

FIFTH AMENDMENT TO LEASE

LEASE EXTENSION

THIS FIFTH AMENDMENT TO LEASE (this “**Fifth Amendment**”) is made and entered into as of _____, 2022, by and between SFII 1390 Market St LLC, a Delaware limited liability company, as successor to BRCP 1390 Market, LLC, a Delaware limited liability company (“**Landlord**”), and the **City and County of San Francisco**, a municipal corporation (“**Tenant**” or “**City**”).

RECITALS

- A. Landlord and Tenant are parties to that certain Office Lease dated September 12, 2000 (the “**Original Lease**”), as amended by the First Amendment to Lease dated June 13, 2006, the Second Amendment to Lease dated September 25, 2007, the Third Amendment to Lease dated March 31, 2012, and the Fourth Amendment to Lease dated as of June 15, 2017 (the “**Fourth Amendment**”, and collectively with the foregoing, the “**Existing Lease**”), for the premises consisting of approximately 69,402 rentable square feet known as Suite 110 on the ground floor, Suites 401 and 418 on the 4th floor (the “**Existing 4th Floor Premises**”), Suite 500 on the 5th floor, Suite 600 on the 6th floor, Suite 700 on the 7th floor, and Suites 1008 and 1010 on the 10th floor (the “**Existing 10th Floor Premises**”) (collectively, the “**Premises**”), all in a building known as Fox Plaza, 1390 Market Street, San Francisco, CA (the “**Building**”).
- B. The Term of the Existing Lease was scheduled to expire December 31, 2022, subject to the second Third Extension Option, as set forth in the Fourth Amendment.
- C. City exercised the second Third Extension Option pursuant to the terms of the Fourth Amendment, extending the Term to December 31, 2027.
- D. However, after City elected to exercise the second Third Extension Option, the Parties agreed instead to amend the Existing Lease to: (i) extend the Term for five (5) years, plus the time period from January 1, 2023 to the Substantial Completion Date (as defined in the Work Letter attached to this Amendment as Exhibit C (the “**Work Letter**”) as set forth in Section 1 of this Fifth Amendment, (ii) relocate City from the Existing 10th Floor Premises to certain other space located on the 4th floor of the Building containing approximately 9,336 rentable square feet and identified as Suite 405 and 410 (the “**4th Floor Expansion Premises**”), as more particularly shown on Exhibit A attached hereto, and (iii) make certain other amendments to the Existing Lease, all subject to, and on the basis of, the terms, covenants, and conditions hereinafter set forth. The Existing Lease, as amended by this Fifth Amendment, is referred to herein as the “**Lease**”.

AMENDMENT

NOW THEREFORE, in consideration of the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. **LEASE EXTENSION.** Landlord and City agree to extend the Term for a period commencing on January 1, 2023 (the “**Five Year Extension Commencement Date**”) and expiring on the date that is five (5) years after the Substantial Completion Date, as such term is defined in the Work Letter (the “**Five Year Extension Term**”); provided, however, that, if the Substantial Completion Date occurs on a date other than the first (1st) day of a calendar month, then the Five Year Extension Term shall end on the last day of the sixtieth (60th) full calendar month following the Substantial Completion Date. On the Effective Date (as defined in Section 20 of this Fifth Amendment), all references in the Lease to the Term shall mean the Term as extended by the Five Year Extension Term, and all references in the Lease to the 2023 Extension Term and the Third Extension Options shall be deleted. Promptly following the Substantial Completion Date, the Parties agree to memorialize the Substantial Completion Date and the Expiration Date in writing signed by both Parties.

2. **4TH FLOOR EXPANSION PREMISES.**

2.1 **4TH FLOOR EXPANSION COMMENCEMENT DATE.** For purposes of this Fifth Amendment, the “**4th Floor Expansion Commencement Date**” means the Substantial Completion Date. As of the 4th Floor Expansion Commencement Date, the Premises shall include the 4th Floor Expansion Premises and shall exclude the Existing 10th Floor Premises, although City shall have a license to enter and use the Existing 10th Floor Premises, at no cost to City (subject to Section 3.3 below), until Landlord moves all of the Personal Property to the 4th Floor Premises as set forth in the Work Letter (the “**License**”). As provided in the Work Letter, Landlord shall proceed in good faith and with reasonable diligence to cause the Improvements (as defined in the Work Letter) to be “substantially completed” on or before May 1, 2023 (the “**Target 4th Floor Expansion Commencement Date**”). If, for any reason other than Landlord’s failure to proceed in good faith and with reasonable diligence to construct the Improvements (*i.e.*, continuously without material interruption, subject to force majeure and any Tenant Delays) in accordance with the Work Letter, the Substantial Completion Date does not occur on or before the Target 4th Floor Expansion Commencement Date, this Fifth Amendment shall not be void or voidable, nor shall Landlord, or Landlord’s agents, advisors, employers, partners, shareholders, directors, invitees, independent contractors or Landlord’s manager be liable to City for any loss or damage resulting therefrom. The parties agree to memorialize the 4th Floor Expansion Commencement Date in writing signed by both parties.

2.2 **CONDITION OF 4TH FLOOR EXPANSION PREMISES.** City acknowledges that, except for the Improvements set forth in the Work Letter, Landlord has no obligation to perform any additional work or make any alterations or improvements to prepare the 4th Floor Expansion Premises for City’s initial occupancy. However, nothing contained in this Section 2.2 shall affect or limit Landlord’s maintenance, repair or any other obligations set forth in the Lease.

2.3 USE. City shall use the 4th Floor Expansion Premises only for general office use and/or any other use expressly permitted in the Existing Lease. City represents and warrants to Landlord that, prior to executing this Fifth Amendment, City made such investigations as it deemed appropriate with respect to the suitability of the 4th Floor Expansion Premises for its intended use, and determined that the same is suitable for such intended use upon the completion of the Improvements.

2.4 CITY PAYMENT FOR TENANT IMPROVEMENTS. City shall pay to Landlord One Million Six Hundred Thousand Dollars (\$1,600,000) as City's contribution to the cost of the Improvement Work (the "**City TI Payment**"). City shall elect either (i) to make the City TI Payment in full on or before the later of September 1, 2023 or the Substantial Completion Date (the "**TI Payment Date**"), or (ii) to pay the City TI Payment in thirty (30) equal monthly payments, starting on the TI Payment Date, of Fifty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$53,333.33); provided (A) City may prepay the City TI Payment in whole or in part at any time, without penalty, (B) City shall notify Landlord of its election on or before the TI Payment Date, and (C) upon any City default under the Lease (following any applicable notice and cure period), if the City TI Payment has not been made in full on such date, then Landlord may accelerate the City TI Payment and any remaining balance shall become immediately due and payable on Landlord's demand.

3. EXISTING 10TH FLOOR PREMISES.

3.1 TERMINATION DATE. Landlord and City hereby agree to terminate the Lease with respect to the Existing 10th Floor Premises as of 11:59 p.m. on the day immediately preceding the 4th Floor Expansion Commencement Date (the "**Existing Premises Termination Date**").

3.2 LIABILITY UNDER LEASE. After 11:59 p.m. on the Existing Premises Termination Date, City and Landlord shall have no further rights, obligations, or claims with respect to each other arising under the Lease with respect to the Existing 10th Floor Premises, except for (i) the indemnification provisions of Section 17 of the Original Lease, (ii) any other right or obligation of parties that by their terms expressly survive termination, and (iii) any right or obligation arising under this Fifth Amendment, including the License. Notwithstanding the foregoing, the parties expressly agree that, notwithstanding the termination of the Lease with respect to the Existing 10th Floor Premises, Landlord and City shall each remain liable for any unperformed obligations accrued under the Lease with respect to the Existing 10th Floor Premises prior to 11:59 p.m. on the Existing Premises Termination Date, but which have not been fulfilled as of 11:59 p.m. on the Existing Premises Termination Date, including, without limitation, City's obligation to pay Landlord for any underpayment of, and Landlord's obligation to reimburse Tenant for any overpayment of, Operating Expenses pursuant to Section 6(B) of the Existing Lease.

3.3 SURRENDER OF EXISTING 10TH FLOOR PREMISES. On the 4th Floor Expansion Commencement Date, City shall vacate and surrender the Existing 10th Floor Premises. As set forth in Section 7 of the Original Lease, City shall not be required to remove any improvements. Landlord has reviewed the condition of the Existing 10th Floor Premises as of the Effective Date, and Landlord agrees that it is in the condition required by Section 7 of the Original Lease. During the period of the License, City shall have no obligation to pay a license fee or other

consideration for the Existing 10th Floor Premises; provided, however, that City will be responsible for any damage to the Existing 10th Floor Premises to the extent caused by the City from and after the Effective Date (including during the License period) and such damage increases Landlord's cost of preparing the space for the next occupant. As set forth in the Work Letter, Landlord will move the Personal Property from the Existing 10th Floor Premises to the 4th Floor Premises on a mutually agreed upon date. The parties will select a date for the Personal Property Relocation that is within thirty (30) days following the 4th Floor Expansion Commencement Date (the "**Outside Move Date**"), provided in no event will the Outside Move Date be earlier than the 2023 Martin Luther King weekend. Landlord will use commercially reasonable efforts to inform City of the anticipated 4th Floor Expansion Commencement Date not later than thirty (30) days in advance, so the parties can reach agreement on the date of the Personal Property Relocation and City can prepare for the move. If City requests a date for the Personal Property Relocation that is later than the Outside Move Date, then Landlord may condition Landlord's approval of the delayed move on City's payment of Base Rent for the Existing 10th Floor Premises at the rate of Five and 50/100 Dollars (\$5.50) per rentable square foot per month (prorated for any partial month) plus Additional Rent at the rate per rentable square foot payable with respect to the Existing 4th Floor Premises for the period of City's requested delay (i.e., the period from the Outside Move Date to the date of the Personal Property Relocation requested by City and agreed to by Landlord). In no event shall City be entitled to request that the Personal Property Relocation date be delayed more than sixty (60) days past the 4th Floor Commencement Date. If City wrongfully refuses to fully surrender and vacate the Existing 10th Floor Premises at the expiration of the License period (as the same may have been extended for a maximum of sixty (60) days following the 4th Floor Expansion Commencement Date, as set forth above), the provisions of Section 8 of the Original Lease will apply with respect to City's continued occupancy of the Existing 10th Floor Premises (provided that the reference therein to "the sum of the Base Monthly Rental and Additional Rent payable for the final month of the Term" shall mean the sum of the Base Monthly Rental and Additional Rent payable by City for the month of December 2022 (without regard to free rent or any rent abatements on account of casualty or otherwise) allocable (on a per square foot basis) to the Existing 10th Floor Premises).

3.4 EXISTING 10th FLOOR PREMISES – BASE RENT. From January 1, 2023 to the 4th Floor Expansion Commencement Date, Tenant shall pay to Landlord Base Monthly Rent at the rate of \$381,711 per month (or \$66 per foot for 69,402 square feet of Premises) (such amounts prorated for any partial month using the actual number of days in the month). Upon any Tenant Delay, the 4th Floor Expansion Commencement Date shall be adjusted as set forth in Section 7 of the Work Letter.

4. AMENDMENTS TO LEASE.

4.1 PREMISES. Effective as of the 4th Floor Expansion Commencement Date, all terms and conditions of the Lease shall become applicable to the 4th Floor Expansion Premises, and the Premises shall include the 4th Floor Expansion Premises and exclude the Existing 10th Floor Premises.

4.2 RENTABLE SQUARE FOOTAGE. Effective as of the 4th Floor Expansion Commencement Date, the rentable square footage of the Premises shall be 75,137 rentable square feet and the parties acknowledge and agree that such amount is deemed to be correct for all

purposes of the Lease; provided, however, that Landlord may from time to time re-measure the Premises and/or the Building in accordance with the ANSI/BOMA Z65.1-2017 Office Building Standard; provided further, however, that any such re-measurement shall not affect the amount of Base Rent or Additional Rent (i.e., there will be no change to City's Percentage Share based upon any such re-measurement) payable for, or the amount of any tenant allowance applicable to, the then-current term of the Lease.

4.3 BASE RENT. Effective as of the 4th Floor Expansion Commencement Date, City shall pay Base Monthly Rent, adjusted on each annual anniversary of the 4th Floor Expansion Commencement Date, as follows:

Period	Annual Rate per Rentable Square Foot	Base Monthly Rent
First 4th Floor Expansion Year*	\$66.00	\$413,253.50
Second 4th Floor Expansion Year	\$67.98	\$425,651.11
Third 4th Floor Expansion Year	\$70.02	\$438,420.64
Fourth 4th Floor Expansion Year	\$72.12	\$451,573.26
Fifth 4th Floor Expansion Year	\$74.28	\$465,120.46

*Subject to Rent Abatement pursuant to Section 4.4 below.

For purposes of the foregoing, the “**4th Floor Expansion Year**” shall mean the twelve (12) month period commencing on the Substantial Completion Date and each period of twelve (12) consecutive months thereafter, except that (a) if the Substantial Completion Date occurs on a day other than the first (1st) day of a calendar month, then the first 4th Floor Expansion Year shall also include any partial month between the Substantial Completion Date and the first (1st) day of the following month, and (b) the last 4th Floor Expansion Year shall end on the last day of the Five Year Extension Term.

Notwithstanding the foregoing, City shall have forty-five (45) days following the Substantial Completion Date to pay the increase in Base Monthly Rent due and owing with respect to such 45-day period as a result of the expansion of the Premises, and to begin to pay the Base Monthly Rent payable for the first 4th Floor Expansion Year. For example, if the Substantial Completion Date is April 1, 2023, then, notwithstanding the schedule above, City shall have the right to continue to pay \$381,711 on or before April 1, 2023 and May 1, 2023, provided that, (i) on or before May 15, 2023, City shall pay to Landlord the deficiency of \$63,085 (i.e., \$31,542.50 per month) for the months of April and May 2023. Thereafter, beginning in July 2023 (after the Rent Abatement described in Section 4.4 below), City shall pay \$413,253.50 per month until the Base Monthly Rent is adjusted on April 1, 2024, for the second 4th Floor Expansion Year.

If, however, the Substantial Completion Date is April 21, 2023, City shall have the right to continue to pay \$381,711 on or before April 1, 2023 and May 1, 2023, provided that, (i) on or before June 5, 2023, City shall pay to Landlord the deficiency of \$42,056.67 (i.e., \$10,514.17 for

April and \$31,542.50 for May, with June 2023 subject to the Rent Abatement as provided below). Thereafter, beginning in July 2023 (after the Rent Abatement), City shall pay \$413,253.50 per month until the Base Monthly Rent is adjusted on May 1, 2024, for the second 4th Floor Expansion Year.

4.4 RENT ABATEMENT. City shall have no obligation to pay Base Rent for the Premises (the “**Rent Abatement**”) for the month of June 2023. Landlord and City acknowledge that the aggregate amount of the Rent Abatement equals \$413,253.50 and that such amount shall be automatically applied by Landlord to the Base Rent payable during the month of June 2023; provided if City agrees to a City Change Order, as set forth in the Work Letter, or agrees to any additional expense under the Lease payable to Landlord, City may apply such City expense against the Rent Abatement (and thereby reduce the Rent Abatement in an amount equal to the expense that City agrees to incur). Any such application against the Rent Abatement must be in writing and signed by City.

4.5 BASE YEAR. Effective as of January 1, 2023, the Base Year and the Base Tax Year shall be 2023.

4.6 PERCENTAGE SHARE OF OPERATING EXPENSES. Effective as of the 4th Floor Expansion Commencement Date, City’s Percentage Share of Operating Expenses shall increase to 34.74%.

5. ADDITIONAL RENT. Tenant shall pay to Landlord Additional Rent subject to the terms, covenants and conditions set forth in Exhibit B attached to this Fifth Amendment, revising Paragraph 6B of the Original Lease. Without limiting the foregoing, the parties recognize that, in calculating Operating Expenses of the Office Portion of the Building, the Building is a multi-use condominium facility with retail space and a large residential area, and that the “Office Portion of the Building”, which is owned by Landlord, is comprised of all of the office space in the Building and approximately 4,515 rentable square feet of the retail space in the Building. As a result, certain expenses shared by the office, residential and retail areas are allocated to the Office Portion of the Building by the terms and conditions of the Building CC&Rs (as defined below), and the portion of such expenses so allocated to the Office Portion of the Building shall be included in Operating Expenses.

In addition, the parties recognize that, in calculating Operating Expenses of the Office Portion of the Building, (a) costs and expenses relating to the Building’s janitorial contract and supplies, the Building HVAC maintenance and repairs and the elevator maintenance and repairs, are allocated solely to the office tenants of the Building, and (b) costs and expenses relating to the HVAC system serving Landlord’s retail spaces are allocated solely to Landlord’s retail tenants (collectively, the “**Cost Pools**”). With respect to the Operating Expenses allocated only to the Cost Pool in which Tenant or the Premises are included, Tenant's Share shall be a percentage, the numerator of which is the rentable square footage of the Premises, and the denominator of which is the total rentable square footage of the office space in the Building. Without limitation on other obligations of Tenant that survive the expiration of the Term, the obligations of Tenant to pay the Additional Rent with respect to periods before the expiration or earlier termination of the Lease, shall survive the expiration or earlier termination of the Lease, provided that the foregoing does not limit Landlord’s remedies for default as set forth in the Lease.

For purposes hereof, the “**Building CC&Rs**” means that certain Declaration of Covenants, Conditions and Restrictions Establishing a Plan for Condominium Ownership and Condominium Plan of 1390 Market Street, San Francisco, California, recorded on June 26, 2007 as Document No. 2007-I409653-00 in the Official Records of the City and County of San Francisco.

6. **TENANT IMPROVEMENTS.** At no cost to City (except as provided in Section 2.4 above), and in accordance with the provisions of this Fifth Amendment, including the Work Letter, Landlord, through its general contractor, will construct the Improvements in the 4th Floor Expansion Premises and make improvements to the Existing 4th Floor Premises and the Common Areas as provided in the Construction Documents (as defined in the Work Letter) approved by City in accordance with the Work Letter. Landlord shall also pay all costs associated with the City’s relocation from the Existing 10th Floor Premises to the 4th Floor Premises and all costs required to repair and restore any part of the 4th Floor Premises impacted by the construction to good condition, equal or better than the condition that existed before the Improvement Work.

7. **RIGHT OF FIRST OPPORTUNITY TO PURCHASE**

(a) **Sale Notification; City's Offer.** If Landlord decides to sell Landlord’s interest in the commercial condominium in the Building (the “**Office Condominium**”) during the Term, and Landlord does not intend to include any other buildings or property owned by Landlord or Landlord’s affiliates in such sale (a “**Portfolio Sale**”), then Landlord shall first offer the Office Condominium to City at the purchase price that Landlord intends to offer the Office Condominium to the open market (or, in the case of an unsolicited third-party purchase offer received by Landlord, the amount of such offer) (“**Seller’s Price**”). The Seller’s Price shall be stated in a written notice (“**Sale Notification**”) from Landlord to City. City shall have thirty (30) days from receipt of the Sale Notification from Landlord (“**City’s Offer Period**”) to submit (A) an offer to purchase at the Seller’s Price or (B) counter offer at a lesser price (the “**City’s Price**”) and otherwise upon the other business terms set forth below. If City accepts the Seller’s Price, or the parties reach agreement on the purchase price within thirty (30) days of City’s delivery of the City’s Price, the parties will use diligent, good faith efforts to negotiate a purchase and sale agreement (the “**PSA**”). If despite diligent, good faith efforts the parties are unable to agree on the PSA within thirty (30) days following the start of negotiations, then either party may, by notice to the other, terminate the negotiations, in which event this right of first opportunity will terminate, subject to City’s reinstatement rights in Section 7(e) below. In no event shall Landlord have any obligation to deliver a Sale Notification in connection with the sale or transfer of the Office Condominium to any person or entity affiliated with Landlord, provided that, under such circumstances, Tenant's option to purchase hereunder shall be unaffected and shall remain in full force and effect. As used herein, an “**affiliate**” of Landlord means any person or entity that Landlord or its members, directly or indirectly, controls, is in common control with, or is controlled by; and, for purposes of the foregoing, “**control**” shall mean owning or holding at least a twenty-five percent (25%) economic interest or the right to directly or indirectly control by contract or ownership or otherwise the business and affairs (both day to day and major decisions) of the applicable entity.

(b) **City Approvals.** The PSA shall be subject to approval of City’s Board of Supervisors and City's Mayor, each in their sole discretion. Any such approval shall occur, if at all, within forty-five (45) days of Landlord's execution and delivery to City of the PSA. City shall

execute the PSA no later than five (5) business days after obtaining the approval of the Board of Supervisors and Mayor, if obtained.

(c) Due Diligence. Within five (5) business days of the execution of the PSA, Landlord shall deliver copies of all reports, appraisals and other documents described in the PSA. City shall have a period of not less than thirty (30) days to perform standard due diligence (the “**Due Diligence Period**”).

(d) Closing Costs and Documents. At the closing of the sale to City (“**Closing**”), unless the parties agree otherwise, City shall pay the cost of the extended coverage title insurance policy, any survey that the City requires, real estate transfer taxes (if the transaction is not exempt from transfer taxes), any and all financing costs of City, one-half the escrow fees, and one-half of the other typical closing expenses, such as recording charges (but not including any charges relating to Landlord’s financing or the removal of any liens from the Office Condominium). Landlord shall pay one-half the escrow fees and one-half the other typical closing expenses. At Closing, Landlord shall deliver the following (among other customary items as shall be set forth in the PSA) through a mutually agreeable escrow company, as shall be more particularly described in the PSA: (A) a grant deed conveying fee simple title subject only to taxes not yet due and payable, and other exceptions reasonably acceptable to City, (B) a bill of sale for all personal property owned by Landlord and used in connection with the Office Condominium, (C) an assignment and assumption of leases, and (D) datedown certificates (updated, as necessary) of any representations made by Landlord and City in the PSA.

(e) No Accepted Offer or Counter Offer. If City submits to Landlord the City’s Price, but the parties do not reach agreement on the purchase price, or if the parties agree on the purchase price but do not reach agreement on the terms of the PSA, and, in either case, terminate negotiations, then (i) if City agreed to Seller’s Price or timely submitted to Landlord the City’s Price pursuant to Section 7(a) above, Landlord shall be free to sell the Office Condominium at a price that equals or exceeds ninety percent (90%) of the agreed-upon price (or the City’s Price, as the case may be) within 12 months following the date the parties end negotiations (the “**12 Month Period**”); or (ii) if City did not agree to Seller’s Price or timely submit to Landlord the City’s Price pursuant to Section 7(a) above, Landlord shall be free to sell the Office Condominium on any terms and conditions that Landlord determines in its sole and absolute discretion within 12 months following the end of the City’s Offer Period. If Landlord is willing to accept less than ninety percent (90%) of the City’s Price within the 12 Month Period, then City’s rights under this Section will be reinstated and Landlord shall, before selling the Office Condominium to a third party, give another Sale Notification to City, with the reduced Seller’s Price and including a form of PSA on the terms offered by Landlord during the earlier negotiations (or, if materially different, PSA terms applicable to the offer that Landlord is willing to then accept), and the above procedure for City’s first right of offer shall be repeated; provided, however, that (1) City must accept the new price offered by Landlord and shall not have the option to propose a different purchase price; (2) City must accept the PSA terms offered by Landlord during the earlier negotiations (or, if materially different, the PSA terms applicable to the offer that Landlord is willing to then accept); and (3) the City’s approval of the PSA (including the new Seller’s Price) must occur within thirty (30) days of Landlord’s delivery to City of the Sale Notification or this right of first opportunity will terminate and be of no further force or effect.

As provided above, if, after Landlord's delivery of a Sale Notification, City elects not to submit an offer to purchase at the Seller's Price or counter offer at the City's Price, Landlord shall be free to sell the Office Condominium on any terms and conditions that Landlord determines in its sole and absolute discretion within 12 months following the end of the City's Offer Period. If, however, Landlord does not sell the Office Condominium within 12 months following the end of the City's Offer Period, then the above procedure for City's first right of offer shall be repeated.

(f) Conditions of City's Option. Notwithstanding any provision of this Section 7 to the contrary, if Tenant is in material default beyond applicable notice and cure periods under any of the terms, covenants or conditions of the Lease at the time a Sale Notification would otherwise be required to be sent under this Section 7, Landlord shall have, in addition to all of Landlord's other rights and remedies provided in the Lease, the right to terminate Tenant's rights under this Section 7, and in such event Landlord shall not be required to deliver the Sale Notification to Tenant. If not earlier terminated, the rights of Tenant pursuant to this Section 7 shall automatically terminate upon the Expiration Date (as the same may be extended hereunder) or, if earlier, provided that Landlord has complied with the terms and conditions of this Section 7, upon the sale of the Office Condominium to any third-party (*i.e.*, to any party unaffiliated with Landlord), including, as applicable, to a third-party for a purchase price equal to ninety percent (90%) or more of the City's Price, or to a third-party in connection with a Portfolio Sale.

(g) Rights Personal to Tenant. Tenant's purchase option pursuant to this Section 7 is personal to, and may be exercised only by, the City and County of San Francisco or an entity controlled by the City and County of San Francisco. If Tenant shall assign this Lease to an unaffiliated third party, then immediately upon such assignment, Tenant's rights pursuant to this Section 7 shall simultaneously terminate and be of no further force or effect. Except for any assignee controlled by the City and County of San Francisco, no assignee shall have any right to purchase the Office Condominium pursuant to this Section 7.

8. **ADDITIONAL PROVISIONS.** The Lease is amended and updated to include the provisions in Exhibit D, which replace the corresponding language in the Lease. In addition, Section 31 of the Original Lease is hereby deleted.

9. **LANDLORD'S ADDRESS.** Landlord's address set forth in the Lease for notices and payment of rent and other amounts due under the Lease is hereby deleted in its entirety and replaced by the following:

Landlord's notice address:

SFII 1390 Market St, LLC,
c/o Swift Real Estate Partners
260 California Street, Suite 1100
San Francisco, California 94111
Attention: Kristin Molano
Email: molano@swifttrp.com

with a copy to:

Coblentz Patch Duffy & Bass LLP
One Montgomery Street, Suite 3000
San Francisco, California 94114
Attention: Alan C. Gennis, Esq.
Email: agennis@coblentzlaw.com

10. NO BROKERS. Tenant represents and warrants that it has not dealt with any real estate broker in connection with this Fifth Amendment, and no compensation is due to Tenant's broker in connection with this Fifth Amendment. Tenant agrees to indemnify and hold Landlord harmless for any loss, cost, liability or expense incurred by Landlord as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Tenant in breach of the foregoing warranty. Landlord represents and warrants that it has not dealt with any real estate broker in connection with this Fifth Amendment, and no compensation is due to Landlord's broker in connection with this Fifth Amendment. Landlord agrees to indemnify and hold Tenant harmless for any loss, cost, liability or expense incurred by Tenant as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Landlord in breach of the foregoing warranty.

11. DEFINED TERMS. All capitalized terms used but not defined in this Fifth Amendment will have the meanings set forth for such terms in the Lease. All terms that are defined in this Fifth Amendment and used in any provisions that are added to the Lease pursuant to this Fifth Amendment will have the meanings in the Lease set forth for such terms in this Fifth Amendment.

12. WHOLE AGREEMENT. This Fifth Amendment, including the Exhibits, sets forth the entire agreement between the parties with respect to the matters set forth herein. The Exhibits are incorporated into and made a part of this Fifth Amendment. There have been no additional oral or written representations or agreements. Except as amended herein, there shall be no other changes or modifications to the Lease between the parties and the Lease and the terms and provision contained therein shall remain in full force and effect.

13. MISCELLANEOUS. This Fifth Amendment shall be binding upon the parties hereto, their heirs, successors and assigns. Except as modified hereby, there shall be no other changes or modifications to the Lease unless in writing and executed by the parties. No reference to this Fifth Amendment is necessary in any instrument or document at any time referring to the Lease. From and after the Effective Date, any reference to the Lease shall be deemed a reference to such document as amended hereby. This Fifth Amendment shall be governed by, construed and enforced in accordance with, the laws of the State of California.

14. CONFIRMATION OF LEASE. As amended by this Fifth Amendment, Landlord and Tenant confirm and ratify in all respects the terms and conditions of the Lease, and further confirm that, except as provided in this Fifth Amendment, there are no outstanding tenant improvement obligations of Landlord regarding the Premises. The execution of this Fifth Amendment shall not constitute a waiver of relinquishment of any rights which Landlord or Tenant may have relating to the Lease.

15. **NO JOINT VENTURE.** This Fifth Amendment or any activity by Tenant hereunder does not create a partnership or joint venture between Tenant and Landlord relating to the Lease or otherwise. This Fifth Amendment does not constitute authorization or approval by the City of any activity conducted by Landlord.

16. **COUNTERPARTS.** This Fifth Amendment may be executed in one or more counterparts, each of which shall be deemed an original, including transmittals by facsimile, all of which together shall constitute one and the same instrument.

17. **AUTHORITY.** Landlord represents and warrants to City that the execution and delivery of this Lease by Landlord has been duly authorized and does not violate any provision of any agreement, law or regulation to which Landlord or the Property is subject.

18. **STATUTORY DISCLOSURES; COMPLIANCE.** For purposes of Section 1938(a) of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Premises have not undergone inspection by a Certified Access Specialist (CASp). As required by Section 1938(e) of the California Civil Code, Landlord hereby states as follows: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." In furtherance of the foregoing, Landlord and Tenant hereby agree as follows: (a) any CASp inspection requested by Tenant shall be conducted, at Tenant's sole cost and expense, by a CASp approved by Landlord, subject to Landlord's reasonable rules and requirements; (b) such inspection shall be limited to the Premises and access to the Premises; (c) Tenant is not a Small Business and San Francisco Administrative Code section 38.5 does not apply to this Lease; and (d) Tenant, at its sole cost and expense, shall be responsible for making any improvements or repairs to correct violations of construction-related accessibility standards identified as a result of any such inspection by Tenant, which work shall be performed in accordance with the terms of the Lease. Notwithstanding the foregoing or anything to the contrary set forth in the Lease, (A) if any disability access improvements or upgrades are triggered by the Improvements, Landlord shall, at no cost to City, make such improvements or upgrades, (B) if any disability access improvements or upgrades are triggered by tenant improvements or alterations selected or performed by or on behalf of Tenant (not including the Improvements), then Tenant shall be responsible for the cost of such improvements or upgrades, and (C) Tenant hereby acknowledges that Tenant shall be solely responsible for compliance with applicable laws, regulations and ordinances (including with respect to any upgrades or modifications required by the ADA or any similar statutes) arising from or triggered by any tenant improvements, alterations or additions performed by or on behalf of Tenant (not including the Improvements).

19. **EFFECTIVE DATE.** This Fifth Amendment shall become effective on the date (the "Effective Date") that (i) the City's Board of Supervisors enacts such resolution authorizing this Fifth Amendment and (ii) the Fifth Amendment is fully executed and delivered by both parties.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS FIFTH AMENDMENT, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THIS FIFTH AMENDMENT AND AUTHORIZING CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS FIFTH AMENDMENT SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS FIFTH AMENDMENT, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS FIFTH AMENDMENT BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Fifth Amendment as of the day and year first above written.

LANDLORD:

SFII 1390 MARKET ST, LLC,
a Delaware limited liability company

By: SFII 1390 Market Mezz, LLC,
a Delaware limited liability company
its Sole Member

By: Swift Real Estate Partners Fund II REIT II, LLC,
a Delaware limited liability company
its Manager

By: Swift Real Estate Partners Fund II, L.P.,
a Delaware limited liability company
its General Partner

By: _____
Name: _____
Its: _____

Dated: _____, 2022

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Q. Penick, Director of Property

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: _____
Charles Sullivan, Deputy City Attorney

4th Floor Expansion Premises

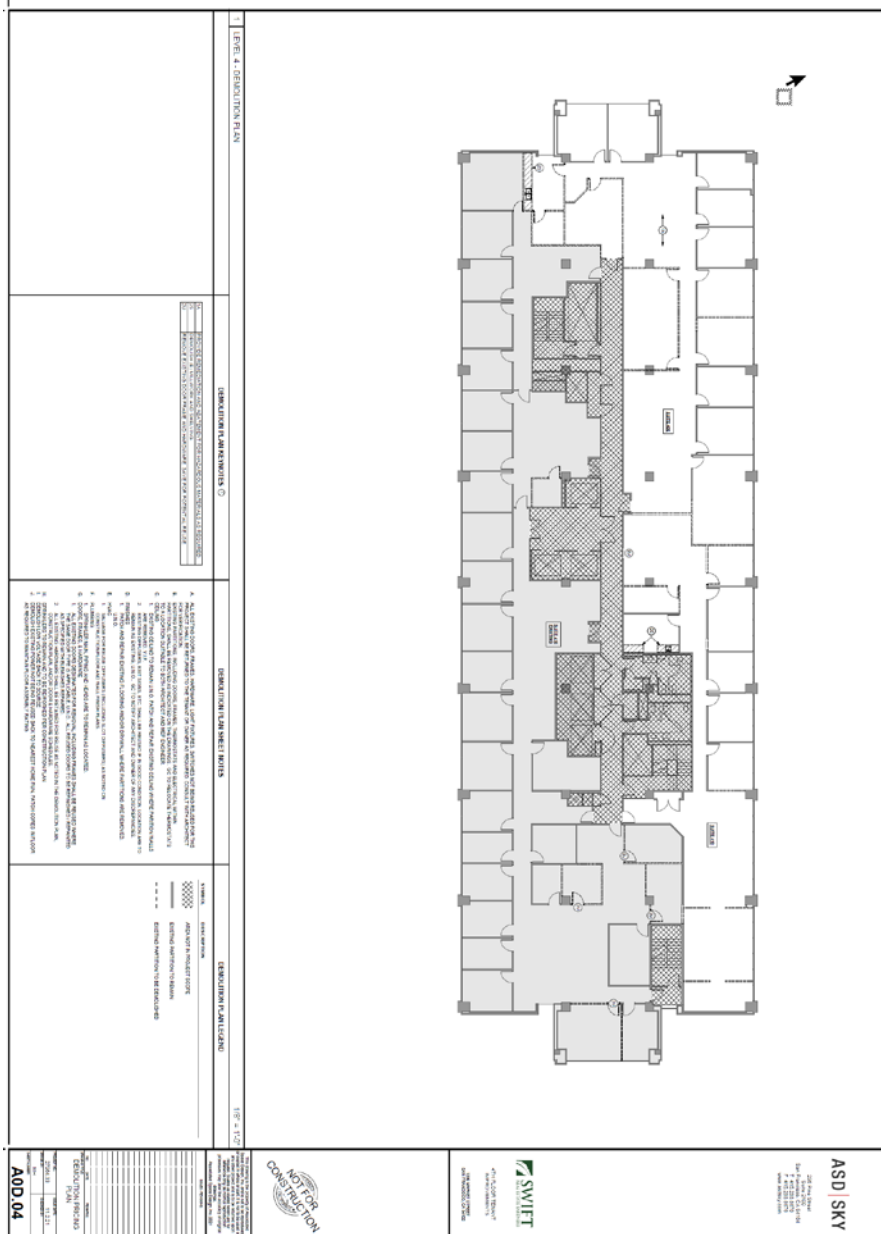


Exhibit B

Additional Rent

Additional Rent.

1. Commencing on January 1, 2024, for the duration of the Term, as it may be extended, Tenant shall pay to Landlord Additional Rent, in an amount equal to (a) Tenant's Share specified herein below of any increase in Operating Expenses of the Office Portion of the Building (defined below in this Paragraph) paid or incurred by Landlord on account of the operating or maintenance of the Building above such Operating Expenses paid or incurred by Landlord during the Base Year specified herein below and (b) Tenant's Share specified herein below of any increase in Direct Taxes (defined below in this Paragraph) for the Office Portion of the Building paid or incurred by Landlord in excess of those paid or incurred in the Base Tax Year specified herein below (all such rentals, charges and sums other than minimum monthly rent being referred to in this Lease as "**Additional Rent**," whether or not the same may be designated Additional Rent). If such amounts are not paid at the time they are due and payable under this Lease, they shall nevertheless be collectable as Additional Rent with the next installment of the Base Monthly Rental. Nothing herein contained shall be deemed to suspend or excuse the payment of any amount of money or charge at the time the same becomes due and payable hereunder, except as otherwise expressly provided in this Lease. Where the time for payment of any Additional Rent is not specified herein, the same shall be due and payable twenty-one (21) days after receipt of Landlord's invoice. If at any time during the Term of the Lease, less than ninety-five percent (95%) of the total rentable area of the Office Portion of the Building is occupied, the Operating Expenses and Direct Taxes shall be adjusted by Landlord to reasonably approximate the Operating Expenses and Direct Taxes which would have been incurred if the Office Portion of the Building had been at least ninety-five percent (95%) occupied.

In December of each calendar year during the Term, Landlord shall notify Tenant in writing of Landlord's estimate of the amount of any increase in Operating Expenses for the succeeding calendar year over Operating Expenses for the Base Year, the amount of any increase in Direct Taxes over those paid or incurred in the Base Year and of the amount of such estimated increases payable by Tenant. Commencing January 1, 2024, Tenant shall pay to Landlord on the first day of each calendar month, one-twelfth (1/12) of the amount of such estimated increases in Operating Expenses and Direct Taxes payable by Tenant hereunder. Such statement shall specify in reasonable detail the basis of Landlord's estimates. Statements of the amount of actual Operating Expenses for the preceding calendar year, of Direct Taxes for the appropriate fiscal year and the amount of such increases payable by Tenant shall be given to Tenant by May 1st of each succeeding calendar year subsequent to the Base Year. All amounts payable by Tenant as shown on such statement, less any amounts theretofore paid by Tenant on account of Landlord's estimate of increases in Operating Expenses and Direct Taxes made pursuant to this Paragraph, shall be paid by Tenant upon delivery of such statement to Tenant. In the event that Tenant has paid in any given year estimated increases beyond those later determined from actual reconciliation, then such over-payment shall be applied toward the next installments of Base Monthly Rental and Additional Rent until satisfied in full or, if the Lease terminates before all of such over-payment has been applied to Base Monthly Rental and Additional Rent due and payable hereunder, the balance of the over-payment shall be promptly refunded to Tenant.

2. The amount of any increase in Operating Expenses and Direct Taxes payable by Tenant for the calendar year in which this Lease terminates shall be prorated on the basis which the number of days from and including the commencement of such calendar year to and including the date on which this Lease terminates bears to three hundred sixty-five (365) and shall be due and payable when rendered notwithstanding termination of this Lease.

3. The term "**Operating Expenses**" as used herein shall mean all reasonable direct costs of operation, maintenance and management of the Office Portion of the Building (as hereinafter defined) which directly benefit the Building's operation, are generally accepted office building operational expenses and conform with generally accepted accounting practices. The term "Operating Expenses" as used herein shall exclude those costs which are the exclusive responsibility of Tenant or any other tenant of the Building under this Lease or other applicable leases. By way of illustration, but not limitation, Operating Expenses shall include the direct and reasonable cost or charges for the following items: heat, light, water, sewer, steam, and other utilities (including without limitation any temporary or permanent utility surcharge or other exaction, whether now or hereafter imposed), waste disposal, janitorial services, stationary engineering services, lobby attendant services, window cleaning, air conditioning, materials and supplies, equipment and tools and service agreements on elevators, equipment, insurance premiums, licenses, permits and inspections, wages and salaries, related employee benefits and payroll taxes, accounting and legal expenses, management fees, depreciation on personal property, including, without limitation, window coverings, provided by Landlord and carpeting in public corridors and Common Areas, amortization of the capital cost of operating cost saving installations, depreciation or amortization of required capital improvements to Common Areas or Building systems serving Common Areas imposed by governmental regulation, and the cost of contesting the validity or applicability of any governmental enactments which may affect Operating Expenses. The cost of real estate brokerage commissions and promotions, and legal fees for document review and evictions shall not be included as Operating Expenses. Notwithstanding anything to the contrary above, Operating Expenses shall exclude those items described on Exhibit E attached to the Original Lease (except that references therein to the "date of the Lease" shall be deleted and replaced with the "date of the Fifth Amendment to the Lease" [which is set forth above]).

The term "**Direct Taxes**" as used herein shall mean the Office Portion of the Building's share of all real property taxes and assessments, impositions, levies and fees on the Building and the land on which the Building is situated and shall also include (a) all personal property taxes levied on the property used in the operation of the Building; (b) taxes of every kind and nature whatsoever levied and assessed on the Building or land in lieu of, in substitution for, or in addition to, existing or additional real property taxes on the Building or land, whether or not now customary or within the contemplation of the parties hereto, other than taxes associated with Tenant equipment, furniture, fixtures and other personal property to the extent that Landlord is reimbursed therefor by Tenant or by any other tenant of the Building; (c) taxes upon the gross or net rental income of Landlord derived from the Building and land (excluding, however, state and federal personal or corporate income taxes measured by the income of Landlord from all sources) and (d) a reasonable cost to Landlord of contesting the amount or validity or applicability of any of the aforementioned taxes. Net recoveries through protest, appeals or other actions taken by Landlord in its discretion, after deduction of all costs and expenses, including counsel and other fees, shall be deducted from Direct Taxes for the year of receipt. Notwithstanding the foregoing,

Direct Taxes shall exclude (i) franchise, transfer, inheritance, or capital stock taxes or income taxes measured by the net income of Landlord from all sources unless, due to a change in the method of taxation, any of such taxes is levied or assessed against Landlord as a substitute for, or as an addition to, in whole or in part, any other tax that would otherwise be included in Direct Taxes; (ii) reasonable legal fees, costs, and disbursements incurred in connection with proceedings to contest, determine, or reduce Direct Taxes, (iii) any penalties, fines, interest or charges attributable to the late payment of any taxes, except to the extent the same is attributable to Tenant's failure to pay its portion of Direct Taxes hereunder, (iv) any personal property taxes payable by Tenant hereunder or by any other tenant or occupant of the Building, and third party taxes collected by Landlord from other parties, occupants or visitors (e.g., parking taxes), and (v) taxes on Landlord's gross income where there is an exemption from the tax for amounts received from the City (e.g., the Early Care and Education Commercial Rents Tax Ordinance, from which receipts from the City are exempted by San Francisco Business and Revenue Tax Code section 2105(b)). In collecting Direct Taxes from the City, Landlord agrees to comply with San Francisco Tax Collector Regulation 2019-1 to the extent applicable to the Direct Tax at issue.

4. The annual determination and statement of Operating Expenses and Direct Taxes as those terms are defined in Paragraph B.3. above shall be made in reasonable detail and shall be certified by an accounting or auditing officer designated by Landlord. A copy of such determination shall be made available to Tenant upon demand. Tenant shall have the right to have the statement audited within one year of the payments made in reliance thereon, in conformity with generally accepted accounting principles, and standard building office expenses, subject to cash-basis accounting if used by Landlord, by Tenant's Controller or by an accounting firm mutually acceptable to Landlord and Tenant, at the offices of Landlord and during regular business hours. Tenant shall keep (and shall cause its agents and employees conducting the audit to keep) confidential any and all information contained in such statement, except to the extent disclosure of such information is required by ordinance, statute, regulation, a court order or decision, or any other law. Any investigation of such statement conducted by Tenant shall be conducted for it by Tenant's Controller or by a so-called "Big Four" accounting firm under a compensation arrangement that does not provide for incentive payments based upon the amount of savings that the audit procures. The audit shall be binding on the parties; if the audit determines an overpayment by Tenant, Landlord shall promptly refund the amount of such overpayment to Tenant; if the audit determines an underpayment by Tenant, Tenant shall promptly pay the amount of such underpayment to Landlord. Should the audit determine an overcharging by Landlord of three percent (3%) or more of the amount determined by the audit to be chargeable to Tenant, then Landlord shall pay the cost of the audit; should the variance between the amount charged by Landlord and the amount determined by the audit to be chargeable to Tenant have a variance of less than three percent (3%), then Tenant shall pay the cost of the audit. Landlord shall maintain at the Building in a safe and orderly manner all of its records pertaining to this Lease and Direct Taxes and Operating Expenses and any other charges paid by Tenant pursuant hereto, for a period of not less than three (3) years following expiration of the Term of this Lease. Landlord shall maintain such records on a current basis, and in sufficient detail to facilitate adequate audit and review thereof. All such books and records shall be available for inspection, copying and audit by Tenant and its representatives, at Tenant's expense. in accordance with the audit provisions above.

5. The "Office Portion of the Building," as referred to herein, is defined as that portion of the Building on the first to the 12th floors, excluding (i) the retail area on the first and

second floors not owned by Landlord, (ii) the residential portion of the Building above the 12th floor. and (iii) the building garage.

Exhibit C

Work Letter

As used in this Exhibit C (this “**Work Letter**”), “**Improvements**” means all improvements to be constructed in the 4th Floor Expansion Premises and the Existing 4th Floor Premises pursuant to this Work Letter; and “**Improvement Work**” means the construction of the Improvements, together with any related work (including demolition) that is necessary to construct the Improvements.

1. Plans and Construction Documents.

(i) General. Immediately following the Effective Date, Landlord will cause its architect, ASD | SKY (“**Landlord’s Architect**”), to prepare and submit to City for its approval an architectural plan, electrical plan, reflected ceiling plan, floor plans, and tenant finish specifications for the Improvements (“**Design Development Plans**”), consistent with the preliminary schematic designs and requirements set forth in Attachment 1 to this Work Letter (the “**Schematic Design and Requirements**”). To expedite the process, Landlord shall cause Landlord’s Architect to consult with City and Landlord in preparing the Design Development Plans so as to identify any design issues as early as possible. City shall approve, conditionally approve or disapprove the Design Development Plans (or any subsequent revision thereof) by notice to Landlord delivered within seven (7) business days following City’s receipt thereof. City’s approval of the Design Development Plans shall not be unreasonably withheld or conditioned. If City reasonably disapproves or conditionally approves the Design Development Plans, Tenant’s notice of disapproval or conditional approval shall specify any revisions Tenant desires in the Design Development Plans. After receiving such notice, Landlord shall cause the architect or space planner to revise the Design Development Plans, taking into account the reasons for Tenant’s disapproval or conditional approval. The Improvement Work will include work within both the 4th Floor Expansion Premises and the Existing 4th Floor Premises (collectively, the “**4th Floor Premises**”). The Improvement Work will also include replacement of the tile flooring within the 4th floor restroom and new paint and carpet in the 4th floor elevator lobby, each consistent with the Building standards, as well as the installation of fourteen (14) new workstation “cubicles” to match Tenant’s existing 4th floor workstations. City and Landlord will each designate and maintain at all times during the design and construction period a project representative, each of whom will be authorized to confer and attend meetings and represent such party on any matter relating to the Improvements.

(ii) 4th Floor Improvements. The Design Development Plans for the 4th Floor Expansion Premises shall, subject to the terms and conditions of this Work Letter, provide at least the same quality of finishes for the Improvements as are currently located in the 7th Floor Premises, including the same quality of finishes of the existing offices and conference rooms in the 7th Floor Premises. The Design Development Plans will also include data and power as specified in Attachment 2 to this Work Letter, office and room specifications shown on Attachment 3 to this Work Letter, and HVAC designed to meet applicable state and local code requirements for the Improvements.

(iii) Existing 4th Floor Premises. Landlord shall also make the following improvements to the 4th Floor Existing Premises at no cost to City: (i) new carpet and paint throughout the 4th Floor Existing Premises; (ii) new lighting fixtures in the 4th Floor Existing Premises consistent with the lighting fixtures in the 4th Floor Expansion Premises; and (iii) the existing door that does not meet ADA requirements, as shown on Attachment 1, will be replaced with an ADA complaint door (36" wide). City hereby acknowledges that Landlord's performance of the Improvements may be conducted during normal business hours and may create disruption, noise, and dust in the Existing 4th Floor Premises. Landlord shall, however, use commercially reasonable efforts to minimize any disruption to City's business during the performance of the Improvement Work; and, without limiting the foregoing, Landlord shall furnish City with Replacement Space, as provided in Section 8 below. City hereby agrees that the Improvements and Landlord's actions in connection therewith in accordance with this Work Letter shall in no way constitute a constructive eviction of City nor entitle City to any damages or abatement of Rent. So long as Landlord satisfies Landlord's obligations in accordance with the requirements of this Work Letter, and except as expressly set forth in this Work Letter to the contrary, Landlord shall have no responsibility, and shall in no way be liable to City, for any direct or indirect injury to or interference with City's business arising from the Improvements, nor shall City be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Existing 4th Floor Premises, or for any inconvenience or annoyance occasioned by the construction of the Improvements. Landlord will provide staging space for furniture and equipment to be stored, and Replacement Space as set forth in Section 8 of this Work Letter.

(iv) Relocation from the 10th Floor – IT. The Improvement Work will include the relocation of City's computer room equipment currently located on the 10th Floor, and the installation of telecommunications, data, and computer cabling facilities and equipment. The plan will include: (a) a server room as shown on Attachment 1, which shall also include 24 hour air conditioning, anti-static tiles, sleeves and risers, and 6 dedicated 15 amp electrical outlets, and shall meet the specifications set forth in Attachment 2 to this Work Letter; and (b) for the relocation of City furniture and workstations. Landlord will build a replacement computer room/Internal Data Facility (IDF) as shown on Attachment 1 to this Work Letter and pull data and voice cable from the newly built computer room/IDF in the 4th Floor Premises throughout the 4th Floor Premises at new and existing locations. Landlord is responsible for moving existing computer equipment from the 10th Floor Premises to the 4th Floor Premises and otherwise installing the required facilities and equipment as shown on Attachment 1 hereto at no cost to City. For the sake of clarity, City will be solely responsible for disconnecting the existing computer equipment to facilitate the Personal Property Relocation (as defined below) and for connecting the existing computer equipment moved by Landlord to the 4th Floor Premises to the new infrastructure.

(v) Construction Documents. Upon City's approval of the Design Development Plans, Landlord will cause final construction documents and working drawings for the Improvements to be prepared, in conformity with the requirements of this Lease (the "**Construction Documents**"). The Construction Documents will provide greater detail, fixing and describing the size and character of the Improvements, including architectural, structural, mechanical, electrical, fire and life safety systems, materials, and other elements as may be appropriate, together with fully developed floor plans, ceiling plans, and wall and building sections.

(vi) City Change Orders. If, prior to substantial completion (as defined below), City shall request improvements or changes to the Improvement Work in addition to, revision of or substitution for the Improvement Work previously approved by City on the Schematic Design and Requirements, Design Development Plans or Construction Documents (as defined below), as the case may be, and such change is not due to changes made to the applicable document by Landlord (individually or collectively, a “**City Change Order**”), Landlord will approve or disapprove such City Change Order, which approval will not be unreasonably withheld, conditioned or delayed. If Landlord disapproves a City request, Landlord shall state the reason for its disapproval and the revisions that Landlord reasonably requests in order to obtain Landlord’s approval. If Landlord approves the City Change Order, Landlord will notify City of the cost that would be incurred by City from the proposed City Change Order (including any soft costs) and any anticipated delay in the Substantial Completion Date that would result from the proposed City Change Order. If Landlord does not approve such City Change Order, Landlord shall, if applicable, advise City of the revisions required to obtain Landlord’s approval. City shall respond to such revisions by notice to Landlord within five (5) business days of Landlord’s disapproval or Tenant shall be deemed to have abandoned its request for such City Change Order. The parties agree to meet and confer in good faith to address any issues relative to a requested City Change Order. If Landlord approves any City Change Order (including if City accepts Landlord’s proposed revisions to obtain Landlord’s approval), Landlord shall have five (5) business days to provide City with notice of (a) the cost of such City Change Order; and (b) whether any delay in the substantial completion of the Improvements is anticipated as a result thereof and, if so, the estimated length of such delay. City will thereafter have five (5) business days to approve or withdraw its request for such City Change Order. Any approval of a City Change Order shall be in writing, shall state the work covered by the City Change Order, and the total cost to be paid by City for the City Change Order. Upon receipt, Landlord shall perform the work set forth in the approved City Change Order.

(vii) Landlord Change Orders. If after City’s approval of the Construction Documents, Landlord requests or is required by a government agency to make any change to the Construction Documents (each, a “**Landlord Change Order**”), Landlord will provide City with proposed plans and specifications for the change, together with notice of any anticipated delay in the Substantial Completion Date resulting from the proposed Landlord Change Order. Any proposed Landlord Change Order will be subject to City’s prior written approval, which shall not be unreasonably withheld, conditioned or delayed; provided, however, that (i) City shall not be required to approve any proposed Landlord Change Order that would be inconsistent with City’s programmatic requirements for the use of the space, including the Computer Room specifications set forth in Attachment 2, and (ii) if a change is required by a governmental agency that is inconsistent with City’s programmatic requirements, the parties will meet and confer in good faith to determine how to proceed in a manner that, at no additional cost to Landlord (above the amount that Landlord would have incurred without the proposed change), satisfies the City’s requirements to the maximum extent possible and otherwise preserves the benefit of the bargain embodied by this Work Letter. No approval by City of any Landlord Change Order will relieve or modify Landlord’s obligations to complete the construction of the Improvements in accordance with this Work Letter, and Landlord will be solely responsible for all costs resulting from any Landlord Change Order. Upon City’s approval, Landlord shall perform the work set forth in the Landlord Change Order.

(viii) Approvals. The final documents for the Improvements approved by Landlord and City are referred to as the “**Construction Documents**.” The parties agree to act reasonably and in good faith to finalize the Construction Documents to facilitate the Substantial Completion Date prior to the Target 4th Floor Expansion Commencement Date. Subject to the limitations described in clauses (a) through (c) below, the Construction Documents will be subject to the approval of the City’s Director of Property, acting in a proprietary capacity, which approval may not be unreasonably withheld, conditioned or delayed; and any such approval or disapproval shall be given by the City within five (5) business days following receipt of the particular construction documents. If City disapproves the construction documents or any portion of them, then City will promptly (but in all events within five (5) business days) notify Landlord of its disapproval and the revisions that City reasonably requests in order for Landlord to obtain City’s approval. The revised documents will be subject to City’s approval, which may not be unreasonably withheld, conditioned or delayed; provided, however, that Landlord shall not be required to make any revision to any construction documents (and any such proposed revision by the City shall not be deemed reasonable) that (a) would increase the cost of the Improvement Work (as reasonably estimated by Landlord’s contractor), unless City agrees to pay for the increased cost in writing, (b) would delay the completion of the Improvement Work by more than thirty (30) days (as reasonably estimated by Landlord’s contractor) if Landlord has entered into a letter of intent (which may be non-binding) for the Existing 10th Floor Premises and, in Landlord’s reasonable judgment, the proposed revision would delay Landlord’s delivery of this space to the new tenant; (c) would be inconsistent with Landlord’s reasonable requirements for avoiding engineering or other conflicts with the design and function of the balance of the Building (the “**Landlord Requirements**”), or (d) is otherwise reasonably disapproved by Landlord. If Landlord disapproves any City request for changes to construction documents, Landlord shall state the reason for such disapproval and the revisions that would be reasonably required by Landlord to obtain Landlord’s approval.

2. Improvement Costs. Landlord shall bear the cost of construction of the Improvements, except for the following, which shall be City’s responsibility: (a) any increase in the cost of construction resulting from approved City Change Orders, as agreed to by City in writing, (b) the City TI Payment, and (c) any increase in the cost of construction resulting from Tenant Delays (as defined in Section 7, subclause (i) below). If Landlord and City agree on any City Change Orders as provided in Section 1, subclause (vi) above, City shall pay to Landlord the amount set forth in the approved City Change Order within thirty (30) days following substantial completion of the work described in the City Change Order, or otherwise credit such amount against the Rent Abatement as set forth in Section 4.4 of this Fifth Amendment.

3. Permits. Promptly after City’s approval of the Construction Documents, Landlord will obtain, at no cost to City, all required permits. City, in approving this Fifth Amendment, is acting in its proprietary capacity as a tenant of the Property and not as a regulatory entity. Landlord will be responsible for arranging for all inspections required by City’s Department of Building Inspection for the Improvements.

4. Construction. Promptly after approval of the Construction Documents and Landlord’s receipt of all necessary regulatory permits, Landlord will commence construction and cause the Improvements to be completed in a good and professional manner in accordance with the Construction Documents. Such work shall be performed by licensed and insured contractors and

shall be performed in accordance with all applicable laws and regulations, and all such work in the Premises shall otherwise be performed in accordance with the terms of the Lease (to the extent applicable and not inconsistent with the terms of this Work Letter). Without limiting the foregoing, construction of the Improvements must comply with all applicable disabled access laws, including the Americans with Disabilities Act of 1990, California Code of Regulations Title 24 (or its successor) and City's requirements for program accessibility. Landlord shall use good faith efforts to cause such work to be performed and completed with due diligence and without material interruption, subject to standard force majeure delays. In accordance with and subject to the limitations set forth in Section 17 of the Original Lease, the parties confirm that Landlord's indemnity obligations under Section 17 of the Original Lease shall extend to any losses (other than any loss of use or enjoyment of the applicable portion of the Premises or loss of business) or injuries resulting from the construction and the relocations contemplated by this Fifth Amendment.

5. Protection of Existing Work Space. Before starting construction, Landlord and Tenant shall meet and confer in good faith to determine which portions of the Improvement Work will create sufficient disruption to the City's operations in the 4th Floor Existing Premises to require the City's relocation of personnel to the Replacement Space, as provided in Section 8 below. Any furniture or property relocation required in connection with Landlord's construction activities, including any files or materials that must be moved to the Replacement Space or within the Premises, shall be performed at no cost to City. Landlord shall take reasonably appropriate measures to insulate the Existing 4th Floor Premises from the 4th Floor Expansion Premises and to protect the Existing 4th Floor Premises from noise, dust and damage and otherwise minimize disruption to City's use and occupancy caused by the construction so that work can continue in the Existing 4th Floor Premises during business hours, which may include the construction of one or more temporary walls; provided that Tenant acknowledges that certain construction activities producing noise (but not excessive noise that unreasonably disturbs Tenant's use of the Existing 4th Floor Premises as a public law office) shall be performed, and Tenant shall not seek indemnification from Landlord under Section 17 as a result of such noise. The parties agree to meet and confer in good faith regarding any disruption to City's occupancy upon the request of either party, and any construction work performed during periods in which Landlord has not made available the Replacement Space to the City that would produce excessive noise or disruption to the Existing 4th Floor Premises shall, to the extent feasible, occur on weekends or after normal working hours.

6. Construction Schedule; Substantial Completion.

(i) Landlord will use commercially reasonable efforts to complete the Improvements as soon as possible, subject to force majeure delays. Landlord will keep City apprised on a regular basis or upon City's request of the status of plan preparation, permit issuance, and the progress of construction. Landlord agrees to meet with City weekly before and during construction and reasonably address City's ongoing concerns, including a mutually agreed upon schedule for relocation work to minimize any disruption to Tenant. Landlord agrees to provide an overall construction schedule and updated "two week look ahead" schedules at the start of each week during which construction activities are being performed.

(ii) From time to time during the design and construction of the Improvements, after forty-eight (48) hours' advance notice to Landlord, City may enter the 4th Floor Expansion

Premises construction areas at reasonable times to inspect the work, with Landlord or its representative accompanying City during any such inspection. When construction progress permits, but not less than ten (10) days before completion, Landlord will notify City of the anticipated date that the Improvement Work will be substantially completed in accordance with the Construction Documents. Landlord will revise the notice of the substantial completion date as appropriate from time to time and will promptly notify City when the Improvement Work is substantially completed and the Premises are ready for occupancy by City. On a mutually agreeable date as soon as practicable after Landlord's notice to City that the Improvements have been substantially completed, City and its authorized representatives will accompany Landlord or its architect on an inspection of the Premises.

(iii) The Improvement Work will be deemed to be "substantially completed" for purposes of this Amendment when the Improvements have been sufficiently completed in accordance with the approved Construction Documents, except for finishing details, decorative items, minor omissions, mechanical adjustments, and similar items of the type customarily found on an architectural punch list, the correction or completion of which items, collectively, will not materially interfere with Tenant's occupancy and use of the Improvements (the "**Punch-List Items**"). Such date shall be the "**Substantial Completion Date**". Promptly following the Substantial Completion Date, Landlord shall perform the Personal Property Relocation (as defined in Section 9 below). Landlord shall obtain the approval of the San Francisco Department of Building Inspection (to the extent required) for Tenant to occupy the 4th Floor Expansion Premises before alleging that the work has been substantially completed. Landlord's architect shall, upon City's request, certify in writing that the Improvements have been substantially completed as set forth above. Landlord will use commercially reasonable efforts to complete all Punch-List Items as soon as reasonably practicable following the Substantial Completion Date (but in all events within sixty (60) days thereafter, subject to force majeure delays).

(iv) No approval by City or any of its Agents of the Construction Documents, or completion of the Improvement Work for purposes of this Lease, will be deemed to constitute approval of any governmental or regulatory authority with jurisdiction over the Premises, and nothing in this Lease will limit Landlord's obligations to obtain all necessary or required approvals. All approvals or other determinations of City as tenant (acting in its proprietary capacity, not DBI or any other City agency acting in its regulatory capacity) under the Lease may be made by City's Director of Property, and all such approvals shall not be unreasonably withheld, conditioned or delayed.

7. Delay in Substantial Completion.

(i) Tenant Delay. For purposes of the Lease and this Work Letter, the term "**Tenant Delay**" shall mean any actual delay in construction of the Improvements that is due to (a) City's failure to respond to approval requests within the time frames set forth in this Work Letter, (b) City Change Orders, or (c) any negligent or wrongful act or omission of City, its agents, contractors, or vendors, provided that in the case of a Tenant Delay under clause (a) or (c), Landlord shall give notice to City of the failure or the negligent or wrongful act or omission and a five (5) business day cure period, and a Tenant Delay will accrue only if City fails to cure the applicable failure or negligent or wrongful act or omission before the end of this cure period. For the sake of clarity,

the parties acknowledge and agree that said five (5) business day cure period commences on the day the notice is hand delivered to Tenant in accordance with Section 15 below.

(ii) Deemed Substantial Completion. The term “Tenant Delay” shall not include any force majeure delays. Notwithstanding the provisions of Section 6, subclause (iii) above, if Landlord is delayed in completing the Improvements as a result of any Tenant Delay, then the 4th Floor Expansion Commencement Date shall be the date that the Improvements would have been substantially completed in the absence of such Tenant Delay. City shall be responsible for and shall pay any increase in construction costs paid by Landlord to its contractor as a result of a Tenant Delay; provided, for City Change Orders, any such increased cost shall be the amount set forth in the approved City Change Order.

8. Replacement Space. If the portion of the Premises located on the 4th Floor, not including the 4th Floor Expansion Premises, are not usable by City during Landlord’s construction activities, Landlord shall provide to City, at no cost to City, Suite 1100 in the Building, if available; and otherwise such other available functionally equivalent replacement space in the Building (with desks and secure wireless internet connectivity, but not requiring Landlord to build tenant improvements), as mutually agreed to by Landlord and City during the applicable period. If City is prevented from using a portion of the Existing 4th Floor Premises due to Landlord’s construction activities and Landlord does not provide replacement space, then City shall receive a proportionate abatement of Base Rent and a proportionate reduction in Tenant’s Percentage Share of Operating Expenses based on the square footage of the space that is not usable by City.

9. Personal Property from 10th Floor Premises. Promptly following the Substantial Completion Date, Landlord shall, at no cost to Tenant, move City’s furniture, files, equipment and personal property (collectively, the “**Personal Property**”) from the Existing 10th Floor Premises to the 4th Floor Premises (“**Personal Property Relocation**”), provided that prior to such move, Tenant, at Tenant’s expense, shall remove all documents and other materials of a confidential nature. The move shall be scheduled to occur over no more than a five (5) consecutive day period (with the majority of the work, to the extent possible, scheduled for and completed during a weekend), and Landlord and Tenant shall reasonably cooperate to select dates for the move to occur promptly following the Substantial Completion Date. The parties agree to target Martin Luther King weekend for the move, and not earlier. After removing all documents and other materials of a confidential nature, City’s sole responsibility relative to the move will be to clear all work surfaces, place all personal property into Landlord-supplied boxes (and mobile packing crates and carts suitable for moving computer equipment, as needed), unpack all of the personal property following the move, and disconnect and reconnect all telephone and computer equipment. City shall be required to remove files from file cabinets if needed to transport the cabinets without damage, and Landlord shall have no liability or responsibility for damage caused by City’s failure to so remove files. Landlord shall be responsible for any other physical damage to or replacement of any lost Personal Property during the relocation. Except as set forth in the preceding sentence, Landlord is not liable for any damages in connection with the Personal Property Relocation, including, without limitation, any consequential damages. Landlord and Tenant shall reasonably cooperate to complete the relocation consistent with past relocations performed by Landlord for Tenant under the Lease. Following the Substantial Completion Date and before Landlord’s completion of the Personal Property Relocation, Landlord shall provide to City the License to enter and use the Existing 10th Floor Premises as set forth in Section 2.1 of the Fifth Amendment.

10. Construction of Improvements that Disturb or Remove Exterior Paint. Landlord will comply with all requirements of the San Francisco Building Code Chapter 34 and all other applicable local, state, and federal laws, including the California and United States Occupational and Health Safety Acts and their implementing regulations, when the work or alteration disturbs or removes exterior or interior lead based or “presumed” lead-based paint (as defined below). Landlord and its Agents must give to City three (3) business days’ prior written notice of any disturbance or removal of exterior or interior lead-based or presumed lead-based paint. Landlord and its Agents, when disturbing or removing exterior or interior lead-based or presumed lead-based paint, will not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding, or grinding without containment barriers or a High Efficiency Particulate Air filter (“HEPA”) local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool; and (e) heat guns operating above 1,100 degrees Fahrenheit. Landlord will comply with the requirements of California Code of Regulations Title 17 when taking measures that are designed to reduce or eliminate lead hazards. Under this Section, paint on the exterior or interior of buildings built before January 1, 1979 is presumed to be lead-based paint unless a lead-based paint test, as defined by San Francisco Building Code Chapter 34, demonstrates an absence of lead-based paint on the interior or exterior surfaces of the buildings. Under this Section, lead-based paint is “disturbed or removed” if the work or alteration involves any action that creates friction, pressure, heat, or a chemical reaction on any lead-based or presumed lead-based paint on a surface so as to abrade, loosen, penetrate, cut through, or eliminate paint from that surface.

11. Asbestos Related Work. If any asbestos containing materials (“ACM”) in the Building is discovered in connection with the Improvements, Landlord will be responsible for all legally required work or other work necessary relating to the proper containment, abatement, removal, and disposal of the ACM and all costs related to the ACM.

12. Prevailing Wages and Apprentices. Any person performing labor in the construction of the Improvements will be paid not less than the highest prevailing rate of wages and Landlord will include this in any contract for construction of the Improvements. Landlord’s contractor will pay the prevailing rate of wages and employ apprentices as required under San Francisco Administrative Code Section 23.61 in connection with the Improvements. Landlord shall require its construction contractor to submit certified payroll statements, not less than monthly, using the City’s LCPtracker (Labor Compliance Program Tracker) system, to demonstrate compliance with this section. Additional information about the LCPtracker program can be found at <https://sfgov.org/olse/trainings> or by contacting Pat Mulligan, the City’s OLSE Director, at pat.mulligan@sfgov.org. Landlord will cooperate with City’s OLSE in any enforcement action against a contractor or subcontractor that fails to satisfy its obligations under Administrative Code Section 23.61.

13. Tropical Hardwood and Virgin Redwood Ban. Landlord will not use tropical hardwood wood products, or virgin redwood wood products, as set forth in this Lease.

14. General Cooperation. Tenant acknowledges and agrees that the Improvement Work may be performed by Landlord during normal business hours for the Building. Landlord and Tenant agree to cooperate with each other in order to enable the Improvement Work to be performed in a timely

manner and with as little disruption and inconvenience to the operation of Tenant's business in the Premises as is reasonably possible. For the work performed in the 4th Floor Expansion Premises, Landlord agrees to install and maintain appropriate dust and protective barriers to segregate the space from the remainder of the 4th floor to ensure that such space remains an operational office with minimal interruption due to the construction activities. Any work that will impact access to the 4th Floor Premises or Common Areas will be performed after 7 p.m. on weeknights or during weekends.

15. Notices. All notices pursuant to this Work Letter shall be given in accordance with this Section 15 and not the notice provisions of the Existing Lease. Either party may change the persons and addressees for notices by giving notice of the change to the other party in accordance with this Section 15 at least five (5) days before the effective date of the change.

If to Tenant:

By hand delivery, to:

MaryJane Winslow
Office Administrator
City and County of San Francisco
City Attorney's Office
1390 Market Street, 5th Floor
San Francisco, CA 94102

and

City and County of San Francisco
City Attorney's Office
City Hall, Rm. 234
1 Dr. CB Goodlett Place
San Francisco, CA 94102
Attn: RE/Finance Team

and

Andrico Penick
CCSF Director of Property
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

With courtesy copies of all notices sent by email to:

maryjane.winslow@sfcityatty.org
charles.sullivan@sfcityatty.org
elizabeth.dietrich@sfcityatty.org
andrico.penick@sfgov.org

If to Landlord:

By hand delivery, to:

Kristin Molano, Director
Swift Real Estate Partners
260 California Street, Suite 1100
San Francisco, CA 94111

and

Jennifer Mauro, General Manager
Swift Real Estate Partners
260 California Street, Suite 1100
San Francisco, CA 94111

With courtesy copies of all notices sent by email to:

molano@swiftrealty.com

and

mauro@swiftrealty.com

Diagram of 4th Floor with Leasehold Improvements



Attachment 2

Computer Room Specifications

(1) Fiber-Optic 12 Strand Multi-Mode 62.5 /125 Cable in 1 ½" Flex -Conduit Between 6th Floor Computer Room & 4th Floor Computer Room

(1) Fiber Rack Mount Termination Block 4th Floor Computer Room

(2) 100 Twisted Pair Cables installed in 2" Conduit Between 6th Floor Computer Room & 4th Floor Computer Room

(3) Data Racks w/ Vertical and Horizontal with Cable Management and Ladder Rack for Cable Management

(2) Vertical Power Strip for the Center Rack Dedicated 20 AMP 115v NEMA 5-20R

Patch Panels for 400 RJ45 Cat 6E

110 Rack-Mount Punch Down Blocks to support for 200 Pairs

Wall Power Outlets

Qty: 3 x 4 Duplex Dedicated 20 AMP 115v NEMA 5-20R

3 X 2 Duplex Dedicated 20 AMP 115v NEMA 5-20R

Trilogy DL2700 standalone digital cylindrical keyless door lock, by Alarm Lock

Attachment 3

4th Floor Expansion Premises – Office and Room Specifications

Offices wall jacks:	(4)	RJ45 CAT 6E	(2) Duplex 20amp 115v
Cubicles jacks:	(2)	RJ45 CAT 6E	(2) Duplex 20amp 115v
Copy Rooms wall jacks	(4)	RJ45 CAT 6E	(2) Power Dedicated
Duplex 20amp 115v NEMA 5-20R			
Printers and Copiers wall jacks	(2)	RJ45 CAT 6E	(1) Power Dedicated 2
Duplex 20amp 115v NEMA 5-20R			
Training Room wall jacks	(10)	RJ45 CAT 6E	(4) Power Dedicated 4
Duplex 20amp 115v NEMA 5-20R			
Imaging/server Room wall jacks	(10)	RJ45 CAT 6E	(4) Power Dedicated 4
Duplex 20amp 115v			
Storage / File/ Case Room wall jacks	(4)	RJ45 CAT 6E	Duplex 20amp 115v
Wall jacks in up to 15 other rooms or wall locations	(2)	RJ45 CAT 6E	(2) Duplex 20amp 115v

Wire for data and voice must be pulled from 4th Floor Premises to new Computer Room

The Improvements for the 4th Floor Expansion Premises be constructed in accordance with *Attachment 1*, using finishes consistent with the 7th Floor Premises, where applicable, and otherwise using Building-standard materials and finishes, and shall include: (a) labeled or color coded 2 data and 2 telephone “CAT6a” or better wiring for each room, equipment and each workstation; (b) turnkey electrical outlets including additional dedicated outlets as required and a minimum of 2 four plex electrical outlets for each room and equipment and 1 four plex electrical outlet for each workstation; [need 2 sets of data, electrical, and phone jacks in each office that may be shared]; (c) finishes relating to glass sidelights, doors and hardware, flooring, and lighting consistent with offices, conference rooms, and special use rooms in the 7th Floor Premises; and (d) break room and break room appliances consistent with the 7th Floor Premises.

EXHIBIT D

Updated City Provisions

Conflicts of Interest

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

Notification of Limitations on Contributions

Through its execution of this Lease, Landlord acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Landlord acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Landlord further acknowledges that the prohibition on contributions applies to each Landlord; each member of Landlord's board of directors, and Landlord's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Landlord; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Landlord. Additionally, Landlord acknowledges that Landlord must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Landlord further agrees to provide to City the name of each person, entity or committee described above.