

File No. 221092

Committee Item No. 3

Board Item No. 11

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date November 16, 2022

Board of Supervisors Meeting Date November 29, 2022

#### Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Resolution
<input type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Contract/Agreement
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Form 126 – Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

#### OTHER (Use back side if additional space is needed)

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Original Lease 3/9/2011</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>MTAB Resolution No. 221004-090 10/4/2022</u>
<input type="checkbox"/>	<input type="checkbox"/>	<u> </u>
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Completed by: Brent Jalipa Date November 10, 2022

Completed by: Brent Jalipa Date November 22, 2022

1 [Lease Renewal - Hudson 1455 Market, LLC - Transit Management Center - 1455 Market  
2 Street - Term Extension - \$1,320,059.49]

3 **Resolution authorizing and approving a first amendment to the lease to the renewal of**  
4 **an office lease for the existing Transportation Management Center with Hudson 1455**  
5 **Market, LLC, as landlord, for the San Francisco Municipal Transportation Agency, at**  
6 **1455 Market Street, at a yearly initial base rent of \$1,320,059.49 with annual**  
7 **adjustments of three percent for a term of ten years to commence September 20, 2023,**  
8 **for a total term of September 20, 2023, through September 19, 2033; and to authorize**  
9 **the Director or Property to enter into any extensions, amendments, or modifications to**  
10 **the Lease that do not materially increase the obligations or liabilities to the City and are**  
11 **necessary to effectuate the purposes of the Lease or this Resolution.**

12  
13 WHEREAS, In 2011, the San Francisco Board of Supervisors approved Resolution  
14 No 247-11 authorizing the City and County of San Francisco ("City") to enter into a Lease for  
15 space to co-locate the real time command-and-control functions of the San Francisco  
16 Municipal Transportation Agency's ("SFMTA") to 1455 Market Street, San Francisco, from  
17 various locations; and

18 WHEREAS, The Lease provides a ten-year term with three percent annual  
19 adjustments, two ten-year options to renew, and was to be fully serviced except for separately  
20 sub-metered electricity, chilled water charges for Computer Room Air Conditioning (CRAC)  
21 Units, CRAC equipment maintenance and interior janitorial; and

22 WHEREAS, Upon completion of extensive tenant improvements, the Lease  
23 commenced on September 20, 2013, and SFMTA has occupied the space; and



1 WHEREAS, The Lease provides that SFMTA must give notice of its desire to exercise  
2 the first Extension Option for the Premises no later than 15 months before the expiration of  
3 the Term, or before June 20, 2022; and

4 WHEREAS, The Real Estate Division ("RED") on behalf of the SFMTA served its notice  
5 to extend on June 17, 2022; and

6 WHEREAS, The SFMTA desires to continue to occupied the space and continue its  
7 operations at 1455 Market Street and exercise the first ten-year Extension Option; and

8 WHEREAS, The Lease provides that the Extension Option shall become non-binding  
9 after 90 days, or September 15, 2022, if not approved by the SFMTA's Board of Directors and  
10 the City's Board of Supervisors unless City and Hudson 1455 Market, LLC ("Landlord")  
11 mutually agree to an extension; and

12 WHEREAS, Due to various circumstances and scheduling, the Landlord and City  
13 agreed to extend the time period that SFMTA's Board of Directors and the City's Board of  
14 Supervisors could approve the First Amendment to Lease; and

15 WHEREAS, The First Amendment to Lease provides for the Base Rent amount at  
16 \$140,933.54 per month, annual adjustments of three percent, for the ten-year option term,  
17 with all other terms of the original Lease remaining the same; and

18 WHEREAS, On October 4, 2022, the SFMTA's Board of Directors approved the terms  
19 of the proposed First Amendment and directed the Executive Director/CEO to recommend to  
20 the Board of Supervisors and the Mayor enactment of a Resolution approving and authorizing  
21 such lease; now, therefore, be it

22 RESOLVED, That in accordance with the recommendations of the Director of  
23 Transportation of the SFMTA and Director of Property after consulting with the City Attorney,  
24 the Director of Property is hereby authorized to take all actions, on behalf of the City, as  
25 Tenant, to execute a lease amendment with the Landlord to extend the term for space at 1455

1 Market Street, San Francisco, California, the First Amendment to Lease (the "First  
2 Amendment"), substantially in the form on file with the Clerk of the Board of Supervisors in  
3 File No. 221092; and, be it

4 FURTHER RESOLVED, That the Lease is amended to extend the Term to  
5 September 19, 2033, at a Base Rent rate of \$140,933.54 per month, with annual  
6 adjustments of three percent for the ten-year option term, with all other terms of the Lease  
7 remaining in full force and effect as originally agreed upon; and, be it

8 FURTHER RESOLVED, That all actions heretofore taken by any City employee or  
9 official with respect to the Lease are hereby approved, confirmed, and ratified; and, be it

10 FURTHER RESOLVED, The Board of Supervisors authorizes the Director of  
11 Property to enter into any extensions, amendments, or modifications to the Lease  
12 (including without limitation, the exhibits) that the Director of Property determines, in  
13 consultation with the City Attorney, are in the best interest of the City, do not materially  
14 reduce the rent or otherwise materially increase the obligations or liabilities of the City, are  
15 necessary or advisable to effectuate the purposes of the Lease or this Resolution, and are  
16 in compliance with all applicable laws, including City's Charter; and, be it

17 FURTHER RESOLVED, That within thirty days of the First Amendment being fully  
18 executed by all parties, RED shall provide the agreement to the Clerk of the Board for  
19 inclusion in the official file.

1 \$1,320,059.49 Total  
2 (Base Rent for September 20, 2023 –  
3 June 30, 2024)

4 \$990,044.62  
5 Fund ID:22260  
6 Department ID:149725  
7 PS Project ID:10001724  
8 Authority ID:10000  
9 Account ID:530110  
10 Activity ID:002

11 \$330,014.88  
12 Fund ID:22870  
13 Department ID:207964  
14 PS Project ID:10022189  
15 Authority ID:10000  
16 Account ID:530110  
17 Activity ID:001

18 \_\_\_\_\_/s/  
19 Ben Rosenfield  
20 Controller

21 RECOMMENDED:

22 \_\_\_\_\_/s/  
23 Jeffrey Tumlin  
24 Director of Transportation

25 RECOMMENDED:

\_\_\_\_\_/s/  
Andrico Q. Penick  
Director of Property

<b>Item 3</b> <b>File 22-1092</b>	<b>Department:</b> Municipal Transportation Agency (MTA), Real Estate Division (RED)
<b>EXECUTIVE SUMMARY</b>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>The proposed resolution would approve the First Amendment to the lease between the San Francisco Municipal Transportation Agency (SFMTA) as tenant and Hudson 1455 Market, LLC as landlord to operate the Transportation Management Center (TMC) at 1455 Market Street, exercising the first option to extend the lease 10 years through September 19, 2033, with initial annual rent of \$1,691,202 and three percent annual adjustments, and authorize the Director of Property to enter into immaterial modifications of the lease.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>The SFMTA operates the TMC at 1455 Market Street. The TMC provides various command, communication, and control functions for trains, subway stations, safety systems, traffic flows, security systems, and processing DMV record checks and Parking Control dispatch. In 2011, the Board of Supervisors approved a lease for SFMTA to operate the TMC at 1455 Market Street for a term of 10 years with two 10-year options to extend.</li> <li>Under the lease, the rent is adjusted three percent annually and five percent at the beginning of each extension term. An appraisal for the lease was not required because annual base rent is below \$45 per square foot. However, the Real Estate Division (RED) performed an informal review of recent commercial leases in the Mid-Market/Van Ness area and determined that rent was below market rate.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>Under the proposed First Amendment, SFMTA would pay initial annual rent of \$1,691,202, with three percent annual escalation. Over the 10-year term of the lease, SFMTA would pay total rent of approximately \$19,533,149.</li> <li>In addition to rent, SFMTA pays operating costs for the premises and a percentage share of the increase to the building costs since the base year (2012). SFMTA estimates that initial annual operating costs will be \$632,589, with three percent annual escalation. Over the 10-year term, SFMTA would pay approximately \$7,251,926 in operating costs, for total costs of approximately \$26,785,075.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>Approve the proposed resolution.</li> </ul>	

**MANDATE STATEMENT**

City Administrative Code Section 23.27 states that any lease with a term of one year or longer and where the City is the tenant is subject to Board of Supervisors approval by resolution.

**BACKGROUND**

The San Francisco Municipal Transportation Agency (SFMTA) operates the Transportation Management Center (TMC) at 1455 Market Street. The TMC provides command, communication, and control functions for the Automatic Train Control System, public address and platform display systems at subway stations, monitoring and remotely operating subway fire, life, and safety systems, monitoring the traction power for train and trolley overhead wires, monitoring traffic flows and control traffic signal timing and variable message signs, the Closed Circuit Television (CCTV) system, and processing DMV record checks and dispatching Parking Control Officers to towing and traffic directing requests.

In June 2011, the Board of Supervisors approved a lease for SFMTA to operate the TMC at 1455 Market Street for a term of 10 years with two 10-year options to extend (File 11-0538). The premises consists of 38,894 square feet on the seventh floor for the TMC, 679 square feet on the first floor for locker rooms and showers, and bike storage on the third floor of the parking garage. After substantial tenant improvements, the lease commenced on September 20, 2013 and will expire on September 19, 2023. The lease requires SFMTA to provide at least 15 months' notice if it wishes to exercise the options to extend, and the Real Estate Division (RED) issued the notice on behalf of SFMTA for the first option on June 17, 2022.

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would approve the First Amendment to the lease between SFMTA as tenant and Hudson 1455 Market LLC as landlord, exercising the first option to extend 10 years through September 19, 2033, and authorize the Director of Property to enter into immaterial modifications of the lease.

The original lease specified that if SFMTA were to exercise the options to extend, the base rent would be increased by five percent at the beginning of each extension term, with three percent annual increases thereafter. SFMTA currently pays annual rent of \$1,610,669 (\$40.70 per square foot), and a five percent increase sets initial rent under the extension term at \$1,691,202 (\$42.74 per square foot).<sup>1</sup>

Per Administrative Code Section 23.27, an appraisal for the lease is not required because the initial annual rent is below \$45 per square foot. According to Claudia Gorham, RED Deputy Managing Director, RED did not conduct an appraisal, but performed an informal review of recent commercial leases in the Mid-Market/Van Ness area, which we reviewed, and determined that rent was below market rate.

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<sup>1</sup> The initial annual rent of \$1,691,202 consists of \$1,673,956 for the seventh floor TMC space (\$43.04 per square foot) and \$17,247 for the first-floor locker room space (\$25.40 per square foot).

SFMTA & RED evaluated other properties available for purchase but did find any suitable alternatives. Furthermore, RED and SFMTA determined that relocating the TMC would be cost-prohibitive due to the specialized equipment located at 1455 Market Street and would require two sites to be operational simultaneously until all systems are transferred over. According to MTA, the cost to build out the TMC in 2011-2012 was approximately \$12 million and would cost more now due to inflation.

Under the proposed First Amendment, SFMTA would continue to pay operating costs for the premises, which include electrical charges, chilled water charges, after-hours HVAC and excess services, equipment maintenance, janitorial services, any building modifications requested by the City, and any additional services requested by the City. In addition, the City must pay the percentage share of the increase to the building costs since the base year (2012) for utilities, repairs and maintenance, insurance, labor costs, management fees, accounting and legal expenses, depreciation, capital expenditures, and property taxes. According to William Zhao, SFMTA Principal Administrative Analyst, SFMTA estimates that initial annual operating costs will be \$632,589, with three percent annual escalation.

### FISCAL IMPACT

Under the proposed First Amendment, SFMTA would pay initial annual rent of \$1,691,202, with three percent annual escalation. Over the 10-year term of the lease, SFMTA would pay total rent of approximately \$19,533,149. In addition, SFMTA would pay approximately \$7,251,926 in operating costs, for total costs of approximately \$26,785,075. Annual estimated rent and operating costs are shown in Exhibit 1 below.

#### Exhibit 1: Annual Estimated Rent and Operating Costs

Year	Rent <sup>2</sup>	Operating Cost	Total Cost
Year 1	\$1,703,887	\$632,589	\$2,336,476
Year 2	1,755,003	651,567	2,406,570
Year 3	1,807,653	671,114	2,478,767
Year 4	1,861,883	691,247	2,553,130
Year 5	1,917,739	711,985	2,629,724
Year 6	1,975,271	733,344	2,708,615
Year 7	2,034,530	755,345	2,789,875
Year 8	2,095,565	778,005	2,873,570
Year 9	2,158,432	801,345	2,959,777
Year 10	2,223,185	825,385	3,048,570
<b>Total</b>	<b>\$19,533,149</b>	<b>7,251,926</b>	<b>26,785,075</b>

Source: Proposed lease amendment, SFMTA

<sup>2</sup> Under the lease, the rent is adjusted on July 1 of each year, rather than on the lease anniversary date. The Year 1 rent shown represents approximately nine months of rent at \$140,934 per month (\$1,691,202 annualized rate) and three months of rent at \$145,162 per month (\$1,741,939 annualized rate).

Rent and operating costs would be funded by SFMTA's annual operating budget. If the second option to extend is exercised, base rent would again be increased by five percent.

**RECOMMENDATION**

Approve the proposed resolution.

## FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE (this "**First Amendment**") is dated for reference purposes as of September 1, 2022 (the "**First Amendment Reference Date**"), by and between HUDSON 1455 MARKET STREET, LLC, a Delaware limited liability company ("**Landlord**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**" or "**Tenant**"), acting by and through the San Francisco Municipal Transportation Agency ("**SFMTA**"). Capitalized terms used herein but not defined shall have the meaning given them in the Lease (as defined below).

THIS FIRST AMENDMENT is made with reference to the following facts:

A. City and Landlord (as successor in interest to Hudson 1455 Market, LLC) are parties to that certain Lease, dated November 1, 2011 (the "**Initial Lease**"), pursuant to which City presently leases the premises consisting of 39,573 rentable square feet of space (the "**Premises**") at 1455 Market Street, San Francisco, California (the "**Building**"), as more particularly described in the Lease. The Initial Lease, as supplemented by the letter agreements dated March 9, 2011 and October 31, 2011 (collectively, the "**Letter Agreements**"), and as further amended by this First Amendment, will be referred to as the "**Lease**." The Commencement Date for the Initial Premises, as defined in the Lease, was September 20, 2013, and the Rent Commencement Date for the Initial Premises was November 19, 2013.

B. City exercised the first 10-year Extension Option under Initial Lease Section 3.4 on June 15, 2022.

C. Landlord and City enter into this First Amendment to document such exercise by the City of the first 10-year Extension Option and to extend the Term as contemplated by Initial Lease Section 3.4.

NOW, THEREFORE, in consideration of the matters described in the foregoing Recitals which are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the City and Landlord agree as follows:

### 1. **Base Rent.**

City shall continue to pay Base Rent with respect to the Premises in accordance with the terms of the Initial Lease and the Letter Agreements through September 19, 2023 (in addition to all other amounts due under the Lease). Commencing on September 20, 2023, City shall pay Base Rent for the 7th Floor Premises at the rate of one hundred thirty-nine thousand, four hundred and ninety-six dollars and thirty-two cents (\$139,496.32) per month (approximately \$3.59 per rentable square foot per month) and for the Locker Room Premises at the rate of one thousand four hundred and thirty-seven dollars and twenty-two cents (\$1,437.22) per month (approximately \$2.12 per rentable square foot per month), in accordance with Initial Lease Section 3.4(c). Commencing on July 1, 2024 and each July 1st thereafter, the Base Rent shall be adjusted as set forth in Initial Lease Section 4.3. Such Base Rent shall be payable in accordance with the terms of the Initial Lease and in addition to all other amounts due under the Lease (including, without limitation, Additional Charges). Accordingly, during the period beginning on September 20, 2023 and ending on September 19, 2033, City shall pay Base Rent with respect to the Premises in accordance with the following schedule:



Period	Monthly Base Rent*
9/20/2023 – 6/30/2024	\$140,933.54 per month
7/1/2024 – 6/30/2025	\$145,161.55 per month
7/1/2025 – 6/30/2026	\$149,516.39 per month
7/1/2026 – 6/30/2027	\$154,001.89 per month
7/1/2027 – 6/30/2028	\$158,621.94 per month
7/1/2028 – 6/30/2029	\$163,380.60 per month
7/1/2029 – 6/30/2030	\$168,282.02 per month
7/1/2030 – 6/30/2031	\$173,330.48 per month
7/1/2031 – 6/30/2032	\$178,530.39 per month
7/1/2032 – 6/30/2033	\$183,886.30 per month
7/1/2033 – 9/19/2033	\$189,402.89 per month

\*Base Rent for the fractional months of September 2023 and September 2033 shall be prorated in accordance with the terms of Initial Lease Section 4.1. Accordingly, (a) the Base Rent payable with respect to the period beginning on September 20, 2023 and ending on September 30, 2023 shall be \$51,675.63, and (b) the Base Rent payable with respect to the period beginning on September 1, 2033 and ending on September 19, 2033 shall be \$119,955.17.

## **2. Extension of Term; Revised Termination Date; Option to Renew.**

Landlord and City acknowledge and agree that the Term is extended to September 19, 2033, and the Expiration Date is September 19, 2033. Additionally, Landlord and City acknowledge and agree that City has one more 10-year Extension Option as set forth, and subject to the terms, in Initial Lease Section 3.4(a). Landlord shall complete the refurbishment work in accordance with, and subject to, Initial Lease Section 3.4(d), but otherwise the City shall continue to take the Premises "as is" as provided in such Section 3.4(c).

## **3. Notice Addresses.**

The notices addresses set forth in the Basic Lease Information are deleted and replaced with the following addresses:

Tenant: Notices shall be sent to Tenant at the following addresses:

Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Attn: Andrico Q. Penick  
Director of Property

with a copy to:

San Francisco Municipal Transportation Agency  
1 South Van Ness Avenue, 8<sup>th</sup> floor  
San Francisco, CA 94103  
Attn: Manager of Strategic Real Estate

and a copy to:

Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682  
Attn: Real Estate and Finance Team  
Fax No.: (415) 554-4755

Landlord: Notices shall be sent to Landlord at the following addresses:

Hudson Pacific Properties  
Chris Lewis  
Senior Director, Leasing  
121 Spear Street  
Suite 220  
San Francisco, California 94105

#### **4. Cooperative Drafting**

This First Amendment has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Lease reviewed and revised by their legal counsel or representative. No party will be considered the drafter of this Lease, and no presumption or rule that an ambiguity will be construed against the party drafting the clause will apply to the interpretation or enforcement of this Lease.

#### **5. Contractor Vaccination Requirements**

(1) Landlord acknowledges that it has read the requirements of the 38th Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency (“**Emergency Declaration**”), dated February 25, 2020, and the Updated Contractor Vaccination Policy for City Contractors issued by the City Administrator dated January 24, 2022 (“**Contractor Vaccination Policy**”), which documents may be amended from time to time. City has informed Landlord that the current Contractor Vaccination Policy can be found at: <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors>. Any undefined, initially-capitalized term used in this Section 5 has the meaning given to that term in the Contractor Vaccination Policy.

(2) A Contract as defined in the Emergency Declaration is an agreement (including purchase orders) between the City and any other entity or individual and any subcontract under such agreement, where Covered Employees of the contractor or subcontractor work in-person with City employees in connection with the work or services performed thereunder at a facility owned, leased, or controlled by the City. A Contract includes such agreements currently in place or entered into during the term of the Emergency Declaration. A Contract does not include an agreement with a state or federal governmental entity or agreements that does not involve the City paying or receiving funds.

(3) Landlord has read the Contractor Vaccination Policy. In accordance with the Emergency Declaration, if this Lease is (or becomes) a Contract, Landlord agrees that:

(a) Landlord shall comply with the requirements of the Contractor Vaccination Policy pertaining to "Covered Employees" (as defined under the Emergency Declaration and the Contractor Vaccination Policy) of Landlord or its agents, contractors and subcontractors, and ensure such Covered Employees are fully vaccinated for COVID-19 or obtain an exemption based on medical or religious grounds. In the event Landlord is found to be breach of the terms of the immediately preceding sentence, then Tenant's sole and exclusive remedy therefor shall be for Landlord to replace the Covered Employee causing such breach with a Covered Employee that satisfies the terms thereof as soon as reasonably possible; and

(b) If Landlord grants a Covered Employee an exemption based on medical or religious grounds, Landlord will promptly notify City by completing and submitting the Covered Employees Granted Exemptions Form ("**Exemptions Form**"), which can be found at <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors> (navigate to "Exemptions" to download the form).

## **6. General**

(1) **References.** No reference to this First Amendment is necessary in any instrument or document at any time referring to the Lease. Any future reference to the Lease shall be deemed a reference to such document as amended by this First Amendment.

(2) **Applicable Law.** This First Amendment shall be governed by, construed and enforced in accordance with the laws of the State of California.

(3) **Miscellaneous.** Except as expressly modified herein, the terms, covenants and conditions of the Initial Lease and Letter Agreement shall remain unmodified and in full force and effect; provided, the City acknowledges that City's First Offer Right under Initial Lease Section 22.1 [City's Right of First Offer to Lease] expires at the end of the Initial Term on September 19, 2023, and, thereafter, City shall have no rights to any First Offer Space. The Lease constitutes the entire agreement of the parties concerning the subject matter hereof, and supersedes and conceals any and all previous negotiations, agreements, or understandings, if any, regarding the matters contained herein. The execution of this First Amendment shall not constitute a waiver of relinquishment of any rights which the City may have relating to the Lease. Subject to the terms of this First Amendment, Landlord and City hereby ratify and confirm all of the provisions of the Lease.

(4) **CASp.** Landlord hereby discloses to Tenant, in accordance with California Civil Code Section 1938, and Tenant hereby acknowledges that the Premises have not undergone an inspection by a Certified Access Specialist (CASp) to determine whether the Premises meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. 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." Landlord and Tenant hereby agree as follows: (i) any CASp inspection requested by Tenant shall be conducted, at Tenant's sole cost and expense, by a CASp approved in advance by Landlord, subject to Landlord's rules and requirements; and (ii) Landlord shall have no obligation to perform any work or repairs identified in any such CASp inspection; and (iii) to the extent that any work, repairs, replacements, or improvements are recommended or required by the CASp inspection performed by or on behalf of Tenant, then, at Landlord's election, Tenant shall be required to perform the same at Tenant's sole cost and expense (subject to the terms and conditions of the Lease, including, without limitation, Initial Lease Section 7.1, including Landlord's right to approve of detailed plans and specifications in advance).

(5) **Brokers.** Tenant and Landlord each represent and warrant to the other that it has not dealt with or engaged any broker with respect to this First Amendment. If either Tenant or Landlord is in breach of the foregoing representation and warranty, the breaching party shall be solely responsible for the payment of any fees due to said broker, and the breaching party shall further protect, indemnify, hold harmless and defend the non-breaching party from any liability with respect thereto.

(6) **Estoppels.** Tenant represents and certifies to Landlord that, as of the Effective Date (as defined in Section 7 below), to Tenant's actual knowledge without duty of investigation or inquiry, (a) Landlord is not in default under the Lease, and (b) Tenant does not have any defenses or offsets to payment of rent and performance of its obligations under the Lease as and when same becomes due. Landlord represents and certifies to Tenant that, as of the date of Landlord's execution of this First Amendment (as shown on the signature page hereto), to Landlord's actual knowledge without duty of investigation or inquiry, (i) Tenant is not in default under the Lease, and (ii) Landlord does not have any defenses or offsets to the performance of its obligations under the Lease as and when same becomes due.

7. **Effective Date of First Amendment.** Notwithstanding anything to the contrary contained in this First Amendment, Landlord acknowledges and agrees that no officer or employee of City has authority to commit City hereto unless and until SFMTA's Commission shall have approved and the City's Board of Supervisors shall have duly adopted a resolution approving this First 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 First Amendment shall be null and void unless City's Mayor and Board of Supervisors approve this First Amendment, in their respective sole and absolute discretion, and in accordance with all applicable laws. Approval of this First 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. Subject to the foregoing, the effective date of this First Amendment (the "**Effective Date**") shall be the later of (i) the date this First Amendment is fully executed by Landlord, the City Attorney, and the Director of Property, and (ii) the date the SFMTA Commission

and the Board of Supervisors adopt a resolution approving this First Amendment and authorizing consummation of the transaction contemplated hereby. Tenant shall deliver to Landlord written notice of the occurrence of the date referenced in clause (ii) of the immediately preceding sentence as soon as reasonably possible following the occurrence thereof.

(Signatures on following page)

In witness whereof, the parties hereto have executed this First Amendment as of the date written above.

LANDLORD: HUDSON 1455 MARKET STREET, LLC,  
a Delaware limited liability company

By: Hudson 1455 Market, L.P.,  
a Delaware limited partnership  
its Member

By: Hudson 1455 GP, LLC,  
a Delaware limited liability company,  
its General Partner

By: Hudson Pacific Properties, L.P.,  
a Maryland limited partnership,  
its Member

By: Hudson Pacific Properties, Inc.,  
a Maryland corporation,  
its General Partner

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

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

By: \_\_\_\_\_  
ANDRICO Q. PENICK  
Its: Director of Property

APPROVED BY:

San Francisco Municipal Transportation  
Agency Board of Directors

Resolution No.: \_\_\_\_\_

Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Secretary, SFMTA Board of Directors

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By:

\_\_\_\_\_  
Charles Sullivan  
Deputy City Attorney

## FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE (this "**First Amendment**") is dated for reference purposes as of September 1, 2022 (the "**First Amendment Reference Date**"), by and between HUDSON 1455 MARKET STREET, LLC, a Delaware limited liability company ("**Landlord**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**" or "**Tenant**"), acting by and through the San Francisco Municipal Transportation Agency ("**SFMTA**"). Capitalized terms used herein but not defined shall have the meaning given them in the Lease (as defined below).

THIS FIRST AMENDMENT is made with reference to the following facts:

A. City and Landlord (as successor in interest to Hudson 1455 Market, LLC) are parties to that certain Lease, dated November 1, 2011 (the "**Initial Lease**"), pursuant to which City presently leases the premises consisting of 39,573 rentable square feet of space (the "**Premises**") at 1455 Market Street, San Francisco, California (the "**Building**"), as more particularly described in the Lease. The Initial Lease, as supplemented by the letter agreements dated March 9, 2011 and October 31, 2011 (collectively, the "**Letter Agreements**"), and as further amended by this First Amendment, will be referred to as the "**Lease**." The Commencement Date for the Initial Premises, as defined in the Lease, was September 20, 2013, and the Rent Commencement Date for the Initial Premises was November 19, 2013.

B. City exercised the first 10-year Extension Option under Initial Lease Section 3.4 on June 15, 2022.

C. Landlord and City enter into this First Amendment to document such exercise by the City of the first 10-year Extension Option and to extend the Term as contemplated by Initial Lease Section 3.4.

NOW, THEREFORE, in consideration of the matters described in the foregoing Recitals which are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the City and Landlord agree as follows:

### 1. Base Rent.

City shall continue to pay Base Rent with respect to the Premises in accordance with the terms of the Initial Lease and the Letter Agreements through September 19, 2023 (in addition to all other amounts due under the Lease). Commencing on September 20, 2023, City shall pay Base Rent for the 7th Floor Premises at the rate of one hundred thirty-nine thousand, four hundred and ninety-six dollars and thirty-two cents (\$139,496.32) per month (approximately \$3.59 per rentable square foot per month) and for the Locker Room Premises at the rate of one thousand four hundred and thirty-seven dollars and twenty-two cents (\$1,437.22) per month (approximately \$2.12 per rentable square foot per month), in accordance with Initial Lease Section 3.4(c). Commencing on July 1, 2024 and each July 1st thereafter, the Base Rent shall be adjusted as set forth in Initial Lease Section 4.3. Such Base Rent shall be payable in accordance with the terms of the Initial Lease and in addition to all other amounts due under the Lease (including, without limitation, Additional Charges). Accordingly, during the period beginning on September 20, 2023 and ending on September 19, 2033, City shall pay Base Rent with respect to the Premises in accordance with the following schedule:



Period	Monthly Base Rent*
9/20/2023 – 6/30/2024	\$140,933.54 per month
7/1/2024 – 6/30/2025	\$145,161.55 per month
7/1/2025 – 6/30/2026	\$149,516.39 per month
7/1/2026 – 6/30/2027	\$154,001.89 per month
7/1/2027 – 6/30/2028	\$158,621.94 per month
7/1/2028 – 6/30/2029	\$163,380.60 per month
7/1/2029 – 6/30/2030	\$168,282.02 per month
7/1/2030 – 6/30/2031	\$173,330.48 per month
7/1/2031 – 6/30/2032	\$178,530.39 per month
7/1/2032 – 6/30/2033	\$183,886.30 per month
7/1/2033 – 9/19/2033	\$189,402.89 per month

\*Base Rent for the fractional months of September 2023 and September 2033 shall be prorated in accordance with the terms of Initial Lease Section 4.1. Accordingly, (a) the Base Rent payable with respect to the period beginning on September 20, 2023 and ending on September 30, 2023 shall be \$51,675.63, and (b) the Base Rent payable with respect to the period beginning on September 1, 2033 and ending on September 19, 2033 shall be \$119,955.17.

## **2. Extension of Term; Revised Termination Date; Option to Renew.**

Landlord and City acknowledge and agree that the Term is extended to September 19, 2033, and the Expiration Date is September 19, 2033. Additionally, Landlord and City acknowledge and agree that City has one more 10-year Extension Option as set forth, and subject to the terms, in Initial Lease Section 3.4(a). Landlord shall complete the refurbishment work in accordance with, and subject to, Initial Lease Section 3.4(d), but otherwise the City shall continue to take the Premises "as is" as provided in such Section 3.4(c).

## **3. Notice Addresses.**

The notices addresses set forth in the Basic Lease Information are deleted and replaced with the following addresses:

Tenant: Notices shall be sent to Tenant at the following addresses:

Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Attn: Andrico Q. Penick  
Director of Property

with a copy to:

San Francisco Municipal Transportation Agency  
1 South Van Ness Avenue, 8<sup>th</sup> floor  
San Francisco, CA 94103  
Attn: Manager of Strategic Real Estate

and a copy to:

Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682  
Attn: Real Estate and Finance Team  
Fax No.: (415) 554-4755

Landlord: Notices shall be sent to Landlord at the following addresses:

Hudson Pacific Properties  
Chris Lewis  
Senior Director, Leasing  
121 Spear Street  
Suite 220  
San Francisco, California 94105

#### **4. Cooperative Drafting**

This First Amendment has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Lease reviewed and revised by their legal counsel or representative. No party will be considered the drafter of this Lease, and no presumption or rule that an ambiguity will be construed against the party drafting the clause will apply to the interpretation or enforcement of this Lease.

#### **5. Contractor Vaccination Requirements**

(1) Landlord acknowledges that it has read the requirements of the 38th Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency (“**Emergency Declaration**”), dated February 25, 2020, and the Updated Contractor Vaccination Policy for City Contractors issued by the City Administrator dated January 24, 2022 (“**Contractor Vaccination Policy**”), which documents may be amended from time to time. City has informed Landlord that the current Contractor Vaccination Policy can be found at: <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors>. Any undefined, initially-capitalized term used in this Section 5 has the meaning given to that term in the Contractor Vaccination Policy.

(2) A Contract as defined in the Emergency Declaration is an agreement (including purchase orders) between the City and any other entity or individual and any subcontract under such agreement, where Covered Employees of the contractor or subcontractor work in-person with City employees in connection with the work or services performed thereunder at a facility owned, leased, or controlled by the City. A Contract includes such agreements currently in place or entered into during the term of the Emergency Declaration. A Contract does not include an agreement with a state or federal governmental entity or agreements that does not involve the City paying or receiving funds.

(3) Landlord has read the Contractor Vaccination Policy. In accordance with the Emergency Declaration, if this Lease is (or becomes) a Contract, Landlord agrees that:

(a) Landlord shall comply with the requirements of the Contractor Vaccination Policy pertaining to "Covered Employees" (as defined under the Emergency Declaration and the Contractor Vaccination Policy) of Landlord or its agents, contractors and subcontractors, and ensure such Covered Employees are fully vaccinated for COVID-19 or obtain an exemption based on medical or religious grounds. In the event Landlord is found to be breach of the terms of the immediately preceding sentence, then Tenant's sole and exclusive remedy therefor shall be for Landlord to replace the Covered Employee causing such breach with a Covered Employee that satisfies the terms thereof as soon as reasonably possible; and

(b) If Landlord grants a Covered Employee an exemption based on medical or religious grounds, Landlord will promptly notify City by completing and submitting the Covered Employees Granted Exemptions Form ("**Exemptions Form**"), which can be found at <https://sf.gov/confirm-vaccine-status-your-employees-and-subcontractors> (navigate to "Exemptions" to download the form).

## **6. General**

(1) **References.** No reference to this First Amendment is necessary in any instrument or document at any time referring to the Lease. Any future reference to the Lease shall be deemed a reference to such document as amended by this First Amendment.

(2) **Applicable Law.** This First Amendment shall be governed by, construed and enforced in accordance with the laws of the State of California.

(3) **Miscellaneous.** Except as expressly modified herein, the terms, covenants and conditions of the Initial Lease and Letter Agreement shall remain unmodified and in full force and effect; provided, the City acknowledges that City's First Offer Right under Initial Lease Section 22.1 [City's Right of First Offer to Lease] expires at the end of the Initial Term on September 19, 2023, and, thereafter, City shall have no rights to any First Offer Space. The Lease constitutes the entire agreement of the parties concerning the subject matter hereof, and supersedes and conceals any and all previous negotiations, agreements, or understandings, if any, regarding the matters contained herein. The execution of this First Amendment shall not constitute a waiver of relinquishment of any rights which the City may have relating to the Lease. Subject to the terms of this First Amendment, Landlord and City hereby ratify and confirm all of the provisions of the Lease.

(4) **CASp.** Landlord hereby discloses to Tenant, in accordance with California Civil Code Section 1938, and Tenant hereby acknowledges that the Premises have not undergone an inspection by a Certified Access Specialist (CASp) to determine whether the Premises meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. 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." Landlord and Tenant hereby agree as follows: (i) any CASp inspection requested by Tenant shall be conducted, at Tenant's sole cost and expense, by a CASp approved in advance by Landlord, subject to Landlord's rules and requirements; and (ii) Landlord shall have no obligation to perform any work or repairs identified in any such CASp inspection; and (iii) to the extent that any work, repairs, replacements, or improvements are recommended or required by the CASp inspection performed by or on behalf of Tenant, then, at Landlord's election, Tenant shall be required to perform the same at Tenant's sole cost and expense (subject to the terms and conditions of the Lease, including, without limitation, Initial Lease Section 7.1, including Landlord's right to approve of detailed plans and specifications in advance).

**(5) Brokers.** Tenant and Landlord each represent and warrant to the other that it has not dealt with or engaged any broker with respect to this First Amendment. If either Tenant or Landlord is in breach of the foregoing representation and warranty, the breaching party shall be solely responsible for the payment of any fees due to said broker, and the breaching party shall further protect, indemnify, hold harmless and defend the non-breaching party from any liability with respect thereto.

**(6) Estoppels.** Tenant represents and certifies to Landlord that, as of the Effective Date (as defined in Section 7 below), to Tenant's actual knowledge without duty of investigation or inquiry, (a) Landlord is not in default under the Lease, and (b) Tenant does not have any defenses or offsets to payment of rent and performance of its obligations under the Lease as and when same becomes due. Landlord represents and certifies to Tenant that, as of the date of Landlord's execution of this First Amendment (as shown on the signature page hereto), to Landlord's actual knowledge without duty of investigation or inquiry, (i) Tenant is not in default under the Lease, and (ii) Landlord does not have any defenses or offsets to the performance of its obligations under the Lease as and when same becomes due.

**7. Effective Date of First Amendment.** Notwithstanding anything to the contrary contained in this First Amendment, Landlord acknowledges and agrees that no officer or employee of City has authority to commit City hereto unless and until SFMTA's Commission shall have approved and the City's Board of Supervisors shall have duly adopted a resolution approving this First 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 First Amendment shall be null and void unless City's Mayor and Board of Supervisors approve this First Amendment, in their respective sole and absolute discretion, and in accordance with all applicable laws. Approval of this First 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. Subject to the foregoing, the effective date of this First Amendment (the "**Effective Date**") shall be the later of (i) the date this First Amendment is fully executed by Landlord, the City Attorney, and the Director of Property, and (ii) the date the SFMTA Commission

and the Board of Supervisors adopt a resolution approving this First Amendment and authorizing consummation of the transaction contemplated hereby. Tenant shall deliver to Landlord written notice of the occurrence of the date referenced in clause (ii) of the immediately preceding sentence as soon as reasonably possible following the occurrence thereof.

(Signatures on following page)

In witness whereof, the parties hereto have executed this First Amendment as of the date written above.

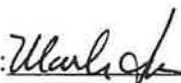
LANDLORD: HUDSON 1455 MARKET STREET, LLC,  
a Delaware limited liability company

By: Hudson 1455 Market, L.P.,  
a Delaware limited partnership  
its Member

By: Hudson 1455 GP, LLC,  
a Delaware limited liability company,  
its General Partner

By: Hudson Pacific Properties, L.P.,  
a Maryland limited partnership,  
its Member

By: Hudson Pacific Properties, Inc.,  
a Maryland corporation,  
its General Partner

By:   
Name: Mark Lammag  
Title: President  
Date: \_\_\_\_\_

(M)

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

By: \_\_\_\_\_  
ANDRICO Q. PENICK  
Its: Director of Property

APPROVED BY:

San Francisco Municipal Transportation  
Agency Board of Directors

Resolution No.: \_\_\_\_\_

Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Secretary, SFMTA Board of Directors

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By:

\_\_\_\_\_  
Charles Sullivan  
Deputy City Attorney

**LEASE**

between

**HUDSON 1455 MARKET, LLC,  
as Landlord**

and

**CITY AND COUNTY OF SAN FRANCISCO,  
as Tenant**

For the lease of a  
Portion of the 7th Floor  
and  
Locker Room Premises on the 1st Floor  
and  
Bike Room Premises on the 3rd Floor

of

1455 Market Street  
San Francisco, California

MARCH 9, 2011





## OFFICE LEASE

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## DEFINITIONS

- "7th Floor Premises" shall have the meaning set forth in Section 1 and Section 2.1(a) and shown in *Exhibit A-1*.
- "ACM" shall have the meaning set forth in Section 23.34.
- "Actual Knowledge" whether or not capitalized, when referring to Landlord, shall have the meaning set forth in Section 21.2.
- "Additional Charges" shall have the meaning set forth in Section 1 and Section 4.4.
- "Additional Construction Allowance" shall have the meaning set forth in Section 6.1(c) and Section 22.1(j).
- "Additional Construction Allowance Amortization Payment" shall have the meaning set forth in Section 6.1(c).
- "Additional Equipment" shall have the meaning set forth in Section 2.4.
- "Additional Services" shall have the meaning set forth in Section 9.7.
- "Adjustment Date" shall have the meaning set forth in Section 4.2.
- "Affiliate" of a person or entity shall mean a person or entity that directly or indirectly owns or is owned by, controls or is controlled by, or under common ownership control with another party. For purposes of this definition, the term "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting rights or by contract or otherwise. Without limiting the foregoing, an Affiliate shall include any person that beneficially owns or holds more than thirty five percent (35%) of any voting interest or equity interest in another person or entity.
- "Additional Charges" shall have the meaning set forth in Section 4.4(a).
- "Affiliate Lien" shall have the meaning set forth in Section 15.5.
- "Agents" shall have the meaning set forth in Section 23.5.
- "Allowance" shall have the meaning set forth in Section 1 and Section 22.1(j).
- "Alterations" shall have the meaning set forth in Section 7.1.
- "Amortization Schedule" shall have the meaning set forth in Section 3.2.
- "Availability Notice" shall have the meaning set forth in Section 21.2(b).
- "Award" shall have the meaning set forth in Section 13.1.
- "Banking Use" shall have the meaning set forth in Section 5.1(b).
- "Base Building Improvements" shall have the meaning set forth in Section 1, Section 6.1 and Section 22.1(j).
- "Base Rent" shall have the meaning set forth in Section 1 and Section 4.1.
- "Base Rent for First Offer Space" shall have the meaning set forth in Section 1 and Section 4.1.
- "Base Rent for Initial Premises" shall have the meaning set forth in Section 1.
- "Base Year" shall have the meaning set forth in Section 1 and Section 4.5.
- "Basic Lease Information" shall have the meaning set forth in Section 1.
- "Bike Room Premises" shall have the meaning set forth in Section 1 and Section 2.1 and shown in *Exhibit A-2*.



"BORP" shall have the meaning set forth in Section 23.35.

"Building" shall have the meaning set forth in Section 1 and Section 2.1.

"Building Rules and Regulations" shall have the meaning set forth in Section 5.2.

"Building Systems" shall have the meaning set forth in Section 8.1.

"Casualty " shall have the meaning set forth in Section 12.1.

"Casualty Notice" shall have the meaning set forth in Section 12.3.

"CERCLA" shall have the meaning set forth in Section 21.1.

"CEWA" shall have the meaning set forth in Section 5.2.

"City" shall have the meaning set forth in the introductory paragraph.

"City Program Affiliate" shall have the meaning set forth in Section 14.2.

"City Required Contribution" shall have the meaning set forth in Section 6.1(b).

"City Requirements" shall have the meaning set forth in Section 23.36.

"City Service Charges" shall have the meaning set forth in Section 4.4(a).

"City's Extension Notice" shall have the meaning set forth in Section 3.3(b).

"City's Percentage Share" shall have the meaning set forth in Section 1 and Section 4.5.

"City's Personal Property" shall have the meaning set forth in Section 7.3.

"City's Representative" shall have the meaning set forth in Section 4.9(b).

"City's Server Connection" shall have the meaning set forth in Section 2.5 and the Initial Work Letter.

"Claims" shall have the meaning set forth in Section 16.1.

"Code" shall have the meaning set forth in Section 23.27.

"Commencement Date" shall have the meaning set forth in Section 1 and Section 3.1.

"Common Areas" shall have the meaning set forth in Section 2.2.

"Communications Equipment" shall have the meaning set forth in Section 2.4.

"Confidential Information" shall have the meaning set forth in Section 4.11.

"Confidential Trade Secret" shall have the meaning set forth in Section 4.11.

"Connections" shall have the meaning set forth in Section 2.5.

"Construction Administration Fee" shall have the meaning set forth in Section 6.1(d).

"Cosmetic Alteration" shall have the meaning set forth in Section 7.1.

"CRAC" shall have the meaning set forth in Section 9.3(A).

"Daily Basis" shall have the meaning set forth in Section 9.1.

"Date of Taking" shall have the meaning set forth in Section 13.1.

"DBI" shall have the meaning set forth in Section 23.35.

"Disabilities Laws" shall have the meaning set forth in Section 10.1.

"Effective Date" shall have the meaning set forth in Section 1 and Section 23.30.

"Encumbrance" shall have the meaning set forth in Section 11.

"Environmental Laws" shall have the meaning set forth in Section 21.1.

"Essential Services" shall have the meaning set forth in Section 4.14.

"Estimated Commencement Date" shall have the meaning set forth in Section 1.

"Estimated Monthly Service Charge" shall have the meaning set forth in Section 4.4(b).

"Event of Default" shall have the meaning set forth in Section 15.1.

"Excess Portion" shall have the meaning set forth in Section 15.5.

"Exercise Notice" shall have the meaning set forth in Section 22.1.

"Existing Lease" shall have the meaning set forth in Section 3.3(c).

"Existing Personal Property" shall have the meaning set forth in Section 22.2.

"Expense Shortfall" shall have the meaning set forth in Section 4.6.

"Expense Year" shall have the meaning set forth in Section 4.5.

"Expiration Date" shall have the meaning set forth in Section 1.

"Extended Outside Delivery Date" shall have the meaning set forth in Section 3.3(b).

"Extension Authorizing Resolution" shall have the meaning set forth in Section 3.4 (b).

"Extension Exercise Notice" shall have the meaning set forth in Section 3.4(a).

"Extension Option" and "Extension Options" shall have the meaning set forth in Section 1 and Section 3.4.

"Extension Term" shall have the meaning set forth in Section 3.4.

"Extraordinary Improvements" shall have the meaning set forth in Section 20.

"Financial Institution" shall have the meaning set forth in Section 5.1.

"Financing Lien" shall have the meaning set forth in Section 15.5.

"First Offer Right" shall have the meaning set forth in Section 22.1.

"First Offer Space" shall have the meaning set forth in Section 22.1.

"First Offer Space Work Letter" shall have the meaning set forth in Section 22.1(i).

"Hazardous Material" shall have the meaning set forth in Section 21.1.

"HEPA" shall have the meaning set forth in Section 6.7.

"HRC" shall have the meaning set forth in Section 23.25(d).

"Indemnify" shall have the meaning set forth in Section 16.1.

"Independent CPA" shall have the meaning set forth in Section 4.9(c).

"Initial Communications Equipment" shall have the meaning set forth in Section 2.4(a).

"Initial Premises" shall have the meaning set forth in Section 1 and Section 2.1 and shown in *Exhibits A-1, A-2 and A-3*.

"Initial Premises Work Letter" shall have the meaning set forth in Section 6.1.

"Initial Telecom Site" shall have the meaning set forth in Section 2.4(a).

"Initial Term" shall have the meaning set forth in Section 3.1.

"Invitees" shall have the meaning set forth in Section 23.5.

"Judgment Lien" shall have the meaning set forth in Section 15.5.

"Landlord" shall have the meaning set forth in the introductory paragraph and Section 1.

"Landlord Delay" shall have the meaning set forth in Section 3.1(b).

"Landlord's Expense Statement" shall have the meaning set forth in Section 4.6.

"Landlord's Suspension Notice" shall have the meaning set forth in Section 3.3(b).

"Landlord's Suspension Request" shall have the meaning set forth in Section 3.3(b).

"Landlord's Tax Statement" shall have the meaning set forth in Section 4.7.

"Laws" shall have the meaning set forth in Section 10.1.

"Lease" shall have the meaning set forth in the introductory paragraph.

"Leasehold Improvement Work" shall have the meaning set forth in Section 6.1(a).

"Leasehold Improvements" shall have the meaning set forth in Section 1 and Section 6.1(a).

"Legislative Approval Deadline" shall have the meaning set forth in Section 22.1(g).

"Life Safety Laws" shall have the meaning set forth in Section 10.1.

"Locker Room Premises" shall have the meaning set forth in Section 1 and Section 2.1 and shown in *Exhibit A-3*.

"Major Damage or Destruction" shall have the meaning set forth in Section 12.3.

"Memorandum of Lease" shall have the form set forth in Section 23.26 and *Exhibit L*.

"Muni Connection" shall have the meaning set forth in Section 2.5 and *Exhibit F-1*.

"Operating Cost Increase" shall have the meaning set forth in Section 4.6.

"Operating Costs" shall have the meaning set forth in Section 4.5.

"Other Transferred Property" shall have the meaning set forth in Section 22.2.

"Outside Delivery Date" shall have the meaning set forth in Section 3.3(b).

"Permitted LTV Ratio" shall have the meaning set forth in Section 15.5.

"Permitted Use" shall have the meaning set forth in Section 5.1.

"Planning Deadline" shall have the meaning set forth in Section 22.1(g).

"Premises" shall have the meaning set forth in Section 2.1.

"Prohibited Use" shall have the meaning set forth in Section 5.1(a).

"Projected Completion Date" shall have the meaning set forth in Section 3.3(b).

"Projected Repair Time" shall have the meaning set forth in Section 12.3.

"Property" shall have the meaning set forth in Section 2.1.

"Prorated Abatement Days" shall have the meaning set forth in Section 22.1(i).

"Real Estate Tax Increase" shall have the meaning set forth in Section 4.7.

"Real Estate Taxes" shall have the meaning set forth in Section 4.5.

"Recapture" shall have the meaning set forth in Section 14.3(b).

"Rescission Trigger Date" shall have the meaning set forth in Section 22.1(k).

"Release" shall have the meaning set forth in Section 21.1.

"Removal Items" shall have the meaning set forth in Section 20.

"Rent" shall have the meaning set forth in Section 4.4.

"Rent Commencement Date" shall have the meaning set forth in Section 1, Section 3.1(a) and Section 22.1(j).

"Rentable area" shall have the meaning set forth in Section 2.1(b).

"Rentable square feet" shall have the meaning set forth in Section 2.1(b).

"ROM Budget" shall have the meaning set forth in Section 22.1(e).

"Rules and Regulations" shall have the meaning set forth in Section 5.2.

"Seismic Safety Laws" shall have the meaning set forth in Section 10.1.

"Seismic Work" shall have the meaning set forth in Section 6.6.

"Self-inure" shall have the meaning set forth in Section 17.1.

"SNDA" shall have the meaning set forth in Section 11.2.

"Sole Cost" shall have the meaning set forth in Section 4.5(c).

"Sublet Notification" shall have the meaning set forth in Section 14.3(b).

"Sublet Premises" shall have the meaning set forth in Section 14.3(b).

"Substantially Completed" and "Substantial Completion" shall have the meaning set forth in Section 6.2.

"Supplemental Property Schedule" shall have the meaning set forth in Section 22.2.

"Taking" shall have the meaning set forth in Section 13.1.

"Tax Shortfall" shall have the meaning set forth in Section 4.7.

"Tax Year" shall have the meaning set forth in Section 4.5.

"Tenant" shall have the meaning set forth in the introductory paragraph and Section 1.

"Tenant Delay" shall have the meaning set forth in Section 3.1(c).

"Term" shall have the meaning set forth in Section 1 and Section 3.1(e).

"Termination Notice" shall have the meaning set forth in Section 3.3(b).

"Termination Trigger Date" shall have the meaning set forth in Section 3.3(b).

"Transfer Premium" shall have the meaning set forth in Section 14.3(e).

"Transferee" shall have the meaning set forth in Section 14.3(e).

"Unavoidable Delay" shall have the meaning set forth in Section 3.1(d).

"Unsafe Condition" shall have the meaning set forth in Section 4.14.

"Work Letter" and "Work Letters" shall have the meaning set forth in Section 6.1(a).



## LEASE

THIS LEASE (this "Lease"), dated for reference purposes only as of MARCH 9 2011 is by and between HUDSON 1455 MARKET, LLC, a Delaware limited liability company ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City", or "Tenant"), acting by and through the San Francisco Municipal Transportation Agency ("SFMTA").

Landlord and City hereby agree as follows:

### 1. **BASIC LEASE INFORMATION**

The following is a summary of basic lease information (the "Basic Lease Information"). Each item below shall be deemed to incorporate all of the terms in this Lease pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision shall control.

Lease Reference Date:

MARCH 9, 2011

Landlord:

HUDSON 1455 MARKET, LLC

Tenant:

CITY AND COUNTY OF SAN FRANCISCO

Building (Section 2.1):

1455 Market Street, San Francisco, California

Premises, Initial Premises  
(Section 2.1):

The Premises shall consist of (i) certain rentable space on the seventh (7<sup>th</sup>) floor of the Building (the "7<sup>th</sup> Floor Premises") and (ii) certain rentable space located on the first (1<sup>st</sup>) floor of the Building to be used for shower, locker room and related purposes as provided below (the "Locker Room Premises"), and (iii) certain premises to be located on the third (3<sup>rd</sup>) floor parking area of the Building to be used for bike storage and related purposes as provided below (the "Bike Room Premises"). The 7<sup>th</sup> Floor Premises are shown outlined and labeled on *Exhibit A-1*, the Bike Room Premises are shown outlined and labeled on *Exhibit A-2*, and the Locker Room Premises are shown outlined and labeled on *Exhibit A-3*. The 7<sup>th</sup> Floor Premises, the Bike Room Premises and the Locker Room Premises are sometimes referred to collectively as the "Initial Premises."

City has a right of first offer to lease additional space on the 7<sup>th</sup> floor of the Building as set forth in Section 22.1. Upon City's exercise of the right of first offer, the applicable First Offer Space shall be added to the Premises in accordance with the provisions of Section 22.1.



Rentable Area of Initial Premises  
(Section 2.1):

7<sup>th</sup> Floor Premises: 38,894 rentable square feet  
Locker Room Premises: 679 rentable square feet  
Bike Room Premises: Not applicable

Parking Rights (Section 2.3):

City has the right during the Term to one parking space for every 4,200 rentable square feet of City's then-existing Premises (other than the Locker Room Premises), as set forth in Section 2.3; provided, however, City's parking allocation shall be reduced by the number of parking spaces that are converted and used by City as the Bike Room Premises.

Communications Equipment  
(Section 2.4):

City has the non-exclusive right to install and maintain communications equipment on the roof of the Building, subject to Landlord's approval and requirements as set forth in Section 2.4, including the Initial Communications Equipment described in *Exhibit B-1* to be installed in the location depicted on *Exhibit B-2*.

Term (Section 3):

Ten (10) years, commencing on the Commencement Date and ending on the Expiration Date, subject to City's Extension Options as set forth in Section 3.4.

Estimated Commencement Date:

The "Estimated Commencement Date" shall be June 1, 2012.

Commencement Date:

The "Commencement Date" shall be the earlier of (i) the date Substantial Completion of the applicable Base Building Improvements and Leasehold Improvements occurs and (ii) the date Substantial Completion of the applicable Base Building Improvements and Leasehold Improvements would have occurred but for Tenant Delay(s) (but in no event earlier than the Effective Date).

Expiration Date:

The "Expiration Date" shall be the date immediately preceding the tenth (10<sup>th</sup>) anniversary of the Commencement Date.

Extension Options (Section 3.4):

City shall have the option to extend the Term for two (2) successive terms of ten (10) years each, as set forth in Section 3.4.

Base Rent for Initial Premises  
(Section 4.1); Base Rent for First  
Offer Space (Section 4.1):

Annual Base Rent for the Initial Premises and each  
First Offer Space added to the Premises during the  
Initial Term shall be computed in accordance with the  
following schedule, subject to adjustment as set forth  
below:

Annual Base Rent for space on the 7<sup>th</sup> Floor of the  
Building: \$30.50 per rentable square foot (or \$2.54  
per rentable square foot per month).

Annual Base Rent for the Locker Room Premises:  
\$18.00 per rentable square foot (or \$1.50 per rentable  
square foot per month).

The Base Rent rates are subject to escalation as  
provided below.

Rent Commencement Date  
(Section 3.1):

The "Rent Commencement Date" for the Initial  
Premises shall be sixty (60) days following the  
Commencement Date.

The "Rent Commencement Date" for each First Offer  
Space shall be established as provided in  
Section 22.1(j) below.

Base Rent Escalations  
(Section 4.2):

Commencing on the first or second July 1 following  
the Commencement Date (as provided in Section 4.2),  
and annually on each July 1 thereafter during the  
Initial Term, the Base Rent rates shall be increased by  
3%, as provided in Section 4.2.

Base Rent shall also be adjusted if City exercises an  
Extension Option, as provided in Section 4.2. At the  
commencement of each Extension Term, the Base  
Rent rates per rentable square foot shall be adjusted to  
105% of the Base Rent rate per rentable square foot in  
effect with respect to the applicable portion of the  
Premises immediately prior to the commencement of  
the applicable Extension Term. Commencing on the  
first or second July 1 after the commencement of the  
applicable Extension Term (as provided in  
Section 4.2), and on each July 1 thereafter of such  
Extension Term, the Base Rent rates shall be increased  
by 3%.

Additional Charges shall not be subject to the above  
escalation.



Additional Charges (Section 4.4): Throughout the Term, City shall pay, in addition to Base Rent, City's Percentage Share of increases in Operating Costs and Real Estate Taxes over the relevant Base Year Operating Costs and Real Estate Taxes.

City shall pay the cost to amortize the Additional Tenant Improvement Allowance utilized for the Leasehold Improvements, if any, on a straight-line basis with interest at 8% per annum, as provided in Sections 6.1(c).

City shall pay other Additional Charges as provided in this Lease.

Base Year (Section 4.5):

Calendar year 2012.

City's Percentage Share (Section 4.5):

The percentage of rentable space leased by City at any given time during the Term compared to 1,054,631 (the total rentable space in the Building).

Use (Section 5.1):

7<sup>th</sup> Floor Premises and First Offer Space:

Command center for the SFMTA and other general office and data center uses for SFMTA and, subject to the limitations set forth below, other City departments and other public or nonprofit agencies for the performance of their services under contract with the City and uses incidental thereto, including public programs ancillary to the primary use of the Premises, if required by the City's Charter or Laws, provided that at all times use of the 7th Floor Premises and First Offer Space, if any, shall be consistent with standards of a first-class office building

Without limiting other uses that are inconsistent with the standards of a first-class office building, City expressly agrees that the Premises shall not be used for any of the following purposes: (i) drug counseling or treatment; (ii) the detention of criminals; (iii) parole or probation programs, counseling or meetings; (iv) medical clinics, mental health programs or other medical services; or (v) general assistance/welfare disbursements or job training/counseling or other programs for the recipients of general assistance/welfare disbursements.

In addition, City shall not use or permit the use of the Premises or any portion thereof for Banking Use (as defined in Section 5.1).

Bike Room Premises:

Bicycle storage and for no other purposes whatsoever.

Locker Room Premises:

Changing room(s) and shower room(s) for employees of City, City's Program Affiliates, and Transferees, and for no other purposes whatsoever.

Leasehold Improvements and Base Building Improvements (Section 6.1):

Landlord shall provide Leasehold Improvements and Base Building Improvements with respect to the Premises, including the Initial Premises and each First Offer Space, pursuant to plans agreed to by City, as further set forth in, respectively, Section 6.1 and Section 22.1, and in the Initial Premises Work Letter or the First Offer Space Work Letter, as applicable.

Allowance (Section 6.1(b) and Section 22.1(j)):

Landlord shall provide an Allowance of \$44.00 per rentable square foot of the 7<sup>th</sup> Floor Premises and \$27.00 per rentable square foot for the Locker Room Premises for the construction of the Leasehold Improvements as provided in Section 6.1(b) and in the Initial Premises Work Letter. Landlord shall provide a prorated Allowance for each First Offer Space as provided in Section 22.1(j) and in the First Offer Space Work Letter.

Additional Construction Allowance (Section 6.1(d) and Section 22.1(j)):

Landlord shall make available an Additional Construction Allowance in the amount of \$35.00 per rentable square foot of the 7<sup>th</sup> Floor Premises for the construction of the Leasehold Improvements as provided in Section 6.1(c). Landlord shall provide a prorated Additional Construction Allowance for each First Offer Space as provided in Section 22.1(j). City shall repay the Additional Construction Allowance in the manner described in Section 6.1(c).

City Contribution (Section 4.1(d)):

City must contribute a minimum of \$5 million toward the Leasehold Improvements, as provided in Section 6.1(d).

Base Building Improvements (Section 6.4):

Landlord shall provide the Base Building Improvements, as defined in the applicable Work Letter, at Landlord's sole cost, except as otherwise provided in the Work Letter, in accordance with Section 6.4.

Utilities and Services (Section 9.1):

Landlord shall furnish the utilities and services set forth in Section 9.1. City shall pay for its separately metered electricity costs to the 7<sup>th</sup> Floor Premises and Landlord shall pay (subject to City's payment of City's Percentage Share of increases in Operating Costs and subject to City's obligation to pay for excess and after-hours usage, when applicable) all other utility costs, as provided in Section 9.1.

Common Area and Building  
Services (Section 9.2):

Landlord shall furnish, at Landlord's cost (subject to City's payment of City's Percentage Share of increases in Operating Costs, to the extent applicable), janitorial services to the Common Areas of the Building and Building security services and graffiti removal, as provided in Section 9.2.

Special Computer Equipment  
Requirements (Section 9.3):

Landlord shall furnish at City's direct cost (and not as an Operating Cost): separately metered chilled water and electricity for operating CRAC units and other supplemental equipment in the 7th Floor Premises and maintenance and repair on a regular basis of certain systems within the Premises connected to the Building Systems, as provided in Section 9.3.

Janitorial Services to Premises  
(Section 9.4):

Landlord shall furnish mutually agreed janitorial services within the Premises, as set forth in Section 9.4. Janitorial services to the 7th Floor Premises and Locker Room Premises shall be provided at City's direct cost (and not as an Operating Cost).

Notice Address of Landlord  
(Section 23.1):

c/o Hudson Pacific Properties, Inc.  
11601 Wilshire Boulevard, Suite 1600  
Los Angeles, California 90025  
Attn: Asset Manager – 1455 Market Street

with copy to:

Elkins Kalt Weintraub Reuben Gartside LLP  
1800 Century Park East, 7th Floor  
Los Angeles, California 90067  
Attention: Scott M. Kalt, Esq.

Key Contact for Landlord:

\_\_\_\_\_

Landlord Contact Telephone No.:

\_\_\_\_\_

Notice Address for Tenant  
(Section 23.1):

SFMTA Real Estate Section  
1 South Van Ness Avenue, 8<sup>th</sup> Floor  
San Francisco, CA 94103  
Re: 1455 Market Street, 7<sup>th</sup> Floor  
Fax No.: (415) 701-4341

with a copy to:

City and County of San Francisco  
Real Estate Division  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Attn: Director of Property  
Re: 1455 Market Street, 7<sup>th</sup> Floor  
Fax No.: (415) 552-9216

and a copy to:

Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682  
Attn: Real Estate/Finance Team  
Re: 1455 Market Street, 7<sup>th</sup> Floor  
Fax No.: (415) 554-4755

Contact for Tenant:

Senior Manager  
SFMTA Real Estate Section  
Finance and Information Technology Division

Tenant Contact Telephone No.:

(415) 701-4323

Alternate Contact for Tenant:

Manager  
SFMTA Real Estate Section  
Finance and Information Technology Division

Alternate Contact Telephone No.:

(415) 701-4794

First Right of Offer to Lease  
(Section 22.1):

City shall have the right of first offer to rent additional space on the 7<sup>th</sup> floor of the Building as set forth in Section 22.1.

Existing Personal Property  
(Section 22.2):

Landlord shall deliver the Initial Premises to City with Existing Personal Property listed on *Exhibit P* in place.

Brokers (Section 23.8):

Landlord's Broker: Cushman & Wakefield  
City's Broker: None

## 2. PREMISES

### 2.1 Lease Premises

(a) Landlord leases to City and City leases from Landlord, subject to the provisions of this Lease, those premises in the building identified in the Basic Lease Information (the "Building") and shown in *Exhibit A-1*, *Exhibit A-2* and *Exhibit A-3* as, respectively, the 7<sup>th</sup> Floor Premises, Bike Room Premises and the Locker Room Premises (respectively, the "7<sup>th</sup> Floor Premises", the "Bike Room Premises" and the "Locker Room Premises", and collectively the "Initial Premises"). The "Premises" shall initially mean the Initial Premises. The Premises leased hereunder may be modified by the addition of one or more First Offer Spaces in accordance with the terms of this Lease. The Building, the land upon which the Building is located and all other improvements on or appurtenances to such land are referred to collectively as the "Property."

(b) The Initial Premises are located on the floors of the Building, and contain the rentable area, specified in the Basic Lease Information. Landlord and City hereby stipulate that the rentable area of the Initial Premises shall be as set forth in the Basic Lease Information, and the provisions of Section 2.1(c) below apply only to the First Offer Spaces. Landlord and Tenant agree that the usable area of the Initial Premises has been verified by both parties and that Landlord is utilizing a deemed add-on load factor of 25.00% to compute the rentable area of the Initial Premises.

(c) Landlord shall cause each applicable First Offer Space to be measured in accordance with the same practice used with respect to the Initial Premises, and shall provide a copy of the measurement report to City. In the event City disagrees with such determination, City shall notify Landlord of the objection within thirty (30) days of receipt of such measurement report. Any measurement not objected to by City by such date shall be deemed accurate, final and binding against City for purposes of this Lease. With respect to any measurement to which City has timely objected, Landlord and City shall use reasonable efforts to meet and confer with one another in an attempt to agree upon the proper measurement of such First Offer Space within thirty (30) days after Landlord receives City's objection notice. If, following such period, Landlord and City are still unable to agree, Landlord and City shall jointly select an independent consultant to remeasure the space, and the determination of such consultant shall be binding upon the parties. Landlord and City shall share equally the cost of such consultant.

## **2.2. Common Areas**

City shall have the non-exclusive right to use, together with other tenants and occupants of the Building and subject to the Rules and Regulations, the portions of the Building designated by Landlord from time to time for the common use or benefit of occupants of the Building, including lobbies, corridors, elevators, stairways, and loading and parking areas of the Building and the Property (collectively, the "Common Areas"), and the non-exclusive right, together with other tenants and occupants of the Building and subject to the Rules and Regulations, of access to and from the Premises by the entrances to the Building and the Property. Landlord shall have the right to (i) change the arrangement and/or location of any amenity, installation or improvement in the Common Areas, and (ii) utilize portions of the Common Areas from time to time for entertainment, displays, product shows, leasing of kiosks or such other uses that in Landlord's sole judgment tend to enhance the Building, so long as such changes or uses do not materially interfere with or materially impair City's access to or use or occupancy of the Premises or the parking areas.

## **2.3 Parking**

(a) Subject to the provisions of this Section 2.3, City shall have the right during the Term, without additional charge, to use one unreserved self-park parking space within the Building's parking garage for every full 4,200 rentable square feet of area leased to City. As of the date of this Lease, the hours of operation of the on-site parking garage are twenty-four (24) hours per day, seven (7) days per week. The hours of operation are subject to change at any time, effective upon posted notice.

(b) All parking pursuant to this Section 2.3 shall be subject to reasonable and nondiscriminatory rules and regulations adopted by Landlord from time to time for the orderly operation and use of the parking garage, including the implementation of any sticker or other identification system established by Landlord. Such rules and regulations, and reasonable additions or modifications thereto, shall be binding upon City after delivery to City of a copy thereof (and a reasonable implementation period, if reasonably necessary), provided that such rules and regulations shall not reduce City's obligations hereunder, shall not conflict with the provisions of this Lease, shall not materially increase the burdens or obligations upon City or City staff, and shall not impose a charge upon City for services or rights which this Lease contemplates will be provided to City at no charge. City shall abide by, and exercise reasonable efforts to cause City's Agents and Invitees to abide by such rules and regulations. Landlord may engage a parking operator for the garage in the Building, in which case such parking operator shall have all the rights of control reserved hereunder by Landlord.

(c) Landlord specifically reserves the right to change the size, configuration, design, layout and other aspects of the parking garage at any time. City acknowledges and agrees that



Landlord may, without incurring any liability to City and without any abatement of Rent under this Lease, from time to time, temporarily close-off or restrict access to the parking garage for purposes of permitting or facilitating any such construction, alteration or improvements, provided that Landlord shall (i) provide City with reasonable advance written notice of such disruption, (ii) allocate any parking spaces which remain accessible during such disruption in a nondiscriminatory manner, (iii) diligently attempt to make City's parking spaces available as promptly as possible, (iv) keep City apprised of Landlord's efforts, and (v) provide City with access to City's bicycle parking in the garage of the Building or provide reasonable substitute bicycle parking. Landlord shall not be liable to City, nor shall this Lease be affected, if any parking is impaired by any moratorium, initiative, referendum, law, ordinance, regulation or order passed, issued or made by any governmental or quasi-governmental body.

(d) In no event shall Landlord be liable for any damage of any nature to, or any theft of, vehicles or the contents thereof, in or about the parking garage, and at Landlord's request, City shall cause persons using its allocated parking spaces to execute a commercially reasonable standard agreement confirming the same.

(e) City's parking rights hereunder may not be assigned or transferred apart from this Lease, provided that the foregoing shall not prohibit use of the parking spaces by City's Program Affiliates or subtenants under an approved sublease. Upon the expiration or earlier termination of this Lease, City's parking rights hereunder shall automatically terminate.

## **2.4 Communications Equipment**

(a) City shall have the non-exclusive right, at its sole cost and expense, and solely for City's use, to install, maintain and operate upon the roof of the Building a reasonable number of transmitters or receiver antennas or dishes approved by Landlord (including, but not limited to, approval with respect to the size, weight, location and method of attachment), which approval shall not be unreasonably withheld or delayed (collectively, the "Communications Equipment") solely for use by City in the conduct of its business; provided that such Communications Equipment may not materially compromise the aesthetics or appearance of the Building nor shall Landlord be required to incur any expense in accommodating the Communications Equipment. Without limiting the generality of the foregoing, City acknowledges that it shall be reasonable for Landlord to withhold approval of certain Communications Equipment proposed to be installed by City to the extent required to reserve adequate space and capacity for use of existing or future occupants of the Building (reasonably proportional to the respective square footage leased by such occupants), and subject to the understanding that Landlord, in Landlord's reasonable discretion, shall determine the roof area of the Building that is available and appropriate for the installation of communications equipment. The Communications Equipment must be (i) designed, installed and operated in compliance with all Laws, (ii) installed and operated so as not to adversely affect or impact structural, mechanical, electrical, elevator, or other systems serving the Building or any communication systems of the Building and so as not to cause injury to persons or property, and without limitation of the foregoing, so as not to void or impair any applicable roof warranty, and (iii) not impair the Building's heliport. City shall obtain Landlord's prior written approval of plans and specifications for the Communications Equipment, which approval shall not be unreasonably withheld, conditioned or delayed. Upon the expiration or termination of this Lease, City shall remove the Communications Equipment and repair any damage to the Building caused by the installation, maintenance, use or removal of the Communications Equipment. Without limiting the generality of the foregoing, City and Landlord acknowledge that commencing on the Effective Date, City shall have the right to install the Communications Equipment listed on the attached **Exhibit B-1** (the "Initial Communications Equipment") in the location(s) indicated on the attached **Exhibit B-2** (the "Initial Telecom Site"). Installation of the Initial Communications Equipment shall be subject to the applicable provisions of the Initial Premises Work Letter and Article 6 of this Lease, including, without

limitation, City's agreement that (i) such installation shall comply with all laws, regulations, permits and approvals applicable to such installation and (ii) City's indemnity obligations under this Lease shall apply with respect thereto. City acknowledges that if City proposes to install City's Communications Equipment other than the Initial Communications Equipment in a site that may create radio frequency interference with existing equipment on the roof, Landlord may engage a consultant to evaluate such potential interference, and City shall reimburse Landlord for the reasonable fees and costs of such consultant within thirty (30) days after written request accompanied by an invoice or other reasonable supporting documentation.

(b) Landlord hereby grants to City the right to install (at City's sole cost and expense) any additional equipment required to operate the Communications Equipment and to connect the Communications Equipment to City's other machinery and equipment located in the Premises (e.g., conduits and cables) in the shafts, ducts, chases and utility closets located in the core of the Building ("Additional Equipment"), which Additional Equipment shall be deemed a part of the Communications Equipment for all purposes of this Section 2.4, provided that (i) the use of such space in the Building core by City (except customary chases for cabling) may not materially adversely affect the marketability of the remaining space on any floor of the Building, and (ii) to the extent any such Additional Equipment occupies space (other than space in customary chases for the Building) that would have otherwise been net rentable area on a floor of the Building, such space shall be included within the rentable area of the Premises and City shall be obligated to pay Base Rent and additional Rent with respect to such space as if such space were included in the Premises. City's use of such space in the Building core shall be subject to Article 7 and the provisions of this Lease relating to City's use of Common Areas of the Building.

(c) Subject to Building Rules and other reasonable rules relating to Building security and safety that may be promulgated by Landlord pertaining to access by tenants to the roof of the Building and provided City does not unreasonably disturb any other tenants or occupants of the Building, City and City's contractors shall have reasonable access to the Communications Equipment and the Additional Equipment for purposes of operating, servicing, repairing or otherwise maintaining said equipment. City shall provide Landlord with reasonable advance notice prior to commencing installation of or other work on the Communications Equipment or Additional Equipment, provided that only subsequent notice within a reasonable time shall be required in the event of an emergency. Landlord may elect to be present for all such work, so long as the same does not require rescheduling of such work or unduly hinder, interfere with or delay the performance of the work. Upon Landlord's written request, City shall use the roofing contractor designated by Landlord to perform any roof penetration or other work that may affect the integrity of the roof or the roof warranty. City shall pay Landlord monthly, within thirty (30) days after being billed therefor, for all electricity used in connection with operation of the Communications Equipment. Electrical usage shall be measured by submeters installed by Landlord at Landlord's expense.

(d) Nothing contained in this Section 2.4 shall be deemed to prohibit or restrict any other individual or entity, including without limitation Landlord or any other tenant of the Building, from installing communications equipment on the roof of the Building or to use the roof for any other purpose. However, if Landlord shall place on the roof of any Building communications equipment of its own, or shall grant to any third party the right to locate and maintain any such equipment, all such equipment shall be located, designed and operated so as not to interfere with signals to and from City's Communications Equipment and Additional Equipment, the installation of which, in accordance with this Section 2.4, predates the installation of such equipment. Similarly, any Communications Equipment and Additional Equipment hereafter installed by City shall be located and designed so as not to interfere with signals to and from such other equipment belonging to Landlord or to third parties that may have previously been installed. If City's Communications Equipment or Additional Equipment interferes with equipment previously installed by others City shall be required, at its expense, to

take all measures necessary to eliminate the source of interference caused by City's equipment. If communications equipment belonging to Landlord or a third party interferes with equipment previously installed by City, Landlord, at no expense to City, shall take all measures necessary to eliminate the source of interference caused by such equipment.

(e) Upon the expiration or earlier termination of this Lease, City shall remove the Communications Equipment and Additional Equipment. In connection with its installation, repair, maintenance and removal of any Communications Equipment and Additional Equipment, City, at City's sole cost and expense, shall comply with all applicable Building Rules and Regulations and Laws and repair any damage to the Building caused by such installation, repair, maintenance or removal, or at Landlord's election, such damage shall be repaired by Landlord, and City shall reimburse Landlord for the costs reasonably incurred by Landlord therefor, provided that prior to incurring such costs Landlord shall provide City, for City's approval or disapproval, with written notice of the required repairs together with a budget or other satisfactory estimate of the costs and expenses to be incurred in connection therewith. In the event that the placement of City's Communications Equipment or Additional Equipment interferes with Landlord's performance of any repair or maintenance to the Building, including without limitation, the roofs of the Buildings, either City or, at City's election, Landlord, shall temporarily or permanently relocate and reinstall City's Communications Equipment or Additional Equipment at Landlord's cost, which cost shall be included in the cost of such repair or maintenance as an Operating Expense. City acknowledges it must comply with the Building's Rules and Regulations and Article 7, to the extent reasonably applicable to the installation, maintenance, repair, operation, replacement and removal of City's Communication Equipment and Additional Equipment.

(f) Landlord shall have no liability for damage arising from, and Landlord does not warrant that City's use of the Communications Equipment or Additional Equipment will be free from, any breach in security or damage or interference by third parties or free from any shortages, failures, variations, interruptions, disconnections, loss or damage caused by environmental conditions or any failure in the power supply for the Building. City assumes full responsibility for protecting from theft or damage, the Communications Equipment and Additional Equipment and any tools or other equipment that City may use in connection with the installation, operation, use, repair, maintenance or removal of the Communications Equipment or the Additional Equipment, and assumes all risk of theft, loss or damage, and to the maximum extent permitted by applicable Laws, and waives all Claims with respect thereto against Landlord and its Agents, including any Claims caused by any active or passive act, omission or neglect of Landlord or its Agents, except for Claims resulting from the gross negligence or willful misconduct of Landlord or its Agents. Further, no damage or disruption in City's use of the Communications Equipment or the Additional Equipment shall entitle City to abate Rent or relieve City from the performance of any of City's other obligations under this Lease.

## **2.5 Muni Connection and City's Server Connection**

In order to function as a command center for City's SFMTA operations, City must connect City's servers in the Premises to certain SFMTA equipment located in the SFMTA transit tunnel located underneath Market Street and to City's servers installed in the building located at One South Van Ness Avenue. Landlord grants City the right, at City's expense, (i) to install secure fiber cable through a new conduit running through the basement wall of the Building to City's underground Muni transit tunnel located underneath Market Street (the "Muni Connection"), (ii) to install secure fiber cable through Landlord's existing tunnel which runs from the basement of the Building underneath 11<sup>th</sup> Street to the building located at One South Van Ness Avenue (the "City's Server Connection"), provided that City shall be responsible for the cost of any new conduit required for City's Server Connection, and (iii) to install such conduits and cables in the shafts, ducts, chases and utility closets located in the core of the Building as



required to connect the Muni Connection and the Server Connection (collectively, the "Connections") to City's equipment located in the Premises, which conduits and cables shall be deemed a part of, respectively, the Muni Connection and the City Server Connection for the purposes of this Lease. Use of space in the Building by City for the Muni Connection and the City Server Connection (except customary chases for cabling) may not materially adversely affect the marketability of the remaining space on any floor of the Building, and to the extent any such equipment occupies space (other than space in customary chases for the Building) that would have otherwise been net rentable area on a floor of the Building, such space shall be included within the rentable area of the Premises and City shall be obligated to pay Base Rent and additional Rent with respect to such space as if such space were included in the 7th Floor Premises. City is responsible for designing and installing City's Connections, and any delay in Substantial Completion resulting from or in connection with City's Connections shall constitute a Tenant Delay. City's Connections are detailed in the Initial Premises Work Letter, and the installation, maintenance, repair, replacement and removal of City's Connections shall comply with the provisions of the Initial Premises Work Letter and Article 6 and Article 7, as applicable. City shall pay Landlord monthly, within thirty (30) days after being billed therefor, for all electricity used in connection with operation of City's Connections. Electrical usage shall be measured by submeters installed by Landlord at Landlord's expense (subject to the cap of Landlord's submetering costs set forth in Section 9.1(b) below). City acknowledges that City's Connections will traverse Common Areas of the Building and the premises of other tenants in the Building. Landlord shall use reasonable good-faith efforts to enforce the Building Rules and Regulations and constructions standards in a manner minimize the risk of damage to or interference with the City's Connections by third parties, provided that Landlord shall have no liability for damages arising from, and Landlord does not warrant that City's use of City's Connections will be free from any breach in security or damage or interference by third parties, or any shortages, failures, variations, interruptions, disconnections, loss or damage caused by environmental conditions or any failure in the power supply for the Building. City assumes full responsibility for protecting from theft or damage, City's Connections and any tools or other equipment that City may use in connection with the installation, operation, use, repair, maintenance or removal of City's Connections, and assumes all risk of theft, loss or damage, and to the maximum extent permitted by applicable Laws, and waives all Claims with respect thereto against Landlord and its Agents, including any Claims caused by any active or passive act, omission or neglect of Landlord or its Agents, except for Claims resulting from the gross negligence or willful misconduct of Landlord or its Agents. Further, no damage or disruption in City's use of City's Connections shall entitle City to abate Rent or relieve City from the performance of any of City's other obligations under this Lease.

### **3. TERM**

#### **3.1. Term of Lease**

(a) The Initial Premises are leased for an initial term (the "Initial Term") commencing on the earlier of (i) the date Substantial Completion of the Base Building Improvements and Leasehold Improvements occurs and (ii) the date Substantial Completion of the Base Building Improvements and Leasehold Improvements would have occurred but for Tenant Delay(s) (but in no event earlier than the Effective Date) (such date, the "Commencement Date"), and expiring on the Expiration Date, or such earlier date on which this Lease terminates pursuant to the provisions of this Lease, subject to City's right to extend the Term pursuant to Section 3.4 (Extension Options). City's obligation to pay Rent for the Initial Premises, shall commence sixty (60) days following the Commencement Date with respect to such space (the "Rent Commencement Date"), and City's obligation to pay Rent for each increment of First Offer Space shall commence on the Rent Commencement Date applicable to such space, as provided in Section 22.1(j).

(b) Except to the extent resulting from a Tenant Delay or an Unavoidable Delay (as defined below), "Landlord Delay" shall mean any actual delays in the Substantial Completion of any Base Building Improvements or Leasehold Improvements resulting from (i) the failure by Landlord to deliver space plans, pricing plans, estimated construction costs, working drawings or other construction documents or to otherwise comply with its obligations under the Work Letter by the dates or within the time periods set forth therein, (ii) any Changes requested by Landlord in the Space Plans, Working Drawings or Final Plans, after approval thereof by Landlord and City (except for changes necessary due to unforeseen conditions or to comply with unforeseen interpretations of applicable Laws), (iii) any delay caused by the Landlord's contractor or the subcontractors including, without limitation, the failure of Landlord's architect to provide or revise plans, drawings or documents in a reasonably expeditious manner or the failure of Landlord's contractor or the subcontractors to process and execute (or disapprove) any Changes in a reasonably expeditious manner, and (iv) any delay resulting from the performance of the Base Building Improvements which affect City's occupancy.

(c) Except to the extent resulting from a Landlord Delay or an Unavoidable Delay "Tenant Delay" shall mean any actual delays in the Substantial Completion of any Base Building Improvements or Leasehold Improvements resulting from (i) a City Change Order (as defined in the applicable Work Letter), (ii) City's failure to comply with any deadline set forth in the applicable Work Letter, (iii) review of plans by the Mayor's Office of Disability failing to occur within thirty (30) days after request by Landlord, (iv) City's seeking to obtain LEED certification for such construction, (v) the performance of any work to be performed by City, including, but not limited to, the installation of City's Connections and any other trade fixtures or specialty equipment, or (vi) any other act or omission of City (acting in its capacity as Tenant under this Lease) or any of City's Agents, which materially interferes with or delays construction of the Base Building Improvements or the Leasehold Improvements or which is defined as a "Tenant Delay" in the applicable Work Letter. Notwithstanding the foregoing, matters otherwise designated hereunder as Tenant Delays which first occur following Landlord's contractor's establishment of an estimated completion date shall be Tenant Delays only to the extent Substantial Completion of the applicable Leasehold Improvements is delayed beyond the estimated completion date as a result thereof. After Landlord becomes aware of any occurrence that will, or is likely to, result in a Tenant Delay, Landlord shall use reasonable good faith efforts to promptly notify City of such occurrence together with Landlord's then good faith estimate of the probable duration of such Tenant Delay.

(d) As used in this Lease, "Unavoidable Delay" shall mean any delay by reason of fire, acts of God, accidents, breakage, repairs, strikes, lockouts, other labor disputes, inability to obtain labor, materials, fuels or energy after using diligent and timely efforts, inclement weather, enemy action, national emergency, acts of war or terrorism, criminal acts, unforeseen conditions (which shall not include conditions which could reasonably have been foreseen in the exercise of reasonable care), civil commotion, protests, riots, demonstrations, or by any other reason without fault and beyond the reasonable control of the party obligated to perform. In the event of the occurrence of any such Unavoidable Delay, the time or times for performance of the obligations of the delayed party will be extended for the period of the delay; provided, however, that as a condition to claiming an Unavoidable Delay, (i) within thirty (30) days after the beginning of any such delay, the delayed party shall have notified the other party in writing of the cause or causes of such delay, which notice shall include the reasonably estimated period of the delay (provided that the estimate contained in such notice shall not be binding, and the delayed party shall be entitled to extend the date for performance by the actual number of days of Unavoidable Delay, notwithstanding the estimate) and (ii) the delayed party cannot, through commercially reasonable and diligent efforts (but without any obligation to pay premiums for overtime labor or to incur any other additional expense), make up for the delay within the time period remaining prior to the applicable performance date. Notwithstanding anything to the contrary in this definition, the

lack of credit or financing shall not be considered to be a matter beyond a party's control and therefore shall not be considered an Unavoidable Delay for purposes of this Lease.

(e) The word "Term" as used herein shall refer to the period commencing on the Commencement Date and ending on the Expiration Date, as extended, if applicable.

### **3.2. Confirmation of Dates and Other Lease Changes**

(a) Within thirty (30) days following the Commencement Date, Landlord and City shall execute a notice substantially in the form of ***Exhibit C-1*** confirming the actual Commencement Date and the Rent Commencement date, and, if applicable, the amortization schedule for the Additional Construction Allowance (the "Amortization Schedule"), but the failure to do so shall not affect the commencement of the Term with respect to such space or the other matters included in such notice.

(b) Within thirty (30) days following each First Offer Space Commencement Date, if any, Landlord and City shall execute a notice substantially in the form of ***Exhibit C-2*** confirming the actual First Offer Space Commencement Date and First Offer Space Rent Commencement Date, the revised description of the Premises, the total monthly Base Rent then applicable, and other relevant terms of the applicable First Offer Space, but the failure to do so shall not affect the commencement date for First Offer Space or the other matters to be included in such notice.

### **3.3. Delivery of Possession; Delay in Delivery of Possession**

(a) Delivery. Landlord shall use commercially reasonable and diligent efforts (without any obligation to pay premiums for overtime labor) to deliver possession of the Initial Premises with all of the Base Building Improvements and Leasehold Improvements Substantially Completed on or before the Estimated Commencement Date.

(b) City Option to Terminate Due to Delay.

(i) Generally. If Landlord is unable to deliver possession of the Initial Premises in the condition required hereunder by the Estimated Commencement Date (as extended by the number of days of delay due to Unavoidable Delay or Tenant Delay), then, subject to the provisions of this Section, the validity of this Lease shall not be affected by such inability to deliver. If Landlord is unable to deliver possession of the Initial Premises to City as required hereunder by the date which is one hundred eighty (180) days after the Estimated Commencement Date (which date shall be extended by the number of days of delay due to Tenant Delay or Unavoidable Delay) (the "Outside Delivery Date"), then City may, at its option, terminate this Lease upon written notice to Landlord (the "Termination Notice") given prior to delivery of possession of the Initial Premises to City, and this Lease shall terminate effective on the date which is ten (10) business days after the date of the Termination Notice (the "Termination Date").

(ii) Landlord Suspension Notice; Notice of Projected Completion Date; Automatic Suspension of Termination Date. Notwithstanding the foregoing, if City delivers a Termination Notice, and Landlord's contractor's reasonable, good-faith estimate of the date by which Substantial Completion of the Tenant Improvements will occur (the "Projected Completion Date") is not later than sixty (60) days after the Outside Delivery Date, Landlord shall have the right to suspend the termination of the Lease until the Projected Completion Date, unless construction of the Tenant Improvements has not commenced as of the Outside Delivery Date, in which event this Lease shall terminate on the original Termination Date. In order to suspend the Termination Date pursuant to the foregoing, Landlord must deliver to Tenant, within three (3) business days after receipt of City's Termination Notice, notice of such suspension



("Landlord's Suspension Notice"), which notice shall include Landlord's contractor's reasonable, good-faith estimate of the Projected Completion Date. If Landlord timely delivers Landlord's Suspension Notice and actually delivers the Initial Premises to City in the condition required hereunder not later than the Projected Completion Date set forth in Landlord's Suspension Notice (as extended by the number of days of delay following Landlord's Suspension Notice due to Tenant Delay), then the Termination Notice and City's exercise of the right to terminate this Lease shall be null and void and of no force or effect.

(iii) Landlord's Suspension Request; City's Extension Notice and Agreed Suspension of Termination Date. If the Projected Completion Date is more than sixty (60) days after the Outside Delivery Date, and Landlord nevertheless wishes to continue construction of the Tenant Improvements, Landlord may elect to deliver to City, within three (3) business days after receipt of Tenant's Termination Notice, a written request for a suspension of the Termination Date ("Landlord's Suspension Request"), which request shall include Landlord's contractor's reasonable, good-faith estimate of the Projected Completion Date and shall state Landlord's desired new outside delivery date (the "Extended Outside Delivery Date"). City may agree to the Extended Outside Delivery Date, at its sole election, by written notice to Landlord given within five (5) business days after City's receipt of Landlord's Suspension Request ("City's Extension Notice"). If Landlord timely gives a Landlord's Suspension Request and City timely gives City's Extension Notice, the Termination Date shall be postponed until the Extended Outside Delivery Date (as such date is extended by the number of days of delay following Landlord's Suspension Request due to Tenant Delay), and if Landlord thereafter actually delivers possession of the Initial Premises to City with the Tenant Improvements Substantially Completed prior to the Extended Outside Delivery Date, then the Termination Notice and City's exercise of the right to terminate this Lease shall be null and void and of no force or effect.

(iv) If City terminates this Lease pursuant to this Section 3.3(b), neither party shall have any obligations to each other under this Lease, except for obligations that expressly survive the expiration or earlier termination of this Lease. The foregoing restriction shall be inapplicable if Landlord intentionally fails to complete the Base Building Improvements or Leasehold Improvements or deliver the Premises to City by the Outside Delivery Date (as such date may have been extended pursuant to the terms hereof), in which case City shall have the right to pursue a claim for City's costs and expenses for the Leasehold Improvements or other installations in the Building, including any portion of City's Contribution made prior to the termination of this Lease.

(c) Hold-Over Rent Reimbursement. If Substantial Completion of the Base Building Improvements or the Leasehold Improvements for any First Offer Space is delayed by ninety (90) or more days due to Landlord Delays, then Landlord shall reimburse City for the amount by which the holdover rent which City is required to pay under the terms of the applicable Existing Lease exceeds the rent City is required to pay during the final month of the term of the applicable Existing Lease (calculated on a daily basis with reference to a rentable square footage not to exceed that of the First Offer Space) for the period commencing on the date on which Substantial Completion of the applicable Base Building Improvements and Leasehold Improvements would have occurred, but for such Landlord Delay (but not earlier than the Target Occupancy Date applicable to such First Offer Space), and continuing for the number of days of Landlord Delay. Such sums shall be payable by Landlord from time to time within thirty (30) days after Landlord's receipt of a rent invoice for such holdover rent from the landlord under the applicable Existing Lease. As used herein, an "Existing Lease" is a lease between City and a third party landlord for one or more City user-groups which is to be relocated to the First Offer Space. Notwithstanding anything to the contrary contained in this Section 3.3(c), Landlord shall have no obligation to reimburse City for such increase in rent unless at the time City delivers its Exercise Notice with respect to a First Offer Space, City provides Landlord with written notice of the user-group to be relocated to the First Offer Space and the holdover provisions in the applicable

Existing Lease, including, but not limited to, the date on which the holdover rent would commence and the amount of the holdover rent. In addition, if Landlord notifies City that Landlord will not be able to deliver the First Offer Space as scheduled due to Landlord Delays, City agrees to exercise reasonable good faith efforts to negotiate the right to extend the term of the Existing Lease at the pre-holdover rental rate for the time period Landlord estimates that delivery of the First Offer Space will be delayed due to Landlord Delays.

### **3.4. Extension Options**

(a) Extension Options; Exercise. Subject to the terms and conditions set forth in this Section 3.4, City shall have the right to extend the Term (each, an "Extension Option" and collectively, the "Extension Options") with respect to the Initial Premises and any First Offer Space then included in the Premises, for two (2) consecutive additional terms of ten (10) years each, (each, and "Extension Term") commencing upon the expiration of the Initial Term of the Lease or the expiration of the initial Extension Term, as applicable. City may exercise each Extension Option, if at all, by giving written notice (the "Extension Exercise Notice") to Landlord no earlier than eighteen (18) months and not later than fifteen (15) months prior to expiration of the Term to be extended.

(b) Extension Authorizing Resolutions. City's delivery of an Extension Exercise Notice shall be binding upon City, subject only to the condition subsequent of the enactment of a resolution (each, an "Extension Authorizing Resolution") by the Board of Director's of City's San Francisco Municipal Transportation Agency and the City's Board of Supervisors, if required, in their respective sole and absolute discretion, approving and authorizing the exercise of the applicable Extension Option and lease of the Premises for the Extension Term. If the Extension Authorizing Resolution has not been finally adopted and become binding on City within ninety (90) days after the date of City's Extension Exercise Notice (subject to any mutually agreed upon extensions, which Landlord may agree to or not in Landlord's sole discretion), then City's Extension Exercise Notice shall become null and void without cost or penalty and the Term shall not be extended and the applicable Extension Option and any future Extension Option shall terminate.

(c) Terms and Conditions. Each Extension Term shall be on all of the terms and conditions contained in this Lease, except that (i) commencing on the first day of any Extension Term, the Base Rent rates payable for the Premises shall each be adjusted to one hundred five percent (105%) of the Base Rent rates (expressed on a rentable square foot basis) payable with respect to the applicable portion of the Premises immediately prior to the start of the applicable Extension Term, as determined pursuant to Section 4.3, (ii) Landlord shall perform the Refurbishment Work in accordance with Section 3.4(d) below), (iii) except as provided in Section 3.4(d), City shall take the Premises in their "as is" condition as of the commencement of the applicable Extension Term and Landlord shall have no obligation to remodel, improve or alter the Premises or to provide City with any construction or refurbishment allowance, and (iv) City shall have no further right to extend the Term after expiration of the second Extension Term. In addition, Landlord shall have no obligation to pay any brokerage commission to any representative of City in connection with City's exercise of any Extension Option.

(d) Refurbishment. Within one hundred eighty (180) days of City's delivery of the applicable Extension Authorizing Resolution, Landlord shall repaint and recarpet the 7th Floor Premises and Common Areas of the Building's 7th floor, using materials of the same quality as the initial installation and in colors approved by City, provided that in no event shall Landlord be required to spend on such repainting and recarpeting an amount in excess of \$5.00 multiplied by the total rentable square footage of the Premises, increased by the percentage increase in the Consumer Price Index, if any, between the Commencement Date of this Lease and the commencement of the applicable Extension Term. City's only responsibility with respect to the

performance of such work shall be to clear desktops and remove other loose materials. Landlord acknowledges that City's use of the 7th Floor Premises will be a 24/7 operation, and Landlord will coordinate the scheduling of such work with City and cause such work to be performed in a manner so as to minimize noise, fumes, and disruption to City's operations, to the extent commercially reasonable. As used herein, the Consumer Price Index used for computing the adjustment shall be the Consumer Price Index for All Urban Consumers (1982-1984=100) for the San Francisco-Oakland-San Jose Area, published by the United States Department of Labor, Bureau of Labor Statistics.

(e) General Provisions. The following general provisions shall apply to each Extension Option:

(i) Each Extension Option must be exercised, if at all, only with respect to the entire Premises then leased by City.

(ii) Notwithstanding anything to the contrary contained herein, if an uncured material Event of Default exists at the time of exercise of the applicable Extension Option, Landlord may reject such exercise by delivering written notice thereof to City within three (3) business days of receipt of the applicable Extension Exercise Notice.

(iii) City's right to exercise each Extension Option is personal to, and may be exercised only by, the City.

(iv) If City shall assign this Lease then immediately upon such assignment, City's right to exercise all future Extension Options shall terminate and be of no further force and effect, and if City shall sublet more than twenty-five (25%) percent of the rentable area of the Premises (other than space sharing arrangements pursuant to Section 14.2 below), then immediately upon such subletting, City's right to exercise all future Extension Options shall simultaneously terminate and be of no further force or effect. No assignee or subtenant shall have any right to exercise any Extension Option granted herein.

(v) After the Base Rent payable during the applicable Extension Term is determined, the parties shall promptly execute an amendment to this Lease in a form reasonably acceptable to both parties, memorializing the extension of the Term and stating the amount of the Base Rent payable during the applicable Extension Term.

(vi) Subject to the provisions of this Section 3.4, after exercise of an Extension Option, all references in this Lease to the Term shall be deemed to refer to the Term as extended, unless the context clearly provides to the contrary.

(vi) If City shall fail to timely exercise an Extension Option, the applicable Extension Option and any subsequent Extension Option shall terminate and be of no further force and effect, subject to the provisions of Section 23.15. If this Lease shall terminate for any reason, then immediately upon such termination all Extension Options shall simultaneously terminate and become null and void.

#### **4. RENT**

##### **4.1. Base Rent**

Beginning on the Rent Commencement Date, City shall pay to Landlord during the Term the annual Base Rent at the applicable rates per rentable square foot as specified in the Basic Lease Information (the "Base Rent"). City shall pay Base Rent to Landlord, in advance, in monthly installments, commencing on the Rent Commencement Date, and thereafter on or



before the first day of each calendar month during the Term at the address specified for Landlord in the Basic Lease Information, or such other place as Landlord may designate in writing upon not less than sixty (60) days' advance notice. The Base Rent rates per rentable square foot shall be adjusted from time to time as set forth in Section 4.2 below. Upon each First Offer Space Rent Commencement Date, if any, the Base Rent shall be adjusted to include the Base Rent payable for such First Offer Space, computed by multiplying the rentable square footage of such First Offer Space, as determined pursuant to Section 2.1(c), by the Base Rent rate then payable with respect to the 7<sup>th</sup> Floor Premises (the "Base Rent for First Offer Space"). During each Extension Term, the new Base Rent rates established for such Extension Term in accordance with Section 4.3 (Base Rent During Extension Terms) shall apply to the space to which such Extension Term applies. Notwithstanding the foregoing, to the extent reasonably possible, City agrees to make Rent payments by electronic transfer. City shall pay the Base Rent without any prior demand and without any deductions or setoff except as otherwise provided in this Lease. If a Rent Commencement Date occurs on a day other than the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Base Rent for the applicable space for such fractional month shall be prorated based on a 28, 29, 30 or 31 day month as the case may be.

#### **4.2. Base Rent Escalations**

(a) If the Commencement Date occurs during the period of January 1 through June 30 of a calendar year, then commencing on the second July 1 following the Commencement Date and annually on each July 1 thereafter during the Initial Term, the Base Rent rates per rentable square foot for the Premises shall each be adjusted to one hundred three percent (103%) of the Base Rent rate per rentable square foot in effect with respect to the applicable portion of the Premises immediately prior to such adjustment. If the Commencement Date occurs during the period of July 1 through December 31 of a calendar year, then commencing on the first July 1 following the Commencement Date and annually on each July 1 thereafter during the Initial Term, the Base Rent rates per rentable square foot for the Premises shall each be adjusted to one hundred three percent (103%) of the Base Rent rate per rentable square foot in effect with respect to the applicable portion of the Premises immediately prior to such adjustment. For example, if the Commencement Date is January 15, 2012, the first adjustment in Base Rent rates would occur on July 1, 2013, and if the Commencement Date is December 15, 2012, the first adjustment in Base Rent rates would likewise occur on July 1, 2013.

(b) The applicable Base Rent rates per rentable square foot in effect from time to time, calculated as set forth above, shall apply to all space leased by City during the relevant time period, whether such space constitutes the Initial Premises or First Offer Space.

#### **4.3. Base Rent During Extension Terms**

At the start of each Extension Term, the Base Rent rates per rentable square foot payable for the Premises shall each be adjusted to one hundred five percent (105%) of the Base Rent rate per rentable square foot in effect with respect to the applicable portion of the Premises immediately prior to the commencement of the applicable Extension Term. If the applicable Extension Term commences during the period of January 1 through June 30 of a calendar year, then commencing on the second July 1 following the commencement of the applicable Extension Term and annually on each July 1 thereafter during the applicable Extension Term, the Base Rent rates per rentable square foot for the Premises shall each be adjusted to one hundred three percent (103%) of the Base Rent rate per rentable square foot in effect with respect to the applicable portion of the Premises immediately prior to such adjustment. If the applicable Extension Term commences during the period of July 1 through December 31 of a calendar year, then commencing on the first July 1 following the commencement of the applicable Extension Term and annually on each July 1 thereafter during the applicable Extension Term, the Base Rent rates per rentable square foot for the Premises shall each be adjusted to one hundred three

percent (103%) of the Base Rent rate per rentable square foot in effect with respect to the applicable portion of the Premises immediately prior to such adjustment.

#### **4.4. Additional Charges**

(a) City Service Charges; Additional Charges. Except as otherwise set forth in this Lease, Landlord shall pay, at Landlord's sole cost (subject to applicable reimbursement provisions of this Lease), all Real Estate Taxes, Operating Costs, and all other costs, fees and charges in connection with the management, operation, maintenance and repair of the Building and in fulfilling Landlord's obligations under this Lease, including, but not limited to the cost of any and all improvements and repairs made to the Building whether or not required by applicable Law. City shall reimburse Landlord, on a monthly basis upon receipt of appropriate invoices, for the following: (i) electrical charges payable by City as set forth in Section 9.1(b) (Electrical Service), (ii) chilled water charges payable by City as set forth in Section 9.1(a), (iii) the after-hours or excess services and utilities costs as set forth in Section 9.1(c) (After-Hours HVAC and Excess Services), (iv) equipment maintenance costs payable by City pursuant to Section 9.3(b) (Equipment Maintenance), (v) the cost of janitorial services payable by City pursuant to Section 9.4 (Janitorial Services), (vi) the costs incurred by Landlord for any alterations or other modifications to any part of the Property requested by City, and (vii) any additional services requested by City or otherwise as set forth in Section 9.7 (Additional Services). The charges payable by City pursuant to the preceding sentence are sometimes referred to as "City Service Charges." In addition, City shall pay to Landlord as additional Rent, City's Percentage Share of increases in Real Estate Taxes and Operating Costs as provided in Sections 4.5 through 4.8 below. All of the reimbursements, payments and charges referred to in this Section 4.4 are collectively referred to in this Lease as the "Additional Charges." Additional Charges shall be payable to Landlord at the place where the Base Rent is payable, without deduction, offset or abatement, except as expressly set forth in this Lease. Landlord shall have the same remedies for a default in the payment of any Additional Charges as for a default in the payment of Base Rent. The Base Rent, Additional Charges, Additional Construction Allowance Amortization Payments, if any, and all other additional payments due to Landlord by City under this Lease are collectively referred to in this Lease as "Rent."

(b) Estimated Monthly Service Charge. Notwithstanding the foregoing, if Landlord prefers to require City to pay an estimate of one or more component of the City Service Charges in advance, then from time to time Landlord may specify, by written notice to City, Landlord's good faith estimate of the monthly City Service Charges payable for such component (the "Estimated Monthly Service Charge") for an upcoming period specified by Landlord in such notice (such as the following six (6) months). The estimate must be made in good faith based on actual historic data regarding the City's usage and the cost of the relevant utility or service. Commencing on the first day of the calendar month which is thirty (30) days after receipt of Landlord's notice of the estimate of the Estimated Monthly Service Charge and continuing on the first day of each calendar month thereafter until Landlord shall provide an updated estimate or City shall have disputed Landlord's estimate, as provided below, City shall pay Landlord the Estimated Monthly Service Charge specified in such notice. Landlord may revise such estimate from time to time and City shall thereafter make payments on the basis of such revised estimates. Not less frequently than every six (6) months, Landlord shall provide City with a statement showing the total Estimated Monthly Service Charge paid by City since the last reconciliation, City's usage of the relevant utility or service for such period, and the actual City Service Charge payable for such utility or service for such period, together with reasonable evidence supporting the calculations, including copies of the relevant utility bills or invoices. If the actual City Service Charge payable for such utility or service for such period exceeds the total Estimated Monthly Service Charge paid by City for such period, then within sixty (60) days, City shall pay to Landlord the difference between the amount of Estimated Monthly Service Charge paid by



City and the actual City Service Charge payable for such utility or service for such period. If the total amount paid by City for any such period exceeds the amount actually payable for such period, such excess shall be credited against the next installments of Rent due from City hereunder, or, if this Lease has terminated, then such excess shall be refunded to City within thirty (30) days.

(c) Statements; Disputes. If City reasonably believes that the amount of City's Service Charge invoiced by Landlord or the amount of the Monthly Estimated Service Charge set forth in Landlord's notice has been incorrectly calculated, City may provide notice of such dispute to Landlord and Landlord shall promptly investigate and either (i) equitably recalculate the amounts invoiced or estimated or (ii) if the amount can be justified in good faith, provide a written justification to City, together with back-up calculations and materials, within thirty (30) days of City's notice. City may withhold the disputed amount, however any disputed amounts shall not affect payment of non-disputed amounts. The parties shall use good faith efforts to promptly resolve any dispute.

#### **4.5. Definitions**

(a) Generally. For purposes hereof, the following terms shall have the meanings hereinafter set forth:

"Base Year" means the calendar year set forth in the Basic Lease Information.

"City's Percentage Share" means the percentage of rentable space leased by City from time to time compared to the total rentable space in the Building.

"Expense Year" means each calendar year commencing January 1st of each year, starting in the calendar year following the Base Year and continuing each year thereafter during the Term.

"Operating Costs" means the total costs and expenses actually paid or incurred by Landlord, subject to imputed insurance costs as set forth below and "gross-up" provisions set forth in Section 4.5(b), in connection with the management, operation, maintenance and repair of the Property, including, but not limited to: (1) the cost of air conditioning, electricity, steam, water, heating, mechanical, telephone, ventilating, escalator and elevator systems and all other utilities, (2) the cost of repairs and all labor and material costs related thereto, and the cost of general maintenance, cleaning and service contracts and the cost of all supplies, tools and equipment required in connection therewith, (3) the cost incurred by Landlord for insurance (including an imputed premium if Landlord self-insures all or a portion of the insurance for the Property, provided that such imputed premium shall not exceed the amount of the insurance premium that would have been incurred if Landlord obtained third-party insurance for such self-insured risks); (4) wages, salaries, payroll taxes and other labor costs and employee benefits relating to employees of Landlord or its Agents engaged in the operating, repair, or maintenance of the Building, allocated in proportion to the percentage of such person's working time actually spent working in connection with the Building, (5) management fees, subject to the limitation set forth in *Exhibit D*, (6) accounting and legal expenses, (7) depreciation on personal property, including, without limitation, carpeting in public corridor and Common Areas and window coverings provided by Landlord, (8) to the extent not directly reimbursed by City, the cost of capital expenditures incurred after the Base Year, to the extent allowed under Item 1 of *Exhibit D*, and (9) other expenses incurred in connection with the management, operation, maintenance or repair of the Building (other than Real Estate Taxes and any services for which Landlord is separately and directly reimbursed by City or other tenants in the Building) which would generally be considered an operating expense. With respect to the costs of items included in Operating Costs under clause (8) above, such costs shall be amortized over the useful life

thereof, together with interest on the unamortized balance at an interest rate specified in Item 1 of *Exhibit D*. Notwithstanding the foregoing, "Operating Costs" shall exclude the items described on the attached *Exhibit D*. In addition, Operating Costs for the Base Year shall not include extraordinary market-wide labor-rate increases due to extraordinary circumstances outside of Landlord's control, including, but not limited to, boycotts and strikes, and extraordinary utility rate increases due to extraordinary circumstances outside of Landlord's control, including, but not limited to, conservation surcharges, boycotts, embargoes or other shortages, or amortized costs relating to capital improvements, and if such extraordinary increases continue beyond the Base Year, Operating Costs for such subsequent years shall not include such extraordinary increases.

"Real Estate Taxes" means all taxes, assessments and charges levied upon or with respect to the Property, or Landlord's interest in the Property. Real Estate Taxes shall include, without limitation, all general real property taxes and general and special assessments, charges, fees, or assessments for transit, housing, police, fire, or other governmental services thereof, any tax on or measured by the rent, or imposed against right to rent or against the business of leasing any portion of the Property (measured as if the receipts from the Property were the only receipts of Landlord), service payments in lieu of taxes that are now or hereafter levied or assessed against Landlord by the United States of America, the State of California or any political subdivision thereof, public corporation, district, or any other political or public entity, and shall also include any other tax, fee or other excise, however described, that may be levied or assessed as a substitute for, or as an addition to, in whole or in part, any other Real Estate Taxes. Notwithstanding the foregoing, Real Estate Taxes shall exclude (1) 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 constitute a Real Estate Tax, (2) any penalties, fines, interest or charges attributable to the late payment of any taxes, except to the extent attributable to City's failure to pay its portion of Real Estate Taxes hereunder, (3) any personal property taxes payable by City hereunder or by any other tenant or occupant of the Building, or (4) any increase in Real Estate Taxes due to any reassessment upon a transfer of any of Landlord's interest in the Building or the real property on which the Building is located. For purposes of calculating the Real Estate Taxes that would have resulted absent such sale, the taxing rate used shall be the rate in effect just prior to such sale as increased annually by the maximum amount allowable had such sale not occurred.

"Tax Year" means each calendar year during the Term; provided that Landlord, upon notice to City, may change the Tax Year from time to time to any other twelve (12) consecutive month period and, in the event of any such change, City's Percentage Share of Real Estate Taxes shall be equitably adjusted for the Tax Year involved in any such change.

(b) Adjustment for Occupancy Factor. City and Landlord intend that Operating Costs which vary by occupancy (or density of occupancy) be equitably adjusted to reflect a 100% occupied and fully functioning Building. To accomplish the foregoing, all variable components (i.e. costs that vary based on occupancy and density) of Operating Costs for each calendar year shall be adjusted to the amount such variable components would have been if all space in the Building had been fully occupied at densities typical for the Building's office, data center and other uses during the entire calendar year, and the adjusted amount of the variable components shall be used in determining Operating Costs for the calendar year. In the event that the Building is less than one hundred percent (100%) occupied (with densities typical and customary for office and data center uses), Landlord shall appropriately and equitably adjust the Operating Costs for the Base Year or any Expense Year, in accordance with industry custom, to reflect such one hundred percent (100%) occupancy level.

In no event shall Landlord recapture more than one hundred percent (100%) of any line item Operating Costs in any Expense Year.

Landlord and City acknowledge that there are many variables to determining the appropriate expenses for a 100% occupied building when the building is not 100% occupied at typical densities, and that, without malice, errors may be made benefitting either party in establishing the Base Year Operating Costs or Expense Year Operating Costs. It is the intent of the parties that amounts payable by City for City's Percentage Share of increases in Operating Costs be generally limited to increases in unit costs for the relevant services (such as an increase in utility costs per unit by the applicable utility service provider) and not increases resulting from a miscalculation of the occupancy factor or Building density.

If City's Percentage Share of increases in Operating Costs in any year are not typical of comparable buildings' increases in such costs, and City reasonably believes that one or more of the adjustments required by this Section has been incorrectly calculated, City may provide notice of such dispute to Landlord and Landlord shall promptly investigate and determine the reason why the challenged increase does not follow the typical unit cost increase and either (i) equitably recalculate the adjustment(s) and if necessary the Base Year Operating Costs or (ii) if the expense increase can be justified (beyond any unit cost increase) in good faith for other legitimate and allowed reasons, provide a written justification to City, together with back-up calculations and materials, within thirty (30) days of City's notice.

During the next forty five (45) days Landlord and City shall meet at least twice and use good faith efforts to attempt to equitably resolve the matter.

If City and Landlord continue to disagree after the expiration of such period, City may give notice to Landlord of City's election to arbitrate the matter, in which case the following procedure shall be followed.

Each party shall select (within thirty (30) days of City's notice) a Certified Public Accountant experienced in San Francisco high rise property operating expenses, occupancy adjustments, and pass throughs over a Base Year. The representatives so selected shall in good faith investigate, meet and confer and try to equitably resolve the matter within sixty (60) days of the last representative's appointment. In the event the two representatives do not agree by the expiration of such period, the representatives shall select a mutually agreeable third qualified representative, and Landlord shall engage such third representative within forty five (45) days of the expiration of the 60-day period given for the representatives to resolve the dispute. Within thirty (30) days after Landlord engages such third party representative, the two initial representatives shall each submit a written analysis and justification for its position. If necessary, the third representative shall also meet with both representatives. The third representative shall then select one or the others position as equitable. The party whose position was not selected shall pay the actual and reasonable costs of all representatives engaged to resolve the dispute.

(c) Clarification Regarding "Sole Cost". The parties agree that statements in this Lease to the effect that Landlord is to perform certain of its obligations hereunder at its own cost or sole cost and expense shall not be interpreted as excluding any cost from Operating Cost or Real Estate Taxes if such cost is an Operating Cost or Real Estate Tax pursuant to the terms of this Lease (except where such cost is specifically excluded from Operating Costs or Real Estate Taxes).



#### **4.6. Payment of Percentage Share of Operating Costs**

City shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of City's Percentage Share of the amount, if any, by which Operating Costs for the current Expense Year exceed the Operating Costs for the Base Year (the "Operating Cost Increase"). City shall make such payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City by November of the previous year (e.g., by November 2011 for the calendar year 2012 payments). Landlord may revise such estimates of Operating Costs during an Expense Year if done in a writing delivered to City prior to May 1<sup>st</sup>, and City shall thereafter make payments on the basis of such revised estimates, commencing on the first day of the calendar month which is thirty days after City's receipt of the revised estimate. With reasonable promptness not to exceed one hundred eighty days (180) days after the expiration of each Expense Year, Landlord shall furnish City with a statement (herein called "Landlord's Expense Statement"), setting forth in reasonable detail the Operating Costs for such Expense Year and City's Percentage Share of the Operating Cost Increase for such Expense Year. Landlord shall also furnish City with Landlord's reasonable estimate of the Landlord's Expense Statement not later than seventy five (75) days after the expiration of each Expense Year, provided that such estimate shall not be binding on Landlord. If City's Percentage Share of the actual Operating Cost Increase for such Expense Year exceeds the total amount paid by City for such Expense Year pursuant to this Section 4.6, City shall pay to Landlord (whether or not this Lease has terminated) the difference between the total amount of estimated Operating Cost Increase paid by City and City's Percentage Share of the actual Operating Cost Increase for such Expense Year (the "Expense Shortfall") as follows: the amount of the Expense Shortfall up to five percent (5%) of the total amount of estimated Operating Cost Increase paid by City for such Expense Year shall be payable within thirty (30) days after Landlord's delivery of Landlord's Expense Statement to City, and the balance of the Expense Shortfall, if any, shall be paid at the beginning of City's next fiscal year. If the total amount of estimated Operating Cost Increase paid by City for any Expense Year exceeds City's Percentage Share of the actual Operating Cost Increase for such Expense Year, such excess shall be credited against the next installments of Rent due from City to Landlord hereunder, or, if this Lease has terminated, then refunded to City within thirty (30) days after Landlord's delivery of Landlord's Expense Statement to City.

Notwithstanding the foregoing, any failure or delay in the delivery of Landlord's Expense Statement or Landlord estimate of City's Percentage Share of increases in Operating Costs for the succeeding calendar year shall not operate as a waiver of Landlord's right to collect City's Percentage Share of Operating Cost Increase owing to Landlord, and in such event City shall make estimated payments for such Expense Year based on the estimate for the prior Expense Year.

#### **4.7. Payment of Percentage Share of Real Estate Taxes**

City shall pay to Landlord each month, as Additional Charges, one twelfth (1/12) of City's Percentage Share of the amount, if any, by which Real Estate Taxes for each Tax Year exceed Real Estate Taxes for the Base Year ("Real Estate Tax Increase"). City shall make such payments, in advance, in an amount estimated by Landlord in reasonable detail in a writing delivered to City by January of the previous Tax Year (e.g., by January 31, 2012 for the Tax Year 2012-2013 payments). With reasonable promptness not to exceed sixty (60) days after Landlord has received the tax bills for any Tax Year, Landlord shall furnish City with a statement ("Landlord's Tax Statement") setting forth the amount of Real Property Taxes for such Tax Year and City's Percentage Share of the Real Estate Tax Increase for such Tax Year. If City's Percentage Share of the actual Real Estate Tax Increase for such Tax Year exceeds the total amount paid by City for such Tax Year pursuant to this Section 4.7, then within sixty (60) days, City shall pay to Landlord (whether or not this Lease has terminated) the difference between the total amount of estimated Real Estate Tax Increase paid by City and City's

Percentage Share of the actual Real Estate Tax Increase for such Tax Year (the "Tax Shortfall") as follows: the amount of the Tax Shortfall up to five percent (5%) of the total amount of estimated Real Estate Tax Increase paid by City for such Tax Year shall be payable within thirty (30) days after Landlord's delivery of Landlord's Tax Statement to City, and the balance of the Tax Shortfall, if any, shall be paid at the beginning of City's next fiscal year. If the total amount of estimated Real Estate Tax Increase paid by City for any Tax Year exceeds City's Percentage Share of the actual Tax Expense Increase for such Tax Year, such excess shall be credited against the next installments of Rent due from City to Landlord hereunder, or, if this Lease has terminated, then refunded to City within thirty (30) days after Landlord's delivery of Landlord's Tax Statement to City.

Notwithstanding the foregoing, any failure or delay in the delivery of Landlord's Tax Statement or Landlord's estimate of City's Percentage Share of increases in Real Estate Taxes for the succeeding calendar year shall not operate as a waiver of Landlord's right to collect City's Percentage Share of Real Estate Tax Increase owing to Landlord, and in such event City shall make estimated payments for such Tax Year based on the estimate for the prior Tax Year.

#### **4.8. Proration**

If any Commencement Date or Expiration Date occurs on a date other than the first or last day of a Tax Year or Expense Year, the applicable City's Percentage Share of Real Estate Taxes or Operating Costs for the Tax Year or Expense Year in which such Commencement Date or Expiration Date occurs shall be prorated based on a 365-day year.

#### **4.9. Review and Audits**

(a) City shall have the right, by written notice to Landlord given within one hundred eighty (180) days after City's receipt of the annual statement, to request reasonable back-up documentation for specific Operating Costs and Real Estate Taxes shown on such annual statement, or specific categories thereof, and Landlord shall provide City with (or make available to City at Landlord's offices in San Francisco) reasonable supporting documentation for any expenses or category of expenses questioned by City in such notice. Promptly after the receipt of such written request from City, Landlord and City shall endeavor in good faith to resolve City's questions or dispute.

(b) Further, City shall have the right, not more frequently than once during any calendar year and upon not less than thirty (30) days' written notice to Landlord, to audit the books and records of the Building related to Operating Costs and Real Estate Taxes for any or all of the prior five (5) Expense Years and Tax Years as well as for the Base Year. Such audit may be conducted by the City Controller or his or her designee or by an independent accounting firm selected by City ("City's Representative") and may be made in connection with City's review of back-up documentation described above or independent of such review. Upon completion of the audit, City shall deliver a copy of the audit report to Landlord. Within thirty (30) days of Landlord's receipt of City's audit report, Landlord shall notify City as to whether Landlord agrees or disagrees with the conclusions reached in City's auditor's report. Disclosure of materials provided by Landlord in connection with the audit shall be subject to the terms of Section 4.11 below.

(c) If Landlord disputes the results of City's audit by giving written notice of its objection to City within thirty (30) days after receipt of the City's audit report, the parties shall meet and endeavor in good faith to resolve the dispute. If the parties fail to reach agreement within ninety (90) days after City's receipt of Landlord's objection, Landlord shall provide to City, within thirty (30) days after expiration of such ninety (90) day period, a list of three (3) independent certified public accounting firms that are not currently providing, and have not

within the five (5) previous years provided, services to Landlord or City's Controller or Municipal Transportation Agency. Each of the firms shall be nationally or regionally recognized firms with experience in accounting related to commercial office buildings. In order to accommodate the foregoing, City shall provide to Landlord, within ten (10) business days after request, a complete list of all certified public accounting firms that are currently providing, or have within the five (5) previous years provided, services to City's Controller or Municipal Transportation Agency. Within thirty (30) days after receipt of the list of accounting firms from Landlord, City shall select one of the three (3) firms by written notice to Landlord, which firm is referred to herein as the "Independent CPA." The Independent CPA shall be engaged by Landlord on a non-contingency basis and must sign a confidentiality agreement in a form reasonably acceptable to Landlord. The Independent CPA shall examine and inspect the records of Landlord concerning the disputed components of Operating Costs and/or Real Estate Taxes for the Expense Year or Tax Year in question (including the Base Year, if applicable) and make a determination regarding the accuracy of City's audit. The Independent CPA shall begin such examination and inspection within sixty (60) days after selection and shall diligently pursue such audit to completion as quickly as reasonably possible.

(d) If the Independent CPA (or, if Landlord does not engage the Independent CPA as provided above, then City's audit following the resolution, if any, of any dispute between Landlord and City as provided in the first sentence of Section 4.9(c) above) determines that Landlord's Expense Statements or Tax Statements were in error, and the correction of such errors would reduce City's Percentage Share of Operating Costs or Real Estate Taxes for any of the past four (4) Expense Years or Tax Years, then Landlord shall refund to City the amount of any overpayment by City within thirty (30) days following City's demand or permit City to credit such amount against the Rent as it next becomes due and owing. City shall pay the cost of City's audit and shall reimburse Landlord for one-half (1/2) of the cost of the examination and inspection by the Independent CPA, provided that if the Independent CPA review (or, if Landlord does not engage the Independent CPA as provided above, then City's audit following the resolution, if any, of any dispute between Landlord and City as provided in the first sentence of Section 4.9(c) above) discloses any errors that result in a reduction in the amount of City's Percentage Share of increases in Operating Costs or Real Estate Taxes of five percent (5%) or more for any Expense Year or Tax Year, then Landlord shall pay the costs reasonably incurred for such audit and review for such Expense Year or Tax Year. In no event shall City be permitted to make a claim against Landlord for any errors or omissions in an Expense Statement or in Landlord's Tax Statement that was delivered to City more than four (4) years prior to the date of the claim, or, if City exercises its right to audit Landlord's books and records, more than four (4) years prior to the date such audit was commenced.

#### **4.10. Records**

Landlord shall maintain in a commercially reasonable manner all material records pertaining to Operating Costs, Real Estate Taxes, and any other charges paid by City pursuant hereto, for the greater of five (5) years following the year to which the record pertains or the resolution of any dispute between Landlord and City regarding the Operating Costs, Real Estate taxes, and any other charges for the applicable year (or such longer period that Landlord, in its sole discretion determines appropriate). City acknowledges that it is commercially reasonable to retain the records in electronic format, provided that such format allows for delivery to City of reasonable back up documentation, such as invoices and contracts (which may be retained and delivered in an electronic format such as pdf). All such books and records shall be available for inspection, copying and audit by City and its representatives, at City's expense, subject to the provisions of Section 4.9 (Audits) above. Landlord shall not charge for electronic delivery of documents.



#### **4.11. Disclosures; Confidentiality**

The California Public Records Act (Government Code Section 6250 *et seq.*) is the State law governing public access to the records of State and local agencies. The San Francisco Sunshine Ordinance (Administrative Code Chapter 67) imposes additional requirements affecting the public's access to records. The premise of both the Public Records Act and the Sunshine Ordinance is that records in the possession of government generally are public property. Absent some specific and limited exceptions, City agencies must make those records available for the public to inspect and copy.

Landlord anticipates that in connection with the audit rights contemplated by this Lease, Landlord may share with certain representatives of the City certain confidential information that is exempt from discovery under the California Public Records Act and the San Francisco Sunshine Ordinance. As used in this Section, "Confidential Information" means certain technical and non-technical proprietary information that constitutes the trade secrets of Landlord.

If Landlord believes in good faith that any information required to be reported or disclosed by this Section contains Confidential Information, Landlord shall provide the information to the City Representative requiring such information, conspicuously marked with a "Confidential Trade Secret" legend, and shall notify the City in writing of that belief, detailing the basis of the belief as to each specific item of information the person claims is Confidential Information and identifying the specific statute or judicial authority under which the claim is made.

City agrees that to use reasonable care to safeguard the Confidential Information from disclosure to any third party other than employees and contractors of City departments who have a need to have access to and knowledge of the Confidential Information for the purpose of conducting the audit authorized above. Notwithstanding the foregoing, if and to the extent any Confidential Information may be subject to disclosure by City pursuant to federal, state, or local law, including the California Public Records Act or the San Francisco Sunshine Ordinance, or a court order, City may disclose such Confidential Information to the extent required thereby, and such disclosure shall not be deemed a violation of this Lease. City shall use reasonable efforts to notify Landlord of a disclosure request not less than 48 hours prior to any disclosure by City, provided that City's failure to notify Landlord shall not result in any liability to City. If City receives a request for disclosure of information identified by Landlord as Confidential Information, City shall inform Landlord either that the City will refuse to disclose the purported Confidential Information or, that City has determined that there is no proper basis for such refusal and that City intends to disclose the information unless ordered otherwise by a court. Upon receipt of notice from City of a disclosure request, Landlord may at its election provide City with any information Landlord believes is relevant to the determination of whether such information is exempt from discovery under the California Public Records Act and the San Francisco Sunshine Ordinance, or seek injunctive relief against such disclosure. Landlord shall not seek to prevent or limit the disclosure of any information subject to a disclosure request or an order by a court or governmental agency unless Landlord has a reasonable, good faith belief that the information is privileged or otherwise exempt from disclosure.

Notwithstanding the foregoing, City shall have no obligation with respect to Confidential Information that (i) was rightfully in possession of or known to City without any obligation of confidentiality prior to receiving it from Landlord; (ii) is, or subsequently becomes, legally and publicly available without breach of this Lease; (iii) is rightfully obtained by City from a source other than Landlord without any obligation of confidentiality; or (iv) is developed by or for the City without use of the Confidential Information.

#### **4.12. Amortization of Additional Construction Allowances**

City shall pay Landlord on a monthly basis concurrently with Base Rent, as additional Rent, the Additional Construction Allowance Amortization Payments, if any, calculated in accordance with Section 6.1(c), during the payment periods specified therein.

#### **4.13 Electric Charges**

The Base Rent for the 7<sup>th</sup> Floor Premises is net of electrical charges. City shall pay the actual cost of electricity use within the 7<sup>th</sup> Floor Premises, without markup, either directly to the electricity utility provider, if electrical usage in the 7<sup>th</sup> Floor Premises is measured by direct meters, or, if electrical usage in the Premises is measured by submeters, to Landlord on a monthly basis, as additional Rent, within thirty (30) days after presentation of an invoice showing the usage and the charge therefor.

#### **4.14 Rent Abatement and Termination Rights for Unsafe Condition or Interruption in Essential Services**

If City's ability to carry on its business in the Premises (excluding the Bike Room Premises) is materially impaired as a result of (i) Landlord's inability to supply any of the Building's sanitary, electrical, heating, air conditioning, water, or elevators serving the Premises ("Essential Services") or (ii) the Premises or the Common Areas or any portion thereof being rendered unsafe for human occupancy (an "Unsafe Condition"), and such disruption in Essential Services or Unsafe Condition continues for three (3) or more consecutive business days after notice to Landlord of the disruption in Essential Services or Unsafe Condition, then commencing on the third (3<sup>rd</sup>) business day Rent payable hereunder shall be abated based on the extent such disruption in Essential Service or an Unsafe Condition materially impairs City's ability to carry on its business at the Premises. Such abatement shall continue until the Essential Services have been restored or the Unsafe Condition has been remedied so that such matter no longer materially impairs City's ability to carry on its business in the Premises. In addition, if City's use of the Premises is materially impaired as a result of a disruption in Essential Services or an Unsafe Condition that is (i) within Landlord's reasonable control and continues for ninety (90) or more consecutive days after City's written notice thereof to Landlord, or (ii) outside of Landlord's reasonable control (provided that such interruption, failure or inability did not arise from the negligence or willful misconduct of City or any other City Parties) and continues for one hundred eighty (180) or more consecutive days after City's written notice thereof to Landlord, then City shall have the right to terminate this Lease upon thirty (30) days written notice to Landlord given during the period of such failure, without limiting any of its other rights or remedies hereunder or at law or in equity. Notwithstanding the foregoing, (i) nothing in this Section shall limit or expand the parties' rights and responsibilities with respect to any disruption due to casualty pursuant to Article 12 (Damage and Destruction) or Article 10 (Compliance with Laws), and (ii) nothing in this Section shall create additional maintenance or repair obligations that Landlord does not otherwise have under the terms of this Lease. Notwithstanding the foregoing, City shall not be entitled to any abatement of Base Rent or City's Percentage Share of increases in Operating Costs and Real Estate Taxes or right to terminate if the Unsafe Condition or Landlord's inability to supply Essential Services to City is due to the acts, omissions or negligence of City, its Agents or Invitees. To the extent the disruption of Essential Services results from damage or destruction to the Building, the Rent abatement provisions of Article 12 shall control.



## 5. USE

### 5.1 Permitted Use

(a) City may use the Premises for such uses as may be specified in the Basic Lease Information (the "Permitted Use"), and for no other use without the prior written consent of Landlord, which shall not be unreasonably withheld or delayed. City shall not use the Premises or Common Areas or permit anything to be done by City or City's Agents or Invitees in or about the Premises or the Common Areas, or any other portion of the Building or Property, which would unreasonably interfere with or unreasonably disturb the rights of Landlord or other occupants of the Building, or cause, maintain or permit by City or City's Agents or Invitees any nuisance or waste in, on or about the Premises, or Common Areas or any other portion of the Building or Property. Without limiting the generality of the foregoing, City expressly agrees that City shall not use the Premises for drug counseling or treatment, the detention of criminals, parole or probation programs, counseling or meetings, medical clinics, mental health programs or other medical services, or general assistance/welfare disbursements or job training/counseling or other programs for the recipients of general assistance/welfare disbursements (each, a "Prohibited Use"), without Landlord's prior written consent, which Landlord may not delay but may withhold in its sole absolute discretion.

(b) In addition, City shall have no right to use the Premises for any Banking Use, without Landlord's prior written consent, which consent may be withheld in Landlord's sole and absolute discretion. For purposes of this Lease, "Banking Use" means retail or wholesale banking operations, including, without limitation, receiving deposits, offering checking accounts, making loans (including, without limitation, home mortgage loans and automobile loans), issuing credit or debit cards, providing automated teller machines, or selling securities (e.g., stocks and mutual funds) or giving investment advice to the general public, whether done by a Financial Institution or other entity or individual and whether accomplished by means of full service, express service, automated teller machines or other self-service banking devices or otherwise. "Financial Institution" means any state bank, national bank, savings and loan association, savings bank, credit union, investment or stock brokerage firm, or other similar entity. The foregoing shall not be deemed to prohibit City from the collection of taxes or fees.

### 5.2. Observance of Rules and Regulations

City acknowledges and agrees to observe the current Building rules and regulations attached hereto as **Exhibit E-1** (the "Building Rules and Regulations") and the Building's current Critical Environment Work Authorization ("CEWA"), a general description of which is attached hereto as **Exhibit E-2** (together referred to as "Rules and Regulations"). Landlord may make reasonable additions or modifications thereto, which shall be binding upon City within a reasonable implementation period upon Landlord's delivery to City of a copy thereof, provided that such additions or modifications shall not reduce Landlord's obligations hereunder nor unreasonably interfere with City's business otherwise permitted to be conducted in the Premises in accordance with this Lease, and such additions or modifications must be applicable to the other Building tenants, not conflict with the provisions of this Lease, not materially increase the burdens or obligations upon City, not impose a charge upon City for services which this Lease expressly states are to be provided to City at no charge, and not materially adversely affect the conduct of any business in the Premises which City is permitted to conduct pursuant to Section 5.1 (Permitted Use) hereof. Landlord shall administer the Rules and Regulations in a fair and nondiscriminatory manner and use reasonable efforts to cause other Building tenants to comply with them.

## 6. LEASEHOLD IMPROVEMENTS

### 6.1. Leasehold Improvements.

(a) Leasehold Improvements. Landlord, through its general contractor approved by City, shall demise the Premises, perform the work and make the installations in the Initial Premises and the Common Areas pursuant to the Construction Documents approved by City, and in accordance with the provisions of the Work Letter attached as *Exhibit F-1* hereto (the "Initial Premises Work Letter"). The terms "Base Building Improvements," "Leasehold Improvement Work" and "Leasehold Improvements" with respect to the Initial Premises shall have the respective meanings given to them in the Initial Premises Work Letter. (The Initial Premises Work Letter and the First Offer Space Work Letters are sometimes referred to as a "Work Letter" or collectively as "Work Letters".) The cost of the Base Building Improvements shall be paid by Landlord and the cost of the Leasehold Improvements shall be paid by City, subject to the Allowance provided by Landlord, as described in the Basic Lease Information and the Initial Premises Work Letter. Base Building Improvements, Leasehold Improvement Work and Leasehold Improvements with respect to any First Offer Space shall be performed as provided in the First Offer Space Work Letter described in Section 22.1, and the Allowance provided by Landlord for such Leasehold Improvement Work shall be calculated as provided in Section 22.1. Without limiting Landlord's obligation under Section 10.2 regarding compliance with applicable Laws, except for structural improvements specifically specified in the applicable Work Letter (such as limited structural bracing to handle floor loads for City's equipment), Landlord shall not be required to make any structural improvements, modifications or alterations as part of any Leasehold Improvement Work or Leasehold Improvements.

(b) City Contribution. City agrees to contribute at least \$5,000,000 of its own funds toward Leasehold Improvements and trade fixtures installed in the Premises (the "City Required Contribution"). The trade fixtures and specific elements of the Leasehold Improvements to be funded by the City Required Contribution shall be clearly identified in the ROM Budget described in the Initial Premises Work Letter (for the purpose of budgeting only). The balance of the City Required Contribution toward the Leasehold Improvements shall be paid in monthly payments as construction progresses and invoices are paid by Landlord pursuant to a formula which incorporates the Allowance, the Additional Construction Allowance, if applicable, and a ten percent (10%) construction holdback, all as detailed in the Initial Premises Work Letter. Prior to commencement of construction, City shall provide Landlord with satisfactory evidence that City's Required Contribution has been earmarked for the Premises and will be funded as required during construction. Payments shall be due within thirty (30) days of Landlord's invoicing and other required documentation.

(c) Additional Construction Allowance. At City's request, in addition to the amount of any construction allowance provided by Landlord pursuant to any Work Letter, Landlord shall provide an additional allowance for construction of improvements to the Initial Premises or First Offer Space which is the subject of such Work Letter (each, an "Additional Construction Allowance"). The Additional Construction Allowance shall be in the amount of Thirty-Five Dollars (\$35.00) per rentable square foot of the Initial Premises, and shall be specified in the Work Letter. The Additional Construction Allowance for First Offer Space shall be calculated as provided in Section 22.1. Commencing on the Rent Commencement Date with respect to the Initial Premises or the applicable First Offer Space and continuing until such sum is repaid in full, City shall pay Landlord on a monthly basis, as additional Rent, the sum required to amortize the Additional Construction Allowance on a straight-line basis with interest on unpaid sums at eight percent (8%) per annum, compounded monthly, over the period commencing on the Rent Commencement Date with respect to the Initial Premises or applicable First Offer Space and ending on the Expiration Date with respect to such space (without regard to Extension Options) (each such monthly payment, an "Additional Construction Allowance Amortization Payment").

Landlord and City shall confirm in writing the amounts for such Additional Construction Allowance in an Amortization Schedule. City and Landlord shall prepare an Amortization Schedule for the Additional Construction Allowance for First Offer Space, if any, prior to submittal of the required authorizing legislation with respect to City's exercise of the First Offer Right for such First Offer Space, as provided in Section 22.1. City may prepay part or all of the Additional Construction Allowance at any time without pre-payment penalty.

(d) Construction Administration Fee. Landlord shall be entitled to a construction administration fee (the "Construction Administration Fee") equal to: (i) eight percent (8%) of the first \$50.00 per rentable square foot of the cost of the Leasehold Improvements and the Additional Construction Allowance utilized by City in excess of \$50.00 per rentable square foot, plus (ii) one percent (1%) of the cost of the Leasehold Improvements funded directly by City (without an allowance) up to \$5 million, plus (iii) two percent (2%) of the cost of the Leasehold Improvements funded directly by City in excess of \$5 million as shown in the ROM Budget, and (iv) four percent (4%) of the cost of all Leasehold Improvements thereafter. For the purposes of this Section 6.1(d), "cost" includes architectural fees, permit fees, disability review fees and other "soft" costs, but excludes LEED certification fees. An example of a calculation of the Construction Administration Fee is attached hereto as *Exhibit F-3*. Any Construction Administration Fee payable pursuant to this Lease shall compensate Landlord for review of plans and specifications, construction and construction cost administration, attendance at all meetings, supervision of all construction compliance with plans and good workmanlike construction practices, invoicing and change order management, scheduling, inspections, electrical energy consumed in connection with the construction work, use of elevators, refuse removal, decommissioning of current operations, extraordinary costs associated with construction containment, construction signage, storage of construction and reuse materials, security, parking, costs associated with move ins, and for any other costs incurred by Landlord as a result of the construction work not otherwise specifically reimbursable by City hereunder; provided that the foregoing shall not restrict or negate the ability of the general contractor to charge such costs. At the time Landlord makes any disbursement of an Allowance, Landlord shall retain from the Allowance, as a partial payment of the Construction Administration Fee, a proportionate amount of the Construction Administration Fee based upon Landlord's reasonable estimate of the amount required to be withheld from such disbursement in order to ensure that the entire Construction Administration Fee is retained over the course of the applicable construction on a prorata basis. At such time as an Allowance has been entirely disbursed, if the entire Construction Administration Fee payable with respect to the applicable portion of the Premises has not yet been paid to Landlord, City shall pay to Landlord a prorata portion of each payment made by City on account of the Leasehold Improvements in order to ensure that the balance of the Construction Administration Fee is paid to Landlord over the course of construction on a prorata basis.

## **6.2. Substantial Completion**

The terms "Substantially Completed" and "Substantial Completion" for purposes of this Lease shall mean (i) the applicable improvements or other work shall have been completed (including furniture if it is purchased as part of the Leasehold Improvements, in contrast to furniture otherwise purchased or already owned by City, but excluding minor details that do not materially interfere with City's occupancy and use) substantially in accordance with the approved Construction Documents and the terms of the Work Letter or other plans or specifications or standards set forth in this Lease, as certified by the architect of record for the Construction Documents by delivery of AIA Document G704, Certificate of Substantial Completion, so that City can occupy the Premises and conduct business therein, (ii) Landlord has procured a temporary or final certificate of occupancy or final inspection and sign-off on the job card for the applicable improvements or other work and all necessary inspections required for occupancy of the applicable improvements or other work have been completed and signed off as approved by



the appropriate governmental agencies, and has delivered evidence thereof to City, (iii) Landlord has completed a three (3) day running "burn off" of any HVAC system serving the applicable improvements or other work following completion of all floor installations and painting to dissipate fumes and dust, (iv) Landlord has delivered an air balance report showing any HVAC system serving the applicable improvements or other work is operative as designed, (v) Landlord and City have completed a joint walk-through of the space with Landlord's architect, which shall be scheduled within three (3) days of Landlord's written notice to City that the applicable Leasehold Improvements are ready for walk-through inspection, and during which Landlord's architect and City shall compile a written punchlist of items that have not yet been completed in accordance with the Construction Documents, and (vi) Landlord shall have delivered to City keys or access cards for the applicable space. Obtaining LEED certification shall not be a requirement of Substantial Completion, nor shall the installation and operability of the Communication Equipment or Additional Equipment or City's Connections, all of which are City's responsibility, be a requirement of Substantial Completion. The date of Substantial Completion shall, upon request by either party, be memorialized in a writing signed by both Landlord and City. The applicable improvements or other work shall be deemed Substantially Completed even though there may remain minor details that would not materially interfere with City's use. Landlord shall diligently pursue to final completion all such details. Notwithstanding the foregoing, City shall have the right to present to Landlord, within thirty (30) days after City's acceptance of the Premises, a supplemental written punch list consisting of any incomplete or defective items that have not been finished in accordance with the Construction Documents and the terms of the Work Letter, provided that such incomplete or defective items were not reasonably observable on the earlier walkthrough inspection of the Premises and are not the result of damage caused by City during or after its move-in. Landlord shall use commercially reasonable efforts to complete all defective or incomplete items identified in such punchlist within thirty (30) days after the delivery of such list, or as soon thereafter as reasonably practicable. City's failure to include any item on such list shall not constitute any waiver of any latent defects.

No approval by City or any of its Agents of the pricing plans, Construction Documents or completion of the Leasehold Improvement Work for purposes of this Lease shall be deemed to constitute approval of any governmental or regulatory authority with jurisdiction over the Premises, and nothing herein shall limit Landlord's obligations to obtain all such approvals.

### **6.3. Installation of Telecommunications and Other Equipment**

Landlord and City acknowledge that the Leasehold Improvement Work will be completed by Landlord exclusive of the installation of telecommunications, data and computer cabling facilities and equipment. City shall be responsible for installing such facilities and equipment, provided that Landlord shall furnish reasonable access to City and its consultants and contractors to the main telephone service serving the floor(s) on which the Premises are located and all other parts of the Building for which access is needed for proper installation of all such facilities and equipment including, but not limited to, wiring. City acknowledges Landlord maintains a CEWA process for working within the Building. Landlord and City shall cooperate in determining the horizontal and vertical locations of the risers and other areas of the Building (if any) through which City's telephone and data cables will be installed, in order to satisfy City's reasonable requirements, without interfering with the operation of Building Systems or other tenants' or occupants' systems and without interfering with Landlord's ability to provide services and utilities to other tenants or occupants. In addition, City acknowledges that its cabling will connect to a MPOE used by other tenants of the Building. Subject to the provisions of the CEWA Rules, the Building Rules and Regulations, and Landlord's approval of any tradesmen in Landlord's sole discretion, City shall have the right to enter the Premises and such other portions of the Building at reasonable times during the course of construction of the Leasehold Improvements in order to install City's facilities and equipment. City and Landlord shall use

their good faith efforts to coordinate any such activities to allow the Leasehold Improvements and the installation of such facilities and equipment to be completed in a timely and cost-effective manner.

#### **6.4. Base Building Improvements.**

Landlord shall make the Base Building Improvements described in the Work Letter at no cost to City except where specified.

#### **6.5 Graphics; Building Directory.**

(a) Building Directory. Prior to the Commencement Date, Landlord shall install or construct a Building directory in the lobby of the Building containing a listing of City's name and such other information as City shall reasonably require (including, at City's option, the names of all of City's businesses, related entities, assignees and sublessees and the suite numbers occupied, including the suites(s) occupied by the Locker Room Premises), provided that City's listing on the directory shall be in a size and manner that is representative of City's proportionate share of space in the Building. Landlord, at Landlord's expense, shall pay the cost of constructing the directory in the lobby and the cost of maintaining (but not constructing) the directory shall be an Operating Cost.

(b) Elevator Lobby Signage. Landlord shall install and maintain in the seventh (7<sup>th</sup>) floor elevator lobby and on or adjacent to entrances to the 7<sup>th</sup> Floor Premises and Locker Room Premises City's user name and/or logo and designating the appropriate suite numbers and department(s) occupying such space, using Building standard graphics (as Landlord may change its standard signage and graphics from time to time).

(c) City Signage. All City graphics visible in or from elevator lobbies, public corridors or the exterior of the Premises shall be subject to Landlord's prior written approval. City shall not display any signs or graphics of City visible from the exterior of the Building without Landlord's prior written approval, which Landlord with withhold in its sole discretion.

#### **6.6. Seismic Improvements to the Building**

Landlord, at Landlord's sole cost and expense, shall perform the work recommended in the report dated October, 16, 2009 by Tipping Mar Structural Engineering (the "Seismic Work"). Landlord shall proceed expeditiously with the Seismic Work and shall use good faith efforts to complete such work prior to Substantial Completion of the Leasehold Improvements, and shall in all events complete such Seismic Work by the date which is one (1) year after Substantial Completion. In the event Landlord, in its good faith judgment, determines that different or lesser seismic upgrades are required to address the structural deficiencies identified in the Tipping Mar Structural Engineering report, Landlord shall provide City with a written description of the proposed revised work plan, detailing the proposed deviations from the Seismic Work, together with evidence that (i) the structural deficiencies identified in the Tipping Mar Structural Engineering report will be appropriately addressed by the work to be performed under the revised work plan, and (ii) Landlord's election to substitute such work for the Seismic Work will not result in any greater a threat that any portion of the Building will be yellow- or red-tagged following a seismic event than would have would have resulted had Landlord performed the work recommended in the Tipping Mar Structural Engineering Report. Any such proposed deviations from the Seismic Work shall be subject to City's reasonable approval, and following such approval the term "Seismic Work" shall refer to approved modified work plan.

## **6.7. Good Construction Practices**

All construction with respect to the Leasehold Improvements and Base Building Improvements shall be accomplished expeditiously, diligently and in accordance with good construction and engineering practices and applicable Laws. City acknowledges that all construction shall be performed in accordance with the CEWA Rules and the Building Rules and Regulations, and subject to Landlord's prior written approval of any tradesmen, in Landlord's sole discretion. The following provisions shall apply with respect to construction of Base Building Improvements and Leasehold Improvements in connection with First Offer Space: (i) Landlord shall undertake commercially reasonable measures to minimize damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected by such work, (ii) dust, noise and other effects of such work shall be controlled using commercially reasonable methods customarily used to control deleterious effects associated with similar office construction projects (i.e., after-hours core drilling), and (iii) Landlord, while performing any construction, shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining offices, or the risk of injury to members of the public, caused by or resulting from the performance of such construction.

## **6.8. Construction Improvements that Disturb or Remove Exterior Paint**

If applicable, Landlord shall comply with all requirements of the San Francisco Building Code Section 3407 and all other applicable Laws, including but not limited to the California and United States Occupational and Health Safety Acts and their implementing regulations, when the work of improvement or alteration disturbs or removes exterior lead-based or "presumed" lead-based paint (as defined below). Landlord or its Agents shall 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. Further, Landlord and its Agents, when disturbing or removing exterior or interior lead-based or presumed lead-based paint, shall 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) hydro blasting 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. Paint on the exterior of buildings built before December 31, 1978 is presumed to be lead-based paint unless lead-based paint testing, as defined in Section 3407 of the San Francisco Building Code, demonstrates an absence of lead-based paint on the exterior surfaces of such buildings. Under this Section, lead-based paint is "disturbed or removed" if the work of improvement or alteration involves any action that creates friction, pressure, heat or a chemical reaction upon any lead-based or presumed lead-based paint on an exterior surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface. Notice to City under this Lease shall not constitute notice to the City's Department of Building Inspection required under Section 3407 of the San Francisco Building Code.

## **6.9. LEED CI Certification**

Landlord shall reasonably cooperate (at no additional cost and without liability to Landlord) with City's efforts to seek a minimum of LEED Silver certification, as outlined by the U.S. Green Building Council, with respect to the Leasehold Improvements in the 7th Floor Premises. Landlord shall engage LEED professional(s) to consult with Landlord in connection with the design and construction of the Leasehold Improvements, provided that City shall pay all fees and costs of such LEED professionals and all costs incurred in connection with LEED documentation and the filing of all LEED applications. Landlord shall provide to City, for City's approval or disapproval, a budget or other satisfactory estimate of the fees of such professionals



prior to engaging them. The foregoing LEED costs may be paid out of the Allowance or Additional Construction Allowance, and the costs for improvements related to LEED certification shall be treated as part of the Leasehold Improvement Work, and shall be paid out of the Allowance or Additional Construction Allowance (to the extent funds are available therefor), regardless of the location of the improvement in the Building (including, but not limited to, improvements to the Common Areas or Building Systems); provided, with respect to Landlord's Base Building Improvements, Landlord shall use good faith efforts to perform such work in furtherance of the proposed LEED Silver certification to the extent commercially reasonable, but Landlord shall not be obligated to perform any specific work, install any material, or take any other action to the extent it would increase the cost of design or construction to Landlord unless City agrees to pay for the increased cost, and Landlord reasonably determines that sufficient funds are available from the applicable Allowance or Additional Construction Allowance authorized by the Board of Supervisors to pay such increased costs, in which event such costs shall be deducted from the Allowance or Additional Construction Allowance, as incurred. Further, the above notwithstanding, Landlord shall not be obligated to make improvements or changes to Building Systems or operations which directly and adversely impact Landlord's data center operations or other facilities, provided that Landlord hereby agrees to the work outlined in the Preliminary LEED-IDC Scorecard: Bank Of America Data Center, San Francisco, a copy of which is attached as **Exhibit Q**, for the potential points designated thereof as "Y" (Yes, achievable). Any delay in Substantial Completion resulting from City's election to seek LEED certification shall constitute a Tenant Delay, except to the extent such delay results from a Landlord Delay. After Landlord becomes aware of any factor that will, or is likely to, result in a Tenant Delay due to City's election to seek LEED certification, Landlord shall use reasonable good faith efforts to promptly notify City of such occurrence, together with Landlord's then good faith estimate of the probable duration of such Tenant Delay, but failure to provide such notice shall not constitute a waiver of such Tenant Delay. Landlord shall cooperate with City to minimize, to the extent reasonably possible, the Tenant Delay resulting from City's election to seek LEED certification. Failure to obtain LEED certification shall not impose any liability on Landlord or diminish City's obligations under this Lease.

## **7. ALTERATIONS AND PERSONAL PROPERTY**

### **7.1. Alterations by City**

(a) City shall not make or permit any alterations, installations, additions or improvements (collectively, "Alterations") to the Premises without first obtaining Landlord's written consent, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, City shall have the right, without Landlord's consent but following prior written notice to Landlord as provided below, to make any Alteration that meets all of the following criteria (a "Cosmetic Alteration"): (a) the Alteration is decorative in nature (such as paint, carpet or other wall or floor finishes, movable partitions or other such work) and will not produce noxious fumes from VOC's or other chemicals; (b) at least ten (10) business days' prior to commencement of work with respect to such Alteration, City provides Landlord with reasonably detailed plans with respect thereto or, if the Alteration is of such a nature that formal plans will not be prepared for the work, City provides Landlord with a reasonably specific written description of the work; (c) such Alteration does not require any alteration in, or adversely affect, the Building Systems or any structural components of the Building or any part of the Building outside the Premises, and if after review of City's plans or description of the proposed work, Landlord, in Landlord's sole discretion, exercised in good faith, determines that the proposed work may affect any one or more of the Building Systems or any structural components of the Building or any part of the Building outside the Premises, then such proposed work shall not be deemed a Cosmetic Alteration, and must be performed in accordance with all of the requirements of this Article 7; (d) the work uses only new materials comparable in quality to those being

replaced and is performed in a workmanlike manner and in accordance with all Laws; and (e) such Alteration does not, in the aggregate, cost more than One Hundred Thousand Dollars (\$100,000.00), considering the project as an integral whole. Cosmetic Alterations shall comply with all of the other provisions of this Article 7, excluding only the requirement to obtain Landlord's prior written consent thereto. Any Alterations permitted hereunder shall be made at City's cost in compliance with applicable Laws and in accordance with reasonable procedures as then established by Landlord and the provisions of this Article 7. Landlord shall use commercially reasonable efforts to cooperate with City in securing building and other permits and authorizations needed in connection with any permitted Alterations; provided, however, Landlord shall not be required to expend any funds in connection therewith. In connection with all Alterations, Landlord shall be entitled to a fee equal to the greater of (i) five percent (5%) of the hard and soft costs of the Alterations or (ii) the out-of-pocket costs reasonably incurred by Landlord in reviewing the plans and specifications for City's proposed Alterations. City acknowledges that City must comply with the CEWA Rules and the Building Rules and Regulations, and with Landlord's approval of any tradesmen, in its sole discretion. In the event of any conflict between the CEWA Rules and the provisions of this Lease, the CEWA Rules shall govern. In no event shall any Alterations by City produce noxious fumes from VOC's or other chemicals.

(b) City shall be solely responsible for compliance with all applicable Laws in connection with all Alterations. Without limiting the generality of the foregoing, City shall be responsible for the cost of any additional alterations required by applicable Laws to any portion of the Building as a result of Alterations, including work in the Common Areas or elsewhere outside the Premises. Notwithstanding the foregoing, Landlord may elect to perform all such work outside the Premises, in which event City shall reimburse Landlord for the reasonable and actual cost thereof within thirty (30) days after written request accompanied by an invoice or other reasonable supporting documentation. Further, if Landlord estimates that the cost of the work to be performed outside the Premises will exceed Five Thousand Dollars (\$5,000.00), Landlord may require City to deposit the estimated cost of such work with Landlord prior to the commencement thereof. Within thirty (30) days after the actual cost of such work is determined, Landlord shall refund any overpayment to City or City shall pay any shortfall to Landlord, as the case may be. City shall complete or cause completion of all Alterations with due diligence after commencement in order to cause the least disruption to Building operations and occupants.

(c) If required by Landlord in writing at the time Landlord provides consent to an Alteration (provided that at the time City submits its plans and specifications to Landlord for approval, City requests in bold typeface or all capital letters, that Landlord identify Alterations to be removed), City shall, prior to the expiration of the Term or earlier termination of this Lease, remove such Alteration at City's cost and expense and restore the Premises to the condition existing prior to the installation of such Alteration. If City fails so to do, then after written notice to City Landlord may remove such Alteration and perform such restoration and City shall reimburse Landlord for the cost and expense reasonably incurred by Landlord to perform such removal and restoration (which obligation of City shall survive the expiration or earlier termination of this Lease). City shall repair at its cost and expense all damage to the Premises or the Building caused by the removal of such Alteration. Notwithstanding the foregoing, in no event shall Landlord require the removal of Alterations which are not Extraordinary Improvements, as defined in Article 20. Subject to the foregoing provisions regarding removal, all Alterations remaining at the Premises at the expiration or earlier termination of this Lease shall be Landlord's property from and after the expiration or earlier termination of this Lease, without compensation to City.



## **7.2. Title to Improvements**

Subject to the provisions of Section 7.1 and Article 20, except for City's Personal Property, all appurtenances, fixtures, improvements, equipment, additions and other property permanently installed in the Premises as of the Commencement Date or during the Term shall be and remain Landlord's property. City may not remove such property unless Landlord consents thereto.

## **7.3. City's Personal Property; Removal; Equipment Waiver**

All furniture, furnishings, equipment, trade fixtures and articles of movable personal property installed in the Premises by or for the account of City and that can be removed without structural damage to the Premises (collectively, "City's Personal Property") shall be and remain City's property. City's Personal Property shall include, without limitation, the Existing Personal Property and Other Transferred Property described in Section 22.2. At any time during the Term or at the expiration thereof, City may remove any of City's Personal Property provided City shall repair any damage to the Premises resulting from such removal. Upon the expiration or earlier termination of this Lease, City shall remove City's Personal Property from the Premises in accordance with Section 20 (Surrender of Premises), to the extent required thereunder. Landlord acknowledges that some of City's Personal Property may be financed by an equipment lease financing or otherwise be subject to a security interest, or owned by an equipment company and leased to City. Landlord, upon City's reasonable request, shall execute and deliver a waiver, in a form reasonably approved by Landlord, of certain rights Landlord may have or acquire with respect to City's Personal Property, so long as the supplier, equipment lessor or lender agrees to terms and conditions reasonably requested by Landlord. Landlord shall recognize the rights of a supplier, lessor or lender who has an interest in any items of City's Personal Property to enter the Premises and remove such property at any time during the Term or within a reasonable time thereafter, subject to such terms, conditions and restrictions as Landlord reasonably and customarily imposes, and provided that City shall reimburse Landlord for any attorneys' fees or other costs reasonably and actually incurred by Landlord in negotiating an agreement with such supplier, lessor or lender within thirty (30) days after written request accompanied by an invoice or other reasonable supporting documentation.

## **7.4. Alteration by Landlord**

Landlord shall use commercially reasonable efforts to minimize interference with or disruption to City's use and occupancy of the Premises during the performance of any alterations, installations, additions or improvements to the Building, including, without limitation, any leasehold improvement work for other tenants in the Building. Landlord shall take commercially reasonable steps to remedy any such interference or disruption upon receiving City's notice thereof.

# **8. REPAIRS AND MAINTENANCE**

## **8.1. Landlord's Repairs**

(a) Landlord shall repair and maintain, in good condition, in a manner consistent with maintenance standards for privately-owned, comparable N-2 data center facilities (subject to ordinary wear and tear consistent with such standard and Landlord's obligations following damage and destruction as set forth in Article 12 (Damage and Destruction)), at Landlord's cost, all portions of the Building including without limitation, the roof and roof decks, foundation, bearing and exterior walls and subflooring, elevators, current Building systems including lighting, heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, back-up power, back-up water, security and control systems, and other current mechanical,

electrical and communications systems of the Building (collectively, the "Building Systems") and the Common Areas, other than (i) the Premises (except as otherwise provided in this Lease), (ii) the premises of other tenants or occupants of the Building, and (iii) non-Building standard systems installed by or at the request of City or any other tenant of the Building (unless City or such other tenant directly reimburses Landlord for the entire amount of such costs). Without limiting the foregoing, Landlord shall maintain the Building and the Building Systems in a manner generally consistent with comparable tiered facilities (subject to ordinary wear and tear consistent with such comparable facilities and Landlord's obligations following a Casualty). City acknowledges that, without relieving Landlord of its obligations hereunder, Landlord shall be entitled to delegate its repair and maintenance responsibilities to a qualified third party selected by Landlord in Landlord's reasonable discretion. Landlord shall use commercially reasonable efforts not to permit any other tenants or occupants of the Building to disturb or interfere with City's use of the Premises or permit to be done in or about the Building or anything that is illegal, is dangerous to persons or property or constitutes a nuisance.

## **8.2. City's Repairs**

Subject to any construction warranties or guaranties received in connection with Landlord's completion of the Leasehold Improvements and Landlord's repair and maintenance obligations hereunder, City shall keep the interior of the Premises and non-Building standard systems installed by or at the request of City in good working order and in a safe and sanitary condition, except for ordinary wear and tear and damage by Casualty. City shall make any required repairs and replacements (i) at City's cost, (ii) by City employees or by contractors or mechanics selected by City and reasonably approved by Landlord, (iii) so that same shall be at least substantially equal in quality, value and utility to the original work or installation prior to damage thereof, (iv) in a manner and using equipment and materials that will not materially interfere with or impair the operations, use or occupation of the Building or the Building Systems, and (v) in compliance with all applicable Laws, including, without limitation, any applicable contracting requirements under City's Charter and Administrative Code and, to the extent applicable, the provisions of Article 7 of this Lease, including, but not limited to, the CEWA Rules. Notwithstanding the foregoing, City acknowledges that Landlord, at City's expense, shall be responsible for maintaining and repairing the CRAC units, UPS units and other specialty equipment located within the Premises as provided in Section 9.3(b) below. At all times during the Term, Landlord shall, subject to terms and conditions that Landlord may reasonably impose, upon reasonable notice by City, afford City and its Agents with access to those portions of the Building which are necessary to maintain or repair the telecommunications and data and computer cabling facilities and equipment installed by City (other than those which are to be maintained by Landlord pursuant to this Lease). Similarly, at all times during the Term, City shall afford Landlord access to those portions of the Premises which are necessary to install, maintain, repair or replace cabling and facilities serving Landlord or tenants or occupants of the Building, provided that Landlord shall give City reasonable advance notice of the proposed work and shall take all reasonable steps to cause all such work to be done in such a manner as to cause as little interference to City as possible. Except as explicitly set forth to the contrary in this Lease, City hereby waives all rights, including those provided in California Civil Code Section 1941 or any successor statute, to make repairs which are Landlord's obligation under this Lease at the expense of Landlord or to receive any setoff or abatement of Rent or in lieu thereof to vacate the Premises or terminate this Lease.

## **8.3. Liens**

City shall keep the Premises and the Building free from liens arising out of any work performed, material furnished or obligations incurred by or for City. Landlord shall have the right to post on the Premises any notices permitted or required by Law or that Landlord deems are needed for the protection of Landlord, the Premises, or the Building, from mechanics',

material suppliers' or other liens and to take any other action at the expense of City that Landlord deems necessary or appropriate to prevent, remove or discharge any such lien, provided that Landlord shall first allow the City the reasonable opportunity to contest such lien or take other appropriate action to remove or bond over the lien for a period of not less than thirty (30) days (or such shorter period as may be required in connection with any financing or sale of the Building). City shall Indemnify Landlord for all Claims which may be asserted against or incurred by Landlord as a result of City's failure to comply with the obligations of this Section 8.3 (which Indemnity obligation shall survive the Expiration Date or earlier termination of this Lease). City shall give Landlord at least ten (10) business days prior written notice of commencement of any repair or construction by City on the Premises to allow Landlord to post a Notice of Non-Responsibility with respect to the work.

## **9. UTILITIES AND SERVICES**

### **9.1. Landlord's Provision of Utilities and Services for the Entire Premises**

(a) **General.** Subject to limitations, if any, imposed by applicable Laws, Landlord shall, at Landlord's cost (as an Operating Cost, to the extent applicable), furnish the following utilities and services to the office portion Premises: (i) heating, air conditioning and ventilation in amounts required for City's comfortable use and occupancy of the Premises, twenty-four (24) hours per day, seven (7) days per week ("Daily Basis"); (ii) passenger elevator service on a Daily Basis; (iii) water from the municipal water distribution system for lavatory, kitchen and drinking purposes on a Daily Basis; and (iv) freight elevator service upon City's reasonable request, subject to Landlord's scheduling rules and the rights of other tenants to use the freight elevator. During the Term, City shall have access to the Premises at all times on a Daily Basis, subject to City's compliance with Landlord's reasonable access procedures and Landlord's right to prevent access in the case of an emergency. For purposes of item (i) above, Landlord shall be conclusively deemed to have provided heating, air conditioning and ventilation in amounts required for City's comfortable use and occupancy if Landlord operates the heating, air conditioning and ventilation system in a manner consistent with the applicable ASHRAE standards.

(b) **Electrical Service.** Subject to the conditions described in *Exhibit O* attached hereto, Landlord shall also provide (or arrange with the appropriate utility to provide) electric current in amounts required for the intended operation of the equipment in the Premises, including computers, air conditioning units, electrified furniture, personal computers, servers and other normal office machines and equipment, along with emergency back-up power, provided that City's electrical loads must not exceed a 1000 KW maximum total electrical load. Landlord shall install submeters to measure the electrical use to the 7<sup>th</sup> Floor Premises (but not the Bike Room Premises and the Locker Room Premises), provided that if the cost to Landlord to install any submeters in the Building for City exceeds Fifteen Thousand Dollars (\$15,000.00), the excess cost of such submeter installation shall be included in the cost of the Leasehold Improvements. Electrical service to the 7th Floor Premises shall be provided at City's direct cost (and not as an Operating Cost); electrical services to the Bike Room Premises and Locker Room Premises shall be provided at Landlord's cost (as an Operating Cost, to the extent applicable).

(c) **After-Hours HVAC and Excess Services.** In the event that City requests HVAC, janitorial, security or other services in addition to the services provided by Landlord pursuant to Sections 9.2, 9.3, 9.4, or 9.7, or if City's use requires additional security services, then City shall pay to Landlord the Landlord's standard fees (as charged to other tenants requesting such additional services, if applicable) for providing such HVAC, janitorial, security or other services. City shall keep Landlord informed in advance of any public meetings in the Building, through use of a monthly calendar or otherwise, that are scheduled outside of the period of 7:30 a.m. to 5:30 p.m., Monday through Friday ), or are scheduled on New Year's Day,



Martin Luther King Day, Memorial Day, Fourth of July, or Labor Day, so that Landlord and City can agree upon the potential need for additional security services. Notwithstanding the foregoing, if Landlord reasonably determines that additional security services not previously agreed upon are required at any time, it shall notify City of such fact as soon as possible, and City shall either discontinue the meetings, change the time of the meetings, or agree to pay for the additional security services.

(d) **Billing Requirements.** All costs billed to City under this Article 9 shall be based on Landlord's actual costs without markup.

## **9.2. Services for the Common Areas and Building**

(a) **Common Area Janitorial Service.** Landlord shall provide at its cost (as an Operating Cost, to the extent applicable) janitorial service to the Common Areas in accordance with the specifications contained in *Exhibit G* attached hereto. Landlord reserves the right to reasonably revise the janitorial services from time to time during the Term, provided that such revised service is sufficient to maintain the Common Areas in a clean and orderly condition, is consistent with the janitorial service provided from time to time in comparable first class highrise office buildings, and, with respect to services provided to the 7<sup>th</sup> floor Common Areas, is subject to City's reasonable approval.

(b) **Building Security Service.** Landlord shall provide at its cost (as an Operating Cost, to the extent applicable) security for the Building in accordance with the specifications contained in *Exhibit H* attached hereto. Landlord reserves the right to reasonably revise the security services from time to time during the Term, consistent with security provided from time to time in comparable first class highrise office buildings, and in no event for fewer than twenty-four (24) hours per day. Subject to Landlord's prior approval, which approval shall not be unreasonably withheld, conditioned or delayed, City may install and operate its own access control to the Premises, provided that City's access control system shall not interfere with Landlord's access control system of the Building. City acknowledges and agrees that Landlord shall at all times have access to the Premises in the event of an emergency and as reasonably necessary to provide the services to be furnished by Landlord under this Lease.

(c) **Building Graffiti Removal.** Landlord, during normal business hours, shall promptly remove graffiti at its cost (as an Operating Cost, to the extent applicable) from Building surfaces outside the Premises.

## **9.3. Landlord's Provision of Special Utilities and Services for 7<sup>th</sup> Floor Premises**

(a) **CRAC Units.** Subject to limitations imposed by applicable Laws, periods of regular and emergency maintenance and Casualties, Landlord shall provide, at City's cost, chilled water on a 24 hour, seven day a week basis for running Computer Room Air Conditioning ("CRAC") units in the 7th Floor Premises that require chilled water. Landlord, at Landlord's expense, shall install flow meters to measure water usage by such CRAC units. In addition, Landlord shall, subject to the cap set forth in Section 9.1(b) above, install submeters to measure electrical usage by CRAC units in the Premises. Charges for chilled water shall be reasonably and equitably determined by the engineer of record for the Building or such other third party engineer reasonably designated by Landlord and shall be payable by City within thirty (30) days after demand, as additional Rent. If City shall replace the function of CRAC units with other technology, City shall reimburse Landlord for the utility costs associated with City's usage of such other technology, as reasonably determined by Landlord, without mark-up.

(b) **Equipment Maintenance.** Landlord shall provide, at City's cost (and not as an Operating Cost), maintenance and repair on a regular basis pursuant to OEM standards of

certain systems within the Premises connected to the Building Systems such as Pre-Action Sprinkler Systems, Fire Suppression Systems, CRAC systems, UPS and emergency systems. All costs billed to City under this Section 9.3 shall be based on Landlord's actual costs without markup. City shall install its own automated supervisory and control functions for its CRAC, computer server and UPS systems. Landlord shall utilize the existing automated supervisory and control functions for the Building Systems in the Premises.

#### **9.4. Janitorial Services**

Landlord shall provide, at City's direct cost (and not as an Operating Cost) janitorial services to the Premises in accordance with the specifications contained in *Exhibit G* attached hereto. All costs billed to City under this Section 9.4 shall be based on Landlord's actual costs without markup. City shall not have the right to contract for janitorial services for the Premises. City reserves the right to revise the janitorial service provided to the Premises from time to time during the Term, provided that such revised service is not unduly onerous or unreasonable and is sufficient to maintain the Premises in a clean and orderly condition and is consistent with the janitorial service provided from time to time in comparable first-class high-rise office buildings to premises with 24/7 operations.

#### **9.5. Conservation; Schedule E-Base Interruptible Program**

Landlord may establish reasonable measures to conserve energy and water, including automatic light shut off after hours and efficient lighting forms, so long as these measures do not unreasonably interfere with City's use of the Premises. In addition, City acknowledges that the Building participates in a Schedule E-Base Interruptible Program that under certain conditions requires the Building to transfer loads to its emergency generators. Landlord shall at all times satisfy the Schedule E-Base Interruptible Program conditions set forth in *Exhibit R*.

#### **9.6. Disruption in Essential Utilities or Services**

In the event of any failure, stoppage or interruption of any utilities or services to be furnished by Landlord hereunder, Landlord shall use reasonable efforts to restore service as promptly as possible and shall keep City apprised of its efforts.

#### **9.7. Additional Services**

City reserves the right to request that the Landlord, at City's cost, perform minor Lease related services or incur additional expenses not covered under this Lease that the City may require from time to time as reasonably requested by the City and approved by the Real Estate Division, acting through the Director of Property or his or her designee, or by SFMTA, acting through the Senior Manager of SFMTA's Real Estate Section or his or her designee ("Additional Services"), provided that if Landlord, in its sole and absolute discretion, agrees to perform such services or incur such additional expenses, City shall reimburse Landlord for the pre-approved cost for such expenses as additional Rent within thirty (30) days after receipt of Landlord's invoice therefor, which cost shall be at the rates customarily charged by Landlord to other tenants or occupants of the Building (if applicable). Landlord shall provide City with invoices for all Additional Services in a format reasonably approved by City, which format shall in all events include a reference to the suite or City department to which such Additional Services were provided.

## **10. COMPLIANCE WITH LAWS; PREMISES CONDITION**

### **10.1. Compliance with Laws; Covenants of Landlord**

Landlord shall make, at Landlord's at its cost (as an Operating Cost, to the extent applicable, and at its sole cost, to the extent not applicable), any and all modifications to the Premises, the Building or the Building Systems as may be required by applicable Laws for use for use of the Premises for general office purposes. Landlord shall at all times during the Term cause the Property, the Building, the Common Areas and the Building Systems serving the Premises to be in compliance with applicable present or future federal, state, local and administrative laws, rules, regulations, orders and other governmental requirements, the requirements of any board of fire underwriters or other similar body, any directive or occupancy certificate issued pursuant to any law by any public officer or officers acting in their regulatory capacity (collectively, "Laws"), including, without limitation, Disabilities Laws, Seismic Safety Laws, and Life Safety Laws. Notwithstanding the foregoing, if and to the extent (a) City's status as a governmental entity or (b) City's proposed or actual use of the Premises for other than general office use, requires changes or upgrades to the Building or special services in the Building in order to comply with applicable Law, (i) Landlord shall provide City with prior written notice of the required additional changes, upgrades or services and Landlord's good faith estimate of the cost thereof, (ii) City shall be responsible for the cost of the additional changes, upgrades or services that result from City's status as a governmental entity or City's proposed or actual use of the Premises for other than general office use, and (iii) City shall reimburse Landlord, promptly upon demand accompanied by an invoice and supporting documentation, as additional Rent, for any costs or expenses that Landlord reasonably incurs arising from such additional changes, upgrades or services, provided that prior to incurring such costs or expenses Landlord shall provide City, for City's reasonable approval or disapproval, with written notice of the required Building changes or upgrades and a budget or other satisfactory estimate of the costs and expenses to be incurred in connection therewith. If Landlord is required to make Building changes or upgrades due to a use by City which is not a general office use, City shall have the option of terminating such use and instead using the space as general office space, provided that such termination shall not reduce or eliminate the City's obligations with respect to any additional changes, upgrades or services that arose prior to such termination becoming effective. Nothing contained herein shall prevent Landlord from contesting any alleged violation of Laws in good faith, including, but not limited to, the right to apply for and obtain a waiver or deferment of compliance, the right to assert any and all defenses allowed by applicable Laws, and the right to appeal any decisions, judgments or rulings to the fullest extent permitted by applicable Laws.

### **10.2. City's Compliance with Laws**

City shall use the Premises during the Term in compliance with applicable Laws, the provisions of all recorded documents affecting any portion of the Building and all life safety programs, procedures and rules implemented or promulgated by Landlord, and shall not do or permit to be done, or bring or keep or permit to be brought or kept, in or about the Premises, or any other portion of the Building, anything that is prohibited by or will in any way conflict with any Law, the provisions of any recorded documents affecting any portion of the Building and all life safety programs, procedures and rules implemented or promulgated by Landlord; provided, however, that City shall not be required to make any alterations, additions or other modifications to the Premises or the Building in order to comply therewith, including, without limitation, structural alterations, except to the extent that such modifications are necessary because of: (a) any Alterations to the Premises made by City pursuant to Section 7.1 (Alterations by City), any Communications Equipment or Additional Equipment installed by City pursuant to Section 2.4 (Communications Equipment) or City's Connections installed pursuant to Section 2.5 (Muni Connection and City's Server Connection); or (b) City's use of the Premises for other than



general office purposes; or (c) City's status as a government entity (by way of example, but not limitation, modifications that would not be necessary if the Premises were leased exclusively to private general office users instead of City). Without limiting the generality of the foregoing, City shall be responsible for complying with any requirement of the Disabilities Laws relating to the placement of City's furniture or other City Personal Property and the operation of any programs in the Premises, other than any requirement relating to the path of travel to the Premises, which is Landlord's obligation to the extent provided in Section 10.1 (Landlord's Compliance with Laws) and City's obligation to the extent provided in Section 7.1. Without limiting Section 16.1 (City's Indemnity), City shall Indemnify Landlord against any and all Claims arising out of City's failure to comply with all applicable Laws as provided in this Section 10.2.

### **10.3. City's Compliance with Insurance Requirements**

City shall not conduct or permit any activity or any use in or about the Premises, and shall not conduct or permit any activity or use in any other portion of the Building by City or City's Agents (and shall use commercially reasonable efforts to prevent any such activity or use by any City Invitee) that would: (a) invalidate or be in conflict with any fire or other casualty insurance policies covering the Building or any property located therein, (b) result in a cancellation of any existing policy or insurance or a refusal by fire insurance companies of good standing to insure the Building or any such property in amounts reasonably satisfactory to Landlord or the holder of any mortgage or deed of trust encumbering the Building, (c) cause an increase in the fire insurance premium for the Building unless City agrees to pay such increase, or (d) subject Landlord to any liability or responsibility for injury to any person or property by reason solely of any activity being conducted or permitted by City or any employee, officer, Agent, board, commission or invitee of any of them in the Premises; provided, however, Landlord shall use commercially reasonable efforts to provide City with reasonable prior written notice of any applicable insurance requirements.

## **11. SUBORDINATION**

### **11.1. Existing Encumbrances**

Landlord represents and warrants to City that as of the Effective Date, the Property is not subject to any Encumbrance other than the deed of trust held by Barclays Bank PLC (the "Existing Lender") recorded on December 16, 2010 as Document No. 2010-J103661 in the Office Records of the County of San Francisco, California. As used in this Lease, the term "Encumbrance" shall mean: (i) any ground leases or other underlying leases affecting Landlord's interest in the Property, or any portion thereof, (ii) the lien of any mortgage or deed of trust in any amount for which any part of the Property owned by Landlord, any ground leases or underlying leases, or Landlord's interest or estate therein, is specified as security, and (iii) any other interest in the Property that could, upon foreclosure or other exercise of rights by the holder of such interest, terminate this Lease. Concurrently with the mutual execution and delivery of this Lease, Landlord shall obtain from Existing Lender, a subordination, nondisturbance and attornment agreement ("SNDA") substantially in the form of *Exhibit I* attached hereto or in such other commercially reasonable form as may be reasonably acceptable to the City and Existing Lender.

### **11.2. Subordination to Future Encumbrances**

In the event Landlord desires to make this Lease subject and subordinate to a future Encumbrance, then as a condition of City's willingness to subordinate its Lease to such Encumbrance, Landlord shall obtain for City from the holder of the Encumbrance a SNDA in the form of *Exhibit I* attached hereto or in such other commercially reasonable form as may be



reasonably acceptable to the City, such holder, and Landlord, provided that nothing in such document shall deprive City of any material rights or entitlements specifically provided in this Lease. Landlord shall not require any subordination of this Lease that violates the terms of any existing SNDA. In the event that any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, City shall pay subsequent Rent and attorn to and become the tenant of such successor Landlord provided that City has received proper written notice of such succession and the name and address of the successor landlord. From and after the date of written notice from Landlord providing the identity and address of the holder of an Encumbrance, City shall give the holder of the Encumbrance a copy of any notice of default under this Lease served upon Landlord at the same time as such notice is given to Landlord.

## **12. DAMAGE AND DESTRUCTION**

### **12.1. Waiver of Civil Code Sections**

Landlord and City intend that this Lease fully govern all of their rights and obligations in the event any fire, earthquake or other casualty (collectively, a "Casualty") damages or destroys the Premises or the Building. Accordingly, Landlord and City each hereby waives the provisions of Sections 1932(2) and 1933(4) of the California Civil Code, and the provisions of any similar law, statute or ordinance now or hereafter in effect, as such sections may from time to time be amended, replaced, or restated, to the extent such rights are inconsistent with the provisions hereof.

### **12.2. Landlord Repair Obligations**

If the Premises, the Leasehold Improvements or Alterations in the Premises, portions of the Building necessary for access to or use of the Premises or any Building Systems serving the Premises are damaged by a Casualty, subject to the provisions of this Article 12, Landlord shall repair the same with commercially reasonable diligence so as to make the Building or Building Systems at least equal in condition to the condition existing immediately prior to the occurrence of the Casualty and as similar to it in character as is practicable and reasonable (i) but only the extent possible with the available insurance proceeds (so long as Landlord has maintained the insurance described in Section 17(a) of this Lease, and provided that the amount of Landlord's deductible shall be deemed included in the available insurance proceeds), and (ii) in accordance with then-applicable Laws (including, but not limited to, any required code upgrades necessary for the Building to be used for the Permitted Use and for general office uses and subject to any then-existing zoning requirements). Notwithstanding the foregoing, City shall pay the costs of repairing any Leasehold Improvements and any Alterations. City may also replace or repair, at City's cost and expense, City's Personal Property.

### **12.3. Landlord's and City's Termination Rights**

Upon the occurrence of a Casualty affecting the Premises or portions of the Building or Building Systems impacting City's access to or use of the Premises, Landlord shall notify City ("Casualty Notice") as soon as practical, but in no event later than forty-five (45) days following the Casualty, of Landlord's contractor's reasonable estimate of (i) the hard and soft costs to repair or restore the damage or destruction and (ii) the time required to repair or restore the damage or destruction (when such repairs or restoration are made without the payment of overtime or other premiums) measured from the date of such damage (the "Projected Repair Time"). As used in this Lease, the term "Major Damage or Destruction" shall mean that (A) the Building is damaged by a peril covered by Landlord's property insurance (or which would have been covered if Landlord had maintained the property insurance coverage described in Section 17(a) of this Lease) and the hard costs and soft costs to repair or restore the damage or destruction are

reasonably estimated by Landlord's contractor to exceed twenty percent (20%) of the cost of replacing the Building in its entirety (whether or not the Premises are affected), or (B) the Building is damaged by an uninsured peril, and the hard costs and soft costs to repair or restore the damage or destruction are reasonably estimated by Landlord's architect and contractor to exceed ten percent (10%) of the cost of replacing the Building in its entirety (whether or not the Premises are affected), or (C) the Projected Repair Time reasonably estimated by Landlord's architect and contractor to exceed eighteen (18) months measured from the date of such damage. In the event of Major Damage or Destruction, Landlord may elect, by written notice to City delivered within twenty-one (21) days after delivery of the Casualty Notice to City, to terminate this Lease. In the event the Projected Repair Time exceeds nine (9) months, City may elect, by written notice to Landlord delivered within twenty-one (21) days after delivery of the Casualty Notice to City, to terminate this Lease. If neither party terminates this Lease as provided above, this Lease shall remain in full force and effect, and Landlord shall use commercially reasonable diligence to repair and restore the damage or destruction to the Premises and/or portions of the Building or Building Systems impacting City's access to and use of the Premises, subject to Unavoidable Delays.

#### **12.4. Removal of City's Personal Property and Rent Abatement Rights**

In the event of any Lease termination, City shall be given a reasonable period of time to remove all of City's Personal Property from the Premises, and Rent shall be abated for such part of the Premises rendered unusable by City in the conduct of its business during the time prior to termination that such part is so unusable.

#### **12.5. Abatement of Rent During Repairs or Restoration**

During any repair or restoration, this Lease shall remain in full force and effect, except that to the extent such damage or destruction did not result from the negligence or willful act or omission of City or City's subtenants or any of their respective Agents or licensees, Base Rent and City's obligation to pay City's Percentage Share of Operating Costs and Real Estate Taxes shall abate for such part of the Premises rendered unusable by City in the conduct of its business during the time such part is so unusable, in the proportion that the rentable area contained in the unusable part of the Premises bears to the total rentable area of the Premises.

#### **12.6. Lender's Claim to Insurance Proceeds**

Notwithstanding anything to the contrary contained in this Article 12, Landlord shall have no obligation to repair or restore the damage or destruction, and Landlord may instead elect to terminate this Lease, in the event the hard costs and soft costs to repair or restore the damage or destruction are reasonably estimated by Landlord's contractor to exceed the insurance proceeds available for the repair by ten percent (10%) of the cost of replacing the Building in its entirety due to the exercise of its rights by any holder of a mortgage or deed of trust, provided that (i) such holder is not an Affiliate of Landlord (or if such holder is an Affiliate of Landlord, the retention of insurance proceeds by such party is then common practice in the State of California for similar losses and such party consistently retains insurance proceeds in connection with similar losses), (ii) Landlord has used best efforts to obtain the insurance proceeds.

#### **12.7. Damage Near End of Term**

Notwithstanding anything to the contrary contained in this Article 12 and in addition to Landlord's right to terminate this Lease in accordance with the provisions of Section 12.3 or Section 12.6 above, if all or any material portion of the Premises or portions of the Building that impact City's access to or use of the Premises are damaged or destroyed by a Casualty during the last eighteen (18) months of the applicable Term, then Landlord shall have the right, in its sole

discretion, to terminate this Lease by notice to City if Landlord cannot reasonably expect to complete the repair or restoration within ninety (90) days after the date of the Casualty. Such termination shall be effective on the date specified in Landlord's notice to City, but in no event sooner than ninety (90) days after Landlord's delivery of the termination notice.

Notwithstanding the foregoing provisions of this Section 12.7, if City has an unexpired Extension Option with respect to the Premises, and within ninety (90) days following City's receipt of the termination notice, City completes all steps necessary to exercise any Extension Option cause City's and to cause the Extension Exercise Notice to become binding and enforceable against the City, then Landlord's notice of termination under this Section 12.7 shall be deemed cancelled and rights and obligations of the parties shall be determined in accordance with Section 12.3 and Section 12.6 above.

### **13. EMINENT DOMAIN**

#### **13.1. Definitions**

(a) "Taking" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under Law. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

(b) "Date of Taking" means the earlier of (i) the date upon which title to the portion of the Property taken passes to and vests in the condemnor or (ii) the date on which City is dispossessed.

(c) "Award" means all compensation, sums or anything of value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

#### **13.2. General**

If during the Term or during the period between the execution of this Lease and the Commencement Date, there is any Taking of all or any part of the Premises or any interest in this Lease, the rights and obligations of the parties hereunder shall be determined pursuant to this Section. City and Landlord intend that the provisions hereof govern fully in the event of a Taking and accordingly, the parties each hereby waive any right to terminate this Lease in whole or in part under Sections 1265.110, 1265.120, 1265.130 and 1265.140 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

#### **13.3. Total Taking; Automatic Termination**

If there is a total Taking of the Premises, then this Lease shall terminate as of the Date of Taking.

#### **13.4. Partial Taking; Election to Terminate**

(a) If there is a Taking of any portion (but less than all) of the Premises, then this Lease shall terminate in its entirety if all of the following exist: (A) the partial Taking, in City's reasonable judgment, renders the remaining portion of the Premises untenable or unsuitable for continued use by City for its general office uses or otherwise materially adversely affect City's normal general office operations in the Premises, (B) the condition rendering the Premises untenable or unsuitable either is not curable or is curable but Landlord is unwilling or unable to cure such condition, and (C) City elects to terminate.



(b) In the case of a partial Taking of a substantial portion of the Building, and if subsection (a) above does not apply, City and Landlord shall each have the right to terminate this Lease by written notice to the other within thirty (30) days after the Date of Taking, provided that, (i) as a condition to City's right to terminate, the portion of the Building taken shall, in City's reasonable judgment, render the remaining Premises unsuitable for continued use by City for general office purposes or otherwise materially adversely affect City's normal operations in the remaining Premises, and (ii) as a condition to Landlord's right to terminate, the portion taken must include a portion of the Premises and City must be unwilling to decrease the size of the Premises to eliminate the portions taken.

(c) Either party electing to terminate under the provisions of this Section 13.4 shall do so by giving written notice to the other party before or within thirty (30) days after the Date of Taking, and thereafter this Lease shall terminate upon the later of the thirtieth (30<sup>th</sup>) day after such written notice is given or the Date of Taking.

### **13.5. Rent; Award**

Upon termination of this Lease pursuant to Section 13.3 (Total Taking: Automatic Termination) or an election under Section 13.4 (Partial Taking; Election to Terminate), then: (i) City's obligation to pay Rent shall continue up until the date of termination, and thereafter shall cease, except that Rent shall be reduced as provided in Section 13.6 (Partial Taking: Continuation of Lease) for any period during which this Lease continues in effect after the Date of Taking, and (ii) any Award made in connection with the Taking shall be allocated as follows:

(a) first, to either Landlord or City, as applicable, for reimbursement of the actual costs of collecting the Award;

(b) second, if this Lease is not terminated as a result of such Taking, to the costs of any repair or restoration to the Building or Premises as a direct result of the Taking; and

(c) third, Landlord (subject to the rights of any holder of any Encumbrance) and City shall each be allocated the value of their respective interests in the Building and the Premises (to the extent Taken), together with interest thereon from the Taking Date to the date of payment at the rate paid on the Award, and attorneys' fees and costs, to the extent awarded. The values of Landlord's and City's respective interests in the Building and the Premises shall be established by the same court of law that establishes the amount of the Award. Factors to be considered in determining the value of City's interest shall include, but not be limited to (a) the remaining Lease Term including the Extension Options, (b) the value of City's leasehold interest in the Premises, and (c) the then-unamortized cost of Leasehold Improvements paid by Landlord which would have been recovered by Landlord as a component of the Base Rent payable under this Lease.

### **13.6. Partial Taking; Continuation of Lease**

If there is a partial Taking of the Premises under circumstances where this Lease is not terminated in its entirety under Section 13.4 (Partial Taking; Election to Terminate), then this Lease shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the parties shall be as follows: (a) Rent shall be reduced pro rata based upon the lost rentable square footage of the Premises (by comparing the area of the Premises taken to the area of the Premises prior to the Date of Taking with the same per rentable square foot rent amount), and (b) Landlord shall be entitled to the entire Award in connection therewith, provided that City shall receive any separate Award made specifically for City's relocation expenses or the interruption of or damage to City's business or damage to City's Personal Property.

### **13.7. Temporary Taking**

Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to the Premises for a limited period of time not in excess of ninety (90) consecutive days, this Lease shall remain unaffected thereby, and City shall continue to pay Rent and to perform all of the terms, conditions and covenants of this Lease. In the event of such temporary Taking, City shall be entitled to receive that portion of any Award representing compensation for the use or occupancy of the Premises during the Term up to the total Rent owing by City for the period of the Taking.

## **14. ASSIGNMENT AND SUBLETTING**

### **14.1. Use by Other City Departments**

Provided City remains liable for the performance of City as Tenant under this Lease, City shall have the right from time to time, upon written notice to Landlord but without the consent of Landlord, to allow employees of City departments other than the SFMTA to use all or any part of the Premises solely for the Permitted Use and not for any Prohibited Use or Banking Use. Any such notice shall identify the applicable City department(s) and provide a description of the portion of the Premises to be utilized by such employees. City's rights under this Section 14.1 shall apply only to City and shall not inure to the benefit of any assignee, sublessee or other transferee of City's interest in this Lease.

### **14.2. Space Sharing with Agencies, City Vendors, Contractors and/or Nonprofit Businesses**

City shall have the right from time to time, without Landlord's consent, to permit the use and occupancy of all or any of the Premises by (a) any vendor or contractor of City as part of a contract with and in connection with services to be provided to City, or (b) any nonprofit agency, public service organization, governmental agency, or joint power board with whom City is working on particular projects or with whom City has strategic alliances or as part of a contract with and in connection with services to be provided by or to City (each of (a) and (b), a "City Program Affiliate"), and such use shall not be deemed to be a sublease pursuant to the terms of this Lease for any purpose (including the determination of the percentage of the Premises subject to sublease) provided that (i) such City Program Affiliate shall use the Premises solely for the Permitted Use and not a Prohibited Use or Banking Use, and (ii) City does realize a profit with respect to the space so used by any non-governmental City Program Affiliate (and at Landlord's request, City shall represent and warrant to Landlord that City is not realizing a profit with respect to the occupancy of such space by such party). City must notify Landlord of such space sharing arrangement at least fifteen (15) days before the effective date of such agreement, which notice must specify in reasonable detail the specific identity of such City Program Affiliate and such City Program Affiliate's specific business use of the Premises. City shall cause each City Program Affiliate to comply with all of the terms and conditions of this Lease, including, without limitation, the insurance provisions set forth in Article 17 and Exhibit M of this Lease (provided that with respect to City Program Affiliates the required limits of liability for contractual liability coverage shall be One Million Dollars (\$1,000,000) per occurrence and in the aggregate, and provided further that any governmental entity shall be entitled to self insure). City shall supply Landlord with a certificate of insurance evidencing such compliance no later than five (5) business days prior to the occupancy of any such City Program Affiliate. Notwithstanding use of the Premises by any City Program Affiliate, City shall remain liable for the performance of City as Tenant under this Lease, City's insurance obligations set forth in Article 17 and Exhibit M of this Lease shall be applicable and unmodified by such use, and City shall be responsible for the acts or omissions of any Agents or Invitees of any City Program Affiliate as if they were the acts or omissions of City's Agents or Invitees. City's rights under this Section 14.2 shall apply only to

City and shall not inure to the benefit of any assignee, sublessee or other transferee of City's interest in this Lease.

#### **14.3. Assignment and Subletting to For Profit Businesses; Landlord's Right of First Refusal**

(a) Except as provided in Sections 14.1 and 14.2 above, City shall not directly or indirectly sell, assign, encumber, pledge or otherwise transfer or hypothecate all or any part of its interest in or rights with respect to the Premises or its leasehold estate hereunder, permit all or any portion of the Premises to be occupied, or sublet all or any portion of the Premises, without Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld or delayed. Without limiting other circumstances in which it is reasonable for Landlord to refuse consent, it shall be deemed reasonable for Landlord to refuse to consent to any sublet or assignment to (i) any transferee who will use all or any part of the Premises for a Prohibited Use or Banking Use, (ii) any transferee whose use or identity would create a materially increased security risk to the occupants of the Building, (iii) any transferee whose use would place a materially greater burden on Building Systems or services provided under this Lease, (iv) any transferee whose use or identity would materially decrease the marketability, financeability, leasability or value of the Building, or (v) any existing tenant in the Building or in any other building owned and controlled by Landlord in San Francisco or any prospective tenant that Landlord has shown comparable space to in the Building during the preceding six (6) months, provided that in each case described in this item (v), (A) Landlord has been actively and continuously negotiating with such party regarding space in the Building since a date prior to the date City offered such space to Landlord pursuant to Section 14.3(b), and (B) Landlord has or will have available space in the Building that is comparable to the Premises or the portion thereof subject to such subletting, as applicable, or that otherwise meets such tenant's or prospective tenant's needs. No sublease or assignment by City hereunder shall relieve City of any obligations under this Lease, except to the extent expressly set forth in Landlord's consent. Whether or not Landlord shall grant consent, City shall pay, within thirty (30) days after written request by Landlord accompanied by an invoice or other reasonable supporting documentation, all reasonable legal fees incurred by Landlord in connection with any proposed Transfer, not to exceed \$2,500.

(b) In the event City should decide to sublet or assign all or part of the Premises to an unaffiliated third party not permitted under Section 14.2 above, City shall first offer the part of the Premises that City intends to sublet or assign (the "Sublet Premises") to Landlord at the rent and on the terms that the Sublet Premises will be offered to the real estate market. The rent and other terms shall be contained in a written notice ("Sublet Notification") from City to Landlord. Landlord shall have thirty (30) days following delivery of the Sublet Notification date to: (i) offer to take back the Sublet Premises permanently and remove the Sublet Premises from this Lease for all purposes hereunder (a "Recapture"); or (ii) offer to sublet or assume the Sublet Premises on the terms set forth in the Sublet Notification.

(c) If Landlord offers to Recapture the Sublet Premises, the parties shall prepare an addendum to this Lease to memorialize the Recapture. The addendum shall permanently remove the Sublet Premises from the Premises for all purposes hereunder, and City and Landlord shall be relieved of all of their respective rights and obligations hereunder with respect to the Sublet Premises, except to the extent the same would, by their express terms or by their nature, survive the expiration or termination of this Lease. The addendum shall not include any additional terms other than the deletion of the Sublet Premises from the Premises and the corresponding reduction in Base Rent and City's Percentage Share, corresponding changes to the applicable Amortization Schedules, if applicable, and other appropriate modifications resulting from such deletion of the Sublet Premises.



(d) If Landlord offers to sublet or assume the Sublet Premises on the terms set forth in the Sublet Notification, the parties shall negotiate in good faith to reach agreement on a sublease or an assignment and assumption on such terms. If the parties fail to agree upon the form of the sublease or assignment within sixty (60) days after City's receipt of Landlord's offer to sublet or assume the applicable Sublet Premises, subject to such extensions as may be agreed to by the parties, then Landlord's offer to sublet or assume the Sublet Premises on the terms set forth in the applicable Sublet Notification shall be null and void. Any such sublease or assignment and assumption shall be subject to the approval of the City's Board of Supervisors by resolution, and the approval of Landlord, each in their sole discretion, and the sublease or assignment shall not be effective until such approval have been obtained. If such approvals shall not have been obtained within ninety (90) days following the parties agreement on the form of the sublease or assignment, subject to such extensions as may be agreed to by the parties, then Landlord's offer to sublet or assume the Sublet Premises on the terms set forth in the applicable Sublet Notification shall be null and void, and the applicable Sublet Premises shall remain part of the Premises.

(e) If Landlord does not elect a Recapture, or if the parties are not able to agree on the terms of the sublease or assignment or to obtain approval of the sublease or assignment within the time periods specified above, then City shall have the right to enter into the sublet or assignment on the terms set forth in the Sublet Notification (as modified during any negotiations with Landlord) or on terms more favorable to City than those set forth in the Sublet Notification, subject to Landlord's prior written approval of the proposed assignee or subtenant (the "Transferee") and the form of the sublease or assignment documentation, which approval shall not be unreasonably withheld or delayed. City shall furnish Landlord with financial statements of the proposed Transferee for the two (2) fiscal years immediately preceding the date of the Transfer Notification, if available, which financial statements shall be certified by an officer, partner or owner thereof, and any other information reasonably requested by Landlord to evaluate the proposed Transferee. A "Transfer Premium" equal to forty percent (40%) of any net subleasing or assignment "profits" realized by City under any such assignment or sublease in excess of the Base Rent and Additional Charges (including any costs relating to the Leasehold Improvements payable by City under this Lease) payable hereunder with respect to the Sublet Premises shall be paid to Landlord, after City has first recovered the following costs of entering into each particular sublease or assignment (with no requirement to amortize such costs): (i) the cost of tenant improvements made in connection with the particular transaction and any tenant improvement allowance paid by City in connection with the particular transaction, (ii) brokerage commissions, if any, (iii) advertising costs, and (iv) attorneys' fees (including the fees of deputy City attorneys calculated at the then applicable rate charged to City departments for such legal services). City shall promptly provide Landlord with such information regarding the assignment or sublease costs as Landlord may reasonably request. If City shall enter into multiple transfers, the Transfer Premium payable to Landlord shall be calculated independently with respect to each transfer. The Transfer Premium due Landlord hereunder shall be paid within forty-five (45) days after City receives any Transfer Premium from the Transferee. Landlord or its authorized representatives shall have the right at all reasonable times to audit the books and records of City relating to any transfer, and shall have the right to make copies thereof. If the Transfer Premium respecting any transfer shall be found to be understated, City shall pay the deficiency within thirty (30) days after demand.

(f) In the event City is not able to sublet or assign the Sublet Premises on the terms set forth in the Sublet Notification (as modified during any negotiations with Landlord) or terms more favorable to City, then City shall give another Sublet Notification with a reduced rent or such other terms as City is then willing to offer to the real estate market, and Landlord's right to a Recapture and Landlord's first right of refusal as set forth above shall be repeated with respect to the revised terms.

(g) Notwithstanding the foregoing, if any Event of Default by City is outstanding hereunder at the time of City's Sublet Notification, then Landlord may elect by notice to City to refuse to consent to City's proposed sublet or assignment and, following any required cure period under this Lease, pursue any of its right or remedies under this Lease.

(h) Notwithstanding anything to the contrary in this Lease, in the event City at any time sublets or assigns more than twenty-five percent (25%) of the rentable area of the Premises (as the same may be expanded from time to time) to an unaffiliated third party (not including any use under Sections 14.1 or 14.2 above), then City's remaining Extension Options under Section 3.4 and City's remaining First Offer Right under Section 22.1 shall all automatically terminate, and upon request by Landlord, City shall promptly execute and deliver an addendum to this Lease, memorializing the termination of such rights.

(i) Any Transfer made without complying with this Article 14 shall, at Landlord's option, be null, void and of no effect, or shall, following written notice and an opportunity to cure, constitute an Event of Default under this Lease. Landlord's consent to a transfer shall not be deemed consent to any further transfer by either City or the Transferee. City shall deliver to Landlord promptly after execution, an original executed copy of all documentation pertaining to a transfer in form reasonably acceptable to Landlord. If this Lease shall be terminated during the term of any sublease, Landlord shall have the right to: (i) treat such sublease as cancelled and repossess the Sublet Premises by any lawful means, or (ii) require that the subtenant attorn to and recognize Landlord as its landlord under any such sublease.

#### **14.4 Certain Transfers**

For purposes of this Lease, a "transfer" shall include: (a) if Tenant is a partnership, the withdrawal or change, voluntary, involuntary or by operation of law, of a general partner or a majority of the partners, or a transfer of a majority of partnership interests, or the dissolution of the partnership; (b) if Tenant is a limited liability company, the withdrawal or change, voluntary, involuntary, or by operation of law, of a majority of members, or a transfer of a majority of the membership interests, or the dissolution of the limited liability company; and (c) if Tenant is a corporation, the dissolution, merger, consolidation or other reorganization of Tenant, or the sale or other transfer of more than an aggregate of fifty percent (50%) of the voting shares of Tenant (other than (i) sales on a public stock exchange or (ii) transfers to immediate family members by reason of gift or death), or the sale, mortgage, hypothecation or pledge of more than an aggregate of fifty percent (50%) of Tenant's net assets. Upon request by Landlord from time to time, Tenant shall deliver to Landlord a list of all of its shareholders (if Tenant's stock is not publicly traded), members, or partners, as the case may be.

### **15. DEFAULT; REMEDIES**

#### **15.1. Events of Default by City**

Any of the following shall constitute an event of default ("Event of Default") by City hereunder (following the applicable notice and grace period provided):

(a) City's failure to make any timely payment of Rent and to cure such nonpayment within five (5) business days after receipt of written notice thereof from Landlord, provided that for the first payment of Rent at the beginning of the Term and for the monthly payment of Rent after the beginning of each new fiscal year for City, City shall have thirty (30) days to cure any such nonpayment after written notice thereof from Landlord;

(b) City's abandons the Premises (within the meaning of California Civil Code Section 1951.3); or

(c) City's failure to perform any other covenant or obligation of City hereunder (not involving the payment of money) and to cure such non-performance within thirty (30) days of the date of receipt of notice thereof from Landlord, provided that if more than thirty (30) days are reasonably required for such cure, no Event of Default shall occur if City commences to cure within such period and diligently prosecutes such cure to completion.

### **15.2. Landlord's Remedies**

Upon the occurrence of any Event of Default by City that is not cured within the applicable grace period as provided above, Landlord shall have all rights and remedies available pursuant to law or granted hereunder, including the following:

(a) The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate City's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that City proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2.

(b) The rights and remedies provided by California Civil Code Section 1951.4 (continuation of lease after breach and abandonment), which allows Landlord to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover Rent as it becomes due, for so long as Landlord does not terminate City's right to possession, if City has the right to sublet or assign, subject only to reasonable limitations.

(c) City waives redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other present or future law, if City is evicted or Landlord takes possession of the Premises by reason of any default of City hereunder.

(d) During the continuance of any Event of Default, Landlord may, at its option, after written notice to City, take any reasonable action to cure the Event of Default, without waiving its rights and remedies against City or releasing City from any of its obligations hereunder. All reasonable out-of-pocket costs actually paid by Landlord in performing City's obligations as set forth in this Section 15.2(d) shall be deemed additional Rent hereunder.

### **15.3. Landlord's Default**

City agrees that Landlord shall not be liable for damages for failure to furnish or delay in furnishing any service (including telephone and telecommunication services), or for any diminution in the quality or quantity thereof except to the extent such failure or diminution is caused by Landlord or its Agents, and, subject to City's rights under Section 4.14, such failures or delays or diminution shall never be deemed to constitute an eviction of City's use and possession of the Premises. Furthermore, in no event shall Landlord be liable for a loss of, or injury to, or interference with, City's business, including, without limitation, loss of profits, resulting from a failure to furnish any services or utilities.

### **15.4 Limitation on Representations and Warranties**

Notwithstanding anything to the contrary in this Lease, (i) all representations and warranties by Landlord shall survive the expiration or termination of this Lease for a period of one (1) year following the date the Effective Date, and (ii) in the event of a breach of a representation or warranty in this Lease, the Landlord's liability to City for all such breaches, in the aggregate, shall not exceed One Million Dollars (\$1,000,000).



## **15.5 Non-Recourse**

City shall look solely to Landlord's interest in the Property for recovery of any damages for breach of this Lease by Landlord or execution on any judgment in connection therewith, except to the extent provided in the next sentence. City in seeking recovery of any damages for breach of this Lease by Landlord or execution on any judgment in connection therewith, shall be entitled to look to Landlord's assets in addition to Landlord's interest in the Property, up to the amount, if any, that the Financing Liens exceed the Permitted LTV Ratio, as determined at the time that the Financing Lien was recorded. As used in this Section 15.5, the term "Financing Lien" shall mean any monetary lien encumbering the Property that was created by recordation with Landlord's permission, of a mortgage, deed of trust, financing statement or similar documentary encumbrance to secure repayment by Landlord of a loan, and the "Permitted LTV Ratio" shall be eighty percent (80%) of the appraised value of the Building, as determined by the beneficiary of the Financing Lien in its sole discretion (so long as the beneficiary is not an Affiliate of Landlord). None of the persons or entities comprising or representing Landlord (whether partners, shareholders, officers, directors, trustees, employees, beneficiaries, Agents or otherwise) shall ever be personally liable under this Lease or liable for any such damages or judgment and City shall have no right to effect any levy of execution against any assets of such persons or entities on account of any such liability or judgment. Any lien obtained by City to enforce any such judgment ("Judgment Lien"), and any levy of execution thereon, shall be subject and subordinate to any Financing Liens (except to the extent such Financing Liens exceed the Permitted LTV Ratio if the limitation on Permitted LTV Ratio described in the second sentence of this Section 15.5 is applicable at such time) now or hereafter affecting or encumbering the Property or any part thereof or interest therein that was recorded before the recordation of the Judgment Lien, and to any and all advances made on the security thereof or Landlord's interest therein, and to all renewals, modifications, consolidations and extensions thereof, provided such Judgment Lien shall not be subject or subordinate to the Excess Portion (as defined below) of any monetary lien encumbering the Property that was created by recordation with Landlord's permission after recordation of the Judgment Lien by the City. As used herein, "Excess Portion" means the amount by which such monetary lien exceeds the amount secured by any monetary lien as of the date that the Judgment Lien was recorded against the Property.

## **16. INDEMNITIES**

### **16.1. City's Indemnity**

City shall indemnify, defend and hold harmless ("Indemnify") Landlord and its Agents from and against any and all claims, cause of action, obligation, liability, costs and expenses, including, without limitation, reasonable attorneys' fees, (collectively, "Claims"), incurred as a result of (a) City's use of or activities in or on the Premises or Property, including, but not limited to, City's installation, maintenance, repair, replacement and removal of the Communications Equipment on the roof of the Building and the installation, maintenance, repair, replacement and removal of the Additional Equipment or City's Connections, (b) any default by City in the performance of any of its material obligations under this Lease or any breach of any representations or warranties made by City under this Lease, or (c) any negligent acts or omissions of City, City's Program Affiliates, or City's Agents or Invitees, or in, on or about the Premises or the Property; provided, however, City shall not be obligated to Indemnify Landlord or its Agents to the extent any Claim arises out of the negligence or willful misconduct of Landlord or its Agents. In any action or proceeding brought against Landlord or its Agents by reason of any Claim Indemnified by City hereunder, City may, at its sole option, elect to defend such Claim by attorneys in City's Office of the City Attorney, by other attorneys selected by City, or both. City shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that Landlord shall have the right, but not the

obligation, to participate in the defense of any such Claim at its sole cost. City's obligations under this Section shall survive the termination of this Lease.

#### **16.2. Landlord's Indemnity**

Landlord shall Indemnify City and its Agents against any and all Claims incurred as a result of (a) Landlord's activities on the Premises or Property that cause injury or damage to person or property, (b) any default by Landlord in the performance of any of its material obligations under this Lease or any breach of any representations or warranties made by Landlord under this Lease, or (c) any negligent acts or omissions or willful misconduct of Landlord or its Agents in, on or about the Premises or the Property; provided, however, Landlord shall not be obligated to Indemnify City or its Agents to the extent any Claim arises out of the negligence or willful misconduct of City, City's Program Affiliates, or City's Agents or Invitees. In any action or proceeding brought against City or its Agents by reason of any Claim Indemnified by Landlord hereunder, Landlord may, at its sole option, elect to defend such Claim by attorneys selected by Landlord. Landlord shall have the right to control the defense and to determine the settlement or compromise of any action or proceeding, provided that City shall have the right, but not the obligation, to participate in the defense of any such Claim at its sole cost. Landlord's obligations under this Section shall survive the termination of this Lease.

#### **16.3. Duty to Defend**

Each party hereto specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Lease, the indemnitor has an immediate and independent obligation to defend the indemnitees from any claim which actually or potentially falls within the indemnity provision, even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the indemnitor by the indemnitee and continues at all times thereafter.

#### **16.4. Waiver**

City agrees that neither Landlord nor its Agents shall be liable to City or City's Program Affiliates, or City's Agents or Invitees, and City waives all claims against Landlord and its Agents, for any injury to or death of any person or for loss of use of or damage to or destruction of property in or about the Premises, the Building or the Property by or from any cause whatsoever, including but not limited to, earthquake or earth movement, explosion, gas, fire, oil, electricity or water leakage from the roof, walls, basement or other portion of the Premises, the Building or the Property, and including any such injury, death or damage caused by any active or passive act, omission or neglect of Landlord or its Agents, except to the extent such injury, death or damage is caused by the gross negligence or willful misconduct of Landlord or its Agents and except acts or omissions for which strict liability may be imposed or to the extent such limitation on liability is prohibited by law.

### **17. INSURANCE**

#### **17.1. City's Self-Insurance**

(a) Landlord acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any third-party insurance with respect to this Lease. At all times during the Term (and periods prior to or after the Term that City has access to or occupies the Premises), City's self-insurance shall include such coverage as would have been covered by (a) a standard Commercial General Liability Insurance with respect to the Premises with limits of liability not less than Ten Million Dollars (\$10,000,000) per occurrence and in the aggregate, and (b) causes of loss – special form "All Risk" Property Insurance for

City's Personal Property, the Leasehold Improvements and Alterations. For purposes of the waiver of subrogation provision in Section 17.5 below, the amount of any deductible shall be deemed included in the proceeds City receives. City's self-insurance shall also equal the coverage per the attached **Exhibit M**. If City assigns this Lease or sublets some or all of the Premises to a third party, Landlord may require as a condition to Landlord's consent to any such assignment or sublease (or if Landlord consent is not required, the City shall require in the applicable sublease) an amendment to be executed to this Lease requiring the assignee to carry such insurance as is consistent with Landlord's insurance requirements for other comparable tenants in the Building and otherwise as Landlord deems necessary, as determined by Landlord in Landlord's reasonable discretion. The Director of Property shall be authorized to sign any such amendment without the need for commission or other governmental approvals.

(b) For the purposes of this Section 17.1, "self-insure" shall mean that City is itself acting as though it were the insurance company providing the insurance required under the provisions hereof and City shall pay amounts due in lieu of insurance proceeds because of self-insurance, which amounts shall be treated as insurance proceeds for all purposes under this Lease. City's program of self-insurance shall provide Landlord with the same rights and privileges to which Landlord is otherwise entitled under the terms of this Lease when there is a third-party insurer.

(c) All amounts which City pays or is required to pay and all loss or damages resulting from risks for which City has elected to self-insure shall be subject to the waiver of subrogation provisions hereof and shall not limit any of City's indemnification obligations under this Lease.

## **17.2. Certificate of Self-Insurance**

In the event City elects to self-insure, City shall provide Landlord and Landlord's mortgagee and any ground lessor with certificates of self-insurance specifying the extent of self-insurance coverage hereunder and containing waiver of subrogation provisions reasonably satisfactory to Landlord. Any insurance coverage provided by City shall be for the benefit of City, Landlord, the first mortgagee and any ground lessor, as their respective interests may appear, and shall name mortgagee under a standard mortgagee provision.

## **17.3. Landlord's Insurance**

(a) At all times during the Term, Landlord shall keep the Building (excluding the land upon which it is located and foundations, footings and other underground improvements, the Leasehold Improvements and Alterations) insured against damage and destruction by fire, vandalism, malicious mischief, sprinkler damage and other perils customarily covered under a causes of loss-special form property insurance policy in an amount equal to one hundred percent of the full insurance replacement value (replacement cost new, including, debris removal and demolition and code upgrades) thereof, provided that Landlord may carry a deductible of not more than \$1,000,000 for the property insurance coverage required under this Section 17.3(a), and (B) for purposes of applying the waiver of subrogation provisions of Section 17.5 below, the amount of Landlord's deductible shall be deemed included in the net insurance proceeds Landlord receives from Landlord's insurance company in connection with the loss. Landlord shall, upon request by City, provide to City a certificate of insurance issued by the insurance carrier, evidencing the insurance required above.

(b) In addition, Landlord shall procure and keep in effect at all times during the Term minimum insurance as follows: (i) Commercial general liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, independent contractors, broad-form



property damage, fire damage legal liability (of not less than Fifty Thousand Dollars (\$50,000)), personal injury, products and completed operations, and explosion, collapse and underground (XCU); and (ii) Worker's Compensation Insurance as required by applicable Laws and Employer's Liability with a limit not less than \$1,000,000 each accident with respect to employees engaged on-site in connection with the operation or management of the Building and (iii) Excess Coverage with respect to Commercial General Liability and Employer's Liability with a per occurrence limit of Ten Million Dollars (\$10,000,000).

(c) Notwithstanding the foregoing, so long as Landlord is an affiliate of Hudson Pacific Properties, Inc. ("Hudson"), or a successor Landlord having a net worth of at least Five Hundred Million Dollars (\$500,000,000), Landlord shall be entitled to self-insure for any or all of the foregoing coverage; that (i) the self-insurance program, in the reasonable judgment of City, City's Risk Manager and the City Attorney, provides adequate, enforceable, sufficiently funded and long-term coverage for the risks to be insured against, (ii) Landlord warrants and represents it is adequately self-insured, which warranty and representation shall be a continuing one throughout the Term hereof, for all purposes under this Lease for the particular risk, and (iii) such program of self-insurance shall provide City with the same rights and privileges to which City is otherwise entitled under the terms of this Lease when there is a third-party insurer. At City's written request, Landlord shall provide to City's Risk Manager all documents that City requests that are necessary to permit a complete review and analysis of the self-insurance program. If, as a supplement to Landlord's self-insurance program, Landlord obtains an insurance policy or policies from an insurance company, the provisions of Section 17.3 shall apply in full to such insurance policy or policies and if Landlord ceases to self-insure Landlord shall give notice thereof to City and shall immediately comply with the provisions of this Section 17.3 relating to the policy of insurance required. This right to self insure is personal to Hudson or a successor Landlord having a net worth of at least Five Hundred Million Dollars (\$500,000,000), and shall not otherwise inure to the benefit of any successor or assign of Landlord.

#### **17.4 Self-Insurance Claim Process**

In the event that either party elects to self-insure and an event or claim occurs for which a defense and/or coverage would have been available from the insurance company, such party shall:

- (a) undertake the defense of any such claim, including a defense of the other party if applicable, at the self-insuring party's sole cost and expense, and
- (b) use its own funds to pay any claim or replace any property or otherwise provide the funding which would have been paid by the insurer under the circumstances had such party purchased the insurance required under this Article 17 instead of electing to self-insure.

#### **17.5. Waiver of Subrogation**

Notwithstanding anything to the contrary contained herein, Landlord hereby waives any right of recovery against City for any loss or damage sustained by Landlord with respect to the Building or the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of City, to the extent such loss or damage is covered by property insurance which Landlord is required to purchase under this Lease or is otherwise actually recovered from valid and collectible insurance covering the Landlord. Landlord agrees to obtain a waiver of subrogation endorsement from each insurance carrier issuing policies relative to the Building or the Premises, provided Landlord's failure to do so shall not affect the above waiver. For purposes of this Section 17.5, Landlord shall be deemed to be carrying the insurance policies that it is are required to carry pursuant to Section 17.4 but

does not actually carry, including in such deemed coverage any policies not carried because Landlord has elected to self-insure. Notwithstanding anything to the contrary contained herein, City for itself and for its Agents and Invitees hereby waives any right of recovery against Landlord for any loss or damage sustained by City or such subtenant or assignee other person or entity with respect to the Building or the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of Landlord, to the extent such loss or damage would have been covered by property insurance which City would have been required to provide under this Article 17 had City not been entitled to self-insure. With respect to subtenants or assignees of City, if such persons are required to obtain insurance hereunder, City's waiver shall apply to the extent such loss or damage is covered by insurance they are required to purchase under this Lease or is otherwise actually recovered from valid and collectible insurance covering such subtenants or assignees. If City, or any successor to City, obtains any policy of insurance with respect to the Building or the Premises or any portion thereof or the contents of the same or any operation therein City, for itself and its successors, agrees to obtain a waiver of subrogation endorsement from each insurance carrier issuing policies relative to the Building or the Premises, provided City's or its successors' failure to do so shall not affect the above waiver.

#### **18. ACCESS BY LANDLORD**

Landlord reserves for itself and any designated Agent the right to enter the Premises at all reasonable times and, except in cases of emergency (in which event Landlord shall give any reasonable notice) or to provide routine janitorial services, after giving City at least twenty four (24) hours' advance written or oral notice, for the purpose of (i) inspecting the Premises, (ii) supplying any service to be provided by Landlord hereunder, (iii) showing the Premises to any prospective purchasers, mortgagees, or investors, or (iv) showing the Premises to prospective tenants during the last nine (9) months of the Term, (v) posting notices of non-responsibility, and (vi) altering, improving or repairing the Premises and any portion of the Building, and Landlord may for that purpose erect, use and maintain necessary structures in and through the Premises where reasonably required by the character of the work to be performed, provided that the entrance to the Premises shall not be blocked thereby, and further provided that City's use shall not be interfered with. Landlord shall exercise its rights under this Article 18 in a manner which is designed to minimize interference to City's operations in the Premises, and Landlord shall comply with City's reasonable security regulations of which Landlord has been advised in writing and which do not unreasonably interfere with Landlord's rights hereunder.

#### **19. ESTOPPEL CERTIFICATES**

City, from time to time during the Term, within thirty (30) days after written request from Landlord, shall execute, acknowledge and deliver to Landlord, or such persons or entities reasonably designated by Landlord, a certificate substantially in the form of **Exhibit S** attached hereto. Similarly, from time to time during the Term, within thirty (30) days after written request by City, Landlord shall execute, acknowledge and deliver to City, or such other persons or entities reasonably designated by City, a certificate substantially in the form of **Exhibit S** attached hereto, reasonably modified to reflect the fact that Landlord (and not City) is making the certification.

#### **20. SURRENDER OF PREMISES**

Upon the expiration or sooner termination of this Lease, City shall surrender the Premises to Landlord in good order and condition, reasonable use and wear and damage by fire or other casualty excepted, and City shall remove from the Premises and the Building all of City's Personal Property, City's telecommunications, data and computer cabling and facilities, and any Alterations City desires or is required to remove from the Premises pursuant to the provisions of

Section 7.1 (Alterations by City) or Section 7.3 (City's Personal Property; Removal; Equipment Waiver), above (collectively, the "Removal Items"). City shall repair and restore in a good and workmanlike manner, to the condition existing prior to the installation of the Removal Items, any damage to the Premises or the Building resulting from the removal of the Removal Items, provided that, at Landlord's election, City may pay to Landlord the actual, reasonable cost of performing such repair and restoration in lieu of performing such work provided that City has first approved written estimates for such work and provided further that Landlord provides invoices or other satisfactory documentation of the cost of such work. Without limiting the generality of the foregoing, City shall demolish cabling and related equipment back to its source (e.g., back to the network room or MPOE) and seal openings made in the Building to accommodate City's Connections with fireproof sealant and in accordance with all applicable Laws, and shall restore the Building to the condition existing prior to the installation of City's Connections. Notwithstanding anything to the contrary in this Lease, the parties agree that (a) at Landlord's election made by written notice to City delivered at least sixty (60) days prior to the expiration of the Term, City shall not remove its server racks and non-reusable telecommunication, data and computer cabling, and (b) City shall not be required to uninstall or remove from the Premises any Existing Personal Property or Other Transferred Property that is of a specialized nature, such as CRAC units, server racks, fire suppression systems and the like, unless prior to delivery of such personal property Landlord notifies City in writing that such equipment or systems must be removed by City upon the expiration or earlier termination of this Lease, with a description of the scope of required removal and restoration. Further, City shall not be required to remove any Leasehold Improvements from the Initial Premises or the First Offer Spaces unless Landlord notifies City in writing of such removal requirement at the time Landlord approves of the plans for such Leasehold Improvements (provided that with respect to Leasehold Improvements in First Offer Spaces, at the time City submits its plans and specifications to Landlord for approval, City requests in bold typeface or all capital letters, that Landlord identify the Leasehold Improvements to be removed from the First Offer Space upon the expiration or earlier termination of the Term thereof) and such Leasehold Improvements are specialized and have no useful purpose for general office use as reasonably determined by Landlord (e.g., an internal stairway, a cafeteria, concrete vaults, safes, or dumb waiters, but not service counters, kitchens or coffee rooms, bathroom facilities, partitions or modular walls) (such improvements, collectively "Extraordinary Improvements"). If removal of any Leasehold Improvements in the First Offer Spaces is required by Landlord, City shall remove such Leasehold Improvements at City's cost and expense and restore the Premises to the condition existing prior to the installation of such Leasehold Improvements, and repair any damage to the Premises or the Building caused by the removal of such Leasehold Improvements. If City fails to do so, then after providing written notice to City of the required work together with a budget or other satisfactory estimate of the costs and expenses to be incurred in connection therewith, Landlord may remove such Leasehold Improvements and perform such restoration and upon receipt of an invoice and supporting documentation for such work City shall reimburse Landlord for Landlord's cost and expense reasonably incurred to perform such removal and restoration. City's obligations under this Section shall survive the expiration or earlier termination of this Lease.

## **21. HAZARDOUS MATERIALS**

### **21.1. Definitions**

As used in this Lease, the following terms shall have the meanings hereinafter set forth:

(a) "Environmental Laws" shall mean any federal, state, local or administrative law, rule, regulation, order or requirement relating to industrial hygiene, environmental conditions or Hazardous Material, whether now in effect or hereafter adopted.



(b) "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.), or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Building or are naturally occurring substances on or about the Property; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

(c) "Release" when used with respect to Hazardous Material shall include any actual spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Building, or in, on, or under the Property.

### **21.2. Landlord's Representations And Covenants**

Landlord represents and warrants to City that the following statements are true and correct and will be true and correct as of the Commencement Date except as otherwise disclosed in a supplemental disclosure to City dated on or before the Commencement Date:

(a) Landlord represents and warrants to City that to Landlord's actual knowledge, Landlord has provided City with the most recent environmental audit, including asbestos survey, of the Building performed approximately on or around August 2008 for Landlord's predecessor-in-interest in the Building. As used in this Section 21.2(a), the term "actual knowledge" (whether or not capitalized) of Landlord or terms of similar meaning means the actual knowledge, without duty of investigation, of Christopher J. Barton, Executive Vice President, Operations & Development, of Landlord.

(b) Subject to City's obligations under this Section below, Landlord shall maintain the Property throughout the Term in compliance with all Environmental Laws applicable to the health, safety and welfare of City's employees or City's use, occupancy or enjoyment of the Premises for general office uses. Landlord shall have the right to contest any alleged violation of Environmental Laws in good faith, including, without limitation, the right to apply for and obtain a waiver or deferment of compliance, the right to assert any and all defenses allowed by Laws, and the right to appeal any decisions, judgments or rulings to the fullest extent permitted by Laws.

### **21.3. Landlord's Environmental Indemnity**

Without limiting Landlord's Indemnity in Section 16.2 (Landlord's Indemnity), Landlord shall Indemnify City and its Agents against any and all Claims arising during or after the Term of this Lease (a) as a result of any breach of any of Landlord's representations, warranties or covenants in the preceding Section 21.2, or (b) in connection with any presence or Release of Hazardous Material in the Building or on, or under the Property which was caused by Landlord or its Agent's, except to the extent City, City's Program Affiliates, or City's Agents or Invitees caused or contributed to such Release.

### **21.4. City's Covenants**

Neither City nor its Program Affiliates, Agents of Invitees shall cause any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or the Property, or transported to or from the Premises or the Property, in violation of

any Environmental Laws, provided that City may use such substances in such limited amounts as are customarily used in offices so long as such use is in compliance with all applicable Environmental Laws and manufacturer recommendations.

## **21.5. City's Environmental Indemnity**

Without limiting City's Indemnity in Section 16.1 (City's Indemnity), if City breaches its obligations contained in the preceding Section 21.4 (City's Covenants), or if City, City's Program Affiliates, or City's Agents or Invitees cause the Release of Hazardous Material from, in, on or about the Premises or the Property, then City shall Indemnify Landlord against any and all Claims arising during or after the Term of this Lease as a result of such Release, except to the extent Landlord or its Agents caused or contributed to such Release. The foregoing Indemnity shall not include any Claims resulting from the non-negligent aggravation by City, City's Program Affiliates, or City's Agents or Invitees of physical conditions of the Premises, or other parts of the Property, existing prior to City's occupancy.

## **22. SPECIAL PROVISIONS**

### **22.1. City's Right of First Offer to Lease**

(a) First Offer Right; First Offer Space. Subject to the terms and conditions of this Section 22.1, during the Initial Term City shall have a right of first offer ("First Offer Right") to lease two increments of space on the seventh 7<sup>th</sup> floor of the Building comprised of not less than 3,000 rentable square feet of space not designated hereunder as Initial Premises ("First Offer Space") at such time as any First Offer Space becomes available for lease to third parties. For purposes of this Section 22.1, space in the Building shall not be "available for lease to third parties" if Landlord leases such space to the tenant or subtenant under an expiring or terminated lease of such space (regardless of whether such tenant or subtenant shall now or at such time have a right or option to so renew or extend), without regard as to whether such lease is characterized by the parties as an "extension," "renewal" or "new lease."

(b) Availability Notice. Commencing on the first anniversary of the Commencement Date and continuing throughout the Initial Term until two (2) such notices have been given, Landlord shall give City written notice of the prospective availability of any First Offer Space (the "Availability Notice") when Landlord determines that First Offer Space is likely to become available for lease under this Section within the following fifteen (15) months. The Availability Notice shall specify the location and approximate rentable square footage of the applicable First Offer Space and the anticipated date upon which vacant possession of the First Offer Space will be available (provided that Landlord shall not be liable to City for any damages resulting from any unauthorized holding over by an existing occupant of space, so long as Landlord exercises commercially reasonable efforts to regain possession).

(c) Exercise of First Offer Right. City shall have the right to lease the First Offer Space identified in the Availability Notice by delivering conditional written notice to Landlord (the "Exercise Notice") not later than thirty (30) days after receipt of the Availability Notice, which Exercise Notice may be conditioned only on subsequent approval by the Board of Directors of the SFMTA and/or by City's Board of Supervisors, as then required by City's Charter and Administrative Code. If City desires to preserve its right to reimbursement for Landlord for holdover rent on account of a Landlord Delay in the delivery of the First Offer Space, then at the time City delivers its Exercise Notice with respect to a First Offer Space, City must provide Landlord with written notice of the user-group to be relocated to the First Offer Space and the holdover provisions in the applicable Existing Lease, including, but not limited to, the date on which the holdover rent would commence and the amount of the holdover rent, as provided in Section 3.3(c) above.



(d) Exercise With Respect to Part of First Offer Space. If the First Offer Space comprises more than 10,000 square feet, City may at its election exercise the First Offer Right with respect to all or a portion of such space, provided that the space so leased by City (i) shall be contiguous to the then-existing Premises if contiguous space is available, and (ii) must contain a minimum of 10,000 square feet. City's Exercise Notice shall indicate the approximate size and configuration of the space which City elects to lease. The exact size and configuration of the space will be reasonably determined by Landlord during the preparation of the schematic design drawings described below, and shall fairly take into account City's requirements and Landlord's reasonable requirements regarding exiting and code compliance and any other matters that could adversely affect Landlord's ability to lease the remainder of the First Offer Space. Landlord and City shall use good faith efforts to resolve any dispute regarding the configuration of the First Offer Space. The space shown on the approved schematic design drawings is hereafter referred to as the First Offer Space.

(e) Preparation of Schematic Plans and ROM Budget. On or before the date which is ten (10) days after City's Exercise Notice, City shall provide Landlord with sufficient planning and programming information for Landlord's architect to prepare schematic design drawings for the First Offer Space, which drawings will be sufficiently detailed to prepare a rough order of magnitude budget (the "ROM Budget"). City and Landlord shall cooperate in good faith to prepare schematic design drawings and a ROM Budget for the First Offer Space similar to those prepared for the Initial Premises, at Landlord's expense (subject to City's reimbursement obligation described below), so that the information from such drawings and estimates may be promptly provided to City's legislative body or bodies, with the goal of completing and approving the schematic design drawings and ROM Budget at a staff level within sixty (60) days after City's Exercise Notice.

(f) Legislative Approval. Upon City's exercise of its right to lease the First Offer Space and Landlord's and SFMTA staff's and City's Department of Real Estate staff's agreement regarding the schematic design drawings and the ROM Budget, such City staff shall promptly seek and diligently pursue approval of required authorizing legislation by the Board of Directors of the SFMTA and/or by City's Board of Supervisors, as then required by City's Charter and Administrative Code.

(g) Failure to Lease First Offer Increment. If (i) City does not deliver an Exercise Notice within the thirty (30) day exercise period, or (ii) City does not provide sufficient planning and programming information to prepare schematic design drawings sufficiently detailed to prepare a ROM Budget within ten (10) days of City's Exercise Notice, or (iii) Landlord and City do not each approve the schematic design drawings and the ROM Budget within ninety (90) days of City's Exercise Notice (such period to be extended by any unreasonable delay by Landlord in responding to City's inquiries or incorporating City's comments) (the "Planning Deadline"), or (iv) the required legislative bodies do not approve the option exercise within ninety (90) days of City staff's approval of the schematic design drawings and the ROM Budget (the "Legislative Approval Deadline"), (subject to the provisions of Section 23.15 below), then, except to the extent Landlord in its sole discretion elects to extend any such deadline by written notice to City, City shall have no further rights with respect to the First Offer Space identified in Landlord's Availability Notice, any Exercise Notice delivered by City with respect to such space shall be void, and Landlord shall thereafter be entitled to lease all or any portion of such First Offer Space to any person or entity on terms that are satisfactory to Landlord, in its sole discretion. If the First Offer Space described in the Availability Notice was comprised of 3,000 or more rentable square feet, then Landlord's offer of such space shall satisfy one of the occasions that Landlord must notify City of First Offer Space comprised of 3,000 or more rentable square feet.

(h) Effect of Other City Leases or Lease Amendment Adding Space. If City leases additional space in the Building for the SFMTA that is 3,000 rentable square feet or more other

than through the provisions of this Section 22.1, each such expansion shall reduce the number of occasions that Landlord must provide City with an Availability Notice with respect to First Offer Space comprised of 3,000 or more rentable square feet. If (i) City leases additional space in the Building for the SFMTA that is less than 3,000 rentable square feet, or (ii) City leases additional space in the Building for a department other than SFMTA pursuant to a separate lease, then such expansions shall not reduce the number of occasions that Landlord must provide City with an Availability Notice with respect to First Offer Space comprised of 3,000 or more rentable square feet.

(i) City's Obligation to Reimburse Certain Costs. If the First Offer Space is not added to the Premises under the Lease either because Landlord and City do not reach agreement regarding schematic design drawings and the ROM Budget by the Planning Deadline or the legislative bodies do not approve the option exercise by the Legislative Approval Deadline, City shall reimburse Landlord for the reasonable and actual preapproved cost of preparing the schematic design drawings and the ROM Budget.

(j) Terms and Conditions. If City timely exercises its First Offer Right to lease a First Offer Space, City's occupancy of the First Offer Space shall be on the same terms and conditions as contained in the Lease with respect to the 7<sup>th</sup> Floor Premises, to the extent reasonably applicable and prorated as reasonably applicable, subject to the following:

(i) Landlord and City shall cooperate to promptly complete a work letter for the First Offer Space substantially in the form attached as Exhibit F-1, with appropriate changes to reflect the approved schematic design drawings and ROM Budget for the First Offer Space (the "First Offer Space Work Letter"). Base Building Improvements described in such First Offer Space Work Letter shall be consistent with the scope of the Base Building Improvements being performed by Landlord in connection with the 7<sup>th</sup> Floor Premises except for (i) any 7<sup>th</sup> Floor Common Area Work (which is being completed in connection with the Initial Premises) and (ii) any improvements or work which is specific to the 7<sup>th</sup> Floor Premises (e.g. the installation and replacement of windows).

(ii) The Allowance and Additional Construction Allowance provided by Landlord for the First Offer Space shall be calculated as provided in the First Offer Space Work Letter (which provides for an equitable proration of the Allowance rate per rentable square foot and the Additional Construction Allowance rate per square foot based on the number of months remaining in the Initial Term after the Target Occupancy Date for such First Offer Space, divided by 120 months). For example, if the Target Occupancy Date for a First Offer Space is seventy-two (72) months prior to the Expiration Date of the Initial Premises, the Allowance for such First Offer Space would be Twenty-Six and 40/100 Dollars (\$44.00 x 72/120) and the Additional Construction Allowance would be Twenty-One Dollars (\$21.00) (\$35.00 x 72/120).

(iii) There will be no City Required Contribution with respect to the First Offer Space.

(iv) Landlord shall use commercially reasonable and diligent efforts to deliver possession of the First Offer Space with all of the applicable Base Building Work and Leasehold Improvements Substantially Completed on or before the applicable Target Occupancy Date specified in the First Offer Space Work Letter.

(v) The Commencement Date with respect to the First Offer Space shall be the date on which the applicable Leasehold Improvements and Base Building Improvements are Substantially Complete or such earlier date as the Leasehold Improvements and Base Building Improvements would have been Substantially Complete, but for Tenant Delay (but in no event earlier than any agreed up delivery date for the First Offer Space).

(vi) The sixty (60) day period between the Initial Premises Commencement Date and the Initial Premises Rent Commencement Date shall be equitably prorated for the First

Offer Space by multiplying the 60 days by a fraction, the numerator of which is the number of full calendar months between the Target Occupancy Date for such First Offer Space and the Initial Term Expiration Date and the denominator of which is the 120 months of Initial Term, then rounding the product up to the nearest whole number (such number, the "Prorated Abatement Days"). The Rent Commencement Date with respect to the First Offer Space shall be the date which is the number of days of Prorated Abatement Days after the Commencement Date with respect to such space. For example, if the Target Occupancy Date for a First Offer Space is seventy-two (72) months prior to the Expiration Date of the Initial Premises, the Rent Commencement Date for such First Offer Space would be thirty-six (36) days after the Commencement Date ( $60 \times 72/120$ ).

(vii) Base Rent for the First Offer Space shall be at the rate then in effect for the 7<sup>th</sup> Floor Premises and shall be subject to the same annual adjustments.

(viii) Effective as of the Rent Commencement Date with respect to the First Offer Space, City's Percentage Share shall be increased to reflect the rentable square footage of the First Offer Space, calculated in accordance with Section 2.1(c).

(k) Effect of Late Delivery. Landlord shall use reasonable efforts to keep City apprised of Landlord's estimate of the date that the First Offer Space will be delivered by Landlord to City. If Landlord does not deliver possession of the First Offer Space to City within one hundred twenty (120) days after the Target Occupancy Date for such First Offer Space (as such period may be extended due to Tenant Delays) (the "Rescission Trigger Date"), the following provisions of this Section 22.1(k) shall apply.

(i) City's Right to Request Update or Rescind. City shall have the right, by written notice to Landlord given not later than twenty (20) business days after the Rescission Trigger Date, to either (A) rescind the exercise of the First Offer Right with respect to such First Offer Space (subject to Landlord's right in Section 22.1(k)(iii) below), or (B) require Landlord to provide City with written notice (an "Update Notice") of Landlord's contractor's reasonable, good-faith estimate of the projected completion date (the "Projected First Offer Completion Date"). Landlord shall provide City with the Update Notice within five (5) business days after City's request.

(ii) City's Right to Accept Delay or Rescind. If City requests an Update Notice, then by written to Landlord given at any time prior to the date which is five (5) business days after City's receipt of the Update Notice, City shall have the right to agree to a delay in delivery of the First Offer Space until the Projected First Offer Completion Date set forth in such Update Notice or to rescind City's exercise of the First Offer Right with respect to such First Offer Space. (If City does not rescind the exercise of the First Offer Right by such deadline, City shall be deemed to have agreed to a delay in delivery of the First Offer Space until the Projected First Offer Completion Date.) If City agrees or is deemed to agree to the Projected First Offer Completion Date and Landlord does not thereafter actually deliver possession of the First Offer Space to City in the condition required hereunder on or before the date which is ten (10) business days after the Projected First Offer Completion Date (as extended after the date of the Update Notice for Tenant Delays), then City shall have the right rescind the exercise of the First Offer Right with respect to such First Offer Space by written to Landlord given at any time prior to the date Landlord actually delivers the First Offer Space to City in the condition required hereunder.

(iii) Landlord's Right to Suspend Initial Rescission. If City rescinds City's exercise of the First Offer Right in accordance with the provisions of Section 22.1(k)(i) above, and Landlord's contractor's Projected First Offer Completion Date is not later than sixty (60) days after the Outside Delivery Date, Landlord shall have the right to suspend City's rescission of the exercise of the First Offer Right until the Projected First Offer Completion Date, unless construction of the required improvements has not commenced as of the Target Occupancy Date. In order to suspend the rescission of the exercise of the First Offer Right pursuant to the foregoing, Landlord must deliver to City, within three (3) business days after receipt of City's



rescission notice, notice of such suspension, which notice shall include Landlord's contractor's reasonable, good-faith estimate of the Projected First Offer Completion Date. If Landlord timely delivers such suspension notice and actually delivers the First Offer Space to City in the condition required hereunder not later than the Projected First Offer Completion Date set forth in such notice (as extended by the number of days of delay following such notice due to Tenant Delay), then City's rescission notice shall be null and void and of no force or effect. Landlord shall have no right to suspend City's rescission given under Section 22.1(k)(ii) above.

(l) Limitation on First Offer Right. City's First Offer Right shall be personal to City and shall terminate upon City's assignment of this Lease to any party, and shall only apply so long as City has not sublet more than twenty-five percent (25%) of the Premises (as the same may be expanded from time to time) to an unaffiliated third party (excluding agreements with City Program Affiliates as allowed under Section 14.2 above). Notwithstanding anything to the contrary contained herein, if a material Event of Default exists at the time Landlord would otherwise be obligated to deliver an Availability Notice, Landlord shall have no obligation to deliver an Availability Notice. City's Exercise Notice shall be effective only if City delivers City's Exercise Notice prior to the applicable deadline (subject to the provisions of Section 23.15).

## **22.2 Existing Personal Property**

Landlord shall deliver the Initial Premises to City with the furnishings, equipment and other personal property listed on the attached ***Exhibit P*** (the "***Existing Personal Property***") in place. If City desires to acquire and Landlord desires to convey personal property in connection with the delivery of any increment of First Offer Space added to the Premises, the parties shall execute a supplemental schedule (a "***Supplemental Property Schedule***") of personal property to be so transferred by Landlord ("***Other Transferred Property***"). Except as otherwise agreed by the Senior Manager of SFMTA's Real Estate Section, prior to delivery of the Initial Premises or any increment of First Offer Space added to the Premises to City, Landlord shall cause to be removed all furnishings, equipment and other personal property not listed on ***Exhibit P*** or a Supplemental Property Schedule. Notwithstanding the foregoing, any personal property of Landlord located in the Initial Premises or in First Offer Space on the date of delivery thereof to and acceptance by City shall, at City's sole election, be deemed City's Personal Property, whether or not such personal property is listed on ***Exhibit P*** or a Supplemental Property Schedule. Except as otherwise provided in ***Exhibit P*** or any Supplemental Property Schedule, City agrees to accept all personal property from Landlord in its then existing "as is" condition, with all faults, and Landlord makes no representations or warranties, express or implied, regarding the value, condition, suitability or fitness for City's purposes of any such personal property. Further, Landlord shall not be liable, nor shall City's obligations under this Lease be affected, if the personal property delivered by Landlord is minimally less than or different from that listed on ***Exhibit P***.

## **23. GENERAL PROVISIONS**

### **23.1. Notices**

Except as otherwise specifically provided in this Lease, any notices, requests, approvals or consents given under this Lease shall be in writing and given by delivering the notice, request, approval or consent in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested, or Express Mail, return receipt requested, with postage prepaid, to: (a) City at City's address(es) set forth in the Basic Lease Information; or (b) Landlord at Landlord's address(es) set forth in the Basic Lease Information; or (c) such other address(es) as either Landlord or City may designate as its new address for such purpose by notice given to the other party in accordance with this Section. Any notice hereunder shall be



deemed effective on the date it is personally delivered or, in all other cases, on the date upon which delivery is actually made at the party's address for notices (or attempted if such delivery is refused or rejected). For convenience of the parties, copies of notices may also be given by telefacsimile to the telefacsimile number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile.

### **23.2. No Implied Waiver**

No failure by either party to insist upon the strict performance of any obligation of the other party under this Lease or to exercise any right, power or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such term, covenant or condition. No acceptance of full or partial Rent by Landlord while City is in default hereunder shall constitute a waiver of such default by Landlord. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of Landlord or City given in one instance under the terms of this Lease shall not relieve the other party of any obligation to secure the consent to any other or future instance under the terms of this Lease.

### **23.3. Amendments**

Neither this Lease nor any terms or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Whenever this Lease requires or permits the giving by City of its consent or approval, the Director of Property, or his or her designee shall be authorized to provide such approval, except as otherwise provided by applicable Law, including the City's Charter. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the exhibits to this Lease, shall be subject to the mutual written agreement of City and Landlord, and City's agreement may be made upon the sole approval of the Director of Property, or his or her designee; provided, however, material amendments or modifications to this Lease (i) changing the legal description of the Premises, (ii) increasing the Term, (iii) increasing the Rent, and (iv) any other amendment or modification which materially increases City's liabilities or financial obligations under this Lease shall additionally require the approval of the San Francisco Municipal Transportation Agency's Board of Directors or City's Board of Supervisors as required under applicable Law.

### **23.4. Authority**

Landlord represents and warrants to City that the execution and delivery of this Lease by Landlord has been duly authorized and, to Landlord's actual knowledge, does not violate any provision of any agreement to which Landlord or the Property is subject as of the Effective Date.

### **23.5. Parties and Their Agents; Approvals**

If applicable, the word "Landlord" as used in this Lease shall include the plural as well as the singular. As used in this Lease, the term "Agents" when used with respect to either party shall include the agents, employees, members, officers and contractors of such party, and when used with respect to the City shall include City Program Affiliates and City's subtenants and

assignees and each of their respective agents, employees, members, officers and contractors. The term "Invitees" when used with respect to City shall include the clients, customers, invitees, guests and licensees of City, its assignees, and subtenants and City Program Affiliates. All approvals, consents or other determinations permitted or required by City under this Lease shall be made by or through City's Director of Property unless otherwise provided in this Lease, subject to any applicable limitations in City's Charter and Administrative Code.

### **23.6. Interpretation of Lease**

The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intent and purposes of the parties, without any presumption against the party responsible for drafting any part of this Lease. Except as otherwise specifically provided herein, wherever in this Lease Landlord or City is required or requested to give its consent or approval to any matter or action by the other, such consent or approval shall not be unreasonably withheld or delayed and the reasons for disapproval of consent shall be stated in reasonable detail in writing. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to be restrictive, and lists following such words shall not be interpreted to be exhaustive or limited to items of the same type as those enumerated, whether or not language of non-limitation, such as "without limitation" or similar words, are used. Use of the words "shall," "will," or "agrees" are mandatory, and "may" is permissive.

### **23.7. Successors and Assigns**

Subject to the provisions of Section 14 (Assignment and Subletting) relating to assignment and subletting, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of Landlord and City and, except as otherwise provided herein, their personal representatives and successors and assigns. There are no third-party beneficiaries to this Lease.

### **23.8. Brokers**

Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated herein, except for the brokers identified in the Basic Lease Information, whose commission, if any is due, shall be the sole responsibility of Landlord pursuant to a separate written agreement between Landlord and such broker, and City shall have no liability therefor and Landlord shall Indemnify City for any claims by such brokers against City. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Claims incurred by the indemnified party in defending against the same. Landlord acknowledges and agrees that City shall have no liability for, and Landlord shall indemnify City for, any commissions, fees or claims made by any brokers claiming to have represented Landlord's predecessor-in-interest in the Building in connection with this Lease. The provisions of this Section shall survive any termination of this Lease.

### **23.9. Severability**

If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the full extent permitted by law.

### **23.10. Governing Law**

This Lease shall be construed and enforced in accordance with the laws of the State of California and City's Charter.

### **23.11. Entire Agreement**

The parties intend that this Lease (including all of the attached exhibits, which are made a part of this Lease) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or understandings. The parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Lease.

### **23.12. Attorneys' Fees**

In the event that either Landlord or City fails to perform any of its obligations under this Lease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees. For purposes of this Lease, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. Similarly, for purposes of this Lease, reasonable fees of attorneys of Landlord's in-house 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 Landlord's in-house attorneys' services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by Landlord's Legal Department.

### **23.13. Holding Over**

Should City hold over in possession of the Premises after the expiration or earlier termination of the Term with Landlord's consent, such holding over shall not be deemed to extend the Term or renew this Lease, but such tenancy thereafter shall continue as a month-to-month tenancy. Such tenancy shall be on all the terms and conditions set forth in this Lease and at such rent as Landlord and City may mutually agree in writing as a condition to Landlord's consent to such holding over, and City shall continue as a month-to-month tenant until the tenancy shall be terminated by Landlord giving City or City giving Landlord at least thirty (30) days' prior written notice of termination. Should City hold over without Landlord's consent, City's continued occupancy shall be on all of the terms and conditions contained herein, except that (i) during the first sixty (60) days (or any portion thereof) of such holdover, the Base Rent

payable by City shall be one hundred twenty-five percent (125%) of the Base Rent in effect during the last month of the Term and (ii) the Base Rent payable by City thereafter shall be two hundred percent (200%) of the Base Rent in effect during the last month of the Term. Nothing contained in this Section 23.13 shall be construed as consent by Landlord to any holding over by City.

#### **23.14. Cumulative Remedies**

All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

#### **23.15. Time of Essence**

Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified. Notwithstanding anything to the contrary set forth in this Lease, (i) in the event that City fails to exercise an Extension Option before the applicable expiration date, Landlord shall provide City notice of such failure and City shall have a period of twenty (20) days following such notice in which to exercise the Expansion Option, and (ii) in the event City has submitted an item for Board of Supervisor approval under this Lease and continues to seek such approval in good faith but has not yet received such approval within ninety (90) days as contemplated by this Lease, then City shall have a period of an additional thirty (30) days in which to obtain such Board of Supervisor approval.

#### **23.16. Survival of Indemnities**

Termination of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, nor shall it effect any provision of this Lease that expressly states it shall survive termination hereof.

#### **23.17. Signs**

City may erect or post signs inside the Premises subject to Landlord's prior approval. Landlord reserves the right to review the placement, design, and plan for any such sign prior to its erection or posting and agrees that the approval thereof shall not be unreasonably withheld or delayed.

#### **23.18. Quiet Enjoyment and Title**

Landlord covenants and represents that, as of the Effective Date, it has fee title to the Property, with the full right, power and authority to grant the leasehold estate hereunder, and covenants that, subject to the provisions of Article 11, City, upon paying the Rent hereunder and performing the covenants hereof, shall peaceably and quietly have, hold and enjoy the Premises and all appurtenances during the full Term as against all persons or entities claiming by and through Landlord. Without limiting the provisions of Section 16.2 (Landlord's Indemnity), Landlord agrees to Indemnify City and its Agents against Claims arising out of any assertion that would interfere with City's right to quiet enjoyment as provided in this Section.

#### **23.19. Bankruptcy**

Landlord represents and warrants to City that, as of the Effective Date, Landlord has neither filed nor been the subject of any filing of a petition under the federal bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors, and, to the Landlord's actual knowledge, no such filing is threatened.



Landlord and City agree that City's leasehold estate created hereby includes, without limitation, all rights to receive and enjoy all services, facilities and amenities of the Premises and the Building as provided herein, and that if any of such services, facilities or amenities are terminated, or materially limited or restricted on account of any such case or proceeding, City shall have the right to (i) contract directly with any third-party provider of such services, facilities or amenities to obtain the same, and (ii) offset against the Base Rent or other charges payable hereunder any and all reasonable costs and expenses incurred by City in obtaining such services, facilities or amenities.

### **23.20. Transfer of Landlord's Interest**

Landlord shall have the right to transfer its interest in the Property to any other person or entity; provided Landlord simultaneously assigns, and such transferee assumes, all of Landlord's obligations under this Lease arising after the date of such transfer. In the event of any such transfer and assumption, Landlord shall be relieved, upon notice to City of the name and address of Landlord's successor, of any obligations accruing hereunder from and after the date of such transfer and assumption.

### **23.21. Non-Liability of City Officials, Employees and Agents**

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

### **23.22. MacBride Principles - Northern Ireland**

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

### **23.23. Controller's Certification of Funds**

The terms of this Lease shall be governed by and subject to the budgetary and fiscal provisions of the City's Charter. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by City under this Lease unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of City after the fiscal year in which the Term commences, sufficient funds for the payment of Rent under this Lease (including Base Rent and any other payments required hereunder) are not appropriated, then City may terminate this Lease, without penalty, liability or expense of any kind to City, as of the last date on which sufficient funds are appropriated. SFMTA and City's Real Estate Division Staff shall use reasonable efforts to give Landlord at least nine (9) months advance notice of any such projected termination. In no event shall City give less than thirty (30) days advance notice of any such actual termination. SFMTA staff and management shall, as part of City's budgetary process, seek to obtain the necessary appropriation of funds from the SFMTA Board of Directors and City's Board of Supervisors and certification of the availability of funds from the Controller.

If City terminates this Lease due to lack of appropriated funds under this Section 23.23, then City shall not appropriate funds in the fiscal year that such termination occurs, or the subsequent fiscal year, for the purpose of purchasing a building, or renting new or additional space in any other privately-owned building, to operate any of the City programs that were located in the Premises in the fiscal year that this Lease terminated.

#### **23.24. Prevailing Wages for Construction Work**

Landlord agrees that any person performing labor in the construction of the Leasehold Improvements or other improvements to the Premises which Landlord provides under this Lease shall be paid not less than the highest prevailing rate of wages and that Landlord shall include, in any contract for construction of such improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord further agrees that, as to the construction of such improvements in the Premises under this Lease, Landlord shall comply with all the applicable provisions of and sections 6.22(E) of the San Francisco Administrative Code (as the same may be amended, supplemented or replaced) that relate to payment of prevailing wages. Landlord shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of any Leasehold Improvements or other improvements to the Premises.

#### **23.25. Non Discrimination in City Contracts and Benefits Ordinance**

##### **(a) Covenant Not to Discriminate**

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

##### **(b) Subcontracts**

Landlord shall include in all subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, Landlord shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Landlord's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease. Notwithstanding the foregoing, Landlord and City acknowledge and agree that the provisions of this Section 23.25(b) shall not apply to any subcontracts relating to the Building or the Premises that are held by or were entered into by Bank of America, National Association prior to the Commencement Date. Further, at Landlord's written request made from time to time, the Executive Director of the SFMTA shall direct SFMTA staff to seek a waiver from HRC (as defined below) with respect to subcontracts with Bank of America, National Association, or sub-subcontracts to be entered into by Bank of America, National Association.

##### **(c) Non-Discrimination in Benefits**

Landlord does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco, on real property owned by City, or where the work is being

performed for the City elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

**(d) HRC Form**

As a condition to this Lease, Landlord shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission (the "HRC"). Landlord hereby represents that prior to execution of this Lease: (a) Landlord executed and submitted to the HRC Form HRC-12B-101 with supporting documentation, and (b) the HRC approved such form.

**(e) Incorporation of Administrative Code Provisions by Reference**

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of property to City are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Landlord shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Landlord understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Landlord and/or deducted from any payments due Landlord.

**23.26. Tropical Hardwood and Virgin Redwood Ban**

(a) Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environmental Code, neither Landlord nor any of its contractors shall provide any items to City in the construction of the Leasehold Improvements or otherwise in the performance of this Lease which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

(b) The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood, or virgin redwood wood products.

(c) In the event Landlord fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environmental Code, Landlord shall be liable for liquidated damages for each violation in any amount equal to Landlord's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Landlord acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County of San Francisco upon demand and may be set off against any monies due to Landlord from any contract with the City and County of San Francisco.

### **23.27. Bicycle Storage Facilities**

Article 1.5, Section 155.1, of the San Francisco Planning Code ("Code") requires the provision of bicycle storage at City leased buildings at no cost to Landlord and if funds are available. In the event public or private donations, grants or other funds become available, at any time during the Term including any extension thereof, City may, by giving sixty (60) days advance written notice to Landlord, install compliant bicycle storage in the Building garage. City shall pay the monthly rent value for any such parking spaces used for such bicycle parking or Landlord also agrees that City may install bicycle racks in other location(s) in front of the Building which are required to meet the Class 1 or Class 2 requirements of the Code. Landlord, at no cost to Landlord, shall reasonably cooperate with City regarding the location of such spaces in furtherance of the implementation of such requirements of the Code, provided that Landlord shall have the right to reasonably relocate any such bicycle storage area at Landlord's sole cost in the event the same interferes with the efficient operation of the Building's parking facilities. City acknowledges and agrees that the Bike Room Premises, if constructed and delivered in accordance with the terms of this Lease, satisfy the applicable requirements of the Code.

### **23.28. Resource-Efficient City Buildings and Pilot Projects; Preservative-Treated Wood**

(a) Landlord acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 707 relating to resource-efficient City buildings and resource-efficient pilot projects. Landlord hereby agrees that it shall comply with all applicable provisions of such code sections as of the Effective Date of this Lease provided that such agreement is made on reliance of City's representation, warranty and covenant that neither the Building nor any part thereof is required to achieve any LEED certification level or the equivalent under any City Law. To the extent that (i) City wants or requires, or (ii) the status of the City as a tenant or any use to which the Premises is put by the City imposes any obligation on Landlord to make or take: (A) any improvement, alteration or modification to the Building or any part thereof; or (B) any procedures or retention of any consultants, contractors, advisors or Agents; to achieve LEED certification or other energy efficiency standards, City shall specify and pay for (subject to application of the Allowance to the extent funds are available therefor) such improvements, alterations, modifications, procedures or retention in the Leasehold Improvement Work subject to the provisions of Article 6 and the applicable Work Letter.

(b) Landlord acknowledges that Landlord may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code, Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Landlord may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Landlord from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

### **23.29. Counterparts**

This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.



### **23.30. Effective Date**

The date on which this Lease shall become effective (the "Effective Date") is the later of (i) the date upon which this Lease is executed and exchanged by the parties hereto, or (ii) the date on which the City's Board of Supervisors and Mayor, each in their sole discretion, enact a resolution approving this Lease in accordance with all applicable laws.

### **23.31. Certification by Landlord**

By executing this Lease, Landlord certifies that neither Landlord nor any of its officers or members have been suspended, disciplined or disbarred by, or prohibited from contracting with any federal, state or local governmental agency. In the event Landlord or any of its officers or members have been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefor together with any relevant facts or information requested by City. Any such suspension, disbarment, discipline or prohibition may result in the termination or suspension of this Lease. Landlord acknowledges that this certification is a material term of this Lease.

### **23.32. Conflicts of Interest**

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

### **23.33. 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 or the board on which that City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, 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 prospective party to the contract; each member of Landlord's board of directors, chairperson, 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 names of each person, entity or committee described above.

#### **23.34. Asbestos-Containing Material**

Landlord has advised City that there is asbestos-containing material ("ACM") in the Building. Attached hereto as **Exhibit K** is a disclosure statement regarding ACM in the Building. Landlord gives this notice in accordance with the requirements of Section 25915 *et seq.* and Section 25359.7 of the California Health and Safety Code.

#### **23.35. Building Occupancy Resumption Program**

The City's Department of Building Inspection ("DBI") has developed a Building Occupancy Resumption Program ("BORP") whereby private building owners can pre-certify private inspectors to provide building safety assessment evaluations following an earthquake or other catastrophic event. The purpose of BORP is to allow a quick and thorough evaluation of possible damage to a structure by qualified persons so as to permit the re-occupancy of a building at the earliest possible date following such a catastrophic event. To participate in BORP, building owners must submit and maintain a BORP plan, and enter into an agreement with qualified inspectors, approved by DBI. Upon approval, DBI will send the building owner verification of BORP participation and will place the building on DBI's BORP list. Additional information about BORP can be found on the DBI section of City's website at [http://www.sfgov.org/site/dbi\\_page.asp?id=11515](http://www.sfgov.org/site/dbi_page.asp?id=11515). As a material part of the consideration for this Lease, Landlord covenants and agrees to participate in BORP and to keep and maintain the Building on DBI's BORP list throughout the Term.

#### **23.36 City Requirements**

Landlord and City expressly agree that: (i) Landlord shall be obligated to comply, by reason of this Lease, with the provisions of the San Francisco Administrative Code expressly incorporated herein by reference (collectively the "City Requirements") as such City Requirements exist on the Effective Date, and, except as specifically provided in such City Requirements, shall not be subject to any amendments or supplements of such City Requirements, excepting only amendments, supplements or replacements to the City Requirements for the payment of prevailing wages for the construction of improvements in the Premises as set forth in Section 23.24 above; and (ii) Landlord's obligation to comply with City Requirements shall automatically terminate upon City's assignment of this Lease (provided that any successor Landlord shall be obligated to comply with such City Requirements). Notwithstanding the foregoing, nothing in this Lease shall preclude the City from applying provisions of the San Francisco Administrative Code, as amended, supplemented or replaced from time to time, to Landlord or to the Building if such provisions have generally applicability (as opposed to applicability to parties with whom the City enters into a contract or a lease).

#### **23.37. Memorandum of Lease**

On the Effective Date, Landlord and City shall execute the memorandum of lease in the form attached hereto as **Exhibit L** (the "Memorandum of Lease"), and Landlord shall cause the Memorandum of Lease to be recorded in the Official Records of the City and County of San Francisco within five (5) business days after the Effective Date.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY HERETO UNLESS AND UNTIL THE BOARD OF DIRECTORS OF THE SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY AND CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A

RESOLUTION OR ENACTED AN ORDINANCE APPROVING THIS LEASE 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 LEASE SHALL BE NULL AND VOID UNLESS THE BOARD OF DIRECTORS OF THE SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY AND CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS LEASE, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS LEASE 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.

**Remainder of page intentionally left blank**

Landlord and City have executed this Lease as of the date first written above.

**LANDLORD:** HUDSON 1455 MARKET, LLC, a Delaware limited liability company

By: Hudson Pacific Properties, L.P.,  
a Maryland limited partnership,  
Its: Sole Member

By: Hudson Pacific Properties, Inc.,  
a Maryland corporation  
Its: General Partner

By: Howard  
Name: Howard  
Its: President

By: Mark Lamm  
Name: Mark Lamm  
Its: CEO

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

By: [Signature]  
~~NATHANIEL P. FORD SR.~~ EDWARD D. REISKIN  
~~Executive Director/CEO~~ DIRECTOR OF TRANSPORTATION  
San Francisco Municipal Transportation Agency

APPROVED BY:  
San Francisco Municipal Transportation Agency  
Board of Directors  
Resolution No: 11-044  
Adopted: APRIL 5, 2011  
Attest: [Signature]  
Secretary, SFMTA Board of Directors

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: Anita L. Wood  
Anita L. Wood  
Deputy City Attorney





**EXHIBIT A**  
**FLOOR PLANS OF INITIAL PREMISES**

[TO BE INSERTED]



**EXHIBIT A-1**  
**7<sup>th</sup> FLOOR PREMISES**

[TO BE INSERTED]





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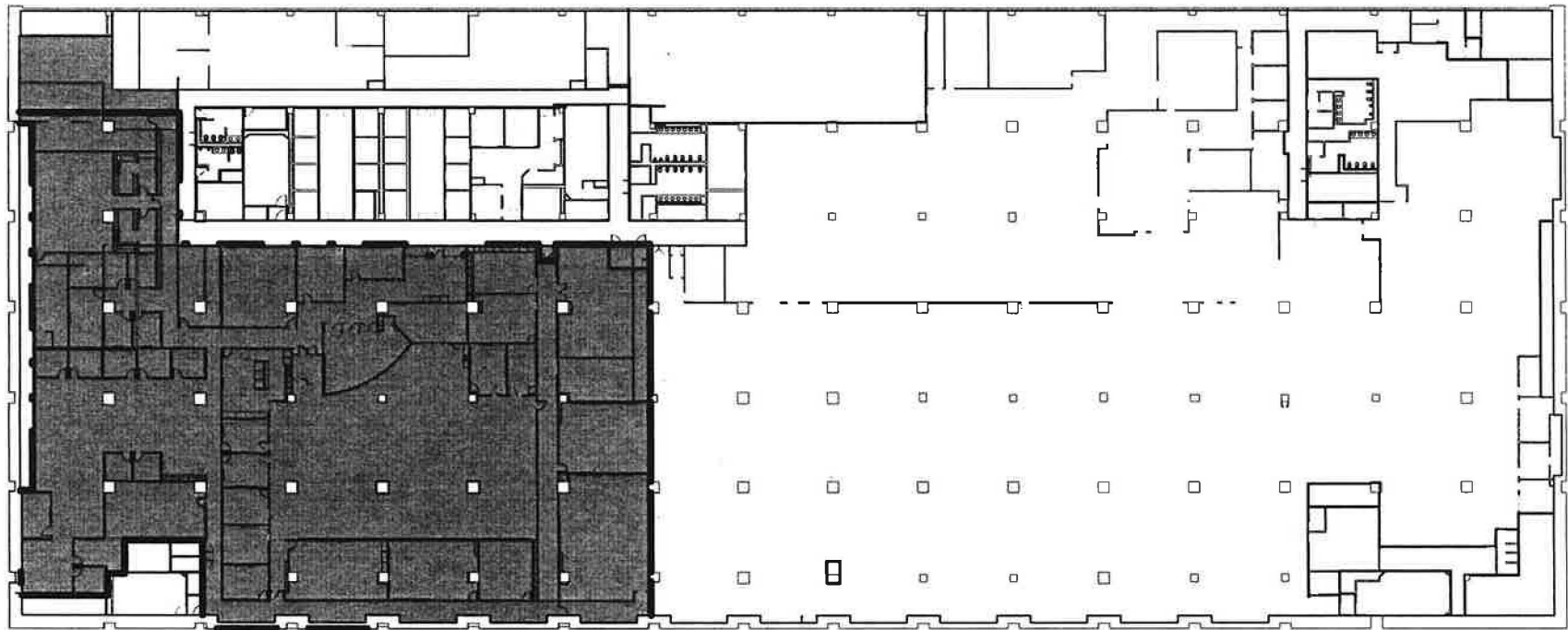
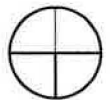


Exhibit A-1

SFMTA RENTABLE SF = 38,894 RSF





**EXHIBIT A-2**  
**BIKE ROOM PREMISES**

[TO BE INSERTED]





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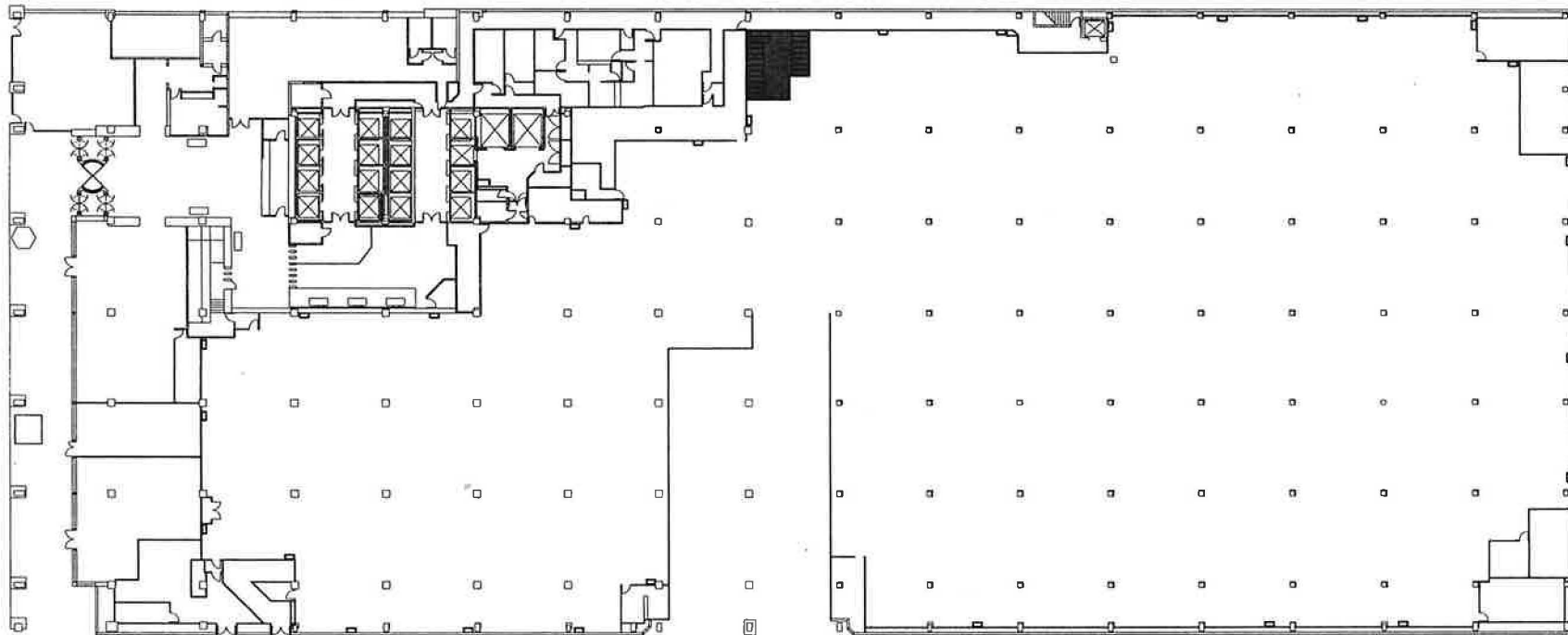
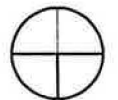


Exhibit A-2

SFMTA BIKE PARKING





**EXHIBIT A-3**  
**LOCKER ROOM PREMISES**

[TO BE INSERTED]





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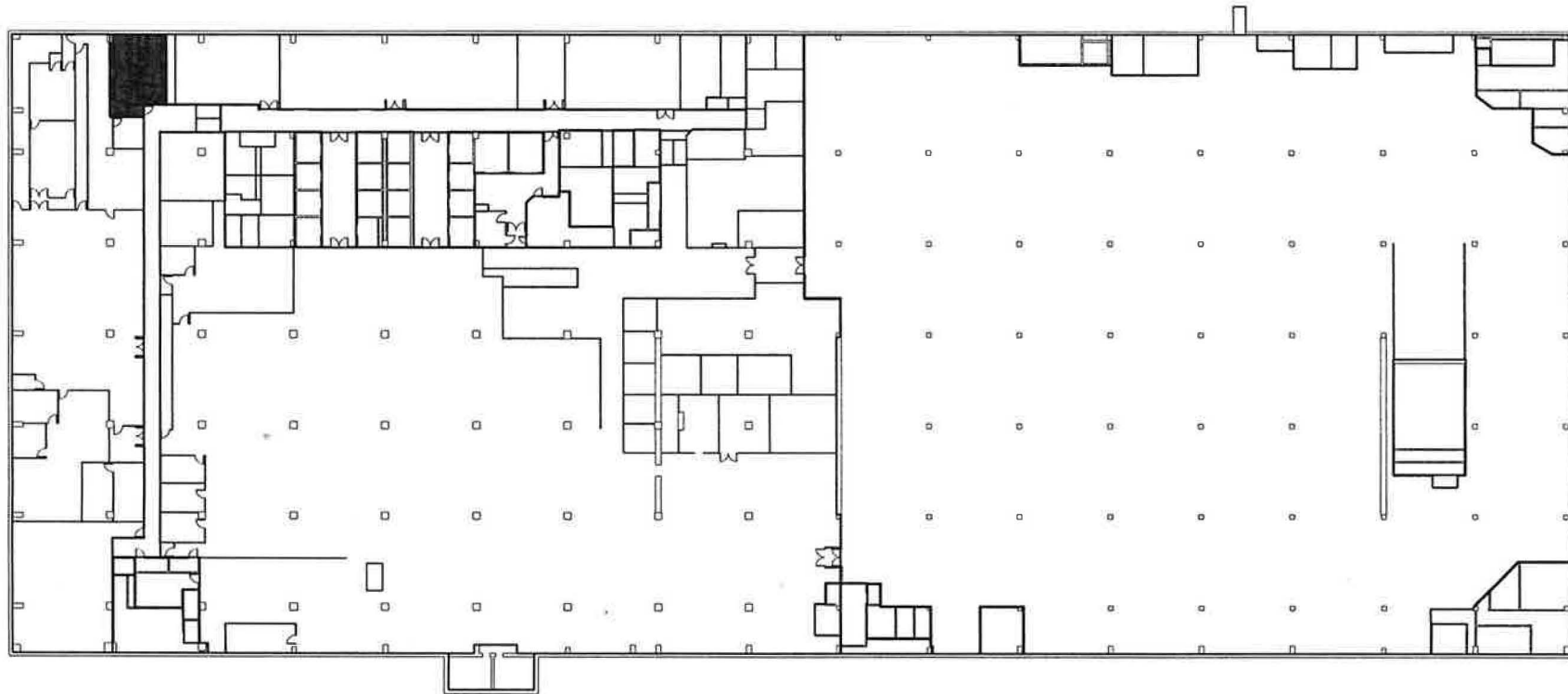


Exhibit A-3

SFMTA SHOWER ROOM RENTABLE SF = 679 RSF





**EXHIBIT B-1**  
**INITIAL TELECOMMUNICATIONS EQUIPMENT**

[TO BE INSERTED]





# SFMTA Radio Replacement Project

Dispatch Center

1455 Market Street

November 5, 2010

---

Experience you can trust



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## List of Exhibits:

1. Andrew TP-G412 – XX microwave antenna mounting structure
2. Andrew HP4-107 High Performance microwave antenna
3. EW90 Elliptical Waveguide
4. CNT-300R coaxial cable
5. Copper Ground Bus Bar Detail
6. Andrews 7/8 inch Helix (AVA5RK-50)

## **Table of Contents**

---

- 7. Bird Technologies SMD Series antenna

## **1. General**

The San Francisco Municipal Transportation Agency (SFMTA) is planning to establish their primary Dispatch Center on the 7<sup>th</sup> Floor of the 1455 Market Street building. This requires that the 1455 Market Street building be connected with microwave to 10 other remote sites in the City and the County of San Francisco (CCSF) to support the critical infrastructure of both SFMTA and the City Police/Fire agencies. In addition, during times of disaster it will be necessary to transmit in the 700/800 MHz band for low power RF connections to remote transmitter sites from Dispatch Consoles on the 7<sup>th</sup> Floor.

To accomplish this goal, SFMTA needs to:

- Install 2 microwave antennas on the roof of 1455 Market Street
- Install 2 small dipole antennas on the roof of 1455 Market Street
- Connect these antennas with transmission lines to radio equipment located within the 1455 Market Street building

## **2. Microwave**

### **2.1 Requirements**

Install two microwave antenna mounting structures complete with one antenna each on the roof of 1455 Market. Connect each antenna to the Radio Equipment located on the 7<sup>th</sup> Floor with coaxial cable.

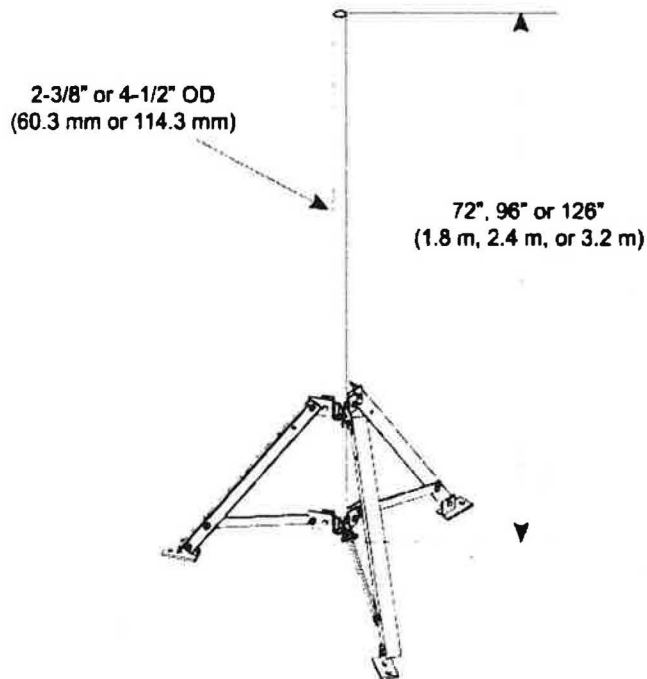
### **2.2 Equipment and Installation Material**

All of the microwave equipment, installation hardware and tools are available from Andrew Corporation or its distributors.

### **2.3 Antenna Mounting Structures**

Antenna mounting structures shall be Andrew Model TP-G412-XX Universal Tripod Mount or equivalent with a 4-1/2 inch OD pipe mount for the microwave antenna.

Typical details are exhibited hereunder:



Model shall be chosen such that the bottom of the microwave antenna clears the main basket of the window washing carriage (not counting the two support posts) by at least 6 inches.

See Appendix "A" for typical mounting structure cut sheet.

One antenna mounting structure shall be located on the roof at a location farthest from Market Street near the stairway entrance (SE Corner) with the antenna facing Twin Peaks.

We would like to install the second microwave antenna on the same structure however; SFMTA Real Estate indicated that a building will be built next to 1455 Market on 10<sup>th</sup> Street of such a height and location that it will block any microwave path from the roof of 1455 Market to One Market Plaza. Based on this fact, a second antenna mounting structure is required and the location is undetermined at this time.

Our examination of the foot print of the new building on 10<sup>th</sup> Street indicates that, if the plans are correct; it may still be possible to have a microwave path to One Market Plaza which traverses between the two towers of the proposed structure on 10<sup>th</sup> Street. (This needs to be confirmed)

## **2.4 Antennas**

Antennas shall be a maximum of 4 feet in diameter and in either the 11 GHz (10.7 – 11.7) or 18 GHz (17.7 – 19.7) band dependent upon FCC approval and frequency coordination.

See Appendix "A" for a typical cut sheet for a four foot 11 GHz High Performance microwave antenna (HP4-107).

## **2.5 Transmission Lines**

Transmission line requirements are:

- 11 GHz – One run of Andrews EW90 Elliptical waveguide
- 18 GHz – One run of Andrews Coaxial Cable CNT-300R

Due to the fact that the frequency band is unknown, both types of transmission lines shall be installed for each antenna location.

Transmission lines shall run from the antenna connection flange on the roof to the top of the microwave equipment rack located on the 7<sup>th</sup> Floor.

Transmission lines shall be installed in accordance with the manufacturer's installation practices for grounding, support hangars, and lightning protection. Connectors shall be installed to match the antenna flange and radio flange. Connectors located outside shall be taped and waterproofed in accordance with the manufacturer's installation practices.

A cut sheet for each type of transmission line is included in Appendix "A".

## **3. Control Stations**

### **3.1 Requirements**

Thirteen (13) consoles within the SFMTA Dispatch Center require access to a Control Channel Radio in times of emergency for RF access to one or more remote tower site transmitter/receivers. This is accomplished by the addition of control stations (racked up special edition mobile radios) at the Dispatch Center with one transmission line for all transmitters



coupled together to one antenna and one transmission line for all receivers to the second antenna on the roof of 1455 Market Street.

### **3.2 Antenna Mounting Structures**

The Bird Technologies SMD Series antenna is to be side mounted on a pipe of less than 2 inches OD. A short section of 2-inch OD galvanized pipe could be welded to the top of the microwave antenna support structure (4-1/2 inch OD pipe) and the Bird antenna mounted on this short section of pipe.

### **3.3 Antennas**

This cannot be determined until SFMTA has awarded a contract for the replacement radio system, however it is likely that two antennas will be required – one for all transmitters and one for all receivers.

A typical antenna would be Bird Technologies SMD Series which is a side mounted dipole.

A cut sheet for the Bird Technologies SMD antenna is attached in Appendix "A".

### **3.4 Transmission Lines**

Transmission lines will be 7/8 inch Andrews foam Heliax (AVA5RK-50A) with fire retardant jacket and DIN connectors on each end. One transmission line will connect all transmitters to one antenna and one transmission line will connect all receivers to the second antenna.

Transmission line cut sheet is included in Appendix "A".

Transmission lines shall be installed in accordance with the manufacturer's installation practices for support, grounding, lightning protection, waterproofing, and connector installations.

## **4. Grounding**

### **4.1 Antennas**

Microwave antennas and the mounting structure shall be grounded to the building grounding system in accordance with the manufacturer's installation practices.

## **4.2 Transmission Lines**

Transmission lines (microwave and coaxial) shall be grounded at both ends in accordance with the manufacturer's installation practices.

## **4.3 Lightning Protection**

Both microwave waveguide and coaxial transmission lines shall have lightning protection devices installed in accordance with the manufacturer's installation practices.

## **4.4 Consoles and Racks**

A grounding system shall be installed below the computer flooring such that each console and equipment rack can be connect to a common ground bus bar. This ground bus bar shall then be connected to the primary building ground at "one" location only with AWG 4/0 stranded green jacketed copper cable with double hole compression lugs on each end.

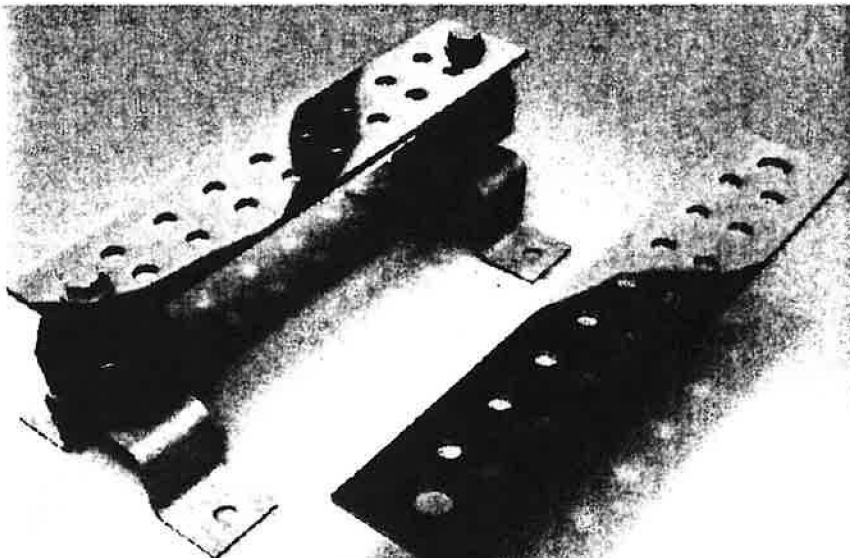
### **4.4.1 Ground Bus Bar Details**

The ground bus bar to be installed under the computer flooring shall consist of ¼ inch by 1.25 inch solid copper bar punched every 2 inches with double lug holes 5/32 inch in diameter on 5/8 inch centers and mounted on insulated stand-offs which are in turn fastened to the concrete with stainless steel brackets and hardware.

Bus bar runs less than 40 feet shall be continuous with no splices. Ninety degree connections shall contain 4 bolts on each side with silicone bronze or stainless steel fasteners.

Typical details are as exhibited hereunder:

[http://files.electrical-insulation-and-copper-ground-bars.com/wp-content/uploads/2010/02/Items\\_copper-ground-bar1.jpg](http://files.electrical-insulation-and-copper-ground-bars.com/wp-content/uploads/2010/02/Items_copper-ground-bar1.jpg)

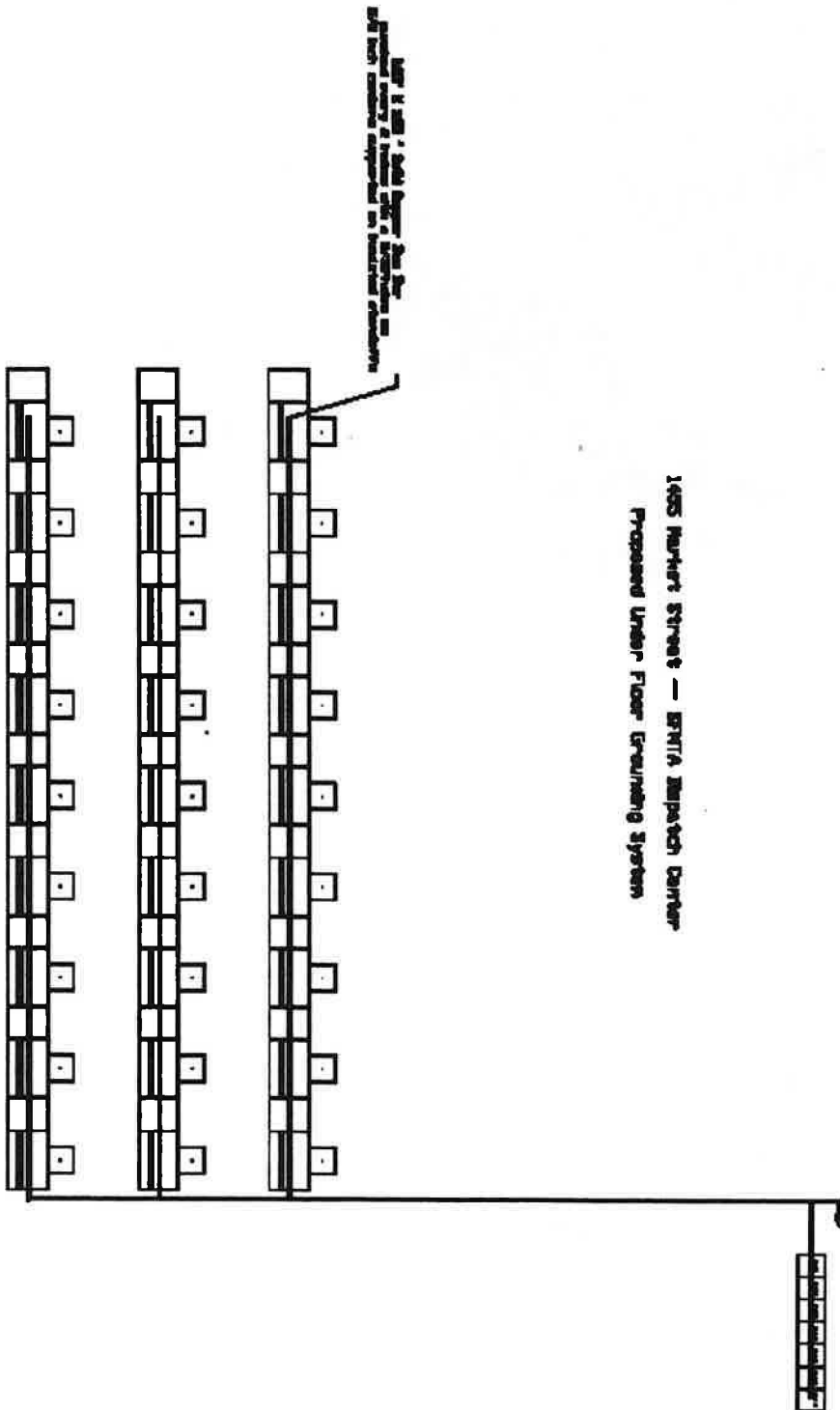


[http://files.electrical-insulation-and-copper-ground-bars.com/wp-content/uploads/2010/02/Items\\_copper-ground-bar1.jpg](http://files.electrical-insulation-and-copper-ground-bars.com/wp-content/uploads/2010/02/Items_copper-ground-bar1.jpg) (11/14/2010 10:20:00 AM)

#### **4.4.2 Ground Bus Bar Layout**

All consoles in the Dispatch Center and all racks in the equipment room shall have access to this common Ground Bus Bar.

Layout shall be similar to that exhibited hereunder:



## **5. Power Distribution**

### **5.1 Console UPS Power Feeds**

Each SFMTA console shall have two 120 VAC distribution power feeds each terminating in a quad box under the floor with two 20 amp circuits on each feed from the UPS distribution. Quad box receptacles shall have spec grade duplex receptacles with each one on a separate 20 amp circuit. Cables to the quad boxes shall not be BX or any other cable with a metallic sheath that has the potential to short circuit the ground bus bar.

There shall be at least 6 feet of slack on each cable under the floor such that the quad box can be moved about within the console foot print.

### **5.2 Console Commercial AC Power Feeds**

Each SFMTA console shall have one 120 VAC distribution power feed terminating in a quad box under the floor with two 20 amp circuits from the non-essential distribution. Quad box receptacles shall be spec grade with each duplex receptacle on a separate 20 amp circuit. Cables to the quad boxes shall not be BX or any other cable with a metallic sheath that has the potential to short circuit the ground bus bar.

There shall be at least 6 feet of slack on each cable such that the quad box can be moved about within the console foot print.



## **Appendix “A”**

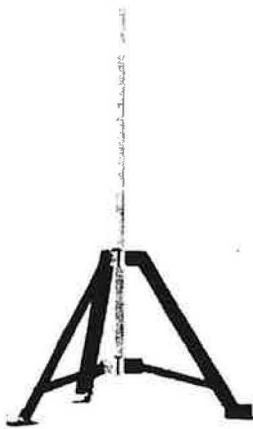
# Product Brief

TP-G412-96



## Universal Tripod Mounts

For single-sector rooftop applications



An ideal solution for mounting microwave antennas, UHF antennas, PCS antennas, or analog antennas.

**Andrew Solutions Universal Tripod Mounts are an ideal solution for mounting microwave antennas, UHF antennas, PCS antennas, or analog antennas in single sector rooftop applications.**

Universal Tripod Mounts are constructed with three legs, utilizing kicker struts connected to formed sandwich clamps that bolt together around the antenna mounting pipe. Universal Tripod Mounts are sold as base kits with no pipe or as complete kits with pipes included. The Universal Tripod Mounts can be bolted directly to the roof using separately purchased anchoring or thru-bolt hardware kits or to a separately purchased Non-Penetrating Roof Ballast Sled when penetrating the rooftop is not permitted.

Universal Tripod Mounts are hot dip galvanized steel for maximum corrosion protection.

- Kits available in multiple sizes
- Available as a base kit or with pipe
- Hot dip galvanized steel for maximum corrosion protection

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11/5/2010

# Product Specifications



**TP-G412-96**

Universal Tripod Mount, 4-1/2 in OD x 96 in pipe

## CHARACTERISTICS

### Dimensions

Height	2438.4 mm   96.0 in
Length	1524.0 mm   60.0 in
Outer Diameter	114.3 mm   4 1/2 in
Width	1524.0 mm   60.0 in
Weight	117.9 kg   259.8 lb

### Environmental Specifications

Wind Rating	85 mph (BWS) at 100 ft AGL using Exposure C per UBC
Wind Rating Test Method	TIA/EIA-222-G

### General Specifications

Product Type	Tripod mounts
Mounting	Surfaces
Pipe Length	2438.4 mm   96.0 in
Pipe, quantity	1
Includes	Mount, with or without pipe
Material Type	Hot dip galvanized steel
Note	One 6 ft microwave antenna using 4-1/2 in pipe mast
Package Quantity	1

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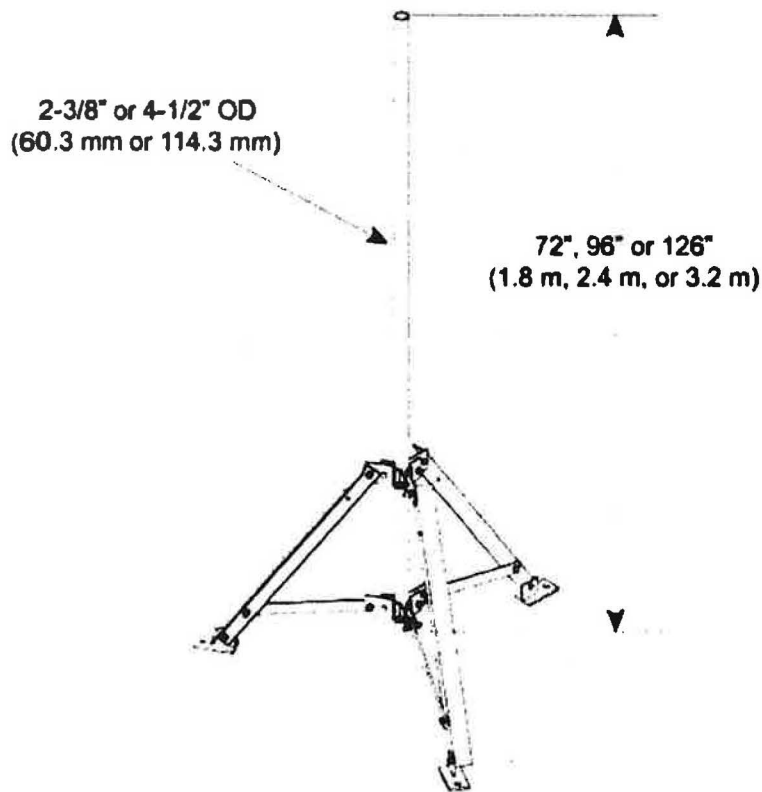
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# Product Specifications

TP-G412-96

Outline Drawing



## INCLUDED PRODUCTS



### **MT-654-96**

Plain End Pipe, 4-1/2 in OD x 96 in



### **TP-G412-B**

Universal Tripod Mount, base only, pipe not included

## \* Footnotes

Wind Rating

BWS—Base Wind Speed; FBC—Florida Building Code

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# Product Specifications



MT-654-96

Plain End Pipe, 4-1/2 in OD x 96 in



## CHARACTERISTICS

### Dimensions

Outer Diameter	114.3 mm   4 1/2 in
Height	114.3 mm   4.5 in
Length	2438.4 mm   96.0 in
Weight	39.9 kg   88.0 lb
Width	114.3 mm   4.5 in

### General Specifications

Material Type	Hot dip galvanized steel
Pipe Length	2438.4 mm   96.0 in
Product Type	Bulk pipes
Includes	Pipe
Package Quantity	1
Pipe, quantity	1

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# Product Specifications



TP-G412-B

Universal Tripod Mount, base only, pipe not included



## CHARACTERISTICS

### Dimensions

Height	838.2 mm   33.0 in
Length	1524.0 mm   60.0 in
Outer Diameter	114.3 mm   4 1/2 in
Width	1524.0 mm   60.0 in
Weight	78.7 kg   173.4 lb

### Environmental Specifications

Wind Rating	85 mph (BWS) at 100 ft AGL using Exposure C per UBC
Wind Rating Test Method	TIA/EIA-222-G

### General Specifications

Product Type	Tripod mounts
Mounting	Surfaces
Pipe, quantity	0
Includes	Mount, with or without pipe
Material Type	Hot dip galvanized steel
Note	One 6 ft microwave antenna using 4-1/2 in pipe mast
Package Quantity	1

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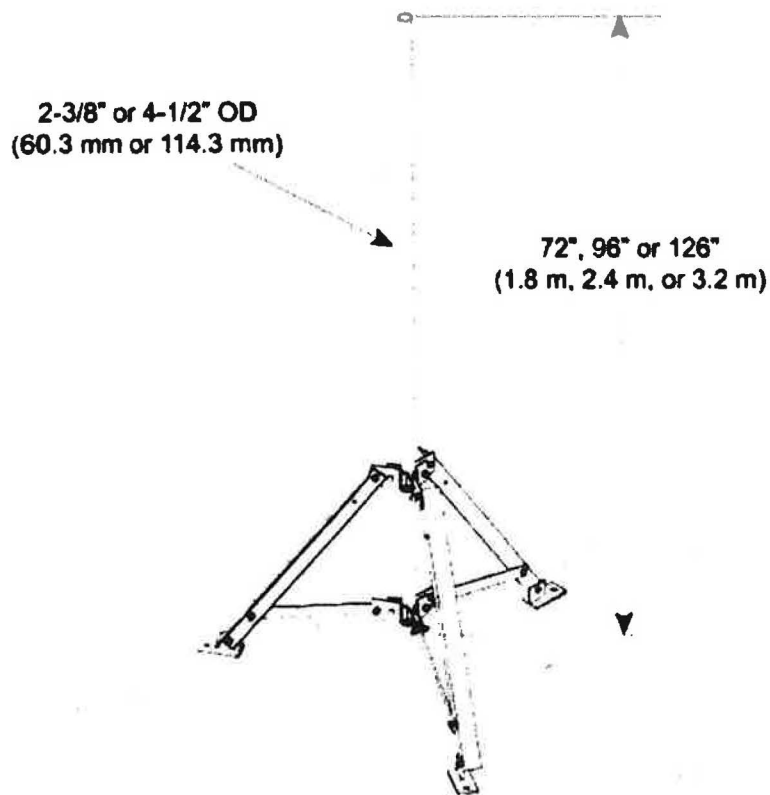
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# Product Specifications

TPG412-B

Outline Drawing



## \* Footnotes

Wind Rating                      BWS—Base Wind Speed; FBC—Florida Building Code

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11/5/2010

# Product Brief

HP4-107



## High Performance Point-to-Point Microwave Antenna

Single-polarized high performance parabolic shielded antenna



Andrew Solutions HP Series antennas are ideal for microwave applications demanding good pattern performance and frequency coordination.

Andrew Solutions shielded point-to-point microwave antennas deliver exceptional RF pattern performance and superior frequency control, all for a surprisingly low lifetime cost. A wide variety of configurations and capabilities provide network operators with the flexibility and control they need in today's evolving market.

Andrew Solutions designs and engineers a complete range of point-to-point microwave antennas that help operators to maximize bandwidth efficiency and increase system reliability while minimizing both capital and operational expenditures

Equipped with a painted reflector and RF-absorbing shield, each antenna also features a low VSWR feed, a planar radome, and vertical pipe mount. All are engineered and tested to Andrew's uncompromising standards.

**Radiation Pattern Envelopes**—For each antenna model, Andrew publishes a complete range of radiation pattern envelopes (RPEs). Each detailed pattern envelope provides an easy-to-read and informative description of how the antenna performs at various frequencies and along specific planes. Copies of the RPEs for each antenna are also on file at various telecom regulatory offices around the world.

- Good RF pattern performance
- Low lifetime cost
- Low lifetime cost

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# Product Specifications



## HP4-107

1.2 m | 4 ft High Performance Parabolic Shielded Antenna, single-polarized, 10.700–11.700 GHz

## CHARACTERISTICS

### General Specifications

Antenna Type	HP - High Performance Parabolic Shielded Antenna, single-polarized
Diameter, nominal	1.2 m   4 ft
Polarization	Single

### Electrical Specifications

Beamwidth, Horizontal	1.6 °
Beamwidth, Vertical	1.6 °
Cross Polarization Discrimination (XPD)	30 dB
Electrical Compliance	ETSI Class 2   US FCC Part 101A
Front-to-Back Ratio	61 dB
Gain, Low Band	40.0 dBi
Gain, Mid Band	40.4 dBi
Gain, Top Band	40.8 dBi
Operating Frequency Band	10.700 – 11.700 GHz
Radiation Pattern Envelope Reference (RPE)	3429A
Return Loss	28.3 dB
VSWR	1.08

### Mechanical Specifications

Fine Azimuth Adjustment	±15°
Fine Elevation Adjustment	±20°
Mounting Pipe Diameter	115 mm   4.5 in
Net Weight	84 kg   185 lb
Side Struts, Included	1 inboard
Side Struts, Optional	1 outboard
Wind Velocity Operational	110 km/h   68 mph
Wind Velocity Survival Rating	200 km/h   124 mph

### Wind Forces At Wind Velocity Survival Rating

Angle $\alpha$ for MT Max	-110 °
Axial Force (FA)	2821 N   634 lbf
Force on Inboard Strut Side	4940 N   1111 lbf
Side Force (FS)	1398 N   314 lbf
Twisting Moment (MT)	-826 N•m

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11/5/2010

# Product Specifications

HP4-107



Weight with 1/2 in (12 mm) Radial Ice	134 kg		295 lb
Zcg with 1/2 in (12 mm) Radial Ice	371 mm		15 in
Zcg without Ice	282 mm		11 in

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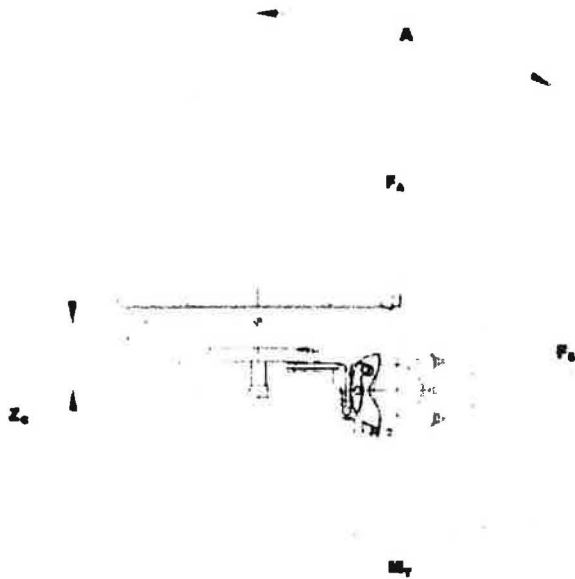


# Product Specifications

HP4-107



Wind Forces At Wind Velocity Survival Rating Image



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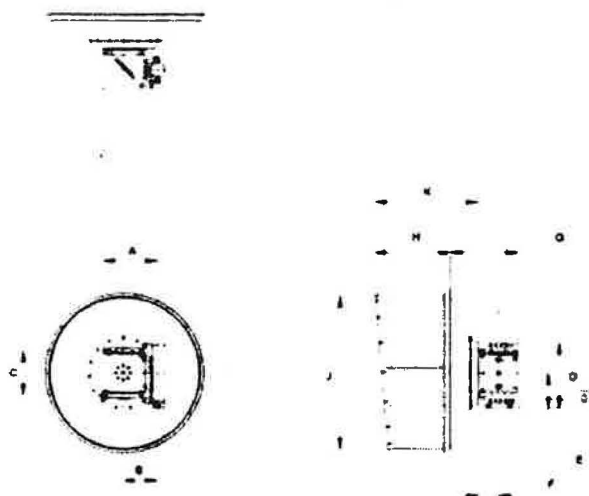
page 4 of 6  
11/5/2010

# Product Specifications

HP4-107



## Antenna Dimensions And Mounting Information



ANTENNA DIMENSIONS All dimensions in mm (inches)			
A	411 (16.2)	F	105 (6.5)
B	354 (10.4)	G	544 (21.40)
C	381 (14.2)	H	595 (23.1)
D	578 (20.78)	J	1330 (52.4)
E	280 (11.10)	K	785 (30.5)

### \* Footnotes

#### Axial Force (FA)

Maximum forces exerted on a supporting structure as a result of wind from the most critical direction for this parameter. The individual maximums specified may not occur simultaneously. All forces are referenced to the mounting pipe.

#### Cross Polarization Discrimination (XPD)

The difference between the peak of the co-polarized main beam and the maximum cross-polarized signal over an angle twice the 3 dB beamwidth of the co-polarized main beam.

#### Front-to-Back Ratio

Denotes highest radiation relative to the main beam, at  $180^\circ \pm 40^\circ$ , across the band. Production antennas do not exceed rated values by more than 2 dB unless stated otherwise.

#### Gain, Mid Band

For a given frequency band, gain is primarily a function of antenna size. The gain of Andrew antennas is determined by either gain by comparison or by computer integration of the measured antenna patterns.

#### Operating Frequency Band

Bands correspond with CCIR recommendations or common allocations used

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11/5/2010

# Product Specifications

HP4-107



throughout the world. Other ranges can be accommodated on special order.

<b>Radiation Pattern Envelope Reference (RPE)</b>	Radiation patterns determine an antenna's ability to discriminate against unwanted signals under conditions of radio congestion. Radiation patterns are dependent on antenna series, size, and frequency.
<b>Return Loss</b>	The figure that indicates the proportion of radio waves incident upon the antenna that are rejected as a ratio of those that are accepted.
<b>Side Force (FS)</b>	Maximum axial forces exerted on support structures by side struts as a result of a 200 km/h (125 mph) wind from the most critical direction and extreme angle permitted. The forces are a component of, not in addition to, the maximum forces specified above.
<b>Twisting Moment (MT)</b>	Maximum forces exerted on a supporting structure as a result of wind from the most critical direction for this parameter. The individual maximums specified may not occur simultaneously. All forces are referenced to the mounting pipe.
<b>VSWR</b>	Maximum; is the guaranteed Peak Voltage-Standing-Wave-Ratio within the operating band.
<b>Wind Velocity Operational</b>	The wind speed where the antenna deflection is equal to or less than 0.1 degrees.
<b>Wind Velocity Survival Rating</b>	Microwave antennas, including mounts and radomes, where applicable, will withstand the simultaneous wind and ice conditions as specified.

# Product Specifications



## EW90

EW90, HELIAX® Standard Elliptical Waveguide, 10.2–11.7 GHz, black PE jacket



## CHARACTERISTICS

### Construction Materials

Jacket Material	PE
Conductor Material	Corrugated copper
Jacket Color	Black

### Dimensions

Cable Volume	334.0 L/km   3.6 ft <sup>3</sup> /kft
Cable Weight	0.48 kg/m   0.32 lb/ft
Diameter Over Jacket (E Plane)	33.50 mm   1.32 in
Diameter Over Jacket (H Plane)	20.30 mm   0.80 in

### Electrical Specifications

Operating Frequency Band	10.2 – 11.7 GHz
eTE11 Mode Cutoff	6.500 GHz
Group Delay	125 ns/100 ft @ 11.200 GHz 410 ns/100 m @ 11.200 GHz

### Environmental Specifications

Installation Temperature	-40 °C to +60 °C (-40 °F to +140 °F)
Operating Temperature	-55 °C to +85 °C (-67 °F to +185 °F)
Storage Temperature	-70 °C to +85 °C (-94 °F to +185 °F)

### General Specifications

Brand	HELIAX®
-------	---------

### Mechanical Specifications

Maximum Twist	6.00 °/m   2.00 °/ft
Minimum Bend Radius, Multiple Bends (E Plane)	180.00 mm   7.00 in
Minimum Bend Radius, Multiple Bends (H Plane)	480.00 mm   19.00 in
Minimum Bend Radius, Single Bend (E Plane)	150.00 mm   6.00 in

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11/8/2010

# Product Specifications

EW90



Minimum Bend Radius, Single Bend (H Plane) 330.00 mm | 13.00 in

## Standard Conditions

Attenuation, Ambient Temperature	24 °C   75 °F
Average Power, Ambient Temperature	40 °C   104 °F
Average Power, Temperature Rise	42 °C   76 °F

## Return Loss/VSWR

Frequency Band	VSWR	Return Loss (dB)
10.2–11.7 GHz	1.15	23.10

\* VSWR/Return Loss indicated is for lengths up to 300 ft (91.4 m)

\* VSWR/Return Loss is guaranteed for factory-fit and typical for field-fit assemblies

\* Custom length performance: Call +1-800-255-1479 (N. America), 1-779-435-6500 (Int'l.), or your local Andrew representative

## Attenuation

Frequency (GHz)	Attenuation (dB/100 ft)	Attenuation (dB/100 m)	Average Power (kW)	Group Velocity %
10.2	3.246	10.649	1.509	77.1
10.4	3.201	10.503	1.53	78.1
10.6	3.161	10.371	1.549	79
10.8	3.125	10.253	1.567	79.9
11	3.093	10.146	1.584	80.7
11.2	3.063	10.049	1.599	81.4
11.4	3.036	9.961	1.613	82.2
11.6	3.012	9.88	1.626	82.8

## Regulatory Compliance/Certifications

### Agency

RoHS 2002/95/EC

China RoHS SJ/T 11364-2006

### Classification

Compliant

Below Maximum Concentration Value (MCV)



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# Product Specifications



## CNT-300-R

CNT-300, CNT™ 50 Ohm Braided Coaxial Cable, black fire retardant riser rated PVC jacket



## CHARACTERISTICS

### Construction Materials

Jacket Color	Black
Jacket Material	Fire retardant PVC
Braid Material	Tinned copper
Shield Tape Material	Aluminum
Dielectric Material	Foam PE
Inner Conductor Material	Copper

### Dimensions

Cable Weight	0.08 kg/m
Diameter Over Dielectric	4.830 mm   0.190 in
Diameter Over Jacket	7.620 mm   0.300 in
Inner Conductor OD	1.7800 mm   0.0701 in
Nominal Size	0.300 in
Outer Conductor OD	4.980 mm   0.196 in

### Electrical Specifications

Cable Impedance	50 ohm
Capacitance	79.1 pF/m   24.1 pF/ft
dc Resistance, Inner Conductor	6.950 ohms/km
dc Resistance, Outer Conductor	7.250 ohms/km
dc Test Voltage	2500 V
Jacket Spark Test Voltage (rms)	4000 V
Maximum Frequency	24.50 GHz
Operating Frequency Band	30 - 6000 MHz
Peak Power	10.0 kW
Velocity	85%

### Environmental Specifications

Operating Temperature	-20 °C to +60 °C (-4 °F to +140 °F)
-----------------------	-------------------------------------

### General Specifications

Cable Type	CNT-300
------------	---------

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# Product Specifications

CNT-300-R



<b>Braid Coverage</b>	90% braid
<b>Brand</b>	CNT™
<b>Packaging Type</b>	Reel

## Mechanical Specifications

<b>Minimum Bend Radius, Single Bend</b>	38.00 mm   1.50 in
<b>Tensile Strength</b>	55 kg   120 lb

## Electrical Performance

<b>Frequency</b>	<b>Attenuation (dB/100 m)</b>	<b>Attenuation (dB/100 ft)</b>
30 MHz	3.61	1.10
50 MHz	4.59	1.40
150 MHz	7.87	2.40
220 MHz	9.51	2.90
450 MHz	13.78	4.20
900 MHz	20.01	6.10
1500 MHz	25.92	7.90
1800 MHz	28.88	8.80
2000 MHz	30.18	9.20
2500 MHz	34.12	10.40

## Regulatory Compliance/Certifications

### Agency

RoHS 2002/95/EC  
China RoHS SJ/T 11364-2006

### Classification

Compliant  
Below Maximum Concentration Value (MCV)

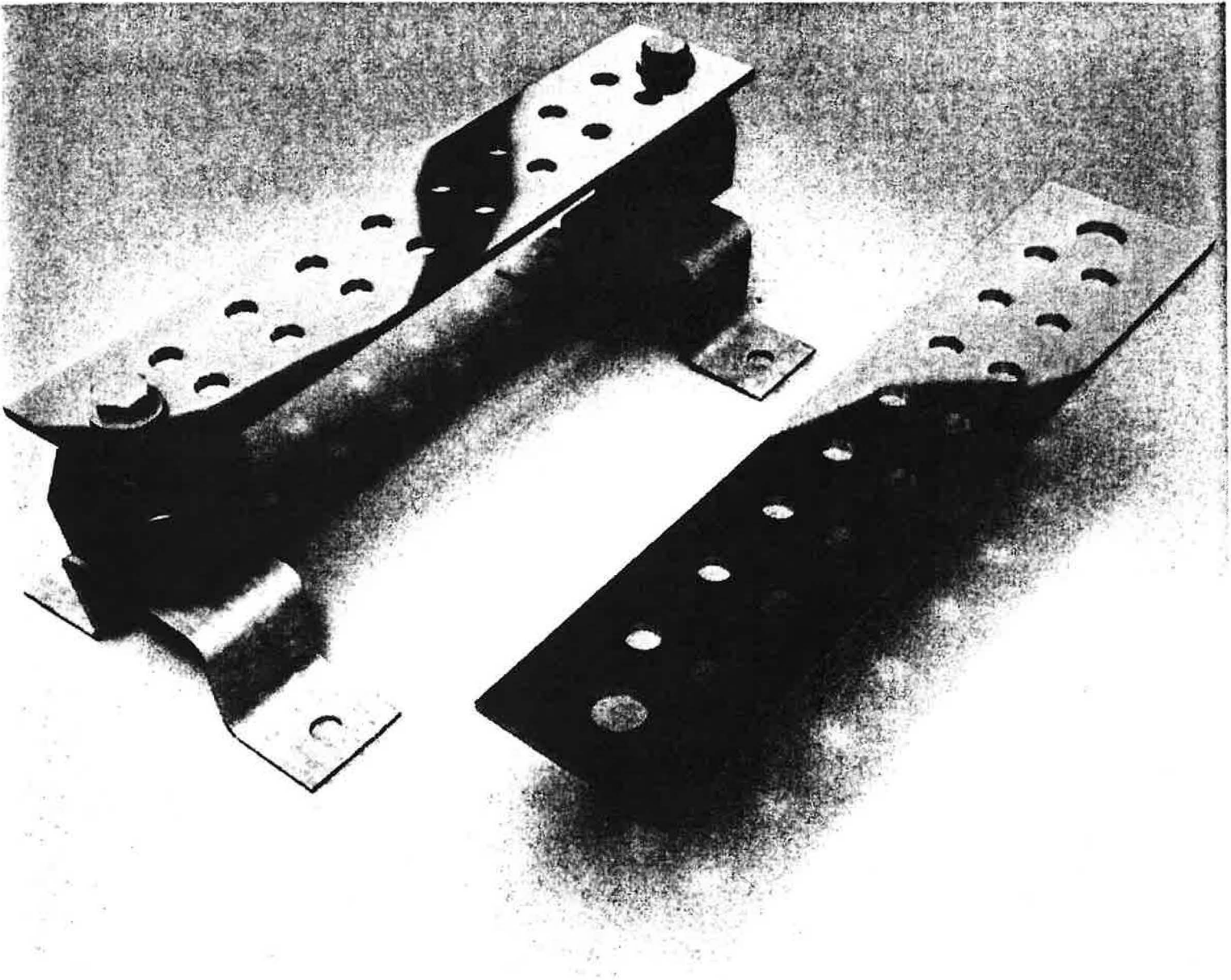


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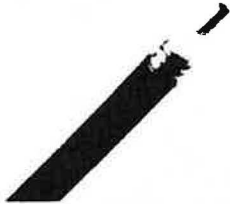


# Product Specifications



## AVA5RK-50

AVA5-50, HELIAX® Andrew Virtual Air™ Coaxial Cable, corrugated copper, 7/8 in, black non-halogenated, fire retardant polyolefin jacket



## CHARACTERISTICS

### Construction Materials

Jacket Material	Non-halogenated, fire retardant polyolefin
Outer Conductor Material	Corrugated copper
Dielectric Material	Foam PE
Flexibility	Standard
Inner Conductor Material	Copper tube
Jacket Color	Black

### Dimensions

Nominal Size	7/8 in
Cable Weight	0.35 lb/ft   0.53 kg/m
Diameter Over Dielectric	24.130 mm   0.950 in
Diameter Over Jacket	27.940 mm   1.100 in
Inner Conductor OD	9.3980 mm   0.3700 in
Outer Conductor OD	25.400 mm   1.000 in

### Electrical Specifications

Cable Impedance	50 ohm $\pm$ 1 ohm
Capacitance	22.3 pF/ft   73.2 pF/m
dc Resistance, Inner Conductor	0.410 ohms/kft   1.435 ohms/km
dc Resistance, Outer Conductor	0.340 ohms/kft   1.116 ohms/km
dc Test Voltage	6000 V
Inductance	0.184 $\mu$ H/m   0.056 $\mu$ H/ft
Insulation Resistance	100000 MOhm
Jacket Spark Test Voltage (rms)	8000 V
Operating Frequency Band	1 – 5000 MHz
Peak Power	91.0 kW

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# Product Specifications



AVA5RK-50

Pulse Reflection	0.5%
Velocity	91%

## Environmental Specifications

Installation Temperature	-25 °C to +60 °C (-13 °F to +140 °F)
Operating Temperature	-30 °C to +80 °C (-22 °F to +176 °F)
Storage Temperature	-30 °C to +80 °C (-22 °F to +176 °F)

## General Specifications

Brand	HELIAX®
-------	---------

## Mechanical Specifications

Bending Moment	19.0 N-m   14.0 ft lb
Fire Retardancy Test Method	UL 1666/CATVR
Flat Plate Crush Strength	75.0 lb/in
Minimum Bend Radius, Multiple Bends	254.00 mm   10.00 in
Minimum Bend Radius, Single Bend	127.00 mm   5.00 in
Number of Bends, minimum	15
Number of Bends, typical	30
Smoke Index Test Method	IEC 61034
Tensile Strength	159 kg   350 lb
Toxicity Index Test Method	IEC 60754-1   IEC 60754-2

## Standard Conditions

Attenuation, Ambient Temperature	20 °C   68 °F
Average Power, Ambient Temperature	40 °C   104 °F
Average Power, Inner Conductor Temperature	100 °C   212 °F

## Return Loss/VSWR

Frequency Band	VSWR	Return Loss (dB)
806-960 MHz	1.13	24.30
1700-2170 MHz	1.13	24.30

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# Product Specifications

AVA5RK-50



## Attenuation

Frequency (MHz)	Attenuation (dB/100 m)	Attenuation (dB/100 ft)	Average Power (kW)
0.5	0.076	0.023	91.00
1	0.108	0.033	77.97
1.5	0.132	0.04	63.61
2	0.153	0.046	55.06
10	0.343	0.105	24.48
20	0.487	0.149	17.23
30	0.599	0.183	14.02
50	0.777	0.237	10.81
88	1.039	0.317	8.08
100	1.11	0.338	7.57
108	1.155	0.352	7.27
150	1.369	0.417	6.14
174	1.479	0.451	5.68
200	1.591	0.485	5.28
300	1.968	0.6	4.27
400	2.292	0.698	3.67
450	2.44	0.744	3.44
500	2.581	0.787	3.25
512	2.614	0.797	3.21
600	2.846	0.868	2.95
700	3.093	0.943	2.72
800	3.325	1.014	2.53
824	3.379	1.03	2.49
894	3.533	1.077	2.38
960	3.673	1.119	2.29
1000	3.756	1.145	2.24
1250	4.247	1.294	1.98
1500	4.7	1.432	1.79
1700	5.04	1.536	1.67
1800	5.205	1.586	1.61
2000	5.523	1.683	1.52
2100	5.678	1.731	1.48
2200	5.83	1.777	1.44
2300	5.979	1.822	1.40
2500	6.27	1.911	1.34
2700	6.553	1.997	1.28
3000	6.963	2.122	1.21
3400	7.487	2.282	1.12
3700	7.866	2.397	1.07
4000	8.234	2.51	1.02
5000	9.396	2.864	0.89

## Regulatory Compliance/Certifications

### Agency

UL/ETL Certification  
RoHS 2002/95/EC  
China RoHS SJ/T 11364-2006

### Classification

CATVR  
Compliant  
Below Maximum Concentration Value (MCV)

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# Product Specifications

AVA5RK-50



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11/8/2010

# Bird® Side Mounted Dipole Antenna

---

## 400-520 MHz & 746-870 MHz

The SMD series of side mount dipole antennas are an extremely broad bandwidth antenna recommended for local area coverage or short haul RF link applications. The SMD series are all welded aluminum construction. The feed point is protected by an ABS cap, with the internal PTFE based cable construction providing excellent intermodulation performance (-150dBc). The antenna is internally DC grounded for lightning protection and the reduction of precipitation static noise.

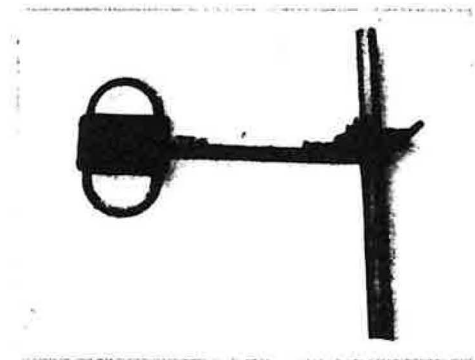
Provides either directional or largely omnidirectional radiation pattern

All welded aluminum construction with RoHS compliant corrosion protection

Supplied complete with UNV clamp for mounting

Full band coverage from a single antenna for local coverage or control station applications

Industry leading PIM ratings providing low IM and low noise characteristics for optimum performance



# Bird® Side Mounted Dipole Antenna

400-520 MHz & 746-870 MHz



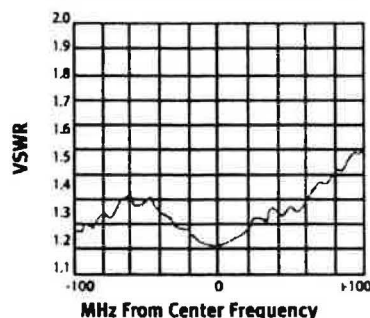
## SPECIFICATIONS, ELECTRICAL

<b>Model Number</b>	SMD7-83-U SMD4-67-U	
<b>Nominal Gain dBd</b>		Unity (but varies with mounting arrangements)
<b>Frequency MHz</b>	SMD7-83-U SMD4-67-U	746 - 870 400-520
<b>Tuned Bandwidth MHz</b>		Entire Band
<b>VSWR (Return Loss)</b>		< 1.5:1 (14dB)
<b>Nominal Impedance Ω</b>		50
<b>Vertical Beamwidth</b>	SMD7-83-U SMD4-67-U	Typically 86° at 1/4 λ antenna - mast spacing Typically 70° at 1/4 λ antenna - mast spacing
<b>Horizontal Beamwidth</b>	SMD7-83-U SMD4-67-U	Typically 190° at 1/4 λ antenna - mast spacing Typically 220° at 1/4 λ antenna - mast spacing

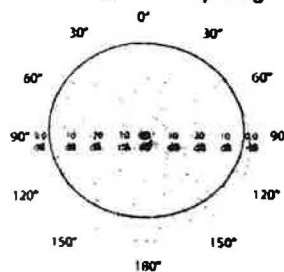
## SPECIFICATIONS, MECHANICAL

<b>Model Number</b>	SMD7-83-U SMD4-67-U	
<b>Construction &amp; Configuration</b>		All welded aluminum with RoHS compliant corrosion protection
<b>Dimensions inches</b>	SMD7-83-U SMD4-67-U	6.5 high by 14.5 long (incl. boom) 11.5 high by 14.5 long (incl. boom)
<b>Weight lbs</b>		0.73
<b>Shipping Weight lbs</b>		1.68
<b>Shipping Dimensions inches (HxWxL)</b>		8x8x16
<b>Termination</b>		N Female with short 9142 cable tail
<b>Mounting Area</b>		4" x 1" diam. aluminum
<b>Projected Area ft²</b>	No Ice With Ice	SMD7-83-U SMD4-67-U SMD7-83-U SMD4-67-U
		0.17 0.22 0.36 0.46
<b>Wind Load (Thrust) @ 100mph lbs</b>	SMD7-83-U SMD4-67-U	4.3 5.4
<b>Wind Gust Rating mph</b>		>150
<b>Torque @100mph ft-lbs</b>	SMD7-83-U SMD4-67-U	1.9 3

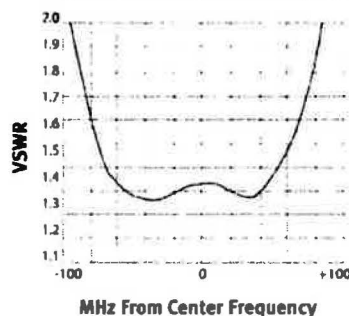
Typical VSWR response (SMD7-83)



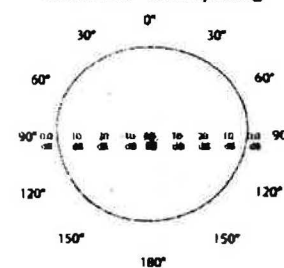
SMD7-83-H Plane at 1/4 wave antenna to most spacing



Typical VSWR response (SMD7-83)



SMD7-83-H Plane at 1/4 wave antenna to most spacing



## ANTENNA CLAMP - SUPPLIED WITH THESE ANTENNA'S



Lightweight right angle galvanised clamp.

### UNV CLAMP

<b>Clamp</b>	UNV
<b>Weight per clamp lbs</b>	0.9
<b>Body Finish</b>	Galvanised
<b>Fastener Finish</b>	Galvanised
<b>Min. boom size Inch</b>	0.8
<b>Max boom size Inch</b>	2.0
<b>Application</b>	Mount small antennas in 90° arrangement



**YOU'RE HEARD, LOUD AND CLEAR.**

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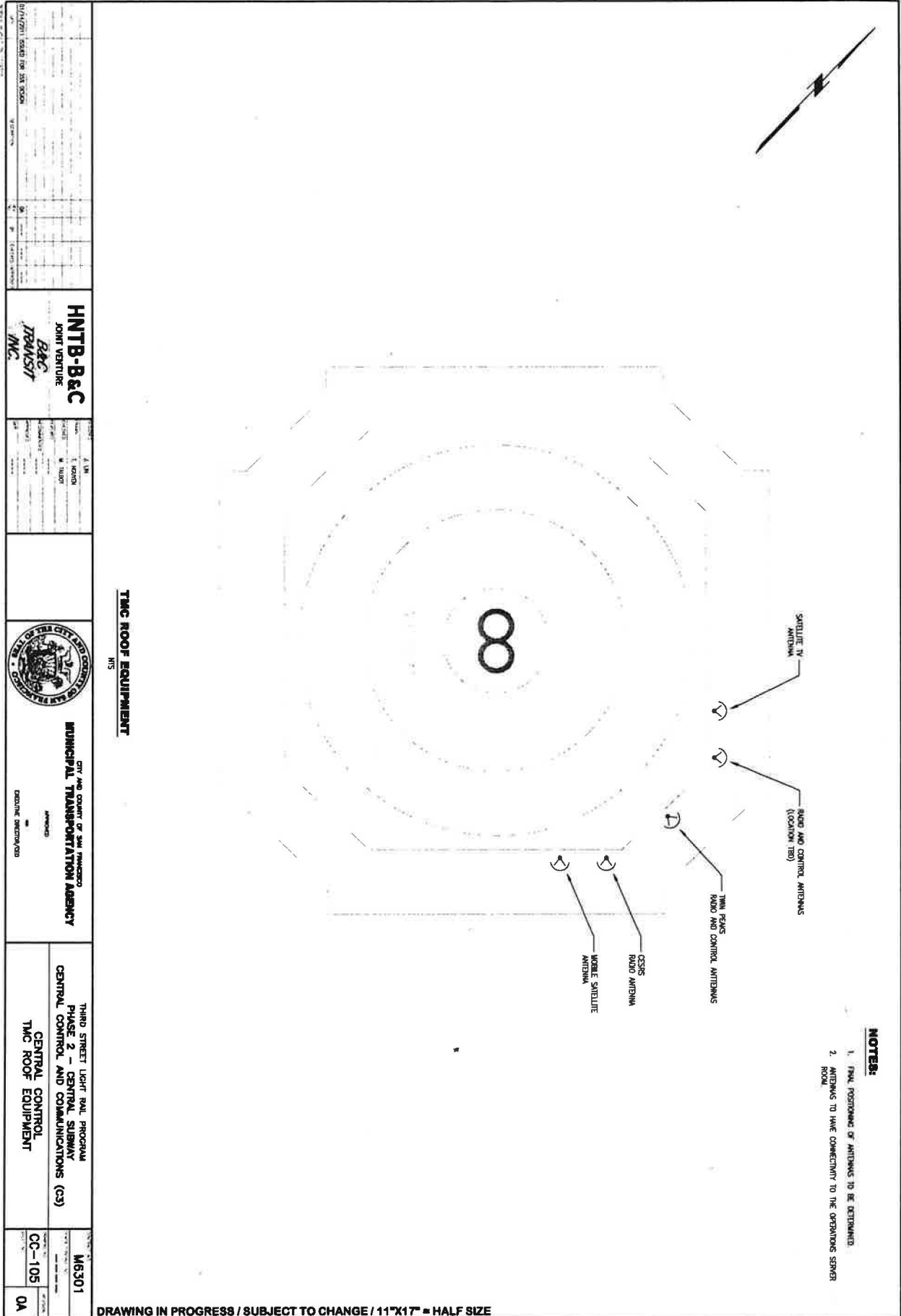


**EXHIBIT B-2**  
**INITIAL TELECOM SITE**

[TO BE INSERTED]









**EXHIBIT C-1**

**NOTICE OF INITIAL PREMISES COMMENCEMENT DATE**

[Insert Date]

SFMTA Real Estate Section  
1 South Van Ness Avenue, 8th Floor  
San Francisco, CA 94103

Ms. Amy L. Brown  
Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102

RE: Acknowledgement of Commencement Date for Initial Premises, Lease Between HUDSON  
1455 MARKET, LLC, a Delaware limited liability company ("Landlord"), and the CITY  
AND COUNTY OF SAN FRANCISCO ("Tenant"), for premises known as \_\_\_\_\_  
\_\_\_\_\_ located at 1455 Market Street, San Francisco, California.

Dear Sir or Madam:

In accordance with Section 3.2(a) of the Lease, this letter will confirm that for all  
purposes of the Lease, the Commencement Date for the Initial Premises is \_\_\_\_\_,  
20\_\_ and the Rent Commencement Date for the Initial Premises is \_\_\_\_\_, 20\_\_.

Please acknowledge your acceptance of this letter by signing and returning a copy of this letter.

Very truly yours,

HUDSON 1455 MARKET, LLC, a Delaware limited liability company

By: Hudson Pacific Properties, L.P.,  
a Maryland limited partnership,  
Its: Sole Member

By: Hudson Pacific Properties, Inc.,  
a Maryland corporation  
Its: General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Accepted and Agreed:

By: \_\_\_\_\_  
Executive Director/CEO  
San Francisco Municipal  
Transportation Agency

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

**EXHIBIT C-2**

**NOTICE OF FIRST OFFER SPACE COMMENCEMENT DATE**

[Insert Date]

SFMTA Real Estate Section  
1 South Van Ness Avenue, 8th Floor  
San Francisco, CA 94103

Ms. Amy L. Brown  
Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102

RE: Acknowledgement of Commencement Date for First Offer Space, Lease Between HUDSON 1455 MARKET, LLC, a Delaware limited liability company ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO ("Tenant"), for premises known as \_\_\_\_\_ located at 1455 Market Street, San Francisco, California.  
\_\_\_\_\_

Dear Sir or Madam:

In accordance with Section 3.2(b) of the Lease, this letter will confirm that for all purposes of the Lease, the First Offer Space Commencement Date is \_\_\_\_\_, 20\_\_ and the First Offer Space Rent Commencement Date is \_\_\_\_\_, 20\_\_.

Further, this letter shall confirm the following terms and conditions with respect to the First Offer Space:

1. The number of rentable square feet within the First Offer Space is \_\_\_\_\_ square feet. The total number of rentable square feet within the Premises (i.e. the Initial Premises and the First Offer Space collectively) is \_\_\_\_\_ square feet.
2. The Base Rent payable with respect to the First Offer Space is as follows:  
\_\_\_\_\_.
3. City Percentage Share, as adjusted based upon the number of total rentable square feet within the Premises, is \_\_\_\_\_%.

Please acknowledge your acceptance of this letter by signing and returning a copy of this letter.

Very truly yours,

HUDSON 1455 MARKET, LLC, a Delaware limited liability company

By: Hudson Pacific Properties, L.P.,  
a Maryland limited partnership,  
Its: Sole Member

By: Hudson Pacific Properties, Inc.,  
a Maryland corporation  
Its: General Partner

Accepted and Agreed:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Executive Director/CEO  
San Francisco Municipal  
Transportation Agency

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



## **EXHIBIT D**

### **EXCLUSIONS FROM OPERATING COSTS**

The following shall be excluded from Operating Costs for the purpose of determining City's proportionate share of increases in Operating Costs:

1. **Capital Costs.** Capital Expenses, which for the purposes of this Exhibit shall be defined as any expenditure which (x) provides a benefit in excess of one year, (y) is a non-recurring expenditure (i.e., such that the subject expenditure is not expected to recur in a two (2) year period), and (z) cost, in the aggregate including all associated and related expenditures for consulting fees, permits, installment payments, etc., in excess of \$10,000 ("Capital Expenses"), except as specifically included in items (i) and (ii) of this Item 1 and Item 2 below.

- (i) **Capital Costs for New Building Regulations.** Operating Costs may include the cost of capital improvements required by Laws enacted or first amended or interpreted to apply to the Building on or after the date of the Lease (which shall not be interpreted to refer to Laws generally applicable to the Building but for which compliance was not previously triggered by the scope of alterations or improvements or the like), amortized over the useful life of the improvement, plus interest in the amount described below, except to the extent such capital improvements are attributable to or are made for the primary benefit of a tenant or occupant other than City.
- (ii) **Capital Costs Which Reduce Operating Costs.** Operating Costs may include the cost of capital improvements installed to cause a reduction in other Operating Costs, amortized over the useful life of such improvements, plus interest in the amount described below, provided, however, that the costs of such capital improvements may only be included if, at the time such costs were incurred, Landlord reasonably estimated that the annual savings that would result from the applicable capital improvement (commencing with the first year after the completion of such improvement) would be equal to or exceed the annual amortized amount of the costs to be included in Operating Costs for the applicable capital improvement, and at City's request Landlord shall provide City with a written statement and explanation of Landlord's estimation.

Capital Expenses described in (i) or (ii) above included in Operating Costs shall be amortized over the useful life thereof (as reasonably determined by Landlord, provided that such period shall be within the range used to amortize such costs by landlords of first-class office buildings in the San Francisco financial district in accordance with generally accepted property management practices), together with (A) interest on the unamortized balance of the Capital Expense at the actual interest rate incurred by Landlord in connection with such Capital Expense if the funds for such Capital Expense are borrowed from a third party lender, or (B) presumed interest on the unamortized portion of such Capital Expense at the Bank of America Reference Rate plus two percent (2%) if the funds are not borrowed from a third party lender.

2. **Capital Equipment Rental.** Rentals and other related expenses for items which if purchased rather than rented, would constitute a Capital Expense (except when needed in connection with normal repairs and maintenance of permanent systems and further excepting equipment that is not affixed to the Building and is used in providing janitorial services or similar services).

3. **Casualty Costs.** Costs incurred by Landlord in the event any portion of the Building is made untenable by fire or other casualty, including costs for the repair of the Building.

4. Eminent Domain Costs. Costs incurred as a result of the exercise of the right of eminent domain.
5. Tenant Improvement Costs. Costs, including, without limitation, interior improvements, base building improvements, code upgrades, permit, license and inspection costs, incurred with respect to the installation of improvements made for tenants or other occupants of the Building or incurred in renovating or otherwise improving, decorating, painting or redecorating space for tenants or other occupants in the Building.
6. Depreciation, Amortization and Interest. Depreciation, amortization and interest payments, except (i) depreciation on paintings, sculptures and other works of art located in the Building's common ground floor lobby, provided the cost of depreciation of such items included in Operating Costs does not materially exceed the cost for such items typically included by landlords of first-class office buildings in the San Francisco financial district), (ii) to the extent provided herein pursuant to items 1(i) and 1(ii) above, and (iii) on materials, tools, supplies and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party where such depreciation, amortization and interest payments would otherwise have been included in the charge for such third party's services, provided that when depreciation or amortization is permitted or required, the item shall be amortized over its useful life (as reasonably determined by Landlord, provided that such period shall be within the range used to amortize such costs by landlords of first-class office buildings in the San Francisco financial district in accordance with generally accepted property management practices).
7. Marketing and Leasing Costs. Advertising and promotional expenses, marketing costs, leasing commissions, attorneys' and other professionals' fees, space planning costs and all other costs and expenses in connection with negotiations with present or prospective tenants or other occupants in the Building.
8. Lease Enforcement and Dispute Costs. Litigation costs, attorneys' fees, costs of settlement, judgments and payments in lieu thereof, and other costs and expenses incurred in connection with: (i) lease enforcement; (ii) disputes or potential disputes with prospective, former or current Building tenants or occupants; (iii) disputes or potential disputes with any prospective, former or current employee, agent, contractor or vendor (except to the extent that Landlord reasonably anticipates that, for the majority of the tenants of the Building, the economic benefits of a successful outcome would exceed the costs incurred, in which event reasonable costs and expenses incurred in connection therewith may be included in Operating Costs on the condition that Landlord identify such cost, together with a description of the anticipated economic benefit to be realized, in Landlord's Expense Statement for the Expense Year in which such costs were included); (iv) disputes or potential disputes with any present or future ground lessors or holders of any mortgages or other encumbrances affecting any of the Building; (v) the defense of Landlord's title to the Building or the real property on which it is located; or (vi) other potential or actual disputes, claims, litigation or arbitration pertaining to Landlord or the Building (except to the extent that Landlord reasonably anticipates that, for the majority of the tenants in the Building the economic benefits of a successful outcome would exceed the costs incurred, such as tax disputes where the tenants of the Building would benefit if Landlord prevails, in which event reasonable costs and expenses incurred in connection therewith may be included in Operating Costs on the condition that Landlord identify such cost,

together with a description of the anticipated economic benefit to be realized, in Landlord's Expense Statement for the Expense Year in which such costs were included).

9. New or Additional Costs. Costs-for additional services of a type which were not included in the Base Year (except to the extent that the Base Year is adjusted to reflect such new expenses).

10. Costs of Violations of Rules, Laws or Contracts. Costs, including without limitation fines, penalties and damages, incurred by Landlord due to violation by Landlord or any tenant or other occupant of the Building of the terms and conditions of any lease, ground lease, mortgage or deed of trust, or other covenants, conditions or restrictions encumbering the Building or the real property on which it is located, except to the extent Landlord would have incurred such costs as an Operating Cost absent such violation.

11. Self-Dealing Costs. Overhead and profit increments paid to Landlord or to subsidiaries or affiliates of Landlord, for management or other services, supplies or materials, to the extent the same materially exceed the costs of such goods and/or services rendered by unaffiliated third parties providing the same quality and scope of services and with a comparable level of relevant experience and skill on a competitive, arms-length basis.

12. Concierge or other Concession Costs. Any compensation paid to clerks, attendants or other persons in commercial concessions operated by or for Landlord, including, without limitation, concierge service, athletic or recreation club or luncheon club.

13. Ground Lease. Any ground lease rental or rental under any other underlying leases.

14. Amortization and Interest. Except as specifically permitted by Items 1(i), 1(ii) and 6 above, interest, principal, points and fees on debts or amortization on any mortgage, deed of trust or any other debt instrument encumbering any of the Building or the real property on which it is located.

15. Property Management Fee Cap. Property management costs including wages, salaries, and management office expenses, to the extent that such costs exceed management costs normally payable for comparable management services in comparable buildings in the downtown San Francisco financial district.

16. Reimbursed Costs and Costs Benefitting Other Tenants. All items, services and benefits (i) for which City or any other tenant or occupant of the Building separately reimburses Landlord (other than through such tenant's or occupant's proportionate share of Operating Costs), or (ii) which are not offered to City (or for which City is charged directly), but which are provided to another tenant or occupant of the Building without reimbursement.

17. Signage. The costs of acquiring and installing signs in or on any of the Building identifying the owner of the Building or any tenant or other occupant of the Building.

18. Garage Operations. Services provided, taxes attributable to, and costs incurred in connection with the operation of the parking garage in the Building other than reasonable repair and maintenance of the parking garage (including, without limitation, payroll for clerks,

attendants, book keeping, parking, insurance premiums, parking management fees, and parking tickets), except to the extent such costs exceed the greater of actual revenue or imputed revenue. If any entity receives free parking or parking at a reduced charge, the full value of such free or reduced charge parking shall be deemed revenue of the garage for the purposes hereof.

19. ADA Costs. Costs incurred in connection with upgrading the Building to comply with disabled access, life, fire and safety codes in effect prior to the date of the Lease, and costs incurred in connection with upgrading the Building to comply with the Americans with Disabilities Act of 1990 and Title 24 of the California Code of Regulations (or its successor), the San Francisco Sprinkler Ordinance and the San Francisco Unreinforced Masonry Building Ordinance.

20. Late Payment. Penalties or fees incurred as a result of Landlord's negligence, inability or unwillingness to make payments, including tax payments, when due.

21. Hazardous Materials Costs. Costs arising from the presence of or incurred in connection with the abatement or remediation of Hazardous Material in or about the Building, including, without limitation, groundwater or soil conditions ("Hazardous Materials Costs"); provided, however, Operating Costs may include minor costs attributable to those actions taken by Landlord to comply with any laws, rules and regulations or otherwise commonly performed pursuant to prudent property management practice, provided such actions are incidental to the ordinary operation and maintenance of the Building (and not triggered by or made in connection with tenant improvements or a particular special use by a tenant or occupant, such as a laboratory, dental or medical practice, cleaners or photo processing), including (i) costs of routine monitoring of and testing for Hazardous Material in or about the Building and (ii) costs incurred in removing and disposing of de minimis amounts of Hazardous Materials from the Building when such removal is directly related to such ordinary maintenance and operation of the Building.

22. Charitable and Political Contributions. Landlord's charitable or political contributions.

23. Available Warranties. Costs for repairs that are reimbursed by a contractor or manufacturer pursuant to a warranty.

24. Art. Costs for sculpture, paintings or other objects of art, other than de minimis costs of routine maintenance of and insurance premiums for art work and decorations on display in the Common Areas.

25. Sale and Financing Costs. All direct costs of financing, refinancing, selling, exchanging or otherwise transferring ownership of the Building or the real property on which it is located or any interest therein or portion thereof, including broker commissions, attorney's fees and closing costs.

26. Bad Debts and Reserves. Bad debt loss, rent loss, sinking funds or reserves for bad debts, rent loss, capital items or further Operating Costs.

27. Violation of Law. Costs, penalties or fines arising from the violation by Landlord or any tenant or other occupant of the Building of any applicable governmental rule, regulation, law or

authority, except to the extent such costs reflect costs that would have been incurred by Landlord absent such violation.

28. Overhead. Landlord's general corporate overhead and general and administrative expenses not directly related to the operation or management of the Building.

29. Non-Customary Costs. Any other expense that would not customarily and in good faith be considered a maintenance or operating expense.

30. Special Service Expense Items. In addition to the foregoing, Landlord shall make good faith efforts (i) to exclude from Operating Costs those items, services or benefits ("Special Service Expense Items") that are incurred solely for the direct benefit of specific types of tenants or users in the Building ("Special Service Users"), or (ii) to equitably reduce Operating Costs to reflect materially disproportionate use of Special Service Expense Items by Special Service Users (when compared to the typical Building tenant). Special Service Users may include, but shall not be limited to retail tenants, medical or dental offices, server farms or co-location facilities.





## **EXHIBIT E-1**

### **RULES & REGULATIONS**

#### **RULES AND REGULATIONS 1455 MARKET STREET**

Tenant shall faithfully observe and comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the nonperformance of any of these Rules and Regulations by any other Tenants or Occupants of the Property; provided, however, that if such nonperformance unreasonably disturbs or interferes with Tenant's use or enjoyment of the Premise, upon request by Tenant, Landlord shall exercise reasonable efforts to enforce the Rules and Regulations against Other Tenants or Occupants. In the event of any conflict between these Rules and Regulations and the other provisions of the Lease, the Lease shall control.

1. Landlord will furnish Tenant with up to 200 card access keys to the Building and the Premises, free of charge. No additional locking devices shall be installed without the prior written consent of Landlord. Landlord may make reasonable charge for any additional lock or any bolt installed on any door of the Premises without the prior consent of Landlord. Tenant shall in each case furnish Landlord with a key for any such lock. Tenant, upon the termination of its tenancy, shall deliver to Landlord all keys to doors in the Project and the Premise that shall have been furnished to Tenant together with security codes for security systems installed by Tenant in accordance with the Lease. The Tenant shall bear the cost of any lock changes or repairs required by Tenant.
2. Wherever the word "Tenant" occurs in these Rules and Regulations, it is understood and agreed that it shall mean Tenant and all of Tenant's employees, agents, contractors, licensees, invitees, representatives, officers, directors, shareholders, partners, and members.
3. Any Tenant, its employee, agents or any other persons entering or leaving the Building at any time may be required to sign in and out at the Security Station in the Main Lobby. Access to the Building may be refused unless the person seeking access has proper identification or has a previously arranged pass for access to the Building. Landlord will furnish passes to persons for whom Tenant requests same in writing. All requests must be received twenty-four (24) hours in advance. Tenant shall be charged Landlord's actual costs for the replacement of lost building access cards. Tenant shall be responsible for all persons which Tenant requests passes for and shall be liable to Landlord for all acts of such persons. The Landlord and its agents shall in no case, be liable for damages for any error with regard to the admission to or excluding from the Building or any person, except to the extent caused by the gross negligence or willful misconduct of Landlord or its agents.
4. In case of invasion, mob, riot, public excitement, or other commotion, Landlord reserves the right to reasonably prevent access to the Building or the Property during the continuance thereof by any means it deems necessary for the safety and protection of life and property.

5. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any government agency.
6. The common area of the Property shall not be obstructed by Tenant or used for any purpose other than for ingress to and egress from the Premises. No loitering shall be permitted in the common area for the purpose of smoking or for any other purpose. Landlord shall in all cases retain the right to control and prevent access to the common areas of all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation and interests of the Project and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom Tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities or, in Landlord's judgment, are intoxicated or under the influence of liquor or drugs. Tenant shall not go upon the roof of the Project, except in areas that Landlord may designate as "common area" from time to time or otherwise in accordance with the specific requirements of such Tenant's lease.
7. Landlord reserves the right to exclude or expel from the Property any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of these Rules and Regulations.
8. Tenants, its employees and agents shall not loiter in or on the entrances, corridors, sidewalks, Lobbies, courts, halls, stairways, elevators, vestibules or any Common Areas for the purpose of smoking tobacco products or for any other purpose, nor in any way obstruct such areas, and shall use them only as a means of ingress and egress for the Premises.
9. The Premises shall not be used for manufacturing or for the storage of retail merchandise except as such storage may be incidental to the use of the Premises provided Tenant has received approval from the Landlord.
10. All moving activity into and out of the Building shall be scheduled with Landlord and done only at such time and in such manner as Landlord reasonably designates. Landlord shall have the right to reasonably prescribe the weight, size and position of all safes and other heavy property brought into the Building and also the times and manner of moving the same in and out of the Building. Safes and other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight; provided the Landlord shall have no right to require Tenant to move or re-install any such object from the place it is located as of the date of the Lease. Landlord will not be responsible for loss of or damage to any such safe or property in any case. Any damage to any part of the Building, its contents, occupants or visitors by moving or maintaining any such safe or other heavy property shall be the sole responsibility and expense of the Tenant.
11. The requirements of Tenant will be attended to only upon written request to the Building management office at the Property. Employees of Landlord shall not perform any work or do anything outside their regular duties unless under special instruction from Landlord.

12. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by Tenant in any public part of the Building or seen from outside the Premises without the prior written consent of the Landlord, provided that Landlord hereby approves all of the existing signage on the Floors. Tenant shall not distribute, solicit, peddle, or canvass any other Tenant of the Property and shall reasonably cooperate with Landlord and its agents to prevent same.
13. No awnings or other projection shall be attached to the outside walls of the Building without the prior written consent of Landlord, and no curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises other than Landlord standard drapes or the curtains, blinds, shades or screens existing as of the date of the Lease. Neither the interior nor exterior of any windows shall be coated or otherwise unscreened after the date of the Lease without the prior written consent of Landlord. Tenant shall abide by Landlord's reasonable regulations concerning the opening and closing of window coverings which are attached to the windows in the Premises, if any, which have a view of any interior portion of the Building or Common Areas.
14. Except for within the designated cafeteria of the building, no cooking shall be done or permitted on the Premises, nor shall the Premises be used for the storage of merchandise, for lodging or for any improper, objectionable or immoral purposes. Notwithstanding the foregoing, Underwriters' Laboratory-approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot chocolate and similar items for Tenant and its employees in compliance with all applicable Requirements.
15. Tenant's use of the Project elevators for freight shall be subject to such reasonable scheduling as Landlord shall deem appropriate. The persons employed by Tenant to move equipment or other items in or out of the Project must be acceptable to Landlord. Landlord shall have the right to prescribe the weight, size and position of all equipment, materials, supplies, furniture or other property brought into the Project. Heavy objects shall, if considered necessary by Landlord, stand on wood strips of such thickness as is necessary to properly distribute the weight of such objects. Landlord will not be responsible for loss of or damage to any such property from any cause, and all damage done to the Project by moving or maintaining Tenant's property shall be repaired at the expense of Tenant.
16. All doors opening to public corridors shall be kept closed at all times except for normal ingress and egress to the Premises.
17. All loading and unloading of merchandise, supplies, materials, garbage and refuse and delivery of same to the Premises shall be made only through such entryways and elevators and at such time as Landlord shall designate. In its use of the loading areas, Tenant shall not obstruct or permit the obstruction of said building areas, and at no time shall Tenant park vehicles therein except for loading and unloading in Building Designated Areas, keeping the Armored Car Area of the Loading Dock unobstructed at all times.
18. Tenant shall not throw anything out of doors, windows, skylights or down passageways.

19. Tenant shall not use in any space, or in the common areas of the Project, any hand trucks except those equipped with rubber tires and side guards or such other material handling equipment as Landlord may approve. No bicycles, motorcycles, or other vehicles of any kind shall be brought by Tenant into the Project or kept in or about the Premises except in areas of the Project specifically designated for such purpose.
20. Tenant shall not bring into or keep within the Property, the Building or the Premises any animals (other than service animals), birds, aquariums, or except in areas designated by Landlord.
21. Tenant shall not use or keep in the Premises or Property any kerosene, gasoline or hazardous material, flammable or combustible fluid or materials or use any method of heating or air conditioning other than that supplied by Landlord. Tenant shall not use, keep or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Property by reason of noise, odors, and/or vibrations, or interfere in any way with other Tenants or those having business on the Property.
22. Trash shall store all its trash and garbage within the Premises until daily removal of same by Tenant to such location in the Project as may be designated from time to time by Landlord. No material shall be placed in the Project trash boxes or receptacles in such material is or such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the City of San Francisco without being in violation of any law or ordinance governing such disposal. Further, Tenant shall sort and separate its trash and recycling into such categories as required by legal requirements or Landlords sustainability practices. Landlord reserves the right to refuse to collect trash from any Tenant that is not properly separated and sorted. To the extent that any costs, fines, penalties or damages are imposed on Landlord or Tenant by reason of Tenant's failure to comply with the foregoing, Tenant shall pay all such amounts.
23. No auction, liquidation, fire sale, going-out-of-business or bankruptcy sale shall be conducted in the Premises without the prior written consent of Landlord.
24. Canvassing, soliciting, peddling or distribution of handbills or any other written material in the Project is prohibited and Tenant shall cooperate to prevent same.
25. Except with prior consent of Landlord, Tenant shall not sell, or permit the sale from the Premises of, or use or permit the use of any common area adjacent to the Premises for the sale of, newspapers, magazines, periodicals, theatre tickets or any other goods, merchandise or service, nor shall Tenant carry on, or permit or allow any employee or other person to carry on, business in or from the Premises for the service or accommodation of occupants or any other portion of the Project, nor shall the Premises be used for manufacturing of any kind, or for any business or activity other than that specifically provided for in the Lease.
26. Tenant must comply with the State of California "No-Smoking" law set forth in California Labor Code Section 6404.5, and any local "No-Smoking" ordinance which may be in effect from time to time and which is not superseded by such State law.

27. Tenant shall not permit the use or the operation of any coin operated machines on the Premises, including, without limitation, vending machines, video games, pinball machines, or pay telephones without the prior written consent of Landlord.
28. Tenant shall immediately, upon request from Landlord (which request need not be in writing) reduce its lighting in the Premises for temporary periods designated by Landlord, when required in Landlord's judgment to prevent overloads of the mechanical or electrical systems of the Project. Tenant shall not waste electricity, water or air conditioning, shall cooperate with Landlord to ensure the most effective operation of the Project's heating and air conditioning systems, and shall not attempt to adjust any controls not specifically made available to Tenant for such purpose.
29. Upon notice to Tenant of the requirements of such programs imposed by the City and County of San Francisco with respect to the Project, Tenant shall comply with Landlord's transportation management program, parking management brokerage agreement program and similar programs.
30. Tenant shall have the right to connect the telephone system in the Premises to the telephone cable distribution system serving the Project at the location of the telephone cable terminal on the floor on which the Premises are situated, provided that no connection shall be made and no work otherwise affecting the telephone cable terminal or distribution system shall be undertaken without reasonable prior notice to Landlord. Landlord or Landlord's contractor with responsibility for maintenance of the telephone distribution system may require supervision of the connection by Landlord or the maintenance contractor, and may impose such other reasonable conditions as may be necessary to protect the telephone cable terminal or distribution system. Any damage to the telephone cable terminal or distribution system caused by the act or omission of Tenant shall be repaired at the expense of Tenant.
31. Tenant must comply with requests by Landlord concerning the informing of its employees of items of importance to Landlord.
32. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the Tenant who, or whose employees, agents, visitors or licensees shall have caused.
33. These Rules and Regulations are in addition to, and shall not be construed in any way to modify, alter or amend, in whole or part, the terms, covenants, agreements and conditions of any lease of premises in the Project.

Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Landlord's reasonable judgment may from time to time be necessary for the management, safety, care and cleanliness of the Premises, Building, the Common Area and the Property, and for the

preservation of good order therein, as well as the convenience of other occupants and tenants therein, provided that such modifications and additions are consistent with the provisions of the Lease, and do not increase Tenant's costs or materially impair Tenant's rights or materially increase Tenant's obligations under the Lease. Tenant shall not be required to abide by any new or changed Rules and Regulations unless Tenant has received written notice of and a copy of such new or change Rules and Regulations at least thirty (30) days before Landlord seeks to enforce them. The Rules and Regulations shall not discriminate against, or be enforced so as to discriminate against, Tenant or its employees, agents or invitees.



## EXHIBIT E-2

### CRITICAL AWARENESS PROGRAM

The mechanical, electrical and plumbing ("MEP") and automation systems of the Building must be maintained and operated in a manner to provide optimal reliability and availability, while mitigating the risk of incidents resulting from human error. To facilitate such operation and maintenance, the Building is subject to certain processes and procedures as set forth in the Building's Critical Awareness Program ("CAP").

The Building's CAP processes and procedures include the following:

1. **Critical Environment Work Authorization (CEWA)**. This process must be followed if construction or maintenance activities may affect MEP or automation systems supporting the data center operations within the Building. It includes:
  - Documenting the scope of work and detailing the parties involved and the steps to be performed.
  - Identifying associated risk and steps taken to mitigate that risk.
  - Providing technical documentation (*e.g.*, drawings, methods of procedure, schematics).
  - Documenting date and time schedules.
  - Outlining approval procedures.
2. **Identification of Critical Equipment**. Equipment such as switches, circuit breakers, valves and automation systems that support the data center operations must be clearly identified. This equipment will not be operated, repaired or replaced without the approval of Landlord or its representative.
3. **Maintenance Personnel and Contractors**. All maintenance personnel and tradesmen performing work at the site must attend critical awareness training provided by the Landlord (if required by Landlord) and must follow CAP requirements when working on MEP or automation systems supporting the data center operations in the Building.
4. **Communication of Incidents**. Events that impact the MEP or automation systems supporting the data center operations must be communicated to Landlord within specific time periods. These events include, but are not limited to, power disturbances, equipment failures, accidents during maintenance or construction, and fire alarms.
5. **Construction or Maintenance Activities**. Construction or maintenance activities that produce vibration or airborne particulates or that release water that may migrate into areas of the Building containing data center equipment or operations or the MEP or automation systems supporting them, must be communicated in advance to Landlord. Landlord will have the opportunity to demonstrate the potential impact is significant and to develop alternative approaches to the proposed activities.

6. **False Fire Alarms**. Building evacuations resulting from false fire alarms impact data center operations in the Building. Policies and procedures for securing the fire alarm system during certain activities must be followed.

## EXHIBIT F-1

### INITIAL PREMISES WORK LETTER

*(1455 Market Street, San Francisco)*

This Work Letter is part of the Office Lease dated as of \_\_\_\_\_, 2011 (the "Lease"), executed concurrently herewith, by and between Hudson 1455 Market, LLC, as Landlord, and the City and County of San Francisco, as Tenant, covering certain Premises described in the Lease. All terms that are capitalized but not defined herein shall have the same meanings given to them in the Lease.

Landlord, at its sole cost and expense (except as otherwise specifically set forth herein or in the Lease), and through its general contractor, City Building Inc. (CBI) hereby approved by City or such other qualified general contractor selected by Landlord and reasonably approved by City (the "Contractor"), shall furnish and install within the Premises the improvements shown on the Construction Documents finally approved by City pursuant to paragraph 1 below (including any approved Change Orders) (the "Leasehold Improvements" or "Leasehold Improvement Work"), in accordance with the provisions of this letter and the Lease.

1. Plans and Specifications

a. Schematic Design Documents. Prior to Lease execution, Landlord and City, through City's consultant HNTB \_B&C and its subcontractor Kwan Hemni Architecture Planning Inc. (the "City's Consultant") have prepared a mutually acceptable space plans and initial specifications in accordance with the program requirements of City; with sufficient detail to such space plans for the Contractor to provide a Rough Order of Magnitude ("ROM") construction budget for the work shown thereon (the "ROM Budget"). City and Landlord hereby approve the schematic design plans dated January 14, 2011 and specifications for the Leasehold Improvement Work, as modified, dated February 25, 2011 prepared by City's Consultant (together the "Schematic Design Documents"). City and Landlord hereby approve the ROM Budget for the Leasehold Improvement Work of \$9,899,153.00 dated 11/29/2010, prepared by Contractor. Such approvals of the Schematic Design Documents and the ROM Budget shall not limit City's or Landlord's obligations hereunder.

b. Design Development and Construction Documents. Landlord shall select the necessary architectural, engineering, consultant and/or vendor services (the "Design Team"), which shall be subject to City's reasonable approval, for the completion of the work contemplated herein and have approved contracts with each member of the Design Team for such work. In the unlikely event that additional services are required, Landlord and City shall in good faith work together to select such party and such additional contract(s) shall be subject to review, comment, and approval by City, which approval shall not be unreasonably withheld or delayed.

c. Design Development Documents. Based on the approved Schematic Design Documents and any adjustments approved by City and Landlord, Landlord shall promptly cause RMW Architects (the "Architect") and its qualified and licensed engineer reasonably approved by City (the "Engineer") to prepare and submit to City for its approval plans and specifications expanding in greater detail the representations of the Schematic Design Documents and fixing and describing the size and character of the Leasehold Improvements, including, without limitation, architectural, structural, mechanical, electrical, fire and life safety systems, materials and such other elements as may be appropriate, together with fully developed

floor plans, interior elevations, reflected ceiling plans, wall and building sections (collectively, the "Design Development Documents"). The Design Development Documents shall show, without limitation, the following:

- i. location of all demolition;
- ii. location and type of all partitions and treatment of remaining existing partitions;
- iii. location and type of all doors, with door hardware specifications and treatment of remaining existing doors and hardware;
- iv. location and work in all of telephone, risers, equipment rooms, and the like with all special electrical and cooling requirements, if required;
- v. location and type of all electrical outlets, switches, telephone outlets and lights and treatment of remaining existing electrical components, if any;
- vi. location and type of all computer rooms and other equipment requiring special electrical and cooling requirements;
- vii. location, weight per square foot and description of any equipment or filing system which would exceed the buildings live and dead load capacity;
- viii. requirements for special air conditioning or ventilation for the Premises;
- ix. location of all heating and air conditioning zoning and supply and exhaust vents;
- x. location and type of sound batting;
- xi. location, type and color of floor covering;
- xii. location, type and color of all window treatment;
- xiii. ceiling plans including light fixtures;
- xiv. location of sprinklers;
- xv. location, type and color of wall coverings, if any;
- xvi. location, type and color of paint or finishing;
- xvii. all Building-standard and non standard signage;
- xviii. location and type of plumbing;
- xix. location and type of kitchen equipment;
- xx. any modifications to the existing raised floor areas;
- xxi. location, capacity and type of connections to Landlord's water tower, chilling equipment, electrical service, and back up generator;

- Power Supply;
- xxii. location, capacity and type of connections for an Uninterruptable
  - xxiii. location and type of all wiring for computers and telephones;
  - xxiv. location and type of all roof top equipment;
  - xxv. location type of all improvements and equipment to meet the City's Bike Ordinance requirements;
  - xxvi. location and type of all LEED or other sustainability improvements required by City and reasonably approved by Landlord;
  - xxvii. location and type of all work stations, furniture, copiers, printers and other equipment to be acquired or reused;
  - xxviii. any critical dimensions which are important to the cost of construction;
  - xxix. such other interior improvement work required by City;
  - xxx. disabled accessibility work, including any improvements to the entrance doors, lobbies, corridors, drinking fountains, telephone banks, elevators, elevator vestibules, stairs, stair vestibules and restrooms on all floors of the Building in which the Premises are located; and
  - xxxi. all Base Building Work required under this Work Letter.

The Design Development Documents shall be prepared in accordance with the provisions below.

d. Design in Accordance with City's Requirements. Landlord's Architect shall design the Premises and prepare all plans and specifications hereunder, including the Design Development Documents and Construction Documents, in conformity with the Schematic Design Documents and City's program requirements and Landlord's Building requirements, as described below. Landlord's Architect shall consult and hold periodic meetings with City and its architectural, equipment, furniture or design consultants and any LEED consultants and Landlord's project manager, building manager, building engineers and consultants as needed, in the preparation of the Design Development Documents and Construction Documents. In addition to routine and customary exchanges of information, Landlord's Architect shall submit the Design Development Documents to City, Landlord, and Contractor for comment when such plans and documents are fifty percent (50%) complete (the "50% Design Development Documents"). Landlord and City shall provide their respective comments to Architect within fifteen (15) business days of receipt of the 50% Design Development Documents. In addition, within fifteen (15) business days of Contractors' receipt of the 50% Design Development Documents, Contractor shall submit to City and Landlord for comment an update of the ROM Budget based on the 50% Design Development Documents. Such revised construction budget based on the 50% Design Development Documents shall hereinafter be referred to as the "Revised ROM Budget". In the event such Revised ROM Budget exceeds the ROM Budget, all parties shall cooperate in good faith to identify and implement changes to the Design Development Documents as required to satisfactorily reduce the cost of the work to that of the ROM Budget. Upon 100% completion of the Design Development Documents, Landlord's Architect shall submit the Design Development Documents to City, Landlord, and Contractor for comment. Landlord and City shall provide



their respective comments to Architect within thirty (30) days of receipt of the 100% Design Development Documents. In addition, within thirty (30) days of Landlord's receipt of the 100% Design Development Documents, Landlord shall submit to City for review and comment an update of the Revised ROM Budget based on such 100% Design Development Documents. Such revised construction budget based on the 100% Design Development Documents shall include all costs both hard and soft and shall hereinafter be referred to as the "Estimated Construction Cost". In the event such Estimated Construction Cost exceeds the Revised ROM Budget, all parties shall cooperate in good faith to identify and implement changes to the Design Development Documents which are required to satisfactorily reduce the cost of the work to that of the Revised ROM Budget, except as otherwise acceptable to City.

e. Design in Accordance with Landlord's Requirements. City acknowledges that the Building has certain requirements, including but not limited to tenant security, for the planning, construction and occupancy of the Premises. City and Landlord shall cooperate in the design and construction of the Leasehold Improvements to meet the Landlord's requirements for the Building and Landlord's obligations under other existing tenant leases.

f. Construction Documents. Based on the approved Design Development Documents and any further adjustments approved by City and Landlord, Landlord shall promptly cause its Architect and Engineer to prepare and submit to City for its approval final plans, specifications and working drawings for the Leasehold Improvements, setting forth in detail all aspects of the design, function and construction of the Leasehold Improvements, in form sufficient for bidding of all elements of construction and to obtain all required permits, and in conformity with all of the requirements of this Work Letter (collectively, the "Construction Documents"). Such Construction Documents shall be subject to approval by City and Landlord in accordance with Paragraph 1.g below.

g. Approval of Plans and Costs. The Construction Documents (and any Landlord Change Orders thereto, as described below) shall be subject to approval by City, which approval shall not be unreasonably withheld or delayed, in accordance with the following procedure. After submission of the Design Development Documents, the Estimated Construction Cost, Construction Documents or proposed Change Order by Landlord to City, City shall have fifteen (15) business days to disapprove any element thereof. If City does so disapprove of any element, then City shall notify Landlord within such period of its disapproval and of the revisions that City reasonably requires in order to approve such item consistent with the terms of this Work Letter. As soon as reasonably possible thereafter, but in no event later than fifteen (15) business days after receipt of such notice, Landlord shall submit to City documents incorporating the required revisions. Such revisions shall be subject to approval by City, which shall not be unreasonably withheld or delayed. Such revisions shall be deemed approved by City if City fails to notify Landlord of any objection within five (5) days after receipt of the revision. Landlord, through Contractor, shall obtain three (3) guaranteed maximum or lump sum construction bids from each trade subcontractor and/or vendor for work exceeding \$25,000, unless the parties otherwise agree that fewer bids shall be obtained. Landlord shall submit to City a bid analysis and detailed guaranteed maximum price contract(s) for the Leasehold Improvements based on the Construction Documents, which bid shall include shall include all costs both hard and soft (including, without limitation, the Project Management Fee described below) and a Contractor's contingency ("Contingency") in amount equal to five percent (5%) of the aggregate amount of the construction costs (the "GMP Construction Cost") and such GMP Construction Cost shall be subject to approval by City, which approval shall not be unreasonably withheld or delayed.

h. Design in Accordance with ADA Requirements. Landlord acknowledges that City requires that the Construction Documents be reviewed by the City's Mayor's Office of Disability ("MOD") for compliance with the Americans With Disabilities Act of 1990 ("ADA")



and other related laws prior to submittal to the Department of Building Inspection for construction permits. Upon completion of the (i) Construction Documents, and (ii) Landlord's Base Building Title 24 path of travel plans and specifications typically required for any tenant improvements with an estimated cost of \$6,500,000, Landlord shall cause Architect to submit such plans and an application to MOD for review, comment and modification. If MOD requires revisions to the Construction Documents or modifications or additional improvements to the Premises or the Building, Landlord shall cause Architect to revise the Construction Documents and/or design and prepare all additional plans and specifications as required by such MOD review, in conformity with ADA and other legal requirements and resubmit the revised Construction Documents to MOD for stamp before submittal for building permit. Such revised plans and additional plans shall thereafter be referred to as the "Construction Documents". Upon MOD's approval of the Construction Documents, Architect shall notify Landlord and City of such approval and shall identify the additional work, if any, specified therein as a result of the MOD review.

i. Payment for Plans. The costs of preparing the Schematic Design Documents, the ROM Budget, the Design Development Documents, the Construction Documents, and other related costs shall be paid by Landlord and shall be deducted from the Allowance (as defined in paragraph 5.a below), subject to City's prior reasonable approval of such costs as provided in paragraph 5.b below. Landlord shall evidence such costs by invoices and other substantiation as City may reasonably require.

j. Landlord's Project Management Services and Costs. Landlord or Landlord's agent shall provide professional project management services ("Project Management Services") for the entire Leasehold Improvement process including but not limited to (i) preparation and distribution of project scopes, budgets, and schedules, (ii) development and execution of various approved contracts, (iii) compliance and reporting for all Landlord's Building requirements, (iv) compliance and reporting for all Lease requirements, (v) monitoring of the project to ensure project stays on time and within budget, (vi) review and validation of invoices and/or contractor payments, (vii) preparation and/or review of meeting minutes and required reporting, (viii) review reports, contract drawings, specifications, estimates and other design deliverables to ensure designs are of high professional caliber and economically sound in design concept and provide Landlord or City information on potential construction and/or long term maintenance related issues, (ix) attend and manage all project meetings throughout the design and construction process, (x) serve as project representative for all interaction with user, architecture and engineering firms, material testing firms, code enforcement agencies, utilities agencies, etc, (xi) develop, prepare, review and negotiate fees and change orders with A-E consultants, testing/inspection firms, CEQA consultants, contractors, etc., and process and file all related contracts and documentation, (xii) facilitate the timely resolution of any planning, design, construction, and schedule issues and/or disputes, (xiii) supervise construction activities to insure Contractor(s) work meets the requirements of the Lease and this Work Letter and as is described on the plans (xiv) coordinate Substantial Completion deliverables and insure completion of punchlist items, and (xv) coordinate the delivery of final As- Built drawings and warranties for all work to both Landlord and Tenant. Landlord shall be compensated for the Project Management Services in the amount equal to (i) eight percent (8%) of the first \$50.00 per rentable square foot of the cost of the Leasehold Improvements and the Additional Construction Allowance utilized by City in excess of \$50.00 per rentable square foot, plus (ii) one percent (1%) of the cost of the Leasehold Improvements funded directly by City (without an allowance) up to \$5 million, plus (iii) two percent (2%) of the additional cost of the Leasehold Improvements funded directly by City in excess of \$5 million as shown in the ROM Budget, and (iv) then four percent (4%) of the additional cost of the Leasehold Improvements thereafter (the "Project Management Fee"). The Project Management Fee shall be included in the budget for the Leasehold Improvements.

The Project Management Fee shall also cover any construction operations costs such as electrical energy consumed in connection with the construction work, use of elevators, refuse removal, decommissioning of current operations, extraordinary costs associated with construction containment, construction signage, storage of construction and reuse materials, security, parking, and the like.

k. Changes to Approved Construction Documents.

i. City Change Orders. If following its approval of the Construction Documents, City inquires (orally or in writing) about any change, addition or alteration thereto relating to the design or specifications of the Leasehold Improvement Work, Landlord shall cause the Architect and Contractor to promptly supply a good faith ROM Change Order estimate of the change and any related Tenant Delay for such work. If City desires to further explore such change, addition or alteration to the Leasehold Improvement Work following receipt of the ROM Change Order estimate, City may request such change, addition or alteration by a written request to Landlord ("City Change Order"), and Landlord shall cause the Architect or Engineer, as applicable, to prepare plans and specifications with respect to such change, addition or alteration. Within fifteen (15) business days of City's request, Landlord shall notify City of the estimated incremental increase (or decrease) in the GMP Construction Cost that would be incurred by reason of such proposed City Change Order and any delay in the anticipated date of Substantial Completion that would result from such City Change Order. Within five (5) business days of receipt of such cost and delay estimates, City shall notify Landlord in writing whether City approves the proposed change. If City approves the proposed change within five (5) business day period, then Contractor shall proceed with such City Change Order as soon as reasonably practical thereafter. If City does not approve such cost within such five (5) business day period, construction of the Leasehold Improvement Work shall proceed in accordance with the original completed and approved Construction Documents. City shall be responsible for the reasonable cost actually incurred by Landlord in the preparation of the plans and specifications relating to any City Change Order, as evidenced by invoices or other substantiation reasonably required by City.

ii. Landlord Change Orders. If following City's approval of the Construction Documents, Landlord requests any change, addition or alteration thereto relating to the design or specifications of the Leasehold Improvement Work ("Landlord Change Order"), Landlord shall provide City with proposed plans and specifications with respect to such change, addition or alteration, together with notice of any delay in the anticipated date of Substantial Completion that would result from such Landlord Change Order. Any such Landlord Change Order shall be subject to City's prior written approval, in accordance with Paragraph 1.g above. No approval by City of any such Landlord Change Order shall relieve or modify Landlord's obligations hereunder to complete the construction of the Leasehold Improvements in accordance with the approved Construction Schedule (as defined below), nor shall any such approval limit any of City's rights or remedies hereunder or under the Lease. Landlord shall be solely responsible for the cost of the Landlord Change Order, including, without limitation, the costs of preparing the plans and specifications relating thereto and any work required to mitigate the impact of such Landlord Change Order on City's design requirements, and no such amount shall be paid or deducted from the Allowance.

iii. Appointment of Representatives. City and Landlord shall each designate and maintain at all times during the design and construction period a project representative ("Representative"), and an alternate for such Representative ("Alternate"), each of whom shall be authorized to confer and attend meetings and represent such party on any matter relating to this Work Letter. The initial Representatives and Alternates shall be:

City: Representative – Chris Nocon  
Alternate – Frank Lau

Landlord: Representative – Dan Wright  
Alternate – Chris Barton

Each party may at any time and from time to time change its Representative or Alternate by written notice to the other party. Each party's Representative or Alternate shall be available during ordinary business hours so that questions and problems may be quickly resolved and so that the Leasehold Improvements may be completed economically and in accordance with the Construction Schedule. All approvals made by City's Representative or Alternate shall be made in writing.

2. Permits

a. Responsibility for Obtaining Permits. Landlord shall have the responsibility for obtaining all governmental permits and approvals required to commence and complete the Leasehold Improvement Work, and promptly upon receipt thereof shall deliver copies of all of such permits and approvals to City. Landlord shall use its best efforts to promptly obtain all such approvals and permits and Landlord shall have the responsibility of calling for all inspections required by City's Bureau of Building Inspection. The costs of any permits required or obtained by Landlord in connection with the Leasehold Improvements, but not the Base Building Work, shall be deducted from the Allowance.

b. First Source Hiring Ordinance. The City has adopted a First Source Hiring Ordinance (Board of Supervisors Ordinance No. 264-98) which establishes specific requirements, procedures and monitoring for first source hiring of qualified economically disadvantaged individuals for entry level positions. Within thirty (30) days after the San Francisco Municipal Transportation Agency (SFMTA) adopts a First Source Hiring Implementation and Monitoring Plan in accordance with the First Source Hiring Ordinance, Landlord shall enter into a First Source Hiring Agreement meeting applicable requirements of Section 83.9 of the First Source Hiring Ordinance in connection with certain building permit applications.

3. Construction

a. Construction of Leasehold Improvements. Landlord shall promptly commence construction of the Leasehold Improvements after the later of the Effective Date and the date of approval of all required permits for construction in accordance with the approved Construction Documents, and shall diligently pursue construction to completion. Landlord shall cause the Leasehold Improvements to be constructed and installed in a good and professional manner in accordance with sound building practice and in conformity with the Construction Documents, as revised by any approved Change Orders, and the terms of this Work Letter. City shall not have any obligation with respect to any such work other than as provided herein.

b. Construction Schedule. Upon approval of the Construction Documents and GMP Construction Cost, Landlord shall promptly prepare and submit to City a construction schedule in sufficient detail for City to track progress and arrange the installation of equipment (the "Construction Schedule").

c. Status Reports; Inspections. Landlord shall keep City reasonably apprised of the status of permit approval and the progress of construction. Landlord or its construction manager shall keep City apprised during the weekly construction meetings with informal updates on the progress of all facets of the construction and any possible delays to Substantial Completion. Landlord or its Contractor shall furnish City with monthly written reports on such

progress and the anticipated date of Substantial Completion. From time to time during the design and construction of the Leasehold Improvements, City shall have the right upon reasonable advance oral or written notice to Landlord to enter the Premises at reasonable times to inspect the Premises, provided such inspections do not unreasonably interfere with the construction. Landlord or its Representative may accompany City during any such inspection. In order to coordinate move in activities, Landlord shall provide at least fifteen (15) days advance written notice of the anticipated actual date of Substantial Completion. If Substantial Completion is delayed beyond the date contained in the fifteen day advance notice of Substantial Completion for any other reason than Tenant Delay, then Landlord shall take all actions (such as storage of furniture and equipment) to mitigate and be responsible for all actual and reasonable, out-of-pocket costs incurred by City resulting from such delay in Substantial Completion. Landlord shall notify City at least 1 day in advance when the Leasehold Improvement Work is in fact Substantially Completed and the Premises are ready for occupancy by City, and City or its representatives shall be permitted to accompany Landlord or its architect on an inspection of the Premises on such date or other mutually agreeable date soon thereafter.

d. General Conditions. The performance of all Leasehold Improvement Work by Landlord shall be subject to the following terms and conditions:

i. All of the Leasehold Improvement Work shall be performed in compliance with all laws, codes, regulations and building requirements (collectively, "Laws") bearing on construction of the Leasehold Improvements;

ii. Without limiting the foregoing, the construction of the Leasehold Improvements shall comply with all requirements of the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable federal, state, local and administrative laws, rules, regulations, orders and requirements intended to provide equal accessibility for persons with disabilities (collectively, "Disabled Access Laws").;

iii. Landlord and its Contractor shall be responsible for all required insurance; and

iv. Landlord shall require at least three (3) competitive bids from subcontractors in each trade in connection with all work in excess of \$25,000 performed by Landlord or its Contractor hereunder, unless the parties otherwise agree that fewer bid shall be obtained.

e. Cooperation. Landlord and City shall cooperate at all times in bringing about the timely completion of the Leasehold Improvements. Landlord shall resolve any and all disputes arising out of the construction of the Leasehold Improvements in a manner which shall allow work to proceed expeditiously.

f. Asbestos Related Work. In the event that Landlord or City, its consultants, contractors or subcontractors encounter any asbestos containing materials (ACM) in the Building in connection with the installation of Leasehold Improvements, Landlord agrees to be responsible for all legally required work or other work necessary relating to the proper containment, abatement, removal and disposal of such ACM and all costs thereof. In no event shall any such costs be deducted from the Allowance or otherwise be City's responsibility.

g. Construction Improvements that Disturb or Remove Exterior Paint. Landlord, on behalf of itself and its agents, employees, officers and contractors, shall comply with all requirements of the San Francisco Building Code Chapter 34 and all other applicable local, state, and Federal laws, including but not limited to the California and United States Occupational and Health Safety Acts and their implementing regulations, when the work of



improvement or alteration disturbs or removes exterior or interior lead-based or "presumed" lead-based paint (as defined in the Building Code). Landlord agrees to be responsible for all legally required work or other work necessary relating to the proper containment, abatement, removal and disposal of such lead based paints and all costs thereof. In no event shall any such costs be deducted from the Allowance or otherwise be City's responsibility.

4. Base Building Work. Landlord shall be solely responsible for the base, core, shell of the Premises and provision of Building Systems stubbed into the Premises including, without limitation, earthquake, fire and life safety and other work, and no portion of the Allowance shall be applied to any such costs except as otherwise provided herein. Landlord shall promptly commence construction of the following improvements to the Building ("Base Building Work" or "Base Building Improvements") after the later of the Effective Date and the date of approval of all required permits for construction in accordance with the Base Building construction documents reasonably approved by City, and shall diligently pursue construction to completion. Landlord shall cause the Base Building Improvements to be constructed and installed in a good and professional manner in accordance with sound building practice and in conformity with such approve Base Building construction documents, as revised by any approved Change Orders, and the terms of this Work Letter. City shall not have any obligation with respect to any such work other than as provided herein.

a. Accessibility Improvements. Landlord shall through its approved Contractor furnish and install all improvements that are required to bring the Premises and the Common Areas serving the Premises, including, without limitation, the lobbies, corridors, telephone banks, drinking fountains, elevators, elevator vestibules, stairs, stair vestibules and restrooms, and signage in all such areas, into full compliance with all Disabled Access Laws. All costs of such work shall be performed at Landlord's sole cost and expense, and no such costs shall be deducted from the Allowance. The above notwithstanding, the Leasehold Improvements shall include the work required to bring the interior portions of the Premises into compliance with all Disabled Access Laws and City shall be responsible for the compliance of its furniture and personal property.

b. Window Improvements. Landlord shall through its approved Contractor furnish and install up to five (5) new windows in the 7<sup>th</sup> Floor Premises of substantially the same size, quality and character as those located on the 5<sup>th</sup> floor along the 11<sup>th</sup> Street side of the Building, according to construction plans and specifications reasonably approved by City and Landlord. The exact windows which shall be replaced shall be mutually determined by Landlord and City. All costs of such work shall be performed at Landlord's sole cost and expense, and no such costs shall be deducted from the Allowance.

c. 7<sup>th</sup> Floor Common Area Upgrade Improvements. Landlord shall through its approved Contractor furnish and install the improvements to bring the 7<sup>th</sup> Floor Common Areas serving the Premises, including, without limitation, the lobbies, corridors serving the 7<sup>th</sup> Floor Premises, elevator exteriors, elevator vestibules, lighting, paint, ceiling treatment, restrooms, card access control and signage in all such areas, to a condition of not less than the 14<sup>th</sup> floor common areas. Landlord shall through its architect include the design and specifications for such upgrades in the 50% Design Development Drawings for City's reasonable approval. All costs of such work shall be performed at Landlord's sole cost and expense, and no such costs shall be deducted from the Allowance.

d. 1st and 3rd Floor Common Area Upgrade Improvements. Landlord shall through its approved Contractor furnish and install access control devices at the entrance to the City's Premises and elevator lobby directional signage to City's Locker Room Premises. All costs of such work shall be performed at Landlord's sole cost and expenses, and no such costs shall be deducted from the Allowance.

e. Demising and Decommissioning Improvements. Landlord shall through its approved Contractor furnish and install all improvements that are required to (i) demise the Premises, the path of travel and the Common Areas serving the Premises and (ii) decommission and remove any Bank of America's equipment, wiring, and other materials. All costs of such work shall be performed at Landlord's sole cost and expense, and no such costs shall be deducted from the Allowance.

f. Code Required Improvements. Landlord shall through its Contractor furnish and install all improvements that are required to bring the existing Premises below the raised floor, the Common Areas, and the Building Systems serving the Premises into full compliance with all Laws and Building Codes. By way of an example, if the existing raised flooring needs to be seismically braced to obtain a building permit, Landlord shall complete such work and all costs of such work shall be performed at Landlord's sole cost and expense, and no such costs shall be deducted from the Allowance.

g. Intentionally Omitted.

h. Separately Metering of Electricity. Landlord shall through its Contractor furnish and install load side separate electrical metering for the 7<sup>th</sup> Floor Premises. Such electrical metering shall be an E-Mon D-Mon Class 3000 or equivalent reasonably acceptable to City. Landlord shall complete such work and all costs of such work shall be performed at Landlord's sole cost and expense, provided, however, Landlord shall only be responsible for the actual costs (without mark up) for all submeters installed in the Building on behalf of City up to \$15,000, and any excess costs shall be deducted from the Allowance.

## 5. Allowance, Costs and Payments

a. Payment for Leasehold Improvement Work; Allowance. Subject to paragraph 4.a above, Landlord shall pay for the cost of constructing and installing the Leasehold Improvements up to a total sum of \$1,729,669.00 which is based on (Forty-Four Dollars (\$44) per rentable square foot of 7<sup>th</sup> floor Premises and Twenty Seven Dollars (\$27) per rentable square foot of the Locker Room Premises) (the "Allowance"). In the event that the actual costs to construct and install the Leasehold Improvement Work incurred by Landlord exceed the amount of the Allowance, City shall pay such excess costs upon receipt of required documentation in accordance with paragraph 5.c below. City shall not be responsible for, and the Allowance shall not be applied to, any review, supervision, administration or management fees of any person or entity (other than the Project Management Fee).

b. City's Approval of Costs. The budget for the Leasehold Improvement Work shall be the sum of (i) the GMP Construction Cost approved by City (together with the cost of any approved City Change Orders), and (ii) the Project Management Fee. No Contingency included in the GMP Construction Cost shall be used by Contractor without the prior reasonable approval of City, and prior to Substantial Completion, Landlord shall submit to City a detailed costing of the use of the Contingency. Further, if the GMP Construction Cost includes allowances (for such items as permits) in the approved GMP Construction Cost, Landlord shall also submit to City a detailed costing of the use of any such allowances. If Landlord becomes aware that, through no fault of Landlord or Contractor, the Leasehold Improvements cannot be completed in strict conformity with the most recently approved construction budget, Landlord shall immediately submit to City for its approval a revised construction budget and shall identify to City changes in line items and the reasons for the changes. If further changes are required, Landlord shall seek City's approval, following the same procedures. No costs shall be paid from the Allowance, and City shall not be obligated to pay, any costs in excess of the GMP Construction Cost (together with the cost of any approved City Change Orders) and the Project Management Fee, unless and until City approves the



construction budget and any revisions thereto. City shall have the right to approve or disapprove any construction budget or revisions in its reasonable judgment. No such approval or disapproval shall be unreasonably delayed. The most recently approved construction budget shall supersede all previously approved budgets.

c. Progress Payments. Landlord shall pay the approved costs of preparing the Schematic Design Documents, ROM Budget, Construction Documents and the GMP Construction Cost from the Allowance. After the GMP Construction Cost has been approved, the GMP Construction Cost with a ten percent (10%) retention shall be compared to the Allowance to produce a progress payment ratio which will proportionally pay for the cost of the Leasehold Improvement Work from both the Allowance and from City - withholding 10% for final completion of construction. By way of example, if the total GMP Construction is \$6,000,000, and the Allowance is \$1,600,000, then City shall pay ("Progress Payments") seventy three percent (73%) of the construction costs as incurred (\$6,000,000 less \$1,600,000 divided by \$6,000,000), less a ten percent (10%) retention, provided that the conditions set forth in Paragraph 5.d below with respect to documentation of costs have been met. City shall make such Progress Payments to Landlord within 30 days of Landlord's submittal of required documentation as provided below. Such applications may not include requests for payment of amounts Landlord does not intend to pay to Contractor because of a dispute or otherwise. Landlord shall promptly apply all such payments from City to the payment of the invoice or invoices to which the payment relates.

d. Required Documentation of Costs. Both prior to and following the exhaustion of the Allowance, Landlord shall promptly deliver to City each application for payment pursuant to paragraph 5.c, which shall include (i) copies of all invoices received by Landlord from Contractor in connection with the construction of the Leasehold Improvements, (ii) satisfactory evidence of payment of such invoices, including commercially reasonable lien waivers, or if such invoices have not been paid, conditional lien waivers, all such lien waivers being in the form prescribed by California Civil Code Section 3262, executed by each subcontractor and material supplier intended to be paid out of the particular disbursement and covering all labor, services, equipment and materials performed or supplied by the particular subcontractor or material supplier since the last previous disbursement (collectively, "Lien Waivers"), and (iii) such additional supporting data which substantiates the Contractor's right to payment as City may reasonably require, such as copies of requisitions from subcontractors and material suppliers.

e. Payment of Retention. City shall pay the remaining ten percent (10%) withheld from City's prorata share of the cost of the Leasehold Improvement Work upon: (i) expiration of the lien period and the absence of any unreleased mechanics' liens or stop notices; and (ii) Substantial Completion (as defined below) of the Leasehold Improvements and completion or correction of all punch list items.

f. No Waiver of Conditions. Each waiver by City of a condition of payment must be expressly made by City in writing. If City makes a payment before fulfillment of one or more required conditions, that payment alone shall not be a waiver of such conditions, and City reserves the right to require their fulfillment before making any subsequent payments. If all conditions are not satisfied, City, acting in its reasonable judgment, may make payment as to certain items or categories of costs and not others.

## 6. Substantial Completion

a. Construction by the Estimated Commencement Date. Landlord shall use its commercially reasonable efforts to complete the Leasehold Improvement Work on or before the date which is the Estimated Commencement Date contained in the Basic Lease Information.

However, in no event shall construction of the Leasehold Improvements be Substantially Completed later than two hundred and seventy days after the Estimated Commencement Date, except as extended by Tenant Delays and Unavoidable Delays (as such terms are defined in Paragraph 7 below). Landlord shall notify City when the Leasehold Improvement Work is in fact Substantially Completed and the Premises are ready for occupancy by City, and City or its representatives shall be permitted to accompany Landlord or its architect on an inspection of the Premises on such date or other mutually agreeable date soon thereafter.

b. Substantial Completion. The Leasehold Improvements shall be deemed to be "Substantially Completed" for purposes hereof when the Base Building Improvements and Leasehold Improvements are sufficiently complete in accordance with the Construction Documents and the terms of this Work Letter so that City can occupy the Premises and conduct its business and (i) Landlord has delivered for City's review evidence that all necessary inspections required for occupancy of the Premises have been completed and signed off as approved by the appropriate governmental authorities, (ii) Landlord has completed a 72 hour "burn off" to dissipate fumes and dust, (iii) Landlord has delivered a HVAC balance report showing the HVAC system is performing as designed, and (iv) the Architect reasonably determines and certifies in writing to City that the Leasehold Improvements have been Substantially Completed in accordance with the Construction Documents to the extent necessary to enable City to occupy the Premises and to conduct its normal business operations therein without unreasonable impairment or interference, but subject to "punchlist" items, the completion of which will not unreasonably interfere with City's normal business operations therein. Landlord shall diligently pursue to completion all such details. Notwithstanding the foregoing, City shall have the right to present to Landlord within thirty (30) days after acceptance of the Premises, or as soon thereafter as practicable, a written "punchlist" consisting of any items that have not been finished in accordance with the Construction Documents and the terms of this Work Letter. Landlord shall promptly complete or cause Contractor to complete all defective or incomplete items identified in such punchlist to City's reasonable satisfaction, and in any event within thirty (30) days after the delivery of such list. City's failure to include any item on such list shall not alter Landlord's responsibility hereunder to complete all Leasehold Improvement Work in accordance with the Construction Documents and the provisions hereof, nor constitute a waiver of any latent defects.

## 7. Delays in Construction

a. Unavoidable Delays. For purposes hereof, "Unavoidable Delays" shall mean any delays by reason of acts of God, accidents, breakage, repairs, strikes, lockouts, other labor disputes, inability to obtain labor or materials after using diligent and timely efforts, enemy action, civil commotion, protests, riots, demonstrations, or by any other reason without fault and beyond the reasonable control of the party obligated to perform. In the event of any such delay, the party affected by such delay shall give prompt written notice to the other of the occurrence of such event and the projected delay in performance, and thereafter shall keep the other party regularly informed of the status of such Unavoidable Delay.

b. Tenant Delays. Subject to any Unavoidable Delay, City shall be responsible for any actual delay in the construction of the Leasehold Improvements due solely and directly to any of the following (collectively, "Tenant Delays"): (i) a delay by City as Tenant hereunder in granting its reasonable approval of the Construction Documents, the GMP Construction Cost or any other matters requiring City's approval hereunder (beyond the period granted therefor), (ii) City Change Orders to the Construction Documents, provided such delay shall be limited to the number of days consented to by City, (iii) a delay by City as Tenant hereunder in granting its reasonable approval where required to Landlord's Base Building Work (beyond the period granted therefor), or (iv) any material interference by City or City's agents, employees or contractors with the progress or completion of the Leasehold Improvements by

Landlord. Such Tenant Delays in the completion of construction of the Leasehold Improvement Work shall extend the date for Substantial Completion hereunder, however City's obligation to pay Base Rent shall commence as of the date the Premises would have been Substantially Complete had it not been for the Tenant Delay. Notwithstanding the foregoing, City shall be responsible and the date for Substantial Completion shall be extended only to the extent any delays are actually caused by Tenant Delays.

8. General Provisions.

a. Notices. Except as may be otherwise specifically provided herein, any notice given under this Work Letter shall be in writing and given by delivering the notice in person, by commercial courier or by sending it by first class mail, certified mail with a return receipt requested, or Express Mail, return receipt requested, with postage prepaid, and addressed to the parties as follows:

City: SFMTA Real Estate Section  
1 South Van Ness Avenue, 8<sup>th</sup> Floor  
San Francisco, CA 94103

Re: 1455 Market Street, 7<sup>th</sup> Floor

Landlord: c/o Hudson Pacific Properties, Inc.  
11601 Wilshire Boulevard, Suite 1600  
Los Angeles, California 90025  
Attn: Asset Manager – 1455 Market Street

with a copy  
to: c/o Hudson Pacific Properties, Inc.  
1438 N. Gower Street, Box 2  
Hollywood, California 90028  
Attn: Dan Wright, AIA

or such other address as a party may designate to the others as its new address for such purpose by notice given to the others in accordance with the provisions of this paragraph. Any notice hereunder shall be deemed to have been given and received two (2) days after the date when it is mailed if sent by first class, certified mail, one day after the date when it is mailed if sent by overnight courier, or upon the date personal delivery is made. Neither party may give official or binding notice by facsimile.

b. Landlord's Duty to Notify City. Landlord shall promptly notify City in writing of (i) any written communication that Landlord may receive from any governmental, judicial or legal authority, giving notice of any claim or assertion that the Property, Building or Leasehold Improvements fail in any respect to comply with applicable laws, rules and regulations; (ii) any known material adverse change in the physical condition of the Property, including, without limitation, any damage suffered as a result of earthquakes; and (iii) any known material default by the Contractor or any subcontractor or material supplier, or any known material adverse change in the financial condition or business operations of any of them.

c. Prevailing Wages for Construction Work. Landlord agrees that any person performing labor in the construction of the Leasehold Improvements which Landlord is obligated to provide under this Work Letter shall be paid not less than the highest prevailing rate of wages and that Landlord shall include, in any contract for construction of the Leasehold Improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord further agrees that, as to the construction of the Leasehold Improvements under this Work Letter,

Landlord shall comply with all the provisions of subsection (b) of San Francisco Charter Section A7.204 and Section 6.22(E) of the San Francisco Administrative Code.

d. Tropical Hardwood and Virgin Redwood Ban.

Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, neither Landlord nor any of its contractors shall provide any items to City in the construction of the Leasehold Improvements or otherwise in the performance of this Lease which are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

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

In the event Landlord fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Landlord shall be liable for liquidated damages for each violation in any amount equal to Landlord's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Landlord acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County of San Francisco upon demand and may be set off against any monies due to Landlord from any contract with the City and County of San Francisco.

e. Days. Unless otherwise provided herein, all periods specified by a number of days shall refer to business days. Saturdays, Sundays and recognized City holidays shall not constitute business days.

f. Approvals. Landlord understands and agrees that City is entering into this Work Letter in its proprietary capacity and not as a regulatory agency with certain police powers. Notwithstanding anything to the contrary herein, no approval by City of the plans for the Leasehold Improvements (including the Design Development Documents or Construction Documents), completion of the Leasehold Improvement Work nor any other approvals by City hereunder shall be deemed to constitute approval of any governmental or regulatory authority with jurisdiction over the Premises. All approvals or other determinations of City as tenant hereunder may be made by City's Director of Property unless otherwise specified herein.

9. Time of the Essence. Time is of the essence with respect to all provisions of this Work Letter in which a definite time for performance is specified, including, without limitation, the date for Substantial Completion.

## EXHIBIT F-2

### EXAMPLE OF CALCULATION OF CONSTRUCTION SUPERVISION FEE

#### Rentable Area

Locker Rm Rentable Area	679
7th floor Theater Rentable Area	<u>38,894</u>
	39,573

#### Allowance

7th Floor	\$44.00	\$1,711,336.00
1st Floor	\$27.00	<u>\$18,333.00</u>
		\$1,729,669.00

#### ROM

CBI Estimate Dated 11/29/10	\$9,899,153.00
MOD Fees ( allowance)	\$3,000.00
Potential Structural ( for equipment over 200 lbs psf)	\$30,000.00
USGBC Fees (allowance)	<u>\$5,000.00</u>
Subtotal	\$9,937,153.00
Contingency @ 10%	\$993,715.30
Subtotal	\$10,930,868.30
Project management/Supervision (See below)	\$287,336.37
<b>ROM TOTAL</b>	<b>\$11,218,204.67</b>
<b>Less Allowance</b>	<b><u>-\$1,729,669.00</u></b>
<b>Projected City Cost</b>	<b>\$9,488,535.67</b>

#### Project Management/ Supervision Fees

- (i) eight percent (8%) of the first \$50.00 per rentable square foot,  
plus (ii) one percent (1%) of the cost of the Leasehold Improvements funded directly by City (without an allowance) up to \$5 million,  
plus (iii) two percent (2%) of the cost of the Leasehold Improvements funded directly by City in excess of \$5 million as shown in the ROM Budget  
and (iv) four percent (4%) of the cost of all Leasehold Improvements thereafter.

Original	\$50	39,573	\$1,978,650	8%	\$158,292
City Contrib			<u>\$5,000,000</u>	1%	<u>\$50,000</u>
SubTotal Costs			\$6,978,650		
Remaining ROM (ROM total - \$6,975,000)			\$3,952,218.30	2%	<u>\$79,044</u>
<b>Project Management/Supervision Fee</b>					<b>\$287,336</b>



## **EXHIBIT G**

### **STANDARDS FOR JANITORIAL SERVICE**

#### **LANDLORD'S MINIMUM SCOPE OF WORK**

The following Minimum Scope of Work is intended to define and describe the requirements for Janitorial Services for the Building's Common Areas to be provided by Landlord at Landlord's cost at 1455 Market Street.

#### **I. MAIN FLOOR LOBBY and PUBLIC CORRIDORS - General Specifications**

##### **A. Nightly Services (Monday – Friday), except City holidays**

1. Spot clean all glass including low partitions and the corridor side of all windows and glass doors
2. Spot clean all brightwork including, guard's desk, security monitors, swinging door hardware, kick plates, base partition tops, handrails, waste paper receptacles, planters, elevator call button plates, hose cabinets and visible hardware on the corridor side of the tenant entry doors
3. Mop and/ or vacuum lobby floors.
4. Spot clean and dust the directory board glass, signage, art, benches and ledges, as required
5. Empty, clean and sanitize all waste paper baskets and refuse receptacles as required.
6. Vacuum all carpets

##### **B. Weekly Service (Once a week)**

1. Thoroughly clean all door saddles of dirt and debris

##### **C. Quarterly Services (Once per quarter)**

1. Scrub and buff to a high luster Building lobby flooring.

#### **II. PASSENGER ELEVATOR – General Specifications**

##### **A. Nightly Service (Monday – Friday), except City holidays**

1. Spot clean cab walls and interior door
2. Spot clean the outside surfaces of all elevator doors and frames
3. Clean all cab floors thoroughly. Edge thoroughly

##### **B. Weekly Services (Once per week)**

1. Thoroughly clean the entire interior and exterior surfaces of all doors and frames
2. Stain and polish cab walls and rails to eliminate scratch marks on wood, as required

C. Quarterly Services (Once per quarter)

1. Wipe clean elevator cab lamps
2. Wipe clean entire cab ceiling
3. Thoroughly clean all elevator thresholds

### **III. BUILDING EXTERIOR and GROUNDS SERVICES – General Specifications**

A. Daily Services (Monday – Friday), except City holidays

1. Spot clean accumulations of dirt, paper and leaves in all corner areas where winds cause debris to collect
2. Spot clean all exterior glass doors at the building entrances
3. Lift nap on all entry walk-off mats with a heavy bristle brush and vacuum, as necessary
4. Sweep sidewalk, stairs and remove all gum as required or as directed

B. Monthly Service (Once per month)

1. Power wash sidewalk around perimeter of the building

C. Semi-annual Services Wash all exterior windows including glass, ledges and window frames to be wiped clean and dry

D. Annual Service

1. Wash interior side of exterior windows in the Premises

### **IV. COMMON AREA RESTROOM SERVICE – General Specifications**

A. Daily Services (Monday – Friday), except City holidays

1. Re-stock all restrooms including paper towels, toilet tissue, seat covers and hand soap, as required.
2. Re-stock all sanitary napkin and tampon dispensers from Contractor's supplies, as required. Monies collected from the coin dispensing machines are the sole responsibility of the Contractor. Machines are to be repaired and maintained as needed by the Contractor.
3. Wash and polish all mirrors, dispensers, faucets, flushometers, and brightwork with a non-scratch disinfectant cleaner.
4. Wash and sanitize all toilets, toilet seats, urinals, and sinks with a non-scratch disinfectant cleaner. Wipe all sinks dry.

5. Remove stains and scrub toilets, urinals, and sinks as required.
6. Mop all restroom floors with disinfectant, germicidal cleaners. Scrub all baseboards, inside corners and hard to reach areas.
7. Empty and sanitize all sanitary napkin and tampon waste receptacles.
8. Remove all restroom trash.
9. Spot clean fingerprints, marks, and graffiti from walls, partitions, doors, glass, aluminum and light switches as required.

**B. Monthly Services (Twice per month)**

1. Dust all low and high reach areas, including but not limited to, structural ledges, mirror tops, partition tops and edges, air conditioning diffusers and return air grilles.
2. Wipe and clean all walls, metal partitions, and privacy screens. Partitions should be left clean and not streaked after this work is performed.

**C. Monthly Services (Once per month)**

1. Clean all ventilation grilles

**D. Quarterly Services (Once per quarter)**

1. Thoroughly clean and strip permanent sealer and reseal all ceramic/CT tile floors using approved sealers
2. Dust all doorjamb

**E. Consumable Supplies**

1. Landlord shall supply all consumable supplies required including paper towels, toilet tissue, hand soap, sanitary disposal bags, plastic trash bags, compostable trash bags, toilet seat covers, cleaning products and/or supplies, batteries, etc.

**V. DAY PORTER SERVICES - Daily Services (Monday – Friday)**

A qualified day porter. Work hours to be: from 7:00 am to 4:00 pm and Monday through Friday, except City holidays. Day Porter shall work under the supervision of the Building Manager for 1455 Market Street and may be asked to perform duties not specifically described herein, but which may be considered a part of the Day Porters' general responsibilities as customary for a first class San Francisco highrise. The daily duties of the Day Porter shall be, but not be limited to, the following:

**A. Entrance Lobby and Exterior Perimeter Area**

The lobby and exterior sidewalk and perimeter areas are to be kept clean and neat at all times. Day Porter is expected to perform the following minimum cleaning operations, as required.

1. Clean or spot clean floors and carpet runners as necessary
2. Clean or spot clean all metal, stone or other hard surfaces, including the security guard station daily as necessary

3. Wipe and clean glass doors twice daily and as necessary
4. Empty garbage receptacles as necessary
5. Remove graffiti from the exterior of the building and all street furniture, including planters as necessary or as requested.
6. Remove gum and foreign matter from the sidewalks and tree containers surrounding the building before 8:00 am each day and as required or directed by the Building Manager
7. Hose down sidewalk around the perimeter of the building, as necessary

#### B. Elevators

1. Clean or spot clean cab floors daily as needed
2. Clean or spot clean lobby elevator saddles, interior and exterior doors and frames daily as necessary
3. Clean sides of elevator cars daily as needed; polish brightwork in cab and on doors and frames
4. Keep freight elevator broom clean daily and as needed

#### C. Restrooms

1. Check and confirm night crew cleaned and re-stocked each bathroom before 9:00 am
2. Spot Clean all bathrooms each day. Restock restroom supplies as required.
3. Fill soap, paper towel, seat cover and toilet tissue dispensers as required.
4. Report all mechanical and plumbing problems and other deficiencies to the Building Manager (e.g., leaky faucets, malfunctioning urinals or toilets, etc.)
5. Spot Clean all mirrors, powder shelves and lavatory tops. Mirrors should be wiped clean to remove all spots and streaks
6. Empty paper towel waste receptacles daily and as needed or requested
7. Stock and maintain all sanitary napkin product vending machines located in the restrooms, if any.

#### D. Public Areas

1. Stairwells – Police and keep in clean condition. Sweep, dust, hand wipe and mop as necessary and as requested (includes escalator cleaning).
2. Dust stairwell railings as necessary and as requested
3. Public Corridors – Vacuum and keep in clean condition as necessary and as requested
4. Assist in changing interior lamps and light bulbs throughout the building as required
5. Spot clean lobby signage and building directories and all other appropriate glass enclosures.
6. In the 9th floor public areas, empty trash cans daily, police area and planters for debris and maintain in clean condition. Vacuum as needed.

#### E. Building Service Areas

1. Loading Dock – Sweep area daily
2. Lay down and remove lobby runners during inclement weather, as necessary and as requested

3. Assist in replacing lamps and light bulbs throughout the building as required; clean diffusers and grilles when relamping
4. Assist in recycling lamps and light bulbs, ballasts, chemicals, electronics by putting them in designated areas for recycling these products in the building
5. Keep electrical rooms, fire control room, telephone and electrical closets clean and free of debris
6. Keep recycling area and bins clean and area swept

### **TENANT'S SCOPE OF WORK**

The following Scope of Work is intended to describe and outline the initial requirements for Janitorial Services for the interior Premises to be provided by Landlord at City's cost.

#### **I. SERVICES FOR THE SEVENTH FLOOR PREMISES (Monday – Friday after 7:00 pm and Sunday between 7:00 am and 10:00 pm)**

##### **A. Nightly Services**

1. Secure all lights as soon as possible each night
2. Vacuum all carpets. Move electric cords to prevent damage to the corner bead
3. Dust mop all resilient and composition floors with dust mops. Damp mop the floors to remove spills and water stains as required
4. Spot clean stains on carpet
5. Dust all desktops and office furniture with dust cloths. Papers and folders on the desktop are not to be moved
6. Wipe and clean all tables, counters, and desktops
7. Empty all waste paper baskets and other trash containers and remove all trash from floors to the designated trash areas. Remove recyclable material and compost to Building's centralized recycle bins.
8. Remove fingerprints, dirt smudges, from all doors, frames, glass partitions, windows, light switches, walls, elevator doorjams and elevator interiors
9. Return chairs and wastebaskets to proper positions
10. Police all interior public planters, if any
11. Wipe clean smudged brightwork
12. Glass:
  - a. Clean both sides of entrance glass door
  - b. Spot clean interior glass windows, as necessary

##### **B. Weekly Services (once per week)**

1. Dust all low reach areas including, but not limited to, chair rungs, structural and furniture ledges, baseboards, window sills, door louvers, wood paneling molding, etc
2. Clean all door thresholds & jambs
3. Edge vacuum all carpeted areas
4. Move all plastic carpet protectors and thoroughly vacuum under and around all desks and office furniture
5. Wipe all exposed vinyl bases

C. Monthly Services (once per month)

1. Dust all high reach areas including, but not limited to, tops of doors, frames, furniture, ledges, air conditioning diffusers and return grilles, tops of partitions, picture frames, etc.
2. Dust and or vacuum all window coverings

D. Quarterly Services (once per quarter)

1. Thoroughly scrub all resilient or composition flooring.
2. If requested, shampoo carpeting in the "high-traffic" common areas. i.e. lobbies and other high-traffic" corridors.
3. Vacuum upholstered furniture and wipe down vinyl chair pads
4. Dust light diffusers

E. Annual Services (once per year)

1. Recondition all resilient or composition flooring to provide a level of appearance equivalent to a completely refinished floor.
2. Shampoo carpeting in all areas as requested

**II. SERVICES FOR THE FIRST FLOOR (Shower Room) PREMISES (Monday – Friday after 7:00 pm)**

A. Nightly Services

1. Spot clean entrance doors
2. Empty trash, recycling, compost and receptacles
3. Empty sanitary receptacles and re-line them
4. Clean mirrors
5. Wipe down stall partition and walls
6. Clean and sanitize sinks, toilet bowls & urinals
7. Refill paper towel, toilet paper, soap& fem. hygiene dispensers
8. Sweep and damp mop hard floors

B. Quarterly Services

1. Dust ceiling vents and high areas

C. Annual Services

1. Recondition all resilient or composition flooring to provide a level of appearance equivalent to a completely refinished floor.
2. Thoroughly scrub of all surfaces



### **III. ADDITIONAL SIXTH (6<sup>th</sup>) DAY COMMON AREA RESTROOM SERVICE FOR 7<sup>th</sup> FLOOR General Specifications**

A. Same as Landlord's Daily Services Scope (See above)

### **III. GENERAL REQUIREMENTS**

#### **A. Quality Standards**

1. Landlord's janitorial service contractor ("contractor") must have a minimum of five (5) years of relevant experience.
2. Any work completed by the Landlord's contractor that does not meet the 1<sup>st</sup> class office building quality standards as determined by the City department, shall be re-done by the contractor at no cost to the City. In the event contractor's work repeatedly does not meet quality (Class A) standards, the City reserves the right to request the Building Manager replace contractor personnel. Landlord's contractor must be available during regular business hours, to participate in an inspection walk-through.
3. The Building Manager will keep a janitorial log in which deficiencies in performance and special problems or instructions will be noted. The contractor must check the log daily and correct any deficiencies in service within twenty-four (24) hours of the log entry. When the deficiency has been corrected, the contractor must initial and date each entry.
4. Contractor accepts all responsibility for determining that all necessary safeguards for the protection of Contractor's employees will be furnished to employees e.g., gloves, masks, aprons, support belts. All work performed must conform to CAL-OSHA standards.
5. Contractor must comply with all laws and government regulations.
6. Contractor must be fully insured and bonded to standards typical of first class office buildings in San Francisco.
7. Contractor shall not unplug any of City's equipment and shall only use designated service electrical outlets. Contractor shall not move any papers or folders on City work surfaces.
8. Contractor shall take all actions to prevent and shall be responsible for any damage to the Premises (including but not limited to dragging extension cords around corners and spilling cleaning products on the carpeting, broken glass, etc.).

#### **B. Employees**

1. All contractor employees (including coordinators and supervisors) must wear uniforms. All personnel must have a visible company name, logo, badge, etc., on their uniforms.
2. All employees must be fully trained in the custodial service trade.

3. The City may request contractor remove any janitor from its premises for inappropriate behavior or alleged inappropriate behavior at any time it desires and for any reason whatsoever, and the contractor shall provide an immediate replacement.

**C. Maintenance Reporting**

1. The contractor's employees shall report maintenance requirements (such as broken glass, missing or burnt out light bulbs, inoperative fixtures, etc.) to the Building Manager.

**D. Materials and Equipment**

1. Landlord, at no cost to the City, shall provide adequate space in the building to the contractor for the storage of supplies and equipment.
2. The contractor shall furnish all labor, cleaning materials (paper and cloth towels, cleaning chemicals, floor wax, wax stripper, protective gloves, and other expendable supplies), equipment (including, but not limited to, ladders, vacuum cleaners, extractors, floor machines, mops, hoses, and buckets) and occupant supplies (including hand soap, paper hand towels, toilet tissue, paper seat covers and deodorants for tenant use only) required to perform the janitorial service as specified. Upon request Contractor shall submit to City for its reasonable approval a complete list of products to be used, together with Material Safety Data Sheets (MSDS) for each cleaning chemical. Contractor shall use environmentally friendly products, including unscented products, Green Seal certified products, or EcoLogo certified products.
3. City shall supply trash, recycling, and composting containers within the Premises. Contractor shall supply liners

**E. Recycling**

1. The City's Recycling Program includes recycling materials and composting. Contractor will be responsible for the safe and sanitary removal of such recyclables and compost and appropriately depositing such materials in a Landlord provided central collection point in the building.

**IV. SPECIAL SERVICES – GENERAL**

City shall have the right to request additional or other cleaning services not included in this scope of work. The fee for these services shall be at contractor's direct cost but not to exceed that typically charged for such services at other first class office buildings. The fee for such services shall be agreed upon by City and Landlord before such services are performed. Landlord shall supply to City a written quote for such City requested work and Landlord shall promptly perform such work upon receipt of City's authorized acceptance of the cost.

**EXHIBIT H**  
**STANDARDS FOR SECURITY SERVICE**

**A. During the Initial Term.** Landlord, at its cost, shall furnish security services 24 hours per day, 7 days per week, and 365 days per year to a quality for the podium level (floors 3 -8) comparable to other N-2 data facilities. Landlord shall provide:

**I. Security Guards**

- A. At least (1) uniformed and trained security Guard shall at all times be located at the main lobby and at least One (1) 24/7 roving guard will monitor the other entry point(s) to the building. During normal working hours one (1) Security Supervisor will be on site and available, as needed, to assist the Lobby Security Guard.

**II. Security Cameras**

- A. Landlord shall maintain central, monitored and recorded video surveillance system.
- B. Landlord shall maintain security cameras at each of Building entrance points and the 3<sup>rd</sup> floor lobby.

**III. Card Access System**

- A. Landlord shall maintain a card access system, making sure the system registry is up to date not less than every 6 months, which provides only authorized access to the building and segregated access between the podium and tower as appropriate.
- B. Landlord shall maintain card access readers and card entry to building and stand alone card access readers at each of the Premises floors (1, 3, and 7). Landlord will make reasonable efforts to make such premises card access system readers compatible with the building card access system.
- C. Landlord shall supply City with up to 200 registered entry cards.

**IV. Visitors**

- A. All visitors and messengers shall be signed in to the building and given visitors badges with proper identification.
- B. All visitors to the 4<sup>th</sup> through 9<sup>th</sup> floors shall be required to be escorted by the hosting tenant.

## **V. Vendors**

Non pre-approved vendors to the 4<sup>th</sup> through 9<sup>th</sup> floor must be badged and escorted by hosting tenant.

**B. During any Extended Term.** Landlord, at its cost, shall furnish security services 24 hours per day, 7 days per week, and 365 days per year to a quality for the podium level (floors 3 -8) comparable to other high security and 24 hour accessible 1<sup>st</sup> class office buildings in San Francisco. At a minimum, Landlord shall provide:

### **I. Card Access System**

Landlord shall provide on-site access control equipment to the building, segregation between the tower and podium floors, and at the suites of the Premises.

### **II. Security Guards**

Uniformed and trained security personnel in the building's Main Lobby.

### **III. Security Cameras**

Cameras (and video recording equipment) with visual feeds to security personnel for common areas and entrances of building

### **IV. Additional Security**

In the event City requires access control services for the Building that exceed the level of access control services provided at first-class multi-tenant office buildings in downtown San Francisco, City may provide such additional services at its own expense, or, upon request by City, Landlord shall provide such services, at City's expense.

Notwithstanding the foregoing, Landlord shall in no case be liable for personal injury or property damage for any error with regard to the admission to or exclusion from the property of any person, except to the extent arising from the gross negligence or willful misconduct of Landlord or Landlord's employees and agents.

## **EXHIBIT I**

### **SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

PREPARED BY AND UPON  
RECORDATION RETURN TO:

### **SUBORDINATION, NON DISTURBANCE AND ATTORNMENT AGREEMENT**

**THIS SUBORDINATION, NON DISTURBANCE AND ATTORNMENT AGREEMENT** (this "Agreement") is made as of the \_\_ day of \_\_\_\_\_, 2011 by and between BARCLAYS BANK PLC, as Administrative Agent (as defined below), and CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Tenant" or "City"), acting by and through the San Francisco Municipal Transportation Agency.

#### **RECITALS:**

A. Hudson Pacific Properties, Inc., a Maryland corporation (the "Borrower"), the several banks and other financial institutions or entities from time to time parties to the Credit Agreement herein described (the "Lenders"), Barclays Capital and Banc of America Securities LLC, as joint lead arrangers and joint book runners, Bank of America, N.A., as syndication agent and Barclays Bank PLC, as administrative agent (the "Administrative Agent"), are parties to that certain Credit Agreement, dated as of June 29, 2010 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement").

B. Pursuant to the Credit Agreement, the Lenders have severally agreed to make loans and other extensions of credit to Borrower upon the terms and subject to the conditions set forth therein, such extensions of credit including without limitation, the Revolving Credit Facility in the aggregate principal amount of TWO HUNDRED MILLION AND NO/100 DOLLARS (\$200,000,000.00), and having a final maturity date of no later than June 29, 2013. The Revolving Credit Facility includes a future advance option that could raise the total principal amount to Two Hundred Fifty Million Dollars (\$250,000,000.00).

C. The Credit Agreement is secured by a Deed of Trust from Hudson 1455 Market, LLC to Administrative Agent, executed on December 15, 2010 and effective as of December 16, 2010 (the "Deed of Trust").

D. Tenant, as tenant, and Hudson 1455 Market, LLC, as landlord, ("Landlord") anticipate entering into a lease (the "Lease") of a portion of the property commonly known as 1455 Market Street, San Francisco, California (the "Property") for a term of ten (10) years with the option to extend the term for two successive ten (10) year terms (the "Lease"), which Lease is dated on or about the date hereof. A Memorandum of the Lease may be recorded in the Official Records of the Assessor/Recorder of the City and County of San Francisco contemporaneously with the recordation of this Agreement. It is a condition precedent to Tenant's entering into the Lease that Administrative Agent and Lenders agree not to disturb Tenant's possessory rights if such parties exercise their rights under the Deed of Trust.

E. The Credit Agreement requires, as a condition of making the loans provided for in the Credit Agreement, that Borrower obtain a Subordination, Non-Disturbance and Attornment Agreement from Tenant.

#### AGREEMENT:

For good and valuable consideration, Tenant and Administrative Agent agree as follows:

1. Subordination. Subject to the terms of this Agreement, Tenant agrees that the Lease and all of the terms, covenants and provisions thereof and all rights, remedies and options of Tenant thereunder (including, without limitation, any right of first offer set forth therein, if any) are and shall at all times continue to be subject and subordinate in all respects to the Deed of Trust and to the lien thereof and all terms, covenants and conditions set forth in the Deed of Trust and the related loan documents including without limitation all renewals, increases, modifications, spreaders, consolidations, replacements and extensions thereof and to all sums secured thereby.

2. Non-Disturbance. Administrative Agent agrees that if any action or proceeding is commenced by Administrative Agent for the foreclosure of the Deed of Trust or the sale of the Property, Tenant shall not be named as a party therein unless such joinder shall be required by law, provided, however, such joinder shall not result in the termination of the Lease or disturb the Tenant's possession or use of the premises demised thereunder, and the sale of the Property in any such action or proceeding shall be made subject to all rights of Tenant under the Lease except as set forth in Section 3 below, provided that at the time of the commencement of any such action or proceeding or at the time of any such sale or exercise of any such other rights (a) the term of the Lease shall have commenced pursuant to the provisions thereof, (b) Tenant shall be in possession of the premises demised under the Lease, (c) the Lease shall be in full force and effect and (d) Tenant shall not be in default under any of the terms, covenants or conditions of the Lease or of this Agreement on Tenant's part to be observed or performed beyond the expiration of any applicable notice or grace periods.

3. Attornment. Administrative Agent and Tenant agree that upon the conveyance of the Property by reason of the foreclosure of the Deed of Trust or the acceptance of a deed or assignment in lieu of foreclosure or otherwise, the Lease shall not be terminated or affected thereby [provided that the conditions set forth in Section 2 above have been met at the time of such transfer or are at the time of such transfer waived by the transferee of the Property (the "Transferee")], but shall continue in full force and effect as a direct lease between the Transferee and Tenant upon all of the terms, covenants and conditions set forth in the Lease and in that event, Tenant agrees to attorn to the Transferee and the Transferee shall accept such attornment, and Tenant agrees that the Transferee shall not be:

(a) obligated to complete any construction work required to be done by Landlord pursuant to the provisions of the Lease or to reimburse Tenant for any construction work done by Tenant;

(b) liable (i) for Landlord's failure to perform any of its obligations under the Lease which have accrued prior to the date on which the Transferee shall become the owner of the Property, or (ii) for any act or omission of Landlord, whether prior to or after such foreclosure or sale;

(c) required to make any repairs to the Property or to the premises demised under the Lease required as a result of fire, or other casualty or by reason of condemnation unless the Transferee shall be obligated under the Lease to make such repairs and shall have received



sufficient casualty insurance proceeds or condemnation awards to finance the completion of such repairs, subject to the provisions of Section 7 below;

(d) required to make any capital improvements to the Property or to the premises demised under the Lease which Landlord may have agreed to make, but had not completed, or to perform or provide any services not related to possession or quiet enjoyment of the premises demised under the Lease (provided that any Successor Landlord will be bound to comply with the casualty and condemnation restorations provisions of the Lease if Successor Landlord receives the insurance or condemnation proceeds);

(e) subject to any offsets, defenses, abatement or counterclaims which shall have accrued to Tenant against Landlord prior to the date upon which the Transferee shall become the owner of the Property (except those expressly permitted under the Lease, including abatement rights);

(f) liable for the return of rental security deposits, if any, paid by Tenant to Landlord in accordance with the Lease unless such sums are actually received by the Transferee;

(g) bound by any payment of rents, additional rents or other sums which Tenant may have paid more than one (1) month in advance to any prior Landlord unless (i) such sums are actually received by the Transferee or (ii) such prepayment shall have been expressly approved of by the Transferee or Administrative Agent;

(h) bound to make any payment to Tenant which was required under the Lease, or otherwise, to be made prior to the time the Transferee succeeded to Landlord's interest;

(i) bound by any agreement amending, modifying or terminating the Lease in any material respect made without the Administrative Agent's prior written consent prior to the time the Transferee succeeded to Landlord's interest which decreases the amount of rent payable by Tenant, shortens the term of the Lease, substantially increases the obligations of Landlord, or substantially decreases the obligations of Tenant under the Lease; or

(j) bound by any assignment of the Lease or sublease of the Property, or any portion thereof, made prior to the time the Transferee succeeded to Landlord's interest other than if pursuant to the provisions of the Lease and not approved in writing by Transferee or Administrative Agent.

The foregoing shall not relieve Administrative Agent or such Transferee of the obligation to cure any conditions of the Property the existence of which constitute a landlord default under the Lease and which continue at the time of succession or acquisition by Administrative Agent, Lender or such Transferee, or deprive Tenant of the right to terminate the Lease for a breach of a landlord covenant which is not cured as provided for herein or in the Lease and as a result of which there is a material interference with Tenant's permitted use and occupation of the Property.

Administrative Agent's written consent to any proposed Lease modification may be withheld at the discretion of Administrative Agent if the change would decrease the amount of rent payable by Tenant, shorten the term of the Lease, materially increase the obligations of Landlord, or materially decrease the obligations of Tenant under the Lease. In all other instances, the consent of Administrative Agent shall not be unreasonably withheld, conditioned or delayed. Consent shall be deemed given if notice by Administrative Agent that its consent is denied is not given to Tenant within thirty (30) days of notice of the proposed action.

4. Notice to Tenant; Assignment of Rent. After notice is given to Tenant by Lender that the Landlord is in default under the Loan Documents and that the rentals under the Lease

should be paid to Lender pursuant to the terms of the assignment of leases and rents executed and delivered by Landlord to Administrative Agent in connection therewith, Tenant shall thereafter pay to Administrative Agent or as directed by the Administrative Agent, all rentals and all other monies due or to become due to Landlord under the Lease and Landlord hereby expressly authorizes Tenant to make such payments to Administrative Agent and agrees that any payments made by Tenant pursuant to the foregoing shall be credited against sums due under the Lease.

5. [Intentionally omitted].

6. Administrative Agent to Receive Notices. If any breach or default of Landlord under the Lease would give Tenant the right, immediately or after the lapse of a period of time, to cancel the Lease or to an abatement of the rents, additional rents or other sums payable thereunder, Tenant shall not exercise such right until it shall have notified Administrative Agent in writing, and Tenant agrees that, notwithstanding any provisions of the Lease to the contrary, no notice of cancellation thereof or of such an abatement shall be effective unless Administrative Agent shall have received notice of default giving rise to such cancellation or abatement and shall have failed within thirty (30) days after receipt of such notice to cure such default, or if such default cannot be cured within thirty (30) days such period shall be extended for such additional period as shall be reasonable necessary (provided that the default does not materially interfere with Tenant's use and occupation of the Premises), provided Administrative Agent provides Tenant with written notice of Administrative Agent's election to remedy within ten (10) days after receipt of Tenant's notice, commences the action to remedy the same within such thirty (30) day period, and pursues such cure with diligence.

7. Insurance and Condemnation Proceeds. Anything in this Agreement or the Deed of Trust to the contrary notwithstanding, Administrative Agent agrees that it shall permit any insurance or condemnation proceeds to be used for the purpose of reconstructing the improvements located on the Property, unless Administrative Agent, under a standard of good faith and fair dealing, believes its security is impaired by the casualty or condemnation giving rise to such proceeds and, in the case of an insurance award, the insurance proceeds (together with a commercially reasonable deductible) are insufficient to reconstruct the improvements and building to at least the same condition prior to the casualty resulting in the claim for which the insurance proceeds are paid.

8. Notices. All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient thereof and confirmed by telephone by sender, (ii) one (1) Business Day (hereinafter defined) after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Tenant:

San Francisco Municipal Transportation Agency  
South Van Ness Avenue, 8th Floor  
San Francisco, CA 94103  
Attn: Real Estate Section  
Re: 1455 Market Street

with a copy to:

City and County of San Francisco  
Real Estate Department  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Attn: Director of Property

and a copy to:

Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA 94102  
Attn: Real Estate/Finance Team

If to Administrative Agent:

Barclays Bank PLC  
745 Seventh Avenue  
New York, New York 10019  
Attention: Craig Malloy  
Telecopy: (646) 758-4617  
Telephone: (212) 526-7150

With a copy to:

Julian Chung, Esq.  
Cadwalader, Wickersham & Taft LLP  
One World Financial Center  
New York, NY 10281  
Facsimile No. 212-504-6666

or addressed as such party may from time to time designate by written notice to the other parties. For purposes of this Section, the term "Business Day" shall mean a day on which commercial banks are not authorized or required by law to close in New York, New York.

Either party by notice to the other may designate additional or different addresses for subsequent notices or communications.

9. **Joint and Several Liability.** If Tenant consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Agreement shall be binding upon and inure to the benefit of Administrative Agent and Tenant and their respective successors and assigns.

10. **Definitions.** The term "Administrative Agent" as used herein shall include the successors and assigns of Administrative Agent and any person, party or entity which shall become the owner of the Property by reason of a foreclosure of the Deed of Trust or the acceptance of a deed or assignment in lieu of foreclosure or otherwise. The term "Landlord" as used herein shall mean and include the present landlord under the Lease and such landlord's predecessors and successors in interest under the Lease, but shall not mean or include Administrative Agent. The term "Property" as used herein shall mean the Property, the improvements now or hereafter located thereon and the estates therein encumbered by the Deed of Trust.

11. **No Oral Modifications.** This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto.

12. Governing Law. This Agreement shall be deemed to be a contract entered into pursuant to the laws of the State where the Property is located and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State where the Property is located.

13. Inapplicable Provisions. If any term, covenant or condition of this Agreement is held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such provision.

14. Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

15. Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

16. Transfer of Loan. Administrative Agent may sell, transfer and deliver the note evidencing the Loan and assign the Deed of Trust, this Agreement and the other documents executed in connection therewith to one or more investors in the secondary mortgage market ("Investors"). In connection with such sale, Administrative Agent may retain or assign responsibility for servicing the loan, including the Deed of Trust, this Agreement and the other documents executed in connection therewith, or may delegate some or all of such responsibility and/or obligations to a servicer including, but not limited to, any subservicer or master servicer, on behalf of the Investors. All references to Administrative Agent herein shall refer to and include any such servicer to the extent applicable.

17. Further Acts. Tenant will, at the cost of Tenant, and without expense to Administrative Agent, do, execute, acknowledge and deliver all and every such further acts and assurances as Administrative Agent shall, from time to time, require, for the better assuring and confirming unto Administrative Agent the property and rights hereby intended now or hereafter so to be, or for carrying out the intention or facilitating the performance of the terms of this Agreement or for filing, registering or recording this Agreement, or for complying with all applicable laws, provided that no such document or instrument shall modify the rights and obligations of the parties set forth herein, and provided further that any document to be signed by Tenant must be approved as to form by the San Francisco City Attorney and must not violate the City's Charter or Administrative Code.

18. Limitations on Administrative Agent's Liability. Tenant acknowledges that Administrative Agent is obligated only to Landlord to make the Loan upon the terms and subject to the conditions set forth in the Loan Documents. In no event shall Administrative Agent or any purchaser of the Property at foreclosure sale or any grantee of the Property named in a deed-in-lieu of foreclosure, nor any heir, legal representative, successor, or assignee of Administrative Agent or any such purchaser or grantee (collectively the Administrative Agent, such purchaser, grantee, heir, legal representative, successor or assignee, the "Subsequent Landlord") have any personal liability for the obligations of Landlord under the Lease and should the Subsequent Landlord succeed to the interests of the Landlord under the Lease, Subsequent Landlord shall have the benefit of the limitation of liability provisions set forth in Section 15.5 of the Lease.

IN WITNESS WHEREOF, Administrative Agent and Tenant have duly executed this Agreement as of the date first above written.

ADMINISTRATIVE AGENT:

BARCLAYS BANK PLC

By:

Name:

Title:

TENANT:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation, acting by and through  
its Municipal Transportation Agency

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

NATHANIEL P. FORD SR.  
Executive Director/CEO  
San Francisco Municipal Transportation Agency

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

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

Anita L. Wood  
Deputy City Attorney

The undersigned accepts and agrees to  
the provisions of Section 4 hereof:

LANDLORD:

HUDSON 1455 MARKET, LLC

By: Hudson Pacific Properties, L.P.  
a Maryland limited partnership  
its Sole Member

By: Hudson Pacific Properties, Inc.  
a Maryland corporation  
its General Partner

By:

Name:

Title:

STATE OF \_\_\_\_\_ )

) ss.:

COUNTY OF \_\_\_\_\_), to-wit:

On \_\_\_\_\_, before me, \_\_\_\_\_, 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.

Notary Public

[SEAL]

My commission expires:



**EXHIBIT A**  
**LEGAL DESCRIPTION**  
**(Attached)**



**EXHIBIT J**  
**INTENTIONALLY OMITTED**



## **EXHIBIT K**

### **DISCLOSURE STATEMENT REGARDING ASBESTOS-CONTAINING MATERIALS**

#### **Disclosure Statement Regarding Asbestos Containing Material (ACM)**

##### **Hudson 1455 Market, LLC**

California law requires that employees working in a building known to have asbestos containing construction materials (ACCM) be provided written notice of the presence of these materials. Asbestos containing construction materials contain asbestos, a naturally occurring fibrous mineral. Because of its properties, asbestos was once widely used (although often in very low percentages) in construction materials such as structural fireproofing, acoustical ceilings, floor tiles, and insulation around pipes, boilers, and duct system. By the late 1970s, the use of asbestos in many common building materials were banned by the United States Environmental Protection Agency because of research linking industrial asbestos exposures (e.g. mining, milling, shipbuilding) to various respiratory diseases and cancer. This building has been surveyed for the presence of asbestos. A summary of known asbestos containing construction materials in the above-referenced building are available for review. An asbestos survey summary, full survey reports, monitoring data, etc., are available for review along with an Operations & Maintenance Plan that provides guidance on the maintenance and management of the asbestos in the building. Copies of these documents can be obtained from Hudson Pacific Properties. As required by California law and the Operations and Maintenance Plan, in addition to notifying employees, the asbestos notice should also be provided to sub-tenants and contractors working in the building. The procedures for this notification are outlined in the Operations and Maintenance Plan. The mere presence of asbestos containing construction

materials does not present a health hazard. Hazards may exist when asbestos materials are damaged and fibers are released into the air. Inhalation of asbestos fibers may potentially result in health risks such as lung diseases, cancer and other serious illnesses. The condition of the asbestos containing construction materials in this building is monitored. However, to prevent damage to the asbestos containing construction materials, moving, drilling, boring, or otherwise disturbing those materials should not be attempted by an employee who is not qualified and approved to handle asbestos-containing construction material.



**EXHIBIT L**

**FORM OF MEMORANDUM OF LEASE**

RECORDING REQUESTED BY,  
AND WHEN RECORDED MAIL TO:

Hudson 1455 Market, LLC  
c/o Hudson Pacific Properties, Inc.  
11601 Wilshire Blvd., Suite 1600  
Los Angeles, California 90025

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No Documentary Transfer Tax due;  
term of lease less than 35 years.

**MEMORANDUM OF LEASE**

THIS MEMORANDUM OF LEASE ("**Memorandum**") is dated as \_\_\_\_\_, 2011, by and between CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**Tenant**") acting by and through the San Francisco Municipal Transportation Agency, and HUDSON 1455 MARKET, LLC, a Delaware limited liability company ("**Landlord**").

**RECITALS**

A. Landlord owns the improved real property (the "**Property**") located in the City and County of San Francisco, State of California, commonly known as 1455 Market Street (the "**Building**") and more particularly described on Exhibit "A" attached hereto.

B. Concurrently with the execution of this Memorandum, Landlord and Tenant are entering into that certain unrecorded Lease dated as of \_\_\_\_\_, 2011 (the "**Lease**"), pursuant to which Landlord agrees to lease to Tenant, and Tenant agrees to lease from Landlord, a portion of the Building, as described in the Lease (the "**Premises**").

C. Landlord and Tenant desire to record this Memorandum to provide notice to all third parties of certain rights of Tenant under the Lease, and certain restrictions on Landlord under the Lease.

NOW, THEREFORE, in consideration of the Premises and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. **Lease Terms.** The lease of the Premises to Tenant is on all of the terms and conditions set forth in the Lease, which is incorporated in this Memorandum by reference

2. **Term.** The term of the Lease is approximately ten (10) years commencing on the Commencement Date established in accordance with Section 3.1 of the Lease and expiring on the date immediately preceding the tenth (10<sup>th</sup>) anniversary of the Commencement Date.

Pursuant to Section 3.4 of the Lease, Tenant has two (2) options to renew the term of the Lease for ten (10) years each, subject to the terms and conditions set forth such Section 3.4.

3. Incorporation of Lease. This Memorandum is prepared and recorded for the purpose of providing the public with constructive notice of the Lease. This Memorandum in no way modifies or otherwise affect the terms and conditions of the Lease. In the event of any inconsistency between the terms and conditions of this Memorandum and the terms and conditions of the Lease, the terms and conditions of the Lease shall control.

4. Counterparts. This Memorandum may be executed in any number of counterparts, each of which shall constitute an original and all of which shall constitute but one and the same document.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the date first set forth above.

**TENANT:**

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: \_\_\_\_\_  
NATHANIEL P. FORD SR.  
Executive Director/CEO  
San Francisco Municipal Transportation Agency

**APPROVED AS TO FORM:**

DENNIS J. HERRERA, City Attorney

By: \_\_\_\_\_  
Deputy City Attorney

**LANDLORD:**

HUDSON 1455 MARKET, LLC, a Delaware limited liability company

By: Hudson Pacific Properties, L.P.,  
a Maryland limited partnership,  
Its: Sole Member

By: Hudson Pacific Properties, Inc.,  
a Maryland corporation  
Its: General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

## TENANT'S ACKNOWLEDGEMENT

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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.**

**Notary Public**

## LANDLORD'S ACKNOWLEDGEMENT

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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.

**Notary Public**





**EXHIBIT M**  
**CITY INSURANCE REQUIREMENTS**

1. City's self-insurance program shall not violate any laws, statutes, ordinances or governmental regulations or requirements currently in force or at any future date.
2. All references to insurance proceeds in this Lease shall be deemed to include any and all proceeds of self-insurance, including that which is considered a deductible or self insured retention, which shall be payable to the same extent, in the same amounts and to the party entitled to the same, as if actual policies of insurance set forth in this Lease had been obtained.
3. Such self-insurance shall be treated as if Tenant actually procured and maintained all of the following required policies and coverages:
  - a. Commercial General Liability Insurance with respect to the Premises with limits of liability not less than Ten Million Dollars (\$10,000,000) per occurrence and in the aggregate, including products liability coverage if applicable, owners and contractors protective coverage, blanket contractual coverage including both oral and written contracts, and personal injury coverage;
  - b. Causes of loss – special form "All Risk" Property Insurance for City's Personal Property, the Leasehold Improvements and Alterations, including a vandalism and malicious mischief endorsement, sprinkler leakage coverage and earthquake sprinkler leakage, in an amount equal to the full replacement value new without deduction for depreciation;
  - c. Worker's Compensation coverage as required by applicable law; and
  - d. Business interruption, loss of income and extra expense insurance covering any failure or interruption of Tenant's business equipment (including, without limitation, data and telecommunications equipment) and covering all other perils, failures or interruptions sufficient to cover a period of interruption of not less than twelve (12) months.
4. The waiver of subrogation set forth in Section 17.5 shall apply to all self insurance and all commercially procured insurance.



**EXHIBIT N**  
**INTENTIONALLY OMITTED**



## **EXHIBIT O**

### **ELECTRICAL SYSTEM CONDITIONS AND REQUIREMENTS**

General Office. The general office portions of the Premises shall be provided with: (i) an average of 1.0 watt per rentable square foot for general overhead lighting at 277V; (ii) emergency egress lighting at an average of 0.25 watts per rentable square foot; and (iii) an average of 5.0 watts per rentable square foot at 120/208V for computers, monitors, task lighting and general office support appliances.

Computer Rooms and Data Centers. Portions of the Premises used for computer rooms or Data Centers shall be provided with an average of 1.0 watt per rentable square foot for general overhead lighting at 277V from the UPS system and emergency egress lighting at an average of 0.25 watts per rentable square foot, and computer related equipment loads such that the total load from all areas does not exceed 1000 KW.

Generators. The parties acknowledge that (a) the Building Generators support the entire Building, including UPS (Uninterruptible Power Systems) and other critical systems, and (b) the Building Generators are part of a load shed program which reduces or adds building loads supported by the Building Generators based on the number of Building Generators running and the priority level assigned to the critical loads. Current priority levels are as follows: Priority 1 includes all life safety systems and functions; Priority 2 includes all Bank of America critical functions, including Bank of America's UPS systems; Priority 3 includes all remaining critical and non-critical Building functions, and Priority 4 is the redundant Building Generator and no load shedding occurs. Landlord acknowledges that City is operating a mission critical facility. Throughout the Term of the Lease, Landlord shall maintain N+1 redundancy of critical loads on the Building Generators for City's critical functions and UPS systems at a Priority 2 level, regardless of which emergency generator supports the load. The above notwithstanding for as long as Bank of America maintains a cash vault and critical data processing functions City's Priority 2 critical functions shall be subordinate to the Bank of America's critical functions. In other words all other Priority 3 and 4 loads shall be shed prior to any action shedding City's critical functions.





**EXHIBIT P**  
**EXISTING PERSONAL PROPERTY**

<b>QUANTITY</b>	<b>ITEM</b>
ALL	FIXED MARKERBOARDS
ALL	FIRE EXTINGUISHER CABINETS
ALL	METAL LOCKERS
53	OPEN-SHELF METAL STORAGE RACKS (ALL TYPES)
33	TALL STORAGE CABINETS WITH LOCKING ROLL-DOWN DOORS
12	TALL 2-DOOR STORAGE CABINETS WITH LOCKS
1	STORAGE CABINETS WITH LOCKS (3-TIER)
2	STORAGE CABINETS WITH LOCKS (4-TIER)
6	FOOTED STORAGE CABINETS WITH LOCKS (4-TIER)
6	STORAGE CABINETS WITH LOCKS (5-TIER)
19	FILE CABINETS (2-TIER)
1	FILE CABINETS (3-TIER)
7	FILE CABINETS (4-TIER)
20	FILE CABINETS (5-TIER)
1	ROLLING AUDIO-VISUAL RACK
2	DISASTER LOCKERS
20	SMALL WHEELED STORAGE PEDESTAL (GRAY)
8	TRAPEZOIDAL CONFERENCE TABLES
2	4'X12' CONFERENCE TABLES
6	3'X6' CONFERENCE TABLES
8	ROUND TABLES - (6) 48" tables, (1) 54" table, (1) 36" table
2	SMALL RECTANGULAR TABLES (36" x 30") (1) in conference room, (1) in NTS lab
3	WORKSHOP DESKS (36" x 72") ( in NTS lab)
54	HAWORTH SYSTEMS FURNITURE (INCLUDING DESKS AND STORAGE)
36	2-TIER FILE CABINETS (AT ENDS OF CUBICLES)
85	CONFERENCE CHAIR (GRAY ONLY)
17	STACKING CHAIRS (BLACK)
ALL	VAV boxes
ALL	20-TON CRAC UNITS

<b>QUANTITY</b>	<b>ITEM</b>
7 (TOTAL)	480-208/120v, 125kVA TRANSFORMER, PDUs
ALL	TELEPHONE BACKBOARD
ALL	EXISTING CABLE TRAYS
ALL	EXISTING SERVER RACKS (INCLUDING RACKS IN STORAGE AREAS)
	COAX FOR CABLE/SATELLITE FEEDS

**EXHIBIT Q**  
**PRELIMINARY LEED-IDC SCORECARD**

[SEE ATTACHED]



				Path 12: Other Quantifiable Environmental Performance	
6			SS Credit 2 Development Density & Community Connectivity	<p>Option 1 <del>Select space in a building that is located in an established, walkable community with a minimum density of 60,000 sq.ft./acre net. The density calculation is based on a typical two-story downtown development and must include the area of the project being built. OR</del></p> <p>Option 2 Select space in a building on a site that meets the following criteria: A) Is located within ½ mile of a residential area or neighborhood with an average density of 10 units per acre net, AND B) Is within ½ mile of at least 10 Basic Services, AND C) Has pedestrian access between the building and the services. Basic Services include: 1) Bank; 2) Place of Worship; 3) Convenience Grocery; 4) Day Care Center; 5) Cleaners; 6) Fire Station; 7) Beauty Salon; 8) Hardware; 9) Laundry; 10) Library; 11) Medical or Dental; 12) Senior Care Facility; 13) Park; 14) Pharmacy; 15) Post Office; 16) Restaurant; 17) School; 18) Supermarket; 19) Theater; 20) Community Center 21) Fitness Center; 22) Museum. Proximity is determined by drawing a 1/2 mile radius around a main building entrance on a site map and counting the services within that radius. Greenfield developments and projects that do not use existing infrastructure are not eligible. No more than 2 of 10 services required may be anticipated (i.e. at least 8 must be existing and operational).</p>	City to complete   LEED-Online documentation requirements
6			SS Credit 3.1 Alternative Transportation-Public Transportation	<p>Option 1 <del>Rail Station Proximity. Locate the project in a building within 1/2 mile walking distance (measured from a main building entrance) of an existing commuter rail, light rail or subway station. OR</del></p>	

			<b>n Access</b>	Option 2	Bus Stop Proximity. Locate the project within 1/4-mile walking distance (measured from a main building entrance) of 1 or more stops for a 2 or more public campus or private bus lines usable by tenant occupants.	City to complete LEED-Online documentation requirements
2			<b>SS Credit 3.2 Alternative Transportation-Bicycle Storage &amp; Changing Rooms</b>		Provide secure bicycle racks and/or storage (within 200 yards of a main building entrance) for 5% or more of tenant occupants (measured at peak periods). Provide shower and changing facilities in the building, or within 200 yards of a building entrance, for 0.5% of full-time equivalent (FTE) occupants.	IA/Syska to provide plans of bike & locker rooms
		2	<b>SS Credit 3.3 Alternative Transportation-Parking Availability</b>	Option 1	Projects with an Area Less Than 75% of the total Building Area. Parking spaces provided to tenant shall not exceed min. number required by local zoning regulations. AND Priority parking for carpools or van pools will be provided for 5% or more of tenant occupants. <b>OR</b>	
				Option 2	No parking is provided or subsidized for tenant occupants.	
6	2	3	<b>WATER EFFICIENCY</b>	<b>DESIGN / CONSTRUCTION REQUIREMENTS</b>		<b>Comments / Action Items</b>
<b>REQUIRED</b>			<b>WE Prerequisite 1 Water Use Reduction - 20% Reduction</b>		Employ strategies that in aggregate use 20% less water than the water use baseline calculated for the building (not including irrigation). Calculate the baseline according to the commercial baselines outlined below. Calculations are based on estimated occupant usage and must include only the following fixtures and fixtures fittings (as applicable to the project scope): water closets, urinals, lavatory faucets, showers, kitchen sink faucets and prerinse spray valves.  Commercial toilets: 1.6 gpf (*). Except blow-out fixtures: 3.5 gpf  Commercial urinals: 1.0 gpf	IA/Syska to provide Building Code Requirements for lavatories and manufacturer's data, list plumbing fixtures by usage group.



				<p>Commercial lavatory (restroom) faucets: 0.5 gpm at 60 psi (**), all others except private applications. 0.25 gallons per cycle for metering faucets.</p> <p>Commercial prerinse spray valves (for food service applications): Flow rate less than 1.6 gpm (no pressure specified; no performance requirements)</p> <p>* EPAAct 1992 standard for toilets applies to commercial models. ** In addition to EPAAct requirements, the American Society of Mechanical Engineers standard for public lavatory faucets is 0.5gpm at 60psi (ASME A112.18.1-2005). This maximum has been incorporated into the national Uniform Plumbing Code and the International Plumbing Code.</p>	
6	2	3	<b>WE Credit 1 Water Use Reduction</b>	<p>Employ strategies that in aggregate use at least 30% less water than the water use baseline calculated for the building (not including irrigation). Calculate the baseline according to the commercial and/or residential baseline outlined in the reference guide.</p> <p>30% = 6 points 35% = 8 points 40% = 11 points</p>	<p>Need to install 1.2 gpf toilets, see plumbing cut sheets.</p>
18	4	15	<b>ENERGY and ATMOSPHERE</b>	<b>DESIGN / CONSTRUCTION REQUIREMENTS</b>	<b>Comments / Action Items</b>
			<b>EA Prerequisite 1</b>	The following commissioning process activities must be completed by the project team:	

REQUIRED	Fundamental Commissioning of Building Energy Systems	<ol style="list-style-type: none"> <li>1) Designate an individual as the Commissioning Authority (CxA) to lead, review, and oversee the completion of the commissioning process activities. a) The CxA must have documented commissioning authority experience in at least 2 building projects. b) The individual serving as the CxA must be independent of the project's design and construction management, though CxA may be employees of any firms providing those services. The CxA may be a qualified employee or consultant of the Owner. c) The CxA must report results, findings and recommendations directly to the Owner. d) For projects smaller than 50,000 gross square feet, the CxA may be a qualified person on the design or construction teams who has the required experience.</li> <li>2) The Owner must document the Owner's Project Requirements. The design team must develop the Basis of Design. The CxA must review these documents for clarity and completeness. The Owner and design team must be responsible for updates to their respective documents.</li> <li>3) Develop and incorporate commissioning requirements into the construction documents.</li> <li>4) Develop and implement a commissioning plan.</li> <li>5) Verify the installation and performance of the systems to be commissioned.</li> <li>6) Complete a summary commissioning report.</li> </ol>	Hire a CxA acceptable to BAC and G.C.
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		Commissioned Systems: Commissioning process activities must be completed for the following energy-related systems at a minimum: 1) Heating, ventilating, air conditioning and refrigeration (HVAC & R) systems (mechanical and passive) and associated controls. 2) Lighting and daylighting controls. 3) Domestic hot water systems. 4) Renewable energy systems (e.g., PV, wind, solar).	
REQUIRED	EA Prerequisite 2 Minimum Energy Performance	<p>Design portions of the building as covered by the tenant's scope of work to comply with ANSI/ASHRAE/IESNA standard 90.1-2007, and complete the following:</p> <ol style="list-style-type: none"> <li>1) Comply with the mandatory provisions (Sections 5.4, 6.4, 7.4, 8.4, 9.4 and 10.4) of ANSI/ASHRAE/IESNA Standard 90.1-2007.</li> <li>2) Achieve the prescriptive requirements (Sections 5.5, 6.5, 7.5, and 9.5) or performance requirements (Section 11) of ANSI/ASHRAE/IESNA Standard 90.1-2007.</li> <li>3) Reduce connected lighting power density 10% below that allowed by ANSI/ASHRAE/IESNA Standard 90.1-2007 using either the Space-by-Space Method or by applying the whole building lighting power allowance to the entire tenant space.</li> <li>4) Install ENERGY STAR qualified equipment for 50% (by rated-power) of ENERGY STAR eligible equipment installed as part of the tenant's scope of work. This requirement includes appliances, office equipment, electronics, and commercial food service equipment. Excluded are HVAC, lighting, and building envelope products.</li> </ol> <p>Projects in California may use Title 24-2005, Part 6 in place of ANSI/ASHRAE/IESNA Standard 90.1-2007</p>	IA/Syska to provide Building Code Requirements and ASHRAE compliance. G.C to buy only and provide cut sheets for ENERGY STAR equipments.
	EA Prerequisite 3	Zero use of Chlorofluorocarbon (CFC)-based refrigerants in tenant HVAC&R systems used	Syska will provide

REQUIRED			Fundamental Refrigerant Management	within the LEED project scope of work.	affirmative statement
	1	4	<b>EA Credit 1.1</b> <b>Optimize Energy Performance - Lighting Power</b>	<p>Reduce connected lighting power density below that allowed by ANSI/ASHRAE/IESNA Standard 90.1-2007 using either the space-by-space method or by applying the whole building lighting power allowance to the entire tenant space. Lighting Power Density Reduction and Points as follows:</p> <p style="margin-left: 40px;">15% = 1 point 20% = 2 points 25% = 3 points 30% = 4 points 35% = 5 points</p> <p>Potential Technologies &amp; Strategies: Design the connected lighting power to maximize energy performance. If the project warrants, consider a computer simulation model to assess the performance and identify the most cost-effective energy efficiency measures.</p> <p>Project teams in California may use Title 24-2005, Part 6 in place of ANSI/ASHRAE/IESNA Standard 90.1-2007</p>	KH will work with IA/Syska to attempt 15% reduction.
1	1	1	<b>EA Credit 1.2</b> <b>Optimize Energy Performance - Lighting Controls</b>	<p>Design the project to include 1 or more the following independent strategies:</p> <p>1) Daylight controls for daylit areas: Install daylight responsive controls in all regularly occupied daylit spaces within 15 feet of windows and under skylights. Day light controls must switch or dim electric lights in response to the presence or absence of daylight illumination in the space. (1 point)</p>	City to study whether Item 1 is achievable.

			<p>2) Daylight controls for 50% of the lighting load: Install daylight responsive controls for 50% or more of the connected lighting load and demonstrate that 50% of the connected lighting load is daylight responsive. Daylight controls must switch or dim electric lights in response to the presence or absence of daylight illumination in the space. (1 point)</p> <p>3) Occupancy sensors: Install occupancy sensors for 75% of the connected lighting load. (1 point)</p>	Item 3 credit is expected
5	5	<p><b>EA Credit 1.3</b></p> <p><b>Optimize Energy Performance - HVAC</b></p>	<p><b>Option 1</b> Implement 1 or both the following strategies:</p> <p><b>A) Equipment Efficiency.</b> Install HVAC systems that comply with the efficiency requirements outlined in the New Building Institute's Advanced Buildings "Core Performance" Guide Sections 1.4: Mechanical System Design, 2.9: Mechanical Equipment Efficiency and 3.20: Variable Speed Control. (5 points)</p> <p><b>B) Appropriate Zoning and Controls:</b> Zone tenant fit out of spaces to meet the following requirements: 1) Every solar exposure must have a separate control zone. 2) Interior spaces must be separately zoned. 3) Private offices and special occupancies (conference rooms, kitchens, etc.) must have active controls capable of sensing space use and modulating the HVAC system in response to space demand. (5 points)</p> <p><b>Option 2</b> <del>Reduce design energy cost compared with the energy cost budget for regulated energy components described in the requirements of ANSI/ASHRAE/IESNA Standard 90.1-2007. AND</del></p>	<p>Syska confirmed Option 1B is achievable</p>

				<p><del>PATH 1 (5 points) Demonstrate the HVAC system component performance criteria used for tenant space are 15% better than a system in minimum compliance with ANSI/ASHRAE/IESNA Standard 90.1-2007.</del></p> <p><b>OR</b></p> <p><del>PATH 2 (10 points) Demonstrate that HVAC system component performance criteria used for tenant space are 30% better than system that is in minimum compliance with ANSI/ASHRAE/IESNA Stand 90.1-2007.</del></p>	
2	2		<b>EA Credit 1.4</b> <b>Optimize Energy performance - Equipment and Appliances</b>	<p>For all ENERGY STAR qualified equipment and appliances installed as part of the tenant's scope of work, achieve one of the following percentages (by rated power):</p> <p>70% = 1 point</p> <p>77% = 2 points</p> <p>84% = 3 points</p> <p>90% = 4 points</p> <p>This requirement applies to appliances, office equipment, electronics, and commercial food service equipment. Excluded are HVAC, lighting, and building envelope products.</p>	<p>MTA to   prepare list.</p> <p>Goal is 77%</p>
5			<b>EA Credit 2</b> <b>Enhanced Commissioning</b>	<p>Implement, or have a contract in place to implement, the following additional commissioning process activities in addition to the requirements of EA Prerequisite 1: Fundamental Commissioning of Building Energy Systems:</p>	<p>Part of the   CxA contract work</p>



			<p>1) Prior to the start of the construction documents phase, designate an independent Commissioning Authority (CxA) to lead, review, and oversee the completion of all commissioning process activities. a) The CxA must have documented commissioning authority experience in at least 2 building projects. b) The individual serving as the CxA: i) Must be independent of the work of design and construction; ii) Must not be an employee of the design firm, though he/she may be contracted through them; iii) Must not an employee of, or contracted through, a contractor or construction manager holding construction contracts; and iv) May be a qualified employee or consultant of the Owner.</p> <p>2) The CxA must conduct, at a minimum, 1 commissioning design review of the owner's project requirements, basis of design and design documents prior to the mid-construction documents phase and must back-check the review comments in the subsequent design submission.</p> <p>3) The CxA must review contractor submittals applicable to systems being commissioned for compliance with the owner's project requirements and basis of design. This review must be concurrent with the reviews of the architect or engineer of record and submitted to the design team and the owner.</p> <p>4) The CxA or other project team members must develop a systems manual that gives future operating staff the information needed to understand and optimally operate the project's commissioned systems.</p>	<p>CxA to complete LEED-Online documentation requirements.</p>
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				<div>5) The CxA or other project team members must verify that the requirements for training operating personnel and building occupants have been completed.</div> <div>6) The CxA must be involved in reviewing the operation of the tenant space with operations and maintenance (O&amp;M) staff and occupants within 8 to 10 months after substantial completion. A plan for resolving outstanding commissioning-related issues must be included.</div>	
5		<div>EA Credit 3</div> <div>Measurement &amp; Verification</div>	<div>Case 1</div> <div>1) Install submetering equipment to measure and record energy use within the tenant space. (2 points)</div> <div>2) Negotiate a lease whereby energy costs are paid by the tenant and not included in the base rent. ( 3 points)</div> <div>Develop and implement a measurement and verification (M&amp;V) plan that incorporates the monitoring information from the above end uses and is consistent with Option B, C or D of the 2001 International Performance Measurement &amp; Verification Protocol (IPMVP) Volume I: Concepts and Options for Determining Energy and Water Savings. Provide a process for corrective action if the results of the M&amp;V plan indicate that energy savings are not being achieved.</div>	<div>Projects Less Than 75% of the Total Building Area. Complete 1 or more the following:</div> <div>Part of Lease &amp; TI project. Will need ____ for #1 verification</div> <div>City clarified that Chilled Water (energy sources) is part of submetering or prorated requirements.</div>	
	5	<div>EA Credit 4</div>	<div>Option 1</div> <div>Engage in at least a 2-year renewable energy contract to provide at least 50%</div>		

			Green Power	of the building's electricity from renewable sources, as defined by the Center for Resource Solution's Green-e energy product certification requirements. All purchases of green power must be based on the quantity of energy consumed, not the cost, as determined by the annual electricity consumption results of EA Credit 1; Optimize Energy Performance. <del>OR</del>	
				Option 2 Engage in at least a 2-year renewable energy contract to purchase at least 8 kilowatt hours per square foot per year from renewable electricity sources as defined by the Center for Resource Solutions (CRS) Green-e Energy's product certification requirements. All purchases of green power must be based on the quantity of energy consumed, not the cost.	City to investigate cost of Option 2, if anticipated credits fall below 50 points.
5	3	6	<b>MATERIALS and RESOURCES</b>	<b>DESIGN / CONSTRUCTION REQUIREMENTS</b>	<b>Comments / Action Items</b>
			<b>REQUIRED</b>		
			<b>MR Prerequisite 1 Storage &amp; Collection of Recyclables</b>	Provide an easily accessible dedicated area or areas for the collection and storage of materials for recycling for the tenant space. Materials must include at a minimum paper, corrugated cardboard, glass, plastics, and metals.	Already include in space plan, BAC to provides the building's recycling program.
1	1		<b>MR Credit 1.2 Building Reuse - Maintain</b>	Maintain at least 40% or 60% by area of the existing non-shell, nonstructural components (e.g.. Walls, flooring and ceiling systems). The minimum percentage interior component reuse for each point threshold is as follows:  40% = 1 point	KH to provide initial drawings & City will provide calculations.

			<b>Interior Nonstructural Components</b>	60% = 2 points	IA to provide final area of new & existing elements, and area of reused interior nonstructural elements.
2			<b>MR Credit 2 Construction Waste Management</b>	<p>Recycle and/or salvage nonhazardous construction and demolition debris. Develop and implement a construction waste management plan that, at a minimum, identifies the materials to be diverted from disposal and whether the materials will be sorted on-site or comingled. Excavated soil and land-clearing debris do not contribute to this credit. Calculations can be done by weight or volume, but must be consistent throughout. The minimum percentage debris to be recycled or salvaged for each point threshold is as follows:</p> <p>50% = 1 point 75% = 2 points</p>	<p>Permit requirement. GC to track &amp; keep summary log of all construction materials.</p>
		2	<b>MR Credit 3.1 Materials Reuse</b>	<p>Use salvaged, refurbished or reused materials, the sum of which constitutes at least 5% or 10%, based on cost, of building (construction) materials, excluding furniture and furnishings. The minimum percentage materials reused for each point threshold is as follows:</p> <p>5% = 1 point 10% = 2 points</p>	Not feasible

		1	<b>MR Credit 3.2</b>	Use salvaged, refurbished or used furniture and furnishings for 30% of the total furniture and furnishings budget.	Not feasible
		2	<b>MR Credit 5 Regional Materials</b>	<p>Option 1 Use a minimum of 20% of the combined value of construction and Division 12 (Furniture) materials and products that are manufactured regionally within a radius of 500 miles. OR</p> <p>Option 2 Meet the requirements for Option 1. Use a minimum of 10% of the combined value of construction and Division 12 (Furniture) materials and products extracted, harvested or recovered, as well as manufactured, within 500 miles of the project.</p>	Not feasible
9	3	5	<b>INDOOR ENVIRONMENTAL</b>	<b>DESIGN / CONSTRUCTION REQUIREMENTS</b>	<b>Comments / Action Items</b>
	1		<b>IEQ Credit 1 Outdoor Air Delivery Monitoring</b>	Install permanent monitoring systems to ensure that ventilation systems maintain design minimum requirements. Configure all monitoring equipments to generate an alarm when the airflow values or carbon dioxide (CO2) levels vary by 10% or more from the design values, via either a building automation system alarm to the building operator or a visual or audible alert to the building occupants AND	Possible but expensive credit

				Case 1	Mechanically Ventilated Spaces. Monitor CO2 concentrations within all densely occupied spaces (those with a design occupant density of 25 people or more per 1000 square feet). CO2 monitors must be between 3 and 6 feet above the floor. Provide a direct outdoor airflow measurement device capable of measuring the minimum outdoor air intake flow with an accuracy of plus or minus 15% of the design minimum outdoor air rate, as defined by ASHRAE 62.1-2007 for mechanical ventilation systems where 20% or more of the design supply airflow serves nondensely occupied spaces.	
	1		<b>IEQ Credit 2</b>  <b>Increased Ventilation</b>	Case 1	Mechanically Ventilated Spaces. Increase breathing zone outdoor air ventilation rates to all occupied spaces by at least 30% above the minimum rates required by ASHRAE 62.1-2007 as determined by IEQ Prerequisite 1: Minimum Indoor Air Quality Performance.	to be discussed w/ BAC
1			<b>IEQ Credit 3.1</b> <b>Construction Indoor Air Quality Management Plan - During Construction</b>	Develop and implement an indoor air quality (IAQ) management plan for the construction and pre-occupancy phases of the tenant space as follows:  1) During construction meet or exceed the recommended design approaches of the Sheet Metal and Air Conditioning Contractors National Association (SMACNA) IAQ Guidelines for Occupied Buildings under Construction, 2nd Edition 2007, AMSI/SMACNA 008-2008 (Chapter 3).  2) Protect stored on-site and installed absorptive materials from moisture damage.	GC to provide standard   construction procedures & work w/ CxA for (create construction IAQ management plan, maintain visual documentation )	



				<p>3) If permanently installed air handlers are used during construction, filtration media with a minimum efficiency reporting value (MERV) of 8 must be used at each return air grill, as determined by ASHRAE 52.2-1999. Replace all filtration media immediately prior to occupancy.</p>
1		<p><b>IEQ Credit 3.2</b>  <b>Construction Indoor Air Quality Management Plan - Before Occupancy</b></p>	<p>Develop an Indoor Air Quality (IAQ) management plan and implement it after all finishes have been installed and the building has been completely cleaned before occupancy:</p> <p>Option 1- FLUSH OUT</p> <p><b>PATH 1</b> - After construction ends, prior to occupancy and with all interior finishes installed, install new filtration media and flush out the building by supplying a total air volume of 14,000 cubic feet of outdoor air per square foot of floor area while maintaining an internal temperature of at least 60F and, where mechanical cooling is operated, relative humidity no higher than 60%.  <b>OR</b></p> <p><b>PATH 2</b> - If occupancy is desired prior to completion of the flush-out, the space may be occupied following delivery of a minimum of 3,500 cu.ft. of outdoor air per sq.ft. of floor area. Once the space is occupied, it must be ventilated at a minimum rate of 0.30 cfm/sq.ft. of outside air or the design minimum outside air rate determined in EQ Prerequisite 1: Minimum IAQ Performance, whichever is greater. During each day of the flush-out period, ventilation must begin a minimum of 3 hours prior to occupancy and continue during occupancy. These conditions shall be maintained until a total of 14,000 cu.ft./sq.ft. of outside air has been delivered to the space.</p>	<p>Better Option to be discussed - lease provides 3 day burn off</p>

				<p>Option 2    <b>AIR QUALITY TESTING</b> Conduct baseline IAQ testing after construction ends and prior to occupancy, using testing protocols consistent with the EPA Compendium of Methods for the Determination of Air Pollutants in Indoor Air and as additionally detailed in the LEED Reference Guide for Green Interior Design and Construction, 2009 Edition.</p>	GC to provide pricing for IAQ Testing consultant
1			<p><b>IEQ Credit 4.1</b> <b>Low-Emitting Materials - Adhesives &amp; Sealants</b></p>	<p>All adhesives and sealants used on the interior of the building (i.e. inside of the weatherproofing system and applied on-site) must comply with the requirements as applicable to the project scope: Adhesives, sealants and sealant primers must comply with South Coast Air Quality Management District (SCAQMD) Rule 1168. Volatile organic compound (VOC) limits listed in the table were effective July 1, 2005 with a rule amendment date of January 7, 2005. Refer to table listed in reference guide.</p> <p>AND Aerosol Adhesives must comply with Green Seal Standard for Commercial Adhesives GS-36 requirements in effect on October 19, 2000. Refer to table listed in reference guide.</p>	<p>KH and IA to spec. GC to provide documentation (maintain a list, track amount of each products).</p>
1			<p><b>IEQ Credit 4.2</b></p>	<p>Paints and coatings used on the interior of the building (i.e. inside the weatherproofing system and applied on-site) must comply with the following criteria as applicable to the project scope:</p>	<p>KH and IA to spec.</p>
1			<p><b>IEQ Credit 4.5</b> <b>Low-Emitting Materials - Systems Furniture and Seating</b></p>	<p>All systems furniture and seating that was manufactured, refurbished or refinished within 1 year prior to occupancy must meet 1 of the options below:</p> <p>Option 1    Furniture and seating are Greenguard Indoor Air Quality Certified. <b>OR,</b></p>	<p>KH to spec., Furniture vendor &amp; G.C. to documentation (maintain a list, track amount of</p>

				<p>Option 2 Calculated indoor air concentrations that are less than or equal to those listed in Table 1 for furniture systems and seating determined by a procedure based on the EPA Environmental Technology Verification (ETV) Large Chamber Test Protocol for Measuring Emissions of VOCs and Aldehydes (September 1999) testing protocol conducted in an independent air quality testing laboratory. <b>OR,</b></p> <p>Option 3 Calculated indoor air concentrations that are less than or equal to those listed in Table 1 for furniture systems and seating determined by a procedure based on ANSI/BIFMA M7.1-2007 and ANSI/BIFMAX 7.1-2007 testing protocol conducted in an independent third- party air quality testing laboratory. The requirements in Section 5 of ANSI/BIFMAX7.1-2007 is waived for LEED purposes. Section 5 requires that laboratories used to perform the emissions testing and/or provide analytical results must be independently accredited to ISO/IEC17025, "General requirements for the competence of testing and calibration laboratories." Refer to table listed in reference guide.</p>	each products).
		1	<b>IEQ Credit 5</b> <b>Indoor Chemical and Pollutant Source Control</b>	<p>Design to minimize and control the entry of pollutants into the tenant space and later cross-contamination of regularly occupied areas through the following strategies:</p> <p>1) Employ permanent entryway systems at least 10 feet long in the primary direction of travel to capture dirt and particulates from entering the building at all high-volume exterior entryways. <b>AND,</b></p>	Project team decided this is not under consideration

				<p>2) Sufficiently exhaust each space where hazardous gases or chemicals may be present or used (e.g. garages, housekeeping and laundry areas copying and printing rooms) to create negative pressure with respect to adjacent spaces when the doors to the room closed. For each of these spaces, provide self-closing doors and deck to deck partitions or a hard lid ceiling. The exhaust rate shall be at least 0.50 cfm/sq.ft., with no air re-circulation. The pressure differential with the surrounding spaces must be at least 5 Pascals (Pa) (0.02 inches of water gauge) on average and 1 Pa (0.0004 inches of water) at a minimum when the doors to the rooms are closed. <b>AND,</b></p> <p>3) In mechanically ventilated buildings, install new air filtration media in regularly occupied areas prior to occupancy; these filters must provide a minimum efficiency reporting value (MERV) of 13 or better. Filtration should be applied to process both return and outside air that is delivered as supply air. <b>AND,</b></p> <p>4) Provide containment drains plumbed for appropriate disposal of hazardous liquid wastes in spaces where water and chemical concentrate mixing occurs for maintenance or laboratory purposes.</p>	
1			<b>IEQ Credit 6.1</b> <b>Controllability of Systems - Lighting</b>	<p>Provide individual lighting controls for 90% (minimum) of the tenant spaces occupants to enable adjustments to suit individual task needs and preferences.</p> <p><b>AND</b> Provide lighting system controls for all shared multi-occupant spaces to enable adjustments that meet group needs and preferences.</p>	KH indicated that this point is achievable.
1			<b>IEQ Credit 6.2</b>	Provide individual comfort controls for 50% (minimum) of the tenant occupants to enable	

			<b>Controllability of Systems - Thermal Comfort</b>	<p>adjustments to suit individual needs and preferences. Operable windows may be used in lieu of individual controls for occupants located 20 feet inside and 10 feet to either side of the operable part of the window. The areas of operable window must meet the requirements of ASHRAE Standard 62.1-2007 paragraph 5.1 Natural Ventilation.</p> <p>AND Provide comfort system controls for all shared multi-occupant spaces to enable adjustments that meet group needs and preferences. Conditions for thermal comfort are described in ASHRAE Standard 55-2004 and include air temperature, radiant temperature, air speed and humidity.</p>	<p>YEI indicated that this point is achievable with raise floor mounted diffusers.</p>
1			<b>IEQ Credit 7.1</b>  <b>Thermal Comfort - Design</b>	<p>Design HVAC systems to meet the requirements of ASHRAE Standard 55-2004, Thermal Comfort Conditions for Human Occupancy. Demonstrate design compliance in accordance with the Section 6.1.1 Documentation.</p>	<p>YEI indicated that this point is achievable.</p>
		1	<b>IEQ Credit 7.2</b>  <b>Thermal Comfort - Verification</b>	<p>Achieve IEQ Credit 7.1: Thermal Comfort - Design. AND,</p> <p>Provide a permanent monitoring system and process for corrective action to ensure that building performance meets the desired comfort criteria as determined by IEQ Credit 7.1: Thermal Comfort - Design.</p>	

			<p>Agree to conduct a thermal comfort survey of tenant space occupants within a period of 6 to 18 months after occupancy. This survey should collect anonymous responses about thermal comfort in the tenant space including an assessment of overall satisfaction with thermal performance and identification of thermal comfort problems. Agree to develop a plan for corrective action if the survey results indicate that more than 20% of occupants are dissatisfied with thermal comfort in the tenant space. This plan should include measurement of relevant environmental variables in problem areas in accordance with ASHRAE Standard 55-2004.</p>	
	2	<p><b>IEQ Credit 8.1</b></p> <p><b>Daylight &amp; Views - Daylight</b></p>	<p><del>The percentage of daylighting to be achieved for each point threshold is as follows: 75% — 1 point; 90% — 2 points.</del></p> <p><b>Option 1</b> <del>Simulation. Demonstrate through computer simulations that 75% or 90% or more of all regularly occupied spaces areas achieve daylight illuminance levels of a minimum of 25 fc and maximum of 500 fc in a clear sky condition on Sept. 21 and 9 a.m. and 3 p.m. Areas with illuminance levels below or above the range do not comply. However, designs that incorporate view preserving automated shades for glare control may demonstrate compliance for only the minimum 25 fc illuminance level. OR,</del></p> <p><b>Option 2</b> <del>Prescriptive Use a combination of side-lighting and/or top lighting to achieve a total daylighting zone that is at least 75% or 90% of all the regularly occupied spaces. OR,</del></p>	



				<p>Option 3    <del>Measurement—Demonstrate, through records of indoor light measurements that a minimum daylight illumination level of 25 fc has been achieved in at least 75% and 90% of all regularly occupied areas. Measurements must be taken on a 10-foot grid for all occupied spaces and recorded on building floor plans. OR,</del></p> <p>Option 4    <del>Combination—Any of the above calculation methods may be combined to document the minimum daylight illumination in at least 75% or 90% of all regularly occupied spaces. The different methods used in each space must be clearly recorded on all building plans.</del></p>				
3	3	0	<b>INNOVATION and DESIGN PROCESS</b>	<table><tr><th><b>DESIGN / CONSTRUCTION REQUIREMENTS</b></th><th><b>Comments / Action Items</b></th></tr><tr><td><p>Innovation in Design and Exemplary Performance paths as described below: Path 1 - Innovation in Design (1-5 points), identify the following in writing:</p><p>1) The intent of proposed innovation credit. 2) The proposed requirements for compliance. 3) The proposed submittals to demonstrate compliance. 4) The design approach (strategies) used to meet the requirements.</p><p>Path 2 - Exemplary Performance (1-3 points):</p><p>Achieve exemplary performance in an existing LEED 2009 CI prerequisite or credit that allows exemplary performance as specified in the LEED Reference Guide for Green Building Interior Design, 2009 Edition. An exemplary performance point may be earned for achieving double the credit requirements and/or achieving the next incremental percentage threshold of an existing credit in LEED</p></td><td></td></tr></table>	<b>DESIGN / CONSTRUCTION REQUIREMENTS</b>	<b>Comments / Action Items</b>	<p>Innovation in Design and Exemplary Performance paths as described below: Path 1 - Innovation in Design (1-5 points), identify the following in writing:</p> <p>1) The intent of proposed innovation credit. 2) The proposed requirements for compliance. 3) The proposed submittals to demonstrate compliance. 4) The design approach (strategies) used to meet the requirements.</p> <p>Path 2 - Exemplary Performance (1-3 points):</p> <p>Achieve exemplary performance in an existing LEED 2009 CI prerequisite or credit that allows exemplary performance as specified in the LEED Reference Guide for Green Building Interior Design, 2009 Edition. An exemplary performance point may be earned for achieving double the credit requirements and/or achieving the next incremental percentage threshold of an existing credit in LEED</p>	
<b>DESIGN / CONSTRUCTION REQUIREMENTS</b>	<b>Comments / Action Items</b>							
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1			<b>ID Credit 1.1</b>	<table><tr><td>Use Reduce Mercury Lamps</td><td>New lighting</td></tr></table>	Use Reduce Mercury Lamps	New lighting		
Use Reduce Mercury Lamps	New lighting							

					to be compliant, see lamp cut sheet
1			<b>ID Credit 1.2</b>	Use Green Cleaning policy	BAC provided cleaning product spec.
	1		<b>ID Credit 1.3</b>	Integrate Pest Management Plan	BAC to provide current pest management plan.
	1		<b>ID Credit 1.4</b>	Solid waste management	
	1		<b>ID Credit 1.5</b>	Improve acoustic design	
1			<b>ID Credit 2 LEED™ Accredited Professional</b>	Credit requires that at least one principal participant of the project team that has successfully passed the LEED Accredited Professional Exam.	City to document

			<b>REGIONAL PRIORITY</b>	<b>DESIGN / CONSTRUCTION REQUIREMENTS</b>	<b>Comments / Action Items</b>
2	1	2			
			<b>Regional Bonus Credits</b>	<p>To provide design teams and Projects the opportunity to be awarded points for achievement of existing LEED credits that deliver regionally important benefit which has been deemed, by the regional authority, to have benefit above the point value set by the LEED Green Building Rating System.</p> <p>Requirements Achieve one of the (6) credits, to a maximum of (4) , that have been identified as regionally important by the regional authority where the LEED project is located.</p> <p><i>Available credits in the 94103 zip code are: WE c1 (40%), EA c1.1 (35%), EA c1.3, MR c2 (75%), MR c5.1, and MR c7.</i></p>	

1			<b>RP Credit 1.1</b>	<b>MR c2 (75%) Construction Waste Management</b> Recycle and / or salvage non hazardous construction and demolition debris	refer to MR credit 2 (comments)
1			<b>RP Credit 1.2</b>	<b>MR c7 Certified Wood</b>	refer to MR credit 7 (comments)
		1	<b>RP Credit 1.3</b>	<b>MR c5.1 Regional Materials</b>	
	1		<b>RP Credit 1.4</b>	<b>WE c1 Water Use Reduction (40%)</b>	
		1	<b>RP Credit 1.5</b>	<b>EA c1.1 Optimize Energy Performance - Lighting Power Reduction (35%)</b> O R <b>EA c1.3 Optimize Energy Performance - HVAC</b>	



## **EXHIBIT R**

### **SCHEDULE E-BASE INTERRUPTIBLE PROGRAM**

Landlord participates in the E-BIP Program (Base Interruptible Program) offered by P.G. & E. which provides load reductions on P.G. & E's system on a day-of basis when the California Independent System Operator (CAISO) issues a curtailment notice. Customers enrolled in the Program will be required to reduce their load down to their firm service level (FSL) established in connection with P.G. & E.

Landlord manages the facility's power consumption load to or below levels that have been established with P.G. & E. to reduce the facility's load to or below a level that has been established, which is called the Firm Service Level (FSL) to optimize electrical conservations efforts at this location. This facility has met all of the equipment requirements for participation in this plan.

Landlord may establish reasonable measures to conserve energy and water, including automatic light shut off after hours and efficient lighting forms, so long as these measures do not unreasonably interfere with the use of the premises.

Qualification in the E-BIP Program requires that the building respond to notification requests provided from P.G. & E. to curtail power usage at the facility by at least 15 percent of the average monthly load or a minimum of 100 KW, whichever is greater.

Failure to reduce load down to or below our established (FSL) levels at the building during an event will result in substantially increased utility costs. There is a maximum of one (1) event per day and four (4) hours per event. The program will not exceed ten (10) events per month, or (120) hours per year.

This program may be closed by P.G. & E. without notice when the interruptible program limits set forth in the CPUC Decision 01-04-006 and Rulemaking 00-010-002 have been fully subscribed. In accordance with CPUC Decision 09-08-027, service under this schedule is currently capped at 392 MW, which is the enrolled megawatt level established on August 20, 2009.

Landlord's committed to energy conservation is demonstrated by their on-going participation in the various P.G. & E's Customer Energy Efficiency Programs available in the City of San Francisco.





**EXHIBIT S**  
**FORM ESTOPPEL CERTIFICATE**

TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: Lease Dated: \_\_\_\_\_

Landlord: \_\_\_\_\_  
\_\_\_\_\_ ("Landlord")

Tenant: City and County of San Francisco, a municipal  
corporation, acting by and through the San Francisco  
Municipal Transportation Agency ("Tenant")

Premises: Approximately \_\_\_\_ square feet located at  
\_\_\_\_\_ ("Premises")

Ladies and Gentlemen:

The undersigned hereby certifies to \_\_\_\_\_, a  
\_\_\_\_\_, and its successors and assigns ("Buyer") as of the date hereof as  
follows:

1. The undersigned is the "Tenant" under the above-referenced lease ("Lease")  
covering the above-referenced Premises ("Premises").

2. The Lease, attached hereto as Exhibit A, constitutes the entire agreement between  
Landlord and Tenant with respect to the Premises and the Lease has not been modified, changed,  
altered or amended in any respect except as follows (if none, so state):

3. The term of the Lease commenced on \_\_\_\_\_, 20\_\_, and,  
including any presently exercised option or renewal term, will expire on \_\_\_\_\_, 20\_\_.  
Tenant has accepted complete possession of the Premises and is the actual occupant in  
possession and has not sublet, assigned or hypothecated or otherwise transferred all or any  
portion of Tenant's leasehold interest. All improvements to be constructed on the Premises by  
Landlord have been completed to the satisfaction of Tenant and accepted by Tenant and any  
tenant construction allowances have been paid in full. All duties of an inducement nature  
required of the Landlord in the Lease have been fulfilled. To Tenant's knowledge, all of the  
Landlord's obligations which have accrued prior to the date hereof have been performed.

4. To Tenant's knowledge, there exists no breach or default, nor state of facts nor condition which, with notice, the passage of time, or both, would result in a breach or default on the part of either Tenant or Landlord. To the best of Tenant's knowledge, no claim, controversy, dispute, quarrel or disagreement exists between Tenant and Landlord.

5. Tenant is currently obligated to pay annual base rental in monthly installments of \$\_\_\_\_\_ per month and monthly installments of annual rental have been paid through \_\_\_\_\_, 20\_\_\_\_. In addition, Tenant is currently obligated to pay a proportionate share of \_\_\_\_% of increases in Operating Costs and Real Estate Taxes over Operating Costs and Real Estate Taxes for the Base Year, which is the calendar year 20\_\_\_\_. Tenant presently pays estimated increases in Operating Costs and Real Estate Taxes equal to \$\_\_\_\_\_ per month. Reconciliation for the Tenant's proportionate share of increases in Operating Costs and Real Estate Taxes have been made through \_\_\_\_\_, 20\_\_\_\_, and Tenant or Landlord, as appropriate, has been fully and finally reimbursed for any deviations between the estimated payments and the actual expense therefor as indicated on Landlord's annual statement. The foregoing certification shall in no way waive or limit Tenant's audit rights under the Lease. No other rent has been paid in advance and to Tenant's knowledge Tenant has no claim or defense against Landlord under the Lease and is asserting no offsets or credits against either the rent or Landlord. Tenant has no claim against Landlord for any security, rental, cleaning or other deposits, except for a security deposit in the amount of \$\_\_\_\_\_ which was paid pursuant to the Lease.

6. The Lease is in full force and effect in accordance with its terms and is a binding obligation of the undersigned.

7. [Intentionally omitted.]

8. Tenant has no option or preferential right to purchase all or any part of the Premises (or the real property of which the Premises are a part) nor any right or interest with respect to the Premises or the real property of which the Premises are a part other than as set forth in the Lease. Tenant has no right to renew or extend the terms of the Lease or expand the Premises except the first offer rights set forth in Section 22.1 of the Lease and the extension options set forth in Section 3.4 of the Lease.

9. Tenant has made no agreement with Landlord or any agent, representative or employee of Landlord concerning free rent, partial rent, rebate of rental payments or any other type of rental or other economic inducement or concession except as expressly set forth in the Lease.

10. There has not been filed by or against Tenant a petition in bankruptcy, voluntary or otherwise, any assignment for the benefit of creditors, any petition seeking reorganization or arrangement under the bankruptcy laws of the United States, or any state thereof, or any other action brought under said bankruptcy laws with respect to Tenant.

11. [Intentionally omitted.]

12. The undersigned (i) is not presently engaged in nor does it presently permit, (ii) has not at any time in the past engaged in nor permitted, and (iii) has no knowledge that any third person or entity engaged in or permitted any operations or activities upon, or any use or occupancy of the Premises, or any portion thereof, for the purpose of or in any way involving the handling, manufacturing, treatment, storage, use, transportation, spillage, leakage, dumping, discharge or disposal (whether legal or illegal, accidental or intentional) of any radioactive, toxic or hazardous substances, materials or wastes, or any wastes regulated under any local, state or federal law, except as follows:

\_\_\_\_\_ (if none, so state).

13. The undersigned acknowledges that:

(a) Buyer or Buyer's assignee is purchasing Landlord's interest in the property which includes the Premises and, in connection with that purchase, will be receiving an assignment of Landlord's interest under the Lease;

(b) Landlord, Buyer and Buyer's successors, agents and assigns (including, but not limited to subsequent purchasers, lenders and title insurers) will be relying upon each of the statements contained herein in connection with Buyer's purchase of the property of which the Premises are a part; and

(c) The undersigned will attorn to and recognize Buyer as the Landlord under the Lease and will pay all rents and other amounts due thereunder to Buyer upon proper notice to the undersigned that Buyer has become the owner of Landlord's interest in the Premises under the Lease.

14. As used herein, Tenant's "knowledge" means the actual knowledge as of the date hereof of **[insert name of individual]** of the **[insert department name]**.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

TENANT:

\_\_\_\_\_  
\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 221004-090

WHEREAS, The San Francisco Municipal Transportation Agency's (SFMTA) Transportation Management Center (TMC), provides real-time command and control functions, currently resides in leased space at 1455 Market Street building (Leased Space); and,

WHEREAS, The existing lease approved by the SFMTA Board of Directors on April 5, 2011, pursuant to Resolution No. 11-044 and adopted by the Board of Supervisors on June 7, 2011, pursuant to Resolution No. 247-11 includes 38,894 square feet of the Lease Space 7th floor, 679 square feet for a portion of the 1st floor and a Bike Storage area. The initial lease term was for ten years with two successive 10-year extension options; the current lease will expire on September 19, 2023; and,

WHEREAS, The TMC and other units including Transit Dispatch, Transit Scheduling, and Security and Enforcement are essential functions located within the Leased Space and those functions need to continue to provide their daily operations without interruption or interference; and,

WHEREAS, The annual rent for the extension term will be \$1,663,627 with three percent annual increases on July 1st, for a total of \$19,515,378 over ten years; the SFMTA will also pay its share of annual building operating expenses estimated to cost \$632,589 for the first year of the extended term and \$7,251,926 over ten years; and,

WHEREAS, On August 24, 2022, the SFMTA, under authority delegated by the Planning Department, determined that amending the lease for 1455 Market Street is not a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; and, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to exercise a Lease extension option and execute First Amendment to Lease between Hudson 1455 Market, LLC, as Landlord, and the San Francisco Municipal Transportation Agency (SFMTA), as Tenant, for that certain real property located at 1455 Market Street, including a portion of the 7th Floor, a portion of the 1st Floor, and a Bike Room in the 3rd Floor garage for the Transportation Management Center for an additional ten-year term, effective September 20, 2023, and, be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to exercise the second Lease extension option, at the Director of Transportation's discretion, if the rent for such extension term is no more than fair market value at that time, and, be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation and SFMTA staff to collaborate with RED staff and submit this First Amendment to Lease to the Board of Supervisors for approval.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 4,, 2022.



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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency



## San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102

Phone: 415.252.3100 . Fax: 415.252.3112

[ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org) . [www.sfethics.org](http://www.sfethics.org)

Received On:

File #: 221092

Bid/RFP #:

### Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

#### 1. FILING INFORMATION

<b>TYPE OF FILING</b>	<b>DATE OF ORIGINAL FILING (for amendment only)</b>
original	
<b>AMENDMENT DESCRIPTION – Explain reason for amendment</b>	

#### 2. CITY ELECTIVE OFFICE OR BOARD

<b>OFFICE OR BOARD</b>	<b>NAME OF CITY ELECTIVE OFFICER</b>
Board of Supervisors	Members

#### 3. FILER'S CONTACT

<b>NAME OF FILER'S CONTACT</b>	<b>TELEPHONE NUMBER</b>
Angela Calvillo	415-554-5184
<b>FULL DEPARTMENT NAME</b>	<b>EMAIL</b>
office of the clerk of the Board	Board.of.Supervisors@sfgov.org

#### 4. CONTRACTING DEPARTMENT CONTACT

<b>NAME OF DEPARTMENTAL CONTACT</b>	<b>DEPARTMENT CONTACT TELEPHONE NUMBER</b>
Claudia Gorham	415.554.9850
<b>FULL DEPARTMENT NAME</b>	<b>DEPARTMENT CONTACT EMAIL</b>
ADM RED	realstateadmin@sfgov.org



5. CONTRACTOR	
<b>NAME OF CONTRACTOR</b> 1455 Market Street, LLC - joint venture Incorporated	<b>TELEPHONE NUMBER</b> 310.709.7041
<b>STREET ADDRESS (including City, State and Zip Code)</b> 1455 Market Street, SF CA 94103	<b>EMAIL</b> c.lewis@hudsonppi.com

6. CONTRACT		
<b>DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)</b>	<b>ORIGINAL BID/RFP NUMBER</b>	<b>FILE NUMBER (If applicable)</b> 221092
<b>DESCRIPTION OF AMOUNT OF CONTRACT</b> \$1,320,059.49		
<b>NATURE OF THE CONTRACT (Please describe)</b> <p>This is a First Amendment to existing Office Lease, for first option - 10 year extension.</p> <p>Amount of contract: initial base year rent \$1,320,059.49. Commencing in September 2023 - Lease - Hudson 1455 Market, LLC, LL and City and County of San Francisco dated November 1, 2011.</p>		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

**9. AFFILIATES AND SUBCONTRACTORS**

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Hudson Pacific Properties	publicly owned REIT 55% ow	Board of Directors
2	Coleman	Victor J.	Board of Directors
3	Coleman	Victor J.	CEO
4	Harout	Diramerian	CFO
5	Lammas	Mark	Other Principal Officer
6	Antenucci	Theodore R.	Board of Directors
7	Brodkin	Karen	Board of Directors
8	Burnough	Ebs	Board of Directors
9	Fried	Richard	Board of Directors
10	Glaser	Jonathan M.	Board of Directors
11	Haubegger	Christy	Board of Directors
12	Linehan	Mark D.	Board of Directors
13	Wong	Andrea	Board of Directors
14	Canada Pension Plan Invest	45% ownership	Board of Directors
15	Graham	John	CEO
16	Graham	John	Other Principal Officer
17	Cass	Edwing	Other Principal Officer
18	Munroe-Blum	Heather	Board of Directors
19	Chrominska	Sylvia	Board of Directors

**9. AFFILIATES AND SUBCONTRACTORS**

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
20	Conner	Dean	Board of Directors
21	Evans	William "Mark"	Board of Directors
22	Everett	Ashleigh	Board of Directors
23	Hassan	Tahira	Board of Directors
24	Montalbano	John	Board of Directors
25	Perry	Barry	Board of Directors
26	Phibbs	Mary	Board of Directors
27	Sim	Boon	Board of Directors
28	Taylor	Kathleen	Board of Directors
29			
30			
31			
32			
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35			
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37			
38			

**9. AFFILIATES AND SUBCONTRACTORS**

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
39			
40			
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			

☐ Check this box if you need to include additional names. Please submit a separate form with complete information. Select "Supplemental" for filing type.

**10. VERIFICATION**

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

**I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

**SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK**

**DATE SIGNED**

BOS Clerk of the Board



October 11, 2022

Honorable Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Carlton B. Goodlett Place  
San Francisco, CA 94102

RE: 1455 Market Street, SFMTA – First Amendment to Lease –  
Lease Option Extension

Dear Board Members:

Attached for your consideration is a proposed Resolution for a Lease Extension for the San Francisco Municipal Transportation Agency's ("SFMTA") existing Transportation Management Center ("TMC") located at 1455 Market Street, San Francisco.

The TMC provides command, communication and control functions for: monitoring service and issuing control commands to all subway trains via the Automatic Train Control System; communicating instructions to MUNI bus, trolley or train drivers and maintenance crews via the SFMTA radio system; making service or emergency announcements to subway stations via the Public Address and Platform Display Systems; monitoring and remotely operating subway fire, life and safety systems via the facility Supervisory Control and Data Acquisition system; monitoring the traction power for train and trolley overhead wires via the Traction Power Supervisory Control and Data Acquisition system; monitoring traffic flows and control traffic signal timing and variable message signs via the centralized signal monitoring and control system; monitoring and operating SFMTA's access control and security management system and Closed Circuit Television surveillance system; and, processing Parking Control Officer's field requests for DMV record checks and dispatching Parking Control Officers to towing and traffic directing requests.

The original Lease, dated March 9, 2011, for ten years was approved by the full Board of Supervisors and signed by the Mayor on June 13, 2011 (Resolution No. 247-11). The Lease commenced on September 20, 2013, after substantial completion of tenant improvements, and rent commenced on November 19, 2013.

The Lease provides for two ten-year extension options. This would be the first ten-year extension. The Lease requires the City to give notice at least 15 months before the end of the Term. Accordingly, the Real Estate Division, on behalf of the SFMTA, served notice on June 17, 2022. The Lease also requires that the City take the resolution to the Board for approval within 90-days of the notice, or as soon thereafter as can be.

The initial base rent for the option term, is set forth in the Lease, is 105% of the then existing base rent for the month immediately preceding the option term. Accordingly, base rent will be \$140,933.54 (existing rent of \$134,222.42 x 5%) per month with a 3% annual adjustment during the option term.

All other terms and conditions, including the calculation of Base Rent for the second extension, remains the same.

If you have any questions regarding this matter, please contact Claudia J. Gorham of our office at 415-554-9871.

Respectfully,

A handwritten signature in blue ink, appearing to read "Andrico Q. Penick", is written over a light blue circular background.

Andrico Q. Penick  
Director of Real Estate