY LINE OF DR. TOM WADDELL PLACE; THENCE AT A RIGHT ANGLE WESTERLY, ALONG SAID NORTHERLY  
LINE OF DR. TOM WADDELL PLACE, 177.21 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF WESTERN ADDITION BLOCK 68.

**PARCEL B**

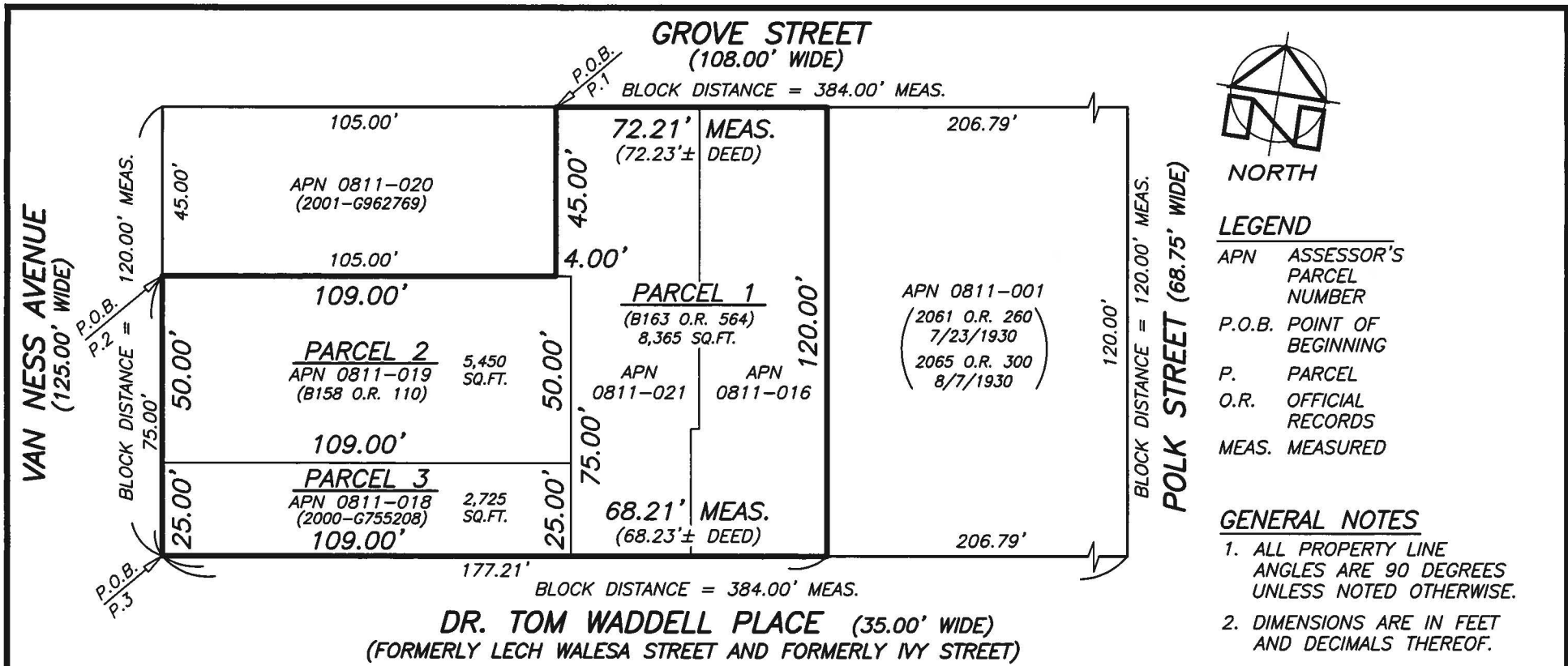
**APN 0811-\_\_\_\_** (FORMERLY A PORTION OF APN 0811-019)

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 EASTERLY LINE OF VAN NESS AVENUE (125.00 FEET WIDE), DISTANT THEREON  
45.00 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF GROVE STREET (108.00 FEET WIDE); THENCE SOUTHERLY  
ALONG SAID EASTERLY LINE OF VAN NESS AVENUE 25.95 FEET ; THENCE AT A RIGHT ANGLE EASTERLY 105.00 FEET;  
THENCE AT A RIGHT ANGLE NORTHERLY 25.95 FEET; THENCE AT A RIGHT ANGLE WESTERLY 105.00 FEET TO THE  
POINT OF BEGINNING.

BEING A PORTION OF WESTERN ADDITION BLOCK 68.





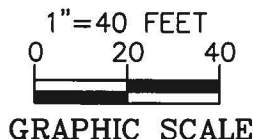
**EXISTING PARCELS**

**MAP REFERENCES**

1. CITY OF SAN FRANCISCO MONUMENT MAP NO. 15 ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.
2. RECORD OF SURVEY NO. \_\_\_\_\_ RECORDED \_\_\_\_\_.



**MARTIN M. RON ASSOCIATES, INC.**  
**LAND SURVEYORS**  
859 HARRISON STREET, SUITE 200  
SAN FRANCISCO, CALIFORNIA 94107



**EXHIBIT C**

SKETCH TO ACCOMPANY LEGAL DESCRIPTIONS

**LOT LINE ADJUSTMENT**

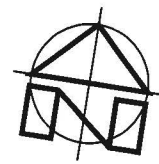
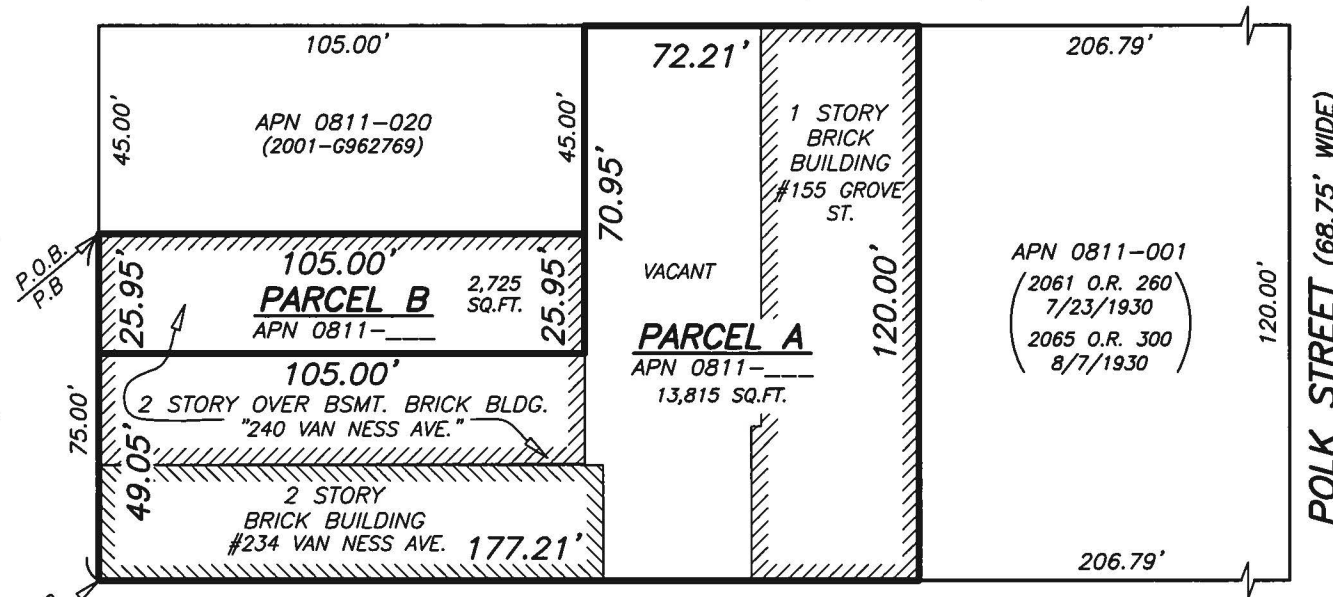
OF THE LANDS DESCRIBED  
IN THOSE CERTAIN DEEDS  
RECORDED JULY 7, 1967, IN BOOK B158, PAGE 110 AND  
RECORDED JULY 26, 1967, IN BOOK B163, PAGE 564 AND  
IN THAT CERTAIN GRANT DEED  
RECORDED APRIL 4, 2000,  
DOCUMENT NUMBER 2000-G755208-00,  
OFFICIAL RECORDS

BEING A PORTION OF WESTERN ADDITION BLOCK 68

CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA  
DECEMBER 2020 SCALE: 1"=40' SHEET 1 OF 2

GROVE STREET (108.00' WIDE)

VAN NESS AVENUE  
(125.00' WIDE)



NORTH

**LEGEND**

- APN ASSESSOR'S PARCEL NUMBER
- P.O.B. POINT OF BEGINNING
- P. PARCEL
- O.R. OFFICIAL RECORDS
- BSMT. BASEMENT
- BLDG. BUILDING

**GENERAL NOTES**

1. ALL PROPERTY LINE ANGLES ARE 90 DEGREES UNLESS NOTED OTHERWISE.
2. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
3. DETAILS NEAR PROPERTY LINES MAY NOT BE TO SCALE.

NOTE:  
ON-SITE BUILDINGS  
TO BE DEMOLISHED

DR. TOM WADDELL PLACE (35.00' WIDE)  
(FORMERLY LECH WALESA STREET AND FORMERLY IVY STREET)

**NEW PARCELS**

**EXHIBIT C**

SKETCH TO ACCOMPANY LEGAL DESCRIPTIONS

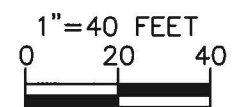
**LOT LINE ADJUSTMENT**

OF THE LANDS DESCRIBED  
IN THOSE CERTAIN DEEDS  
RECORDED JULY 7, 1967, IN BOOK B158, PAGE 110 AND  
RECORDED JULY 26, 1967, IN BOOK B163, PAGE 564 AND  
IN THAT CERTAIN GRANT DEED  
RECORDED APRIL 4, 2000,  
DOCUMENT NUMBER 2000-G755208-00,  
OFFICIAL RECORDS

BEING A PORTION OF WESTERN ADDITION BLOCK 68

CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA

DECEMBER 2020 SCALE: 1"=40' SHEET 2 OF 2



GRAPHIC SCALE

MARTIN M. RON ASSOCIATES, INC.  
LAND SURVEYORS  
859 HARRISON STREET, SUITE 200  
SAN FRANCISCO, CALIFORNIA 94107

S-9956\_LLA.DWG



**EXHIBIT D**

**CITY FORM DEED**

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

234 Van Ness, LLC  
c/o ALDiLa Investments  
1686 Union Street, Suite 203  
San Francisco, CA 94123  
Documentary Transfer Tax of \$\_\_\_\_\_ based on  
full value of the property conveyed

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

**QUITCLAIM DEED**

(Portion of Assessor's Parcel No. 0811-019)

FOR VALUABLE CONSIDERATION, receipt and adequacy of which are hereby acknowledged, the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Grantor"), pursuant to Resolution No. \_\_\_\_\_, adopted by the Board of Supervisors on \_\_\_\_\_, 202\_ and approved by the Mayor on \_\_\_\_\_, 202\_, hereby RELEASES, REMISES AND QUITCLAIMS to \_\_\_\_\_, any and all right, title and interest Grantor may have in and to the real property located in the City and County of San Francisco, State of California, described on the attached Exhibit A.

Executed as of \_\_\_\_\_.

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

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

By: \_\_\_\_\_  
Andrico Q. Penick  
Director of Property

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

\_\_\_\_\_  
[NAME OF DEPUTY]  
Deputy City Attorney

**CERTIFICATE OF ACKNOWLEDGMENT**  
**OF NOTARY PUBLIC**

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, 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 \_\_\_\_\_

**EXHIBIT E**

**MCBAINE (234 VAN NESS) FORM DEED**

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Documentary Transfer Tax of \$0 based on  
full value of the property conveyed

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

**GRANT DEED**

(Assessor's Parcel No. 0811-018)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, 234 VAN NESS LLC., a California limited liability corporation, ("Grantor"), hereby grants to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the real property located in the City and County of San Francisco, State of California, described on Exhibit A attached hereto and made a part hereof (the "Property").

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

Executed as of \_\_\_\_\_.

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

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

Name:

Its:

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

State of California )  
County of San Francisco )

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

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

WITNESS my hand and official seal.

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

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

State of California )  
County of San Francisco )

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

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

WITNESS my hand and official seal.

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

This is to certify that the interest in real property conveyed by this deed dated \_\_\_\_\_ from the first part to the City and County of San Francisco, is hereby accepted pursuant to Board of Supervisors' Resolution No. 18110 Series of 1939, approved August 7, 1957, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Andrico Q. Penick  
Director of Property